

FROM AN ENGLISH OFFICE WINDOW

Powers of the General Medical Council

The Spackman Case, (previously noted 21 Can. Bar Rev. 650) which has attracted a good deal of notice has now been the subject of a further hearing before the General Medical Council extending over three days. The additional evidence which Dr. Spackman had wished to produce was submitted in the form of statutory declarations and showed that on many occasions when he was supposed to have been in the company of the defendant in the divorce petition he was elsewhere. Dr. Spackman in person testified that the association was quite innocent and completely denied adultery or improper conduct.

The President, Sir Herbert Eason, announced the decision of the Council that the charge of adultery with a married woman with whom at all material times Spackman stood in professional relationship had been proved to their satisfaction. Accordingly the Council judged him to have been guilty of infamous conduct in a professional respect. They did not, however, order his name erased from the register as, since it was erased two years ago prior to the appeal to the House of Lords, they believed that his conduct had been irreproachable. The conclusion seems to be somewhat lame and it is not surprising that the Council found it necessary to add that this action must not be construed as in any way condoning a grave professional offence.

Survivor in War Time

The vagaries of aerial attack have provided further work for the Law Courts. *Re Lindop* (see 20 Can. Bar Rev. 702) was followed by *Peacey v. Grosvenor* (see 22 Can. Bar Rev. 92). In the latter case the main argument turned on the point whether in these abnormal conditions of war it is possible for two persons to die simultaneously as both the brothers Grosvenor as well as other people in the house were killed by a direct hit on it. The Master of the Rolls concluded a catena of references with *Mason v. Mason* (1816), 1 Mer. 308 where Sir Wm. Grant spoke of "simultaneous deaths as being within the bounds of legal possibility." "I find nothing," he added, "in authority which compels me to take the contrary view." (60 Times Law Reports at p. 126). The Master of the Rolls with the concurrence of Goddard L. J., Luxmore L. J. dissenting, held that all the persons concerned died simultaneously, though he was careful to add: "It must not, however, be taken that in every case in which two persons are killed by the same bomb the same inference ought to be drawn."

Another example was provided by the Howard family. Father, mother and son were killed as the result of the explosion of the same bomb when their house was destroyed in Golders Green. Wills had been made to provide against the possibility of husband and wife being killed at the same time but they had not anticipated that the son might also be a victim. The scattered remnants of husband and wife who were sleeping in one room were found, while the body of the son, who had been sleeping on another floor was found apart and not dismembered. On these facts Henn Collins J. decided that they did not all die simultaneously and therefore the presumption of the Law of Property Act came into operation. However, following the *Grosvenor* case the learned Judge decided that the death of the parents was simultaneous. This case (*Howard-Howard v. Treasury Solicitor*, 60 Times Law Reports 248) was complicated by the existence of two wills made by the father, but the combination of circumstances created by war conditions suggest that we have not yet reached the end of the problems likely to be presented to the courts.

Clerks to Justices

The Clerk to the Justices of the Peace must be included among the ancient offices of the law as a manual relating to the work was published so long ago as 1641 with the title "Cabinet of the Clerk of the Justice of the Peace" by W. Sheppard and was reprinted in 1654 and 1660. At that time he was a personal servant to the Justice but in due course it became customary for the same man to act for several Justices and so there developed the Clerk to the bench of Justices. It was not, however, until 1851 that they received statutory recognition in a provision (14 & 15 Vict., c. 55, s. 9) that they should be paid by salaries instead of fees. This was further developed and their position regularised by the Justices' Clerks Act 1877 (40 & 41 Vict., c. 43). Although certain aspects of their work and conditions of service have received attention in the course of parliamentary inquiries into matters with which they are concerned, there has not been any special inquiry devoted to their work until the departmental committee appointed by the Home Secretary under Lord Roche, which has just made its report.

The gradual development of the work has led to a situation in which there was a general recognition of some need for reform. Originally the clerk might be a layman and although in course of time the majority are now solicitors it is not unreasonable to regard that qualification as essential for the office. As a general rule the solicitors are engaged in private practice and although a

solicitor may not appear before the bench to which he acts as clerk, there are occasions when it is not easy to reconcile the public and private interests. The result is that the position has oftentimes been open to a good deal of justifiable criticism and provides one of those minor measures of law reform demanding attention. The main line of proposal of Lord Roche's Committee is to effect a combination of areas so as to provide adequate work for a solicitor as whole time clerk with suitable staff. This will eliminate such unsatisfactory arrangements as that which has not been at all uncommon whereby the clerk has received certain fees and been responsible for the provision of such clerical assistance as he may think necessary. If the recommendations of the Committee are put into effect there is no doubt that they will contribute to the more efficient administration of justice in the courts which have the largest amount of work in the country.

War Dishonesty

One of the remarkable and disquieting features of war is a development of dishonesty in various forms, which is not confined to any one section of the community. Some people agree that it is due to the additional amount of repressive legislation which arouses the resentment of many law abiding citizens much in the same way as prohibition is said to have caused a disregard of law in the U.S.A. This, however, does not cover the type of case of which an example came into the Courts upon a point of law (*Rex v. Hudson*, *The Times*, April 15th, 1943). A man named Hutson living in Scunthorpe sold three pigs to the Ministry of Agriculture. The typist in dispatching the cheque for £23.2.7. made it payable in error to Mr. Hudson and it was sent to a man of that name living at a farm near Scunthorpe. He returned it to the Ministry with a note that "there was no initial on it, so I have sent it back to you. My name is Mr. J. Hudson." The initial 'J' was inserted and it was returned to him. Thereupon Hudson endorsed it, opened a banking account with it and six weeks later drew £20 out of the account. On being interviewed later by a representative of the Ministry he admitted that no money was due to him and, in fact, he had never possessed any pigs to sell in the market. Counsel for the defence contended that there was no case to go to the jury on the ground that the appellant had no *animus furandi* when he received this letter containing the cheque. The Court of Criminal Appeal had no difficulty in deciding that so soon as he saw what he had got he made up his mind to steal it. He did steal it and he did everything which was necessary to complete the offence of larceny.

MIDDLE TEMPLAR.