

THE TWENTY-NINTH ANNUAL MEETING OF THE CANADIAN BAR ASSOCIATION*

The capital city of Ottawa was the setting for the twenty-ninth annual meeting of the Canadian Bar Association, which began on Monday, September 1st, and continued until Friday the fifth, with headquarters at the Chateau Laurier Hotel. A total registration of 925, including members of the Association from every province in Canada, their ladies and the guests from other lands, was exceeded only by the record number of 971 who attended the Toronto meeting in 1937. Not since 1933 has the Association held its annual meeting in Ottawa and the choice of location was a happy one for the weatherman was in a favourable frame of mind and the capital never presented a more attractive appearance.

The 29th annual meeting will long be remembered for the spirit of friendliness that characterized its sessions, for the thoroughly representative attendance, for the substantial accomplishments attained, for the excellence of the speeches and for the challenge issued by several of the principal speakers to the lawyers throughout Canada to maintain their important role in preserving the liberty of the individual.

It was a particularly brilliant gathering, distinguished by the presence of important visitors including Viscount Jowitt, Lord Chancellor of Great Britain, Rt. Hon. Sir Norman Birkett, of the King's Bench Division of the High Court of England, Maitre Marcel Poignard, Bâtonnier of the Bar of Paris, Carl B. Rix, president of the American Bar Association, Ray Atherton, American Ambassador to Canada, as well as our own Governor General, Viscount Alexander of Tunis, Rt. Hon. W. L. Mackenzie King, Prime Minister of Canada, Rt. Hon. J. L. Ilsley, K.C., Minister of Justice, Rt. Hon. Louis St. Laurent, K.C., Minister of External Affairs, Hon. Thibaudeau Rinfret, Chief Justice of Canada, and Hon. J. T. Thorson, President of the Exchequer Court.

The members of the County of Carleton Law Association and their ladies once more proved gracious hosts and hostesses. The local committee, working closely with A. M. Laidlaw, Secretary-Treasurer of the Canadian Bar Association, were paid merited compliments for their admirable success in perfecting all arrangements. The result was a meeting altogether agreeable in its friendly hospitality as well as in its smooth and convenient functioning.

* This account of the Association's Annual Meeting was prepared for the Canadian Bar Review by Mr. J. Ragnar Johnson of Toronto.

While the sessions had commenced on Monday, September 1st, the annual meeting was not formally opened until the morning of Wednesday, September 3rd, with Chief Justice McRuer, President of the Association, in the chair. In the meantime meetings of the Conference of Governing Bodies of the Legal Profession in Canada and of the Executive Committee of the Association had been held on the Monday, followed on Tuesday by various sectional meetings, a meeting of Council, the traditional president's dinner and a reception by the President and Mrs. McRuer for members of the Association and their guests.

At the formal opening the President introduced Viscount Alexander of Tunis, Governor General of Canada, who delivered the opening address. Urging that efforts be made to promote an international code of law and ethics among countries wishing to live in peace, His Excellency stressed the importance of the lawyers' role in the maintenance of world liberties. Pointing to the recent Nuremberg trials as a "lasting landmark in the history of international law", Viscount Alexander said: "If we could feel confident that this new found basis of worldwide law were as firmly set as the law which you practise, then all would be well. But at least it is the beginning of a world conscience which we hope in future will bring in ever increasing extent the weight of its authority against the aggressor and the international law breakers". Law was one of civilization's great bonds. It linked the nations of the British Commonwealth closely and was also "one of our chief ties" with the United States. "We must therefore strive continuously to support and enforce the provisions of national and international law which brand as criminal all those who plan or wage aggressive war."

In commencing his remarks, the Governor General humourously referred to the fact that his only association with the law to date had been in the field of military law, but he added that he was an honorary bencher of Lincoln's Inn. He also told of an Irish ancestor, a judge, who in sentencing a man convicted of stealing a watch to be hanged, said: "My man, in grasping time, you have seized eternity".

Col. H. M. Hague, K.C., Montreal, responded to the opening address and enumerated the achievements of Viscount Alexander in the campaigns in Italy and Sicily, lasting eighteen months and extending over a front of 900 miles, and made reference to the gallant part played by Canadian soldiers in

them. He also asked His Excellency to accept an honorary membership in the Association.

The presidential address of Hon. J. C. McRuer, Chief Justice of the High Court of Ontario, and President of the Canadian Bar Association, was then delivered. It appears in full in this issue of the Review and should be read by every Canadian lawyer. Two features of the President's excellent and carefully prepared address were the suggestion to consider the establishment in Canada of proper facilities for the post-graduate training of lawyers and the objection to any legislation placing limitations on the appearance of lawyers before boards of conciliation.

A resolution in memory of the late Viscount Bennett, Honorary Life President of the Association, was introduced by Stanley H. McCuaig, K.C., Edmonton. Hon. Mr. Justice Fauteux reported on behalf of the Council, while the report of the Honorary Treasurer, presented by T. D'Arcy Leonard, K.C., Toronto, showed the Association to be in a favourable financial position.

W. P. J. O'Meara, K.C., Ottawa, president of the Conference of Commissioners on Uniformity of Legislation, then reported on behalf of that body, which had conducted its deliberations for a week preceding the Annual Meeting. He stated that twenty-nine commissioners had attended from all provinces and that there had been two sections, one dealing with civil law and the other with criminal law. A Uniform Conditional Sales Act had been approved, while a re-draft of a proposed Mechanics' Lien Act had been referred to the New Brunswick commissioners for further study. Other matters dealt with but not completed, which will be studied during the year and given consideration at next year's session of the Conference, were Extraordinary Remedies, Reciprocal Enforcement of Judgments, Defamation, Testators' Family Allowance and Presumption of Death. The Conference re-elected as president, W. P. J. O'Meara, K.C., while J. Pitcairn Hogg, K.C., Victoria, was elected vice-president, L. R. McTavish, K.C., Toronto, secretary, and J. P. Runciman, Regina, treasurer.

The report of the Conference of Governing Bodies of the Legal Profession in Canada, presented by Geo. H. Steer, K.C., Edmonton, recommended certain improvements in legal education; a study of public relations, with particular reference to the work already done in Manitoba, British Columbia and by the Board of Notaries in Quebec; the establishment of uniform standards of admission to the bar, particularly from one common-

law province to another; the publication of uniform reports of decisions in the common-law provinces; and the granting of permission to members of the Board of Notaries in Quebec to become members of the Canadian Bar Association. A suggestion had been made to the Conference that all judges be retired at the age of seventy-five but no action was taken. A further suggestion was that no King's Counsel be appointed in any province unless the appointment had first been considered by a committee consisting of the Attorney General, Chief Justice of Appeal, Chief Justice of the Supreme Court and two members of the governing body of the particular province.

At the luncheon following the morning session, John T. Hackett, K.C., Montreal, Dominion Vice-President, presided and an address was given by Carl B. Rix, of Milwaukee, Wisconsin, President of the American Bar Association. Mr. Rix discussed the role of lawyers in the formation of the foreign policies of their respective countries. Great Britain, the United States and Canada believed in and followed the principles of freedom of speech, freedom of conscience and freedom of the individual, he said. "Whenever you find these principles denied, whenever you have a government that cannot be removed by the will of the people, you have no true democracy. Our three countries are one in the concept of democracy. We have fought for and won these freedoms and rights and if necessary we will continue to fight for them." So firmly had these principles become established in English-speaking democracies, Mr. Rix declared, that they have won universal acceptance. It was now the task of the English-speaking peoples to extend them to other parts of the world in the interests of peace and progress. "If we can hold the peoples of the Far East with us in our conception of independence and freedom, it will mean that in our world 1,600,000,000 persons will live under free democracy, with some 400,000,000 under a totalitarian system. If we cannot hold the Far East, those proportions will be reversed." Lawyers of freedom-loving nations, he continued, would rejoice that a clause guaranteeing a free and independent judiciary and freedom of the individual was being written into the new constitution of China. At the same time, no one could expect that a country with an immense population such as China could become a free democracy in the twinkling of an eye. Patience was needed for its development on democratic lines. The constitution of Japan, he explained, had been written by the lawyers of Japan in consultation with the legal members of General Douglas MacArthur's staff.

Referring to the recent partition of India and to the peoples of India, Mr. Rix declared: "The peoples of India did not learn the principles of freedom from their mothers' knee because their mothers never knew freedom. They learned them in the English universities and from Englishmen. And now they have seemingly turned against those from whom they learned freedom. I believe, however, that they will retain these principles of freedom in the new states which have been established."

Speaking directly to representatives of the Canadian and English bars, Mr. Rix said: "Your thoughts may not always be our thoughts, but we shall in tolerance and with the best of feeling, compose every difference which may arise between us".

An expression of thanks to Mr. Rix was voiced by Mr. Justice O'Connor, Edmonton, who moved a resolution conferring an honorary membership in the Canadian Bar Association upon the speaker. In accepting it the President of the American Bar Association said that the current meeting would draw the two great legal bodies still closer together.

Later in the afternoon Their Excellencies, Viscount and Viscountess Alexander, received at Government House where a garden party was held on the wooded grounds and lovely gardens of the Governor General's official residence. Here those attending the 29th annual meeting had an opportunity, with King's weather prevailing, to mingle with a large representation of the ever-increasing diplomatic corps resident in Ottawa and with other visitors from Europe, South America and the Orient.

The dinner on Wednesday evening was distinguished by an address by Rt. Hon. Sir Norman Birkett, who has on two previous occasions, in 1937 and in 1941, represented the bench and bar of Great Britain at Association gatherings, and whose presence this year had been referred to by Viscount Alexander as "a return engagement". Chief Justice McRuer presided and Hon. W. M. Martin, Chief Justice of Saskatchewan, introduced the speaker, referring to his work as associate trial judge for Great Britain at Nuremberg, and recalling the many kindnesses shown to Canadian service men during the war by Sir Norman and Lady Birkett, when he said, "they virtually adopted Bomber Squadron 405 of the R.C.A.F. and opened their house to officers and men of all our services".

A portion of Sir Norman's speech was broadcast and the Canadian radio audience had an opportunity therefore to hear once again a voice that has become a familiar one to them. The topic of his address was "The English Circuit System".

In his opening remarks, Sir Norman declared that Great Britain would never forget the devotion and valour of the people of Canada during the war years. Canadians had added a new lustre to an already illustrious name. As for the people of Great Britain, they displayed a nobility which won the respect and admiration of the world. "We, in England" he continued "are passing through a great economic crisis. It is not for me to analyze the crisis or its cause. Yet in justice, it must be said that its primary cause is the unparalleled effort made by my country during the hard years of war. Only with much sacrifice can the crisis be overcome." It is hoped to publish the address in full in a subsequent issue of the Review.

A good estimate of Sir Norman's talk was that of a staff writer of the *Ottawa Citizen* who wrote: "This was not just a speech, this was the indomitable, unbreakable spirit of England, uttered through the medium of a tall, gaunt, red-headed judge, who has the soul of a poet, the emotions of a philosopher and a reverence for Scripture. No one is ever going to forget the effect this rough-hewn Englishman had on him, even if by today he has forgotten every syllable the speaker uttered."

Rt. Hon. Louis S. St. Laurent, K.C., Minister of External Affairs, and a past president of the Association, paid a graceful tribute to Sir Norman for his address. He referred to the several visits of Sir Norman and Lady Birkett and said: "We have come to look upon them more as of ourselves than as guests. We all expected much tonight and our high expectations have been fully realized."

The morning session on Thursday, September 4th, was presided over by R. M. Fielding, K.C., Vice-President for Nova Scotia. Addresses of welcome were extended by Acting Mayor G. R. Geldert who spoke in the absence of Mayor Stanley Lewis of Ottawa, and by Duncan McIlraith, K.C., Ottawa, President of the County of Carleton Law Association. A response to these welcoming greetings was made by A. N. Carter, K.C., Saint John. Following this, T. D'Arcy Leonard, K.C., Toronto, gave the report of the investments committee. L. V. Sutton, K.C., Toronto, on behalf of the membership committee, revealed that as of July 31st, 1947, there were 3,435 members in the Association, an increase of 9.74% over the previous year. Hon. E. K. Williams, Chief Justice of the Court of King's Bench of Manitoba and a past president of the Association, reported on behalf of the Committee on Legal Problems on International Organization

for Maintenance of Peace, which recommended that the Association continue its work on the codification of international law, but that it not join at this time a proposed international bar association. A report of the Editorial Advisory Board of the Canadian Bar Review, prepared by its chairman, Walter S. Johnson, K.C., Montreal, and read by John T. Hackett, K.C., paid high tribute to the efforts of the Review's editor, G. V. V. Nicholls of Montreal.

Meetings of the various standing committees and sections were held on Tuesday and continued on Thursday. Their work and the valuable papers and reports presented could not be summarized adequately here, but some brief observations may be noted as a matter of record.

Canadian Bar Review. A meeting of the provincial editors was held under the chairmanship of the editor, G. V. V. Nicholls, where editorial and publication problems were discussed and plans formulated for the forthcoming twenty-fifth anniversary issue of the Review.

Administration of Civil Justice. The meetings of this section, under the chairmanship of D. Park Jamieson, K.C., Sarnia, witnessed spirited discussion on a large range of topics, among which loomed large the extension of the grounds for divorce and the admission of counsel before administrative bodies. Mr. Jamieson later presented to a general meeting the resolutions of the section, which included a resolution recommending that the grounds for divorce be extended, following the recommendations made at the meeting of 1941 in Toronto and the 1946 meeting in Winnipeg. Recommendations were also made covering the custody and welfare of the children of parties to divorce actions; legal aid to needy persons; delays in the conduct of legal business by government departments and agencies, particularly the Departments of Justice, Revenue and Veterans Affairs; the substitution of statements, with appropriate penalty, for affidavits in matters requiring return of information, and confining the use of affidavits to matters before the courts where no alternative was available; and certificates of title under the Veterans Land Act.

Taxation. Before the Section on Taxation, under the chairmanship of M. L. Gordon, K.C., Toronto, a valuable paper was given by H. Heward Stikeman, Montreal, on "A Consideration of Corporate Taxation".

Comparative Law. The work of this section consisted of a discussion on the Group Unification of Private Law, led by the

section's chairman, Professor F. C. Auld of the School of Law, University of Toronto.

Legal Education and Training. This section was headed by George H. Steer, K.C., Edmonton, and discussed a report of a special committee on a curriculum for law schools.

Commercial Law. The Commercial Law section, with Hugh E. O'Donnell, K.C., Montreal, as chairman, gave consideration to comments on the proposed revision of the Bankruptcy Act, prepared by the British Columbia committee of the section, as well as suggested amendments to the Bills of Exchange Act, brought in by the Quebec committee. Papers were also read by C. Roger Archibald, Toronto, on "The Development of Canadian Securities Acts" and by W. E. P. DeRoche, Toronto, on "Doing Business in South America".

Administration of Criminal Justice. This section met under the chairmanship of Antoine Rivard, K.C., Quebec, and considered the question of a revision of the Criminal Code and proposed amendments to the Juvenile Delinquents Act.

Insurance Law. This section, under the chairmanship of John L. O'Brien, K.C., Montreal, heard three papers. W. B. Cromarty, K.C., Calgary, gave a "Report on Proposed Revision of Provincial Insurance Acts". Roy B. Whitehead, K.C., Toronto, summarized the outstanding questions to be considered by the forthcoming Conference of Superintendents of Insurance, while R. G. Phelan, Toronto, reviewed some notable judgments on insurance questions rendered during the past year.

Junior Bar. Valuable papers were given before this section, which was presided over by its chairman, E. B. Griffith, Toronto. Hon. Mr. Justice Fauteux delivered an address on Hearsay Evidence, and he was followed by F. A. Brewin, Toronto, a former chairman of the section, who read a paper on "The Trend in Labour Legislation", in which he urged members of the junior bar to work toward the attainment of a full knowledge of industrial relations and labour legislation. R. M. Willes Chitty, K.C., Toronto, addressed the meeting on "Civil Liberties, a Challenge to the Young Lawyer", in which he said that for the last seventy-five or a hundred years the whole tendency of government was to narrow down the liberties won in the previous 700 years. He urged the junior members to join with their senior colleagues in drawing the attention of the public to this fact and the resultant dangers. He emphasized that liberty should be cherished above security. A. L. Fleming, K.C., Toronto, talked on "The Role of the Junior Bar in Legal

Education". A feature of the section's meeting was a visit by James D. Fellers, National Chairman of the Junior Bar Conference of the American Bar Association, who spoke and urged Canadian support for a plan to form a junior inter-American bar association. Through this body there could be continued effort to instil among all peoples a desire for world peace. Chairman Griffith replied that the Canadian branch of the junior bar would be ready to co-operate on the proposal.

Industrial Relations and Labour Law. The chairman of the section, F. A. Brewin, addressed the group, urging that lawyers acquaint themselves better with labour legislation and industrial relations, stating that "in a free society in which unorganized workers seek to secure and consolidate a new status and new standards of living through collective bargaining, it is inevitable that there will be recurring conflicts. It is of importance that these conflicts be resolved by peaceful processes of bargaining, conciliation, arbitration and other techniques of conference and adjudication by third parties, and not by the exhausting weapons of industrial warfare with its attendant violence and bitterness on both sides. In this peaceful resolution of conflicts the experience of the legal profession has an important role to play."

Civil Liberties. R. M. Willes Chitty, K.C., acted as chairman of this newly organized section. A vigorous debate arose out of a report adopted last year by the British Columbia section. This report, submitted by A. C. DesBrisay, K.C., Vancouver, contained the recommendation that the Association take the lead in warning Canadians of their loss of liberties. It also contained a recommendation calling for the appointment of a committee to go through the federal statutes and compile a list of encroachments on civil liberties. Repeal of these encroachments would then be sought by the Association as a whole. A Bill of Rights was also suggested in the British Columbia report, but the matter was considered of sufficient importance to be given at least a full year's study.

The annual dinner of the Association, held on Thursday evening in the ballroom of the Chateau Laurier, was one of the most distinguished gatherings in the annals of Canadian legal history. The speaker of the occasion was Rt. Hon. The Viscount Jowitt, Lord Chancellor of Great Britain, and in addition to the speaker and the three representatives of the bench and bar of the United Kingdom, France and the United States and their ladies, there sat at the head table the Governor General of Canada and Lady Alexander, Prime Minister W. L. Mackenzie

King, Hon. Thibaudeau Rinfret, Chief Justice of Canada, and Madame Rinfret, and Sir Lyman P. Duff, retired Chief Justice of Canada.

The Lord Chancellor was introduced by Chief Justice Rinfret, who expressed the pleasure of the Association at his visit to Canada. The Lord Chancellor's opening words were a greeting to the distinguished guests and particularly to Mr. King. "I've had connections with your Prime Minister for more years than I for one care to remember. We in our country are looking forward to two things in particular. The first is the visit of Mr. King to Britain for the wedding of Princess Elizabeth. The second is for him to out-Walpole Walpole." (Next summer Mr. King will have surpassed the record of Sir Robert Walpole, who served the longest term of any Commonwealth Prime Minister.)

Lord Jowitt told of the fine traditions of the Inns of Court, including his own Middle Temple. "This is the tradition I inherit, the tradition of an independent bench and an independent bar. We shall continue to have a free press, the right of habeas corpus, and the right of trial by jury. These are the great rights that will prevent my country from becoming a totalitarian state."

Referring to the granting of self-government to India, Lord Jowitt said that he felt that the time had arrived when the people of India could work out the destinies of their country in their own way. Of Europe, he said that France must be freed from the menace of an aggressive Germany. On the other hand, without a prosperous Germany, it was doubtful if a prosperous Europe would be possible. He had no doubt about the future of France, provided that France is governed by men who love France and owe no allegiance to any foreign influence. "It would be a dull world" the speaker said "if it were not for French genius, French art and French inspiration." Lord Jowitt had no fear of the downfall of the United Kingdom. Nations had collapsed through a surfeit of luxury but never in history as the result of a regime of austerity. "The heart of England, the pulse of England, beats like a cannon and will see us through into happier days to come."

An expression of thanks was voiced by L. W. Brockington, K.C., Ottawa.

Following the dinner in the evening a dance was given at the Copacabana Club by the President and members of the County of Carleton Law Association.

At the morning session on Friday, September 5th, J. A. Campbell, K.C., Vancouver, occupied the chair. Kenneth F. Mackenzie, K.C., Toronto, reported on behalf of the War Work Committee, which has nearly completed the work for which it was formed. A report of the Committee on Noteworthy Changes in Statute Law, prepared by M. M. McIntyre, Sackville, was presented. H. J. Wilson, K.C., Edmonton, gave the report of the Administration of Criminal Justice section, which recommended a recodification of the criminal law of Canada. In presenting the report of the Legal Education and Training section, A. L. Fleming, K.C., Toronto, stated that a committee of the American Bar Association had been set up to study the entire field of legal education in the United States and that Carl B. Rix had suggested that Canada be included in such a survey. The committee is headed by Arthur Vanderbilt who is well known to Canadian lawyers, having addressed the annual meeting in Vancouver in 1938. The work of the committee will be financed by the Carnegie Foundation and the American Bar Association. A resolution was brought in empowering the president to appoint a committee to consider Mr. Rix's suggestion and to report to the Mid-Winter Meeting of Council.

Reporting on behalf of the section on the Administration of Civil Justice, D. Park Jamieson, K.C., brought in the resolutions formulated at the section's meetings. He also proposed a resolution which would give the section power to make such representations on behalf of the Association as it might seem fit to do. Various members opposed this resolution, including Chief Justice McRuer, Col. G. H. Aikins, K.C., Winnipeg, Mr. Justice Barlow, Toronto, and Peter Wright, Toronto, it being the general argument of these speakers that the Association has assumed a national responsibility and any representations must come therefore from the Association itself. The motion was then withdrawn and Mr. Jamieson introduced another resolution asking that steps be taken to provide that the chairmen of the various sections be ex-officio members of the executive. This resolution was adopted.

The report of the Civil Liberties section presented by R. M. Willes Chitty, K.C., produced what has become an almost perennial controversy. The report had urged the Association to take the lead in drawing the people's attention to what was described as the "menace" they were facing because of encroachments on their civil liberties. Several members felt the language of the resolution too extravagant and spoke against it,

including W. B. Scott, K.C., and Hugh O'Donnell, both of Montreal. Mr. Chitty said that if the Association was to be anything more than a "nice debating society with conviviality thrown in", it would have to take a firm stand on the question of civil liberties. He was supported by A. C. DesBrisay, K.C., who had introduced the matter at the committee stage. When an impasse appeared likely, Col. G. H. Aikins, K.C., a past president of the Association, intervened with a motion that the debate be halted while Messrs. Chitty and Scott along with Gustave Monette, K.C., Montreal, worked out a compromise. The result was a resolution urging the Association to "take the lead in establishing machinery whereby the profession throughout Canada could adopt steps to bring home to the people the menace with which they are faced by reason of any invasion of their civil liberties".

The concluding social event was a luncheon on Friday at which André Taschereau, K.C., Quebec, presided, and the speaker was Maître Marcel Poignard, Bâtonnier of the Bar of Paris, who attended the Winnipeg meeting last year. Speaking eloquently in French, the eminent Parisian lawyer declared that France, retaking her place among the nations of the world, had not re-won her liberty to submit it to a new servitude. The speaker was thanked by Mr. Justice Fauteux.

The president then took the chair to conduct the election of officers for 1947-1948. John T. Hackett, K.C., Montreal, was elected president to succeed Chief Justice J. C. McRuer, while Stanley H. McCuaig, K.C., Edmonton, was elected Dominion vice-president. A. M. Laidlaw, Ottawa, was re-elected secretary-treasurer. A full list of officers will be found elsewhere in this issue.

A fitting climax to a highly successful annual meeting was a ceremony on Friday afternoon at the Supreme Court Building when a portrait bust of Sir Lyman Poore Duff, for nearly four decades a justice and chief justice of the Supreme Court of Canada, was unveiled in the Great Hall. The bronze bust was presented on behalf of the Canadian Bar Association by its honorary president, Rt. Hon. J. L. Ilsley, K.C., Minister of Justice, who eulogized the work of Sir Lyman, saying that by his principles, his judgments and his personality the former Chief Justice had done "more than any other man I know to keep aflame in the hearts and minds of Canadians that respect for the courts which is so wholesome and precious an element in the life of the nation". The bust was formally accepted by Hon. Thibaudeau Rinfret, Chief Justice of Canada.