

MID-WINTER MEETING OF THE ONTARIO BAR*

The annual mid-winter meeting of the Ontario section of the Canadian Bar Association was held this year on the 24th of January at London, Ontario. This is a note of the main events rather than a full report of all the proceedings.

The mid-winter meetings have become steadily more popular in the last few years and in spite of a snow-storm nearly 350 lawyers and 125 guests were present in London for the sessions and associated functions. These figures represent a substantial increase over the numbers who attended last year. A lunch and dinner were held in the ballroom of the Hotel London and the business meetings took place in the auditorium of the London Public Library. All things considered, the business meetings were well attended and it was obvious that considerable thought and effort had been devoted to the reports of the various committees.

Norman L. Matthews, K.C., presented a very fine report of the Committee on Industrial Relations and Labour Law, which dealt mainly with the detailed provisions of federal Bill 338, The Industrial Relations and Disputes Investigation Act. By way of general comment he mentioned three particular respects in which the Bill should improve industrial relations: firstly, the definition in the Bill of trade unions, which eliminates the present distinction between an affiliated union and a non-affiliated union; secondly, the provision whereby an employer who believes that the certified bargaining agent no longer represents the majority of employees may apply to have the agent decertified; and, thirdly, the adoption of the principle of certifying trade unions rather than individuals as bargaining representatives. It will be of interest to the profession to hear that the Committee found objectionable section 38(2) of the Bill, which provides, in effect, that no person, except by consent of the parties, shall be entitled to be represented by a barrister, solicitor or advocate before a conciliation board, and even then only with the board's approval. The report expressed the view that the right of a party to be represented by the person of his choice should not be removed.

J. R. Marshall, K.C., presented a well-prepared report on the system of election of Benchers, the tenor of which was that after full consideration of all factors the present system should be retained.

Joseph Sedgewick, K.C., gave the report of the Committee on Administration of Criminal Justice, which provoked some discus-

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sion, mainly on the question of privilege as applied to evidence and statements given before courts and other semi-judicial bodies.

G. W. Mason, K.C., made an interesting report as Treasurer of the Law Society of Upper Canada in which he dealt with the numerous activities of the Law Society. He particularly stressed the large number of students presently attending the Law School, with the resulting problems for all concerned.

J. D. Arnup presented a report of the Committee on Administration of Civil Justice, which covered a very wide field. This report is reprinted in full in this issue.

R. M. W. Chitty, K.C., as Chairman of the Committee on Civil Liberties, made a few comments, the salient feature of which was that the wartime encroachment by the Dominion Government on Provincial jurisdiction should now be ended.

The President of the Canadian Bar Association, J. T. Hackett, K.C., spoke during the business meeting in the afternoon, stressing the importance of proper and adequate legal education.

During the afternoon a tea organized by a local committee headed by Mrs. Eric Moorhouse was given for the ladies at the McIntosh Galleries of Western University.

At lunch the Attorney General for Ontario, the Honourable Leslie Blackwell, K.C., spoke briefly and well on the functioning of democratic government as seen by an observer inside the Parliament Buildings.

After dinner Mr. Norman M. Littell, a former Assistant Attorney General of the United States, spoke clearly, forcibly and at some length on the Marshall Plan. This concluded the formal programme, but the pleasant business of meeting new friends and renewing old acquaintances continued for the balance of the week.

The Report of the Ontario Members of the Committee on Administration of Civil Justice follows:—

This Committee presented a detailed report to the mid-winter meeting of the Ontario Members of the Association on January 25th, 1947, and its activities formed a prominent part of the report of the Dominion Committee at the annual meeting in Ottawa. Six of the nine resolutions presented to the annual meeting originated in this Committee, or in this Committee and other Provinces concurrently. Accordingly our report must not be expected to contain a substantial number of completely new matters.

Certain matters were considered by this group at Niagara Falls and it will be convenient to indicate briefly what has since taken place with regard to these subjects. The mid-winter meeting resolved that action should be taken to consider the position of children of persons who are in the process of obtaining a dissolution of their marriage, particularly in cases where the court is not being asked by either of the parties to consider custody of the children. This matter has had the active, whole-hearted support of the Attorney-General and machinery for carrying out the intention of your resolution is being formulated. While this indication must not be taken as final, it may be said that the proposals involve the use of existing agencies to make investigations where required, and that wherever the facts reported by the agency are disputed by either party, fullest rights of cross-examination will be given.

In the meantime our Committee has resolved that the matter would be advanced by an amendment to the Rules of Practice and has recommended to the Rules Committee that Rule 774, which deals with the required contents of a statement of claim, be amended so that clause (b) will read as follows:

(b) Whether there has been issue of the marriage and, if so, the names and dates of birth of all the living issue of the marriage, *and in respect of any of such issue who may be under sixteen years of age, where and with whom they reside, and what the plaintiff proposes as to their custody in the event that the marriage is dissolved.*

The Committee presented to the meeting last year a report with respect to Division Courts. A good deal of work has been done over a period of four years by this Committee leading to an eventual revision of the Act and particularly to amendments designed to lower the cost to litigants. Opinion has been practically unanimous in our Committee that a small debts court need not be self-supporting and that a suitor for small debts ought to be able to have his claim tried at a minimum of expense to himself. The Attorney-General has now taken the position that he sees no reason why a litigant, even though a claimant for only a small amount, should be entitled to have his proceedings subsidized by the public at large. If Division Courts are to be made self-supporting, or nearly so, then there is not a great deal that can be done at the present time to reduce the cost in such courts. A resolution will be presented to-day so that this meeting may be asked for its expression of opinion as to whether it agrees or disagrees with the policy thus enunciated by the Attorney-General.

This meeting approved last year a strong resolution with regard to legal aid for poor persons. Certain representations were made to the Attorney-General but substantial progress has been made through the Benchers of the Law Society who appointed a committee to deal with the matter. Two of the members were also members of our Committee. The Bencher's committee has made a report which has been adopted by Convocation and which approves the principle that a system of legal aid should be set up under the auspices of the Law Society. The Benchers' committee has now been enlarged. It is hoped that before too long legal aid in civil matters may be a reality. A resolution offering our encouragement and support will be presented to this meeting.

This Committee has considered for some time the matter of The Dower Act. We reported last year that our recommendations as to amendments to the Act awaited action by the Legislature. We are still waiting. It seems clear to us that the Act should either be repealed entirely or should be amended along the lines of The Homestead Acts in the western Provinces. A further resolution will be presented to-day.

A resolution was passed last year with respect to a five-day week. Nothing has been done to implement the suggestion. As a starting point a further resolution in this connection will be presented.

This Committee reported last year that it was studying the possibility of consolidating various courts, particularly those presided over by the County Court Judges. In particular, one suggestion involved the creation of one court known as the Supreme Court of Ontario with various divisions, in which all of the present members of the judiciary both in the Supreme court and in the County Court would be members. After full discussion the Committee has decided to drop this matter.

We have, however, considered the matter of the various statutes affecting wives and children. An exhaustive report was presented by His Honour Judge Fuller, was approved by the Committee and has been forwarded to the Attorney-General. Briefly it involved the consolidation and revision of:

The Deserted Wives' and Children's Maintenance Act,
The Children's Maintenance Act,
The Children of Unmarried Parents Act,
The Children's Protection Act,
The Adoption Act,
The Juvenile and Family Courts Act,

The Minors Protection Act,
The Maternity Boarding Houses Act, and
the provisions of The Criminal Code.

Principal attention was given to the variety of circumstances in which maintenance orders may be made, and the variety of persons entitled to deal with matters covered by these various statutes. The matter is essentially one for the law officers of the Crown, if the Government accepts the principle that some consolidation in this regard is necessary.

The Committee forwarded a number of resolutions to the Dominion Committee which were dealt with at Ottawa and with which this gathering is no doubt familiar. Attention may be drawn to a resolution deprecating delays in Government Departments and particularly in the Department of Veterans Affairs, the Department of National Revenue and the Department of Justice. Copies of these resolutions were duly forwarded to the Ministers concerned. One result has been the receipt by the Association of a most indignant letter from the Deputy Minister of Justice requesting particulars of what is characterized as a "defamatory statement". Some details of delays in that Department have been forwarded to the Dominion Chairman and I have no doubt that further instances, if reported to our Secretary, will also be brought to the attention of the proper persons.

Careful consideration has been given by our Committee to the desirability of setting up a central registry for motor vehicles in this Province. The object of this step would be, firstly, to assist the law enforcement officials in connection with the widespread theft of motor vehicles and, secondly, to afford an easier means of determining whether there were liens or chattel mortgages upon a particular vehicle. We believe such a system is practicable, particularly if it involves some form of certificate of title, perhaps in the indestructible form now used for birth certificates. Office machinery is now available of a type which makes the keeping of central records much less burdensome than it was some years ago. A resolution will be presented in this connection.

The Committee has considered section 45 of The Trustee Act, which as amended in 1938 enables an administrator of a deceased administrator to exercise, until the appointment of a new administrator, the powers of the deceased administrator in relation to the first estate. This has already led to one serious defalcation; the statute presently permits an administrator who may be bonded for perhaps \$5,000 to exercise powers in an estate of

\$1,000,000. No doubt the amendment was designed originally to deal with some question of title, but its effect is such that in our opinion the section should be left as it was before 1938. It is in our view contrary to principles of very long standing that the powers of any administrator should in turn devolve upon the administrator of his estate. We propose to make appropriate recommendations.

There have been laid down in the past two or three years certain regulations of procedure, particularly in relation to divorce, not incorporated in the Rules but just as binding on solicitors as if they were in the Rules, and emanating principally from the Chief Justice of the High Court. On complaint of out-of-town solicitors, our Committee arranged with the Benchers that any such directions to the Registrar would be published by the Benchers in the Ontario Weekly Notes and this is now being done.

The Committee now has in hand consideration of several matters. One is the simplification of procedure where pro forma orders are required, for example, an order extending the time for doing orders an act or taking a proceeding, with the purpose of dispensing with the necessity of a formal order if the papers are properly endorsed by the judge or officer making the order. Others are the collection of judgments generally and particularly the provisions of The Execution Act; certain minor amendments to The Mental Incompetency Act as to the power of Committees to deal with stocks; the matter of present procedure in searching for executions and the method of recording executions against real property.

The Committee continues to display an enthusiasm which is most heartening to its officers and the officers of the Association. The policy has now been adopted of rotating the office of Chairman, it being hoped that the Chairman and Vice-Chairman will be alternately from Toronto and outside of Toronto, respectively. Mr. W. P. Gregory is now Vice-Chairman. Steps have been taken to introduce several new members to the Committee, especially from the Junior Bar. Their attendance has been faithful, their interest high and their assistance beneficial. The Committee at the present time has 28 members and the average attendance has run from 15 to 20.