

The Mid-Winter Meeting of Council *

The 1951 Mid-Winter Meeting of the Council of the Canadian Bar Association was held at the Hotel Saskatchewan in the City of Regina on Friday and Saturday, February 23rd and 24th. Despite the influenza epidemic and the other hazards of a Canadian winter, sixty-seven members of Council, many accompanied by their wives, were present. The Hotel Saskatchewan provided excellent accommodation for its guests and for the business and social functions of the meeting.

One of the advantages of a gathering of moderate size is that it affords an opportunity for those present to become well acquainted with each other, and this aspect of the meeting was a great success. On the evening of the 22nd Mr. E. C. Leslie, K.C., and Mrs. Leslie entertained the members and their wives at their home. On Friday evening the Law Society of Saskatchewan held a reception, followed by a dinner, at which the speaker was Mr. Samuel Freedman, K.C., of Winnipeg. Mr. Freedman, who spoke on the challenge of communism to our way of life and the response it has evoked, charmed his listeners with his usual wit and pleasing delivery. On Saturday the Government of Saskatchewan held a luncheon for members and their wives. Premier T. C. Douglas gave an excellent address on the subject of the Canadian Constitution and the efforts being made to work out a satisfactory method of amending it. These functions, together with the informal gatherings that are an integral part of every meeting of lawyers, provided ample opportunity for the making and renewing of friendships and the exchange of views.

The business of the Mid-Winter Meeting was transacted at three sessions lasting a total of six and a half hours. The President of the Association, Mr. E. Gordon Gowling, K.C., of Ottawa, presided. Following the adoption of the minutes of the last meeting of the Council, the report of the Honorary Secretary was read by Mr. L. E. Langis Galipeault, K.C., of Quebec, in the absence of the Honorary Secretary, André Taschereau, K.C. It

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was indicated that the campaign to raise funds to assist in the restoration of the Inns of Court had been closed with contributions on hand of over \$20,000.

Mr. Paul Hutchison, K.C., of Montreal, the Honorary Treasurer, read his report. He said that during the past three years annual expenses had risen considerably, while the Association's revenues had not increased proportionately. Efforts were being made to improve the situation by increasing the advertising revenue of the *Canadian Bar Review*. It was suggested that considerable money could be saved by reducing expenses incurred in printing and circulating the proceedings of the annual meetings.

Mr. Galipeault, co-chairman of the Membership Committee, reported that membership in the Association continued to be satisfactory, and efforts were being made to increase it. Following the adoption of this report there was considerable discussion of the possibility of getting other provinces to follow the British Columbia practice of making membership in the Association compulsory for all members of the profession. The consensus seemed to be that this was a matter for each provincial bar to decide for itself.

In the absence of the chairman, the Honourable Mr. Justice F. H. Barlow, of Toronto, the report of the Constitution Committee was presented by Col. G. H. Aikins, K.C., of Winnipeg. He stated that the committee had considered the question of amending the by-laws of the Association to permit the appointment of alternates for the purpose of attending Council meetings, and was opposed to such an amendment. This view met with general approval and the report was adopted.

The President next introduced a subject that has been considered and discussed on previous occasions. Mr. Gowling said that the Association is frequently asked by government departments, royal commissions and other organizations to consider and report on various matters of public interest within the scope of the Association's activities. It was often impossible to deal with these requests because the executive of the Association has no authority to create committees between Council meetings to deal with special topics. In any event the by-laws contain no provision allowing a section or committee to publish a report before it has been approved by an annual meeting. Consequently, the Association may be unable to express any views on subjects of public concern until by lapse of time they have become academic.

Mr. J. R. Maclaren, K.C., of Brockville, moved that the

President of the Association be delegated authority to appoint special committees. A delegation of this sort is expressly permitted under By-law 5(vi). The discussion that followed ranged from warnings that the President might regret the responsibility that would go with his extra power, to assertions that under By-law 2(ii)(a), which gives him "all the ordinary rights and duties of a President", he already had it. In the end the motion was passed.

The question of the publication of reports of sections and committees between annual meetings was then discussed. Mr. Paul Gérin-Lajoie, of Montreal, moved that any section or committee of the Association be authorized to publish its findings, provided that the President gives his approval and provided that any dissenting views are also made public. The discussion of this motion was long and, at times, almost heated. Some seemed to be arguing that the Association should not take a stand on any contentious subject, but most members were in favour of the motion, and finally an amendment to the motion was passed directing the Constitution Committee to prepare amendments to the by-laws designed to give effect to Mr. Gérin-Lajoie's motion, and present them to the next Council meeting in Toronto. The result is that the President is authorized to appoint special committees between now and the 1951 meeting and the Constitution Committee is to work out the proper procedure for publishing reports between annual meetings.

The meeting next considered the problem of the increasing cost of publishing the proceedings of the annual meetings, another subject that has been up before. A motion was passed authorizing the President to appoint a special committee to look into the question and to report to the next Council meeting. The same committee will look into the proposal to prepare a consolidated index of the Annual Proceedings.

Some lack of interest in scholarly writing was revealed in the report of the committee on the Canadian Bar Association Essay Competition given by Chief Justice E. K. Williams of Winnipeg. Only six essays were submitted. None was found to be worthy of the first prize. Essays written by L. A. Couture of Ontario and Harold Newman of Quebec were judged to be equally good and each contestant received a second prize of \$250. The third prize of \$100 was awarded to A. C. Ellison, K.C., of Regina. The Chief Justice pointed out that the essay competition was started two years ago as an experiment with the object, in the words of the Association's constitution, of advancing the science of jurisprudence. Although it could not be said that it had achieved

outstanding success, he felt that it was worth continuing for at least two more years. He mentioned that additional publicity would assist the competition and recommended that topics be announced immediately after the mid-winter meeting, the closing date for entries to be December 31st. The assistance of the Junior Bar in creating interest had been offered, and some consideration should be given to raising the prizes to the original level. A motion was passed adopting the report and the Finance Committee was asked to look into the matter of prizes.

It is difficult to understand why more essays have not been entered in this competition. Essays are limited to 10,000 words (which is only about 35 double-spaced typewritten pages) and the prizes have always been attractive. Apart from this, scholarly legal writing is one way the average lawyer can put his creative ability to work. Judges can satisfy their creative instincts by writing judgments, which are sometimes printed in the law reports and become part of the law itself. A lawyer's briefs and opinions, excellent though they may be, soon outlive their usefulness and end their days buried in filing cabinets. On the other hand, a well written legal article on an important subject lives on in the pages of a legal periodical where it will be read by judges and other lawyers, and by law students. Creative writing is one way in which a lawyer may leave something behind him that cannot be expressed in dollars or in lineal feet of closed files.

The next item of business on the agenda of the Council Meeting was a report of the Viscount Bennett Scholarship Committee. Mr. J. P. A. Gravel, K.C., of Quebec, announced that Ronald J. Downie of Halifax had been awarded the scholarship.

A letter from the Minister of National Defence requesting that the Association arrange for legal aid for servicemen during the present crisis was read to the meeting. A motion was passed turning the matter over to Mr. B. R. Guss, of Saint John, N.B., the chairman of the Legal Aid Committee, for implementation.

Vice-Presidents from the various provinces then reported on their year's activities. In the past these reports have tended to be perfunctory and it is a hopeful sign for the Association's future that this year a real attempt was made to describe what has been accomplished. Some sections are more obviously at work than others of course, and some are more effective in certain provinces than in others, but on the whole British Columbia, Manitoba and Ontario appear to an outside observer to have the most active membership. One had the impression from listening to the reports, though, that a good deal of good would result from more

frequent interchanges during the year among the various provincial chairmen of sections.

Mr. W. P. Gregory, of Stratford, reported on behalf of the Section on the Administration of Civil Justice. This section has been particularly active in Ontario, where it has established close relations with the provincial government and succeeded in having a number of reforms instituted. Legal aid, the immunity of the Crown and the utility of pre-trial procedures have come under study.

The next section with anything to report was the Commercial Law Section. Mr. H. G. H. Smith, K.C., of Winnipeg, reported that the Companies Act was under study. Some discussion arose over whether the Comparative Law Section had any basis for existence. Rather surprising, a number of members said that they were completely in the dark as to its functions. A champion was found for it in Chief Justice E. K. Williams, who told the meeting that it did have a real field to occupy and that it should be developed. Reports of the Industrial Relations and Insurance Law Sections had been sent to the President, it was announced, and were adopted as read. The latter section is particularly active.

Mr. Gérin-Lajoie reported that the Junior Bar Section had been rather inactive for a number of years, but that he was attempting to revive interest in it across the country. He thought that it might attempt to create interest in the Essay Competition and encourage young lawyers to write for the Canadian Bar Review. It would also take an interest in the question of legal aid. Mr. Gérin-Lajoie felt that the present restrictions on membership in the Junior Bar Section were unrealistic. At present membership was restricted to persons not over 30 years of age or not admitted to the bar for more than seven years. He said that he had found that most local groups found 35 years of age to be the appropriate maximum age for participation in Junior Bar activities. Accordingly, he moved that the age limit be raised to 35 years, regardless of the number of years in practice. The reaction to this varied. Some members were opposed to the very existence of the Junior Bar, on the ground that it tended to make invidious distinctions between older and younger members, while others heartily supported the motion. Finally Mr. E. J. Chambers, K.C., of Calgary, moved that the matter be left over until the 1951 Annual Meeting, and his motion was carried.

The report of the Taxation Section was given by Mr. M. G. Teed, K.C., of Saint John. He said that the section was actively investigating a number of subjects, which he named, and certainly

his report bore this out. In the discussion that followed the report the question of permitting deduction from taxable income of amounts put aside by self-employed persons to provide for their own retirement was raised by Mr. Chambers. It appears that both the Association and the Canadian Tax Foundation are looking into this matter. Mr. J. P. A. Gravel, K.C., reported that the Legal Education and Training Section had carried on extensive correspondence during the winter.

In the absence of Mr. J. T. Hackett, K.C., a summary of the activities of the Legal Survey was given by Mr. A. N. Carter, K.C., of Saint John, who indicated that the work was going well and a number of reports had already been published or were in process. Roughly \$16,000 remained on hand for the completion of the work.

Col. G. H. Aikins, K.C., stated that the matter of pensions for judges' widows had been discussed with the Minister of Justice and that the Committee on Judges' Salaries had also looked into the matter of increases in salary for judges of district and county courts. Upon the motion of Mr. Galipeault, it was decided to hold the 1953 Annual Meeting in the City of Quebec.

As mentioned in the first part of this account, the Regina meeting was pleasant from a social standpoint, and will remain among the happier memories of those present. From the viewpoint of the Association's business it was also a success, not so much for what it accomplished as for what it directed to be done in the future. The directions to the Constitution Committee to prepare suitable amendments to the by-laws permitting the Association to make its views on public issues known promptly and effectively was undoubtedly the highlight of the meeting. The Association today is highly regarded in all parts of Canada and steps must now be taken to see that its voice may be heard on all problems properly within the scope of its activities. The reports of the committees and sections indicated that, although much was being done, much was being left untouched. The reason for this seems to be that while most of those holding positions in the Association are excellently qualified to carry on their duties, some of them are not willing — "able" might be a fairer word — to spend sufficient time properly to carry them out. The qualified man is always the busy man. It is hoped that it will become a tradition in the Association that a man does not accept a position unless he is prepared to fulfil the responsibilities accompanying it.

The recent trend towards holding mid-winter council meetings

in those smaller centers that, because of inadequate accommodation, cannot hope to be the site of an annual meeting, is a happy one. As several members pointed out, the holding of such a meeting arouses considerable interest in the Association among members of the local bars and makes them realize that the activities of the Association are not restricted to those who practise in the larger cities.

This is a Meeting of the Bar of Canada

We have left behind us for a little the cares of the Bench and the Bar, the office and the desk, and are met to talk of the things that concern our great profession in its wider aspects. It is well for us thus to step aside from time to time out of the traffic of our daily business and from some coign of vantage, such as our meeting here affords, to scan the way by which we have come and the destination to which our steps are bent. The strenuous routine of the lawyer's day is so engrossing as to leave little time for reflection. Yet even to the busiest of us there come moments when we ask ourselves what is the purpose of all our manifold activities and, baffled for an answer, are apt to be depressed by a sense of our futility. At such moments we seek a reassurance that our labours are not in vain and that our calling can justify itself by some worthier measure than the record of our fee books. 'There is nothing better', says the worldly wise Preacher, 'than that a man should rejoice in his own works; for that is his portion'. But to have joy in his work a man must be satisfied that what he is doing is worth while and that he is rendering service of real value in his day and generation. I decline to acquiesce in Voltaire's policy of despair: 'Travaillons sans raisonner, c'est le seul moyen de rendre la vie supportable': In the legal profession, as in every other vocation, the 'imponderables', to use Bismark's striking word, count for much and perhaps I owe it to my Scottish upbringing that as a lawyer I seek for justification by faith as well as by works. (Rt. Hon. Lord Macmillan in an address, Law and Order, to the annual meeting of the Canadian Bar Association at Regina, Saskatchewan, August 1928)