

THE CANADIAN BAR REVIEW

THE CANADIAN BAR REVIEW is the organ of the Canadian Bar Association, and it is felt that its pages should be open to free and fair discussion of all matters of interest to the legal profession in Canada. The Editor, however, wishes it to be understood that opinions expressed in signed articles are those of the individual writers only, and that the REVIEW does not assume any responsibility for them.

It is hoped that members of the profession will favour the Editor from time to time with notes of important cases determined by the Courts in which they practise.

Contributors' manuscripts must be typed before being sent to the Editor at the Exchequer Court Building, Ottawa.

TOPICS OF THE MONTH.

SOME IMPRESSIONS OF THE "TWELFTH ANNUAL."

Perhaps the most satisfying impression that the REVIEW brought away from the Twelfth Annual Meeting of the Canadian Bar Association was that the hopes of Sir James Aikins, its founder, have now been realized in the fact that the Association has not only proved itself to be of supreme importance to the interests of the legal profession in Canada, but is admittedly of material service to the State in furthering wise laws and the capable administration of justice.

* * Then, the impression occurred to us that in this service to the State there must be a stimulus to the patriotic pride of all good citizens in our sound political institutions. Surely, we thought, the spectacle of an association, which draws its members from the ranks of a learned profession in every part of the Dominion, working voluntarily for the public good, cannot fail to promote in a very marked degree that racial unity and that zeal for the welfare of the country as a whole which are essential to the existence of a true national spirit in Canada. And that impression was transformed into a conviction for us when the Honourable Ernest Lapointe, K.C., Minister of Justice, declared

"I am sure that I am correct in saying that the Canadian Bar Association has become one of the greatest forces in our national life."

How natural it is for the Canadian Bar Association to function as in Mr. Lapointe's opinion it does is manifest in what was said by Dr. Masujima, of Tokyo, who represented the Japanese Bar at the meeting, in praise of the English Bar:—

"I can truly tell you that I really understand the power of the English Bar. British people have been protected and their constitution established through the exercise of the sense of justice evolved by their Bar, ever since the days of Chief Justice Coke.

"The English Bar has been the real fountain of justice and its genius has contributed to the growth and maintenance of the whole British Empire more than any other English institution."

These be Homeric *ἔπεα πτερόεντα*—"winged words"—indeed! And from them the lawyers of Canada may draw much inspiration for future achievement in behalf of the State.

* * Impressions gained by an observer at any gathering of people acknowledging a common bond of aim and interest are apt to be more futuitous than orderly in sequence, hence we shall not apologize for speaking next of a feature of the proceedings at the "Twelfth Annual" not at all on a parity with the matters above mentioned. We refer to the unfortunate habit indulged in by so many of the members of the Association in coming late to the meetings where important business was on the agenda. It was noticeable that the greater number of the tardy ones came from the English-speaking provinces, and the thought occurred to us that this lack of promptitude in attending public meetings is a racial characteristic of long standing in history. Speaking of the ancestors of the English people, Tacitus says in his *Germania*: "Their passion for liberty is attended with this ill consequence: When a public meeting is announced they never assemble at the right time." Whether our impression in this respect is right or wrong, the fault demands correction.

* * The impressions we carried away from the dinner of the Treasurer and Benchers of the Law Society of Upper Canada at Osgoode Hall on the day preceding the date of the annual meeting were altogether splendid. The just and kindly appreciation of the Society and its stately Hall by Dr. Masujima in his address delivered on the second day of the proceedings demands quotation:—

"In 1893, now nearly thirty years ago, I first visited Toronto and was very courteously entertained at a dinner given by the Law Society of Upper Canada at Osgoode Hall. It reminded me of the 'Temple Dinner,' and most interested me in that the society was providing a nursery of justice in Canada,

in the same way as the Inns of Court have ever cultivated the English spirit of justice."

To this encomium we may be permitted to add that to-day, above all other times in history, such influences as those which flow from the Inns of Court and Osgoode Hall are of value; for to-day social conditions throughout the world are in a state of flux, and in democratic communities particularly the desire for rash experiment in constitutional reform is rampant.

The impression we formed of Sir James Aikins' Presidential Address was that it was the best of all the excellent addresses that he has delivered to the Association during his long tenure of office. Its content is replete with practical suggestions touching the profession, the law, the constitution, and the administration of justice. It will appear in the October number of the REVIEW.

Neither time at the moment nor limitations of space will permit us to speak fully of the addresses and reports presented at the meeting. Such of them as do not find a place in forthcoming numbers of the REVIEW will be available to our readers in the Proceedings of the Association for the current year.

We cannot close our present observations without attempting in a few words to present the impression made upon us by the central figure of the "Twelfth Annual"—Baron Hewart of Bury, Lord Chief Justice of England. We had been so unfortunate as to miss hearing Lord Hewart speak in public during the ever-memorable meeting of the American and Canadian Bar Associations in London in 1924, and it was therefore pleasant to journey to Toronto last month with the assurance of retrieving that mischance. We heard him first in the short post-prandial speech he made at Osgoode Hall when the guest of the Treasurer and Benchers, and there we got some notion of his rare humour and his flair for the compelling and incisive phrase. But it was not until we listened to him at the joint luncheon of the Empire and Canadian Clubs that we recognized his indubitable claim to be accounted a

"Lord of irony—that subtle art."

As such we think he has few peers in the history of the English Bench or Bar. His theme on that occasion was the modern newspaper, and in every point at which he touched that unlovely image which the Nebuchadnezzar of democracy has set up for our enforced worship he touched it only to dismember it. How fine was his rhetorical play is demonstrated in the fact that the young lions of

the press who sat before him roared with approval of what they vainly imagined were compliments to their guild, couched in terms requiring only a Pickwickian interpretation.

We have been privileged to hear at the annual meetings of our Association during the last five years such notable occupants of the English Bench as Lord Birkenhead, Lord Buckmaster, Lord Darling and Lord Hewart; and how may we assemble and collocate their several qualities so as to fashion a distinct type of their oratorical kind? It cannot be done. Birkenhead, always the audacious "Galloper Smith," is no more akin to Buckmaster, ever responsive to the beautiful and sublime and delighting to use the English speech as an instrument of music, than Darling, more or less of a dilettante in public speaking, as in the art of polite literature, is to Hewart, whose satire is as nimble and as vivid as the lightning-flash. Attempts to label the mental qualities of the Englishman in any age and in any walk of life, or to interpret him by any standard or formula are always unsuccessful. If you doubt this, ask the shade of H. A. Taine.

CANADIAN BAR ASSOCIATION.—The following officers were elected for the ensuing year at the Annual Meeting of the Canadian Bar Association, held at Toronto on the 24th, 25th and 26th days of last month:—Honorary Life President, Sir James Aikins, K.C., LL.D.; President, Honourable Chief Justice Martin; Dominion Vice-President, Honourable Wallace Nesbitt, K.C.; Honorary Treasurer, Mr. M. H. Ludwig, K.C.; Honorary Secretary, Mr. L. A. Cannon, K.C.; Registrar, Colonel W. N. Ponton, K.C.; Secretary-Treasurer, Mr. E. H. Coleman.

Provincial Vice-Presidents: Alberta, Honourable R. B. Bennett, K.C., LL.D.; British Columbia, Honourable Mr. Justice Morrison; Manitoba, Honourable R. W. Craig, K.C.; New Brunswick, Mr. P. J. Hughes, K.C.; Nova Scotia, Honourable W. J. O'Hearn, K.C.; Ontario, Honourable N. W. Rowell, K.C.; Prince Edward Island, Honourable J. D. Stewart, K.C.; Quebec, Mr. E. Lafleur, K.C., LL.D.; Saskatchewan, Mr. J. A. M. Patrick, K.C.

In accordance with the constitution of the Association, the Attorney-General of each province of the Dominion was nominated an Honorary Vice-President.

The meeting was very largely attended by the members of the Association, and was most successful in all its proceedings. The members of the Toronto Bar proved themselves masters of the art

of hospitality, and their courtesy was finely augmented by that of the Bench.

* * *

HONORARY DEGREE FOR LORD HEWART.—At a special Convocation of Toronto University, held in Convocation Hall on the 25th of last month, the honorary degree of Doctor of Laws was conferred upon Baron Hewart of Bury, Lord Chief Justice of England. The Honourable Sir William Mulock, K.C.M.G., Chancellor of the University was in the Chair, and Lord Hewart was presented for his degree by Sir Robert Falconer, K.C.M.G., President of the University. In addition to members of the Senate and members of the faculty of the University, there were present on the platform His Honour the Lieutenant-Governor of Ontario, Premier Ferguson, and guests from a dinner which was given by the Premier and the Provincial Cabinet that evening in honour of Lord Hewart at the York Club. In presenting Lord Hewart for his degree, Sir Robert Falconer said:—

“ The Senate of the University of Toronto has much pleasure in asking you, Mr. Chancellor, to confer its highest honour upon the guest of the Canadian Bar Association, the Right Hon. Lord Hewart of Bury, Lord Chief Justice of England. The office which he holds, ancient as it is, potent through the centuries and most honourable, appeals to the imagination of the common man as one of the stately and enduring pillars of the Realm. The Laws of England—what a repository they are of the virtues, customs and beliefs of the English people; the spirit of justice by which they have been interpreted and administered—what a commentary on the soul that has animated their truest representatives. *There* is to be found the secret of the success of English administrators, whether in vast regions whose peoples have never learned the ways of ordered society, or among even civilised races who have not yet come to realise that law must be impartial, and those who dispense it be no respecters of persons. By virtue of his office, therefore, the permanent president of this High Court of England is received with respect in every part of His Majesty’s Dominions, and not least in this Dominion of Canada.

But Lord Hewart has been invited by the Canadian Bar Association to attend their annual meeting because the members deem him eminently worthy of the exalted position which he occupies. This tribute, coming, as it does, from the body in the Dominion most competent to form it, men who are acquainted with his judgments, and who by instinctive estimate and corroborative report know how

he adorns his function, is gladly accepted by the Senate of the University of Toronto, as offering them a happy opportunity to show their own admiration for Lord Hewart's distinguished career with which they have been long familiar. But they have this additional satisfaction in asking you to confer this degree, that, like so many leaders of the English Bench and Bar, Lord Hewart has erected the massive structure of his professional accomplishment upon the broad and deep foundations of humane culture laid in an ancient English seat of learning."

After Lord Hewart had written his name in the book presented to him by the Bedel, Sir Robert Falconer invited Lord Hewart to address the audience, a very large one, consisting of the members of the Canadian Bar Association and guests of the University of Toronto.

Lord Hewart's address embraced two themes, first, a review of the part that Roman law had played, and is still playing, in the legal culture of the modern world; secondly, a detailed discussion of the constitution and procedure of the Court of Criminal Appeal in England. This address will be published in a later number of the CANADIAN BAR REVIEW.

* * *

THE DIAMOND JUBILEE.—It is news to no one now that the Dominion of Canada celebrated its Diamond Jubilee on the first day of July in the most impressive way, for the whole wide world seemed to sit up and take notice of the grand event. No country seemed too great or too remote to do it reverence. Indeed so much notice was taken of it abroad that it may fairly be said to symbolize the fact that Canada has now put on the *toga virilis* with universal consent and approval. That spells for every one of her right-minded citizens a deeper sense of patriotic obligation. This is an age of ideals, and Canadians are not lacking in them. We are too imaginative and, withal, too religious a people not to contemplate a future Canada established in the righteousness that exalteth a nation. But ideals in the national domain without effort to realize them are idle. The Fathers of Confederation left us ideals but they left us something more. Among Burke's excellent words of political wisdom is the saying "To love our country, our country must be lovely"; and by that he did not mean that a country should be physically lovely but that its citizens should manifest in thought and action "whatsoever things are lovely." And now that the tumult and the shouting of the Diamond Jubilee has died away let each of us determine to

do his bit to make Canada truly great. The State is fine in quality only as it reflects the fine qualities of its people. More cannot be demanded of it.

* * *

L'AFFAIRE DAUDET.—It is all very well for the unconcerned to wax merry over the predicament which the French Government plunged into some few weeks ago by its curious conduct of the prosecution and punishment of M. Léon Daudet for libel against a taxi-cabman in whose vehicle M. Daudet's son was found dead in November, 1923. But the case is something more than another Parisian contribution to the gaiety of nations. It may go far to upset the the apple-cart of the Third Republic. M. Daudet, in a series of articles published in the *Action Française*, charged that his son had been murdered by the police and that the cabman was guilty of complicity in the crime. It is said that the members of the Government recognizing that the charge against the police was a reflection upon themselves (indeed M. Daudet made it plain that it was), induced Bajot, the cabman, to institute an action whereby M. Daudet could be brought to book. The case was long drawn out by many appeals, but in the result M. Daudet was fined 25,000 francs, and condemned to undergo five months' imprisonment. The defendant is one of the Royalist party, whose hope is that the walls of French democracy will crumble before much blowing on the trumpets of the *Action Française*. Then there are the *Camelots du Roi*, who support the cause by martial demonstrations of the *opéra bouffe* type. So with all this to consider no one imagined that in the Paris of unexpiated *delits* the Government would require M. Daudet to atone for his offence. But it seems that the Government fears more or less serious trouble from the Communists shortly, and so the imprisonment of a Royalist was projected as a gesture that might impress the populace that sedition and rebellion by the adherents of either of these parties are not good social form. Then occurred the phases of the *affaire* which caused the tongue of derision to wag at the expense of France. M. Daudet was treated by the authorities somewhat after the manner in which the execution of Socrates was carried out by the Athenians. The success of his being made an awful example for evildoers was left partly in his own hands. He was asked to present himself at the prison-gates on a given date, but once there he was led to believe that he would be received by his warders with all the *éclat* befitting so illustrious a disturber of the Republic's peace. He would fare sumptuously, and be allowed to receive his friends

—which are no friends of the Government. This strikes us all as extremely courteous treatment for one who had fallen under the ban of the law. But M. Daudet is a supreme tactician. The Government was enacting a political farce that he might turn into a tragedy. On the day appointed he summoned a thousand Camelots as his body-guard, and barricaded himself in his office. The Government countered by parading a large body of police, supported by a rear-guard of cavalry and city firemen in front of the Royalist stronghold. In the midst of all this battle array M. Daudet exchanged harangues with the Prefect of Police to the effect that no blood should be shed. Finally, when he was satisfied with the spectacle he had been permitted to make of the Government, M. Daudet—"to save the country from civil war"—gave himself up to the police and was escorted to prison—his Camelots marching away with flags flying while the streets of Paris rocked with Homeric laughter. But the Camelots were not through with the *affaire*. It remained for their executive in a few days to telephone to the governor of the prison that the Ministry had decided to release M. Daudet, and this the governor did without awaiting a formal document to that effect.

The question naturally arises, how long can the present constitution of France stand up against affairs of this kind? We do not know. But we wish that the French in Europe to-day shared some of the dignified firmness of purpose and political wisdom of their kin in the Province of Quebec.

* * *

HOUSE OF LORDS REFORM.—In the great political upheaval in England, which resulted in the passage of the Reform Bill of 1832, Sydney Smith likened the intransigent attitude of the House of Lords as regards the extension of the electoral franchise to the futile efforts of Dame Partington, to sweep the encroaching tide of the Atlantic from her door with a mop. "She was excellent," he said, "at a slop or puddle, but should never had meddled with a tempest." It was through satire of this sort, coupled with the cogent arguments of radicals like Place and Cobbett, that the great English middle class came to realize that the well-being of the nation could not be made subservient to the aristocratic prejudice of the Upper Chamber of Parliament, and that if its members refused to listen to a reasonable and wide-spread demand for a change in the laws governing the rights of citizenship then the powers of the Upper

Chamber must be curtailed. And so the democracy of England came to show a united front against the aristocracy.

It was thus that history witnessed the curious spectacle of the Tory Peers in the House of Lords, under the direction of the Duke of Wellington, rejecting two of Lord Grey's Reform Bills in March and October, 1831, and then sullenly accepting the inevitable by refraining from voting against a third Bill in May 1832. No further serious agitation for its reform disturbed the House of Lords until its action in vetoing Mr. Lloyd George's "Socialistic Budget" of 1909, precipitated a constitutional issue of the first magnitude, and resulted in two elections the following year, which sustained the Asquith ministry. In 1911 King George, to quote Mr. Trevelyan's *History of England*, "compelled the Peers to pass the Parliament Bill, using, at Asquith's behest, the same method of threatened creation of Peers *en masse* which William IV had, at Grey's dictation, employed to pass the First Reform Bill." By the Parliament Act of 1911 not only was the supremacy of the Commons over finance positively established but its general predominance in legislation assured. Under certain conditions public bills—other than a bill to extend the duration of Parliament—thrice rejected by the Lords may now be presented for the royal assent and become law. Nor does the issue of the reform rest there. In the preamble to the Act, Parliament expressed an intention to substitute for the existing House of Lords a second chamber constituted on a popular instead of an hereditary basis, although it was not disposed to undertake this momentous reform at that immediate time. The matter naturally was pushed aside by the concerns of the War and it was not until 1922 that Mr. Lloyd George, at the head of the Coalition Government, proposed to undertake the portentous task foreshadowed in the legislation of 1911. Substantially his scheme was that the remodelled Upper Chamber, in addition to the Royal Peers, the Bishops, and the Law Lords, should embrace in its membership (1) persons elected either directly or indirectly from the outside, (2) hereditary Peers elected by their own order, and (3) members nominated by the Crown. But the Coalition Government fell by the way before legislating in this direction.

The sword of Damocles remained suspended over the heads of the Peers until June of this year when Lord Cave gave notice that the Baldwin government would present certain proposals for the reform of the House of Lords, practically similar to those formulated by Mr. Lloyd George, with the exception of elected membership.

But so strong an opposition was encountered in the Unionist Party alone that the following week the Government felt obliged to abandon their intention, covering their retreat with the promise that the scheme of reform would be "reconsidered" in consultation with the whole Unionist Party before the necessary legislation is offered to the House of Commons.

* * It looks to us as if the Referendum might be usefully invoked in the case of this great Parliamentary reform. The case were better left to the people than to any group of politicians.

* * *

REVENGE A LA RUSSE.—Since our last writing in this department of the REVIEW the minds of journalists throughout the world have been much exercised over the New Terror in Russia launched by the Soviet government as a *coup de main* against the alleged "counter-revolutionary work of the Imperialistic Powers." Our readers are aware of the cruel execution of some thirty political prisoners in Russia in June last, including Prince Dolgurokoff, which followed upon the assassination of M. Voikoff at Warsaw by a youth of unbalanced mind. In a Note to Poland concerning the Voikoff affair the Soviet accused the Polish government of maliciously harbouring its enemies, and demanded their expulsion. Moreover, Great Britain is charged as the chief promoter of conspiracies against the Soviet. We are to expect this talk after the British rupture with Russia, which M. Jacques Bardoux, writing in the July number of *The English Review*, finds not only justifiable but inevitable under the rules of international law, although it has been so largely condemned by the British press.

Just how brazen the attitude of the Soviet is to the rest of the world is revealed in its Note to Finland in reply to a protest against the execution of Colonel Elvengren:—

"We cannot and shall not accept any intervention by any government in the matter of the executions made as reprisals for the murder of the Soviet representative in Warsaw. Those people who come into Soviet territory must know that they are no longer protected by the laws of their own country, and the Soviet code permits the putting to death of people without trial on the order of the police."

This is curious reading in view of the rules of international law in times of peace. It was long ago satirically said of Russia that despotism tempered by assassination was its Magna Charta; but it remained for the Soviet to proclaim the doctrine in a formal way.

* * *

A SENSELESS CRIME.—Disraeli's saying that "Assassination has never changed the history of the world" will find peculiar support

in the cold-blooded murder on Sunday, July 10th, of Mr. Kevin O'Higgins, Vice-President of the Irish Free State and Minister of Justice and External Affairs. The crime can only have the effect of damning the cause to advance which it was perpetrated. Mr. O'Higgins was shot by a band of men who had waylaid him on the way to Mass from his house in Blackrock. He died five hours later, magnanimously expressing forgiveness of his murderers.

Mr. O'Higgins was elected to Parliament in his twenty-sixth year, while interned for his Sinn Fein activities. After he became a Minister in the Free State Government in 1922 he was intrepid in his policy for the suppression of revolutionary violence. It is quite reasonable to believe, without evidence to the contrary at the moment of writing, that his assassination was compassed in revenge for the execution of some eighty "Irregulars" in 1922-23.

In Mr. O'Higgins's death Southern Ireland has lost a public servant who gave early promise of statesmanship of a very high quality.

* * *

THE LEMIEUX ACT IN BRITAIN.—During the debate in the British House of Commons on the Trade Unions Bill, Sir Leslie Scott, K.C., endeavoured to engraft upon the Bill the principles of the Canadian Industrial Disputes Investigation Act of 1907 (declared *ultra vires* of the Dominion Parliament by the decision of the Judicial Committee of the Privy Council in *Toronto Electric Commissioners v. Snider*¹) which would have had the effect of making it illegal for any strike or lockout to take place within a period of thirty days after the reference of a dispute to a conciliation tribunal under the British Act of 1919. The proposed amendment to the Trade Unions Bill was opposed by the Labour party and was not accepted by the Government. But the Government offered the supporters of the amendment a committee of enquiry into industrial negotiations and methods of conciliation. This offer in turn was scornfully treated by Mr. J. H. Thomas, who declared that no responsible Trade Union official could accept a seat on such a committee while the Trade Unions Bill darkened the horizon of industrial peace.

* * *

LORD HALDANE ON THE JUDICIAL COMMITTEE.—In the July number of *The Empire Review* the Right Honourable Viscount Haldane writes interestingly about the Judicial Committee of the Privy Council, and its functions and practice, not omitting to mention some of the "impressive personalities" who have sat there in the past and

¹ [1925] 2 D.L.R. 5.

some who sit there now. The following passage in Lord Haldane's article is of particular interest to us in Canada:—

“But British Judges are not the only Judges who sit on it (the Judicial Committee) now. The Chief Justices of the Dominions have places in it, and others of the Dominion Judges sit there from time to time. In each summer there are two months devoted in the main to appeals which come from Canada and which are largely argued by Canadian advocates. A distinguished Canadian jurist, Mr. Justice Duff, of the Supreme Court of Canada, comes to Downing Street by the desire of the Dominion Government, and brings great experience and an acute and highly furnished mind to bear during his co-operation with his colleagues here.”

* * *

OXFORD UNIVERSITY EDUCATION. — The following remarks on Education as it obtains in Oxford University by M. Briand, the President of the French Republic, on the occasion of his receiving the degree of D.C.L. at that institution on the 16th May last will interest our readers:—

“Every branch of human learning flourishes in this place, and I will mention two of them which has, to me, a special interest.

“First, the study of law; and if I put that first it is, believe me, not merely because, thanks to Oxford, I stand here as a Doctor of Civil Law, but also because I realize the importance which Oxford attached to legal studies. From this University, true home of political science, flows and has flowed a stream of able men equipped for public life and for the administration of the British Empire—men who have learnt here not only the principles of law of political science, but that still greater thing, the sense of public duty which gives to any free society its true basis—the basis of the reign of law.

“The second thing which attracts my attention in Oxford is the importance which she attached to classical studies. The distinction of her Hellenists is known throughout the educated world, while the honour which she pays to Latin studies is illustrated by the very ceremony in which we are taking part. I have heard it said that no true Oxford man takes his way through the world without carrying in his bag an Oxford edition of some Greek or Latin classic. Gentlemen, how can these things fail to be grateful to one whom you receive as the representative of France, and also, perhaps, as a representative of the University of France, whose “Grand Maître” I am proud to have been?”

* * *

THE LATE MR. JUSTICE LENNOX.—The Honourable Haughton I. S. Lennox, one of the Judges of the High Court Division of the Supreme Court of Ontario, died at his home in Toronto on the 25th

July, at the age of seventy-seven. Called to the Ontario Bar in 1877, he practised his profession in Barrie. In 1908 he was made a K.C. He was elected to the House of Commons for South Simcoe in 1900 and re-elected in 1904, 1908 and 1912. In the last-mentioned year he was appointed to the Bench.

* * *

THE LATE CHIEF JUSTICE MATHERS.—The Honourable Thomas Graham Mathers, Chief Justice of the Court of King's Bench, Manitoba, died, after an operation in a United States hospital, during the month of August, in his sixty-eighth year. He was appointed from the Winnipeg Bar to a Puisne Judgeship in the Court of King's Bench in 1905, and five years afterwards was promoted to its presidency, which he held up to the time of his death.

* * *

THE LATE EDMUND J. BRISTOL, K.C.—In the death of the Honourable Edmund J. Bristol, K.C., which occurred on July 14th, Canada lost a citizen of distinction not only in his chosen profession but in public life as well. Born in Napanee, Ontario, in 1861, he received his early education at the High School there, proceeding later to Upper Canada College and the University of Toronto (B.A. 1883). He was called to the Bar of Ontario in 1886, and created a K.C. in 1908. In 1889 he married a daughter of the late Chief Justice Armour, who survives him. In 1905 he entered the Canadian House of Commons as member for East Centre Toronto, holding the seat until 1926. For a short time in 1921 he was minister without portfolio in the cabinet of the Right Honourable Arthur Meighen.

Mr. Bristol was also prominent as a sportsman. He was one of the founders of the Toronto Country and Hunt Club and of the Canadian Horse Show. In conjunction with Commodore Boswell he won in 1895 the Prince of Wales Cup for the yachting championship of the Canadian Lakes.

* * *

THE C. B. R. ABROAD.—The current number of LA REVUE TRIMESTRIELLE DE L'INSTITUT BELGE DE DROIT COMPARÉ speaks in the following way of Mr. Justice Mignault's article on "The Modern Evolution of Civil Responsibility" as published in the January number of the CANADIAN BAR REVIEW:—"On y trouve une étude fort intéressante sur *L'évolution contemporaine de la responsabilité civile*, qui montre que le droit canadien suit une évolution parallèle au droit belge et au droit français, notamment en ce qui touche la théorie si intéressante de Ripert, au sujet de l'abus des droits."

AN EDITOR HONOURED.—We are glad to extend our congratulations to Mr. Edgar Bronson Tolman, Editor in Chief of the American Bar Association Journal, upon his receiving the honorary degree of Doctor of Laws from the Northwestern University, Chicago. The degree was conferred at a special convocation held in June last, when Mr. W. S. Holdsworth, Vinerian Professor of Law at Oxford, who was then visiting the United States, was accorded the same academic honour.

LORD CHANCELLOR ELDON.—By the death of the Earl of Eldon, the third holder of the title, memories of the first Earl who for a quarter of a century held the office of Lord Chancellor, are naturally revived. Both in law and in politics he played a conspicuous rôle. As statesman he honestly believed that it was necessary to resist every innovation, no matter of what sort, and to maintain everything, no matter of what kind—a narrow-minded policy regarding which even *The Quarterly Review* said some years later that “a few more drops of Eldonine, and we should have had the People’s Charter.” As a lawyer his reputation stands on a much higher level, and as an exponent of the doctrines of equity he has had few equals when he had once made up his mind, an operation which in some cases took time. In Crabb Robinson’s *Diary*, under date the 7th May, 1814, occurs the following interesting entry: “The forenoon at the Old Bailey Sessions. Walked back with Stephen. He related that Romilly thinks Lord Eldon one of the profoundest and most learned lawyers who ever lived; yet he considers his infirmity as a practical doubter so fatal, that he infinitely prefers Erskine as a Chancellor. Though his mind and legal habits are of so different a class, his good sense and power of prompt decision enable him to administer justice usefully.” Although Boswell, in his *Life of Johnson*, makes frequent mention of Sir William Scott, afterwards Lord Stowell, it is significant that he never once refers to his brother, Sir John Scott (Lord Eldon), although he, too, knew Johnson. This omission is probably accounted for, says the late Dr. Birkbeck Hill, by the fact that Boswell never forgave him for the trick he and others played at the Lancaster Assizes about the year 1786, when, after finding poor Bozzy lying on the pavement inebriated, they sent him next morning a sham brief marked with a guinea fee to move for the writ of *Quare adhaesit pavimento*. Falling into the trap, Boswell moved for the writ to the amazement of the judge, who said: “I never heard of such a writ—what can it be that adheres *pavimento*? Are any of you gentlemen at the Bar able to explain this?” The Bar

laughed, and at last one of them said: "My lord, Mr. Boswell last night *adbaesit pavimento*. There was no moving him for some time. At last he was carried to bed, and he has been dreaming about himself and the pavement." It is difficult to associate the grave Lord Chancellor with such a merry jest in his youth, but not surprising that poor Boswell did not quite appreciate the humour of it.

* * *

CONCERNING AUTHORS AND REPORTERS.—The late Mr. A. J. Ashton, K.C., in his delightful book, *As I Went On My Way*, has something to say of legal authors and reporters and the estimation, or lack of it, in which some of them have been held. Mr. Justice Blackburn, we are told, would never in his own book cite any edition of Abbott on Shipping later than the fourth, saying always, "I refer to the fourth edition, the last revised by its illustrious author," which was a little hard on one of his colleagues, Mr. Justice Shee, who edited several of the later editions of Abbott. Blackburn's opinion of Abbott's treatise, adds, Mr. Ashton, was amusingly enshrined in the *Ode to General Average*, produced by Henn Collins, when leader of the northern circuit, where he refers to Abbott's fourth edition in these terms:—

"Great fourth edition, last reviewed by thee,
Adored by Blackburn, undefiled by Shee."

Of the old reporters mentioned by Mr. Ashton is Espinasse, who was never esteemed very accurate. A counsel, he says, once asked Mr. Justice Maule how he got over a certain case in Espinasse, and that learned judge, in his thin languid voice, replied that he cared nothing for Espinasse or any other ass. Was not Mr. Ashton nodding, however, when he attributed to Lowndes the headnote: "Carlisle. Possession of trousers in Scotland evidence of larceny in England"? We have always understood that the headnote of which that quoted is a facetious variant was perpetrated by Sir Gregory Lewin, in one of whose volumes the original will actually be found in these terms: "Possession in Scotland evidence of stealing in England." But Sir Gregory's reports, which were disapproved by Lord Blackburn, and greatly enjoyed by Lord Macaulay—not, of course, for their law, but for the ludicrous mould in which so many of them were cast—are full of good things which the judicious reader will find highly entertaining. And yet Sir Gregory found no place in the Dictionary of National Biography!

F. E. H.