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.

ERRATUM.—For "Lindsay," appearing in line two of page 209 *ante*, read "O'Connor."

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LIFE MEMBERSHIPS IN THE C.B.A.—It is a matter of great satisfaction to the Editorial Advisory Board of the Canadian Bar Association that the number of Life Members in the Association is being steadily increased. At the present time the century mark has practically been reached, and there is every reason to believe that it but indicates a point of progression in the onward movement. Possibly not all our readers are aware that the interest on the Life Membership fund is applied to the maintenance of the REVIEW.

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COMMITTEE ON JUDGES' SALARIES.—It is quite evident from the general tone of the debate in the House of Commons on the Honourable Mr. Lapointe's motion to appoint a Special Parliamentary Committee to consider the question of increasing Judicial salaries in Canada that our Bench as a whole enjoys the respect of the country. We subjoin extracts illustrative of this fact from the speeches of two members of the House who are not lawyers and who are, therefore, free of any

suspicion that they are interested in saying pleasant things about the Judges.

The Honourable Charles Marcil (Bonaventure):—

I have had the opportunity of hearing this question discussed on many occasions, and I agree with what has been said that no more important question could be considered here than that of the administration of justice. It forms the basis of our institutions, and is all important to the people of Canada. When previous increases were granted to judges they were not always granted unanimously; there were dissenting voices on both sides of the house. I think, however, that in the interests of the judges themselves, above all the interests of the administration of justice, and in the interests of the public at large, this question should be dealt with openly and no suspicion should be aroused that we are doing a favor to any particular class. I agree that no man works harder or more conscientiously than the man occupying the exalted position of a judge.

The Honourable H. H. Stevens (Vancouver Centre):—

My observation of the judiciary of Canada leads me to believe that, on the whole and in the vast majority of cases with very rare exceptions, men appointed to the bench have discharged their functions with honour to themselves and to the country. It has been a matter of great surprise to me to note men of opposite political faith to myself, whom perhaps in their political life I have found it necessary to criticize very bitterly and who I thought were scarcely proper appointees for judgeships, after they have assumed the duties and, indeed, in a remarkable short space of time, seemed to be so influenced by the traditions and ethics of the judiciary that they measured up far beyond what we originally expected of them. I shall not do so of course, but I could name and I have no doubt other members have in mind many gentlemen appointed to the bench who are to-day, as I said a moment ago, gracing that position with honour to themselves and the country, who at the time of their appointment were looked upon rather askance and as probably not fitted for the position.

My point in this somewhat disjointed argument is that the traditions of the judiciary itself seem to have influenced those who have been appointed to it so that they measure up to those traditions.

It is with the greatest pride and pleasure that the REVIEW reprints from Hansard these disinterested tributes to the high character of the Canadian Bench.

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DEATH OF LORD CAVE.—The Right Honourable Viscount Cave, G.C.M.G., died at his country house, St. Ann's, Burnham, on the 29th March, at the age of seventy-two. He had been in ill health for some time, but bravely persisted in carrying on his work. Only a day or so before his death did he resign the Lord Chancellor-

ship, the Attorney-General (Sir Douglas Hogg) succeeding him. History will not assign to Lord Cave a place amongst the men of highest renown in the long roll of English chancellors, but he had one quality in respect of which none of his predecessors excelled him—kindliness. No one who came in contact with him, at home or overseas, failed to recognize in him that prime quality of the gentleman. To be remembered for that is fame enough. While his qualifications as a lawyer and a judge were not brilliant, they always led him to safe and sound opinions. His love for England and the Empire was a fervid thing, emptying patriotism of all its vainglory and lifting it into spiritual altitudes. Listen to the concluding words of his address before the Canadian Bar Association in 1920:—

> The League of All Nations is a great conception, but much time and effort must be expended before it comes to full fruition. In the meantime there is a league in being—a league, strong, effective and peace-loving, nurtured in independence, skilled in self-government, ambitious for no "world empire" but only for a world peace—the League of the British Nations. The bond which unites its great component units—Great Britain, Canada, Newfoundland, Australia, New Zealand and South Africa—is no chain of possession, but the hand-clasp of free men. It is founded on two principles, the autonomy of each and the voluntary co-operation of all; and while we are true to these principles, to each other and to our King, no enemy can prevail against us.

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Fearless Journalism.—We commend the following editorial item which appeared in the March number of *Law Notes* to the attention of our readers. It strikes us as a piece of criticism both fearless and just:—

> The "Lord Chief" is getting into the habit of making rather curious remarks. Last month he said to a prisoner who was acquitted: "You are exceedingly fortunate in your jury." His Lordship cannot realise the effect of such a remark. The accused had been tried and found by the jurors "not guilty." His Lordship's remark will "stick" to the man for years amongst his friends and acquaintances. A Judge should, in criminal trials, refrain from such a remark. The man had been found "not guilty": that settles the matter by our system of law.

Somewhere in the jungle of his Institutes Sir Edward Coke offers the following bit of counsel, which, however its Latinity may offend the nice classical ear, might be heeded with advantage at the present day: *Judex debet habere duos sales; salem sapientiae, ne sit insipidus, et salem conscientiae, ne sit diabolus.*

THE LATE JUDGE WALLACE.—His Honour Judge Wallace, of the County Court of Halifax, passed away after a brief illness on the 31st of March.

William Bernard Wallace was one of the pioneer graduates of the Law School of Dalhousie University. After his call to the Bar he practised his profession in Halifax. Entering politics he represented the city in the Nova Scotia House of Assembly from 1896 till 1900. In 1901 he was appointed Judge of the County Court of Halifax, holding that office until his death. It was not alone in this responsible office that the late Judge served the public interest. He was for some time a lecturer on the staff of the Law School, and later became a member of the Board of Governors of Dalhousie University. In 1909 he acted as chairman of the conciliation committee investigating a dispute between the Dominion Coal Company and its employees. In 1917 he was associated with T. S. Rogers, K.C. (now Mr. Justice Rogers of the Supreme Court of Nova Scotia) on the Halifax Relief Commission, appointed to settle the claims for loss arising out of the disastrous explosion which occurred in that year. In 1926 he was appointed a member of the Maritime Rights Commission under the chairmanship of Sir Andrew Rae Duncan.

In the leisure moments of a busy life Judge Wallace found time to write a useful book on the Mechanics' Lien Laws of Canada.

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RETIREMENT OF JUDGE GAULD.—We learn that His Honour Judge Gauld, of the Wentworth County Court, is about to resign his judicial office to accept the presidency of the United Gas and Fuel Company, Limited, of Hamilton.

* * Evidence seems to be multiplying on every hand that the necessity for increasing judicial salaries in this country has reached a crucial stage. Without adequate pay we cannot secure competent men for the Bench; and without a competent Bench democracy will not be safe for Canada.

* * *

WHAT PRICE LITIGATION.—The extravagant cost of litigation is a theme that is undergoing some tub-thumping in England at the present time. The *Sunday Express*, with the assistance of "a prominent London solicitor," has discovered the existence of "a group of fashionable counsel" who are exploiting the auriferous tracts in the field of law with surprising returns. It appears that this group so delated by the prominent London solicitor "controls things more

or less in the same way as the 'rings' in other circles. Fortunes disappear every year in legal controversy." He cites the Russell divorce case which cost nearly £30,000, and the Globe and Phoenix gold mine case, which lasted one hundred and seventy-one days, costing £150,000—a veritable gold mine for the purpose of litigation. Then there was the Northcliffe will suit which involved costs amounting to £60,000. But the *pièce de résistance* of his collection of specimens is the case of the mill-girl who sued for sixpence, alleged to have been improperly deducted from her wages. Before this claim was settled the law costs ran up to £300 . . The prominent London solicitor points out the injustice of counsel being able to charge any old fee while in his own profession fees have to be taxed under a tariff framed more than fifty years ago. However he does not allow chill penury to repress his noble rage for he proceeds to show up the shabby behaviour of the barristers in this wise:—

> In addition to the expensive K.C., there is also a junior counsel, who, owing to the rule of the Bar, receives a fee equal to two-thirds of the K.C.'s brief fee and his "refresher" fees from day to day. If you brief a K.C. at 1,000 guineas, you have to pay the junior counsel £750.
>
> Wretched solicitors are often faced with last-minute difficulties. The clerk to one of the K.C.'s may discover that the opposition counsel's brief is marked 500 guineas. He, therefore, does his best to get his own brief increased to the same sum, and the solicitor is forced either to accede to the demand or meet with difficulty from the leader he has employed.

And so the prominent London solicitor does his best to verify the truth of the old French proverb, "Les maisons des avocats sont faictes de la teste des folz." But in considering his indictment of the barristers for cupidity we are led to wonder if the lay mind will be alert to discriminate between the two sides of the profession and whether the bludgeon of censure may not rap the heads of the solicitors in its rebound.

It is interesting to note that Lord Justice Scrutton remarked recently in the Court of Appeal that "very experienced and expensive counsel are a luxury of litigation which people must consider before retaining them."

* * *

STERILIZATION OF THE FEEBLE-MINDED.—Alberta is the first province in Canada to enforce the principle of *Salus populi est suprema lex* for the purpose of restraining the procreation of children by the feeble-minded. A Bill has been passed by the legislature providing for sex sterilization in the mentally unfit, which will shortly come

into effect. According to press reports, which we must rely on here as no copy of the Bill is in our possession, the measure provides:—

When it is proposed to discharge any inmate of a mental hospital, the medical superintendent or other officer in charge thereof may cause such inmate to be examined by, or in the presence of, the board of examiners. If upon such examination the board is unanimously of opinion that the patient might safely be discharged if the danger of procreation with its attendant risk of multiplication of the evil by transmission of the disability to progeny were eliminated, the board may direct in writing such surgical operation for sexual sterilization of the inmate as may be specified in the written direction, and shall appoint some competent surgeon to perform the operation.

Such operation shall not be performed unless the inmate, if in the opinion of the board he is capable of giving consent, has consented thereto; or where the board is of opinion that the inmate is not capable of giving such consent, the husband or wife of the inmate, or parent or guardian of the inmate if he is unmarried, has consented thereto; or where the inmate has no husband, wife, parent or guardian resident in the province, the minister has consented thereto.

The validity of the Bill was challenged during the debate on its passage, but it is hard to see upon what ground it can be held to be beyond the powers of the legislature. The constitutionality of a similar enactment by the legislature of Virginia has recently been passed upon by the Supreme Court of the United States with the result that its validity was established[1]. Mr. Justice Holmes deliver-

[1] *Buck* v. *Bell* (1926), 47 S.C. Reporter 584.

ed the opinion of the Court, in the course of which he said:—

There can be no doubt that so far as procedure is concerned the rights of the patient are most carefully considered, and as every step in this case was taken in scrupulous compliance with the statute and after months of observation, there is no doubt that in that respect the plaintiff in error has had due process at law.

The attack is not upon the procedure but upon the substantive law. It seems to be contended that in no circumstances could such an order be justified. It certainly is contended that the order cannot be justified upon the existing grounds. The judgment finds the facts that have been recited and that Carrie Buck 'is the probable potential parent of socially inadequate offspring, likewise afflicted; that she may be sexually sterilized without detriment to her general health, and that her welfare and that of society will be promoted by her sterilization,' and thereupon makes the order. In view of the general declarations of the Legislature and the specific findings of the Court obviously we cannot say as matter of law that the grounds do not exist, and if they exist they justify the result. We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength

of the State for these lesser sacrifices, often not felt to be such by those concerned, in order to prevent our being swamped with incompetence. It is better for all the world if, instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. Three generations of imbeciles are enough.

* * *

PROBATIVE FORCE OF NEGATIVE TESTIMONY. — We had occasion recently to consult the second edition of Professor Wigmore's monumental work on Evidence in connection with a question involving the probative force of a statement by a witness that a fact did not occur as compared with that of a statement by another witness affirming that the fact had occurred. We were attracted by the warmth of the learned professor's strictures upon the theory that in such cases the witness who affirms the existence of a fact is to receive more credit than the witness whose evidence negatives it. After remarking that "there is no inherent weakness in this kind of knowledge. It rests on the same data of the senses. It may even sometimes be stronger than affirmative impressions. The only requirement is that the witness should have been so situated that in the ordinary course of events he would have heard or seen the fact had it occurred," he proceeds to say:—

> Nevertheless, from some source not traceable, there lingers in the judicial mind, in many quarters, an antiquated notion that *negative impressions are not so probative* as affirmative impressions; and a charge to the jury often embodies that notion, where the witnesses differ. The truth is that the conditions affecting correctness and fullness of observation are so numerous and varied that the one under consideration has a negligible or minor status. Modern psychology sneers (or smiles) at the law's crude assumption that the complexities of human perception can be handled by some rules of thumb about negative testimony or the like . . . The rule is a discredit to the science of law, and should be discarded. The vain lucubrations to which it leads have no relation to the real probative value of specific testimony.

Professor Wigmore does not cite amongst the Canadian cases collected in the footnote to page 1068 the case in the Supreme Court of Canada of *Lefeunteum* v. *Beaudoin*[1] where it is laid down by Mr. Justice Taschereau that "it is a rule of presumption that ordinarily a witness who testifies to an affirmative is to be credited in preference to one who testifies to a negative, *magis creditur duobus testibus affirmantibus quam mille negantibus*, because he who testi-

[1] (1897) 28 S.C.R. 89.

fies to a negative may have forgotten a thing that did happen, but it is not possible to remember a thing that never existed." Nor amongst the English authorities cited by Professor Wigmore do we find the cases of *Lane* v. *Jackson*[2] and *Chowdry Deby* and *Beny Persad* v. *Chowdry Dowlut Sing*,[3] relied on by Mr. Justice Taschereau.

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DENMARK'S ANTIPOLITICAL UNION.—Mr. August Schvan contributed to the February number of *The English Review* a very interesting account of Denmark's recoil from misgovernment of the country by the Socialist administration during the War and afterwards. It will be remembered that Denmark was beneficially affected by the upheaval that shook other European countries to the core. Food was there in abundance, wages rose to a pitch never before attained, and fortunes were amassed as if by magic. After the Armistice the wildest sort of speculation began by the Danes which resulted in disaster. The new rich failed along with the old. The great Landmandsbanken lost over thirty million pounds, and the Government, on the pretext that it was the only way to preserve the economic life of the nation, undertook to shift a large part of the bank's losses upon the shoulders of the taxpayers. Added to this was the burden of socialist legislation, which the Government had introduced previously, and the necessity of providing for deficits arising from incompetent administration of the State railways. Deflation followed upon inflation. Then came unemployment which rose to the alarming figure of one hundred thousand in a total population of about three and a third millions. The resumption of industrial production was prevented by the action of the trade unions in refusing to accept wage reductions and the lessening of the dole. In the result taxation came to absorb about a quarter of the total national income. Truly, something is rotten in the state of Denmark.

When the Moderates took office on the resignation of the Socialist administration a little over a year ago, they found it impossible to carry any remedial measures because of the opposition of the three other groups in the Riksdag—the Conservatives, the Radicals and the Socialists. Out of this political deadlock Mr. Schvan shows us that a new social polity has emerged and asks for a trial. We quote:—

[2] 20 Beav. 535.
[3] 3 Moo. Ind. App. 347.

It is therefore easy to understand that the ground was well prepared for the new anti-political union which last autumn, for the first time gained a couple of seats in the Riksdag. It alone can show a clear way out of the present difficulties. It takes the bull by the horns. It wants a complete separation between politics and economics. The State should merely become the guardian of justice. Everybody should be able to *obtain* and *keep* the full reward of his labour. The complete freedom of exchange must therefore be maintained. and all taxes. direct or indirect. national or local. be abolished.

In order to allow the exclusive use by individuals of the natural resources of the State compensation must be made to those whose means of livelihood would be curtailed by such exclusive use. Hence the plan of the Union is to obtain this compensation from the users of land by means of an economic rent "determined by the simple law of supply and demand, according to the situation and productive capacity of each piece of land."

The scheme of government contemplated by the Union is thus described by Mr. Schvan:—

The central administration can be carried out by five director-generals presiding over the departments of Justice, Public Works, and Health, and over the Inspectorate of Police and the State bank. They would be appointed by a small State Council of—let us say—fifty members, who assemble every year to revise the laws required for the protection of life, property, and individual freedom, and control their administration. This would scarcely require more than one month's labor. There would therefore be no scope for the misdeeds of professional politicians.

In itself the electoral system devised by the Anti-political Union in Denmark prevents these from coming to the front. The whole country will form one single constituency. The fifty men or women who obtain the greatest number of votes will constitute the Commonwealth Council, where they will vote with the same number of votes that they have obtained at the general election, plus those which immediately afterward have been transferred to them by the electors who in the first instance voted for candidates who did not succeed. In this way each elector will always have the influence that is his due on every decision taken by the Council. To keep its members straight each elector will possess, besides, the right to transfer his vote from one member to another as soon as he is dissatisfied with the use made of it. Thus the formation of parties becomes as impossible as the need for them is non-existent.

Evidently the twentieth century is to be devoted to many social experiments before men will be convinced that they have made this planet fairly habitable. And it is in small communities like Denmark that such experimentation can be conveniently carried on. It will be strange indeed to live in an age when government by the politicians for the politicians shall have perished from the earth.

RESIDENCE FOR INCOME TAX.—Kings and emperors have been said of old to be under the sovereignty of grammarians — e.g., *Caesar non supra grammaticos* — but English Judges have always been disposed to subordinate the authority of the dictionary to that of the statute-book. In the cases of *Levene* v. *Inland Revenue Commissioners* and *Inland Revenue Commissioners* v. *Lysaght*[1] the House of Lords was concerned with the meaning of the word "reside," and of the expression "ordinarily reside," as used in the Income Tax Act. In the first mentioned case the Lord Chancellor said that:—

> The word "reside" was a familiar English word and was defined in the Oxford English Dictionary as meaning "to dwell permanently or for a considerable time, to have one's settled or usual abode, to live in or at a particular place." No doubt that definition must for present purposes, be taken subject to any modification which might result from the terms of the Income Tax Act and Schedules; but, subject to that observation, it might be accepted as an accurate indication of the meaning of the word "reside." In most cases there was no difficulty in determining where a man had his settled or usual abode, and if that was ascertained he was not the less resident there because from time to time he left it for the purpose of business or pleasure.

In the second case Lord Sumner observed upon the word "ordinarily" as follows:—

> The Act on the one hand did not say 'usually,' or 'most of the time,' or 'exclusively,' or 'principally,' nor did it say, on the other, 'occasionally,' or 'exceptionally,' or 'now and then,' though in various sections it applied to the word 'resident,' with a full sense of choice, adverbs like 'temporarily' and 'actually.' He thought the converse to 'ordinarily' was 'extraordinarily,' and that part of the regular order of a man's life, adopted voluntarily and for settled purposes, was not 'extraordinary.' Having regard to the times and duration, the objects and the obligations, of Mr. Lysaght's visits to England, there was in his opinion evidence to support, and no rule of law to prevent, a finding that he was ordinarily resident, if he were resident in the United Kingdom at all. No authority was cited which required special consideration on that head.
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> Grammatically the word 'resident' indicated a quality of the person charged and was not descriptive of his property, real or personal. To ask where he had his residence was often a convenient form of inquiry but only as leading to the question, 'then where was he resident himself?' He thought that that distinction, though often pointed out, had too often been overlooked in the arguments in the reported cases. No doubt, on the authority of the merchant seamen's cases, Mallow was Mr. Lysaght's home and he resided there. There were his family seat and his demesne lands, his wife and family, his farming and his sport, and though some people might be able to make them-

[1] *The Times*, 10th March, 1928.

selves at home from home anywhere, he did not suppose that the Spa Hotel, Bath, however excellent, was much of a home to Mr. Lysaght. That, however, was not conclusive. Who in New York would have said of Mr. Cadwallader, 'his home's in the Highlands, his home is not here?' After all, many nomads were homeless folk, though they might reside continually here and there within the limits of the United Kingdom.

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STRIKES IN CANADA.—We learn from the *Labour Gazette* that the time loss in working days in Canada during the year 1927 was less than in any year since 1915, because the number of employees involved in strikes and lockouts was smaller. There were disputes during the year in the building trades, in clothing factories and in the coal mining industry, but none of them were of great magnitude. Then the Dominion Bureau of Statistics tells us that all the index bases of Canadian business reveal a marked advance for the first quarter of the present year over the corresponding period of 1927. This is pleasant reading for all Canadians whose love of country is a deep and abiding thing. Industrial peace is not only an indispensable factor in the material development of this young nation; it is also a moral influence that can do marvellous things in revealing to a community of people in its formative stages how the cause of human progress may be served. Unquestionably it is one of the important means for making democracy safe for the world.

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LORD CUSHENDEN AND SOVIET FINESSE.—The British Government did well in agreeing to a frank and full discussion of the Russian disarmament proposals at Geneva. M. Litvinoff's clever *ballon d" essai* to make the world safe for Bolshevism had the gas let out of it very effectively by Lord Cushenden's contribution to the debate. It is admitted that the impracticability of an instantaneous and complete disarmament of the nations could not have been more forcibly presented than it was by the British Statesman. No one knows better than M. Litvinoff that peace depends upon a habit of mind in men and not upon any temporary lack of the machinery of war. Beat your swords into ploughshares and your spears into pruning-hooks this year and next year the process may be reversed if the devil drives the unregenerate heart of human society. You cannot force pacification upon the world. Universal peace will come when the several political communities of men seek peace and ensue it unreservedly. Sad to say there is a long process of education necessary before might will yield inevitably to right in terrene

affairs. To that end we venture to think more will be done by the League of Nations than by those who are now carrying on the misgovernment of Russia.

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AMERICA AND THE SOVIET PLAN.—It seems that Mr. Gibson, the American representative at the League of Nations conference on Disarmament, indignantly repudiated the claim of M. Litvinoff that the project submitted by the United States for the outlawry of war was in substantial agreement with the Soviet plan of universal and complete disarmament. Our readers will be glad to learn that Uncle Sam very fervidly rejects any application of the *noscitur à sociis* maxim as between him and the Bolsheviki. All said and done, it is reasonably obvious that so long as the United States declines to join the League of Nations just so long does it behoove the British Government not only to endorse every effort on the part of America to outlaw war but to coöperate in such effort. Where the very best cannot be had as a means to an end it is wise to take advantage of the second best.

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THE LATE ROBERT CARSWELL.—By the death last month of Robert Carswell a pioneer in the law-book publishing trade in Canada passed away at the ripe age of ninety years. Mr. Carswell was born at Colbourne, Ontario, on the 19th July 1838—less than a month after Queen Victoria was crowned in Westminster Abbey. He was the son of Hugh and Margaret Carswell, who had come to Canada from Glasgow, Scotland. He was educated at Brighton Grammar School, at Belleville Seminary and at the Wesleyan University in Middletown, Connecticut. After leaving the last-mentioned institution of learning he taught school for a short time in rural Ontario, but went to Toronto in 1864 as sales representative for the "American Cyclopedia." Two years afterwards he opened a small shop for the sale of law-books over the old "Leader" office, which was the foundation of the large law publishing business of which he was President at the time of his death. In 1879, Mr. Carswell formed a partnership, with Charles Frankish, W. E. Collins and Arthur Poole, under the name of Carswell & Company, which did a large business in the sale of law-books. Later Mr. Carswell bought out his partners, and in 1891 formed a joint-stock company known as the Carswell Company Limited, which, after several moves in location due to the constantly ex-

panding business, erected in the year 1919 the commodious five-story building on Adelaide Street West, which is now its home.

The first book printed and published by Mr. Carswell was "Clarke's Criminal Law," which saw the light in 1872. We are informed by one who has a copy in half-calf binding that it is in an excellent state of preservation. That is because in Victorian days the practice of speeding up the tanning of leather by the use of acids was not in vogue.

Mr. Carswell's business brought him into intimate contact with most of the members of the Canadian Bar who have inscribed their names on the roll of fame during the past fifty years. Had he been so disposed he could have written a book of reminiscences of abounding interest for lawyers of the present time as well as of the days to come.

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"THE MONSTROUS REGIMENT OF WOMEN."—When we read a day or two ago of the movement to establish a league amongst English*men* for the purpose of establishing a "fifty-fifty" basis of rights and obligations for women in our new social order it occurred to us that this masculine gesture might have been suggested by Mr. A. P. Herbert's witty thrust at the sex that wrecks the cradle in *Punch* of February 29th, entitled "The Anti-Tea League." At the inauguration meeting of this laudable organization Mr. Herbert reports that the president was greeted with prolonged cheers when he valorously declared that:—

> Historians have observed that women, so far as they have changed at all, have grown worse rather than better down the ages. It is certain that they have not improved during the tea-consuming centuries. And it is fair, I think, to attribute most of the deficiencies and afflictions of the sex to the same insidious agent. Under the influence of tannic acid they grow nervy, self-centred, unbalanced, irresponsible, vain, devoted to pleasure and personal adornment, extravagant, amorous, uncharitable and illogical. They slander their friends, betray their lovers and murder their husbands. All this, gentlemen, has got to stop. Gentlemen, we are going to get that tannic acid out of the body-politic!

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NO FRIEND OF PROHIBITION.—In the current number of *Plain Talk* Professor Stephen Leacock tells the world that he considers that "Prohibition in the United States is the greatest disaster to that country in its entire history." How uncompromising is his attitude on the question in general appears from this further quotation:—"I am, I always have been, I always will be, against prohi-

bition. I am against it on theoretical grounds and on practical grounds; I am against it on grounds of morality and on grounds of common sense. And if there are any other grounds on which to be against it, I am on those, too." Quite obviously the learned Professor is determined that his fame in one respect at least will not be writ in water.

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BENCHERS OF MANITOBA LAW SOCIETY.—At an election for benchers of the Law Society of Manitoba held April 5, the following barristers were elected for a three-year term:—

Eastern judicial district—Sir James Aikins, K.C.; Edward Anderson, K.C.; A. J. Andrews, K.C.; E. H. Coleman; R. B. Graham, K.C.; R. D. Guy, K.C.; A. E. Hoskin, K.C.; T. A. Hunt, K.C.; D. H. Laird, K.C.; E. Loftus, K.C.; J. A. Machray, K.C.; H. Ormond, K.C.; Isaac Pitblado, K.C.; W. J. Tupper. K.C.

Central judicial district—E. A. McPherson. K.C., M.P.

Western judicial district—R. M. Matheson, K.C.; N. W. Kerr.

Southern judicial district—G. T. Armstrong, K.C.

Northern judicial district—G. A. Eakins, K.C.

Dauphin judicial district—C. S. A. Rogers, K.C.

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CENTURY OLD LITIGATION.—The Government of the United States has recently settled a claim against it by Canadians arising out of the war of 1812. The schooner "Lord Nelson" was owned by James and William Crooks of Toronto. Some thirteen days before the official declaration of war against Great Britain by the United States Congress the schooner sailed out of the port of Toronto carrying a cargo of lumber for points along the Canadian shore of Lake Erie. It so happened that a state of war virtually existed then, and a very strong spirit of belligerency prevailed between the Canadians and the Americans along the Niagara frontier. An American ship of war having sighted the "Lord Nelson" on Lake Erie fired two shots across her bow, and as the schooner was unarmed her master surrendered. She was taken to Buffalo, whence her crew were permitted to make their way back to Toronto along the Indian forest trails. The Americans fitted up the schooner as a ship of war, and she took part in certain engagements on Lake Erie. At the end of the war the schooner was sold at a marshal's sale for $2,999.25. An enter-

prising deputy in the clerk's office of the Admiralty Court disappeared on the day after the sale with the purchase money. In 1815 a claim was filed with the United States Government by Adam Crooks as a nephew of the original owners for $5,000. In 1819 President Monroe recommended the payment of the claim, and this action was repeated by President Cleveland in 1886. The recommendation however was not approved by both Houses of Congress. Then the Courts were appealed to and they established the illegality of the seizure. A tribunal appointed by the House of Representatives fixed a fair value of the ship at $5,000 with interest at 4 per cent from the 3rd February 1819 to April the 26th 1912. Final settlement has now been made, and the sum of $23,644.38 has been paid to the Dominion Government by the United States for distribution among the persons entitled to the same.