

## THE THIRTEENTH ANNUAL.

BY THE EDITOR.

Notwithstanding the unpropitious quality which superstition would be disposed to attach to it the Thirteenth Annual Meeting of the Canadian Bar Association proved to be an outstanding success—in certain respects the most successful gathering of the kind in the history of the Association. That it was so was largely due, on the social side, to the organizing ability of the Saskatchewan Bar seconded by the tireless hospitality of the citizens of Regina, and, incidentally, to the fact that the Queen City of the middle prairies enjoyed Queen's weather while she was entertaining her visitors.

To choose a young city of not more than fifty thousand people, with a local Bar correspondingly small in number, as a *lieu d'assemblée* was something of an adventure for the Association, but the experiment proved an exceedingly happy one. Regina is not only a city with a promising future: the roots of prosperity have already more than burgeoned there. The year after it was selected as the capital of the North West Territories the brilliant Nicholas Flood Davin sang of it as—

“A pleasant city on a boundless plain,  
Around which peace and plenty reign.”

What might have been regarded as poetic exuberance in 1884 becomes a statement of fact in 1928. To-day Regina is the political, financial, mercantile and educational centre of the most rapidly developing province in the Dominion. It is the distribution dépôt of what is at present the world's greatest hard wheat area—some 30,000 square miles in extent. Its streets and parks are remarkably well laid out; its public buildings are of excellent architectural design, among them being one of the finest legislative buildings on the continent; it has one of the best hotels in the Canadian Pacific Railway system. Indeed it is only fair to the management of the Hotel Saskatchewan to say that its manner of entertaining the visiting members of the Bar who were its guests contributed in no small measure to the success of the meeting. With such a congenial setting the capable committee of the local Bar could not fail to stage a social programme which it would be hard to excel elsewhere.

The attitude of the whole community of Saskatchewan towards

the Association finds suitable expression in the following extract from one of the Regina newspapers:

*The Morning Leader* joins in the welcome of the city and the province to the members of the Canadian Bar Association, recognizing that such conferences as those of this week react to the benefit of the community as a whole by the enactment of law designed to safeguard the interests of the individual as well as of the State.

\* \* We turn now to the practical side of the Annual Meeting. Prior to the opening day, two very important auxiliaries of the Association—the Committee on Comparative Provincial Legislation and Law Reform and the Conference of Representatives of the Governing Bodies of the Legal Profession in the Provinces of Canada—had been in session. Reports of their proceedings will be available to the profession in printed form, and we shall not attempt to discuss them fully here. It is fair to say concerning the first-mentioned body that its constructive work in the direction of standardizing laws throughout the Dominion is of the very highest value. A number of the norms of legislation framed by them have already found acceptance, and their part in harmonizing the laws of the country will increase in importance from year to year. Mr. Isaac Pitblado, K.C., of Winnipeg, was elected president of the Committee.

Adverting to the proceedings of the Conference of Representatives above referred to, one of the most important matters considered was that relating to the number of unqualified persons who have invaded the lawyer's sphere of activities and are taking business away from the profession. The report of the Committee of the Conference appointed to consider this matter contains many valuable suggestions, and well repays careful perusal by members of the profession in Canada. In the discussion that took place upon the report the more general opinion seemed to be that legislation seeking to remedy this injustice to the profession would be abortive even if it could be obtained. Disaster that must surely arise from those unskilled in the law attempting to do lawyer's work will convince the public where and by whom their interests are best conserved; and in the meanwhile the most effective antidote to this poisonous invasion lies in the thorough equipment of the lawyer for his special place in the business community, and his firm adherence to the rules of professional ethics.

Another important matter dealt with by the Conference of Representatives was that involving reciprocal arrangements between the several provinces, and between the provinces and other parts

of the Empire, concerning the admission of Barristers and Solicitors. Unfortunately the committee charged with special enquiry into the matter was not able to bring its interprovincial phases beyond the point of merely tentative suggestions, and so far as uniform arrangements throughout the Empire are concerned the report declares that replies to the questionnaire sent out by the committee indicate that there is small hope at the present time for any substantial achievement in that direction.

The Conference also deliberated upon the principles and practice of disciplining members of the profession guilty of unbecoming conduct. It was recommended in the report of the discipline committee that matters of discipline should be vested entirely in the governing bodies of the law societies and not in the courts; that there should be an appeal from the action of the governing body, to the court of appeal for the province, which should be in the nature of an appeal proper and not a re-hearing; that re-instatement should be dealt with in the same way as discipline, with the same provision for appeal; that penalties be confined to striking off the rolls, suspending from practice, or reprimanding. In the discussion that took place at the Annual Meeting upon this report it appeared that the imposition of a fine, except under exceptional circumstances, was not looked upon with favour.

The Honourable Sir James Aikins, K.C., was re-elected president of the Conference. His address to his colleagues is printed elsewhere in this number of the REVIEW.

At the close of the Conference the Benchers were entertained at dinner by the president.

\* \* The Association opened the proceedings of the Annual Meeting in the Hotel Saskatchewan on Wednesday, August 29th, at ten o'clock in the morning, with over three hundred delegates in attendance. Owing to the absence, through illness, of the President, the Honourable Chief Justice Martin, of the Superior Court, Montreal, the chairmanship of the meeting was entrusted to the Honourable N. W. Rowell, K.C., Vice-President of the Association for Ontario. The happy way in which Mr. Rowell discharged his duties revealed qualities in him which are not generally ascribed to one who daily exercises his mind in the austere atmosphere of the courts.

On behalf of the Province of Saskatchewan, a welcome was extended to the visiting members and guests of the Association by the Honourable H. W. Newlands, K.C., Lieutenant-Governor. In the course of his address His Honour spoke reminiscently of his

experiences as a pioneer practitioner of the law in the North West Territories. Colonel James McAra, Mayor of Regina, also gave an address of welcome, accompanying it with the presentation of a gold key of the city to the chairman of the morning session. This pleasant little bit of symbolism disclosed that the good people of Regina had nothing but contempt for the theory that the maxim "safe bind, safe find" is of peculiar force and significance where lawyers abound. Appreciation of these courtesies was expressed on behalf of the delegates by the Honourable Mr. Justice Hodgins, of the Supreme Court of Ontario, in a graceful speech. Presentation of the presidential address by Chief Justice Martin was made by Mr. E. H. Coleman, Secretary-Treasurer of the Association. This address is printed in the present number of the REVIEW.

The outstanding feature of the morning session was the address of the Honourable Hugh M. Kennedy, Chief Justice of the Irish Free State. It was replete with interest and information to an audience which filled the assembly room to capacity. He emphasized the fact that Canada and the Irish Free State are united in interest in the closest way because by the Peace Treaty of 1921 between the Free State and Great Britain the former accepted the law and constitutional usages of Canada. He said that there was rejoicing among his judicial associates in Ireland when it became known that he had received an invitation to be a guest at this annual meeting of the Canadian Bar Association, and he added:

We see in this invitation a direct contact between the legal professions of the two countries, two lands which have common causes, an opportunity of creating good will from the point of view of the Bar of Ireland and I hope as a result there will be greater friendly intercourse in the future, the fruits whereof will be worthy harvesting for the peoples whom we serve.

This is the first formal exchange of greetings between the legal professions of the two countries.

After referring to the first four articles of the Peace Treaty of 1921, which he said constituted the 'real meat' of the treaty, he added that the first two of them were of particular interest to Canada, because they stipulated that the Irish Free State would join the Commonwealth of British nations on the same terms as Canada, and that the Free State would adopt the law, practice and constitutional usages prevailing in Canada. We quote some of his words:

Canada provided the key to the problem for solution by the parties to the negotiations in viewing the question of how the association of Ireland with a commonwealth of nations of the British Empire might best be reconciled with Irish national aspirations.

Canada was chosen from the group as the one dominion whose relations with the British parliament and government were to be the standard by which such relations in the case of the Irish Free State were to be designed.

In concluding his address the Chief Justice observed that Canada might feel proud of her association with the ending of one of the historic feuds of the world, and one which had a permanent place in the world's politics. He thought that for the co-operation between the units of the British Commonwealth to bear fruit in the future the prime essential must be kindly, sympathetic, understanding knowledge of one another, and the Canadian Bar Association had shown one way towards the cultivation of that co-operation and understanding. "I am happy indeed," he said, "that it should have fallen to me to respond to your lead so far as my country is concerned."

The Chief Justice was tendered the thanks of the meeting at the conclusion of his address, and made an honorary member of the Association.

At the close of the morning session a resolution was adopted recording the loss which the Association had sustained in the recent death of two of its honorary members—Viscount Cave and Viscount Haldane. This resolution was spoken to with much feeling by A. R. McMaster, K.C., of the Montreal Bar, and by Sir James Aikins, K.C., of the Winnipeg Bar.

At the luncheon tendered to the delegates at the Hotel Saskatchewan, the Honourable J. T. Brown, Chief Justice of the Court of King's Bench of Saskatchewan, presided. The speaker of the occasion was Mr. Henry Upson Sims, of the Bar of Birmingham, Alabama, who represented the American Bar Association at the meeting. His subject was "The Struggle for Law." Mr. Sims held the close attention of his audience in his learned and luminous survey of the development of social order and liberty, as it exists to-day in the civilised communities of the world, from the primal social instinct of man as it found expression in the customs of antiquity. He pointed with pride to the part played by the legal profession in administering 'justice according to law' in the later periods of social history; not forgetting to stress the obligation ever resting upon the lawyer to recognize that his "highest duty is to be an aid to justice in the struggle for law. Unless he so conceives his duty, whether he so realizes it or not, he is an enemy to civilisation and the establishment of the moral standards of mankind."

In expressing the thanks of the gathering to Mr. Sims, the Hon-

ourable J. C. Elliott, K.C., Minister of Public Works for Canada, said:

By his words we have been inspired. For his graceful message of international goodwill we are sincerely grateful. The brilliant lawyer, the fine scholar, the cultured gentleman whom we have honoured today as our guest, will be an ornament to our Association as he has been to his own and I desire on behalf of the Canadian Bar Association to move that he be elected an honorary member of this Association.

Mr. Elliott's motion was received with prolonged applause, and the Chairman presented Mr. Sims with an honorary membership in the Association.

During the afternoon session the reports of certain committees were received. These reports will appear in the Proceedings of the Association for the year. It may be mentioned that the Committee of Judges' Salaries made the following recommendations: (1) That a standing committee of the Association on Judges' salaries be appointed; (2) that steps be taken to urge upon the Dominion Government the importance in the public interest of enacting legislation to give effect to the recommendations of the committee of Parliament of last session; (3) that the Association make representations to the Dominion and provincial governments of the importance of giving effect to the resolution passed by the Association a year ago, namely, that substantial reductions in the number of judicial positions could be made with advantage to the administration of justice and urging that provincial and Dominion governments co-operate to attain this end.

Sir James Aikins presided at the evening session, which was held in the Metropolitan Church in order to enable the general public as well as the delegates to hear the address of the Right Honourable H. P. Macmillan, K.C., P.C., representative of the English and Scottish Bars.

In opening his address Mr. Macmillan humourously remarked that although he was a son of the manse the ministry to which he was for a season committed was not one in which its members were expected to exercise the spiritual functions of prophet or preacher, but he owed it to the Canadian Bar Association and the good citizens of Regina that for once he was permitted to "wäg his pow in a pulpit."

Mr. Macmillan spoke on the creation and maintenance of Order as the fundamental purpose of Law. In the course of his observations he said that in the history of the world there had always been two contending forces arrayed each against the other, Order and

Disorder; and the history of civilisation was the history of the gradual triumph of the former over the latter. Quoting Swift that "order governs the world and the Devil is the author of confusion," Mr. Macmillan said that in this secular struggle he would claim that the legal profession, notwithstanding all the gibes levelled at its members, had been and still was on the side of the angels.

There was in all well regulated minds an instinctive love of order, said Mr. Macmillan, and he cited many prosaic and everyday instances in proof. If, he continued, quoting Pope, "order is Heaven's first law," he would argue that the task of the lawyer in setting the affairs of men in order might well claim to be in harmony with the increasing purpose which runs through the ages. The particular aspect of order with which the legal profession is concerned, is order in one of the highest of all spheres, the sphere of human relationships.

At the conclusion of Mr. Macmillan's address he read the following letter of greeting to the people of Regina from the Right Honourable Stanley Baldwin, Prime Minister of Great Britain :

10 Downing St., Whitehall.

10 August, 1928.

My dear Macmillan:

You tell me you are going to meet the Canadian Bar Association at Regina. You don't know yet how lucky you are!

I shall never forget that brilliant morning just a year ago, when I arrived at that beautiful city and drove to the Parliament Buildings, accompanied by the Royal Canadian Mounted Police, a body of men who might well take to themselves the motto of the Coldstream Guards—"Second to None."

Tell the people of Regina that I treasure that memory, and hope that I may be spared to visit them again.

May they go forward yet to greater things.

Always sincerely yours,

(SGD.) STANLEY BALDWIN.

Prolonged applause greeted the reading of this communication.

The proceedings of the first day ended with a reception and dance at the Hotel Saskatchewan.

At Thursday morning's session Mr. Eugene Lafleur, K.C., Vice-President for Quebec of the Canadian Bar Association, presided. After receiving the report of the Committee on International Law the delegates heard an instructive address by Mr. O. M. Biggar, K.C., of the Ottawa Bar, on "The Law Relating to Wireless Signalling." Mr. Biggar was of opinion that the possibility of Canada following the British example of undertaking the broadcasting of radio programmes as a public enterprise was extremely remote.

Mention of the excellence of Mr. Biggar's paper was made by the Right Honourable Mr. Macmillan at the Annual Dinner.

Thereafter the Chairman introduced to the meeting, in complimentary terms, Maître Armand Dorville, of the Paris Bar, who delivered an address in French on "La Réparation Pécuniaire Du Dom-mage Moral." Such a subject as that chosen by M. Dorville would not be attempted by one who had not reaped a generous harvest in the field of juristic scholarship, and the time of the delegates was well spent in listening to the learned advocate's review of the differences between the French law and the law of England as regards the theory of compensation for mental injury. He pointed out that while under French law one might recover compensation for mental injuries arising from damage to reputation, invasion of one's peace and right to repose, curtailment of comfort and the like, without reference to the intention of the wrong-doer, English law has never, as regards mental injury, brought about the complete substitution of the idea of compensation for that of penalty. Whenever the mental hurt suffered by the injured party has been caused by acts into which the will-to-harm of him who caused the injury does not enter—no matter what the severity of the non-economic loss suffered—exemplary damages will be refused in the English courts.

In accepting honorary membership in the Canadian Bar Association, tendered him at the close of his address, M. Dorville said that he valued it as "a mark of the *entente cordiale* between Canada and France."

It remains to be mentioned that M. Dorville, on Friday morning, accompanied by Brigadier-General Embury, visited Victoria Park and placed a wreath of roses at the foot of the Cenotaph erected there with the inscription: "From the Bar of Paris to the Canadian soldiers who died during the War." This act—so replete with fine feeling as it was—will not soon be forgotten by the citizens of Regina.

M. Dorville's address will be printed in full in a later number of the REVIEW.

In the afternoon session, the Honourable Mr. Justice Morrison, Vice-President of the Association for British Columbia, presiding, the Honourable T. C. Davis, K.C., Attorney-General of Saskatchewan, delivered an address on the "Evolution of Parliamentary Government and the Administration of Justice in Saskatchewan." Mr. Davis presented a vivid picture of the history of the steps by which Saskatchewan passed out of the condition of a great lone



land, governed by the Hudson's Bay Company for two hundred years, into the greatest grain producing State of its size in the world. Its constitutional development was also reviewed in a most capable and interesting manner.

Mr. W. Kent Power, editor of the *Western Weekly Law Reports*, presented an instructive paper on "The Making of a Legal Encyclopedia," as the next item on the programme for the afternoon.

The session closed with the presentation of the report of the Committee on the Administration of Justice. This report, amongst other matters, drew attention to the neglect of the Dominion Government to take any steps thus far to comply with the request of the Association at its last meeting for a better housing of the Supreme and Exchequer Courts of Canada. It declared that "the accommodation for these courts, and for the law library in connection therewith is hopelessly inadequate, and your committee again recommends that this matter should be followed up closely by the Council so that at no distant date a building will be provided suitable to the needs of these courts." The report also recommended a uniform Divorce law for those provinces of the Dominion where the courts have jurisdiction to grant divorces. It favoured giving the right to a deserted wife to bring an action for divorce on proper grounds in the province where she may be residing at the time of the alleged offence. In closing, the report commended the higher standards of preliminary education for law students now generally prevailing in Canada.

A pleasant social feature of the afternoon was a reception tendered to the delegates by Lieutenant-Colonel Worsley and Miss Worsley at the Royal Canadian Mounted Police Barracks, where the guests were privileged to witness an exhibition of riding by members of the force.

The Annual Dinner of the Association took place in the Hotel Saskatchewan at 7.30 p.m. Three hundred guests were present. Mr. L. S. St. Laurent, K.C., of the Quebec Bar, was in the chair and charmed everyone by the graceful manner in which he discharged his duties. While the table groaned with the good things it supported, it remained for the speakers to supply—

"the content

That makes the table's merriment."

The Honourable Chief Justice Kennedy and the Right Honourable Mr. Macmillan were in their happiest mood, saying much in praise of Canada, its people, and the Canadian Bar Association in particular. The former brought down the house when, referring

to Canada's status as a member of the British Commonwealth, he said: "We of the Irish Free State have hitched ourselves to your wagon, and we are content to trail along as long as you keep going, but if you should cry 'Halt!' we will get out and push." Maître Dorville touched the hearts of his hearers by his eloquent expression of the feeling that France entertained for Canada; while Mr. Sims reminded those present that the legal profession was a great link in the chain which bound Canada and the United States together—"a link forged not with steel but with usages and customs centuries old." Sir Frederick Haultain, Chief Justice of Saskatchewan, in pleasant terms thanked the previous speakers for their share in making the present meeting of the Canadian Bar Association ever memorable in its history; and Mr. A. R. McMaster, K.C., in an extremely witty speech, joined with Sir Frederick in expressions of pleasure at the presence of the visitors from other lands, and conveyed to the members of the Saskatchewan Bar as a whole, and those of the Regina Bar in particular, as well as to the citizens of Regina, the thanks of the Association for the many courtesies extended to the delegates.

The presentation of further reports of committees, the election of officers of the Association, and matters of general business occupied the attention of the delegates during the morning and afternoon sessions on Friday, the last business day of the meeting.

The chair during these sessions was occupied respectively by the Honourable Horace Harvey, Chief Justice of Alberta, and the Honourable Sir James Aikins, K.C. In the report presented by the Committee on Legal Education it was stated that the time was not yet ripe for a revision of the standard curriculum of 1920, and suggestions were outlined which could rectify certain difficulties without any formal revision of the curriculum. The list of officers elected appears in the usual place in this number of the REVIEW.

In the morning a provocative address on "The Unbalanced Scales of Justice" was delivered by Mr. R. B. Graham, K.C., Crown Prosecutor for the District of Winnipeg, in which the speaker maintained that the criminal was protected against society "in the proportion of seven to one." There was first the presumption of his innocence, secondly, that all criminal statutes are interpreted strictly against the Crown while every advantage is given to the accused. The third and fourth points were that in preliminary proceedings the Crown must place before the Court every bit of evidence it has against the accused, and if further evidence turns

up it must also communicate this information to the prisoner. "The court must lay all its cards on the table," Mr. Graham deplored, "whereas the accused can keep his up his sleeve."

His fifth point was that when once a man is placed under arrest his person is considered sacred and he cannot even be questioned. His fifth point dealt with challenges of jurymen, which, he said, was unfair to society because the accused had the right to anywhere from four to twenty peremptory challenges whereas the Crown only had four, no matter what the charge.

His sixth point was that the Code held that the verdict must be unanimous which meant that the Crown must convince 12 men of the prisoner's guilt, whereas the accused need only place a doubt in the mind of one juror. "It is true," said the speaker, "that this would only mean a new trial, but practice has shown that two disagreements are, in effect, equivalent to an acquittal."

The seventh and most important disability under which society laboured, according to the speaker, was in the matter of appeals. Since the amendments to the Criminal Code passed in 1923, he said, the accused could appeal on questions of both law and fact, whereas the Crown could only appeal on the question of the severity of the sentence.

The only advantage the Crown has, said Mr. Graham, is the fact that the resources of the State are immeasurably greater than those of the private individual.

The luncheon chairman on Friday was Mr. J. A. M. Patrick, K.C., Vice-President of the Association for Saskatchewan. The luncheon address was delivered by Mr. J. W. deB. Farris, K.C., on "The Lawyer as Law Maker." Mr. Farris revealed himself as a zealous apologist for the Common Law. In his view that body of law was essentially progressive and in no sense static. It was an error to hold that the duty of the Judge was to interpret the law only: the work of the lawyer—on the Bench and at the Bar—was to keep the Common Law alive and growing. Its principles were indicative of organized social development. It was civilisation manifesting itself through the medium of a profession set apart. It was the spirit of human justice ever striving onward.

At 4 p.m. a garden party was given on the Legislative Building grounds by His Honour the Lieutenant-Governor and the Executive Council of the Province of Saskatchewan; and in the evening a reception was held by His Honour the Lieutenant-Governor and Miss Newlands at Government House. Both of these social events were largely attended by the members of the Association and the

ladies who accompanied them. Speaking of the lady visitors reminds us that we must not omit to mention a very delightful dinner given in their honour during the meeting by Lady Aikins.

\* \* And then befell that *dies mirabilis*, Saturday! the 'day after' and yet so intimately a part of the Thirteenth Annual—so eagerly looked forward to by the many who stayed over, and so benign in its realisation of anticipated pleasure, that it became the very crown of things in an unforgettable week—what shall we say of it? Nothing in the way of a meticulous review of the several events, for that would spoil the impressionist mental picture of the day, and its *ensemble* of glowing memories. The Qu'Appelle Valley with its hills marching in their purple robes towards the far horizon, with its thousand stooks of golden grain reposefully awaiting the thresher in the fields, with its waters reflecting in deeper tone the blue of an unclouded sky, could any one whose eyes were blessed with such a scene, and whose soul thrilled to it, think for a moment that it could be adequately painted in words? But the unpainted momentary picture will not be lost to us—

" 'Tis evanescence that endures:

The loveliness that dies the soonest has the longest life."

We shall not soon forget the Hugonard Day luncheon so generously served to us by the Department of Indian Affairs in the quaint little church at Lebreton, built by the good Archbishop Taché in the days long gone but now unused for divine service. Nor shall oblivion dull for us the vision of the afternoon pageant whereby we were in a measure illumined of the Psalmist's cry: "What is man that thou art mindful of him, and the son of man that thou visitest him?" For there we envisaged man in his primitive stage and setting touched by the social and moral forces that are responsible for his age-long progress from sensual to spiritual things: before us was the erstwhile savage appealing in his dramatic way for a suitable memorial to one of the finest examples of civilised man in his day and generation—La Vérendrye, the friend and benefactor of the Indian tribes of Canada.

We left Lebreton when the declining sun reminded us that one of the most notable days in our journey through life had come to a close, carrying with us high appreciation of the very effective way in which Mr. W. M. Graham, Indian Commissioner, and Reverend Father Athol Murray had assisted the members of the Regina Bar in making the programme of Saturday a worthy finale to the Thirteenth Annual Meeting of the Canadian Bar Association.