

party." The only authority cited for this proposition is that of *Byrne v. Van Tienhoven*, 5 C.P.D. 344. No reference is made to the later case of *Henthorn v. Fraser*, [1892] 2 Ch. D. 27, where the rule laid down in the former was extended to the case of a written offer delivered by hand and accepted by post. In the latter case the judgments delivered by the members of the Court of Appeal review the chain of authorities which have moulded the doctrine of offer and acceptance as it stands, and afford much information to the student concerning the reason of the rule.

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PROPERTY OWNERS AND ACCIDENTS.—*The Law on the Liability of Property Owners and Occupiers for Accidents*. By William Findlay. London: Sweet & Maxwell, Ltd. Toronto: The Carswell Company Ltd. 1928.

This is avowedly an attempt to state the law governing the liability of owners and occupiers of real property for accidents occurring on or near such property. The author's researches have not been confined to cases decided in the British and Irish Courts but extend to reported decisions both in the dominions and the United States. The work appears to have been carefully prepared, and is well worth the attention of practitioners in Canada. In view, however, of the growth of government ownership of real property in Canada the author may fairly expect criticism in this country for his failure to include in his survey some of the important cases relating to governmental responsibility which are to be found in the Canadian reports.

Ottawa.

CHARLES MORSE.

## CORRESPONDENCE

The Editorial Advisory Board of the Canadian Bar Association does not hold itself responsible for the opinions of Correspondents. Contributions to this department of the REVIEW must be accompanied by the genuine names of the writers, to be used in the discretion of the Editor.

MR. JUSTICE GIBSON AND THE CANADIAN BAR REVIEW.

To the Editor of the CANADIAN BAR REVIEW.

SIR,—Due to absence in Europe for some weeks, I have only just become aware of your editorial intitled "Concerning the Behaviour of Judges" in the November number of the REVIEW.

The occasion of your editorial is an item of Editorial Comment which appears in [1928] 3 D.L.R. Pt. 10, and in this latter is incorporated a letter which I wrote to the Attorney-General of the Province of Quebec.

You do not, either in your editorial or elsewhere in the REVIEW, reproduce my letter, but, in dealing with the matter you follow what I suppose must be a method of your own, namely: after some generalities which you use portentously and which in the sequel prove to be irrelevant, you represent to your readers, in a disfiguringly insufficient way, what the purport of my letter is, you suggest that in writing the letter I was actuated by motives which you indicate: ill temper, personal antagonism, etc., then you hold me up to criticism for having entertained the motives which you have thus ascribed to me. But when you come actually to deal with the letter itself, you expressly decline to comment upon the legal questions which the letter raises, your criticisms shrink to concern one single short paragraph. This paragraph you remove from its context and reproduce in your editorial, and you italicize some of the words of the paragraph, namely words which, you declare convict me of 'a very improper imputation upon' certain persons whom you indicate. As to the rest of my letter you evidently have no criticism to offer, for you admit that, for me to have written it, was 'undoubtedly within his [my] rights', that is to say provided my 'action' [in writing it] 'is to be viewed as moved by no other impulse than a desire to conserve the integrity of Quebec law'.

Your criticisms are thus with respect to these two matters only: the excerpted paragraph, and that I was swayed by improper motives in writing a letter which without those motives it was 'undoubtedly within' my 'rights' to have written.

I will not complain of your methods of criticism, probably no word I could utter would induce you to amend them; but I say at once that what is reproduced in the Dominion Law Reports (l.c.) is exactly a letter addressed by me to the Attorney-General of this Province. I have nothing to add to it; if I had, it would be by a letter addressed to the same authority. The letter is there,—to be read by any who will; but it must be read as a whole, and it must be understood as it is expressed. The occasion which gave rise to it, its purport, and its purpose, appear from the letter itself. I am quite satisfied to leave it to the judgment of my professional brethren, whether on the Bench or at the Bar, more particularly to the judgment of those who are familiar with the difficulties which beset the administration of the criminal law.

I believe that the propositions of law adverted to in my letter are sustained and sound I believe that the opinions there expressed are those of the profession in this Province; I feel equally sure that the profession in this Province, certainly including myself, would study with much interest and deference any reasoned and informative refutation of those propositions which might appear say in the pages of the REVIEW, or elsewhere. But the same interest and deference could not attach, and conviction could not be induced by some bald statement, made in the form absolute, one which did not in itself give indication of a knowledge of the history, the growth, the present basis of the branch of law under consideration and which gave no heed to operative current legislation.

My letter is, so I would wish, a clear, definite, impersonal exposition of a legal situation, and I would wish that in its form and in the substance it contained, it was found useful to the responsible Minister of the Crown to whom

it was addressed. In the circumstances shown I was the individual most closely acquainted with the situation newly created, and my report to the Attorney-General is to be viewed not as the exercise of a right but as the fulfilment of a duty. He had, I had not, capacity to take action toward reform.

I answer your criticisms:

Respecting the excerpted paragraph, I say that, when read in its context, its meaning can be nothing other than this: that though certain incidents occurring in a criminal prosecution which I was discussing (illegality in the proceedings, prejudice to the accused and new trial ordered) were the occasion for my letter yet those incidents in themselves were of no general interest, and they called for no comment; that what did call for comment was the rule of law declared to be applicable to those incidents. In my account to the Attorney-General I stated in effect that the language of their spokesman made it indubitably plain that those who had dealt with these incidents were quite unaware that they were opening sluices which had never been opened before (certainly not in respect to Quebec), and that they were committing both themselves and all under their control in this province to whatever in future would flow through so long as these sluiceways were left open. The accuracy of the statement I made cannot be impugned. Thus what you stigmatize as an 'improper imputation' is not an imputation, but it is a statement of fact and the fact is true.

To refute your charges of personal antagonism, ill temper etc., it is sufficient, I think, to refer to the letter itself. I add that the contents of my next paragraph throw further light upon the matter.

What may be your personal ethics of criticism is not a matter in which I take concern, but I may invite the members of the Canadian Bar Association to note the following:

In your editorial you state the source of your information to have been an article in the Dominion Law Reports (l.c.). That article informed you:

1. that the letter had been written;
2. that it was I who had written it;
3. that Chief Justice, Sir François Lemieux, had written to the (Premier and) Attorney-General of the Province, Hon. L. A. Taschereau, K.C., 'fully subscribing to the sentiments expressed by Gibsone, J., and further suggesting a reference of the problem to the Minister of Justice';
4. that the Attorney-General, Mr. Taschereau, had replied to my letter promising his fullest attention and an immediate reference to the Minister of Justice. Your editorial omitted mention of these last two items of information! Thus when you were using with pointed reference to me the expressions: 'behaviour of judges', 'dum bene se gesserit', 'ventilate disputes', 'personal antagonisms', 'exhibitions of ill temper', infringements of 'elementary canons of judicial etiquette', 'discord between judges and between the courts in which they sit', when you were thus trying to convey to your readers that those expressions were descriptive of my conduct in writing the letter, and indicative of the measure of its contents, you deliberately omitted to tell your readers the extent to which these two high officers of state had associated themselves with that letter. Their association with the letter were circumstances certainly relevant to the question as to whether your charges against

me (of personal antagonism, etc.), were founded. I must, I suppose, accept this as a further example of your mode of dealing and leave it at that.

Your intended flagellations fall short, but I wonder by what authority you take upon yourself to use the name of the official organ of the Canadian Bar Association to pronounce reprimands. Can it be your supposition that the editorship of this REVIEW invests you with any such mandate from the Canadian Bar Association? I question if the expectations of the Association are satisfied if, when a legal question of weight and far reaching effect is raised, the editorial contribution of this REVIEW is such as it has been here.

This letter is sent for publication in the REVIEW, and I request accordingly.

G. F. GIBSONE.

Quebec, 28th December, 1928.

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THE INFERNAL REGIONS.—The sympathy so freely bestowed on those inhabiting the slopes of Etna and Vesuvius was demanded last week by the more familiar regions of High Holborn and New Oxford-street. Civilisation seems to have been building its own volcanoes, but there is more dignity in being at the mercy of a fiery mountain than of a fractured gas main. We have lodged a number of our public services underground, and when they fall out among themselves, with disastrous consequences to the upper world, there is apparently no clear responsibility for the damage. We need a competent Pluto to rule those infernal regions.—*London Observer.*