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.

☞ Special articles must be typed before being sent to the Editor, Charles Morse, K.C., Room 816 Ottawa Electric Building, Sparks Street, Ottawa.

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TOPICS OF THE MONTH.

The Twentieth Annual Meeting of the Canadian Bar Association will be held in the City of Winnipeg on the 28th, 29th and 30th days of August, 1935.

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HIS MAJESTY'S SILVER JUBILEE.—The celebration throughout Canada of the Silver Jubilee of His Majesty King George V has fulfilled in the largest and happiest measure all that we ventured to anticipate for it in our March number.

In Ottawa the atmosphere was vibrant with appreciation of the significance of the great event on the two special days allotted to its formal celebration. On Sunday, the fifth instant, the Churches were crowded at the Thanksgiving services, and on the following day thirty thousand people gathered on the square in front of the Parliament House to listen to eloquent eulogies of the King, both as man and monarch, by His Excellency the Governor-General, the Right Honourable Sir George Perley, P.C., G.C.M.G. and the Right Honourable Mackenzie King, P.C., C.M.G. The brilliant uniforms of the military units on parade, the music of the bells in the Peace Tower and of the bands and massed choirs, the cheers of the great throng of people assembled to do honour to their beloved Sovereign, all contributed in a most effective way to make this celebration an unforgettable event in the history of the capital city of the

Dominion. And the sentiments of affection and veneration for His Majesty so manifested in Ottawa were but typical of the emotional reaction of the whole Canadian people to the stimulus of the occasion. Thus, Canada, along with the mother-country and the other component units of the Empire, has demonstrated to the rest of the world that the King to whom the British communities now yield allegiance sits upon a throne more broadly based upon his peoples' will than that of his predecessors. As a man he is an example of all dutiful living. To contemplate his private life is to recall the saying of the wise: "Not as it pleases us, but as it is right, so let us live." While the principles of the Christian religion which underlie England's lofty ideals of conduct have suffered persistent attack by the combined forces of materialism and hedonistic license during his reign, King George has held his faith unimpaired and steadfastly practised it. As a monarch, how wisely and well he has administered the functions of his great constitutional office in the fateful years of his reign is revealed in the loyal affection extended to him by all the nations and peoples that dwell in the world-wide British Empire. The customary toast to "The King" at public dinners is honoured with exceptional fervour at the present time.

We append to these observations on the Silver Jubilee a notable tribute to His Majesty recently expressed by a leading English journalist: "He is as near a model English king as one could imagine . . . . . If it is true that Victoria on her accession said, 'I will be good,' King George might well have said, 'I will do my work,' and certainly he has fulfilled the task."

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RESTRAINT UPON BUCCANEERING.—By the Solicitors Act, 1934 (Eng.) it is provided that for every act done by a body corporate, or by any director, officer or servant thereof, calculated to imply that the body corporate is qualified, or recognized by law as qualified, to act as a solicitor, such body corporate shall be liable on summary conviction to a maximum fine of £100. In a recent prosecution under the Act before the Clerkenwell Police Court a manager of one of the defendant company's offices had written a letter, on behalf of a person for whom the company was acting, in the following terms: "We shall be glad to receive a reply to our letter, failing which we shall have no option but to commence proceedings". Treating this letter as implying that the company had the qualification of a solicitor, the Magistrate fined the company £10, and £5 5s. costs.

Does this case point a moral for the profession in Canada or does it merely serve to adorn a tale?

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ADVERTISING BY PRACTITIONERS.—We extract the following item from *The Law Institute Journal* (Melbourne), the official organ of the Law Institute of Victoria and the Queensland Law Society Inc. (Vol IX, No. 4, p. 66).

> "The matter of practitioners advertising in the Telephone Directory and various other periodicals was dealt with at the last meeting of the Council. The Council is of opinion that advertising in other than legally recognized Law Lists and other purely legal publications is not in accordance with the best interests and etiquette of the profession. It is pleasing to note that practitioners, to whom this view has been communicated, have expressed wholehearted approval of the Council's attitude."

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MEDICAL FEES CLASSIFIED.—At the annual meeting of the New Jersey Medical Society held at Atlantic City on the 1st instant, Dr. F. H. Glazebrook, medical director of the New York Stock Exchange, suggested a planned system of fees to meet the economic problems of medical care. He would classify medical patients into four groups: (1) Those unable to pay anything, whose care must continue to be the responsibility of relief agencies. (2) Those of sufficient means to pay for the care they require, who should be left to make their own arrangements. (3) Unmarried persons with annual incomes up to $900, families of two with incomes up to $1,400, of three with incomes up to $1,650, of four with incomes up to $1,900 and of five with incomes up to $2,150, who are justified in asking for the rates offered in hospital clinics. All these should be eligible for ward rates. When hospitalized, they should be eligible for free treatment. (4) Unmarried persons earning $925 to $2,700 a year, families of two with incomes up to $1,425 and families of five with incomes up to $6,500. He suggested a hospital ward charge of 12 per cent a day of the patient's weekly income if he is unmarried, 10 per cent if he is married but without other dependents, and 1 per cent less for each dependent. A minor operation should cost 1 to 3 per cent of the patient's annual income, and a major operation, 5 to 10 per cent.

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FINGER-PRINT EVIDENCE AGAINST ACCUSED PERSONS.—In a recent address to the Glasgow Juridical Society, Mr. J. R. Haldane, Sheriff-Substitute of Lanarkshire, said that two recent

cases in Scotland had lifted finger-prints into an important position in the administration of criminal law. He referred to the decision in *Adair* v. *McGarry* (1933 S.C. (J.) 72) as supporting the legality of the police taking specimen finger-prints of suspected, but uncommitted, persons; and to *Hamilton* v. *H. M. Advocate* (1934 S.C. (J.) 1) as establishing that the identification by finger-prints of an accused person with the perpetrator of the crime is as sufficient to found a conviction as any other mode of identification. While commending the principles formulated in these two cases as founded on common sense, Mr. Haldane observes, "but there is always a tendency for familiarity to breed contempt, and for laxer methods to creep in, leaving dangerous possibilities of inadequately checked powers in the hands of expert police officials." He then suggests that precautionary measures against bureaucratic police methods be taken in the form of legislative regulation of the use and administration of finger-print proof, so that public confidence would be fostered and maintained not only in this method of proof itself, but also in the safe-guards against misuse of it as a weapon against crime.

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WITHDRAWALS FROM LEAGUE OF NATIONS.—When Japan and Germany gave notice of withdrawal from the League of Nations many people wondered about the justification for such withdrawals and that, assuming they were justified under the Covenant of the League, how the League hoped for permanent existence if secession were so easy of attainment as it appeared to be in these two instances.

By paragraph 3 of Article 1 of the Covenant it is provided that:

> "Any Member of the League may, after two years' notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal".

In an informative article on "Conditions of Withdrawal from the League of Nations," published in the *American Journal of International Law* (Volume 29, pp. 40-50), Josephine Joan Burns points out that in the draft Covenant of February 14, 1919, which President Wilson brought back with him to the United States after his first trip to Paris subsequent to the War, no such provision for withdrawal appeared. Its omission was the subject of vehement attack in the United States Senate, with the result that on his return to Paris to attend the thirteenth meeting of the League Commission Mr. Wilson introduced an

amendment to the withdrawal Article providing that after the expiration of ten years from the ratification of the Treaty of Peace of which the Covenant formed a part, any member of the League, after giving one year's notice of its intention, might withdraw provided all its international obligations and all its obligations under the Covenant were fulfilled. Discussion of this amendment centred upon its prescription as to time, which, Miss Burns states, resulted in a withdrawal clause very similar to the present paragraph 3 of Article I of the Covenant being adopted.

Miss Burns makes a very careful examination of the meaning of the phrase "all its obligations under this Covenant", which appears yet to lack authoritative interpretation. She is disposed to think the following a reasonable construction:

> "All its obligations would appear to include not merely the paying of contributions, the registering of treaties, and other obligations of that nature, but also the observance of certain fundamental commitments under Articles 10, 12, 13 and 15. Such an interpretation is suggested by M. Bourgeois' comment on the withdrawal clause at the time it was being discussed by the Commission on March 26, 1919, to the effect that the clause should also 'ensure that States might not do so [withdraw] except on terms that would not damage this League' ".

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MEXICO AND THE LEAGUE.—We extract the following from the Weekly News Sheet (April 26) issued by the Publicity Department of the Ministry of Foreign Affairs, United Mexican States,:

> Marte R. Gomez, C. E., our delegate to the League of Nations, interpreting the feeling of the Mexican Government, condemned, from a general point of view, the violation of obligations contained in treaties, considering it necessary that all countries forming the League shall uphold the principle that respect for same should be the basis of international relations. However, Mexico reserves its opinion as to the reasons that may give rise to a violation in a given case.
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> Mexico being foreign to the special circumstances that brought about the signature of the Treaty of Versailles, and to approval of provisions therein contained, did not express its opinion in the actual debate, and does not side with any of the interested parties, with which it maintains a cordial friendship which it greatly esteems, respecting the points of view of all of them.
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> Upon entering the League, Mexico's aim was to collaborate disinterestedly with all nations towards the preservation of universal peace, and it does not wish its presence in the League of Nations to be interpreted in any other way than the one that encouraged it to accept the invitation to become a member of same."

DRAMATIC COPYRIGHT ROYALTIES.—At a meeting of the International Congress of Dramatic Authors held in Seville, Spain, on the 7th instant, a resolution was adopted protesting against alleged discrimination in payment of royalties in Canada on copyrighted works. The resolution it is stated followed upon a discussion in which English delegates present at the meeting strongly animadverted on the discrimination complained of.

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LEGAL EDUCATION IN QUEBEC.—By a report of the Committee of Studies of the Council of the Bar of the Province of Quebec as submitted to Premier Taschereau, with a view to legislation being passed in relation to its subject-matter, it is recommended that those who seek admission to the Bar should have completed a course of three years in a University, obtained a law degree and then, after passing the Bar examinations, spent one year indentured in a law office. Furthermore, it is recommended that at the conclusion of such year candidates for admission should be required to pass an oral examination in practice and procedure.

** We gather these facts from press accounts of the Committee's report, not having had the advantage of perusing the report itself.

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STATE CONTROL OF BASIC INDUSTRIES.—At the fifth convention of the All-Canadian Congress of Labour held this month in Montreal the report of the executive submitted for consideration the taking over by the State of the basic industries of the country and operating them as public utilities, such action being in the opinion of the executive justifiable as an emergency measure necessary to the preservation of national life.

The following is a quotation from the report as it appeared in the daily press:

> "The nation should re-assert the ownership of natural resources as an initial step in any fundamental reform of the economic system. The most important of all natural resources, the land, should be national property. The community-created value of land should belong to the community. To achieve this advance the board recommends the gradual acquisition of all land values by taxation, the revenue so derived being applied first for the provision of housing for the workers."

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PROVINCIAL INSURANCE LEGISLATION.—We extract the following from a statement issued on April 23rd by Ralph P. Hartley, K.C.,

(Fredericton N.B.) President of the Association of Superintendents of Insurance of the Provinces of Canada:

Seven months have elapsed since the Conference [September, 1934] and during the past three months the Legislative Assemblies of all provinces have been in session and nearly all prorogued. It is now opportune to review what has been accomplished and the extent to which the deliberations of the St. John Conference have influenced new provincial insurance legislation in Canada in 1935. In the following survey reference is omitted to the province of Quebec which, while co-operating strongly with the Conference and particularly in all matters of administration, has not yet adopted the uniform legislation in force in the other provinces with respect to contracts of insurance.

1. All provinces passed without change (at moment of writing the Bill has not finally passed in Nova Scotia) the proposed amendments to the so-called Uniform Automobile Insurance Act, which will come into force on a date to be agreed upon among them, probably about June 1st, 1935.

2. The provinces of British Columbia, Manitoba, Ontario, New Brunswick and Prince Edward Island adopted all the proposed amendments to the Uniform Life Insurance Act without change, to become effective on a future date to be agreed upon. The proposed amendments were not presented to the remaining three provinces. It is expected they will be favourably considered not later than their 1936 session. Meanwhile it is not anticipated that they will be brought into force in the five provinces which have adopted them until they are adopted by the other provinces.

3. No amendments to the Uniform Fire Insurance Act were recommended by the St. John Conference; no amendments were adopted by any province.

4. Miscellaneous minor amendments to the Insurance statutes of the several provinces recommended by the St. John Conference were approved by all provinces where applicable.

5. No province adopted any amendments to their insurance laws not recommended by the Conference or repugnant to any recommendations made by it.

CONCLUSION.

When one reflects upon the present disturbed conditions throughout the financial and business worlds and the demand in many quarters for change in the existing law and order, when one sees what is actually happening in other fields of legislation in Canada and elsewhere, the steadying influence which this Association has come to be privileged to exercise in the important field of provincial insurance legislation and regulation, and the success which has attained its efforts to occupy that field effectively, are fully apparent. In the foreword to the "Proceedings" of the St. John Conference I said:

> "The Association is making definite progress toward the two goals which it set for itself,—
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> First, to be an important connecting link between the insurance companies, the legislative bodies of the different provinces and the insuring public; and

> Second, to sponsor improvements to the insurance legislation that will ultimately make the insurance business in Canada the best regulated and the best conducted business to be found in any country in the world."

The record of the 1934-1935 legislative season above-outlined indicates the tremendous strides which have been made towards these joint goals. Indeed, it would appear that they have been completely attained. There is sound ground for the opinion that if the legal profession, the organized bodies of public opinion, the accredited representatives of the insurance business and the governments and Legislative Assemblies of the several provinces will continue to co-operate by being properly represented at these annual Inter-provincial Insurance Conferences and continue, after they are terminated, to lend active support to the recommendations of the Conferences, the promotion of uniformity in the regulation of the business of insurance throughout the provinces of Canada will be served by the most effective instrument for co-operation yet devised. It should be remembered, however, that uniformity can only be obtained and maintained if those interested in the business of insurance in Canada or in legislation respecting that business are represented at the annual conferences of the Association, and offer to the responsible Committees at those times their comments, criticisms and suggestions concerning proposed legislation. Suggestions put forward after these Inter-provincial conferences have terminated are destructive in that, if acted upon, they automatically destroy uniformity or the prospect of uniformity.

If these considerations are kept in mind by everyone the meeting of our conference in Winnipeg next September immediately following the meeting of the Canadian Bar Association will, I am satisfied, see as much real work accomplished and as splendid results obtained as crowned the efforts of the Association at the St. John, N.B. meeting last September.