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NOTE AND COMMENT.

* * * With particular pleasure and interest we note that Mr. James M. Beck, now Solicitor-General of the United States, has been called to the English Bar by Gray's Inn in order to enable him to argue before the Privy Council a Canadian appeal to which his government is a party. The action taken does honour both to Gray's Inn and to the distinguished lawyer whose brilliant exposition of the Allied cause created such a profound impression in the neutral world during the early days of the War. Furthermore, it is a graceful and dignified act of international courtesy of a kind which does much more to foster good relations than the outpouring of many speeches, however eloquent they may be.

It is not so satisfactory to reflect that at the present time the action of Gray's Inn could not be repeated in Canada owing to the rules which limit membership of the Bar in each Province to British subjects. It is probably within the inherent power of any Superior Court to hear any person whom it pleases, irrespective of his qualifications, and in special cases American counsel have occasionally been admitted to audience before Canadian tribunals. But the courts under our system cannot confer the right to practise law, and a person thus irregularly admitted to audience has none of the privileges or the responsibilities of a quali-

fied lawyer. In England, where admission to the Bar is wholly controlled by the Inns of Court without statutory regulation, there is now no limitation of membership to British subjects, though it is only in the rarest cases that an alien is actually called. This has now been the rule since 1868, when members of the Bar were exempted from the necessity of taking the oath of allegiance. A notable instance of the admission of a distinguished foreigner to the English Bar is that of J. P. Benjamin, who is almost forgotten as the Attorney-General of the Confederate States, but will be long remembered as the author of "Benjamin on Sale."

Most of the American states demand citizenship as a condition of admission, but there are a few exceptions. There is no real reason why the Bar societies in Canada should not be entrusted with a discretionary power to waive the requirement in suitable cases. It is not likely that demands of this exceptional nature would be at all frequent, and the discretion of the Benchers should be a sufficient safeguard against any abuse. Sparingly and judiciously used the power to admit distinguished foreigners to the Canadian Bar would be of service both to international comity and to the higher interests of the profession.

H.A.S.

* * * To the lawyer who likes his case-law seasoned with wit and learning, the judgments of Mr. Justice McCardie of the English Bench are always a delight. His wit is never forced and his learning is only used to illumine what untouched by it were obscure. Withal, Sir William McCardie's decisions are replete with sound law. The recent case of *Callot v. Nash* (1923), 39 T. L. R. 292, reveals him in his happiest vein. It involves the question of a husband's responsibility for wearing apparel supplied to his wife. We venture to quote some of the learned judge's comments on the parties at variance before him:—

“The dress of woman has been ever the mystery and sometimes the calamity of the ages. I will, however, venture to mention some of the items in this case. One is for a ‘Gismonda’ evening dress at 2,400 francs; another for a morning dress at 2,800 francs; another for a ‘Pécheress’ (or female sinner) evening dress at 3,700 francs; another for an evening dress at 3,800 francs; another for a ‘Chrysalide’ evening dress at 4,600 francs; and another for a fur stole at 15,000 francs. This account of the plaintiffs’ is a mere fraction of the dressing debts incurred by the defendant’s wife. I might well infer that it is as true in some cases to-day as it was when Ovid wrote 1,900 years ago, ‘Pars minima est ipsa puella sui,’ that is, ‘The woman is the least part of herself.’ Her [Mrs. Nash’s] catholicity of profusion was remarkable. She threw herself beneath the fatal curse of luxury. She forgot that ostentation is the worst form of vulgarity. She ignored the sharp menace of future penury.” . . .

“The defendant here was a captain in the Army, but otherwise he had no particular rank or position. The word ‘captain’ is not to be taken as a synonym for prodigality. It is true that the husband and wife (particularly in the early period of marriage) lived at times in fashionable hotels, and dined and danced at fashionable restaurants. I must make allowance for the irrational tyranny of social convention; I do not overlook the requirements, however foolish, of so-called fashionable society. I am willing, moreover, to recognize the tonic properties of an occasional new costume . . . Husbands vary. Some repose on financial strength; some hover on the brink of mere indigence. Nothing was known of Captain Nash, except his address at a Paris hotel, or his address in London. He was merely one of a rapid succession of husbands. He was nothing more. He might well be as transitory as the other two. To the plaintiffs he was only an incidental male appurtenance to Mrs. Nash. . . . When I observe the consequences of Mrs. Nash’s slavery to fashion, I might well

apply the words of Victor Hugo in his 'Notre Dame de Paris,' and say: 'Les modes ont fait plus de mal que les révolutions.' . . . It only remains to be said that Mrs. Nash disdained the high standard which has been created by the best and most gracious portion of English womanhood. She renounced her duties at the call of empty pleasure. She sacrificed her privileges of social service for the allurements of ignominious folly."

The fact that Sir William McCardie is set down as a bachelor in "Who's Who" lends all the more piquancy to his animadversions on the last infirmity of female minds.

The case is an authority to show that where the tradesman gives credit for wearing apparel to the wife exclusively, knowing that she is a married woman, the husband is excused from liability on his wife's contract.

* * * At the second annual meeting of the American Branch of the International Law Association, held in New York in January last, the Honourable Mr. Justice Mignault of the Supreme Court of Canada made an address which we have been privileged to read in the printed Report of the Proceedings recently issued. The address is replete with the spirit of international brotherhood. It is infused with the belief that by the example of enduring amity between the American and Canadian peoples much will be done, the world over, to render war detestable and make smooth in the heart of humanity the path of "the progressive evolution of the thought of God," as Mazzini so finely puts it. We regret that limitations of space prevent us from reprinting the whole address. We append, however, some of its more striking passages:—

"It is perfectly obvious that we have a common interest in the world problems which it is your mission, as a society of International Law, to study

especially. We are very happily situated on this Continent of North America, and we have given an example, have we not, to the world, of the proper solution of international difficulties . . . Nature itself, it seems to me, has closely allied our two countries, and has made of the one the helper of the other. Most of you have travelled through the Canadian Rockies. If you have, you will remember a mountain stream rising in, I think, Lake Windemere, in British Columbia, rushing down dark and rocky canyons, passing through the Arrow lakes and across the boundary into the United States where it brings richness and fertility to the States of Washington and Oregon. The Columbia River, for that is its fair name, is a contribution which Canada, through Mother Nature, had made to the prosperity of the United States.

“Let us come further east and nearer to our own homes. Here we have one of the most beautiful lakes, which bears the name of the great French discoverer, Samuel de Champlain. Lake Champlain, that is the waters of Lake Champlain, flow through the Richelieu River—another great French name—mirroring, as they pass, the church steeples of peaceful Canadian villages, and watering the great valley of the St. Lawrence. Lake Champlain and the Richelieu River are a contribution which also, through Mother Nature, the United States has made to the prosperity of Canada.

“Neither of these rivers stop at the boundary. Neither are impeded in their onward flow by custom officials, or custom houses. They would mirror the latter and drown the former. Let us retain this image, because it is an image which we may take from the world of nature to the world of man, and let us hope that always streams of friendship, goodwill and reciprocal understanding will flow from one country into the other, for good feeling, friendship, and the spirit of brotherly love are things which, thank God, are and always will be on the free list.”