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THE CONSTITUTION AND THE COURTS IN 1939

This article has a very modest purpose; it seeks to present in summary form the cases in which the Courts have determined points of Canadian constitutional law during the year 1939. It is based on the assumption that it may be useful to the profession to have accessible to it a compilation showing how the Constitution has been interpreted, what judicial doctrines of interpretation have been applied, and what Canadian statutes have been held valid or invalid and upon what grounds. The year 1939 produced few dramatic or significant decisions in the realm of constitutional law. Nevertheless, consideration of the decisions of even such a run-of-mine year will emphasize how true it is that every Canadian enactment is born and lives under the shadow of potential challenge and nullification, and how important it is to the lawyer to keep abreast of the current of decision. The article, which is intended to be expository rather than critical, concludes with reference to some books and articles likely to prove instructive and suggestive to the student of Canadian constitutional law.

DECISIONS

In Ladore v. *Bennett*[1] the Privy Council held that provincial legislation for the amalgamation of insolvent municipalities was competent as legislation in *"pith and substance"* relating to "Municipal Institutions in the Province". That being so, it could not be regarded as invalid as encroaching on the Dominion powers as to "Bankruptcy and Insolvency" or "Interest"; for it touched those subjects only as incidentally involved in dealing with unsuccessful municipal institutions and investing the new corporation with necessary powers as to incurring obligations and defining the interest payable thereon. Similarly whilst the legislation did affect the rights of bondholders outside the province it did so only collaterally and as a

[1] [1939] A.C. 468, [1939] 3 D.L.R. 1, 2 W.W.R. 566.

necessary incident to the reconstitution of insolvent institutions as a matter of local self-government.

A Report of a Royal Commission which inquired into the affairs of the municipalities in question, and which disclosed their serious financial position, was referred to "as indicating the materials which the Government of the Province had before them before promoting in the Legislature the statute now impugned". This statement, coupled with the Board's later reference to, and rejection of, the suggestion that the legislation was only a colourable device, is an echo of the view previously expressed by the Board in the *Reference re Sec. 498 of the Criminal Code*[2] that the existence of such a Report may be "a material circumstance" when the allegation of "colourable" purpose is made.[3]

In the *Reference re Eskimos*[4] the Supreme Court of Canada held that the term "Indians" as used in Head 24 of sec. 91, ("Indians and Lands reserved for Indians") includes Eskimo inhabitants of that part of the Province of Quebec which in 1867 formed part of Rupert's Land, and the ultimate inclusion of which in the Dominion was provided for by sec. 146.

The case is an interesting instance of the judicial determination of the scope of terms in the B.N.A. Act by reference to external evidence.[5] The Chief Justice, (Crocket, Davis and Hudson, JJ. concurring) on consideration of proclamations and official reports by governors, naval officers, missionaries and traders, the Report of a Select Committee of the House of Commons on the Hudson's Bay Co., maps and correspondence, etc. prior to 1867, found that there was a well-established usage whereby the term Indian was employed as including Eskimos as well as the other aborigines of British North America. Kerwin J., after a review of such evidence as above, and of dictionaries and other books which "might be expected to be known to the Fathers of Confederation and to the British Parliament" came to the same conclusion. In his view . . . . "the deciding factor" was "the manner in which the subject was considered in Canada and in England at or about the date of the passing of the Act". Cannon J. found in the Report of the Quebec Conference, 1864, as contained in the Petition to the Queen passed by the Legislature of Canada, sufficient

[2] [1937] A.C. 368 at p. 376.

[3] Compare *Home Oil Distributors Ltd.* v. *Attorney-General for British Columbia*, [1939] 1 W.W.R. 49, 1 D.L.R. 573, and see footnote 28, *infra*.

[4] [1939] 2 D.L.R. 417, S.C.R. 104.

[5] On this subject generally see V. C. MacDonald, *Constitutional Interpretation and Extrinsic Evidence* (1939), 17 Can. Bar Rev. 77.

evidence that the term "Indians" was equivalent to the term "sauvages" and included all the present and future aborigine native subjects of the proposed Confederation of British North America.

As illustrating the judicial technique in ascertaining the scope of terms in the Act this case may usefully be compared with those dealing with the meaning of "Public Harbours" in the Third Schedule to the Act,[6] the meaning of "qualified persons" in sec. 24,[7] the meaning of "direct taxation"[8] and of "criminal law"[9] in sec. 91, and of the meaning of sec. 96.[10]

In the *Reference re Canada Temperance Act*[11] the Court of Appeal of Ontario held valid Parts 1 - 3 of the Canada Temperance Act on grounds which bring into prominence the question of the limits of the doctrine of *stare decisis* as applied to Canadian Courts engaged in constitutional cases. Briefly, the Court held the Act valid because it had already been held valid by the Privy Council in *Russell* v. *The Queen* in 1882 and because it was not competent to an inferior Canadian tribunal to refuse to follow that decision.

Superficially at least, it has appeared that *Russell* v. *The Queen* had held that Act valid as a law falling within the Peace, Order and Good Government clause of sec. 91.[12] *The Local Prohibition Case*,[13] however, definitely upheld *Russell* v. *The Queen* as a decision properly upholding the provisions of the Act as "valid enactments relating to the peace, order and good government of Canada".

Subsequent decisions of the Privy Council in the *Board of Commerce Case*, in 1922, and the *Fort Frances Case*, in 1923, had appeared to confine the peace, order and good government clause to enactments directed to *national emergencies* and this view was reiterated in 1925 in the *Snider Case*.[14] This later view of the clause being inconsistent with *Russell* v. *The*

[6] *E.g.*, *Attorney-General for Canada* v. *Ritchie Contracting Co.*, [1919] A.C. 999; *The King* v. *Attorney-General of Ontario*, [1934] S.C.R. 133; *Jalbert* v. *The King*, [1937] S.C.R. 51.

[7] *Edwards* v. *Attorney-General for Canada*, [1930] A.C. 124.

[8] *E.g.*, *City of Halifax* v. *Fairbanks' Estate*, [1928] A.C. 117.

[9] *P.A.T. Ass.* v. *Attorney-General for Canada*, [1931] A.C. 310.

[10] *E.g.*, *Reference re Adoption Act, etc.*, [1938] S.C.R. 398, wherein the Court reviewed the legal history of legislation and case law as to the jurisdiction of Courts of summary jurisdiction.

[11] [1939] 4 D.L.R. 14, O.R. 570.

[12] "Superficially", because the decision could be put on the negative ground that as the Act did not fall within the enumerations in sec. 92 it must belong to the Dominion either under its residuary or under its enumerated powers, and that it was unnecessary in that case to specify under which it did fall.

[13] [1896] A.C. 348.

[14] [1925] A.C. 396 at pp. 412 - 13.

Queen, which had held the Canada Temperance Act valid in 1882, the Privy Council, in the *Snider Case*, sought to bring that decision into harmony with the prevailing view as to the residuary clause. It said that that decision could be supported "*on the assumption of the Board apparently made at the time of deciding the case of Russell* v. *The Queen that the evil of intemperance at that time amounted in Canada to one so great and so general that at least for the period it was a menace to the National life of Canada so serious and pressing that the National Parliament was called on to intervene to protect the nation from disaster. . . . Their Lordships find it difficult to explain the decision in Russell* v. *The Queen as more than a decision of this order upon facts, considered to have been established at its date rather than upon general law*". The evidence in the *Snider Case*, their Lordships said, did not "prove any *emergency putting the national life of Canada in unanticipated peril such as the Board which decided Russell* v. *The Queen may be considered to have had before their minds*". That this "assumption" had no factual basis on the one hand and was foreign to the reasoning of the Board in *Russell* v. *The Queen* on the other is certain.[15] It is no less certain that the Canada Temperance Act could not today—apart from *Russell* v. *The Queen*—be upheld under the residuary clause in its non-emergency aspects.[16]

It is equally certain that in its aspect as an emergency clause the residuary clause can only be invoked upon the basis of *external evidence* proving the existence of a national *emergency as a matter of fact*.[17] It seems also to be established that legislation to be valid under this emergency aspect of the residuary clause must express itself as directed specifically to a *temporary* condition of emergency; for if in the form of a *permanent* enactment, in the sense of its duration being unrestricted, it may well be held to be outside the emergency power.[18]

If the Canada Temperance Act is valid because it was an exercise of the Dominion's emergency power under the residuary clause, then it seems logical that if the state of facts which constituted the necessary emergency has since ceased to exist the Courts must on proof of such cessation as a matter of fact

[15] *Cf.* Anglin, C.J. in *The King* v. *Eastern Terminal Elevator Co.*, [1925] S.C.R. at p. 438.

[16] *Labour Conventions Case*, [1937] A.C. 326 at p. 353; *Employment and Social Insurance Case*, [1937] A.C. 355 at pp. 365 - 6.

[17] *Board of Commerce Case*, [1922] 1 A.C. at pp. 200 - 1; *Snider Case*, [1925] A.C. at pp. 415 - 6; *Fort Frances Case*, [1923] A.C. at pp. 705 - 8.

[18] *Board of Commerce Case, supra* at p. 197; *Employment and Social Insurance Act Case, supra*, at pp. 365 - 6.

hold the Act no longer operative. Accordingly, it was held by the New Brunswick Court of Appeal in *R.* v. *Jones*[19] that the Act is no longer valid because the emergency to which it was directed (per *Snider Case, supra*) no longer exists, particularly in view of adequate provincial liquor control legislation.[20]

On the reasoning that the *Snider Case* (in conjunction with the *Fort Frances Case*) was an authoritative statement by the Privy Council of the basis upon which the *Russell Case* rests, *i.e.*, the assumption (whether true or false in point of fact) that the evil of intemperance constituted an emergency when the Act was passed, Henderson J.A. dissented in the *Reference re Canada Temperance Act*. He held that the question presented was not as to whether the Court could overrule *Russell* v. *The Queen* but as to the determination of a *matter of fact* constituting a *present emergency*. Having particular regard to the very few municipalities in which the Act is now in force and to the existence of regulatory or prohibitory liquor legislation in every Province he held it manifest that "the emergency, if any existed, has wholly passed away and that the only foundation upon which *Russell's Case* can be supported, no longer exists" and that therefore the Act is *ultra vires*. Riddell J.A. held that *Russell* v. *The Queen* was still a binding authority and that the Court was "not at liberty to disregard what the Privy Council has declared in a judgment to be the law . . . it makes no difference on what ground they proceeded—they gave an authoritative statement of what the law is". Though refusing to concede "that a change of circumstances" might modify the law as laid down he pointed out that *the court had no evidence of change of circumstances*, and could not take judicial cognizance of anything of the kind.

McTague J.A. would have had no difficulty in holding the legislation in question *ultra vires* under present conditions were it not for *Russell* v. *The Queen*. That case, however, did actually decide that the Act was *intra vires*. The line of reasoning adopted in *R.* v. *Jones, supra*, as to the effect of the cessation of emergency conditions, though open to the Privy Council, was not open to a subordinate Court under the doctrine of *stare decisis* which "has to do with the *decision* itself, not with the *reasons* on which the decision is based".

It is difficult to see how the Privy Council could now uphold the Canada Temperance Act otherwise than as legisla-

[19] [1937] 1 D.L.R. 193, 11 M.P.R. 240.

[20] See *R.* v. *Varley*, [1936] 1 D.L.R. 771—a decision of a County Court judge in Ontario—to the same effect.

tion falling under the residuary clause, because directed to emergency conditions. Even on this ground awkward questions arise; for the modern doctrine as to the emergency power requires *proof of external facts* reaching the requisite standard of necessity;[21] whereas *Russell* v. *The Queen*, as explained in *Snider's Case*, rests on judicial *assumption* of the existence of such a state of facts. The basic difficulty about *Russell's Case* is not the *ratio* of the case itself nor the point of *decision* but the *ratio* retrospectively assigned to it a generation later.

The instant case raises fundamental questions as to the binding effect of Privy Council judgments upon inferior tribunals. Is a Canadian Court bound by "what the Privy Council has declared in a judgment to be the law", irrespective of "the ground on which it proceeded", as Riddell J.A. declared? Is it true, as McTague J.A. declared, that the doctrine of *stare decisis*, as applicable to Canadian Courts and constitutional cases, "has to do with the *decision* itself, not with the *reasons* on which the decision is based"? Such views may require scrutiny and modification when it is recalled that a Canadian statute is declared to be valid or invalid on the basis of the legal effect judicially assigned to one or more terms in the B.N.A. Act and that the fate of the particular statute may be of small importance compared with the interpretation placed on the B.N.A. Act in determining the fate of the statute. Finally, the instant case, if appealed, may well lead to a definite determination of the question as to whether a statute once declared valid by the Privy Council may subsequently be declared invalid by a subordinate court because of change in the factual conditions upon which its validity was predicated.

Re Dunn,[22] a decision of the Supreme Court of Nova Scotia, brings to view a survival of the old laws which enabled creditors to imprison their debtors. The Collection Act of Nova Scotia provides that upon the examination of a *judgment debtor* the examining functionary may commit the debtor to gaol for a term of a year or less if it appears to him "*that the credit was obtained under false pretences*". Sec. 405 (2) of the Criminal Code makes liable to a year's imprisonment anyone "who in incurring any debt or liability, *obtains credit under false pretenses*". As might be expected, it was contended that the enactment of the provision in the Code excluded the right of the Province to impose imprisonment as a penalty for the same kind of conduct covered by the Code. The Court rejected this con-

[21] See footnotes 16 and 17.
[22] [1939] 4 D.L.R. 382, 14 M.P.R. 289.

tention, however, holding that the Collection Act was directed to the enforcement of payment of judgment debts; it dealt rather with the rights of creditors than the punishment of fraudulent conduct, as shown, e.g., by the fact that the proceedings under it were not instituted or maintained by the Crown. The provision, therefore, did not conflict with the Criminal Code and was valid as merely imposing a penalty in aid of the civil rights of judgment creditors (presumably under no. 15 of sec. 92).

In *R.* v. *Perfection Creameries, Ltd.*[23] the Manitoba Court of Appeal upheld the validity of a section of the Dairy Industry Act of the Dominion which prohibited the manufacture of butter containing over 16% of water or less than 80% of milk fat. The *"pith and substance"* of the Act was the protection of the public from dishonesty or fraud in weight and quality of butter brought about by certain methods of manufacture. It was, therefore, competent as relating to matters within sec. 91, no. 27, "The Criminal Law".

The reasoning and effect of *Lovibond* v. *G.T.R. & C.N.R.*[24] a decision of the Ontario Court of Appeal, sufficiently appear in the D.L.R. headnote thereto :

The Dominion statute and Order-in-Council vesting the common and preference shares of the G.T.R. in the Dominion Government were intra vires both as *emergency* and as *railway legislation*, and a subsequent entry of such vesting in the London, England, register of the company was valid as against a shareholder. Legislation of the Dominion Parliament within its jurisdiction was not territorially limited under the B.N.A. Act, and in any event such entry was merely a notation of the fact of cancellation done in Canada. Further, the possession by the company of American assets did not involve any question of extra-territoriality, so far as a shareholder was concerned, a share not being a right of ownership in the assets but in the company, the company owning the assets.

In *Kerr* v. *Superintendent of Income Tax*[25] the Alberta Apellate Division held that the Income Tax Act of Alberta in purporting to impose a tax on the annual *income* of persons ordinarily resident in the Province operated to impose the tax on the *person in respect of his income*. Accordingly, dividend cheques received by such a person from outside companies were

[23] [1939] 3 D.L.R. 185, 2 W.W.R. 139.
[24] [1939] 2 D.L.R. 563, O.R. 305.
[25] [1939] 1 D.L.R. 149, [1938] 3 W.W.R. 740.

taxable, since the subject of the tax, the person, is "within the Province" under sec. 92, no. 2.

In *Independent Order of Foresters* v. *The King*[26] the Alberta Appellate Division held the Provincial Securities Interest Act of Alberta, which professed to reduce the rate of interest recoverable in respect of securities issued by the Province to about one-half the rate specified therein, to be invalid as relating to the subject of "Interest".

Home Oil Distributors Ltd. v. *Attorney-General for British Columbia.*[27] Because the result of the appeal to the Supreme Court of Canada from this decision of the Court of Appeal of British Columbia is not yet known, only a brief reference to it will here be made. The Court held *intra vires* the Coal and Petroleum Products Control Board Act, 1937, of British Columbia, which was designed to regulate by price-fixing the sale within the Province of petroleum products made therein from imported crude oil.

In reaching this decision the Court refused to be bound by a provincial enactment precluding reference to the Report of a Royal Commission on the issue of the constitutionality of the statute in question, and which the Court had previously held[28] could be considered in ascertaining the purpose and effect of that statute.

In Motor Car Supply Co. v. *Attorney-General for Alberta*[29] Ewing J. upheld the validity of the Alberta Licensing of Trades and Businesses Act as an Act directed to the licensing of numerous and defined trades and businesses carried on in the Province, whether by natural persons or by corporations, and whether by Dominion or provincial corporations. The judgment contains a valuable review of the authorities on the vexed subject of the extent to which provincial legislation may subject Dominion companies to regulation of various kinds without entering into the field of Dominion company law by laws touching the corporate status and powers of such companies. The concept of generality of application, the effect of discrimination, and the ability to prohibit Dominion companies from carrying on business without a licence or to enable the refusal or cancellation of a licence, are all discussed in a most useful way.[30]

[26] [1939] 2 D.L.R. 671, 1 W.W.R. 700.
[27] [1939] 3 D.L.R. 397, 2 W.W.R. 418.
[28] [1939] 1 D.L.R. 573, 1 W.W.R. 49.
[29] [1939] 3 D.L.R. 660, 3 W.W.R. 65.
[30] *Cf.* V. C. MacDonald, *The Licensing Powers of the Provinces* (1939), 17 Can. Bar Rev. 240.

In addition, Ewing J. rejected the contention that the Act was invalid because "part of a general scheme of legislation" based on the Social Credit Act which was held *ultra vires* by the Supreme Court of Canada in *Re Alberta Legislation*.[31] This contention failed because the Act was not part of, or ancillary to, that invalid scheme of legislation.

As it is understood that the decision of Greenshields C.J. in *Fineberg* v. *Taub*[32] is under appeal it will be sufficient for present purposes to note some of its grounds of decision.

Greenshields C.J. held valid the Communistic Propaganda Act—the Padlock Act so-called—of Quebec as an exercise of the provincial power to legislate in relation to property and civil rights under sec. 92, no. 13. In his view, the Act related only to the *user of property*, declaring it illegal for the occupant or owner of a house to use it or allow it to be used for the purpose of propagating communism. The Act does not create a crime and its sanction goes only to the extent of padlocking or temporary confiscation. Whilst it gives large powers of enforcement to the Attorney-General it does not exclude reference to the Courts. It does not conflict with any provisions of the Criminal Code, nor does it prohibit or curtail freedom of speech or interfere with the working of parliamentary institutions or the exercise of electoral rights.[33]

In *McDonald* v. *Down*,[34] Rose C.J.H.C. of Ontario, supported the capacity of a provincial legislature to annex a civil consequence to a criminal act. He held valid a section of the Ontario Highway Traffic Act which provides that when a person has been convicted under s. 285 (4) of the Criminal Code of driving a motor vehicle while intoxicated, the motor vehicle so driven may be seized and impounded for three months. Such legislation, which conceivably might be regarded as an encroachment on the field of "criminal law and procedure" as creating a penalty for criminal conduct, was in his view to be regarded simply as a valid declaration of the civil consequences which may follow in Ontario from a person's conviction of such an offence against the criminal law.

[31] [1938] 2 D.L.R. 81, S.C.R. 100, cf. [1939] A.C. 117. As to this application of the doctrine of "colourable legislation", see V. C. MacDonald *Constitutional Interpretation and Extrinsic Evidence* (1939), 17 Can. Bar Rev. 77.

[32] [1940] 1 D.L.R. 114, 77 Que. S.C. 233.

[33] On these latter points reference may usefully be made to the judgment of Duff C.J. in *Reference re Alberta Legislation*, [1938] S.C.R. at 133 - 4; see also article on *Courts and the Padlock Law* in 9 F.L.J. 72.

[34] [1939] 2 D.L.R. 177, 71 Can. C.C. 179.

The King v. *Commanda*[35] holds, *inter alia*, per Greene J., that the provisions of a provincial Game and Fisheries Act providing for closed seasons applies to Indians. Being legislation directed to the protection of game and fish within the province, and general in its application to persons, it was not legislation in relation to "Indians" but legislation affecting them only incidentally or consequentially.[36]

In S.M.T. (Eastern) Ltd. v. *Ruch*[37] Harrison J. of the New Brunswick Supreme Court held valid the Motor Carrier Act of New Brunswick. The Act was one for the regulation (by the licensing method)[38] of the trade or business of transportation of passengers and goods by motor vehicles using provincial highways, and thus related to matters falling within no. 13 or no. 16 of sec. 92.

The suggestion that a provincial highway which abuts upon a highway in another Province is a non-local "work" within sec. 92, no. 10 (a) was rejected.

The judgment glances at some of the difficulties which provincial legislation of the kind in question may present in its application to motor carriers as agencies of inter-provincial trade, and in its application to Dominion companies incorporated with power to conduct inter-provincial transportation services. The limits of the respective powers of the Dominion and the Provinces in respect of motor-vehicle transportation have yet to be defined. Undoubtedly each may deal with the subject in various *aspects*.

Miscellaneous Decisions

Other decisions of minor interest were *R.* v. *Pulak.*[39], holding valid the Industrial Standards Act of Saskatchewan; *Gordon* v. *Imperial Tobacco Sales Co.*[40], holding that the Combines Investigation Act and secs. 496, 498 of the Criminal Code conferred no actionable civil rights; *Re McManus*[41], holding valid the Soldier Settlement Act of the Dominion; *R.* v. *Ellis*[42], holding invalid, as conflicting with the Criminal Code, a section of the Fire Marshals Act of Ontario relating to the removal of

[35] [1939] 3 D.L.R. 635, 72 Can. C.C. 246.
[36] See *R.* v. *Morley*, [1932] 4 D.L.R. 483. Compare *Re Kane*, [1940] 1 D.L.R. 390 as to the right of a province to subject Indians to municipal taxation.
[37] [1940] 1 D.L.R. 190, 14 M.P.R. 206.
[38] See footnote 30.
[39] [1939] 2 W.W.R. 219, 72 Can. C.C. 222.
[40] [1939] 2 D.L.R. 27, O.R. 122.
[41] [1939] 4 D.L.R. 759.
[42] [1939] 4 D.L.R. 796.

buildings, etc.; *Re Imperial Canadian Trust Co.*[43], relating to unclaimed dividends in liquidation as "royalties" under sec. 109 of the B.N.A. Act; and *Pelletier* v. *The King*[44], upholding the validity of the Courts of Justice Act of Quebec in its establishment of the Court of Sessions of the Peace.

In addition to decisions involving the validity of statutes there were a few others of interest to the constitutional lawyer, *e.g.*, on the prerogative immunity to action of the Crown and its statutory "emanations".[44A]

Books and Periodical Literature

During 1939 two works of great importance to the Canadian constitutional lawyer appeared. The first was *"The O'Connor Report"* so-called. This Report was prepared by W. F. O'Connor, K.C., Parliamentary Counsel to the Senate of Canada, pursuant to a Resolution of that body. In its 700-odd pages it contains a mass of documentary, analytical and argumentative material on numerous topics relevant to the purposes of the B.N.A. Act, its judicial construction, its efficiency as an instrument of government, and as to how and by what method it should be amended. It is a work of the highest scholarship and utility, and one which no student of constitutional law can read without great profit.[45] The other book—*"Canadian Constitutional Decisions of the Judicial Committee of the Privy Council, 1930-39"* by C. P. Plaxton, K.C.—contains thirty of such decisions and is in effect a continuation of the previous compilations by Dr. E. R. Cameron. Useful as such a compilation of decisions naturally is, the book gains greatly in value from the notes and annotations of the learned editor who has had tremendous experience in such cases.[46]

Another book of interest and importance is *"Treaty Relations of the British Commonwealth of Nations"* by R. B. Stewart.[47]

[43] [1939] 4 D.L.R. 75, 3 W.W.R. 232.

[44] 65 Que. K.B. 558.

[44A] *International Ry. Co.* v. *Niagara Parks Comm.*, [1939] 4 D.L.R. 340, O.W.N. 536; *Gooderham & Worts* v. *C.B.C.*, [1939] 4 D.L.R. 241, O.W.N. 507; *C.B.C.* v. *Cyr* [1939] 4 D.L.R. 233, 64 Que. K.B. 1, 191.

[45] It has been the subject of reviews by Dr. W. P. M. Kennedy in the Canadian Historical Review, (1939) Vol. 20, p. 225, and by Dean Cronkite in the Canadian Journal of Economics and Political Science (1939) vol. 5, pp. 504 - 9 and of a leading article by V. Evan Gray in volume 17 of this Review.

[46] For reviews see J. A. Corry in (1939), 5 Can. Jour. Econ. and Pol. Sci. 509, and the writer in (1939), 17 Can. Bar Rev. 615.

[47] For reviews see (1939) 33 American Journal of International Law 806; (1939) 28 California Law Rev. 127; (1940) 3 Toronto L.J. 506.

Volume 17 of the Canadian Bar Review contains leading articles on constitutional law and related matters as follows:

Administrative Justice in Canada;[48] *The Office of Attorney-General*;[49] *The Kingdom of Canada*;[50] *Government by Civil Servants*;[51] *Constitutional Interpretation and Extrinsic Evidence*;[52] *The Privy Council and the Constitution*;[53] *The O'Connor Report on the B.N.A. Act*;[54] *The Ownership and Use of Rivers and Streams in Quebec*;[55] *Report on Noteworthy Changes in the Statute Law*;[56] *The Licensing Powers of the Provinces*.[57]

Among the articles in other legal periodicals the following should be noted:

Administrative Law and the B.N.A. Act;[58] *Control of the Press*;[59] *Disallowance*;[60] *Political Theories and Conventions*;[61] *Judicial Control Over Administrative Actions*;[62] *Constitutional Interpretation in Australia*;[63] *Administrative Control over Aliens in Canada*;[64] *The Terms of the B.N.A. Act*;[65] *Canadian Problems of Government*.[66]

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[48] Prof. E. R. Hopkins, (p. 619).
[49] W. Kent Power, K.C., (p. 416).
[50] Dr. W. P. M. Kennedy, at p. 1 and by T. S. Ewart at p. 178.
[51] Prof. Finkelman, (p. 166).
[52] V. C. MacDonald, K.C., (p. 77).
[53] R. F. McWilliams, K.C., (p. 579).
[54] V. Evan Gray, K.C., (p. 309).
[55] W. B. Scott, K.C., (p. 221).
[56] P. 153.
[57] V. C. MacDonald, K.C., (p. 240).
[58] Prof. John Willis, (1939), 53 Harv. L. Rev. 251.
[59] L. Ingle, 3 Alberta L.Q. 127.
[60] W. G. Morrow, 3 Alberta L.Q. 83.
[61] Dean Cronkite, (1939), 5 Can. Jour. Ec. and Pol. Sci. 403.
[62] Prof. John Humphrey, *ibid* 417.
[63] Hon. H. V. Evatt, (1939), 3 Univ. of Tor. L.J. 1.
[64] C. F. Fraser, (1939), 7 Geo. Wash. L. Rev. 433.
[65] W. P. M. Kennedy, *Essays in Canadian History*, Ed. by Flenley, Toronto, 1939, p. 121.
[66] J. W. Dafoe, (1939), 5 Can. Jour. Ec. & Pol. Sci. 285.