

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.

It is hoped that members of the profession will favour the Editor from time to time with notes of important cases determined by the Courts in which they practice.

Contributors' manuscripts must be typed before being sent to the Editor at 44 McLeod Street, Ottawa.

WOODROW WILSON.

Nec mihi mors gravis est! That is the splendid truth we learned of Woodrow Wilson as he lay dying. Nor is it to be thought that he welcomed the grim reaper as one weary of the world's ingratitude. "I am ready to go"! There we have an intimation of the real quality of the man—what he was in his heart of hearts. Those are not the words of one embittered of life—rather are they the brave words of him who is convinced that life is well spent in high endeavour even if achievement be small or wholly denied. It is common knowledge that his span of years was shortened by his unremitting labour at the close of the Great War to bring abiding peace to the world. That he failed in this noble ambition is charged by his critics to mistakes in method and failure to apprehend the manner of the men of destiny with whom he had to deal. Admitting all this as a fact, it is equally true that his ideal was too high for the spirit of his day. But he was beyond all doubt the herald of a dispensation that will surely come to pass in the world, and all the more quickly by reason of the sacrifice of mental gifts and bodily strength that he made for it. What Mommsen said of Caesar might with equal truth be said of Woodrow Wilson. "The brilliant attempts of great men to realize the ideal, although they do not reach their aim, form the best treasure of nations." As President of the United States he is worthy to be named with Washington and Lincoln, not so much for what he did for his country as for what he tried to do for the world.

But it is not as a notable figure in political history alone that we

do homage to the memory of ex-President Wilson. Long before he became that he had achieved distinction on the academic side of the legal profession. As Professor of Jurisprudence and Politics at Princeton for ten years he did much to advance the cause of sound legal education in the United States; and his work on "The State" ranks high as an authority in a science which if it does not embrace does at least intersect the domain of the law.

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THE LATE MR. JUSTICE OSLER.

At the opening of the sitting of the First Divisional Court of the Appellate Division of the Supreme Court of Ontario, last month, the Honourable Sir William Mulock, Chief Justice of Ontario, addressing the Bar, said:—

Gentlemen of the Bar:

It seems but yesterday that in this room we were all sharing one common grief over the great loss sustained by the country in the death of the late Sir William Meredith. Again to-day our heads are bowed in sorrow, for the great Harvester who with impartiality visits all homes, has now taken from our midst another great and good man, the late Mr. Justice Osler, one of a family which deservedly enjoys in a marked degree the respect of the people of Canada. It has given to the country four men, each of whom in his own particular career has attained enviable eminence. Mr. Justice Osler for nearly a third of a century adorned the Bench of his native province, and, throughout that long career, he so adjusted the scales of Justice as to command the respect of the Bench, the Bar, and the Country. To-day he sleeps in peace in his narrow bed, but he has bequeathed to his country a priceless and inspiring legacy, the ideal of the character of a man of unbending honesty of purpose, steadfastness in adherence to right, kindness and gentleness of heart, charity towards all men. He has gone from our view—may the recollection of his character never fade from our memories.

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In *The Western Municipal News* for December last there is a very interesting article by Sir James Aikins, President of the Canadian Bar Association, on "The Office of Lieutenant-Governor." After pointing out that the Lieutenant-Governor represents the Sovereign in the Province, and is an integral part of its Legislature, Sir James proceeds to say:—

“The duty of Lieutenant-Governor is in general terms clearly pointed out in section 62 of the British North America Act, that is, to carry on the Government of the Province. . . .”

“The Lieutenant-Governor is appointed not to do the will of the Federal Government but the considered will of the people of the Province and act in their interest always, but in accordance with historic principles and settled methods. His superior in the discharge of all official duties is deliberated public opinion. Subject to that if he has the will and capacity he may be a real as well as the nominal head of the Legislature and of the executive government of the Province. As has just been stated the Lieutenant-Governor is a part of the Legislature. As such his duties in respect of the introduction and passing of bills are light. He opens each session by a Speech from the Throne. If he were responsible for all that Speech contains, he would naturally come in for serious criticism, especially in the usual lengthy debate which follows it. He does not, however, for his ministers prepare it to express, not his, but their views and policies for which they assume full responsibility. He may confer with his first or other ministers about what it should contain; but if in conference with them they should adopt in it some of his suggestions (they are not obliged to do so) they would still sponsor the Speech and stand or fall accordingly. Another method by which the Lieutenant-Governor communicates with the elected members of the Legislature in Session is by official messages. These relate chiefly to the annual supply needed to carry on the work of government and its appropriation, to revenue and expenditure and to anything that will create a charge upon consolidated revenue fund or cause increased taxation.

“The principle is that any motion in the Legislature which will result in creating a charge upon the public revenue must have received the official recommendation of the Lieutenant-Governor. It is based on the fact that the representative of the Sovereign having the executive power is charged with the management of all the revenues of the Province and with all payments of the public services. Accordingly the Crown demands money, the Legislature grants it, but the Legislature does not vote money unless it is required by the Crown, nor does it impose or augment taxes unless it is declared by the Crown through its constitutional advisers that such taxation is necessary.

“Non-observance of the principles above stated would render parliamentary government on the basis of the party system impossible, owing to outside pressure to which unofficial members would be subjected to obtain financial assistance for local or class needs and enterprises.”

If it so happens that the great meeting of lawyers in London in July is inaugurated by some ceremony in Westminster Hall, how splendid and how unforgettable will be the occasion to us from overseas! For we must regard that venerable building as the very cradle of the Common Law, which not only gave the elements of Order and Liberty to what old John of Gaunt called—

“This blessed plot, this earth, this realm, this England,”

but set its seal on the civilisation carried by Englishmen in the sixteenth and seventeenth centuries over the western sea to the waste places of the world.

Westminster Hall was built by William Rufus chiefly for the accommodation of the Curia Regis. It was at Whitsuntide, in the year 1099, that, wearing his crown, he sat for the first time in the royal justice seat of the new hall. Notwithstanding ordeals of fire and of renovation, there is much of the original building left; and its records show that justice has been continuously administered within its walls for upwards of eight hundred years.

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The Bok Peace Plan prize of \$100,000 has been awarded to Mr. Charles H. Levermore, of New York. No doubt Mr. Levermore will agree with the poet that “Peace hath her victories no less renown’d than War.”

But the “Plan” does not fail of its meed of criticism at the hands of the American public. An anonymous writer in one of the public prints regards it as “foolishness from the beginning.” He does not believe that the peace of the world will come from any plan; and he thinks that Mr. Bok should have offered a prize to the man who could tell how to make the League of Nations function. Thus does he sum up the conclusion of the whole matter:—

“Wilson and Gompers had ideas for peace and regulation of labour and tariffs through the world by a commission sitting in Switzerland. The whole world is filled with words for peace. But; neither plans, nor words, reform. The reform must begin in the human heart. Christ came into the world to bring peace, and people are still struggling to promote His plan, and is there any other plan than His—the substitution of Love for Hate? The Christian Religion—the Sermon on the Mount—is the promoter of Peace and not the League of Nations or any league of notions.”

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Last month we published a learned and interesting discussion by Mr. Martin Conboy, of the New York Bar, of the right of the United

States under the National Prohibition Act and the Eighteenth Amendment to prevent any ship from bringing into the territorial waters of that country, or carry while within such waters, intoxicating liquors intended for beverage purposes. We are now glad to announce that a convention has been signed between the Governments involved whereby the right of American officials to stop and search British vessels suspected of violation of the prohibition laws "within an hour's steaming of the shore"—a new criterion of the three-mile limit!—is recognized. In return, British vessels seeking the hospitality of American ports, are to be permitted to carry their liquor under seal into such ports and out again. In addition to the usual requirement of ratification by the United States Senate, the convention in question may be declared impossible of performance by "judicial decision or legislative action." We sincerely hope that this convention will be allowed to prevail, as the business of "rum running" into the United States by vessels carrying the British flag has become an intolerable disgrace.

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We learn from the Annual Report of the President of Columbia University for 1923 that the degree of Doctor Juris will hereafter be open in that excellent institution of learning to those who have completed a course of advanced work and research in the field of public and private law. This appears to us as a shrewd step on the return journey to the commendable policy of earlier times, when academic training as a qualification for the doctorate was rigidly insisted on, and the degree was not permitted to be worn as a decorative tag by more or less illiterate persons. There is a French saying peculiarly appropriate to our times:—"Qui dit docteur, ne dit pas toujours un homme docte, mais un homme qui devrait être docte."

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Since our last number was issued some important changes have taken place within the domain of the profession in Canada. The Honourable Ernest Lapointe, K.C., formerly Minister of Marine and Fisheries in the King Administration, was made Minister of Justice on the 30th January, 1924, in the place of Sir Lomer Gouin, resigned. Mr. P. J. A. Cardin, advocate, representing Richelieu in the House of Commons, was appointed Minister of Marine and Fisheries; and the Honourable Mr. Justice Malouin, a Judge of the Superior Court, Quebec, was translated to the Supreme Court of Canada to fill the vacancy on the Bench of that Court created by the resignation of the late Honourable L. P. Brodeur.