

# THE CANADIAN BAR REVIEW

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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.

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## EDITORIAL.

In speaking last month of the resolution touching reform of the Jury System adopted at the eighth annual meeting of the Canadian Bar Association, it seems that the words we used have been thought to be susceptible of an implication wholly remote from their intended import. There are occasions when the editorial mind may dismiss a matter of misconstruction of intention by lightly quoting Tristram Shandy: "Ask my pen! It governs me; I govern not it." This is not such an occasion. It is a matter of moment. Our reference to the *Delorme* case as an instance of the defective character of the jury system has been interpreted by one of the counsel in a former trial of the accused as implying an opinion on our part that he was guilty of the crime charged against him. What we intended to illustrate by reference to this case was that a system of procedure which prevented finality being arrived at after a long and expensive trial was neither fair to the Crown nor to the accused. Nothing was further from our thoughts than to express an opinion as to the guilt or innocence of Abbé Delorme. We have formed no such opinion, and did we entertain one we should not give editorial expression to it even after the case was finally disposed of; much less would we do so while it was still before the courts—that indeed, if it did not constitute a more serious offence, would at least be a grave breach of the ethics of professional journalism. Having said this, it will be realized how much we regret that the meaning of the words we used in referring to the case could be so seriously misconceived.

The CANADIAN BAR REVIEW extends its congratulations to Dr. Harlan F. Stone, late Dean of Columbia University Law School, upon his appointment as Attorney-General of the United States. Both in his educational capacity and as a writer on professional subjects Dr. Stone has become well known to our readers. The REVIEW recently had the pleasure of publishing an instructive article from his pen entitled "Some Phases of American Legal Education" (1 C. B. REV. 646). He brings to his new and larger sphere of usefulness a thorough knowledge of the law and a high regard for professional ethics. We shall follow his political career with much interest.

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The trustees of Columbia University have appointed Mr. Huger W. Jervy, LL.B., as Dean of the Faculty of Law in succession to Dr. Harlan F. Stone. We are pleased to learn from an authoritative source that Professor Jervy's appointment has the unanimous approval of the Faculty of Law. He is not only a sound and experienced lawyer, but an admirable administrator and a real scholar. He possesses the unusual, but almost indispensable, qualification for the highest measure of success in any intellectual undertaking, namely, a thorough knowledge of the ancient classics. The authorities of the University confidently believe that under Professor Jervy's leadership the Law School will enter upon a period of still greater usefulness and distinction.

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Speaking of educational matters, we learn that the LL.B. course will be dropped in the Faculty of Law at McGill University next session, and in its place it is proposed to develop advanced legal teaching for special students along certain special lines. This will begin with advanced teaching in constitutional and international law. The dropping of the LL.B. course has been deemed advisable owing to the fact that Bar regulations in other provinces make it very difficult for Common Law students to study outside of their own province, students wishing to practice law being compelled to serve an apprenticeship in a law office, and to attend lectures in some local law school of the province in which they intend to practice. The recommendation that the LL.B. course be dropped, and that no students be registered for this degree after the close of the present session, was formally approved at a meeting of the Corporation held during the current month. The Faculty of Law, in submitting the

recommendation, adopted the attitude that the chief aim and duty of the Faculty of Law is the effective and scholarly training of law students in the existing law of the Province of Quebec.

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The complete programme of the meeting of American and Canadian lawyers in London in July has not been communicated to the REVIEW at the moment of this writing, but if it reaches us before going to press an effort will be made to give it to our readers in some form. It is pretty generally understood that the proceedings will include a banquet by the Lord Mayor of London in the Guild Hall on July 23rd, a reception and dinner in Westminster Hall on July 25th, and a series of receptions by the Inns of Court in co-operation with the Law Society and other public bodies. On Sunday, July 20, a special service will be given by the permission of the Dean of Westminster in the Abbey. We also learn that visits are contemplated to Shakespeare's birthplace, to Sulgrave Manor (the old English home of the Washingtons), to the British Empire Exhibition at Wembley, and other places attractive to the visitors. His Majesty is a Bencher of Lincoln's Inn, and the garden party at Buckingham Palace on the 24th July will have a greater significance for that reason.

Mr. E. H. Coleman, Secretary of the Canadian Bar Association, and the Honourable R. B. Bennett, K.C., are now in London for the purpose of completing arrangements for the Canadian visitors.

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At the annual meeting of the Selden Society, held in Lincoln's Inn last month, Lord Justice Warrington (the President) announced that with the view of interesting lawyers in Canada, as well as in the United States of America, in the work of the society, the Council had requested Mr. J. Murray Clark, K.C., to act as Honorary Secretary and Treasurer in Canada, and had appointed Mr. Clark as a member of the Council. In the course of his observations from the chair, Lord Warrington spoke of the gathering of lawyers in London in July. He thought that as the Americans were notoriously much interested in the antiquities of the Common Law, and in its growth and evolution, it would be well to take the opportunity of their visit to show them some of the documents, which were in the possession of the Inns of Court and of the Record Office, throwing light upon the history of the Common Law. If the museum of the Record Office were open on the day when it was hoped that a great many of the

Americans and Canadians would be entertained as guests of Lincoln's Inn and Gray's Inn, this object could be conveniently attained.

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Apropos of the visit of the American Bar Association to England in July next as guests of the English Bar, and the strengthening of the ties of international amity and good-will likely to result from it, we quote for the benefit of our readers a fine tribute to England by Mr. Otto H. Kahn, the American banker, at a meeting of the British Empire Chamber of Commerce of the United States, held in New York last year. In the course of his speech on that occasion Mr. Kahn said:—

“I am one of those Americans—there are many millions of us—who do not spring from British stock. But in assuming the duties, responsibilities and privileges of American citizenship, we have fallen heir not only to the greatness and the opportunities of our adopted country, but also, as members of an English-speaking nation, to the immortal legacy of the cultural achievements of the British stock, and we value that legacy no less than if it had come to us as a birth-right. And many of us belong to the fortunately steadily increasing number of Americans who look upon sincere co-operation, genuine understanding and active friendship between Great Britain and the United States as the very sheet anchor of the world's peace and welfare, and as transcending in importance and in power for good every other international relationship.”

“From what I have said, some of you may get the impression that I am a profound admirer and warm well-wisher of England. If so, you have guessed right. I am. I plead guilty to that charge and I don't evoke any mitigating circumstances whatever.

“I do most earnestly hope and pray that as England and America stood together in 1917 and 1918, as they stand together now for peace and for enlightened moderation in dealing with the troubled affairs of the world and in pointing the way, and the only way, out of the turmoil, strife and wretchedness which oppresses the nations of Europe, so I trust England and America will stand together always for their own good and for the good of all the world.”

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Whether one is disposed or indisposed to accept the general truth of the saying accredited to Talleyrand that speech has been given

to man "pour déguiser sa pensée" no such subtle purpose can be ascribed to Lord Birkenhead in speaking of his contemporaries in public life. On all these occasions he seems to be persuaded that the time is full ripe for the truth—as he apprehends it—to be told. And he never allows it to lack force and piquancy in the telling. This is what he had to say recently of the Prime Minister of England:—

"I read the mind of Mr. Ramsay MacDonald as possessing all the rigidity of the school of Mr. Sidney Webb with a slightly artificial re-echo of the passion that seems bred on the Clyde. Flexible as a Parliamentarian, he is dogmatic as a schoolmaster. And if the forces which are opposed to Socialism do not forget their other differences and band themselves together in time, this schoolmaster and secretary may be the new, if paler, Cromwell, who will yet give modern England a taste of what the kingdom of the latter-day saints means to life, property, and happiness."

But in addition to his bias for frank statement that extenuates nothing he can be quite lyric in his praise when he esteems it due. Witness what he says of Lord Haldane:—"He brought his metaphysical garlands with him to the English Chancery Bar to humanize this somewhat arid field of human research." . . . "Lord Haldane has all his life been the most industrious man in England." . . . "Of Lord Haldane's qualities as a Judge it becomes a colleague to write with extreme delicacy; nor indeed should I think it proper to write at all if there were not so much which ought to be said and has not been said in his favour. Ever since he left the Woolsack he has laboured during every day of the legal session exactly like any other Judge who is under a legal compulsion to do so. He is immensely courteous, very patient, very learned, and very conscientious. And if he is occasionally somewhat reminiscent, his colleagues at the Bar and on the Bench who know his great qualities hope without being sanguine that nothing worse will be said of them when their obituaries come to be written. In particular his work on the Judicial Committee has been beyond all praise so that no name throughout the British Empire among all its Judges is more respected than that of Lord Haldane."

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The Academy of International Law at the Hague, founded with the support of the Carnegie Endowment for International Peace, began its active operations in July, 1923, in the Palace of Peace at

the Hague. For the first year the term of instruction was limited to six weeks divided into two periods from July 16th to August 3rd, and from August 13th to September 1st respectively.

The syllabus included 74 courses or lectures for the former period and 64 for the latter, bearing on questions of public international law in time of peace. They were delivered by 28 specialists, professors, magistrates of high rank, diplomatists or statesmen, belonging to fifteen different nations, eleven of which are in Europe and four in America.

The courses were attended by 351 persons of 31 different nationalities, three-fourths of whom were University graduates already belonging to the professions.

While most of these students had come to the Hague at their own expense, a good number of them, on the other hand, who discharge official duties in their own countries, as members of diplomatic, consular or administrative departments, had been sent by their governments, and entrusted with the mission of following the courses and reporting on the advantages to be derived from the teaching of the Academy.

In 1924 the term will consist of nine weeks, divided into two periods, from July 14th to August 12th, and from August 13th to September 12th respectively. Each period will include the same number of courses and lectures which, while not bearing on the same matters, will however be of equal importance. The main subject is to be international law, taught only in relation to peace, excluding the laws of war which, owing to the still recent memories of the world conflagration, can hardly, it seems, be studied in the objective and impartial spirit that the Academy intends to follow. Private international law will also find a place in the syllabus.

During each of the two periods, main courses will be given on the historical development and general principles of international law, both public and private, while a certain number of special lectures will be devoted to carefully defined subjects, selected according to the special competence of professors, and as far as possible amongst the juridical problems of the present time.

The regulations issued by the Curatorium will mention the courses considered as compulsory and those that may be freely chosen by the students in order to deserve the certificate of regular attendance.

The instruction is given in the French language exclusively.

The debate in the Dominion Parliament last week on the second reading of Mr. William Irvine's bill to amend the Criminal Code by the abolition of Capital Punishment was conducted on a lofty plane, and pretty thoroughly exhausted the lines of argument pro and con with which all who have given consideration to the matter are familiar. Many citations from the literature surrounding the subject were made, but so far as we know the trenchant suggestion of Alphonse Karr for abolishing the death penalty was not referred to, "Que messieurs les assassins commencent!"

Mr. Irvine's bill was defeated by a vote of 29 for and 92 against.

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The CANADIAN BAR REVIEW seeks to draw its contents as little as possible from literary material published elsewhere, and its policy in that regard is based on the belief that in no other way will native talent be stirred into activity. But this does not mean that we shall not from time to time reproduce for the benefit of our readers articles of high quality found in legal publications whose circulation in Canada is not commensurate with our own. By permission we reprint in this number one of a series of lectures on the Theory of Judicial Decisions delivered by Dean Pound before the Bar Association of the City of New York. Dean Pound is an acknowledged master in the field of Theoretical Jurisprudence, and he is never read without profit.

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