

## ADMISSION OF ENGLISH BARRISTERS TO PRACTICE AT THE BAR IN ONTARIO—OSGOODE HALL LIB'RY.

Society is required to inspect testimonials. But in sub-section 3 nothing more is said than, 'any person who *has been called* in England.' He is not required to join the society, nor to be certified by them, nor to present to them his testimonials, nor to undergo any examination, nor to obey any rules of the Law Society.

That these distinctions are not unmeaning may be found from considering the history of the statutes on this subject.

By stat. 37 Geo. III., whereby the Law Society was founded, 'none are to practise but such as are of the Society;' but it expressly provides that English Barristers shall have this privilege, upon producing testimonials *to the judges*, not to the Law Society; and they were not required to join the Law Society except by a *condition subsequent*, taking effect one month *after* they had already, by reception in the King's Bench by the judges, acquired full and *independent standing*.

Here then commences this distinction; it is as old as the Law Society itself. Membership of the Law Society was not originally necessary to English Barristers.

Stat. 2 Geo. IV., c. 5, then requires English Barristers to join the Law Society, but does not make their right of audience any the less absolute, or within the refusal of the Law Society.

C. S. U. C. c. 34 names and specifies four classes who alone shall have audience; but various conditions are presented in every case except in the case of English Barristers. The provision of the stat. 2 Geo. IV., requiring English Barristers to join the Law Society is not retained. We have seen that before stat. 2 Geo. IV., membership of the Law Society was not prescribed to English Barristers except by the doubtful operation of a *condition subsequent*. The privilege and exemption of English Barristers is placed in even a stronger light by the course that Barristers from certain colonies (see C. S. U. C. c. 34) who, under the stat. 37 Geo. III., were in the same category with English Barristers are now, by C. S. U. C. 35 (section 1, sub-section 4), disjoined and their right is made to depend upon the existence of mutuality or reciprocity while that of English Barristers remains as unqualified and as absolute as ever. *Expressio unius, alterius exclusio*. 'The several inditing and penning of the different branches,'

says Lord Coke, 'doth argue that the maker did intend a difference in the purview and remedies.'

By R. S. O. c. 138 the same distinction is preserved. It says in section 1: 'Subject to rules *under a certain statute the following and no other*.' What then is the scope of these *rules* here mentioned? By the statute in question, the Law Society, at section 38, has a power to 'make rules on *special cases* respecting the admission of *students*.' This is a power to increase, not to diminish; to admit a student in, say, *two* years, not to impose upon him an additional period of *ten*; nor yet to say that certain persons shall not be admitted whose right, depending on a special statute, cannot be of the class called *special cases*."

Whether Mr. De Souza ultimately succeeds in establishing his right to practise at our Bar or not, we certainly think he will have no reason to complain of any ungenerous treatment at the hands of the profession, many of whom have already shown themselves even eager to extend to him any friendly offices in their power. We feel that in placing any obstacles in the way of English Barristers practising in our Courts, the Law Society is "cruel only to be kind," in view of the competition already existing; but if Mr. De Souza should succeed in showing that no such obstacles at present really exist, he will be welcomed to the Bar ungrudgingly, with what we hope we are justified in calling true Canadian hospitality.

## OSGOODE HALL LIBRARY.

THE management of Osgoode Hall Library is of so great importance to a large portion of the members of the profession, that we think no excuse is called for if we from time to time recur to it. To our mind, the great evil of the present library is that it is a thoroughfare to all the Courts. A library should not, if it can possibly be avoided, be used as a thorough-