

Canada Law Journal.

VOL. XLII.

MAY 1.

NO. 9.

CHARACTER OF SERVANTS. BLACKLISTING.

1. Master not bound to give a character to his servant.
2. Master's duty as affected by statute.
3. Blacklisting. Generally.
4. Notices exchanged between different employers in the same line of business.
5. Notices circulated amongst the coemployees of the persons to which they relate.
6. Statutes with regard to blacklisting.

1. Master not bound to give a character to his servant.—The doctrine of the English and American courts is, that a master is morally, but not legally bound to give a character to his servant, when he is discharged from or leaves the employment¹. It follows, therefore, that the master's refusal to furnish a character does not constitute a cause of action in favour of the servant, however faithfully and efficiently he may have performed his duties, and however clear and specific may be the proof of the injury resulting from such refusal². The withholding of the re-

¹ *Pullman v. Hill* [1891] 1 Q.B. 524, 60 L.J.Q.B.N.S. 299, 64 L.T.N.S. 691, 39 Week. Rep. 263, per Lord Esher.

For some remarks as to the injustice of refusing a character to a faithful servant, see Paley's Moral and Political Philosophy, Book III. Part 1, ch 11.

A modern text-writer has undertaken to justify the common law rule in the following manner: "The reason for this rule is to be found in the consideration, that, if a master were compelled to give a character, it would necessarily follow that he must be held to the proof of the character he gives. The burden thus cast on the master would often give rise either to much litigation on the one hand, or to the giving of false characters on the other." Parkyn, Mast. & S. 132. No authorities are cited for this theory of the learned author's. It is not easy to see why the consequence here held out in *terrorem* should necessarily follow, if the present rule were changed. So far as appears, the burden of proving the falsity of the character given would in any event continue to rest on the servant.

² The earliest reported case in which an explicit recognition of this rule is found seems to be *Carroll v. Bird*, (1800) 3 Esp. 201, 6 R.R. 824, 17 Eng. Rul. Cas. 245, in which it was shewn that, after the plaintiff's