

all the juices of life." Mr. Jethro Brown has the same idea when he writes: "Again, that the judicial adoption of custom is retrospective proves nothing, for this is a characteristic of judge-made law in general, an inevitable result of the imperfection of human institutions, the sacrifice of formal justice that in the long run substantial justice may be done. The fact that judges often base their decision upon custom is paralleled by the fact that judges often base their decision upon convenience; in determining the significance of all such action, we must remember that in the unideal world wherein we live, justice is wider than law; that much to which judges pay great deference is in no sense law and does not even of necessity become law as a result of the judicial decision."³⁴

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34. The Austinian Theory of Law, p. 323, Sir William Anson in his Law of Contract, 12th edition, p. 108, says: "The composition with creditors is, therefore, no exception to the general rule; creditor X not merely gets payment of 10s. in the pound from his debtor A, but the benefit of a promise procured by A from creditors Y and Z that they too will be content with a payment of 10s. in the pound." It may be true that in the great majority of cases the debtor procures some of the creditors to join in the composition; but this is not invariably so. See also Sir Frederick Pollock's Principles of Contract, 8th edition, p. 201; and Halsbury's Laws of England, vol. II., p. 326; and vol. VII., p. 441.

DISALLOWANCE.

An application for the disallowance of an Act of the Alberta legislature relating to the Alberta and Great Waterways Railway Company brought up again the construction of the British North America Act in regard to the important subject of disallowance by the Governor General of provincial legislation.

On this occasion it came before the present Minister of Justice, the Hon. Mr. Doherty. This application was dealt with on the merits of the case, but an allusion was made by the Minister of Justice to the practice and precedents in respect of recommending disallowance by reason of unjust provisions, or because of its