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THE BANKRUPTCY ACT.

On the first day of July last the Dominion Bankruptcy Act came into force. This Act, with certain modifications and local adaptations is very largely founded on the English Bankruptcy Act. Each Province is constituted a Bankruptcy District, and provision is made for the sub-division of Districts into Divisions, which will probably not take place until the necessities of business require it.

The Act provides for three methods of dealing with debtors who are insolvent, or in financial difficulties. The debtor may himself do one of two things: He may either make an assignment under the Act to an authorized trustee; or he may call upon some authorized trustee to convene a meeting of his creditors for the purpose of considering a proposal for an extension of time for payment of his liabilities, or for the payment of a composition on his debts, or for both. Any such agreement has to be submitted to the vote of his creditors, and if approved by two-thirds in value of those who have proved their claims, the trustee may apply to the Court to approve of the agreement, and if approved by the Court, it then becomes binding on all creditors. The approval of the Court is not to be given if it involves the payment of a dividend of less than 50 cents on the dollar in the liabilities, nor if the debtor has been proved to have been guilty of any offence under the Act.

But a creditor is not bound to submit to either of these methods, and if the debtor has committed an act of bankruptcy within the meaning of the Act, the creditor may proceed by petition to have the debtor adjudicated a bankrupt, and a receiving order made. It may be well to note that there is this difference between a receiving order and an assignment, viz.: The former covers not only all property the debtor has at its date, as does

the assignment, but it also extends to all property to which the debtor may thereafter become entitled, until he has obtained his discharge.

The method of procedure by petition seems to be somewhat similar to the procedure by writ of summons in an ordinary action. The petition is filed with the Registrar and a copy of it is at the same time presented to that officer to be sealed with the seal of the Court, and copies of the sealed copy are to be served on the respondents. If the petition is intended to be opposed, the respondent is required to file a notice of opposition with the Registrar three days before the day named for the hearing. If opposed the petition must be heard by the Judge, but if unopposed it may be heard by the Registrar. Pending the filing, and the hearing of a petition, the property of the debtor may be protected by the appointment of an interim receiver.

In the case of such applications when made *ex parte* it is probable that the usual undertaking as to damages will be required to be given, as in the case of an interim injunction in an action.

The making of an assignment, or the granting of a receiving order, is required to be published in the Canada Gazette. Provision is also made by section 11 of the Act for the filing or registration of assignments and receiving orders in the Registry Offices, and for the keeping by the Registrar in Bankruptcy and the Registrars of Deeds, and Master of Titles of indices of the names of debtors appearing in the Gazette. This provision of the Act does not appear to be very satisfactory. The problem is how to bind all the property of a debtor, wherever situate, by an assignment, or receiving order, so as to give them priority over all subsequent delings by the debtor with his property.

Whether this can be accomplished without an actual registration of the assignment or receiving order against the specific lands of the debtor in each registration division, seems doubtful. The provisions of sec. 11 do not seem to accomplish anything more than this, although they seem to aim at doing something more. Care must be taken in any such legislation not unduly to obstruct

or hinder transactions respecting lands. Of course in many cases a trustee may be unable, without some delay, to discover what lands the debtor owns, and it would be a costly business to register an assignment or receiving order in every registration district in the Province, and, if done, it would often be a wholly useless expense. In these circumstances, can any better plan be devised than leaving the registration of assignments, and receiving orders, to be governed by the general laws of each Province so far as the same affect the property of debtors therein?

We are disposed to think sec. 11 of the Act will need some early revision so that it may be made clear that in each Province authorized assignments and receiving orders are to be governed by the general laws of the Province affecting the transfer of property.

Under the Act debtors who make authorized assignments, or who are adjudicated bankrupt, may apply for their discharge, but the granting of a discharge is by no means to be a matter of course. Debtors who fail to pay at least 50 cents on the dollar, and do not satisfy the Court that their inability to do so arises from circumstances for which they cannot be held to be responsible; or who have been guilty of failure to keep books, or who have continued to trade after knowledge of insolvency, or failed to account for loss of assets, or who have indulged in rash speculations, or put creditors to unnecessary cost, or within three months prior to the making of an assignment, or receiving order, put creditors to unnecessary expense by frivolous or vexatious litigation; or within that time have given any undue preference, or within that time incurred liabilities in order to make his assets equal 50 cents on the dollar, or have been previously bankrupt, or been guilty of fraud; in any such case the discharge may, according to the circumstances, be wholly refused, or granted upon condition, or suspended for such period as the Court may determine.

The Act therefore cannot be said to furnish very much comfort to debtors who may have been guilty of any of the acts or omissions above mentioned.

The provisions of the Act regarding the rights of landlords do not appear to be very effective from a landlord's point of view. The assignment, or receiving order, puts an end to a landlord's right of distress, but does not appear to give him a first claim on the full value of the goods distrained for the rent to which he is entitled, but only in priority to other "debts," and it is therefore possible that the whole value of the distrained property may be eaten up by the trustee's fees and expenses.

Since the above was written, in *Re Auto Experts*, Mr. Justice Orde has decided that the Act does secure to a landlord a priority for his rent over the trustee's expenses.

Provision is made for appeals by creditors from the decision of the trustee regarding their claims, and appeals where the claim is under $500, and a good deal of other Court business under the Act, are committed to the Registrar.

We are inclined to think that the Act will need an early revision before it will satisfactorily answer the purpose intended; and in that revision we should hope to see a re-arrangement of some of its provisions.

EQUITABLE RELIEF IN COMMON LAW CASES.

Lawyers of the younger generation, who have grown up since the passing of the Judicature Act, and have a comfortable assurance in their minds that our Courts are Courts of Equity as well as Courts of Common Law, may perhaps be somewhat surprised to learn that a modern case may be lost for the reason that the action is one which before the Judicature Act would have been a purely Common Law action, to which the rules of Equity cannot even now be applied.

Section 16 of the Judicature Act, R.S.O. 1914, ch. 56, which prescribes the manner in which in every civil cause or matter Law and Equity shall be administered by the Supreme Court of Ontario, provides for the granting of equitable relief, and directs the Court to take notice of equitable rights and duties. However, this relief is to be the same as the Court of Chancery ought to have given in a suit or proceeding properly instituted

for the same purpose in that Court before the passing of the Ontario Judicature Act, 1881. If the action is one which before the Judicature Act would have been entertained only in the Common Law Courts, the Court of Chancery would not have given any relief, and it follows that in such action equitable relief cannot now be given.

This does not sound in accord with the dictum of Coleridge, C.J., in *Gibbs* v. *Guild*, 46 L.T. Rep. 248, where in an action for damages for fraudulent misrepresentation inducing the plaintiff to buy certain shares, he proceeds as follows: "How is this case to be decided? As a Common Law action, or as a suit in Equity? It is neither, but it is an action in the High Court of Justice created by the Supreme Court of Judicature Act, 1873, by which the old systems of Law and Equity previously existing as conflicting systems are abolished, and relief is to be administered in all cases according to the provision of the Act. It seems to me plain that it is fallacious to treat this either as an action at Common Law or a suit in Equity, such as existed before the Judicature Act, 1873, came into operation, for the rule now is that in all cases each division of the Court is to administer full justice according to so much of the rules of both Law and Equity as are applicable to the case." This sets forth admirably the popular conception of the law. But do the words, "according to the provisions of the Act," necessarily mean that "in all cases each division of the Court is to administer full justice according to so much of the rules of both Law and Equity as are applicable to the case?" In any event this expression must be regarded as a mere dictum, as the action in *Gibbs* v. *Guild* would not have been even before the Judicature Act a purely Common Law action.

The question of the application of the rules of Equity in what had been purely Common Law cases came before the Queen's Bench Division in *Armstrong* v. *Milburn*, 54 L.T. Rep. 247, on a motion before Mathews and Smith, JJ., to set aside a verdict and judgment for the plaintiff, in an action against a solicitor for professional negligence. The defendant had set up the Statute of Limitations, and the plaintiff had replied that

there had been fraudulent concealment. Mathews, J. there says it was agreed by counsel that in Common Law actions a plea of the Statute was an absolute defence, and a reply of fraudulent concealment would not get rid of the Statute; and it was further agreed that the Court of Equity took a different view. It had been argued that in *Gibbs* v. *Guild* there are expressions shewing that the principles of Equity cases can now by process of development be applied to Common Law Cases. But he holds that no new remedies have been created and no new rights conferred by the Judicature Act, and decides that the reply of fraudulent concealment therefore does not get rid of the Statute.

In more modern times Ballache, J., in *Osgoode* v. *Sunderland*, 111 L.T. Rep. 529, held that he was bound by *Armstrong* v. *Milburn*. In this case the defendant did certain work for the plaintiff in 1904. In 1912 the plaintiff discovered that the work was defective, and not as specified in the contract. Whereupon he brought an action for damages, and alleged fraudulent concealment, apparently with a view to anticipating a defence of the Statute of Limitations. The defendant denied liability, and in addition pleaded the Statute of Limitations. On the evidence the learned Judge held that the work had been badly done, and that steps had been taken to conceal it. On the question of law the defendant submitted that in an action such as this, which he contended was really an action for breach of contract, and which before the Judicature Act could be brought only in a Common Law Court, a plea of the Statute of Limitations could not be met by a reply of fraudulent concealment. Ballache, J., holding that the action was really for breach of contract, and that he was bound by *Armstrong* v. *Milburn*, says that *Armstrong* v. *Milburn* comes to this, "That inasmuch as it was a purely Common Law action, and inasmuch as before the Judicature Act it had been expressly decided that a plea of fraudulent concealment was, in such a case, no answer to the Statute of Limitations, the law was still, notwithstanding the Judicature Act, that a plea of this kind was no answer in a purely common law action to the Statute of Limitations.

The recent unreported case, *St. George* v. *Simone*, brought

under "The Fatal Accidents Act, in the County Court of the County of York, Ontario, and heard before Denton, Co. J., turned upon this point.

The plaintiff in this action sued on behalf of herself and others for $10,000 damages for the death of her husband, who was killed over two years before the action was commenced. The defendant pleaded that the action was barred by section 6 of the Fatal Accidents Act, which is as follows: "Not more than one action shall lie for and in respect of the same subject matter of complaint, and every such action shall be commenced within twelve months after the death of the deceased and not afterwards."

In her reply the plaintiff set up fraud. Particulars of the alleged fraud were served, and a rejoinder delivered. The pleadings were followed by a motion to dismiss the action, which was successful. The learned Judge found that the matters enumerated in the particulars delivered did not constitute fraud. He did not think it necessary to pass upon the argument that the restriction as to when action must be brought is not to operate as a Statute of Limitations, so as to be a time limitation upon the remedy; but is rather a qualification of the right of action. He based his judgment on the higher ground that even if this restriction is a Statute of Limitations, and even if the defendant had been guilty of fraud, the plaintiff could not set up the fraud as a reply to the defence that the action had not been brought in time. The learned Judge expressly followed the decision in *Osgoode* v. *Sunderland*, holding this action to be a purely Common Law action, and the plaintiff therefore to be unable to set up the fraud if there had been any. Thus we find that even in our own day and generation it is sometimes of importance to consider what is really the nature and origin of our cause of action.

CECIL CARRICK.

[It may be well to note that the Statute of Limitation referred to by our contributor is the statute of James, and is not the Real Property Limitation Act, nor the provision therein contained in reference to concealed fraud. (See R.S.O., ch. 75 sec. 32).—EDITOR.]

THE LORD CHANCELLOR AND LAW REFORM.

Lord Birkenhead has taken the unusual course of unfolding in *The Times* some proposals for law reform, which are of importance to the public and the profession. We have no such august personage in this country—no one, who should, as he does, take a paternal interest in legislation. Perhaps the Canadian Bar Association is the source from which we rather look to for initiations in legislation in this part of the Empire. The Lord Chancellor's action is referred to in an article in the *Law Times*, from which we extract the following:—

"Law reform should be a topic of singular interest to every citizen, but we are afraid that this is far from being the fact—a good example being the way in which the abolition of the right to trial by jury in civil cases passed both Houses of Parliament practically without discussion. Although on some questions we cannot agree with the Lord Chancellor's four exceedingly interesting articles, but subjects discussed are of prime importance not only to the public, but to the profession. They indicate the lines upon which reform should proceed, and demonstrate the extreme difficulty of carrying through the necessary schemes.

At the outset the Lord Chancellor points out that legal reform has passed out of the domain of party politics, and that this fact deprives the reformer "of that momentum which is necessary to place measures upon the statute-book in these days of crowded Parliamentary time." This is only too true, and the drag can only be removed by energy and determination.

Naturally, the Law of Property Bill and Land Transfer were the first matters discussed in the articles. We agree that the simplification of the law of real property and of conveyancing is urgently called for, and we sincerely hope to see the Lord Chancellor successful in carrying these proposals in the coming session. But with regard to the compulsory extension of the provisions of the Land Transfer Act, we do not agree with Lord Birkenhead that "voluntary extension having failed, and the need for extension being shewn, it is now vitally necessary to obtain more effective powers for the compulsory extension of the

system." In fact, we believe the contrary to be the case, and that property owners have no desire whatever that the transfer of land should come under the control of bureaucratic administration. Turning to the two final Courts of Appeal—the House of Lords and the Judicial Committee of the Privy Council—in Lord Birkenhead's opinion no changes are called for in the House of Lords sitting in its judicial capacity, and "the time is not yet ripe for the final discussion and settlement of [the] question" of a Court of Imperial Appeal. Apparently certain changes are in progress with regard to the Judicial Committee, and representations have been made that means must be found for strengthening the Indian representation.

We are not altogether sure that the time for the establishment of an Imperial Court of Final Appeal has not become over-ripe, but we hope we are wrong. The matters dealt with in our columns last week disclose a growing feeling against an appeal to a tribunal in the mother country in some of the Dominions. The Lord Chancellor says: 'The Indian work which comes to that committee vastly exceeds in volume all the work which comes from all the other Dominions,' and, even discounting population and Eastern love of litigation, this fact gives food for thought. Apart from historical development, no good reason exists why members of the Empire should have different courts of final appeal both sitting in London and largely manned by identical Judges. An Imperial Court of Appeal, with due representation from beyond the seas, would form a strong bond of Empire, and without for one moment under-rating the difficulties of its attainment, its institution cannot be placed beyond the bounds of reasonable possibility.

DIVORCE BUSINESS.

The lists which we commence to publish this week shew the serious position with regard to matrimonial causes. At Hilary 1920 there were 1,544 probate and divorce causes, of which 1,325 were undefended; at Michaelmas last year the figures were 2,628 the bounds of reasonable possibility."

LORD READING AND INDIA.

From a strong sense of duty and at considerable personal sacrifice, Lord Reading has resigned the great office of Lord Chief Justice of England—a position he has filled with both dignity and ability since October, 1913—to become Viceroy of India. To give up a unique and assured position and to accept one that at the present time is both difficult and uncertain demonstrates in a high degree both courage and love of country, two attributes possessed by Lord Reading in a high degree. Both the Lord Chief Justice and the Attorney-General, when Sir Gordon Hewart tendered the congratulations of the Bar of England to the new Viceroy, laid stress upon the importance of law and justice and its due administration. The lawyer has ever been made the butt for cheap witticisms, but it is a significant fact that in cases of difficulty and stress it is to the lawyer that the country turns for assistance. No one under-estimates the greatness of the task that lies before Lord Reading, but the profession is certain that he will make good in the future as he has in the past. Lord Reading carries with him the confidence and good wishes of his fellow-lawyers, and what the profession loses the Empire gains.—*Law Times.*

CANONS OF LEGAL ETHICS.

There ought to be no necessity for a code of legal ethics. The Bar is supposed to be composed of a body of gentlemen of education and refinement who know what is due to themselves and others as members of an honourable profession known in the past for its high conception of its duties, not only to clients, but also as quasi officers of the Courts of justice. The spirit of commercialism, however, which now too largely dominates even the liberal professions, has to be taken into account by those who are the responsible leaders; and it is their thought that some canons of ethics should be promulgated for the education and guidance of an element largely unknown in the past but now very much to the front.

The following canons were therefore approved by the Canadian Bar Association, at the Fifth Annual Meeting, Ottawa, September 2nd, 1920, as a correct, though not exhaustive, statement of some of the ethical principles which should be observed by the members of the legal profession.

As the committee properly say, it is not possible to frame a set of rules which will particularize all the duties of the lawyer in all the varied relations of his professional life and no attempt has been made to do so. The following Canons of Ethics should therefore be construed as a general guide and not as a denial of the existence of other duties equally imperative though not specifically mentioned. The lawyer is more than a mere citizen. He is a minister of justice, an officer of the Courts, his client's advocate, and a member of an ancient, honourable and learned profession. It is therefore in these several capacities his duty to promote the intesests of the State, serve the cause of justice, maintain the authority and dignity of the Courts, be faithful to his clients, candid and courteous in his intercourse with his fellows and true to himself.

The canons indicate the duties of a barrister to be as follows:

1. To the State.

(1) He owes a duty to the State, to maintain its integrity and its law and not to aid, counsel, or assist any man to act in any way contrary to those laws.

(2) When engaged as a public prosecutor his primary duty is not to convict but to see that justice is done; to that end he should withhold no facts tending to prove either the guilt or innocence of the accused.

(3) He should take upon himself without hesitation and if need be without fee or reward, the cause of any man assigned to him by the Court and exert his best efforts on behalf of the person for whom he has been so assigned counsel.

(4) It is a crime against the State and therefore highly non-professional in a lawyer, to stir up strife or litigation by seeking out defects in titles, claims for personal injury or other causes of action for the purpose of securing or endeavouring to secure a

retainer to prosecute a claim therefor; or to pay or reward directly or indirectly any person, for the purpose of procuring him to be retained in his professional capacity.

2. To the Court.

(1) His conduct should at all times be characterized by candour and fairness. He should maintain towards the Judges of the Courts a courteous and respectful attitude and insist on similar conduct on the part of his client, at the same time maintaining a self-respecting independence in the discharge of his professional duties to his client.

(2) Judges, not being free to defend themselves, are entitled to receive the support of the Bar against unjust criticism and complaint. Whenever there is proper ground for serious complaint of a judicial officer, it is a right and duty of the lawyer to submit the grievance to the proper authorities.

(3) He should not offer evidence which he knows the Court should not admit. He should not, either in argument to the Court or in address to the jury, assert his personal belief in his client's innocence, or in the justice of his cause, or as to any of the facts involved in the matter under investigation.

(4) He should never seek to privately influence, directly or indirectly, the Judges of the Court in his favour, or in that of his client, nor should he attempt to curry favour with juries by fawning, flattery or pretended solicitude for their personal comfort.

3. To the Client.

(1) He should obtain full knowledge of his client's cause before advising thereon and give a candid opinion of the merits and probable results of pending or contemplated litigation. He should beware of bold and confident assurances to clients especially where the employment may depend on such assurances. He should bear in mind that seldom are all the law and facts on the side of his client and that "*audi alteram partem*" is a safe rule to follow.

(2) He should at the time of retainer disclose to the client all the circumstances of his relations to the parties and his interest

in or connection with the controversy, if any, which might influence the client in selection of counsel. He should avoid representing conflicting interests.

(3) Whenever the controversy will admit of fair adjustment the client should be advised to avoid or to end the litigation.

(4) He should treat adverse witnesses, litigants, and counsel with fairness, refraining from all offensive personalities. He must avoid imparting to professional duties the client's personal feelings and prejudices. At the same time he should discharge his duty to his client with firmness and without fear of judicial disfavour or public unpopularity.

(5) He should endeavour by all fair and honourable means to obtain for his client the benefit of any and every remedy and defence which is authorized by law. He must, however, steadfastly bear in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of the lawyer does not permit, much less does it demand of him, for any client, violation of law or any manner of fraud or chicanery.

(6) It is his right to undertake the defence of a person accused of crime, regardless of his own personal opinion as to the guilt of the accused. Having undertaken such defence, he is bound by all fair and honourable means to present every defence that the law of the land permits to the end that no person may be deprived of life or liberty but by due process of law.

(7) He should not, except as by law expressly sanctioned, acquire by purchase or otherwise any interest in the subject matter of the litigation being conducted by him. He should act for his client only and having once acted for him he should not act against him in the same matter or in any other matter related thereto, and he should scrupulously guard and not divulge his client's secrets or confidences.

(8) He should report promptly to his client the receipt of any monies or other trust property and avoid the commingling with his own, or use of trust money or property.

(9) He is entitled to reasonable compensation for his services but he should avoid charges which either over-estimate

or under-value the service rendered. When possible he should adhere to established tariffs. The client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge or even none at all.

(10) He should avoid controversies with clients regarding compensation so far as is compatible with self-respect and with the right to receive reasonable recompense for services. He should always bear in mind that the profession is a branch of the administration of justice and not a mere money-getting trade.

(11) He should not appear as witness for his own client except as to merely formal matters, such as the attestation or custody of an instrument, or the like, or when it is essential to the ends of justice. If he is a necessary witness with respect to other matters, the conducting of the case should be entrusted to other counsel.

4. To his Fellow Lawyer.

(1) His conduct towards his fellow lawyer should be characterized by courtesy and good faith. Whatever may be the ill-feeling existing between clients it should not be allowed to influence counsel in their conduct and demeanour towards each other or towards suitors in the case. All personalities between counsel which cause delay and promote unseemly wrangling.

(2) He should endeavour as far as possible to suit the convenience of the opposing counsel when the interests of his client or the cause of justice will not be injured by so doing.

(3) He should give no undertaking he cannot fulfil and he should fulfil every undertaking he gives. He should never in any way communicate upon the subject in controversy, or attempt to negotiate or compromise the matter directly with any party represented by a lawyer, except through such lawyer.

(4) He should avoid all sharp practice and he should take no paltry advantage when his opponent has made a slip or overlooked some technical matter. No client has a right to demand that his counsel shall be illiberal or that he shall do anything repugnant to his own sense of honour and propriety.

5. To Himself.

(1) It is his duty to maintain the honor and integrity of his profession and to expose without fear or favour before the proper tribunals unprofessional or dishonest conduct by any other member of the profession, and to accept without hesitation a retainer against any member of the profession who is alleged to have wronged his client.

(2) It is the duty of every lawyer to guard the Bar against the admission to the profession of any candidate whose moral character or education unfits him for admission thereto.

(3) The publication or circulation of ordinary simple business cards is not *per se* improper but solicitation of business by circulars or advertisements or by personal communications or interviews not warranted by personal relations, is unprofessional. It is equally unprofessional to seek retainers through agents of any kind. Indirect advertisement for business by furnishing or inspiring newspaper comment concerning causes in which the lawyer has been or is connected, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's position, and like self-laudations defy the traditions and lower the tone of the lawyer's high calling, should not be tolerated. The best advertisement for a lawyer is the establishment of a well-merited reputation for personal capacity and fidelity to trust.

(4) No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client; he has a right to decline employment.

(5) No client is entitled to receive, nor should any lawyer render, any service or advice involving disloyalty to the State, or disrespect for the judicial office, or the corruption of any persons exercising a public or private trust, or deception or betrayal of the public.

(6) Every lawyer should bear in mind that the oath of office taken on his admission to the Bar is not a mere form but is a solemn undertaking and on his part should be strictly observed.

(7) He should also bear in mind that he can only maintain the high traditions of his profession by being in fact as well as in name a gentleman.

GRANT OF FREEHOLD ESTATES IN FUTURO.

This subject is discussed in annotation to the recent case of *Re Smith* v. *Dale*, 55 D.L.R. 276, by Mr. E. Douglas Armour, K.C., the question being whether a freehold estate to commence *in futuro* can be created by a grant. The opinion expressed is as follows:—

A married woman conveyed land by deed of grant (presumably the short form conveyance) to her husband "from and after the death of the party of the first part (the wife) unto and to the use of the party of the second part (the husband) should he survive the party of the first part for and during the term of his natural life with remainder over in fee simple to B. in trust for the purposes of my will." An habendum followed in the same terms. The husband and wife sold and conveyed the land, which subsequently passed through several hands to the present vendor. At the time of the application under the Vendors and Purchasers Act the whereabouts of husband, wife and B. was unknown. It was objected by the purchaser that the deed was inoperative because it affected to create an estate of freehold to commence *in futuro*, *i. e.*, from the death of the grantor. As to this point, the Judge said, "As I understand the law, the statement that no estate in freehold can be created to commence *in futuro* is confined to attempts at such creation by common law conveyance, and where, as here, the word 'grant' is used, it has a wider significance and operation."

It is submitted, with all respect, that this is not the law. The origin of the rule dates back to a time when land was actually delivered to the feoffee, and it was impossible to make the conveyance by feoffment with livery of seisin at the present moment to take effect in the future. In other words a feoffor could not deliver seisin and at the same time not deliver it. The formula prescribed for effecting livery of seisin ended with the words "enter and take possession." But the nature of a future transaction would require the feoffor to say, "Do not enter until, etc." And he would have been obliged to appear at the future date and actually make livery at that time. When uses were invented, it was possible by resorting to a conveyance to uses to produce results that were impossible at the common or feudal law. And after the Statute of Uses was passed it became possible to effect what the feudal law could not effect, namely, the creation of an estate of freehold to arise or commence in the future, which would vest by virtue of the statute at the appointed time. The rule remained, however, that an estate of freehold could not at common law be created to commence *in futuro*. But in expressing the rule the common law was contrasted with the Statute of Uses. Thus, when it was said that a freehold estate could not be made to commence *in futuro* by common law conveyance, what was meant was a conveyance not operating under the Statute of Uses, and if any other conveyance were substituted for feoffment with livery of seisin, having the same direct effect, the result would be the same.

Pausing here for a moment to consider the effect and operation of a grant, it appears that it was a common law conveyance, but was not effective

to convey the immediate freehold, as the feudal law required an open and notorious delivery of the lands. It was used to convey interests in land which were incapable of livery, as remainders and other incorporeal rights, such as easements. But its operation was direct and immediate. As the conveyances in use in the early part of the last century were inconvenient, the statute (now R.S.O. 1914, ch. 109, sec. 3) was passed by which it was enacted that "All corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, be deemed to be in grant as well as in livery." No additional significance, no different operation, no wider meaning were given to the word "grant," but it was applied to a new interest, namely, the immediate freehold. It still remained a conveyancing word having direct and immediate operation; and became an additional mode of conveying the immediate freehold. The point arose acutely in *Savill Brothers* v. *Bethell*, [1902] 2 Ch. 523, where a grant was made of a piece of land to become operative at a future date. Stirling, L.J., in delivering the judgment of the Court of Appeal, said at pages 539-40: "Formerly a deed of grant was a mode of assurance applicable only to incorporeal hereditaments, including reversions and remainders in land, but by 8-9 Vict. ch. 106, sec. 2, it was enacted that corporeal hereditaments, as regards the conveyance of the immediate freehold thereof should be deemed to be in grant as well as in livery. The statute, however, in no way alters the rules of law with respect to the creation of estates." And the Court held the conveyance to be void. So we have the direct authority of the Court of Appeal that a grant of an estate of freehold to commence *in futuro* is contrary to the rules of law, and is therefore ineffective to convey the estate.

His Lordship, however, followed on, after the passage above quoted, to say, "even if no actual conveyance of the legal estate is effected, the conveyance could operate as a covenant to stand seised." Where there is a valid covenant to stand seised, the legal estate does in fact pass to the covenantee. The covenantor, being seised, covenants that he will stand seised to the use of the covenantee, and the Statute of Uses executes the use and passes the legal estate to the covenantee. But the consideration for a covenant to stand seised must be either blood or marriage: Sanders on Uses, vol. 2, page 80. If a consideration of money be added to the consideration of marriage, the use will arise on the latter consideration only: *Ibid*, vol. 2, page 81. In the present case the consideration was $1.00. As it was quite apparent from the nature of the transaction that the land was intended to be conveyed only because the grantee was the husband of the grantor, it might be concluded that the consideration of marriage existed, and the benevolent construction that the deed might be treated as a covenant to stand seised might be accorded to it. But here another difficulty arises. Sanders says (vol. 2, page 81), "If a covenant be made to stand seised to the use of a person related to the covenantor by blood or marriage and of a stranger the whole use will vest in the relative." That is to say, that the consideration of blood or marriage moves wholly from the husband, wife or relative, and is the only consideration that will raise the use, and therefore the use will be raised only in favour of the spouse or relative, and the stranger gets nothing. If the consideration be divided, and the relation of marriage be attributed to the grantee's life estate,

and the $1.00 to that of the remainder man, there is still no operation in favour of the latter, for the money consideration will not raise a use on a covenant to stand seised.

Whether the conveyance be treated as a grant or as a covenant to stand seised, the intention was that it should not become effective until the death of the grantor. Although the Judge held that the remainder to B. was good, it is impossible for the writer to see how it could stand. A remainder must have a particular estate to support it, and in this case, whatever complexion the deed may assume, it must be taken not to have passed any estate at the time of its delivery; and, there being no particular estate to support the remainder to B., it must fail as a vested remainder. If it could operate at all in favour of B., it could only operate as a contingent remainder, expectant upon the husband surviving the wife, and still there is no freehold estate to support it. Thus the problem becomes more and more involved by departing from the simple rule that a freehold estate cannot be created to commence *in futuro* by a deed of grant, which the deed purported to be in all its terms.

For the purpose of the case, a better result would have been arrived at by so holding, than that which the Judge reached. Holding the deed to be void as an attempt to create a freehold estate *in futuro*, neither the husband nor the remainder man would take anything; and the wife would thus be able to convey the whole legal and beneficial interests to the purchaser, which interests he was entitled to receive. Whereas, by holding that the remainder to B. was good, the only declaration that could be made was that the purchaser would get the beneficial interest and no regard is paid to his right to receive the legal estate.

BANKRUPTCY—SECURED CREDITORS.

Decisions under the Act which came into force on July 1st, 1920, are beginning. Among the very first is *Rosenzweig* v. *Hart*, *ex parte Goldfine*, a judgment of the Quebec Superior Court, decided by Panneton, J., and reported in 56 D.L.R. 8.

It was held that an unpaid vendor of goods may ask for the dissolution of the sale in case of non-payment of the price provided, in the case of insolvency, the right be exercised within thirty days of delivery (C.C. 1543). A vendor in such a position is a secured creditor within the meaning of secs. 2 (gg) and 6 (1) of the Bankruptcy Act and he may recover the goods from the trustee.

An annotation on the above case by J. A. C. Cameron, M.A., K.C., appears in the D.L.R. as follows:—

The question involved in this decision is of wide importance, as the question of provincial legislation bearing upon the Bankruptcy Act comes up for consideration. The last paragraphs of the provisions of sec. 6, sub-sec.

1, are very wide, reserving to a secured creditor untrammelled power to realise or deal with his security in the manner as if the Bankruptcy Act had not been passed. This section, being general, must be read with the other provisions of the Act, and it would appear from the definition of a secured creditor—sec. 2, gg—that a secured creditor is one holding a security under contract or a security given him under the provisions of the Bankruptcy Act. This view is supported by the provisions of sec. 46, which provides for proof by secured creditors. Sub-sec. 3 of sec. 46 provides for filing a statutory declaration with the trustee by a secured creditor of full particulars of the securities held by him giving the dates when each security was given. The security under review has no date as no security was given, it arising by implication under the provincial law. Reading the sections together it would seem to shew that the security contemplated by the Bankruptcy Act is a security arising under provincial law. Can it be said that where a provincial law implies that a person shall have certain rights under certain circumstances giving rise to security, that he "holds" a security as contemplated by the definition of secured creditor? Sec. 2, gg.

Under provincial enactments municipalities have a lien, charge or security for taxes, rates or assessments payable to them. This lien, charge or security arises not by contract but is given by provincial laws. This lien, charge or security is specially preserved by the provision of sec. 51, sub-sec. 6, of the Bankruptcy Act which is as follows:

"(6) Nothing in this section shall interfere with the collection of any taxes, rates or assessments now or at any time hereafter payable by or levied or imposed upon the debtor or upon any property of the debtor under any law of the Dominion, or of the Province wherein such property is situate, or in which the debtor resides, nor prejudice or affect any lien or charge in respect of such property created by any such laws."

If the framers of the Act had intended that the last paragraph of sub-sec. 1, sec. 6, read with the definition of preferred creditor, sec. 2, gg., was to cover such lien, charge or security for taxes it would not have been necessary to have enacted sub-sec. 6, of sec. 51. It may well be argued that the enactment of sub-sec. 6, sec. 51, shews that only such liens, charges or securities arising under provincial law, which are expressly reserved in the Act are liens, charges or securities against the estate of the bankrupt.

The judgment of Mr. Justice Panneton discusses certain sections dealing with preferred claims of landlords, etc., arising under the Act. These preferred claims were covered by provincial legislation and under these provincial laws, liens, charges or securities were given to the preferred creditors. These liens, charges or securities are retained in an altered form in the present Bankruptcy Act, and it would appear that as certain provincial liens, charges or securities are dealt with, that those that are not dealt with are taken away. It cannot be said that reading the different sections bearing upon the questions that the matter is a settled one and that the last word has been said upon the subject.

HOMICIDE BY NEGLIGENT ACT—CONTRIBUTORY NEGLIGENCE.

An interesting case of quasi-criminal law, *Rex* v. *Yarmouth Light and Power Co.*, came before the Supreme Court of Nova Scotia, wherein it was decided that contributory negligence is no defence to the criminal prosecution of a light and power company for causing grievous bodily injury by omitting, without lawful excuse, to take reasonable precautions against endangering human life in the care of the company's electric wires. (Crim. Code, ss. 247, 284). The subject was discussed in an annotation to a report of the case in 56 D.L.R., p. 5, which reads as follows:—

Homicide is culpable when it consists in the killing of any person, either by an unlawful act or by an omission, without lawful excuse, to perform or observe any legal duty, or by both combined. Criminal Code R.S.C. 1906, ch. 146, sec. 252.

Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes or maintains anything whatever which, in the absence of precaution or care, may endanger human life, is under a legal duty to take reasonable precautions against, and use reasonable care to avoid, such danger, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform such duty. Cr. Code, sec. 247.

A corporation is not subject to indictment upon a charge of any crime the essence of which is either personal criminal intent or such a degree of negligence as amounts to a wilful incurring of the risk of causing injury to others. *Reg.* v. *Great West Laundry Co.* (1900), 3 Can. Cr. Cas. 514. Sections 247 and 252, as to want of care in the maintenance of dangerous things, do not extend the criminal responsibility of corporations beyond what it was at common law. *Ibid.*

Although a corporation cannot be guilty of manslaughter, it may be indicted, under Code, sec. 222 as to common nuisances, and possibly also under sec. 284 (causing bodily injury) for having caused grievous bodily injury by omitting to maintain in a safe condition a bridge or structure which it was its duty to so maintain, and this notwithstanding that death ensued at once to the person sustaining the grievous bodily injury. *Reg.* v. *Union Colliery Co.* (1900), 3 Can. Cr. Cas. 523, 7 B.C.R. 247, affirmed, 4 Can. Cr. Cas. 400, 31 Can. S.C.R. 81.

Under sec. 247 a corporation may be indicted for omitting, without lawful excuse, to perform the duty of avoiding danger to human life from anything in its charge or under its control. The fact that the consequence of the omission to perform such duty might have justified an indictment for manslaughter in the case of an individual is not a ground for quashing the indictment. *Union Colliery Co.* v. *R.* (1900), 4 Can. Cr. Cas. 400, 31 Can. S.C.R. 81.

Some one or more officers of the corporation may also be liable upon a criminal charge arising out of the same occurrence in respect of the officer's personal misfeasance or malfeasance. In *Rex* v. *Michigan Central Ry.* (1907), 17 Can. Cr. Cas. 483, in which the railway company had been indicted for a nuisance under the Revised Cr. Code sec. 221, in carrying dynamite without proper precautions whereby fatalities resulted and for criminal neglect under sec. 247 whereby human life was endangered, Mr. Justice Riddell said in delivering judgment after a plea of guilty: "If it were the fact that the board of directors or the general manager of the defendants' company, or anyone responsible, directly or indirectly, for the system carried on in the transportation of explosives, resided within the jurisdiction of this Court, I should have recommended their being indicted as well as the company. It is right and just that employees of whatever grade shall be placed upon trial when any negligence of theirs caused wounds or death, and the higher officers through whom a defective system is put on or kept in operation should not escape."

See also *Ex parte Brydges* (1874), 18 L.C. Jur. 141.

By Code, sec. 284 it is declared an indictable offence for anyone, by any unlawful act, or by doing negligently or omitting to do any act which it is his duty to do, to cause grievous bodily injury to any other person. The effect of the interpretation clauses of the Code is to include a corporation within the term "every one" and as to a corporation to substitute the word "its" for "his" in the phrase "which it is his duty to do." Cr. Code sec. 2; *Union Colliery Co.* v. *The Queen* (1900), 4 Can. Cr. Cas. 400, 31 Can. S.C.R. 81.

The principal case of *R.* v. *Yarmouth Light & Power Co.* (1920), *ante*, p. 1, appears to be the first decision under the Canadian Criminal Code in which the question of contributory negligence has been raised as a defence to criminal negligence.

In a criminal prosecution for causing death by negligence, the general proposition seems to be established that it is no defence to prove that the deceased was guilty of such contributory negligence as would have disentitled him to claim damages in tort. *Regina* v. *Longbottom* (1849), 3 Cox C.C. 439; *Rex* v. *Walker* (1824), 1 C. & P. 320; *Regina* v. *Kew* (1872), 12 Cox C.C. 355.

But it is said that, like all legal principles, it must be applied with some discretion and the exercise of common sense; and that probably wherever there is a great disparity between the negligence of the accused and that of the deceased, and when the negligence of the former is very trivial and that of the latter very grave and obstinate, a jury would not hesitate to find a verdict of acquittal. See article on Contributory Negligence on Highways (1918), 82 J.P. 243.

In *Regina* v. *Longbottom*, 3 Cox C.C. 439, the case was that of a deaf man who persisted in walking in the middle of a busy highway at night time, manifestly a very negligent act for a deaf man. He was ridden over and killed by a cart driven by the prisoners, who were more or less intoxicated. Baron Rolfe said at p. 440:

"Whatever may have been the negligence of the deceased, I am clearly of opinion that the prisoners would not be thereby exonerated from the consequences of their own illegal acts, which would be traced to their negligent conduct, if any such existed. . . . There is a very wide distinction between a civil action for pecuniary compensation for . . . negligence, and a proceedings by way of indictment for manslaughter. There is no balance of blame in charges of felony, but wherever it appears that death has been occasioned by the illegal act of another, that other is guilty of manslaughter . . . though it may be that he ought not to be severely punished."

In a criminal case the question for the jury is said to be whether or not the negligence of the defendant was a *material cause* of the deceased's death; and if so, the accused person would be guilty of manslaughter, however negligent the deceased may himself have been, (82 J.P. 243). It has been suggested that the criminal law has thus adopted a rule analogous to that of the Admiralty Court in ship collision cases, which holds that where both parties are to blame each shall bear a share of the resulting damage to one or to both. (82 J.P. 243.)

But in a review of the law of Homicide on Highways (82 J.P. 133), it is affirmed that generally speaking, whether in the case of negligent driving or in the case of any other illegal act which directly causes an injury to another, the defence of contributory negligence is open to the defendant whether in civil or criminal proceedings; but that the contributory negligence on the part of the injured person, or of the deceased, must be negligence at the final moment of the accident such that but for it no injury would have resulted. See *Regina* v. *Dalloway* (1847), 2 Cox C.C. 273; *Regina* v. *Murray* (1852), 5 Cox C.C. 509; *Rex* v. *Martin* (1834), 6 C. & P. 396; *Rex* v. *Grout* (1834), 6 C. & P. 629; *Rex* v. *Timmins* (1836), 7 C. & P. 499; *Rex* v. *Walker* (1824), 1 C. & P. 320. But the qualification as so stated lacks precision on the question of proximate cause as distinguished from mere contributory negligence in its technical meaning as applied in civil actions for tort.

The trend of judicial opinion in England as indicated by the summings-up in criminal prosecutions seems now to have largely ameliorated the strictness of the rules of criminal responsibility laid down in the older cases, so that the unintentional killing of another in the course of an unlawful act will not justify a conviction for manslaughter unless the unlawful act has about it some element of grossness or perversity. (82 J.P. 133, *Regina* v. *Serné* (1887), 16 Cox C.C. 311.) If a motorist breaks a local by-law or ordinance and accidentally kills another person during the continuance of such breach of the law, two questions would have to be considered, the first, whether the death was the actual result of the breach and would not have followed but for it (see *Regina* v. *Dalloway*, 2 Cox C.C. 273); and the second, whether any element of recklessness or gross negligence is involved in such breach. Only in case of both of these questions being determined adversely to the accused, would a conviction for manslaughter be supported in present-day jurisprudence. If the breach

of statutory duty be a mere technical one which no one could reasonably have foreseen as leading to an injury of the kind which in fact happened, a conviction would not be proper. (82 J.P. 133.).

In *Regina* v. *Jones* (1870), 11 Cox C.C. 544, Lush, J., ruled that contributory negligence on the part of the deceased would not be allowed as an excuse in a criminal case, and expressed disapproval of the decision *contra* in *R.* v. *Birchall* (1866), 4 F. & F. 1087. Other cases excluding a defence of contributory negligence are: *Regina* v. *Swindall* (1846), 2 Cox C.C. 141; *Regina* v. *Dant* (1865), 10 Cox C.C. 192; *Regina* v. *Hutchinson* (1864), 9 Cox C.C. 555; *R.* v. *Bunney* (1894), 6 Queensland L.J. 80; and see Archbold Criminal Pleadings, 25th ed., 855. But the like evidence as would be relied upon in a civil action as shewing contributory negligence may still be relevant on a manslaughter charge as directed to the main question to be tried by the jury—was the death caused by the culpable negligence of the prisoner? *R.* v. *Bunney*, 6 Queensland L.J. 80, at 82, *per* Griffith, C.J.

TAXATION FOR PUBLIC SCHOOL PURPOSES.

A Bill has been introduced into the Ontario Legislature to provide free text books in public, separate and industrial schools. We object. It would be most unfair to many who need protection from taxation. The Bill should not become law. There are many objections. We refer to a few of them. Why should taxpayers not blessed with children, but with limited incomes, or women with small properties without children, and perhaps having no matrimonial prospects, and who, under present conditions, can scarcely make ends meet, be compelled to help in the education of the children of well-to-do business men, or others who are wealthy and prosperous? Why should not these bear their own burdens? The present burden of education in this Province is enormous already. One-third of the taxes collected go to public schools. In addition to this, it would be an easy matter to point out the many great defects in the teaching and the subjects thereof in our public schools. True "Education," *i.e.*, the development and training of the mind of the child, is neglected and subjects are taught which do not make for the education necessary to fit children for the practical duties of everyday life, and useful citizenship.

CRIMINAL EVIDENCE: ADMISSION BY SILENCE WHILE UNDER ARREST.

The Courts have gone far, perhaps too far, in protecting the defendant against being compelled to disclose his guilt out of Court. A confession is often excluded on technical grounds having little bearing on the probable truth of the confession. On the other hand, in the actual administration of the law, third-degree methods are pursued daily in violation of law and nothing is done about it. The decision in *People* v. *Graney* will tend in California to make a grilling examination by the police a preliminary of every trial. It is a well-established rule of evidence that anything a party says may be used against him, and an equally well-established extension that the silence of a party under circumstances where it would be natural for him to speak may also be used against him. Is it natural for a person under arrest to speak? The danger of such an inference is apparent, and accordingly many Courts have excluded the evidence entirely.

The California Courts have adopted no rigid exclusionary rule, but have taken into consideration the peculiar circumstances of each case to determine whether silence was evidence of guilt. The decisions shew careful discrimination. In the principal case, however, the defendants were brought together in the office of the sheriff after their arrest. One of them, Curry, confessed, incriminating himself and the others. The defendant interposed on a question addressed to Curry and said: "Our counsel gave us orders not to talk about the case until we were taken into Court." The defendant was later asked if there was anything in Curry's statement which he wanted to correct or add to and he replied, "No." The Court admitted the entire proceedings. It would certainly seem from these facts that whether or not the defendant was telling the truth about having received legal advice he was at least aware of his privilege of remaining silent and intended to exercise it. Under such circumstances no inference should be drawn against him.

As a result of this decision, a full and complete recital of the evidence from the point of view of the prosecution will be made to the defendant in every case. The advantage to the prose-

cution of presenting this smooth and convincing narrative in the form of evidence is obvious. The defendant is then caught in a trap. If he says nothing, this hearsay account of the crime will be used against him on the trial. It will amount virtually to a confession. If he denies the truth, he will be plied with further questions, to some of which he must answer or take the consequences of the evidence being used against himself, and the whole proceedings will inevitably get before the jury to enable them to understand the answers given. If a proposal were made to the people of this State to give the defendant an opportunity to speak on being brought before the magistrate immediately after his arrest, it would be strenuously opposed as a violation of the rights of the accused person. But a decision, as in the principal case, will pass unquestioned, although it gives an added advantage to the extra-legal, secret, unprotected inquisition in the sheriff's or district attorney's office. It will be no longer sound advice for a lawyer to advise his client to say nothing. If this does not compel a defendant to criminate himself, what would?

—*California Law Review.*

REVIEW OF CURRENT ENGLISH CASES.

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NUISANCE—NEGLIGENCE—DANGEROUS TRADE—MANUFACTURE OF HIGH EXPLOSIVES—EXPLOSION CAUSING DAMAGE TO ADJACENT PROPERTY—LIABILITY OF MANUFACTURER—DIRECTORS.

Belvedere Fish Guano Co. v. *Rainham Chemical Works* (1920) 2 K.B. 487. This was an action against a company and two of its directors to recover damages for injury to property occasioned by an explosion on the defendant company's premises. As to the liability of the company there was not much question, but the principal contention was in regard to the personal liability of the directors. These two directors had made a contract with the Minister of Munitions to manufacture for him picric acid, according to a process in which these directors had proprietary rights. For the manufacture, di-nitro-phenol (D.N.P.) was a necessary ingredient. The directors secured premises and

erected works for the purpose. The Minister was to deliver D.N.P. and other materials to the contractors, who were, at their sole risk and responsibility, to convert them into picric acid at an agreed price. The agreement was made in 1915. In March, 1916, the two contractors formed a private company, with a capital of £5,000 for the purpose of acquiring and carrying on the undertaking, and to this company, in consideration of the whole of the shares except two, the contractors assigned the works and the benefit of the contract with the Minister. This assignment of the contract, however, was not recognized by the Minister. The two contractors became the directors of, and managed, the company. After the formation of the company, D.N.P. was brought upon the premises, and stored in the neighbourhood of packages of nitrate of soda, a fire occurred, and by reason of the proximity of the D.N.P. to the nitrate of soda, a violent explosion occurred, causing damage to the plaintiffs' property. It was not at the time known that D.N.P. was likely to explode, but the accident proved that on being exposed to great heat it would do so. Scrutton, L.J., who tried the action, held both the company and the two directors liable. He regarded the company as a mere sham. The Court of Appeal (Lord Sterndale, Atkin and Younger, L.JJ.) affirmed his judgment; but Younger, L.J., dissented as regarded the directors, and considered that in the absence of personal negligence being proved against them, which he held had not been, they, as directors, were free from responsibility. The majority of the Court, however, considered that they were liable because they had initiated the manufacture, and could not, having created what proved to be a nuisance, escape liability by transferring the works, over which they continued to exercise control, to the company, not merely as directors but also as original contractors. The Master of the Rolls considered that the company might be said to be acting as agents for the two directors —but even if not, the two directors had assumed such a control over the business of the company that they were personally liable on the ground of having personally authorized the creation of a nuisance on the company's premises.

RESTRAINT OF TRADE—SOLICITOR AND MANAGING CLERK—CONTRACT OF SERVICE—RESTRICTIVE CONTRACT—LIMITED IN SPACE, UNLIMITED IN TIME—REASONABLENESS—INJUNCTION.

Dewes v. *Fitch* (1920) 2 Ch. 159. This was an action to restrain a breach of covenant in restraint of business. The defendant, by an agreement made in 1912 with the plaintiff, a solicitor, practising at Tamworth, became the plaintiff's manag-

ing clerk, and expressly agreed that he would not, on the expiration of his service, either alone or jointly with anyone else, directly or indirectly, "be engaged, or manage, or concerned in the office, profession, or business of a solicitor within a radius of seven miles of the Town Hall of Tamworth." The question in dispute was whether or not this agreement was unreasonable and therefore invalid on the ground that it was unrestricted as to time. Eve. J., held that it was not, and the Court of Appeal (Lord Sterndale, M.R., and Warrington and Younger, L.JJ.) affirmed his decision; but Younger, L.J., calls attention to *Townsend* v. *Farman*, 1900, 2 Ch. 698, from which it would appear that if the business of a solicitor, carried on by the plaintiff or his successor, ceased to exist, the defendant's covenant also would come to an end.

CAUSE OF ACTION—WORKMAN—COMBINATION OF EMPLOYERS—PROTECTION OF TRADE INTERESTS—PEACEFUL PERSUASION—COERCION—RESTRAINT OF TRADE.

Davies v. *Thomas* (1920) 2 Ch. 189. This was an action against the defendants for procuring the plaintiff's dismissal from his employment by illegal coercion of his employer. The facts of the case were that the defendants and other persons were yeast dealers in a certain district, who had formed themselves into an association for trade protection, and the plaintiff was employed as a traveller at first by one Williams, a member of the association, whose employment he left and entered the service of another member of the association, named Hopkins, and proceeded, on behalf of Hopkins, to canvass the customers he had previously secured while in Williams' employ. Williams objected to this, and brought the matter before the association and endeavoured to induce Hopkins to give the plaintiff notice of dismissal. This Hopkins at first refused to do, but subsequently at a private interview he consented, and in fact did it. Lawrence, J., who tried the action, held that what was done gave the plaintiff no cause of action, because by the terms of his employment with Hopkins the latter had a contractual right to terminate his employment, and he had not been in any way illegally induced to exercise that right; and the Court of Appeal (Lord Sterndale, M.R., and Warrington and Younger, L.JJ.) affirmed his decision.

VENDOR AND PURCHASER—CONDITIONS OF SALE—HONEST MISREPRESENTATION—POSSESSION—RIGHT TO RESCIND—COSTS.

Merrett v. *Schuster* (1920) 2 Ch. 240. This was an action by a purchaser for specific performance of a contract for the sale of land, the defence being that the contract had been re-

scinded. The particulars of sale stated that the tenancy of the land in question would expire at Michaelmas, 1919, when vacant possession might be had. One of the conditions of sale provided that if the purchaser should insist on any objection to title which the vendor should be unable, or on the ground of expense, be unwilling to remove, the vendor might, by notice in writing, rescind the sale. Prior to the sale the vendor had had communication with the tenant in possession, whereby he was led to suppose that his tenancy would in fact expire at Michaelmas, 1919. After the sale the tenant claimed that as no notice to quit had been given, he was entitled to retain possession until Michaelmas, 1921. The purchaser having objected to the title, on the ground that possession could not be given in accordance with the particulars, the vendor gave notice of rescission. The plaintiff claimed specific performance, or alternatively damages for breach of contract. Lawrence, J., who tried the action, held that the representation as to possession, though erroneous, had been innocently made, and in the circumstances the vendor could not be adjudged guilty of recklessness in making it, and was therefore entitled to rescind, but as before the plaintiff had attempted to deal with the property he had expressly asked the defendants' solicitor as to whether vacant possession would be given on September 29, 1919, and they, without further inquiry, had assured him that it would, and on the faith of this statement the plaintiff had made arrangements for a resale, although he dismissed the action he gave the defendant no costs.

VENDOR AND PURCHASER—SPECIFIC PERFORMANCE—MUTUAL MISTAKE IN DESCRIPTION OF LAND—WRITTEN AGREEMENT.

Forgione v. *Lewis* (1920) 2 Ch. 326. This was an action by a purchaser for specific performance of a contract for the sale of a house. The house was described in the contract as No. 232, whereas the house both parties understood was being sold and purchased was really No. 233. Before the abstract was delivered the vendors' solicitors wrote to the purchaser's solicitor stating "the correct number of the premises purchased by your client is No. 233." The defendant did not plead the Statute of Frauds, but on his behalf it was contended that the plaintiff could not obtain specific performance of a written contract with a parol variation. There was, however, no dispute as to the fact of the mistake; a contract to sell No. 233 was pleaded, and a common mistake in the reduction of the contract to writing was alleged and not denied, and Eve, J., held that the mistake did not prevent the enforcement of the contract of which he decreed specific performance.

PRACTICE—PARTIES—ACTION COMMENCED IN THE NAME OF A DEAD PERSON—SUBSTITUTION OF PLAINTIFF—RULE 124—(ONT. RULE 134).

Tetlow v. *Orcla* (1920) 2 Ch. 24. The simple point determined by Russell, J., in this case was that where an action is commenced in the name of a dead person, his representatives cannot by amendment be substituted as plaintiffs. The writ, in short, is a nullity, and therefore incapable of amendment, and Rule 124, (Ont. Rule 134), does not apply to such a case.

INSURANCE (FIRE)—MOTOR CAR—PROPOSAL—STATEMENT OF VALUE—RENEWAL—INCREASE IN VALUE—TOTAL LOSS—LIABILITY OF INSURER.

In re Wilson & Scottish Insurance Corporation (1920) 2 Ch. 28. This was a case stated by an arbitrator, arising out of a claim on a policy of fire insurance on a motor car. The policy was taken out in 1915, and insured the full value of the car: "the present value" was then stated to be £250 in the proposal for insurance. The policy was renewed from year to year, but no new statement of value was made. A total loss took place in 1919. The arbitrator stated that the value of the car at the time of the loss was £400, and the question was whether the insurer was entitled to recover this sum, or only the £250. Astbury, J., held that if the increase in value had taken place wholly after the last renewal the insured would be entitled to recover £400, but if any part of the increase had taken place prior thereto, he would be only entitled to recover £250, as the statement as to value must, in the absence of proof to the contrary, be deemed to have been renewed at the last renewal.

LANDLORD AND TENANT—LEASE—COVENANT NOT TO ASSIGN WITHOUT LICENCE—LICENCE NOT TO BE ARBITRARILY WITHHELD—UNREASONABLE GROUNDS FOR REFUSAL.

Mills v. *Cannon Brewery Co.* (1920) 2 Ch. 38. This was an originating summons to determine whether or not the plaintiff was entitled to make an assignment of his lease without the licence of the defendants, the lessors. The demised premises were a tied public house, and the plaintiff's lease was subject to a proviso that it was not to be assigned without the licence of the lessors, but it was provided that the licence was not to be arbitrarily withheld. The lessees proposed to assign the lease to a person of German origin, who, however, did not intend personally to reside on the demised premises. The lease contained no provision requiring the lessee to reside on the demised

premises, nor were the lessors entitled to impose any such condition. The lessors refused to give a licence to make the proposed assignment, on the grounds: (1) the German origin of the proposed assignee; (2) that the assignee did not intend to reside on the premises, and the justices had established a policy of not granting licences to non-residents; (3) that the proposed assignee was interested in other licensed premises, and consequently could not give the necessary attention to the house in question. Lawrence, J., held that none of these grounds justified the refusal of the licence, and that the plaintiffs were consequently entitled to assign without licence.

CHARITY—BEQUEST FOR "MISSIONARY PURPOSES"—ADMISSIBILITY OF EVIDENCE AS TO TESTATRIX'S MEANING OF THE TERM "MISSIONARY PURPOSES."

In re Rees, Jones v. *Evans* (1920) 2 Ch. 59. By the will in question in this case the testatrix bequeated all her residue to George Jeffrys "for missionary purposes." Evidence was given that George Jeffrys had been carrying on an evangelistic work to the knowledge of the testatrix, and that in her lifetime she was interested in it, and that she had given him money in aid of this work. Sargant, J., held that the evidence was admissible, and that having regard to this evidence, the gift was not void for uncertainty, but was a good charitable gift.

CAUSE OF ACTION—TRADES UNION—REFUSAL OF MEMBERS OF UNION TO WORK WITH NON-UNION MAN—CALLING STRIKE—COERCING EMPLOYER TO DISMISS WORKMAN—PEACEFUL PERSUASION—RESTRAINT OF TRADE—THREAT.

Hodges v. *Webb* (1920) 2 Ch. 70. This was an action by a workman to recover damages, and for an injunction against the defendant for using threats and coercion against the plaintiff's employer to compel him to dismiss the plaintiff from his employment, and to prevent the plaintiff obtaining employment. The plaintiff was not a member of the trade union of which the defendant was an officer, and the members of this union refused to work with the plaintiff unless he became a member of their union, which he refused to do, and thereupon the defendant ordered a strike and informed the plaintiff's employer that unless the plaintiff was dismissed his other workmen would quit his employment; and he also intimated if the plaintiff went elsewhere the same trouble would arise. The plaintiff was, in consequence of the defendant's action, dismissed; but Peterson, J., held that the conduct of the defendant gave no cause of action to the plaintiff, and that there was no conspiracy or illegal coercion on the part of the defendant.

LANDLORD AND TENANT—CHATTELS—TRADE FIXTURES—COVENANT TO YIELD UP "ERECTIONS AND BUILDINGS IN GOOD REPAIR."

Pole-Carew v. *Western Counties & General Manure Co.* (1920) 2 Ch. 97. This was an action for damages for breach of covenant contained in a lease, to yield up at the determination "erections and buildings" on the demised premises in good repair. The lessees were manufacturers of artificial manure, and for the purposes of their business had erected various tanks and towers on the demised premises; these erections rested on solid foundations, though not actually fastened thereto. The defendants claimed that they were removable either as chattels or trade fixtures, but Sargant, J., held and the Court of Appeal, (Lord Sterndale, M.R., and Warrington and Younger, L.JJ.) affirmed his decision, that they were buildings and erections within the meaning of the covenant.

COMPANY—UNRESTRICTED POWER TO EXPROPRIATE SHARES OF ANY SHAREHOLDER—"BONA FIDE FOR THE BENEFIT OF THE COMPANY AS A WHOLE"—PRICE TO BE FIXED BY DIRECTORS—INVALIDITY OF RESOLUTION.

Dofen Tinplate Co. v. *Donelly Steel Co.* (1920) 2 Ch. 124. In this case the plaintiffs, who were shareholders of the defendant company, contested the validity of certain resolutions which had been passed authorizing the defendants to expropriate the shares of any shareholders, except a specified one, at a fair price to be fixed by the directors. The plaintiffs contended that this resolution was not for the *bonâ fide* benefit of the company as a whole, and was therefor *ultra vires*, and Peterson, J., who tried the action, so held, he being of the opinion that the resolution went much farther than was necessary to protect the company from action of shareholders detrimental to the company's interests, and was therefore not a power which could be validly assumed by the majority of the shareholders.

DEFENCE OF THE REALM—EXIGENCIES OF PUBLIC SERVICE—CROWN—ROYAL PREROGATIVE—RIGHT OF CROWN TO TAKE POSSESSION OF LAND AND BUILDINGS—COMPENSATION TO OWNER.

Attorney-General v. *DeKeyser's Royal Hotel* (1920) A.C. 508. This was an appeal from the Court of Appeal (1919), 2 Ch. 197 (noted *ante* vol. 56, p. 21). In this case it may be remembered it was held by the Court of Appeal that where under the Defence of the Realm Act the Crown takes possession of the lands of a subject for administrative purposes, the owner is entitled to compensation, and this judgment is now affirmed by the House of Lords (Lords Dunedin, Atkinson, Moulton, Sumner, and Parmoor).

LIMITATION OF ACTION—TRUSTEE—FIDUCIARY RELATION—RETAINING TRUST PROPERTY—LIMITATIONS ACT (R.S.O., c. 75, ss. 5, 47).

Taylor v. *Davies* (1920) A.C. 636. This was an appeal from the Appellate Division S.C.O., 41 O.L.R. 403. The action was brought to upset a sale made by an assignee for creditors to the defendant, who had been appointed an inspector of the estate, and who was mortgagee of the land in question. The sale had been made at what the plaintiff claimed was a gross undervalue, in 1902, and the defendant retained the property. The action was commenced in 1914. The defendant relied on the Statute of Limitations, R.S.O. c. 75, s. 47. The Judicial Committee of the Privy Council (Lords Finlay, Cave, Sumner, and Parmoor) were of the opinion that assuming the sale in question was a breach of trust, the purchaser became a constructive and not an express trustee, and the section relied on afforded him a defence. The appeal was therefore dismissed. They held that it was not a case of trust property still retained by the trustee within the meaning of s. 47 (2); those words, in their opinion, apply to property originally taken possession of upon trust, and not to property in respect of which a constructive trust arises by reason of some impeached transaction respecting it.

BANKER—CROSSED CHEQUE—DEFECTIVE TITLE—LIABILITY OF BANKER—CUSTOMER—BILLS OF EXCHANGE ACT, AUSTRALIA, 1909, s. 88 (1)—(R.S.C., c. 119, s. 175).

Commissioners of Taxation v. *English, Scottish & Australian Bank* (1920) A.C. 683. This was an appeal from the Supreme Court of New South Wales. A cheque payable to bearer and crossed, generally, belonging to the plaintiffs was stolen. It was deposited in the defendant bank, and collected by the bank for a person who gave his name as Thallon, and cheques drawn against the proceeds were duly honoured. The bank relied on the Australian Bills of Exchange Act, 1909, s. 88 (see R.S.C. c. 119, s. 175) and the Supreme Court held that was a good defence, and its judgment was affirmed by the Judicial Committee of the Privy Council (Lords Haldane, Buckmaster, Dunedin and Atkinson), Their Lordships holding that the word "customer" in that action signifies a relationship in which duration is not of the essence, and includes a person who has opened an account the day before paying in a cheque to which he has no title.

CONSTITUTIONAL LAW—POWER OF LEGISLATURE—APPOINTMENT OF JUDGE OF SUPREME COURT—TERM OF OFFICE—INCONSISTENCY WITH CONSTITUTION.

McCawley v. *The King* (1920) A.C. 691. This was a proceeding by *quo warranto* to determine the validity of a commission appointing the defendant a Judge of the Supreme Court of Queensland. The Courts below, including the High Court of Australia, all pronounced against the validity of the appointment, mainly on the gruond of its being in conflict with the Constitution Act, but the Judicial Committee of the Privy Council (Lord Birkenhead, L.C., and Lords Haldane, Buckmaster, Dunedin and Atkinson) have reversed the decision of the High Court, holding in effect that the Provincial Legislature had power to pass the Act in question, under which the appointment was made, though it might be inconsistent with the Constitution Act, which in their Lordships' opinion had not the effect of creating a rigid Constitution, but was like any other Act of the Legislature, susceptible of variation.

DEPORTATION ORDER—BRITISH SUBJECT—WANT OF PARTICULARITY IN CHARGE.

Li Hong Mi v. *Attorney-General for Hong Kong* (1920) A.C. 735. This is an illustration of the way in which the liberty of the subject is safeguarded by British law. By an Ordinance of Hong Kong, the Governor-in-Council is empowered to order the deportation of any person who, in the opinion of the Governor-in-Council, has been guilty of any criminal offence, or of any other misconduct, connected with the preparation, commencement, prosecution, defence or maintenance of any legal proceeding, or the sharing in the proceeds thereof, or the settlement in compromise thereof, or the obtaining or preparation of evidence in anticipation thereof, or in relation thereto. The order of deportation made against the plaintiff stated that he had made a practice of champerty, the institution of fraudulent claims, the prepartion of false evidence, the improper exploitation of litigants, and the dishonest conduct of litigation, and of the proceedings incidental thereto, and that he had been guilty of the following misconducts: (*a*) Champerty, the institution of fraudulent claims; and the preparation of false evidence in connection with O. T. Action No. 247, of 1913, in *Tak Kwong* v. *We Ting Tsuer;* (*b*) Champerty and the improper exploitation of litigants in connection with O. T. Action No. 5, 1912, *Ho Chin-lane* v. *Ho Ngok-Lau.* The Judicial Committee of the Privy Council (Lords Haldane, Buckmaster, Dunedin and Atkinson) held that though the order might have been good if it had been confined to the specific charges stated, was vitiated by reason of the general charges on which it also purported to be based.

LAWYERS' LYRICS.

We are glad to give our readers the concluding stanzas of that noble poem of Hon. Sir John Hawkins Hagarty, formerly Chief Justice of Ontario, entitled "A Legend of Marathon." We published last year those which told of the hero's return to Athens from the battlefield, dying at the end of his triumphant race, with the words on his lips: "Victory! Rejoice! Rejoice!"

The recent burial in Westminster Abbey of "the Unknown Warrior" stirred to its depths the patriotic sentiment of the British people. Much the same was the event above alluded to, dear to every school boy, and so sweetly sung by our great lawyer poet in the lines we now re-print. They will be doubly dear as we recall the thousands who mourn the warriors dead who left this land of ours to fight and die for King and Country.

By the Grave.

YOUTHS.

Trumpet and pœan swell!
Bring shield and casque and spear;
Let the voice of all martial emblems tell,
A soldier sleepeth here!
Rear the white column high;
Hang up the laurel crown!
Let our comrade's form as a victor lie
In the light of his fresh renown!

MAIDENS.

Scatter bright offerings round,
Strew flowers—green bud, fresh blossom
Let thy tired child sleep sound,
Kind Earth, on thy mother's bosom—
How he toiled on his homeward quest—
How he died as his tale was spoken—
He is weary; O, let him rest—
His long, deep sleep unbroken!

YOUTHS.

Bear the lost soldier home!
  He a softer grave has won,
And a softer dirge than the requiem surge
  That moans round Marathon—
Our slain three hundred sleep
  On the glorious field they won—
Their Hero-Sires high vigil keep,
  O'er the grave of each Hero-Son!

MAIDENS.

Our woman's tears flow on—
  Our hearts the memory keeping—
Of him, who thought when the fight was won
  Of those in the far homes, weeping!
Like light was thy path on earth,
  Like light hath thy sweet life parted!
There's a love link broken—a sadden'd hearth,
  And a wail for the faithful hearted!
    Farewell!
  Forget not the faithful hearted!

YOUTHS.

"Victory! Rejoice, Rejoice!"
We will carve the legend well—
  From the tall white shaft its potent voice
The glorious tale shall tell!
  Of the Soldier's might in the famous fight,
Of the Herald's race well run—
  When rolls like fire from the War-Bard's lyre
Thy story—Marathon!

* * * *

'Tis spring time on the Attic hills,
The snows have left Cithæron's crest—
Green vales the vernal beauty fills,
  Soft winds breathe fragrance from the west.
Hymettus, on thy spangled fields,
  The wild bees suck thy honied thyme,
And shower of bud and blossom yields
  Rich hope for Summer's golden prime—
And fair Athenæ's violet crown
Floats o'er her hills as Day sinks down.

Ilissus, by thy freshen'd stream,
Fair springs the Lover's rustic shrine—
We see the snowy marbles gleam
Through the soft veil of rose and vine.
Sweet voices haunt the joyous air.
From hidden fount or thicket given
The same broad wealth of flowers is there,
The flickering wood, the lucid heaven
The Goddess by her graceful fane,
Seems apt for Lover's vows again.

Close by the altar's outer bound
Within the shade that evening flings,
Co-tenant of the sacred ground
A solitary column springs—
Fair the white marbles glistening hue,
Th' inverted torch, the sculptur'd base,
The amaranth blooms, all mark too true
The spot, a mortal's resting place—
Where scent and flower with living breath
Float o'er the silent home of death—

And still when Morning lights the wave
Or Eve shines fair on Attic bowers.
A watcher haunts the lonely grave,
To smooth the turf or tend the flowers.
No fairy hand, no Dryad's form
That task of gentle duty plies,
A heart with human pity warm,
There yields Love's latest sacrifice.
And soft eyes wear the sadden'd gleam,
That lights lost love's memorial dream.

Sweet sounds are round the Maiden now
Beneath the wave is dancing clear,
The fresh winds fan her placid brow,
The fountain's music haunts her ear,
And still her gaze the column seeks,
To commune with the phantom voice,
That from the letter'd tablet speaks
Its legend "Victory, Rejoice!"
And thoughts to mortal guess unknown,
Wakes in her heart that spirit tone.

Book Reviews.

A Treatise on International Law, with an Introductory Essay on The Definition and Nature of the Laws of Human Conduct. By RONALD R. FOULKE, of the Philadelphia Bar. 2 volumes. Philadelphia: The John C. Winston Company, publishers, Winston Building.

The public as well as the profession is indebted to Mr. Foulke for one of the most readable and instructive works on the above subject that has appeared for many years. We heartily recommend it to the notice of our readers.

He is a brave man who attempts in those days to write a book dealing with the scattered fragments and *disjecta membra* of International Law, which is all that the Prussianized Hun and other barbarians have left to us. And we are compelled to realise that the world's catastrophe of the past six years is a recurring possibility so long as human nature is what it is, and so long as his Satanic majesty crawls his slimy way among men, and that we can do but little to stem the tide of evil which is throttling civilization; the only hope being apparently in the advent of some higher power which as yet is not to be seen on the horizon.

The author, in his preface, says that "he who would understand international law must be something of a man of the world, have a good knowledge of history and economics, the faculty of a clear thought, and above all must not let his heart run away with his head." In those words Mr. Foulke unconsciously describes the characteristics which have enabled him to give to his readers the two volumes before us.

The table of contents sets forth the scope of the work. Part I. is preliminary, dealing with the definition and nature of law; the facts of international life; and the definition and nature of international law. Part II. deals with substantive international law; such as, intercourse between independent states; territory of an independent state; the open sea and branches thereof; the maritime belt; treaties (those things which the Germans call "scraps of paper"); independent states and aliens; and state conflicts. Part III. deals with remedial international law, including redress for damage to a state interest; war; neutrality; public property in war; private property on land and in the maritime belt, in time of war; private property on the high seas in war; private individuals in war; and, lastly, the character of individuals and property.

An interesting bill of fare truly, and one which must whet the appetites of our readers.

Part IV. contains a summary of the contents of the two volumes; and also a Table of International Persons, *i.e.*, nations, peoples and countries. This table is designed to shew the facts concerning the origin and extension of the principal states and countries of the world, and the transfer of territory between them, brought down to August 1st, 1914. Not being a prophet, Mr. Foulke can at present go no further. This Table, which is both historical and topical, is a new feature, very helpful and valuable as an historical memorandum as to the rise and fall and changes affecting all the countries interested in international law. An exhaustive index completes the work, and is conveniently published at the end of each volume.

The brief reference, which is all we can give to this unique work, necessarily gives the merest faint outline of the laborious research and intelligent treatment of the numberless matters which are spoken of in the various chapters. It gives a clearer outline of International Law than any work as yet published. It is practical as well as philosophical, logical and scientific in arrangement as well as most interesting reading both for laymen and lawyers, useful to the latter as a text book, as well as educational from cover to cover.

Proceedings of the Fifth Annual Meeting of the Canadian Bar Association, held in Ottawa, Ontario, September 1st, 2nd 3rd, 1920.

We see in this volume an evidence of the growing importance in this country of the ancient and honourable body of which we are members. The excellent portrait of Hon. Viscount Cave, which is given on the first page, tells its story of the relation we bear to the great Empire of which we form a part.

The information given is in much detail, and excellently put together—a most readable and interesting volume it certainly is.

The most important features in the way of addresses and reports have already appeared in our pages, but it is most desirable and interesting to have this verbatim report and to find it in one compact volume. It reflects great credit on those who are responsible for it, and tells of the untiring and intelligent oversight of our President, Sir James Aikins, and the admirable work of our Secretary, Mr. E. H. Coleman.

Bench and Bar.

MR. J. G. SCOTT, K.C., MASTER OF TITLES, ONTARIO.

The profession in Ontario learned with regret that Mr. John Galloway Scott, K.C., at his own request, was, at the close of the past year, superannuated, and retired from the public service of the Province. During his official career, Mr. Scott had held three important positions: (1) as Clerk of the Executive Council of the Province ; (2) he was for some years Deputy Attorney-General; and (3) when the Torrens' system of registration of titles was introduced into Ontario, in March, 1885, he was appointed the first Master of Titles, an office which he filled with conspicuous ability up to the time of his retirement.

The introduction of an entirely new method of registration, coupled with a Government guaranty of title, necessitated that the person called on to administer the new system should be one capable and willing to bestow the most assiduous care and attention to the subject. He had of necessity not only to train himself, but also his whole staff, to the new duties they were called on to perform. Mr. Scott entered *con amore* into the task, and though, as must inevitably be the case, some practitioners might think him unduly careful, yet the very few, and we believe comparatively insignificant claims which have been made on the Assurance Fund during his term of office indicates that Mr. Scott's administration of the new system has been thoroughly successful.

For thirty-five years Mr. Scott has had the supervision not only of the registration of titles in Toronto, but he had also supervised the work of all others in all parts of the Province where the system is in force, and in any projected extension of the system throughout the Province his advice and assistance must have been of inestimable value.

The learned Master of Titles has well earned a rest from his labours, and that he may be spared yet many years to enjoy *otium cum dignitate* is not only our wish, but that of all members of the profession who have had the pleasure of his acquaintance.

Flotsam and Jetsam.

Her First Political Triumph.

It was recently decided by the Supreme Court of Maine that a woman seeking to register is required to disclose her age, and is not entitled to register on stating that she is "over twenty-one." Such would seem to be the necessary construction of the Maine statute requiring the register to shew, among other things, the "age" of the voter. However, in Connecticut a n Act has recently been passed making the statement of exact a[illegible] unnecessary. Thus is seen the first of the long heralded changes in political method which the enfranchisement of women will cause. From one viewpoint it seems a little silly that a woman —an enfranchised woman—should have any more objection than a man to stating her age. Still it must be remembered that there are many women who, while feeling it a duty to exercise the franchise, yet retain the characteristics which made them oppose its grant. Moreover, the requirement to which objection was made is without purpose, except perhaps as it serves as some slight means of identification where there are several persons of the same name. The only information which the election officers need is whether the would-be voter is of voting age. How much he or she is past that age is of no moment. There is no reason other than a lawyer-like desire for specific information rather than a conclusion why the exact age should ever have been demanded. The ladies are to be congratulated on their victory in Connecticut and urged to retrieve their defeat in Maine. But just what other inroads will feminine peculiarities make on established proceedings? We have it on the authority of the master dramatist "How hard it is for women to keep counsel." If the fair sex is conscious of this alleged frailty—it probably is not—how long will feminine jurors consent to take the oath to keep their own counsel and that of their fellows? Will they not also insist on the time-honored prerogative of changing their minds and secure a law giving the right to come in the next day to amend a verdict? Such suggestions sound silly enough, but many a practice has had no better foundation than a masculine foible and we cannot complain if a few of the other gender are incorporated. Let us hope, however, that there will be no insistence that the style of judicial robes shall change annually. Imagine the solemn entry of the august tribunal at Washington in gowns having elbow sleeves and narrow skirts.—*Law Notes.*