4-15-1936

Volume 9, Issue 6 (1936)

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ELECTION RESULTS

Mr. Ernie Marks was elected President of the Legal and Literary Society in the recent election on Thursday, February 26th, 1936. Mr. Marks will take the presidency in a capable manner and continue the tradition already in order. Mr. Marks was elected from a very strong field and the canvass in this instance was conducted in the minor details as recorded below.

Mr. Donald Butler was elected an official of the Second Vice-President and Mr. Mark D. B. l. was elected Secretary-Treasurer. Both these candidates polled a large vote and made a good showing on the canvass as was to be expected, all as were possessed of the qualities of student leaders.

The following is the complete result of the election. The candidates for the positions of Second Vice-President and Secretary-Treasurer were elected in each office.

<table>
<thead>
<tr>
<th>Position</th>
<th>Nominees</th>
<th>Votes</th>
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<tr>
<td>President</td>
<td>Mr. Ernie Marks</td>
<td>154</td>
</tr>
<tr>
<td>Second Vice-Pres</td>
<td>Mr. Donald Butler</td>
<td>132</td>
</tr>
<tr>
<td>Secretary-Treasur</td>
<td>Mr. Mark D. B. l.</td>
<td>115</td>
</tr>
</tbody>
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ACKNOWLEDGMENTS

(Addison Anderson)

During the course of the year the lack of operating funds has prevented this society from exercising its activities in connection with the practical and original work of the student body generally. On behalf of the executive and of myself personally I wish to extend a word of gratitude to the following persons for their cooperation in the aforementioned work.

To the increasing staff of Osgoode Hall, particularly to the Dean, Doctor Macaulay, and to the other students for their constant support of our movements, and for their good faith and patience, may I not mention their tolerance of our shortcomings or their understanding of our difficulties? To the increasing staff of Osgoode Hall, particularly to the Dean, Doctor Macaulay, and to the other students for their constant support of our movements, and for their good faith and patience, may I not mention their tolerance of our shortcomings or their understanding of our difficulties?

The following students have assisted us with generous grant, and who have shown a keen interest in our work and in our organization. And herein particular I wish to mention Mr. G. L. Smith, K.C. who has devoted much valuable time to our cause and interests, and to Mr. G. L. Smith, K.C. who has devoted much valuable time to our cause and interests, and to Mr. G. L. Smith, K.C. who has devoted much valuable time to our cause and interests.

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ODE TO THIRD YEAR

An ode to the Final Year, 1936, which was to have been rendered at the Gala Banquet.

(Donald J. Grant)

IN VERO

G. C. Mac, whom once in Osgoode Hall in
The solemn study he spent, to
Query the Law, so let his name, as
To startle the world, he rose from
To frown upon the world. For he
To point the way, and to do so
To advance with Moses. Though
To be his right to do so.

In Service

We come to Law and graduate jobs
And law on the side will be of
For we do not think the deal was
And we feel a little soiled.

In Independence

To live is a difficult thing,
To live from an empty purse is
To tell the truth, we are not
We must all do the work.
To turn the efforts of one or another

In retrospect

Happy those early days, when we
As the Law, and we of the Law,
And the truth will out.
We think we know the Law.
We think the Law would be quite
The Law, it may be, the Law.

Miss Mary was good to us all.
All Osgoode diploma dogs had an
They said at our desks we sit
Then with a deep sigh said

The Dean, in his true delight
When he saw the Law, he said
He changed the terms of his
The Law has left the Law.
We thought the Law would be quite

A Word of Warning

TO THE GRADUATING CLASS

The special students' discount on C.E.D. (Ontario) will be withdrawn as soon as it becomes

Law Students Should Get Paid for Working

One of the many abuses which goes on year after year meeting with little opposition is the practice of having law students are paid only for inculcation—that of hiring a law student to do the odd jobs around the office and paying him for his experience.

This apparently was a practice started back some time in the dark ages when the practice of law was just emerging. At this time in the world's development, it was customary to apprentice willing lads to practicing attorneys and allow them to learn the practice of the law. When it cost about a cent and a half per day to live in those days it was regarded as being very worthwhile to pay an apprentice and it was generally agreed given a student the chance to practice law.

However, the price of groceries went up. This is but a little idea sunk in that an apprentice could not live on an experience. For some time now every other department of life has been paying apprentices.

But not the law. The law is founded on tradition. What was decreed as just a century ago is still the law of the courts. It was long ago decreed that students would receive no pay. That was supposed to settle the question for all posterity. So far it has not been questioned.

However, it must be apparent to all thinking people that students of law should get paid for it because it is not merely in lunch money—but in what proportions to the work. When a student does the work of an office boy he should be paid at least the salary of an office boy. To assume that because he is getting experience he does not receive is somewhat nonsensical. What man does a job of work if he is not getting experience. It is not suggested that all men getting experience should work for nothing. As a matter of fact it amounts to exploitation of the student body. It is unfair to ask a student to work for nothing under any circumstances. Merely because he has been asked is a surplus to the needs of the practice of law. The student anxious to learn the importance and must get the advantage of their experience. It is unfair to demand that they work for no wages. A change in this time-

and we must sooner or later.

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(Continued from page 1).

It has been abandoned in England. With the beginning of consolidation, the old corporation system in England in the eighteenth century was largely replaced by what might be called a corporation law, for which no special Acts of Parliament were necessary. The early English courts were unable to enforce the provisions of the old corporation laws, and the courts had to turn to Parliament for legislation. The old corporation system was replaced by the new corporation system, which was introduced in 1844 by the Companies Act of 1844, which is also known as the Companies Act of 1844.

The Companies Act of 1844 was passed to give legal recognition to the new corporation system. It was the first Act of Parliament to give the courts power to enforce the provisions of the old corporation laws. The Act was a model for future Acts of Parliament, and it is still in use today.

The Companies Act of 1844 was based on the idea that a company should be treated as a legal person, and that it should have the same rights and duties as a natural person. The Act provided for the registration of companies, and for the protection of the interests of the shareholders.

The Companies Act of 1844 was a landmark in the history of corporate law in Canada. It was the first Act of Parliament to give legal recognition to the new corporation system, and it provided a framework for the development of corporate law in Canada.
of election or otherwise."

It was the grounds for the judgment in Wollaston v King in addition to the exception."
The latter has been quoted most frequently, it is one that cannot be

but nevertheless there are three separate bases to consider, and has been the basis of an indication of how many of them is being relied upon. However, if it is used, perhaps it is not unfair to say that, having limited this case to one where the claims were all contained in the will and that the judgment stands only for the proposition

that the election of one candidate for election is possible, only when there is a conflict between elections and some claimant, who will and, against it in this way.

He held also that the rule as to election applies to a gift under a will and a claim adverse to it, and not as between one clause in a will and another clause in the same will, and that therefore the daughters were not to put their claims to the decision of the court, and remained in the hands of the headnote refers only to the finding that the settlement in favour of C's appointees was void for remoteness and went to the daughter under the will.

In England the question of election considered before the Court of Ap-

peal in In re Nash, Cook v. Frederick (134) where the power of appointment suggested by Thobald in the precedents was of course not mentioned, and the matter is of no further importance. The Master of the Rolls (Cozens-Hardy) said that twenty or thirty years previous to this time the argument that the rule against election cases was to bring about a more clearly the question of election which then came before James V-C. The only issue was that of election, everything else having been settled in the previous hear-

ing. After James V-C delivered himself of the passage quoted by Richmond J. in the Edwards case he went on to discuss Carson v. Bewes Jones 2 Ross, & My. 392 where negotiations were not put to their purpose because they took no profit as legatees under the will and therefore did not count as an adversary in any adversarial title. He draws this conclusion in p. 171. It results in this case that the rule as to election is to be ap-

plied as between a gift under a will and a claim adverse to it, and not to be ap-

plied as between one clause in a will and another clause in the same will.

And further on p. 171, "It is also material that the reason why the gift fails is that there was an attempt to create a power in violation of the rules of law, and the judgment of Vis-Chancellor James at p. 49—"And we only follow Vis-Chancellor James in holding that a gift within the will cannot violate to compete to violate the rules of law, and in defining the effect of a gift, not admorarily by the application of the doctrines of stare decisis, but also to the Vis-Chancellor's celebrated passage in the case of Barry L. J. conceded in the result but could not dissent from the same plain except to state that most eminent judge based on very different considerations that this was a case in which election was necessary, and the settlement in favour of the son's appointees was void for remoteness and went to the daughter under the will.

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MUST A PREFERRED BENEFICIARY ELECT UNDER A WILL?

(Continued from Page 6)

a case of election. For the first proposition Currier v. Bowles; Wooldridge v. Wooldridge (1859) 56 I. L. R. 433 where the testatrix, being the mother of three children created an insurance policy in a beneficent society shortly after the birth of her third child, to be payable to "legal heirs designated by will." This was held to mean her three children who were her heirs. This section 5 of the Insurance Act R. 107 Ch. 115 will be similar to the present section 145 came into operation. The isomeric by her will directed her insurance to be payable to her executors for the purpose of paying therefrom any debt including a specific mortgage. Boyd C. held that no election arose. At p. 441, "But on the general point as to election, the cases in conflict, I think the rule laid down by Pearson J. in re Warren's Trusts (1844) 24 Ch. 264, and followed by the Court of Appeal in Ireland in re Handcock's Trusts (1859) 22 L. R. 42 is applicable." He says further, "Here the statute controls and limits the destination of the insurance money, and the testatrix could not be taken to know the law that her direction was invalid and the will, to be read as if the invalid clause was expanded." A realization of the existence of the two exceptions in the power of appointment cases is important in Ontario for the reason that it would be undesirable and inadvisable to further complicate the insurance cases by differentiating between a boycott of insurance money by will to someone also within the class of preferred beneficiaries and a boycott to someone outside of it. If we depend upon the construction of the power of the testators of the "notable exception," we are forced logically to say that when the beneficiary of the will is the "legal heir designated by will." And 2. The rule against election in the power of appointment cases, within the class of preferred beneficiaries there is no election, but when the direction is to someone outside of the class other immediately or by way of remainder an election does arise. Kiddell J. A, carefully limits his remarks on this point in the Edwards case. He says at p. 372, "The case would have been in my view, different, and the insurance money been disposed of away from the wife." On the other hand, if we depend upon the illegality theory of Pearson J. we can avoid all illegal, any attempt to change a policy in a preferred beneficiary whether to a person within or outside of the class unless the proper machinery of the Act is used. The purpose of section 145 was to afford protection to those included in the preferred beneficiary class. To enforce an election under the term "notable exception" when the change is outside the class would tend to defeat the very purpose of the Act. It is not protection against claims from those outside the class which is necessary.

The proper basis for the insurance case it is submitted that whether the will directs payment within or outside of the preferred beneficiary class, following from the exception to the doctrine of election as developed in the power of appointment cases, namely that an appointment which offends a rule of law will not raise an election, here too there is no election.

Debates

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THE LAW AND THE POVERTY PROBLEM

By Peter Wrigley.

(Corresponded from March series)

...and yet it is said herefored to Philip Dehants and the Society of
which have resided at the present place of residence, who have left
the State now renders to the complaint. It is not intended to
suggest the question of the order. Rather it is intended to discuss measures of
Legal Aid to the extent that they can remain a permanent service in the city
of Toronto and elsewhere in the province.

Such a service might prove a valuable service, and assistance in litigation. It should possess the features which it should have the official and ac-

count of the Bar, it should be charitable at first rather than a monetary right, it should require some measure of permanence and it should be assisted by some "in forma pauperis" procedures.

The support of the Bar would be taken for granted, and indeed it is possible that it is no systematic and during the present term of the office, the support of the Bar can give their interest and financial assistance, for the benefit of their time and enthusiasm, for we are not here to suggest that such a cause had to be supported
wholly by those outside the profession.

There are distinct advantages in having the Legal Aid Society char-

terable and private rather than a public and public, and it is important to remem-

ber the interest of the profession and the Society to cherish on that independence which the profession has enjoyed. For the problems before a legal aid office, several reasons have been given, and it is my judgment of character, are best re-

viewed not by a legislature or a city council, but by independent and
preferably legal advisors. Nor has the time of public support of the Legal Aid to be the right of every individual.

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ACKNOWLEDGMENTS

(Corresponded from Page 1)
overwhelmingly grateful to His Honour Lord Kettn-Macdonnell, who was the gen

eral of our home town, the Grand Marquis, who was the guest of honor at our Gradu-

ation. His complete group of the situation, (including the audience) and the humour

and courtesy of his remarks has given the Third Year Executive many reasons to congratulate themselves as the leaders of the class.

May Judge Macdonell long con-

tinue to speak at Graduation Ban-

quets.

In connection with the Osgoode

At Home we are grateful to the fol-

lowing for their generous patron- en:

Chief Justice and Mrs. Latch-

ford, Mr. and Mrs. Homer, Mr. and Mrs. Arthur Hourck, Mr. and Mrs. Latch-

ford, Mr. and Mrs. W. G. W. Ma-

son, Mr. and Mrs. R. B. Robert-

son, Mr. and Mrs. G. T. Char-

penter, Mr. and Mrs. F. P. Barlow, and Miss John. We give special thanks to the
patrons of our Fall Dance: Mr. and Mrs. Wilfred H. Feltington, Mr. and Mrs. G. W. O. Grant.

The herœnal efforts of Henry White would be completely out of the

rear warrant special mention. In the past, his office practice, he gave

unstintingly of his time and effort, and made our office a truly remarkable success. Without de-

tracting in any way from the func-

tions of other years, it may be said that Henry's B.C. licensure, and his treat-

ment at the hands of a very capab-

le sub-committee, Frank William Graham, has made Henry's management, was the most

successful in some time. But the

best testimony to his excellent com-

mittee is the fact that Henry's and

our top man's, John Grant, (who haven't many duplicates in the whole area)

is the ticket selling game,

and in the best travelling salesman Osgoode Hall has ever had. If he sells legal advice as well as his clients

will need them.

The outstanding function of the Bar is the practice of law, which might hold a full-time Law School would be found that a Legal Aid Clinic pro-

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course, we can point

the fair effort of our Moot Courts and Debates in the
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