

Civil and Social Department

LEGAL QUERIES.

A SUBSCRIBER.—As your inquiries relate to a subject of interest, we will not only answer them, but state the facts in order that others may be benefited. A farmer leased his farm for two years; according to the lease the tenant was required to spend all the manure on the place. At the end of the term the tenant made some objections to leaving, and after remaining some weeks in possession, the landlord told him he might keep the farm another year by paying a certain rent, somewhat higher than before. Nothing was said as to any other terms, or as to the lease. Before the expiration of the third year the landlord, or rather his brother, he being absent, drew out some of the manure from the barn to the field; now, after he has left the tenant claims the manure in the yard as his, and demands pay for what was drawn upon the field. I want to know first; whether the lease continued in force during the last year. If not, secondly; whether, in the absence of any agreement, the manure belongs to the tenant, and can be sold and removed by him. If it be his, then thirdly; whether he can sue the landlord (he not having ordered the brother to do it) for the few loads hauled out?

We have not given the precise language of "A Subscriber," but the above is the substance of his case. We proceed to the answer. It is not necessary to decide the first point as the matter is settled by the second.

In the absence of any agreement to the contrary, the manure belongs to the farm, in other words, to the landlord, and the tenant cannot sell or remove it. The case may be otherwise with manure made at a livery stable or any where but on a farm. As the point is an important one we subjoin our authority.

"In regard to manure and dung, the produce of the land, the removal seems to be so decided a branch of the rules of good husbandry, which a tenant is impliedly bound to obey, that except by express contract, the tenant never has the right of removal, and is not often entitled by custom to compensation for them."—Chitty on Contracts. 362.

Mr. Chitty is one of our best English law authors, and the above extract from one of his latest works covers the case of "A Subscriber," if he has stated the facts correctly. He need not therefore give himself much trouble about the "lawyers letter" he refers to. Lawyers sometimes write very threatening letters when they know their client is demanding what he has neither legal nor moral right to. This is a very reprehensible practice; it is in fact a crime. The man who attempts to frighten his neighbour out of money which the law will not give him, is obtaining it upon "false pretences," and this is declared to be a punishable offence. The lawyer who lends himself to such an attempt is an accessory before the fact, and as such deserves punishment as the principal; he deserves it more for he knows better—the other may be blinded by his selfishness and unable to see the question in its true light. In the Bill to amend the Law of Libel introduced by Mr. Cameron last Session, the practice sometimes adopted by newspaper proprietors of levying "black mail" as it has been called, i. e., squeezing money out of a person by threatening to libel him in the paper, or to hold him up to public contempt, is declared an offence, and severe penalties annexed to it. By an English Act not in force here, "sending a letter or writing, demanding with menaces, any chattel, money, or valuable security, with intent to extort, is felony, punishable with transportation for life or seven years, or imprisonment for four years and whipping, if a male," (7 & 8 Geo. 4. c. 29, sec. 8.)

The principle upon which the law proceeds in all these cases is the same, and it is perfectly sound. Such acts deserve punishment, and the conduct we are condemning belongs to the same category and should be visited with the same reward. But lawyers have made the law, and they have been careful to fence themselves in their profession,

against the unpleasant consequences of such enactments. There are a thousand ways of creeping out; the client has misstated the facts; the question was a nice one on which "doctors may differ," and therefore it would be absurd to punish them for their opinion; if, like the above case, the matter was too plain to allow of such a plea, then there was no guilty "intent to extort" on their part—at all events it can't be proved, &c. &c. We have said thus much because we know this nefarious practice is frequently resorted to, and simple, honest men, who have a very excusable horror of the law, are victimized. We have a most atrocious case in our eye at this moment, in which the actors, lawyers and clients, claim to be respectable, and yet extorted (for they knew they had neither a legal nor equitable claim to it) some \$200 from a man who, in a disputed matter, was simple enough to declare that "he would never go to law"—that he "would rather pay what was asked than do so."

Although in "A Subscriber's" case, as he will see by what we have quoted, the decision of his first question is unnecessary so far as it relates to the manure, yet if there were any covenants or conditions in the lease which have been broken it may be desirable to know whether it continued in force. The following is the law.

If a lessee hold over after his term has expired, and the lessor, or landlord, do any act recognizing him as tenant, there is created a tenancy from year to year, impliedly upon the terms of the old lease, so far as they are applicable to a yearly holding. The verbal agreement, where there is one, does not prevent such an implication from arising unless it was intended to do so. The terms of the lease are to be looked to as evidence of what the new agreement is, and of course, where there has been an express new agreement different from the terms of the lease (as in "A Subscriber's" case, to pay higher rent) so far as that agreement extends, and so far as it is inconsistent with the old lease, it, and not the lease, is in force. (See Chitty's Contracts 323, and the decisions he refers to.)

As to the last point, the landlord is not liable for his brother's conduct, if he did not order or authorize him, supposing that their act amounted to a trespass.

POST OFFICE.

The following remarks by a cotemporary on this important subject are so much to the point that we insert them, embodying as they do our own views, in order that the question may be kept before the people. If there is not a proper remedification of the present outrageous system before another election, let the public take the matter into their own hands and require an expression of opinion and a pledge from every candidate before they elect him. The Home Government gave up the management to us, and it should have been properly settled during last session of Parliament.

POST OFFICE REFORM.

At the opening of the last Session of Parliament the hopes of the Colonists were roused at the prospect of the removal of one of the most crying evils under which the Province has so long groaned; but nothing effectual has been either attempted or done. The Government seems to have been totally unprepared to take up the most important measure referred to in the speech at the opening of Parliament; and, except an absurd proposition relative to the appointment of another Post Office commission to confer with the lower Colonies, without any preliminary communications to secure a reciprocity of action with their representatives, nothing in the way of remedial legislation has been attempted. Our cotemporary of the Montreal Witness, under the influence of his usual political bias, when referring to this puts the saddle on the wrong horse and says, "for this delay the country has to thank itself"!

If the editor were a stranger to Canadian affairs such an assertion might be palliated; but when he knows, or ought to know, that our postal system has been the theme of almost universal discussion and condemnation by the press of Canada for many years, and that particularly during the last twelve months petitions and remonstrance upon the subject have been pressed upon the Colonial and Imperial authorities on behalf of the people, and the Colonial Secretary having pressed the

matter upon the Provincial Executive without securing its immediate co-operation, we can see no reason for his thus attempting to cast a covering over the neglect, or indifference of the administration to the public interests, much less for blaming those who are the victims of its indifferency or imbecility.

The truth is, so oft and loud have been the complaints of the country concerning the high rate of our internal postage,—the obstruction presented to the diffusion of knowledge by the press, and the want of a large increase of post offices throughout our settlements, while at the same time so little regard has been paid to this most important branch of public economy, that we believe a general feeling of want of confidence in the sincerity of the local government to redress those evils is taking possession of the public mind. We have no doubt whatever that the present Dy. P. M. General who realises nearly \$12,000 per annum from his office, (three times more than the salaries of our judges), will do every thing in his power to avert any change which may endanger his income, and that if government are waiting for suggestions from him to economise and go forward they will wait long enough. What good, we ask, resulted from the labours of the last famous Post office commission? Nothing we may say but delay and waste of money—nothing was accomplished for the public interest. We trust that we are not now a second time to be exposed to a similar infliction before a practical reformation is obtained.

Since the prorogation of Parliament the matter has been taken up with a good deal of spirit by the citizens of Montreal, and a petition numerously signed by the most influential persons has been presented to the Governor urging the immediate adoption of a uniform Provincial rate of Two pence to be prepaid on all letters and packages under half an ounce. This rate, although nearly double the British rate would, we have no doubt, be very generally acceptable to the country, and in the ultimate, would be advantageous to the revenue,—provided that an adequate number of Post offices were at the same time established.

In a new country with a widely scattered population, no revenue however should be drawn from the Post office Department, but all surplus should be employed to extend its benefits to the remotest settlements. With the reduction of letter postage and an increase of offices, we want also the facility now so amply furnished by the British Post office and that of the United States in making small remittances by money orders through the department; for the transmission of periodic literature and printed documents generally at the cheapest possible rate; for the free transmission of the gratuitous exchanges of the press—(now laid under a heavy double impost as to American papers); and for advising publishers of Newspapers regularly as to the causes of their papers not being taken out of the offices to which they may be mailed, a duty at present knowingly and utterly disregarded by the department.

With these improvements another subject of the highest importance to the efficient working of a new system is the employment of competent officers, and the payment of an adequate salary to those who really do the work of the department. To find one man luxuriating on his \$12,000 or \$5,000, or \$2,000 a year, while the hard wrought and responsible assistants are, in some instances, not in the receipt of wages above an ordinary street labourer, (some receive not over \$200 per annum) is a disgrace to the government. The income of subordinates should at least place them above the fear of want if not of temptation.—Better to give what is just and proper to an individual while in office than by frugality and economy he may provide for the future contingencies of life than, when out of office he should look for a pension or be dependant upon others.

There is also another subject to which the attention of government should be directed, and that is to the internal management of Post offices in towns and cities. They should be opened earlier and closed later than they now are; and while ample assistance should be furnished to facilitate the opening and dispatch of mails, one person as a receiver should always be in attendance, while the delivery is necessarily closed upon the arrival of the mails. The want of an arrangement of this kind causes much annoyance and loss of time which might easily be avoided. The levying of a charge of 7s. 6d. from every one who has a Box; is an exorbitant tax, and is the less justifiable inasmuch as the Boxes are perhaps as great a convenience to the Postmaster as to the parties paying for them. The income of the Postmaster should be fixed by law, and all monies arising from other sources than postage; such as the rent of Boxes—interest on current accounts, and the difference gained on transactions with the American Post offices should go to the credit of the department.

As to the advantages which will probably result from the adoption of the improvements to which we have referred, a glance at the result of Rowland Hill's experiment may lead us to hope that they will be very great in a social and commercial point of view if not otherwise.

In 1839, the revenue of the British Post office was at its maximum amount. Next year the uniform four-penny rate was adopted, and in the year following (1841) the present penny rate was established. Mr. Hill calculated that the number of letters would, under the new arrangement, be increased five-fold, while the net revenue would approach within £300,000 of the highest amount received under the old system. The few years during which the experiment has been tried, have yielded the most satisfactory results.—The number of letters passing through the Post office has increased from one and a-half million to six millions per week, and the net revenue has steadily been rising from £10,000 to £70,000 Sterling per annum. The following is a copy of the official returns from Jan. 1839 to Jan. 1847; and affords evidence of the most satisfactory kind that the calculations of Mr. Hill were made with great judgment and may yet be fully realized if not surpassed.

Year ending	Gross revenue	Cost of management	Nett revenue
Jan. 5, 1839	£2,316,278	£686,763	£1,609,500
1840	2,390,763	756,927	1,633,764
1841	1,359,466	852,677	506,789
1842	1,499,418	928,163	561,249
1843	1,572,145	977,504	600,641
1844	1,629,267	980,600	648,217
1845	1,705,067	985,110	719,957
1846	1,911,520	1,125,594	775,926
1847	1,951,000	1,133,000	822,000

A writer from England remarks, with reference to this subject and the benefits arising generally from cheap postage "the population are deriving advantages from the increase of communication which I am disposed to think have never yet been appreciated to their full extent, even by the advocates and supporters of the system." Why should Canada, one of the most important colonies of the empire, be allowed any longer to struggle with the impediments of the old system so ungenial with the advancing spirit of the age?

ABSURD POST OFFICE TAX ON THE DIFFUSION OF KNOWLEDGE.

A pound of cotton or of tobacco is transported to Europe for a couple of cents. A pound of literature or of science, in letter form, cost in Italy, going from New York, \$63!!! yearly.

If the rulers of nations had entered into a conspiracy to prevent the diffusion of knowledge among men, they could hardly have contrived a more perfect restraint than this. Prohibition is the next step.

One would have thought that by this time men would have cried with a loud voice, confusion to the governments which thus stifle the breath of knowledge.

FACT—A letter weighing not more than one-quarter of an ounce pays, in New York, before it can be sent to Italy, one dollar and six cents.—[N. Y. Herald.]

PRODUCTIONS OF THE UNITED STATES.

The Patent Office Report furnishes the following important information:—

Wheat, oats, rye, Indian corn, potatoes, hay, and tobacco, are raised in every state and territory in the Union.

Barley raised in all except Louisiana.

Buckwheat raised in all except Louisiana and Florida.

New England, New York, New Jersey, Pennsylvania, Michigan, Ohio and Wisconsin do not raise cotton.

The States that do not raise cotton together with Maryland, Delaware and Indiana, do not raise rice.

Every State and territory except Iowa does raise silk.

Every State except Delaware makes sugar.

New York raises the most barley, viz 1,802,222 bushels.

New York raises the most potatoes, namely, 24,917,554 bushels.

New York raises the most hay, viz: 4,205,030 tons.

Ohio raises the most wheat, viz: 10,786,703 bushels.

Pennsylvania raises the most rye, viz: 8,429,226 bushels.

Pennsylvania raises the most buckwheat, viz: 6,403,503 bushels.

Tennessee raises the most corn, viz: 67,733,447 bushels.

Virginia raises the most flax and hemp, viz: 31,706 lbs.

Kentucky raises the most Tobacco, namely: 72,322,543 lbs.

Georgia raises the most cotton, viz: 148,175,149 pounds.

South Carolina raises the most rice, namely: 56,892,307 lbs.

The nett proceeds of the late pleasure trip of Fire Engine No. 2, to the Falls of Niagara, amounting to £25 7s. 6d. has been benevolently devoted to the Emigrant Widows and Orphan's Fund, of this City.—*Examiner.*