

## ACTS OF LAST SESSION—RELATIVE IMPORTANCE OF CASE LAW.

An Act respecting apprentices and minors, seems to be a consolidation of the statutory law of the Province on that subject with some new provisions.

The Real Property Limitation Amendment Act, 1874, is of great importance, it has already been touched upon, and further reference will be made to it, but it does not come into force until July 1, 1876. The principle involved would seem to commend itself to a young and vigorous people in the latter half of the nineteenth century.

The Act to amend the laws relating to fire insurance will be a hard nut for Insurance Companies to crack. Without entering into the vexed question as to whether they do or do not inequitably take advantage of the extraordinary and apparently unreasonable conditions in their policies, the Act will certainly have the effect of making them more cautious in taking risks by preventing their setting up conditions which a Court or Judge may think inequitable. The plan heretofore adopted by Companies has been to insure property with a reckless disregard of consequences, trusting to all sorts of conditions to evade payment, when in *their* opinion payment would be inequitable. The Court of Queen's Bench, in *Smith v. Commercial Union Ins. Co.*, 25 U. C. Q. B. 91, suggested the interference of the Legislature to prohibit and restrict the conditions; but matters seemed to culminate in the case of Elliot against several Insurance Companies, heard before Mr. Dalton, as arbitrator. By this Act, a commission is authorised to settle reasonable conditions for such policies. And we are informed that the Chiefs of the three Superior Courts of Law and Equity, together with Mr. Justice Strong and Mr. Justice Patterson have been named as the Commissioners.

## RELATIVE IMPORTANCE OF CASE LAW.

(Continued from Vol. x., p. 303.)

An exception obtains with regard to the decisions of courts of co-ordinate jurisdiction, where the prior decision is made merely on a motion, so that there is no opportunity of carrying it to a higher court by way of appeal. In such a case the judges do not feel themselves bound by the decision, if they disagree with the law or the reasoning therein. Lord Campbell says, in *Woodhouse v. Farebrother*, 5 E. & B. 289, referring to a prior decision on an equitable plea, "As the case was decided merely on motion, without the opportunity of carrying it to a Court of Error, we should not consider ourselves bound by it, had we disapproved of it, but we entirely concur in the reasoning on which it is founded." See also per Hagarty, C. J. C. P., in *Shier v. Shier*, 22 C. P., 162.

Another exception also occurs when the Superior Courts are sitting in Courts of Appeal from courts of subordinate jurisdiction. In this instance each court is governed by prior decisions of its own, and is not in the habit of reversing these and conforming to conflicting decisions of other courts exercising the like appellate jurisdiction. In *Boon v. Howard*, 22 W. R., 540, Brett, J., observed, "Where the court has a final and exclusive jurisdiction and its personality must be changed, the action of the court is injured, unless all the judges determine to follow loyally, as has been said, the previous decisions of the court." A remarkable example of the point under consideration is to be found in the course of decision in this Province upon the provisions of the first and fourth sections of the Act respecting mortgages and sales of personal property (C. S. U. C., cap. 45). The question came up in several appeals from the County Court as to the effect of non-registration within five days from the