

The Legal News.

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ESCHEAT.

An important question has been decided by the Supreme Court in the case of Mercer, in which judgment was rendered on the 14th inst. The question was whether the right of escheat pertains to the Dominion or the local Government. The case is from Ontario, where the decision was that the *droit de déshérence* is in the local Government. This opinion appears to have been sustained by Chief Justice Ritchie and Mr. Justice Strong, who dissented from the judgment rendered by the majority, composed of Justices Fournier, Henry, Taschereau, and Gwynne.

WOMEN IN OFFICE.

The courts of this continent have not unslightly to pass upon the questions which arise from the claims of women to be admitted to the professions and offices usually filled by the other sex. The Court of Common Pleas, in Pennsylvania, in deciding (in the case of *Evans v. Ives*) that a woman may act as arbitrator, has disinterred a quantity of lore on the subject, and shown that some women, at any rate, held important offices in the olden time.

"In West's Symboliography, 163, it is said that a married woman cannot be an arbitrator. This however is the rule of the civil law. Justinian says that it is contrary to the proper character of the sex to allow a woman to intermeddle with the office of a judge. Kyd's Awards, 71; Wood's Civil Law, 327. In Kyd on Awards, 70-1, it is said that an unmarried woman may be an arbitrator. To sustain this the author cites the *Duchess of Suffolk* case, 8 E. 41; Br. 37. In 2 Petersdorff's Abr. 129, it is said that it is no objection to an award that the arbitrator is a married woman. Gentlewomen have also held and exercised judicial authority. Annie, countess of Pembroke, held the office of sheriff of Westmoreland, and exercised the duties thereof in person. At the Assizes of Appleby she sat with the judges on the bench. Hargr. Co. Lit. 326; 8 Bac. Abr. 661. Her right to sit upon the bench as a judge will be

fully understood when it is borne in mind the sheriffs at that time held court and exercised judicial power. Sheriffs had power to inquire of all capital offences, and issue process and enforce the same. But this power was afterward restrained. By Magna Charta, ch. 17, it was enacted: 'That no sheriff shall hold pleas of the crown.' 8 Bac. Abr. 688. Eleanor was appointed lord keeper of England. It would seem from the history of this noble woman that she actually performed the duties of lord chancellor in person. It is said of her that in the summer of 1235 King Henry appointed her lady-keeper of the great seal. She accordingly held the office nearly a whole year, performing all the duties, as well judicial as ministerial. She sat as a judge in the *Aula Regia*. These sittings were however interrupted by the *accouchement* of the judge when she was delivered of a daughter. After retiring from the bench, and the appointment of her successor, she was delivered of a boy, who afterward became Edward I of England. 1 Camp. L. L. Ch. 134-7. Without referring in any manner to Eve, the first arbitrator appointed in this world to decide the controversy about eating the forbidden fruit, or to the manner Deborah judged Israel, we are clearly of the opinion that under the act of 1836 a woman, married or single, may be appointed arbitrator, and may act as such, and make a valid award."

THE LATE MR. JOHN MONK.

A long familiar face has disappeared from Court circles. Mr. John Monk, admitted to practice in January, 1841, died during the present month. Mr. Monk, for a considerable time, had the largest practice in the Circuit Court that fell to the lot of any English-speaking member of the bar, a department of professional activity for which his great physical energy and buoyant disposition eminently qualified him. While loyal to his clients, Mr. Monk was too manly to take an unfair advantage of his opponent. To his juniors he was always kind and considerate. The result of many years of close industry and unremitting attention to business was the accumulation of a handsome competence which, unfortunately, he did not live to enjoy. His last years were clouded by ill-health and suffering, and death came at the early age of 62.