holding of property by aliens—it may be worth while to call attention to the following extract from my note-book of recent cases on this head :—

"By a decision of the Privy Council (in the case of *Cushing* v. *Dupuy*) it is declared to be a necessary implication that the Imperial Parliament, in assigning to the Dominion Parliament the subjects of Bankruptcy and Insolvency, intended to confer on it legislative power to interfere with 'property, civil rights and procedure' within the provinces, so far as a general law relating to those subjects might affect them. Such legislation, upon any subject within the prescribed powers of the Dominion Parliament, would not infringe the exclusive power given to the provincial legislatures. On the other hand, upon the same principle—but in confirmation of the just exercise of provincial powers, in a matter of civil rights—it has been held by a judgment in appeal by the Court of Queen's Bench in Montreal, that the Quebec Pharmacy Act of 1875 was not *ultra vires* of the Local Legislature although it trenched incidentally upon the subject of 'trade and commerce' exclusively assigned to the Dominion Parliament."

Thus—and particularly within the past two years—general principles of the first importance in the interpretation of the British North America Act of 1867 are being evolved out of the various cases in litigation before our Courts.

ALPHEUS TODD.

Ottawa, Oct. 24, 1881.

County Court practice under the Judicature Act.

To the Editor of the CANADA LAW JOURNAL :

SIR,—The question has arisen in our County Court as to whether the Chancery or Common Law practice should prevail in obtaining an examination of parties ; whether it can be done only after cause at issue, or so soon as statement of defence filed or time for filing it has expired.

There can be no doubt as to the Chancery practice being the better way under the present mode of pleading, for the plaintiff ought in all cases to have the right to examine the defendant before being compelled to reply, and further the plaintiff can now be delayed three weeks without joining issue, before the cause is at issue without a joinder being filed.

The whole tenor of the Judicature Act is to make one rule govern both as to Law and practice, and where Law and Equity differ Equity is to govern. And does not this apply to practice and procedure as well as to the Law ?

Section 12 of the Judicature Act provides that when the practice and procedure is not provided for by the act and rules or orders, the old practice and procedure shall in the Court of Appeal and High Court of Justice be exercised in the same manner as the same might have been exercised by the old Courts, but it does not provide that the Common Law divisions shall follow the old Common Law practice and the Chancery Division the old Chancery practice.

Section 17, sub-sec. 10, provides for the rules of Equity governing when a conflict between them and Common Law rules exists. In *Grant* v. *Holland, Ross* v. *Grant*, L. R. 3 C. P. D. 180, it was held that in changing solicitors the rules of Equity as to practice must prevail, so that the words "Rules of Equity" will apply to practice and procedure as well as to the law. And should not therefore the old Chancery practice be followed in this matter ? Mr Holmested in his Manual says not. What say you ?

Yours etc.,

W. B.

[See editorial comments, ante, p. 419 EDS. C. L. J.]

FLOTSAM & JETSAM.

A WESTERN constable held an execution against a farmer, and when he called for a settlement, the agriculturist took him out into a big pasture and pointed out a wild steer as the particular piece of property that could be levied upon. The constable chased the steer around for a while and then sat down, and taking out his book began to write. "What are you doing there ?" asked the granger. "Charging mileage," replied the constable, without looking up. "Do I have it all to pay ?" gasped the rancher. "You bet." "Then take this tame heifer here. I can't stand any such game as that."