The Legal News.

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Not long ago (*ante*, p. 127) we published a note of a decision by magistrates of this province, that the operation of dishorning cattle was not a cruelty exposing the persons performing it to prosecution. We notice by a recent article, written by a well-known friend of the animal world (Mr. G. Candy), that the Lord Chief Justice of England and Mr. Justice Hawkins are of a different opinion. There has been considerable doubt on the point. In Scotland a superior court, expounding the Scottish statute, has held that the operation of dishorning is not unlawful, not because the operation was shown to be necessary in fact to fit the animals for their ordinary use, but because "the statute does not interfere with human conduct, or with the judgment of those who are pursuing their own affairs to the best of their judgment, however much they may be mistaken in the judgment of others." One of the judges in the Scottish Court adds that, in his opinion, the operation was justifiable, because it was "performed under the belief that it was necessary for the well-being and control of the animals." But in a recent English case (*Ford* v. *Wiley*), the judges of the Court of Queen's Bench emphatically dissented from the doctrine that "a mistaken belief that the law justifies a painful operation, when in truth it does no such thing, could operate as any excuse at all, except perhaps in mitigation of punishment." Mr. Justice Hawkins observed: "Constant familiarity with unnecessary torture to and abuse of dumb animals cannot fail by degrees to brutalize and harden all who are concerned in or witness the miseries of the sufferers—a consequence to be scrupulously avoided in the best interests of civilized society." The occasion which called forth this expression of opinion was the hearing of an appeal from the decision of a bench of Norfolk magistrates, who had acquitted a person charged with cruelty under the statute, and had found as a fact that the operation of dishorning had been done with ordinary care, and under an honest belief that it was for the benefit both of the animals themselves and of their owner, and that the object in view could not be attained by any other known method. The judgment of the magistrates was held to be erroneous, and the case was remitted to them to be dealt with in accordance with what the judges of the Queen's Bench held to be the law. Mr. Candy also quotes, with severe disapprobation, an opinion in a very different sense, by Mr. Justice Murphy, a judge of the High Court of Justice in Ireland, in a case of dishorning: "The pain caused to the animals cannot be said to be an unnecessary abuse of the animal that is reared up, tended, and fed, with the object of having it, as soon as possible, made ready for slaughter, if the operation by which the pain is caused enables the owners to attain this object, either more expeditiously or more cheaply."

Attention is being directed to the fact that in England a considerable revenue is derived from patent fees, over and above expenses of the office. The fees are very high, it being necessary for an inventor to pay over $200 to the patent office before he can benefit by a patentable improvement. The system of levying taxation upon the ingenuity and brain power of a people seems a very strange one, but it is supposed to be based upon the old idea that all patents are monopolies.

COUR DE MAGISTRAT.

MONTRÉAL, 21 janvier 1890.

Coram CHAMPAGNE, J. C. M.

BENOIT v. EDWARDS, et EDWARDS, opposant.

JUGÉ:—*Sur une motion pour faire renvoyer une opposition à jugement, qu'un défendeur condamné par défaut, dont les biens sont saisis et qui fait une opposition afin d'annuler pour prétendues informalités dans la saisie, laquelle est ensuite déboutée avec dépens, n'est pas pour ce fait déchu du droit de faire une opposition à jugement.*

Jodoin & Jodoin, avocats du demandeur.
Walker, avocat de l'opposant.

(J. J. B.)