

THE FRENCH BAR—SLANDER.

are his seniors at the Bar. The title of dean (*doyen*) belongs to the senior member of the Bar inscribed on the roll; but it confers no other privilege than that arising from seniority. The *bâtonnier*, the former *batonniers*, and the deputies from the columns form a council, which meets in the Advocates' Library, and whose chief object is the preservation of the discipline of the order. The *bâtonnier* himself adjudicates upon trifling complaints against members of the Bar; but if the matter is of consequence, he reports it to the council. If the suspension of a member, or the erasure of his name from the roll, is to be deliberated on, the *bâtonnier*, after examining into the matter, reports to the Crown counsel, and their decision is registered. In the most important and serious cases, the court is petitioned to give judgment in terms of the requisitions of the *bâtonnier*, and the conclusions of the Crown counsel. At the expiration of his term of office, the *bâtonnier* makes up the roll of advocates, with the assistance of the former *bâtonnier* and the deputies, and deposits it in the register before the 9th of May."

(To be continued.)

SLANDER.

Considering the very great importance of the rights of reputation, it is somewhat surprising that there is scarcely any branch of the law which is less generally understood than slander. Though the majority of persons have, at some period in their lives, been the victims of false and injurious reports, yet actions for slander are few and far between. The fact that the decisions are frequently obscure and conflicting, while the procedure for reparation is cumbrous and expensive, may account for the infrequent appearance of this class of cases in our law courts. Our daily experience of unhappiness in families in the higher, loss of trade in the middle, and violence and crime in the lower classes, originating from false and malicious statements, forbids our attributing this reticence from legal process to any other causes. It may, therefore, be interesting to consider somewhat briefly the present state of the law, and the defects therein, that from these considerations we may educe some suggestions for the further protection of the public against—

"The tongue that licks the dust,
But when it safely dares, is prompt to sting."

Slander is an injury for which, by law, an action for damages will lie. Criminal proceedings cannot be taken for mere spoken words, unless they are seditious, blasphemous, grossly immoral, or addressed to a magistrate while in the execution of the duties of his office, or with reference to those duties, or uttered as a challenge to fight a duel, or with an intention to provoke another to send a challenge. To be actionable, the accusation must be wilful, to the damage of another in law or fact, and be made without lawful justification or excuse. Express malice may be implied from the slander itself, and need not be proved. The alle-

gation must be *false*; it must impute an indictable offence, a contagious or infectious disease, or be injurious to the profession or business of the plaintiff, or tend to his disherison. In the first case, not only a punishable offence must be alleged, but it must be such a crime or misdemeanour as incurs corporal punishment. The charging an offence, therefore, merely punishable by a pecuniary penalty, although, in default of payment, imprisonment should be prescribed, would not be actionable, the imprisonment not being the primary and immediate punishment.

But the more frequent ground of action is that of *special damage*, as where, by the wrongful act of the defendant, a servant was prevented from procuring a situation, a tradesman lost his custom, or a woman her marriage. It should, however, be borne in mind, that the damage must be the mere natural and direct consequence of the unlawful act.

To the mind of a layman not versed in the nice distinctions of the law, the definition of what is, or what is not slander, is most perplexing. For example, it is not actionable to say, "J. S. is a murderous villain," as this simply implies an inclination; but to say, "J. S. is a murdering villain," would be actionable because it imports a crime committed. To charge another with a crime of which he cannot be guilty, as having killed a person still living, is not actionable, no matter how much the accused may have suffered in reputation therefrom. It is also a matter of difficulty to ascertain what is an infamous punishment.

No one, we think, will be prepared to say that a greater injury can be inflicted by slander than when an imputation is made on a woman of loss of chastity, yet, as the law stands, no damages can be recovered from the traducer, unless specific damage can be proved, which, in many instances, is simply impossible. Chief Justice Cockburn has said, "I think the law very cruel in preventing a woman who has been thus wantonly slandered from bringing an action for the purpose of vindicating her character." Lord Brougham considered the law not only "unsatisfactory" but "barbarous," while many other judges have regretted the state of the law in this respect, and expressed their dissatisfaction that they were not at liberty to determine differently. Illness may ensue from the excitement produced by the slander; a wife may become ill and incapable of managing her domestic affairs; her husband may be put to expense in curing her, and yet it is held, that mere mental suffering or sickness, supposed to be caused by words not actionable in themselves, would not be special damage to support an action. Let, however, the words be written, and the libeller would be liable to either imprisonment or damages.

We would here invite attention to the punishment of the slanderer. In the time of Alfred, the *publicum mendacium* was punished by the cutting out of the tongue, subject to redemption, *juxta capitis aestimationem*. The Greeks