

## The Legal News.

VOL. VIII. AUGUST 22, 1885. No. 34.

Reference was made on p. 233 to the fact that the appeal to the Privy Council in the case of *McGibbon v. Abbott* had been dismissed. The observations of their lordships will be found in the report in the present issue. It is decided, in the first place, that the will in question, as was held by our Court of Queen's Bench, must be construed in accordance with the law of this Province, the will having been executed here by a person domiciled in the Province, and relating to an estate situated within the Province. This preliminary question being settled, the Court found that it was also rightly decided, where power was given to divide by will among the testator's children, that the division among four, to the total exclusion of the fifth child, was a valid exercise of the power. At the time the will was made, such a disposition would not have been valid under English law. But the English law, as has been observed, was held not to apply; and even in England the law has since been changed by Act of Parliament, and is now the same as our own upon this point.

A little more than a year ago, Chief Justice Coleridge, in passing sentence in the Yates case (7 Leg. News, 137), made some rather severe remarks upon society journalism. It may be suspected that there is a spice of malignity in the perseverance with which journals of the class censured have since pursued his lordship. First, in connection with his daughter's engagement and the libel suits growing out of it, the Chief Justice was not spared. And more recently, on the occasion of his marriage (Aug. 13) to Miss Lawford, it has been rumored that the ceremony was only forced by a threat of an action for breach of promise, a cruel and malicious report to which the friends of the lady have hastened to give an emphatic contradiction.

The venerable anecdote of the testator who wished his worst enemy no more cruel fate

than to find favour with his widow, has become a reality in a case now before the courts. An eccentric French physician of St. Maude had lived for years the life of a hermit. At his death the heirs-at-law put in an appearance expecting to inherit, but were confronted by the following will:—"January 8, 1882. This is my will and testament. At the present moment I consider myself bodily healthy, but cannot swear that I am so in mind. Such ridiculous presumption I bequeath to others. My fortune amounts to 70,000 francs. How many hypocritical tears might I have purchased for such a sum! I intended at first to devote these 70,000 francs to a beneficent object; but I asked myself, what would be the use of this? The only benefactors of mankind are war and cholera. Besides this, I am under great obligations to my dear wife, Célestine Mélanie, of whose whereabouts I have not the slightest idea. She once did me a great kindness. She left me one beautiful morning and I have never heard of her since then. With the most heartfelt thankfulness I appoint her my heir-at-law, but subject to the following condition—that she marry again immediately, so that at least there may be *one* man who will deeply deplore my death!" The heirs at law dispute the will on the ground that the testator was of unsound mind.

The English Criminal Law Amendment Act, 1885, section 4, provides that the personation of a husband shall amount to rape. Mr. Justice Stephen and Mr. Bishop have been of opinion that the act in question was not rape. The later decisions were opposed to this view. See *Reg. v. Dee*, p. 29 of this volume.

The latest number of the official statistical reports on the city of Paris states that during the month of January the number of divorces pronounced by the Maires of the city was 20; in February the number rose to 47, and in March to 167. In all these cases except three there had been a previous judicial separation *a mensa et thoro*. In 157 cases the wife was the petitioner; in 74 it was the husband. As to position, in 105 cases the parties were manufacturers or engaged in trade; 20 were officials; 36 belonged to a liberal profession; 32 were working people; the rest are undescribed.