

## The Legal News.

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In the case of *Stevens & Fisk* the Supreme Court of Canada stood four for reversing, and one for confirming. Chief Justice Ritchie and Justices Fournier, Henry and Gwynne constituted the majority. The dissentient opinion was by Mr. Justice Strong. Mr. Justice Taschereau did not sit. We print a report, with the text of the opinions of Justices Henry and Gwynne in the present issue.

A remarkable phase of modern litigation in England is the number of cases in which the suitor appears in person. For example, in the Queen's Bench list of trials for Hilary sittings no less than forty cases are marked as conducted in person on one side or the other—in twenty-two the plaintiff appears, and in eighteen the defendant. There are other cases, also, in which a solicitor is engaged, but the client takes the place of counsel at the trial. This would appear to indicate either that the fees of counsel are so high that suitors cannot pay them, or that the knowledge of law which Blackstone said every gentleman should possess is becoming a more common accomplishment at the present day. Thus far in Montreal we can count on the fingers of one hand the cases personally conducted in which the party appearing was not himself a member of the profession.

The *London Law Journal* referring to the manner of judges towards the bar, says the judge's duty is towards the party, "and in the interests of justice he should ensure that the party whose advocate, from whatever cause, requires encouragement in his task should receive that encouragement. The experience of the Courts is, on the contrary, that too frequently arguments are tolerated in the mouths of leading counsel which a junior would never be allowed to advance for a moment. The practice of Sir George Jessel in this respect was to some extent due to an intellectual contempt for his successors in

high place at the bar, and he perhaps erred in being too severe towards leading counsel unfamiliar to him. His successor on the bench fully understands the duty of encouraging young counsel, and this is the practice of all generous and right-minded judges." It is to be regretted that some judges after being a long time on the bench, occasionally appear to forget that they and the advocates pleading before them are members of the same profession, exercising different functions. A senior, if guilty of discourtesy to a junior at the bar, would be set down at once as a gross offender against decorum; still less excusable is it for a judge to be unnecessarily severe to a young advocate, because the parties are not fairly matched, and the offence cannot easily be punished as it deserves to be. It must be acknowledged, however, that a large majority of our judges are models of forbearance and courtesy, even under circumstances of provocation which sometimes might be held to excuse a momentary forgetfulness of what is due to the pleader's office.

Lord Bacon, if not himself in all respects a model judge, seems to have had a remarkably clear idea of what a model judge should be. "Patience and gravity of hearing," he says, "is an essential part of justice, and an overspeaking judge is no well-tuned cymbal. It is no grace to a judge first to find that which he might have heard in due time from the bar; or to show quickness of conceit in cutting off evidence or counsel too short, or to prevent information by questions, though pertinent. The parts of a judge in hearing are four: to direct the evidence; to moderate length, repetition or impertinency of speech; to recapitulate, select, and collate the material points of that which hath been said; and to give the rule or sentence. Whatsoever is above these is too much, and proceedeth either of glory and willingness to speak, or of impatience to hear, or of shortness of memory, or of want of a staid and equal attention. It is a strange thing to see that the boldness of advocates should prevail with judges; whereas they should imitate God, in whose seat they sit, who represseth the presumptuous, and giveth grace to the modest; but it is more strange that judges