

## GENERAL CORRESPONDENCE.

TO THE EDITORS OF THE UPPER CANADA LAW JOURNAL.

TORONTO, July 25, 1864.

GENTLEMEN,—There is an impression abroad that lawyers are in the enjoyment of a holiday or holidays of considerable length during part of the summer months. I presume this impression has arisen from some undefined notion of what is known to the profession as the "long vacation." That such a thing as the "long vacation" is mentioned in certain statutes and rules of Court cannot be denied, but that any vacation of any length practically exists as far as the mass of the profession is concerned, is a hollow mockery.

It is, I believe, admitted by those who have studied the subject, that head-work and confinement to an office is more trying to the constitution than manual labour, nor is there any doubt but that the life of a painstaking lawyer is a life of toil, much more so than is generally supposed. It follows therefore, that those who lead such a life should have the relaxation that is necessary to sustain them. Many of the fraternity can manage to get away from town, or at all events from their offices, for a short time, but there is always something to be done, and somebody must be ready to do it. But it seems to me that this *something* should be made as little as possible consistent with the necessities of the public. Perhaps a little ventilation of the subject might lead to an improvement in the premises, if I am right in imagining that an improvement can be made.

Yours truly,

A JUNIOR PARTNER.

[The business of the country must be done, whether some few suffer for it or no; but at the same time we think that there is some truth in what our valued correspondent urges. Chancery practitioners have less to complain of in this respect than their brethren of the Common Law. A Judge sits in Common Law Chambers throughout vacation, but such a thing is unheard of in Chancery, though applications may be made in matters of injunctions. The business that is done in the offices of the Registrar and Master in Chancery during vacation amounts to nothing; but, on the other hand, the offices of the Deputy Registrars in County Towns are open, appointments given, and business done then, as at other times. It may reasonably be asked why, if business can be postponed in one case, it cannot in the other. The subject is worth discussion, but we are not at present prepared to express any opinion as to the best mode of obtaining for the profession at large what the long vacation was undoubtedly designed for and is still supposed to accomplish as well for the benefit of lawyers and officers as for the judges of the Courts.—Eds. L. J.]

## MONTHLY REPERTORY.

## CHANCERY.

V.C.W. LONDON AND SOUTH WESTERN RAILWAY COMPANY v. BRIDGER

*Specific performance—Contract—Costs—Will—Construction—Legal Estate—Power of Sale.*

A. who was under obligation to convey land to a railway company, died, having devised his property to his children (of whom some were infants) equally, without giving any sufficient power of sale to trustees. The company having filed a bill for specific performance, *held*, that the suit was necessary, and that each party must bear his own costs.

A will contained the following words, viz.—"As it may probably happen that the arrangements made by this will cannot be carried into effect, without a sale of the whole or at least a great portion

of my said real and personal estates, I recommend great caution in the sale thereof, for I believe that my landed property is daily increasing in value"—followed by a nomination of executors and trustees, "for duly carrying the disposition of all the property, there-by given or alluded to, into effect.

*Held*, that this was not sufficient, to divest a legal estate previously devised to children and to vest it in the trustees, although, *Seemle*, the words might give a simple power to sell in an event which might possibly, though not certainly, happen.

L.J.

THE SOLICITORS AND GENERAL LIFE ASSURANCE SOCIETY v. LAMB.

*Policy—Condition—Assignment—Suicide.*

A. effected upon his own life a policy of insurance, which contained a provision that if the insured should die by his own act, the policy should be void, except to the extent of any interest acquired thereon by assignment, for valuable consideration.

A mortgaged the policy, together with other property, to B. as a security for an advance exceeding the amount of the policy, and amply secured by the other property exclusive of the policy.

A. afterwards died by his own act.

*Held*, that the policy was valid to the extent of the interest of the assignee, and that the insurers having paid the amount to the assignees, had no equity to obtain repayment from the estate of A.

V. C. K.

LEE v. HAMMERTON.

*Demurrer to evidence—Report by medical officer to an insurance company—Privilege—Production of a confidential communication.*

In a foreclosure suit, the defence of insanity being set up, production of the report of the medical officer of an insurance company as to the state of health of the party, was demurred to as privileged, because confidential.

*Held*, that it must be produced, and demurrer overruled with costs.

M. R.

Nelson v. CLAMP.

*Practice—Cross-examination in court—Absence of a witness.*

Where a witness who has made an affidavit for the plaintiff, and whom the defendant desires to cross-examine, is unable through illness to be present at the day fixed for the hearing of the case, the defendant may insist upon the affidavit being withdrawn, or the cause standing over. All the witness can appear: and the court will not proceed with the examination of the other witnesses.

## APPOINTMENTS TO OFFICE, &amp; C.

## NOTARIES PUBLIC.

CHARLES WILLIAM PATTERSON, of Toronto, Esq., Attorney-at-law, to be a Notary Public in Upper Canada.

JOSIAH MARSHALL BABINGTON, of Dundas, Esq., to be a Notary Public in Upper Canada.

GEORGE MACLEOD MUNRO, of Hanover, Esq., to be a Notary Public in Upper Canada. (Gazetted, July 2, 1864.)

HON. JOHN A. MACDONALD, Queen's Counsel, to be a Notary Public in Upper Canada. (Gazetted, July 16, 1864.)

A. S. STOCKWELL, of Leamington, Esq., to be a Notary Public in Upper Canada—(Gazetted, July 30, 1864.)

## REGISTRAR OF SURROGATE COURT.

The HON. WILLIAM CAYLEY, to be Registrar of the Surrogate Court of the United Counties of York and Peel.—(Gazetted, July 2, 1864.)

## CORONERS.

JAMES DOUGLAS, Esq., M.D., GEORGE RUTHVEN, Esq., M.D., and SAMUEL EDWARD McCLULLY, Esq., M.D., Associate Coroners, County of Kent.—(Gazetted, July 30, 1864.)

## TO CORRESPONDENTS.

"A JUNIOR PARTNER," under General Correspondence, p. 224.