

The Legal News.

Vol. IV. MARCH 26, 1881. No. 13.

OUR SUPREME COURT.

Since we wrote on the Supreme Court, on the 5th of March, there has been a debate on Mr. Girouard's bill, and Parliament has adjourned without the measure having obtained the honours of a second reading. What might have been the result of the debate had it not been adjourned, it is impossible to say; but one can hardly imagine that the arguments used on either side could have materially affected the vote. The speakers had evidently, and very properly, determined to avoid the question which was uppermost in every one's mind—the personal composition of the Court. Mr. Brooks alone ventured on the question, but then it was by way of quotation. He read a letter from Mr. Kerr, in which that gentleman frankly expresses the opinion that the Courts in the Province of Quebec "have not the public confidence;" that the Court of Queen's Bench "is not what might be called a strong court;" and that the Supreme Court "is not as strong as it should be." If Mr. Brooks, in the borrowed language of Mr. Kerr, made vocal the opinion of any large portion of the members of the House of Commons, then the Minister of Justice will have his hands pretty full. It may, however, be taken for granted that Mr. Brooks hardly saw the point, or rather want of point, of his quotation. He answers Mr. Girouard in effect: "true, the Supreme Court is a weak and unsatisfactory Court to decide as to the civil law of Lower Canada; but the appeal is from a weak Court." At best this is only the gambler's argument—one throw more of the dice. But if what Mr. Brooks says be true, it is some argument for Mr. Girouard's bill. One weak Court of Appeal is surely more than enough. It is somewhat strange that the speaker put forward to answer Mr. Girouard should have fallen so helplessly into a support of the measure he was ostensibly attempting to demolish. The real word of wisdom of the debate comes to us from Mr. Cameron (Victoria). He thus terminates a temperate speech: "There are interests of a

"far more extensive nature at stake than those
"limited ones to which my hon. friend has
"given expression on the present occasion. If
"the Court is not efficient it ought to be made
"so, but we ought not to adopt a revolutionary
"measure of this nature, which, to my mind, is
"tantamount to the total abolition of this
"Court."

In order to decide as to the mental calibre of a Court there is but one way, and that is to submit its decisions to the criticism of the technically educated. Popular or general views on such points are almost always erroneous. The one thing necessary to subject the decisions of Courts to complete scientific control is faithful reporting. On the heels of the reporter will follow surely the critic, writer or pleader, and the true doctrine will soon prevail over the false. Unfortunately the importance of reporting has not yet impressed sufficiently the minds either of the Bench or Bar. They do not seem to be fully alive to its vast importance, as a protection against misrepresentation, as a recompense for honest labour, as a guide to the prudent practitioner.

It is beyond the scope of this journal to enter into the merits of the judgments of the Supreme Court. With the L. C. Jurist we have endeavored to give, as completely as possible, the full jurisprudence of the Court of Queen's Bench here. When as much is done at Quebec, and when the official reports of the Supreme Court are kept up to date, then, and not till then, there will be a full record on which to build an enlightened judgment as to whether a Court is weak or strong.

R.

JUDICIAL SALARIES.

The article printed on page 33 of this volume directed attention to the arrangement by which the salaries of the Superior Court judges in Ontario are supplemented from provincial funds. Nothing could show more forcibly the impropriety of this system than the answer which Mr. Mowat made in the Legislative Assembly, when a question was put to him on the subject. It was, in effect, that it is cheaper for the Province of Ontario to supplement the Dominion allowance in this way, than to bear its share of the burden which would be imposed on the country, if the judicial salaries generally were placed on a proper basis, and