

## The Legal News.

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### THE JUDICIARY OF CANADA.

It is but a few weeks since we remarked upon the inadequacy of the salaries paid to our judges, and the unreasonableness of expecting first-class work from men who are accorded only the remuneration paid elsewhere for mere clerical labor. We are glad to find Lord Dufferin, our eloquent Governor-General, in the magnificent address which he delivered on the 24th ultimo, at the opening of the Toronto Exhibition, lending the influence of his great name, ripe statesmanship and sound judgment in the same direction. This is the wise advice which His Excellency, in what he solemnly terms his "parting counsels", tenders to the people of the Dominion:

"With regard to the independence of the judges I will say nothing; notwithstanding what has been done elsewhere, I do not think that the Canadian people will ever be tempted to allow the judges of the land to be constituted by popular election. Still, on this continent there will always be present in the air, as it were, a certain tendency in that direction, and it is against this I would warn you. And now that I am on this topic, there is one further observation I am tempted to make in regard to the position of the judges. I should hope that as time goes on, as the importance and extent of their work increases, and as the wealth of the country expands, it may be found expedient to attach somewhat higher salaries to those who administer the laws. Pure and righteous justice is the very foundation of human happiness, but remember it is as true of justice as of anything else—YOU CANNOT HAVE A FIRST-RATE ARTICLE WITHOUT PAYING FOR IT. In order to secure an able bar, you must provide adequate prizes for those who are called to it. If this is done, the intellectual energy of the country will be attracted to the legal profession, and you will have what is the greatest ornament any country can possess—an efficient and learned judiciary."

Canada is under a great debt to her departing Governor, and we feel sure that no acknowledg-

ment will be more acceptable to him than a timely attention to his farewell words.

### THE RAILWAY INJUNCTION CASE.

The report of proceedings in our last issue in the *cause célèbre* of *Macdonald v. Joly et al.*, read almost like a page from the notorious Erie Railway battle of a dozen years ago. Happily this strife is likely to end soon, if, indeed, the end has not already been reached. A compromise, it is stated, has been assented to, and the war of injunctions will cease.\* It seems a proper time, therefore, without expressing any opinion on questions which may still come before the Courts, to review briefly the proceedings which have taken place.

Mr. Macdonald, the party applying for the injunction, had entered into a contract with the Quebec Government for building the M. O. & O. Railway. The time fixed for the completion of the road was the 1st October, 1877. The line was not completed at this date, and Mr. Macdonald continued to hold possession, and for several months back has been running trains from Montreal to Hull, and carrying passengers and baggage over the road. He also claimed that a large sum was due to him under the contract.

Under these circumstances, the Government of Quebec determined to take possession of the railway. The authority under which they acted is the Public Works Act of 1869, 32 Vict., cap. 15. Sections 179, 180 and 181 of this Act are as follows:—

"179. The Lieutenant-Governor may at any time order the Commissioner to re-enter into possession of any public work or building, in consequence of the termination of any lease, charter or agreement whatever, of the taking effect of a resolutive condition, as well as for non-fulfilment of any contract or for any other cause of rescission, or for public purposes.

"180. Such Order in Council must be served on the holder of such public work or building, or on his representatives on the spot, and immediately after such service the Commissioner, or any person authorized by him for such purpose, may, without any other formality, take possession of the public work or building specified in the Order in Council; without prejudice to any recourse for indemnity by the party dispossessed if he deems himself aggrieved thereby.

"181. Should the holder or his representatives refuse or neglect to deliver up such public work or building to the Commissioner of Public Works, or to

\*Since the above was in type, the reported compromise has been contradicted.