

BENCH AND BAR AT THE ANTIPODES.

history of wills, their form and essentials, testamentary capacity, legacies, limits of disposition, revocation, the law of domicile and rules of construction.

(To be continued.)

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A copy of the *New Zealand Jurist* for February, 1877, is before us. In addition to usual editorial and selected matter it appears to be the recognised medium for reporting. This number seems devoted, rather than otherwise, to a general castigation of the Bench, with especial reference apparently to the Court of Appeal. We can hardly suppose that a barrister of the Middle Temple, the editor of a recognised organ of the profession, would write in the strain he does without some good reason. We are not sure that a freer criticism upon judicial utterances in this country might not occasionally have a good effect. In England it is the rule rather than the exception. The difficulty with us lies in the danger of lowering the office in the eyes of the public, especially in a country which lies so near a people whose levelling tendencies are so notorious. We need say nothing of the almost impossibility in a small community of securing the impersonality of the press, and consequent unpleasantness, where the writer must of necessity, in a country like this, constantly appear, professionally, before the judge whom he has been criticising.

Our friend from the antipodes thus discourses of the Chief Justice of New Zealand :

"A Chief Justice is usually supposed to be the master mind of the Court in which he presides ; and, as a matter of fact, he usually is. It is also usually considered that he is entitled to take precedence of his brethren in all matters coming before the Court ; and, as a matter of fact, he usually does. The Chief Justice of New Zealand forms a singular exception to the rule.

Evidently moved by excessive modesty, he takes pleasure in yielding precedence to his brethren, making no pretension to sway the legal realm of which he is the titular monarch."

The Court catches it in the following, and apparently not without reason :

"The judgment of the Court of Appeal in *Webb v. The National Bank* has occasioned a good deal of surprise. In the first place, the Court arrests the judgment without costs, but no reference is made by their Honours to Rule 363, which contains an express provision as to costs in these cases. The result is that the plaintiff gets the costs of the trial, and the defendants—the successful party—have to pay their own costs throughout. If this Rule did not escape their Honours' attention, on what grounds did they ignore it ?"

"It is just as well that the litigant public know nothing of the manner in which their business is blundered in the Courts. Two remarkable instances present themselves in the present number of the *Jurist*. In *Bird v. The National Bank*, the defendants omit to plead privileged communication ; and when they apply for leave to amend at the trial, the learned Judge refuses the application, for reasons which seem a good deal worse than the ruling. Which are we to admire most—the pleader or the Judge ? In *Webb v. The National Bank*, the spectacle is still more ludicrous. After a lengthy trial, and two elaborate arguments of the inevitable *rule nisi*, it is discovered by their Honours in the Court of Appeal that the plaintiff has no status entitling him to sue, by reason of a technical error in the vesting order obtained under the Trustee Act, for the purpose of enabling him to sue. This discovery has probably cost the parties not less than £1,000."

From which last remark we assume that the judges there are more liberal than they are here in the way of costs.

The leading article discusses what is called "another loose proceeding" on the part of the Court in a case of infanticide, where the question of the *corpus delicti*, &c., came up. We should imagine, either that this plucky Editor has very little business, and does not want any more, or that the Judges of the Court are blessed with sweeter tempers than fall to the lot of most of the Judges that we know of.