

The Legal News.

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The knotty cabman's case (8 L. N. pp. 105, 122, 177)—*Regina v. Macdonald*—was re-heard before thirteen judges on Saturday, the 20th June, and the majority were of opinion that the conviction was right. The *Law Journal*, of London, inclines to the opinion of the dissentient judges, which certainly seems to be technically the more correct. Our contemporary observes:—"At common law there could be no larceny without trespass. A statute says that a bailee who fraudulently converts to his own use goods bailed to him may be convicted of larceny. An infant fraudulently converts to his own use goods of which, if he had not been an infant, he would be bailee. Is he guilty of larceny? The answer seems to be in the negative. There is no dilemma. He is not guilty at common law, because he has committed no trespass, and he is not guilty by statute, because he is not a bailee. His proper legal description is that of licensee, and if it had been decided that a licensee who does something inconsistent with the license becomes a trespasser and, if a fraudulent intent be added, a thief, the decision would have been intelligible. But the various *reductiones ad absurdum* put several times by the judges do not help to a conclusion. They would help if the law of larceny were based on reason, but it is not. It had its origin in days when most crimes were crimes of violence, and it has been toned down by the judges in days when it was a hanging matter. The suggestions made by the learned judges in the course of the argument were valuable to the Legislature, but did not elucidate the question in hand. Some positions of law, however, seem to have been assumed without warrant. It appears to have been supposed that if a chattel is lent to an ant, and he sells it, there would be no remedy unless he was guilty of larceny. He would, however, be guilty of a conversion, upon which he could be sued. The assemblage of a dozen judges

to decide a point of criminal law greatly imperils its proper decision. They are apt to treat the matter from the point of view of common sense and convenience rather than law, and support one another in so doing. They become less a forum than an assembly of gentlemen settling among themselves what is right and wrong."

The American Bar Association at the approaching meeting, which takes place at Saratoga on the 18th of August, propose to take up rather a formidable subject—the delays in the administration of justice. David Dudley Field, the chairman, has issued the following series of questions to be answered by members of the Association in the several States:—

- I. How many judges of courts of record are there in your State?
- II. How many lawyers are there?
- III. What is the average length of a defended lawsuit from its beginning in the court of first instance to its end in the court of last resort?
- IV. What is the average expense in costs and counsel fees of such a law-suit, to each party?
- V. How many appeals are allowed in the same suit?
- VI. How many volumes of reported cases are annually published, and how many decisions are reported in the last volume of each court?
- VII. What is the number of affirmances and reversals reported in this last volume?
- VIII. Is there delay or uncertainty in the judicial administration of your State, and if so, what in your opinion is the cause and what is the remedy?

THE WORD "UNMARRIED."

A decision of some little practical importance to maids, wives and widows, and of considerable interest to draftsmen and others who may wish to write good and clear English, is to be found in the case of *In re Sergeant, Mertens v. Walley*, 54 Law J. Rep. Chanc. 159, reported in the February number of the *Law Journal Reports*. It involved the meaning of the word "unmarried," used in a bequest made to certain ladies, and coming into operation after the death of a tenant-for-life. Two questions were raised—first, whether the condition referred to was the condition held at the time of the death of the testator or at the death of the tenant-for life? and second, and more important, whether "unmarried" meant never having been married, or not being married? Upon