learning and untiring industry, has done much to ensure for the Bench of Upper Canada the great respect which it now commands. His very presence commanded respect, while his good nature and evenness of temper won the hearts of all those whose good fortune it was to practise before him. He is respected by all, admired by all, and beloved by all. All hope that he may yet be spared many years to his family, to his profession, and to his country.

Through life he was most abstemious. His regular habits of life have done much to prolong his days. Though now more than seventy years old his bodily activity is great and his mental activity equally so. His powers of intellect are still unimpaired; his habits of industry are unabated; his love of work is as strong now as in the vigor of his youth. He abhors idleness. The position which he still occupies as that of the Chief Judge of the Chief Court in Upper Canada will supply abundant material for his habits of industry. We hope that a kind Providence will yet spare him many years to grace the position which he so worthily occupies—the bench which he so truly adorns.

ON WHICH SIDE LIES THE TRUTH?

On the 15th January, 1861, the Judges of the English Court of Queen's Bench, according to the contemporaneous reports of that time, on an *ex parte* application, ordered a writ of *habeas corpus* to issue to Canada for the removal of Anderson, the fugitive slave. (*Ex parte* Anderson, 3 L. T. N. S. 622.; 30 L. J. Q. B. 129; 7 Jur. N. S. 122; 8 W. R. 255.)

In March, 1861, we took strong ground against the legality of such a proceeding; and our remarks were copied with approval in some of the London legal periodicals.

On the 11th June, 1861, the Judges of the same Court, according to the report of the *Jurist*, having apparently acted so inconsiderately in *ex parte Anderson*, as to have forgotten what they really did in that case, announced that no writ was ordered, but only that a rule *nisi* for a writ was granted (*Ex parte* Mansergh, 7 Jur. N. S. 826).

In October last, we took the Judges of the English Court to task for this extraordinary announcement—one which, according to the testimony of all the reporters of the time, was utterly at variance with the truth.

In June, 1862, we have before us Part III. of Vol. I. *Best & Smith's Queen's Bench Reports* (in continuance of *Ellis & Blackburn; Ellis, Blackburn & Ellis*, and *Ellis & Ellis*,) containing a report of *ex parte Mansergh*, which, if correct, proves the *Jurist* report, taken on the spot, and published without delay, to be the reverse of the truth.

We append extracts from the *Jurist* and *Best & Smith:*

CROMPTON, J.—1 *Best & Smith*, 409.

"*In re Anderson*, which has been referred, application was made for a *habeas corpus* to Canada; and precedents were adduced so expressly in point that, according to the great principle regulating these prerogative writs, the party had a *prima facie* right to have the writ issued. Besides, if a *habeas corpus* is improperly issued, it may be questioned on the return to the writ. We did *not* grant a rule to show cause in that case, because there was immediate danger to the party."

CROMPTON, J.—7 *Jur. N. S.*, 826.

"It is said that the application is analogous to that in Anderson's case; but it appears to me to bear no analogy to it. Nothing whatever was decided in that case. It was only a *rule to shew cause* that was granted; and it was in no way decided that the writ of *habeas corpus* ought to issue."

BLACKBURN, J.—1 *Best & Smith*, *p.* 411.

"I have said there is no authority for such a proceeding, The nearest is *In re Anderson*, where a *habeas corpus was* sent to Canada; but in that case the writ was granted, because it was necessary to act immediately; and it could afterwards be quashed if erroneous; added to which there were some very strong precedents in favor of granting it."

BLACKBURN, J.—7 *Jur. N. S.* 826.

"The case which approaches nearest to this, is the one alluded to, in which we granted a *rule nisi* to bring up the body of a prisoner in Canada. But that is no authority for granting this application. That was a case of urgency, and the *rule* was granted in order to initiate the proceedings, and, if necessary, to have the matter discussed."

It is not for us to reconcile these reports. It is impossible to do so. One thing is certain, one or the other is grossly wrong. We should like to know what our valued cotemporary of the *Jurist* has to say on the subject. We cannot think the *Jurist* is at fault.

Contradictions of this kind are not calculated to increase the confidence which the profession and the public are wont to impose in Judges, and the reports of their decisions. An explanation is due; and we hope that explanation will be forthcoming, now that attention is once more directed to the subject.

JUDGMENTS.

QUEEN'S BENCH.

Present: MCLEAN, C. J.; BURNS, J.; HAGARTY, J.

June 16, 1862.

Filleter v. *Moodie.*—Plea—Judgment for plaintiff on demurrer, with leave to amend on payment of 5s.

Coulson v. *Gzowski.*—Rule absolute to enter verdict for plaintiff for amount agreed upon.

Ryerse v. *Lyons.*—Judgment for plaintiff on demurrers to all pleas.

Bank U. C. v. *Ruttan.*—Interrogatories cannot, under Consol. Stat. U. C., cap. 22, any more than under C. L. P. Act, 1856, without leave of the Court or a Judge, be delivered either with declaration or plea. Rule discharged with costs.

Irwin v. *Sager.*—Rule absolute for new trial without costs.

Reid v. *Russell.*—Rule absolute for new trial on payment of costs.