

OUR ENGLISH LETTER—SUBSTITUTION OF MORTGAGES.

to be hoped that, after this great example, steps may be taken to check that license in cross-examination of which Lord Coleridge said the other day that it caused people to loathe and detest not only the courts, but also the law.

Our other sensational case is the Colin Campbell divorce case, which is full of the most painful and disgusting details. At the present moment it has been progressing for rather more than a week. It promises to last, according to one of the counsel engaged, at least a fortnight more. From a legal point of view, it has no features of interest; but the columns of every paper are full of indications of the fact that the popular appetite for filth is ravenous. If any further proof is desired upon this point by any one in England, he has only to walk past the Courts of Justice, in front of which there assembles daily an enormous crowd.

The most important judicial change has been the retirement of Vice-Chancellor Bacon, the last of his order, full of years and honour. Of all the judges Sir James Bacon was far the most plentifully provided with shrewd and caustic humour, and it would be difficult to conceive a man more unlike him than his successor. Mr. Kekewich, Q.C., at the bar was about as dry a man as could be heard. Without attaining anything like eminence, he had an eminently lucrative practice, although rumour says that his practice would have been a greater indication of ability if the number of his clients had been a little larger. *Mais que voulez vous?* Rumour will always have something to say against a new appointment. We are promised a new batch of judges to fill vacancies to be caused by the resignations of Justices Grove, Field and Denman. I know of no ground for the rumour, and believe it to be an idle fancy. It is not, however, without plausible grounds, for Mr. Justice Field is very deaf; and Mr. Justice Grove

is rich and is said to dislike law and like chemistry. The case of Mr. Justice Denman is different, for he is at least as good a judge as ever he was.

In conclusion, although late in time, a word must be said upon the appointment of Mr. Henry Matthews, Q.C.,—now Sir Henry—as Home Secretary. Unquestionably it is the most popular appointment that has been made since Mr. Gladstone promoted Sir John Holker, and if the Government had wished to propitiate the bar by a well-chosen appointment, no better course could have been taken than by the selection of Mr. Henry Matthews.

Temple, Dec. 6.

SELECTIONS.

SUBSTITUTION OF MORTGAGES.

This question, along with the rights of intervening lien holders, is one that is scarcely mentioned by text-writers, though one that may be at times of vast importance. It would appear upon a casual observation that the establishment of liens should run from record date of instrument in force; but upon a careful consideration it will be seen that an equitable rule enters into the merits of this subject, and that the conclusion should be different from the one above suggested.

It may be stated, as a generally well-established rule of law, that the taking of a new note and mortgage, to secure an indebtedness already existing by note and secured by mortgage, will not discharge the lien of the first mortgage. In *Packard v. Kingman*, Smith and Kingman executed a mortgage on personal property to one Horner. On December 22, 1858, Smith and Kingman moved into a hotel property, and by statute a landlord's lien attached upon the effects of Smith and Kingman. On December 24, the plaintiff took a new note and mortgage for the balance unpaid of the debt, and at the same time released