was to prevail when a vessel started from a port in one country and its destination was in another, or where the adventure came to an end in some intermediate port. And it has now been the adopted and settled law of this country, and I believe most other countries, that the adjustment must take place according to the law of the place where the adjustment is to be settled."

In 2 Parsons on Insurance 360, 370, all the cases, except the last, are reviewed, and many subtleties are suggested, which will doubtless be resolved as new cases arise. He assigns the principal reasons why a foreign adjustment should bind owners and shippers, and concludes that the rule, like some others of the law merchant, is founded on the average of all the cases, and, on the whole, does justice. If this be allowed, it is as much, perhaps, as can be attained. Average justice is a significant expression which I do not remember to have found in any of the cases. It is here in a text book of authority, and I met with it recently in a production of another stamp, from which it may not be amiss to extract one or two paragraphs. I refer to a thoughtful and brilliant lecture delivered on the 1st of November last, by the Lord Justice Clerk of Scotland to the Edinburgh Juridical Society, where he vindicates the law and its professors from the reproaches often ignorantly cast at them, and justly observes that in the systems of science there is quite as much uncertainty as in the system of law—indeed, a great deal more. Lawyers, he says, are not only much more harmonious among themselves than some other professions, but the system and science of law is more consonant with itself and there are fewer real disputes upon fundamental matters than in almost any other branch of human knowledge. It is only this, that the differences of opinion between lawyers, that is, between courts administering the law, come so close home to all our social relations, and tell so greatly upon domestic comfort and personal rights (as, for instance, in the varying law upon the question of marriage) that such differences of opinion assume much larger proportions in consequence of their practical application, than if they were occuring in a more scientific and theoretical dispute. But then we are met on the threshold with the old and vulgar notion—that the part of a lawyer is, after all, an unworthy one, and that truth and falsehood find no place in his vocabulary and in his science. In one sense that is perfectly true, because law is not conversant with truth or falsehood, in that sense. Law aims at nothing more and can attain nothing more than average justice. It is the general rule made before hand to embrace a given category of circumstances, and in its application, individual wrong is often unavoidable. The facts being accurately ascertained, the general principle is then to be applied. The worse cannot appear the better reason, because that must be taken to be the better reason which the Court, after argument approves, and that is the worst reason which it disapproves, and that is the end of it.

Apply this philosophical principle to the case in hand, and looking to the average justice which the cases recognize, we are of opinion, in answer to the third question submitted to us, that the insurers are bound to pay the general average on an adjustment to be made at New York in conformity with the laws and usages of the United States.

GENERAL CORRESPONDENCE.

To the Editors of the Law Journal.

Gentlemen,—I wish to draw your attention to the 60th section of the Dominion Statute, 32, 33 Vic. cap. 22 (1869), whereby, without declaring such offences as are therein provided against, to be crimes or misdemeanors, it is declared, that "whosoever *unlawfully or* maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either of a public or private nature for which no punishment is hereinbefore provided, shall, on conviction thereof before a justice of the peace, forfeit and pay such sum of money, not exceeding $20, as to the justice seems meet, and also such further sum of money as appears to the justice to be a reasonable compensation," &c.; "which last mentioned sum, &c., shall be paid to the party aggrieved," &c., and if the moneys are not paid with costs, "the justice may commit the offender to the common gaol, &c., not exceeding two months, &c., and kept at hard labor, &c.; Provided that nothing therein contained is to extend to cases where the party acts under a fair and reasonable supposition that he has a right to do the act complained of, nor to any trespass, not being wilful and malicious; committed in hunting, fishing, or in the pursuit of game," &c.

Now it occurs to me to enquire of you, that as the words "unlawfully or maliciously" are disjunctive, whether or not any complaint for a trespass where the damage is within the prescribed amount, and there can be no pretence for the party acting under a supposition of right, may be tried summarily by a justice of the peace under this statute? because every trespass is "unlawful" whether it be "malicious" or not.

Most of the preceding sections constitute particular acts "unlawfully and maliciously" committed, misdemeanors or felonies, and certain other acts of a more grievous nature are constituted felonies; or the words "unlawfully" and "maliciously" are coupled by the conjunction "and." So that if there exists no doubt (which I do not admit) as to the power of the Dominion Legislature over that