

The Legal News.

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The decision of the Court of Review, on Wednesday, in the case of *Elliot v. Lord*, is of considerable importance to the profession, as it shows the extent of the plaintiff's privilege for costs of suit under Article 606 of the Code of Procedure, as amended by 33 Vict., c. 17, s. 2. The plaintiff in this case had been obliged to go to the Privy Council to obtain his judgment, the decision of the Superior Court in his favor having been reversed by the Queen's Bench. The costs are of course very considerable, and the effect is that in executing the judgment the attorneys for the plaintiff rank by privilege for the costs in three courts, and sweep away the landlord's *gage*. This is a case as hard as that supposed by Chief Justice Meredith in *Bruneau v. Gagnon*, 4 Q.L.R. 319. The learned Chief Justice in that case remarked: "If the owner of real estate worth £100, and mortgaged for that sum, were sued in an action of damages, in which the plaintiff's costs amounted even to \$200, and the defendant's property were sold to pay those costs, the hypothecary creditor could hardly hope to receive anything; and thus the debtor, who had no interest in the property, after he had hypothecated it to its full value, would have disposed of it to the prejudice, and without the consent of the person really interested in it, namely the mortgage creditor." But the decision in *Elliot v. Lord* makes it possible for a claim of perhaps \$2,000 instead of \$200 to come in before the hypothecary creditor. The security afforded to mortgagees by the Registration law is so seriously disturbed by the amended article of the Code that the Legislature will probably require to consider whether some restriction should not be put upon the privilege.

Dr. Savage, Superintendent of the Bethlehem Hospital, London, in an article in the *Medico-Legal Journal*, defends the position, that unless insanity existed at the time of a marriage, it ought not to be allowed as a

ground for divorce. He says: "I pity the unfortunate man or woman who is tied for life to an insane partner, yet the good of the whole body politic has to be weighed against individual suffering. As to this point, I must say that I see no chance of freeing, with safety to society, the partner with an insane companion from his contract. For, in the first place, this could not be done unless the patient were adjudged incurable. And few men of experience would dare to give an opinion of absolute incurability, except in cases in which death would soon give the divorce. The older I grow, and the more cases I see, the less dogmatic do I become in giving absolute opinions of incurability of insanity, as seen coming on in young or middle life. I have seen cases discharged recovered and remain well, after being insane and in asylums for over twenty years. I have seen an intellectual second summer arise when perpetual winter was certainly to have been expected. With such experience, I should myself—if called to give an opinion as to the absolute incurability of a case—only feel justified in giving it when general paralysis, senile dementia, and idiocy were present, for even epilepsy may pass off in time."

Ex-Judge Thompson, the new Minister of Justice of Canada, was first returned to the local legislature of Nova Scotia for Antigonish in 1877, and in 1878 entered the Cabinet, of which Hon. Mr. Holmes was Premier, as Attorney-General. This position he retained until shortly before the general election of 1882, when, on the reconstruction of the Cabinet, he became Premier, and as such appealed to the country, being himself re-elected, although his party was defeated on its railway policy. Mr. Thompson was shortly afterwards appointed a justice of the Supreme Court of Nova Scotia, a position which he has now resigned in order to take the office of Minister of Justice.

Mr. Thompson's successor on the bench is J. Norman Ritchie, Q.C. It has been remarked that the new judge is the fourth member of his family appointed to a seat on the bench. His father, Thomas Ritchie, the son of a United Empire Loyalist, after sitting