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In *Langlois v. Corporation of Montminy*, 13 Q. L. R. 302, 11 Leg. News, 72, the Court of Review, at Quebec, declined to be bound by the decision of the Court of Queen's Bench in *Tansey & Bethune*, M. L. R., 1 Q. B. 28, in regard to privileged costs, and ruled in a contrary sense. The inconvenience of such a course is all the more striking, inasmuch as the decision in Review, confirming the decision of the original Court, is not susceptible of appeal. Casault, J., observed:—" Cette conclusion est contraire à celle sus-citée de la Cour du Banc de la Reine, dans la cause de *Tansey & Bethune et al.* Mais notre confirmation du jugement le fait final et sans appel; et je ne crois pas, comme je l'ai déjà dit dans une cause de *Ross et al. v. Talbot*, que, parce que un tribunal intermédiaire d'appel a exprimé une opinion opposée, et la majorité des juges la composant a rendu une décision contraire, nous devons sacrifier notre opinion, pour prononcer mauvais et l'infirmer, un jugement que nous croyons bon et devoir être confirmé. Comme un juge, qui n'est plus et qui appartenait à la Cour du Banc de la Reine, a trouvé mauvais (*Demers & Germain*, 12 Q. L. R. 292) que ce qu'il appelait la jurisprudence de cette Cour n'eut pas été adoptée par la Cour de révision de ce district sur un point que le Conseil Privé n'avait pas approuvé, je crois devoir ajouter qu'il n'y a que les décisions des tribunaux d'appel en dernier ressort qui déterminent la jurisprudence. Ceux qui, quoique d'appel, ne sont que de ressort intermédiaire, qu'ils soient le second ou le troisième, n'obligent pas et ne règlent définitivement rien. La question qu'ils ont tranchée dans un sens est encore à débattre, et peut l'être dans un autre par un tribunal inférieur. La position de la Cour du Banc de la Reine n'est pas, sous ce rapport, différente de celle de la Cour Supérieure siégeant en révision. Leurs décisions n'ont que l'autorité qu'entraînent la science et l'expérience des juges qui y concourent, et les motifs sur lesquels ils les appuient."

Whatever may be thought of some of Mr. Joel P. Bishop's eccentricities, his papers are always suggestive and very readable. In these particulars his address on the common law as a system of reasoning, which appears in the January-February number of the *American Law Review*, excels, and may be perused with advantage. We give a portion of it in the present issue. Some of Mr. Bishop's propositions appear to us rather weak. For example, if no abstract doctrine can ever be settled by judicial decisions, it is difficult to see how "jurist work" can be accepted or approved by the courts so as to determine what are "the embodied principles of the common law."

*THE LATE MR. JUSTICE MACKAY.*

Death has come, of late, in the majority of instances, to judges and lawyers while actively engaged in the discharge of their duties. The decease of Mr. Justice Mackay, who passed away on the 23rd of February, is one of the exceptions. He retired from the bench about five years ago. We printed at the time (5 Leg. News, 337) what Mr. Justice Torrance jocularly described as his "oraison funèbre," but some further notice may be added on the present occasion.

Mr. Justice Mackay was born in Montreal in 1816, and was admitted to the practice of the profession in 1837. He is said to have taken an active part on the loyalist side in the troubles of 1837-8. In 1856 he was appointed a commissioner for the consolidation of the Statutes. While at the bar he was not subjected to the pressure of business which some lawyers have now to encounter. Legal affairs were then conducted in a more leisurely fashion. One clerk usually sufficed for even the most prominent firms. Mr. Mackay, though not gifted with eloquence, was characterized by a dignified bearing, and an earnest desire to get to the bottom facts of his cases. His partner was Mr. Austin, now Chief Justice of the Bahamas. The late judge was always of a studious habit, and an omnivorous reader of everything relating to his chosen profession.

In 1868, he was raised to the bench at the same time as the late Mr. Justice Torrance.