

ous. His appearance was greatly in his favor; his manner was slightly artificial, and his jokes, of which he was fond, were somewhat labored." One of his puns will bear repetition. At a dinner party, reference was made to the Bishop of Durham's conduct in giving a valuable preference to his son-in-law, Mr. Cheese, instead of to the curate, whose long services in the parish had entitled him to the promotion. Lord Chelmsford espoused the cause of the bishop, observing that nothing was more natural than that Cheese should come before dessert.

Some of the anecdotes of Sir Richard Bethell, afterwards Lord Westbury, indicate that this eminent lawyer was not always as candid in his statements to the bench as English barristers are supposed to be. "Once in a case before Sir Lancelot Shadwell, Mr. Wakefield demanded that judgment should be given in his favor, because Sir Lancelot had already given his decision in the similar case of *Jones v. Webb*. The vice-chancellor had no recollection on the point. Mr. Bethell, on the other side, was equal to the occasion. He got up and said, 'I perfectly recollect the case of *Jones v. Webb* mentioned by my learned friend, but my learned friend, of course accidentally, omitted to mention that your Honor's judgment was finally reversed on appeal in the House of Lords.' This was too much for the ingenious Mr. Wakefield, who, in his despair, was heard to mutter, 'what a d— lie, there never was such a case at all!'"

Serjeant Ballantine is not without sentiment in his composition. Listen to his description of an evening on the Rhine:—"It was an autumn evening, and a moon nearly at its full was silvering the waters as they careered along, whilst small lights began to show themselves from the gabled buildings on the opposite side, and when I cast my eyes up the stream, the hills, but dimly seen, furnished the imagination with a glorious promise of beauty and grandeur. I descend into the well known *salon*. The *table d'hôte* is over, and the tables are laid out for tea; everything looks fresh. Honey, the prominent feature of the tea-table, tempts to a beverage of which the innocence is in keeping with the purity of the scene. * * * The warm soft feeling of an early autumn evening, the moon upon the waters, the music of the stream—all these perchance, as new sensations as the words of a first love whispered in their

presence." As we part company with the lively serjeant, we venture to hope that our readers may be enjoying similar pleasurable sensations at this season of the year.

NOTES OF CASES.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

June 23, 1882.

Before SIR BARNES PEACOCK, SIR MONTAGUE E. SMITH, SIR ROBERT P. COLLIER, SIR JAMES HANNEN, SIR RICHARD COUCH.

CHARLES RUSSELL *v.* THE QUEEN.

Canada Temperance Act, 1878—Powers of the Dominion Parliament.

The Act 41 Vic. (Can.) c. 16, respecting the traffic in intoxicating liquors, known as "The Canada Temperance Act, 1878", is within the powers entrusted to the Parliament of Canada.

PER CURIAM. This is an appeal from an order of the Supreme Court of the Province of New Brunswick, discharging a rule Nisi which had been granted on the application of the appellant for a certiorari to remove a conviction made by the Police Magistrate of the city of Fredericton against him, for unlawfully selling intoxicating liquors, contrary to the provisions of "the Canada Temperance Act, 1878."

No question has been raised as to the sufficiency of the conviction, supposing the above-mentioned statute is a valid legislative Act of the Parliament of Canada. The only objection made to the conviction in the Supreme Court of New Brunswick, and in the appeal to Her Majesty in Council, is that, having regard to the provisions of "the British North America Act, 1867," relating to the distribution of legislative powers, it was not competent for the Parliament of Canada to pass the Act in question.

The Supreme Court of New Brunswick made the order now appealed from in deference to a judgment of the Supreme Court of Canada in the case of *The City of Fredericton v. The Queen*. In that case the question of the validity of "the Canada Temperance Act, 1878," though in another shape, directly arose, and the Supreme Court of New Brunswick, consisting of six judges, then decided, Mr. Justice Palmer dissenting, that the Act was beyond the compet-