

## EDITORIAL NOTES—QUEEN'S COUNSEL.

The epigrammatic utterances of Lord Justice Knight Bruce in *Burgess v. Burgess*, 3 De G. M. & G. 896, although still quotable as a piece of excellent humour are discredited as good law. That learned Judge said "All the Queen's subjects have the right, if they will, to manufacture and sell pickles and sauces, and not the less that their fathers have done so before them. All the Queen's subjects have a right to sell these articles in their own names and not the less so that they bear the same name as their fathers'." But the present Lord Justices lay down the law more uninterestingly in this way; 'Where a person uses his name in connection with a manufactured article, the result of which user is that his goods are represented to the public as the manufacture of another person of the same name, who has previously obtained a reputation for such goods, such person will be restrained from continuing such use, though the name may be his own.'—*Thorley v. Massen*, 28 W. R. 966.

For excellent reading and for caustic observations on many venerable legal hallucinations we commend the judgment of Sir George Jessel in *Re Hallett's Estate*, 28 W. R. 733. The following may serve as samples to whet the appetite even two months after vacation. He is reversing a judgment of Mr. Justice Fry who relies on what is said by "Mr. Justice Willes in delivering the *considered* judgment of the Court of Common Pleas in *Scott v. Surman*, whereupon the Master of the Rolls interjects, "I do not understand that a judgment is any better for being held over a long time, for I think judgments are perhaps best if delivered when the facts are fresh in the judge's mind: but I do not say that they are better or worse." Again he lays down a valuable canon in the use of Chancery

cases: "It must not be forgotten that the rules of the Courts of Equity are not like the rules of the common law, supposed to have been established from time immemorial. In many cases we can name the Chancellors who first invented them, and state the date when they were first introduced into equity jurisprudence; and therefore, in cases of this kind, the older precedents in equity are of very little value. The doctrines are progressive, refined and improved; and if we want to know what the rules of equity are, we must look, of course, rather to the more modern than the more ancient cases."

## QUEEN'S COUNSEL.

In April, 1876, the Ontario Government created, or assumed to create, some thirty-five Queen's Counsel. We then freely expressed strong disapproval of the list then prepared. There were on it many names not entitled to the position, and many not on it that should have been there; but surprise at the selection of certain individuals was swallowed up in amazement at the wholesale nature of the transaction. Some of the appointments just made by the Dominion Government have caused surprise in a different way.

The names that appear in the *Gazette* of the 16th ult., are as follows:—

Thomas M. Benson, Francis McKelcan, William R. Meredith, James Bethune, W. H. Scott, Martin O'Gara, Thomas Ferguson, B. B. Osler, James A. Miller, John A. Boyd, James F. Dennistoun, George A. Kirkpatrick, Alfred Hoskin, Richard T. Walkem, John O'Donohoe.

The Dominion Government was not, of course, bound to recommend for appointment all those whom the Lieut.-Governor of Ontario had assumed to create some four years ago; but it was natural that a selection should have been made from