

views expressed by the two Lower Canadian members of the Supreme Court no doubt irresistibly led, and hence the fact that the Privy Council have not passed upon the different points which have been so hotly contested of late years in the Province of Quebec.

The real importance of the decision in England, however, lies in the fact that if Mr. Doutré had come before our own Court of Appeal he must have lost his case, and yet the decisions in *Larue & Loranger*, and similar cases, were cited in the Supreme Court as if they favoured the right of counsel in such a case.

The confusion comes from this, that our Lower Canadian Courts admit the right of action of counsel, but they admit it not as the rule, but as the exception. The fallacy was to suppose that our Courts admitted the right absolutely, or at any rate admitted it in a case such as Mr. Doutré's.

Our Court of Appeal holds, no doubt, that professional services may pass beyond the *honorarium* stage, but the only contract so far admitted has been that in which everything has been expressed, and the amount of the fee specially defined by the parties themselves. In particular they have rejected not only indefinite promises of a fee in addition to the amount allowed by the Tariff, but they have considered as prohibited a contract where the fee was to be paid contingently and out of the amount to be recovered. In fact the rule has been to place professional men at the mercy, or, what is more euphonious, make them dependent upon the generosity of their clients. It is true that in a recent case the correctness of the report in *Larue & Loranger* has been questioned, but the remarks of the judges in *Dugdale & The City*, as well as in *Dorion & Brown*, leave no doubt as to the opinion of the majority in the Court of Appeal.

As to the case of *Devlin & The City*, it never was reported, but if the judgment itself is referred to, it will be found that the *considerant* immediately preceding that quoted by Taschereau, J., in the Supreme Court, rests upon the report of the Finance Committee that Mr. Devlin should receive at least \$2,500.

The truth is that some of our judges have

been influenced, far more than they were aware of, by the feeling so touchingly referred to by Chief Justice Harrison in *McDougall & Campbell*—a weakness to be gloried in as strength by those whose standard of professional duty, if no longer reconcilable with the law as it stands, is at any rate a high and noble one. What I regret is that we should have been deprived—by a misunderstanding as it were—of a carefully prepared *exposé* of the law and the jurisprudence of Lower Canada on the subject of the action of counsel for their fees, an *exposé* which could not but have been interesting, since it must have retraced the numerous and devious courses we have had to go through before reaching the present satisfactory position.

E. B.

#### A JUDGE'S GHOST STORY.

The following is the account given in the article on "Visible Apparitions," by Messrs. Edmund Gurney and Frederick W. H. Myers, in the July number of the *Nineteenth Century*, referred to *ante*, p. 258:—

One further case we received from Sir Edmund Hornby, late Chief Judge of the Supreme Consular Court of China and Japan, who describes himself as "a lawyer by education, family, and tradition, wanting in imagination, and no believer in miracles." He first narrates how it was his habit at Shanghai to allow reporters to come to his house in the evening to get his written judgments for the next day's paper.

They generally availed themselves of the opportunity, especially one editor of an evening paper. On the day when the event occurred, in 1875 or 1876, I went to my study an hour or two after dinner, and wrote out my judgment. It was then about half past 11. I rang for the butler, gave him the envelope, and told him to give it to the reporter who should call for it. I was in bed before 12. I am a very light sleeper, and my wife a very heavy one. I had gone to sleep, when I was awakened by hearing a tap at the study door, but thinking it might be the butler, I turned over with the view of getting to sleep again. Before I did so, I heard a tap at my bedroom door. Still thinking it might be the butler, who might have something to say, I said, "Come in." The door opened, and, to my surprise, in walked Mr. —. I sat up and said, "You have mistaken the door, but the butler has the judgment, so go and get it." Instead of leaving the room he came to the foot edge of the bed. I said, "Mr. —, you forget yourself. Have the good-