

## EDITORIAL ITEMS—JUDICIAL SUGGESTIONS FOR LAW AMENDMENTS.

scathed. Of the others, but especially Malins V. C., the reversals of their judgments are, as the *Solicitor's Journal* puts it, "uncomfortably numerous." It is said that Counsel now advise after the following fashion: "Such is the effect of the late decision of V. C.—, but as it seems almost a matter of course to appeal against his decisions, you should wait a bit, or make enquiries if an appeal is entered, or likely to be."

The Exchequer Chamber, in *Mouflet v. Cole*, 21 W. R. 175, has definitely determined a much-vexed question as to the manner of measuring distance, in, for instance, covenants in restraint of trade, where a person binds himself not to carry on a certain business within five or six miles of a given point. They hold that it is to be measured by a mathematically straight line from point to point, as on a map, disregarding inequalities of ground and the curvature of the earth's surface. The advantage of such a mode of measurement is that it will not be liable to change with changing circumstances, but will remain permanently the same.

Mr. Charles Edward Pollock, Q. C., has been appointed to fill the vacancy in the Court of Exchequer caused by the retirement of Baron Channell. Sir George Honynman was mentioned as a likely man, but choice has fallen upon the son of the late Sir Frederick Pollock. The *Law Times* considers the appointment, standing alone, unobjectionable, but not the best that could have been made. It says:—

"The new Baron is what is known as a good all round lawyer. His experience has been of that miscellaneous character which makes a useful but not a powerful judge. The same remark may be made of the two previous appointments, and for this very reason it was hoped that one of our prominent commercial lawyers would be selected by the Government. Of all

the courts the Court of Exchequer is the most colourless, if we put on one side the remarkable and, if we may use the expression, almost brilliant common sense of Baron Bramwell. The judges are painstaking and fairly able. The new Baron is cast in the same mould. Whilst, therefore, we have nothing wherewith to be discontented we have somewhat to regret, and trust that the mistake will be remedied when it becomes necessary to fill the expected vacancy in the Court of Common Pleas."

### JUDICIAL SUGGESTIONS FOR LAW AMENDMENTS.

(1.) "I trust the Legislature will yet make the law of evidence what it ought to be—the means of bringing out the truth, fully and freely, untrammelled with the fetters and perplexities of a gone-by age and system. After a wife has been allowed, in an action to which her husband was not a party, to be asked whether he was 'a fit man to be believed upon his oath: *Annesley v. Earl of Anglesea*, 17 St. Tr. 1276; and after a wife has been permitted to prove that she was married to her husband before the time he swore he was married to another, a pauper, in a settlement proceeding: *Ree v. Inhabitants of Bothwell* 2 B. & Ad. 639; see *Reeve v. Wood*, 5 B. & S. 364; and since either husband or wife may prosecute the other criminally for personal violence done by one to the other, and may testify in the cause,—there need be no scruple in putting them under the like law in all civil proceedings where they are both, or either of them personally interested." Per Wilson J., in *Toms v. Township of Whitby*, 32 Q.B. (Ont.) 252.

(II.) Speaking of 29, 30 Vict. cap. 42, s. 6, the same Judge remarks: "It is calculated to give great embarrassment to sheriffs, and to create great difficulty to execution creditors. . . . It is an inconvenient method of securing to the creditor first against goods the like rank against lands, to which he is plainly en-