THE

LEGAL NEWS.

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CURRENT TOPICS.

Students who have experienced difficulty in passing the examinations for admission to practice in this province, may find a crumb of comfort in the fact that elsewhere suggestions on the subject of legal education tend in the direction of a longer period of preparation and more stringent tests of qualification. In a recent article, which appeared in the *Law Quarterly Review*, Professor Goudy lays down that the universities can only with propriety undertake the teaching of law on its theoretical side. For practical training the students must attend the courts and work in a barrister's or a solicitor's chambers, and he thinks that provision for the latter kind of training should be made by the Inns of Court and the Incorporated Law Society. He does not favor the following of these courses of study simultaneously, but suggests that the student should be required to devote three years to theoretical study, and then two additional years to practical training, before being admitted to practise in either branch of the profession. It is questionable whether better results would be attained by these consecutive courses than by five years of joint theoretical and practical work. And again, why insist

on five years' probation, when the majority of students have sufficient talent and diligence to qualify themselves in three or four years?

The members of the bar, as is usual, hold an important position in the new government of Canada. Of the Quebec contingent lately sworn in, Mr. Taillon, the new Postmaster General, Mr. Desjardins, the Minister of Public Works, and Mr. Angers, the President of the Privy Council, are all Queen's Counsel, unless we except the last, who was formerly a Queen's Counsel, and was subsequently a judge of the Superior Court. In Ontario, Mr. Tisdale, Q.C., the new Minister of Militia and Defence, and in Manitoba, Mr. Hugh John Macdonald, the new Minister of the Interior, also belong to the legal profession. This is exclusive of Ministers who assume their old positions under the new Government.

The work which has been done on the new German Civil Code is worthy of note. The commission was appointed in 1874. Thirteen years were spent in settling the draft, the last six being devoted to revision. The draft was then printed, and criticism invited. The points of criticism appear to have been both numerous and important, for in 1890 a new commission was appointed to revise the draft in the light of the comments which had been offered. On this commission of eleven members, strange to say, only one practising barrister had a seat. If long and arduous preparation and repeated revision tend to perfection, the German Code should be less imperfect than similar efforts in other countries. It may be added that the codifiers had to consider several systems of law which hitherto have been in force in different parts of the empire, the proportion, as given by one writer, being, roughly, that out of forty-two and a half millions of population, eighteen millions are governed by

the Prussian Code, fourteen millions by the German common law, seven and a half millions by French law, two and a half millions by Saxon law, and half a million by Scandinavian law.

Some remarks which are reported to have fallen from Lord Herschell in a recent case—*In re The Kingston Cotton Mills Co.*—are of special interest to auditors. "No doubt," observed his lordship, "auditors have to check the books to see that the accounts are correct, but it would be stretching the duty of an auditor considerably beyond what is reasonable to say that he is to go into all the business of a company so as to be able to check the valuation. In a banking company, for instance, are the auditors to take the bills and to estimate the character of the people and the standing of the firms whose names are on the bills, and to determine whether they might turn out not to be good bills? Yet the true position of the company might depend on that. An auditor may certify the accounts as correct, and be perfectly honest in the full discharge of his duty, yet the accounts, nevertheless, may not truly represent the position of the company. Is an auditor supposed to go through an independent stock-taking of a great concern and put his own valuation upon it? Most auditors would be absolutely incompetent to do anything of the kind; they are thoroughly versed in accounts, but not necessarily versed in the valuation of every kind of business."

RAILWAY COMPANY—DRIVING HORSES ACROSS TRACK WITHOUT REINS OR HALTER.

In the case of *Grand Trunk Railway Co. of Canada*, (defendant) appellant, *& Bourassa* (plaintiff) respondent, the Court of Queen's Bench (Baby, J., diss.), reversed the judgment of the Superior Court, and dismissed the action, on the ground that there had been negligence on the part of the plaintiff, especially in driving four horses across the track without halter or reins. The case is

reported in R. J. Q., 4 B. R. 235. The notes of Mr. Justice Hall, who delivered the judgment of the majority of the Court, were not received in time for insertion in the report. They are as follows:

HALL, J.:—

The appellants' line of railway passes through respondent's farm in the parish of Laprairie, and an ordinary farm crossing furnishes communication between the portions of the farm thus separated. On the 2nd of December, 1890, Henri Bourassa, respondent's nephew, and in his employ, had occasion to move four horses and colts from one side of the farm to the other. For this purpose he opened the two gates at the crossing, and without fastening them open in any way, went in search of the horses, which he attempted to drive loose over the crossing, without bridles or halters. They went through the first gate on to the railway, and then took to the track, owing, as this Henri Bourassa says, to the second gate having become closed during his absence. The horses ran along the track for some distance, and were finally run into and killed at a culvert by appellants' mixed train—passengers and freight—coming from St. John's to Montreal. The present action is for the value of the horses, which respondent alleges were killed by the fault and negligence of appellants' employees in not stopping the train at sight of the animals. The appellants pleaded that the negligence was entirely on the part of the respondent's employee, in attempting to drive four loose horses across their track, and that their trainmen did all in their power to stop the train after sighting the animals, but being on a down grade, were unable to do so entirely before reaching the culvert where the horses were bunched together by the bridge in front and the converging fences on each side, making escape impossible.

After *enquête* judgment was rendered in the Superior Court maintaining plaintiff's action for the following reasons: Because the gate was closed by a sudden gust of wind, which constituted an uncontrollable *cas fortuit*; Because the employees of the railway train saw at the distance of a mile that there was an obstruction of some kind upon the track and did not take immediate steps to control the speed of the train; Because at the distance of three quarters or at least half of a mile, they could make out that the objects upon the track were horses, and even then they did not

attempt to stop the train, but only sounded an alarm by the steam whistle, and that it was only at a distance of about 1500 feet that they applied the brakes and reversed the engine; Because the train was not supplied with the most improved form of brake, viz., The Westinghouse brake, and in consequence it could not be stopped, on a down grade, within the limited distance in which it was attempted; and generally, Because the plaintiff's servant was in the legitimate exercise of his master's rights, having a right of passage across the railway, when he attempted to drive the horses across the track, and that in doing so he used all the prudence that was requisite in such a case.

A majority of this Court are unable to take that view of the case. The plaintiff's servant appears to have taken no precaution whatever to fasten the gates after opening them. When he returned 15 minutes afterward, he drove the horses through the open gate nearest to him upon the track without taking the precaution to see, in advance, if the other one remained open. He does not say, as does the judgment, that the gate was closed by a gust of wind in the face of the horses, when they were on the track, but that when he got on the track he found that the gate was closed, and thinks it must have been done by the wind. "*Ça ne pouvait pas se faire autrement.*" It was not a case of the unexpected having happened, but of the very event which he should have anticipated and guarded against, viz., the effect of the wind upon the opened gate. But the most striking act of negligence, in our opinion, was the attempt to drive four horses —some of them only colts, without halter, or bridle, or means of control of any kind, across a railway track, where trains pass as frequently as they must do on the main line of the Grand Trunk between St. John's and Montreal. Docile animals like cows, or sheep, might possibly be thus driven, but with nervous, spirited animals like horses, common prudence would dictate more precaution, even along an ordinary highway, and certainly in the case of a dangerous railway crossing. The judgment says the proprietor of the farm was in the exercise of his right, because he had a right of passage across the railway, almost leading one to infer that he had an equal right there with the railway company. The public should be disabused upon this point. When a railway company buys its right of way through a farm, the land owner can exact by law and does exact, compensation not only for the portion of his land actually taken, but for his prospective damage for the loss and inconvenience caused by the

severance of one portion of the farm from the other. He generally secures a "farm crossing" as it is called, so that the separated portions of his farm may not be completely isolated from each other, but in its use he must recognize not only the superior right of use by the railway company for which it has paid, but the peculiar character of that use, its enormous rate of speed, the difficulty of checking it, and the responsibility for the safety of human life which its service entails, and the principle should be clearly laid down and maintained by the courts, that in the careless use of such crossings, the adjoining proprietor not only deprives himself of redress for injury caused to himself or his property, but incurs the fearful responsibility of loss of life and property to the railway company, its employees and patrons.

Nor can we adopt the text of the judgment as to the obligation on the part of railway companies to use Westinghouse brakes upon either freight or mixed trains. Such a brake upon the passenger cars alone, in the rear end of such a train, would be useless, unless it formed part of a continuous system extending from the locomotive, by which this kind of brake is operated. Nowhere in this country, has that expensive system been applied to freight trains, nor has the railway committee of the Privy Council imposed that burden upon railway companies, although power to dictate as to such appliances has been specially conferred upon it by section 243 of the Railway Act. In the case under consideration the railway employees appear to have used all reasonable precautions, and made all possible efforts to stop the train, as soon as it was apparent to them that there were horses upon the track and that they were caught in the culvert, as in a trap, so that they could not escape; in fact the law of self preservation secured the observance of all those precautions, as the lives of the employees were seriously jeopardized by the impending accident. A charge of heartlessness and indifference is made against them because they did not stop and assist in the removal of the dead horses after the accident. They saw that this duty was being performed by the track laborers, and they discharged a more pressing duty toward the passengers upon their train, by proceeding, so as to avoid risk of being run into by a train which was following them at only a few minutes' interval upon a down grade.

We think that the appeal should be maintained and the action dismissed.

Judgment reversed, Baby, J., dissenting.

CHANCERY DIVISION.

LONDON, 30 Oct., 1895.

Before STIRLING, J.

In re DARLING. FARQUHAR v. DARLING. (31 L. J.)

Will—Construction—Charity—Gift to "service of God"—General charitable intent.

The testatrix commenced her will in these words: "My will and testament. I, Elizabeth Caroline Darling, desire that at my death all of which I may die possessed, with the exception of the few legacies and gifts I may hereafter make, shall go to the poor for the service of God," and the question was whether they constituted a good charitable gift.

Graham Hastings, Q.C., and *F. P. Onslow*, for the next-of-kin, contended that the gift was too wide in its terms to be a good gift of the residue to charitable purposes.

STIRLING, J., said that in a sense some acts might be included in the service of God, although they were not religious acts and were not recognised by law as charitable. But the testatrix intended a gift to pious uses, a gift for the religious service of God, and it was a good charitable gift. The point was covered by the decision in *Powerscourt* v. *Powerscourt*, 1 Molloy, 616.

QUEEN'S BENCH DIVISION.

LONDON, 24 March, 1896.

REGINA v. SODEN. (31 L. J.)

Revision Court—Regulation of business.

This was a rule which had been obtained by Mr. John Kelly, jun., and Mr. James O'Brien, calling upon Thomas Spooner Soden, Esq., the revising barrister for the City of Leeds, to show cause why their appeals against the decision of the barrister respecting their claims to be included in the list of Parliamentary electors and the burgess lists for the said city should not be directed to be entertained and a case or cases to be stated; and why a writ of *mandamus* should not issue directed to the said revising barrister commanding him to hear and determine the claims of the said John Kelly, jun., and James O'Brien. It ap-

peared from the affidavits that Mr. Soden was appointed revising barrister in 1875. Down to 1879 it was the duty of the revising barrister to revise only the Parliamentary lists, but since that year the duty of revising the municipal lists has been added, and the lists have to be amended pursuant to declarations sent in to the town clerk. This largely increased the work, which was again largely increased by the Redistribution of Seats Act, 1885, by which Leeds was divided into five divisions. The work was further increased by 48 Vict., s. 5, which imposed the duty of dealing with double entries, and great difficulty was experienced in dealing with the business of the Court, as claimants and persons objected to came up at any time they pleased while the Court was sitting from all of the five divisions indiscrimnately and in no regular order, thereby causing great confusion. Since 1887 the revising barrister has issued notices specifying the days and times when the lists for each division would be revised and the times when the lists would close, and his practice has been, after the close of the sitting at which it was announced in the notice that the lists would close, not to hear any more claims or objections except such as had been specially adjourned at special request and for some specified cause, and all who did not attend at those sittings and had not otherwise established their claims were struck off. The notice of revision for the year 1895 stated that the Court would be held for the East Division of Leeds on Monday, September 16, at 6.15 p.m.; Tuesday, September 17, 10.30 a.m. and 6 p.m.; and that the lists would close at the evening sitting on the 17th. At the evening sitting on the 16th the revising barrister heard claims and objections for East Leeds and Central Leeds and finished the business about 9.30 p.m. At the evening sitting on the 17th the revising barrister stated in his affidavit that, after 8 o'clock on the evening of the 17th, being informed by the agents on both sides (and having satisfied himself by inquiries in open Court) that there were no more claimants, or persons objected to, present, he declared in open Court that the East Leeds lists were closed with the exception of two or three cases of parties who had appeared and whose cases he had adjourned by special request. On September 18, about 3.30 p.m., the revising barrister proceeded, according to his usual practice, to strike out and initial the names of those who had not appeared or otherwise established their claims, and to call the names of all, stating which were allowed and which were

struck out, and while doing so the applicants James O'Brien and John Kelly applied to be heard in support of their claims. The revising barrister refused to hear them upon the grounds that he had given public notice that the lists would be closed, and had publicly announced that they were closed at the evening sitting on the previous day.

LAWRANCE, J.: This rule must be discharged. The real question is whether the revising barrister has the right of managing the business of his own Court. As far as I can understand the case on the part of the applicants, it is that until their names have been struck off the list they have a right to appear and to be heard. These were claims by people who did not appear, although they had full notice of the times when the barrister would sit to hear them. Having had full notice and not appearing, they have no right, in my opinion, to appear upon the following day. I do not decide whether the revising barrister could be called upon to state a case or whether a *mandamus* to him would lie, because I think that upon the facts the rule must be discharged upon both points.

COLLINS, J.: I am of the same opinion. I am clearly of opinion that no case has been made out under either head of the application. The practice in the revising barrister's Court is not for the convenience of the Court, but for that of the public. In Liverpool, where I had to revise the lists, it used to be necessary to hold night sittings for the convenience of the working classes. I believe it would be very inconvenient to them if they were obliged to sit in Court while the lists were being gone through and their names were dealt with casually as they came up. Mr. Soden seems to have laid down, very properly and in the interests of the public, a rule that he would deal with all the cases in which persons claiming appeared in Court, and afterwards take the clerical work. I think that the revising barrister had adjudicated against the claims of all persons who did not appear, and I do not think that any person had a right to come forward when the revising barrister was sitting simply to do clerical work.

Rule discharged.

CHANCERY DIVISION.

LONDON, 25 March, 1896.

Before ROMER, J.

McKEOWN v. THE BOUDARD PEVERIL GEAR Co. (31 L. J.)

Company—Prospectus—Omission of facts—Contract to take shares —Rescission.

The plaintiff claimed rescission of a contract to take shares in a company on the alleged ground that material facts known to the directors at the time the prospectus was issued were suppressed, thereby rendering the prospectus misleading, and that the plaintiff had applied for his shares on the faith of the prospectus, not knowing the material facts suppressed, and being thereby misled by the prospectus.

C. E. E. Jenkins, for the plaintiff, relied upon *The New Brunswick and Canada Railway Company* v. *Muggeridge*, 30 Law J. Rep. Chanc. 242, 249; 1 Dr. & Sm. 363–381 (cited and approved by Lord Chelmsford, L. C., in *The Directors, etc., of the Central Ry. Co. of Venezuela* v. *Kisch*, 36 Law J. Rep. Chanc. 849–852; L. R. 2 E. & I. App. 99–113), where Kindersley, V. C., laid it down that those who issue a prospectus inviting the public to take shares on the faith of it are bound "to omit no one fact within their knowledge, the existence of which might in any degree affect the nature, or extent, or quality of the privileges and advantages which the prospectus holds out as inducements to take shares."

ROMER, J., said that, to make the mere non-disclosure of facts in a prospectus a ground for avoiding a contract to take shares, there must be such a non-disclosure as made the prospectus misleading. His lordship could not find in this case that the omission to state certain facts had rendered the prospectus misleading, nor that the plaintiff had, in fact, been misled as he alleged.

Action dismissed.

ARMENIA AND THE TREATIES.

The treaty stipulations which affect Armenia are to be found in the Treaty of San Stefano of February-March, 1878, the Treaty of Berlin of July 13, 1878 (superseding that of San Stefano), and the Convention of Defensive Alliance between Great Britain and

Turkey of June 4, 1878, usually styled the 'Cyprus Convention.' The relevant passages are as follows :—

Treaty of San Stefano.—'Art. XVI. As the evacuation by the Russian troops of the territory which they occupy in Armenia, and which is to be restored to Turkey, might give rise to conflicts and complications detrimental to the maintenance of good relations between the two countries, the Sublime Porte engages to carry into effect, without further delay, the improvements and reforms demanded by local requirements in the provinces inhabited by Armenians, and to guarantee their security from Kurds and Circassians.'

Cyprus Convention.—'Art. I. If Batoum, Ardahan, Kars, or any of them, shall be retained by Russia, and if attempt shall be made at any future time by Russia to take possession of any further territories of His Imperial Majesty the Sultan in Asia, as fixed by the definitive treaty of peace, England engages to join His Imperial Majesty the Sultan in defending them by force of arms. In return His Imperial Majesty the Sultan promises to England to introduce necessary reforms, to be agreed upon later between the two Powers, into the government and for the protection of the Christian and other subjects of the Porte in these territories. And, in order to enable England to make necessary provisions for executing her engagement, His Imperial Majesty the Sultan further consents to assign the Island of Cyprus to be occupied and administered by England.'

Treaty of Berlin.—'Art. LXI. The Sublime Porte undertakes to carry out, without further delay, the improvements and reforms demanded by local requirements in the provinces inhabited by the Armenians, and to guarantee their security against the Circassians and Kurds. It will periodically make known the steps taken to this effect to the Powers, who will superintend their application.'—*Law Journal.*

AIR.

Formerly proceedings for interference with light were known as "light and air" cases, but the formula by which "air" was coupled with light in these obstruction cases is now inaccurate, and has been most distinctly disapproved : *City of London Brewery Co.* v. *Tennant*, 9 Ch. 212 ; *Bryant* v. *Lefever*, L. R. 4 C. P. D. 172. Further it has been decided that the right to air is

not an easement within sec. 2 of the Prescription Act: *Webb* v. *Bird*, 31 L. J. R. C. P. 335; and it is not, of course, included in sec. 3 with rights to light.

The recent cases of *Aldin* v. *Latimer, Clark, Muirhead & Co.*, 63 L. J. R. Ch. 601, and *Chastey* v. *Ackland*, 64 *ib.* Q. B. 523, show clearly that although an owner or lessor will not have any greater right to derogate from his own grant or lease with regard to air than he has with respect to implied grants of the easement of light, yet that apart from this there can be no right to the passage of undefined air over premises adjoining plaintiff's until it reaches his property. "The passage of undefined air gives rise to no rights, and can give rise to no rights, for the best of all reasons, the reason of common sense, because you cannot acquire any rights against others by user which they cannot interrupt;" per Lord Justice Bowen in *Harris* v. *DePinna*, 33 Ch. D. 238; 56 L. J. R. Chanc. 344.

In *Chastey* v. *Ackland*, the facts of the case alleged in support of the claim for an injunction against the diminution of the quantity of air coming to the plaintiff's premises over the defendant's, and which the defendant's buildings had diminished, were mixed up with a claim in respect of an alleged nuisance of stagnant air. The claim as to the air failed, because it had not been shown to reach the plaintiff's premises through defined apertures for the requisite time, and the Court of Appeal held that, as to the nuisance, the decision in *Bryant* v. *Lefever*, an action for obstructing the access of air to chimneys, was directly in point so that although the *causa proxima* so to say, of the nuisance was the defendant's buildings, the *causa causans* was the erections, not on his premises, which emitted the noxious odors.—*Irish Law Times.*

BAR MEETINGS.

MONTREAL.—At the annual meeting the following were re-elected :—Hon. J. E. Robidoux, Batonnier; Mr. Arthur Globensky, Syndic; Mr. C. B. Carter, Q.C., Treasurer, and Mr. L. E. Bernard, Secretary. Council: Messrs. W. W. Robertson, Q.C.; C. A. Geoffrion, Q.C.; L. J. Ethier, Q.C.; Hon. H. Archambault, Q.C.; Lomer Gouin, R. Dandurand, Eug. Lafleur and E. Guerin.

ST. FRANCIS.—Batonnier, L. E. Panneton, Q.C.; Syndic, C. W. Cate; Treasurer, H. D. Lawrence; Secretary, J. E. Genest;

Council, H. B. Brown, Q.C.; J. A. Camirand, A. S. Hurd; Delegate, H. B. Brown, Q.C.; Auditors, H. R. Fraser, C. W. Cate; Examiners, H. W. Mulvena and W. Morris; Library Committee, J. E. Genest, H. D. Lawrence, H. R. Fraser, Firmin Campbell, W. Morris, J. A. Leblanc.

ARTHABASKAVILLE.—J. C. Noel, Batonnier; J. S. Doucet, Syndic; J. Lavergne, M. P.; L. P. E. Crepeau, C.R.; J. E. Methot, P. H. Coté, members of the Council; P. H. Coté, treasurer; L. P. E. Crepeau, secretary.

BEDFORD.—S. Constantineau, Batonnier; J. C. McCorkill, Syndic; T. Amyrauld, Treasurer; A. Giroux, Secretary; C. A. Nutting, E. Racicot and J. S. Poulin, Council.

THE LATE MR. L. W. MARCHAND, Q.C.

It is with much regret that we have to record the death of Mr. Louis W. Marchand, Q.C., who died at Montreal on the 24th April. Mr. Marchand was born in the parish of St. Mathias, on the 27th January, 1833. His father was a native of Amsterdam, who came to Canada in 1825, and was subsequently an alderman of the city of Montreal. The son studied in the College of St. Hyacinthe, where he was a contemporary of Archbishop Fabre, and afterwards pursued his legal studies under the late Sir George Etienne Cartier, being admitted to the bar on Feb. 6, 1854. He practised for a few years with the Hon. Gédéon Ouimet and the late Hon. S. Morin, the firm being known under the name of Ouimet, Morin & Marchand. In 1859 he was called to fill the duties of Clerk of the Court of Appeal, in the place of the late Judge Beaudry, who had been appointed secretary of the commission for the codification of the laws for the Province of Quebec. Mr. Beaudry having been raised to the bench, Mr. Marchand was appointed Clerk of the Court of Appeal in 1868, and held the position until the time of his death. He was made a Queen's Counsel in 1887. Mr. Marchand occupied his leisure hours in historical and scientific pursuits. He was treasurer of the Société Historique de Montréal and translated the travels of Kalm in North America. He was also a commissioner for the civil erection of parishes and a corresponding member of the Société des Antiquaires de Normandie. In politics Mr. Marchand was a Conservative. He was one of the founders of the former 'Patrie,' the first French daily paper published in Canada. Be-

sides his duties as Clerk of the Court of Appeal Mr. Marchand was also entrusted with the important task of preparing the judgments of distribution in Superior Court cases.

Mr. Marchand was a man of unusual ability, and always extremely devoted to duty. He would have filled with credit and distinction a position on the bench, as was shown by the general soundness of his decisions on difficult points arising in the drafting of reports of distribution. He was more than the faithful and trusted official: he was held in affectionate regard by all who came into contact with him in the daily round of business. Of a gentle and lovable disposition, neither obtrusive nor self-seeking, his chief pleasure was in the conscientious performance of duty, and his great regret, during an illness of several months, was that he was debarred from attendance at his office. The last term of the Court which he attended was in January last.

GENERAL NOTES.

THE LATE LORD BLACKBURN.—The *London Law Times* has the following sonnet on the late Judge:—

"A name to hold in honor! England owes
A debt to thee which she can never pay.
As to the sturdy oak the sapling grows,
As glimmering morn becomes the perfect day,
So you, in strenuous labor of your youth,
Upon the stony sub-soil of the law
Mortared great knowledge with a love of truth,
And built a fame which all who knew you saw
Project itself upon your growing life,
Great Prince of Interrupters—(how long now
Your train of imitators in the strife!)—
Your hasty speech was but the upward flow
From wells of learning. Ne'er was yours the *role*
Of empty vaporing in the public eye
On themes not legal. Your high-soaring soul
Sought duty's path, wherever it might lie.
Neither the platform's nor the Senate's heat
Distracted you, or warped your equal view
Of all mankind. Thus, on the printed sheet,
Colleagued by Cockburn, Bramwell, Brett, are you
Enshrined in judgments of both grit and core,
Which must survive till law shall be no more."

DIRECTORS' RIGHT TO PREFER THEMSELVES.—Directors are behind the scenes, and, being so, are perfectly aware whether the play is a 'draw' or whether the curtain must shortly come down on the piece for good, and this knowledge gives them an unquestionable advantage in getting paid over outside creditors who view the performance only from the pit or dress circle. Is a director entitled to profit by this knowledge? In America they think not. Directors are treated as being in a fiduciary relation to the creditors as soon as the company is unable to pay its way. The subject has not received all the attention it deserves in England, but, so far as the authorities go, they give the directors the full benefit of their position. The strongest case is *Wilmott* v. *The London Celluloid Company*. There the directors had received insurance moneys on the eve of winding-up, and repaid themselves out of them a loan to the company, and the Court refused to treat it as a fraudulent preference, though by doing so the directors were practically putting the whole of the assets in their pockets. It was a short syllogism. Thus: Paying debts of the company is in the ordinary course of business. This is a debt of the company. It is in the ordinary course for the directors to pay it. By English law the directors may even prepay their shares to prefer themselves. But a director's 'place' is a hard one, and he ought to have his perquisites.—*Law Journal* (London).

PROFESSIONAL PLEASANTRIES.—A member of the medical profession was once discussing with Bobus Smith—Sydney Smith's lawyer brother—the merits of their respective professions. 'Well,' said the doctor, 'you must admit that your profession does not make angels of men.' 'No,' replied Bobus; 'your profession gives them the first chance of that.' We are reminded of this story by Lord Justice Lopes' sarcasm in a recent will case. The testator was mentioned as having consulted an oculist, a chiropodist, and a general practitioner. 'Let me have the names,' said the Lord Justice, 'because I am surprised he lived so long.' Long-suffering lawyers must retaliate sometimes. Perhaps the smartest pleasantry at the expense of the medical profession was the epitaph on a doctor's tombstone in a churchyard: 'Si monumentum requiris, circumspice.'—*Ib.*

MARRIAGE IN A WRONG NAME.—There is an impression abroad that marriage in a wrong name is invalid. The last instance of its public expression was an inquiry addressed to a police mag-

istrate by a young woman who said that her husband had married her in his father's name, although his parents were not married, and that she doubted whether she was really married. In England a man is perfectly free to use a name to which he is, strictly speaking, not entitled in the view of the College of Arms, and if it be that by which he is usually known, he cannot be said to be married under a wrong name. And even where a person uses a false name, *i.e.*, one by which he or she is not usually known, the marriage is not invalid (under 6 & 7 Wm. IV., c. 85, s. 42), unless the falsity is known to the other party to the marriage ceremony (*Regina* v. *Rea*, 41 Law J. Rep. M. C. 92; L. R. 1 C. C. R. 365).—*Ib.*

LIBEL.—When Mr. Gladstone went to the theatre on the evening of the day on which the news of Gordon's death arrived, many people said hard things of him. It is not generally realised that imputing callousness of this kind is a libel in law. We are reminded of this by a case in the new volume of the 'Revised Reports' (*Churchill* v. *Hunt*, 1 Chitty, 480). Lord Churchill (the grandson of the great Duke) had by furious driving upset a carriage with a lady in it, with the result that the lady was so bruised and cut that she died; and the *Examiner* published the following comment: 'We are informed, but can hardly believe the relation, that though this young nobleman was fully aware of the shocking death of the lady, he on the very evening of the catastrophe attended a public ball.' This was held to be a libel. The editor who was guilty of this indiscretion was Leigh Hunt, who not long afterwards expiated in prison a similar indiscretion in calling the Regent a 'fat Adonis of fifty.'—*Ib.*

INGRESS AND EGRESS.—It is a maxim of English law that when a grant is made the grantor tacitly grants that which is necessary to the enjoyment of the thing granted. Access to demised premises is an obvious illustration. It is no use having, for instance, expensive chambers in Piccadilly if when you are out you cannot get in, and when in you cannot get out. But what is the measure of this implied right of ingress, egress, and regress? Is it enough if the landlord provides means of access sufficient for the average man, or must he go further and provide a means of access fitted for a Brobdignagian specimen of humanity, or does the tenant take the premises as he finds them? All sorts of cases occur to a lively imagination—a bed too short, a balcony too frail. Many country stiles present a fatal obstacle to some corpulent forms. Would action lie in such a case for obstruction of the highway? The answer is that the average man is the standard of English law. If you happen to be an abnormal specimen you must make special contracts.—*Ib.*