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THE QUEEN v. DOUTRE.

We publish this week the text of the decision of the Privy Council in this important case. The *Law Journal* (London) has the following remarks:—"In the appeal of *Regina* v. *Doutre* the Judicial Committee of the Privy Council decide some interesting professional questions. It is laid down that when a client retains counsel for professional services, he retains him according to the custom and law of the bar of which he is a member. For instance, if an Englishman happened to meet an English barrister or solicitor in Paris, and retained him to conduct his case in a French Court, the rights of the parties would be governed by English and not French law, the place of the contract and the place of the services rendered being irrelevant. Secondly, the Committee entertain 'serious doubts' whether in British Colonies in which the English common law prevails, the fee for advocacy due to a practitioner who is both barrister and solicitor can be considered an honorarium. It would have been as well if the Committee had been more positive on a subject which scarcely admits of doubt. The theory of honorarium belongs not to the service rendered, but to the person rendering it. As soon as that person can recover at all for professional services, he can recover for all professional services. It has never been questioned that solicitors can recover in this country for advocacy in the County Courts, or any other Court in which they have co-audience with barristers. Thirdly, the Committee decide that the rights of the Canadian lawyer against the Crown are the same as his rights against private clients, as to which it need only be said that it would be very strange if it were not so. In reading the formal judgment of the Committee, which in style and manner is half-way between the recitals of a French judgment or the note to a Scotch interlocutor and the judgment of an ordinary English Court of law, whether at home or abroad, one is struck with the loss sustained by the prohibition of *seriatim* opinions. On a subject of so much interest the judgments in the Court of Appeal and the House of Lords would have been doubly interesting."

EX PARTE ANNOUNCEMENTS.

A letter in a daily paper affords an illustration of the way in which *ex parte* announcements work. We know nothing of the merits of the case, but we take the following as a sample of a very numerous class of proceedings. There was an announcement in the papers about an action for $100,000 damages. The writer of the letter referred to says:—"The fact that the same has been made public for several days, and as yet no writ has been served on those supposed to be most interested therein, has, to say the least, a very peculiar look about it." We have it from several informants that in many of these cases no writ is ever served. If the announcement in the papers fails to effect its purpose the case is dropped.

THE SALVATION ARMY IN CANADA.

We noted some time ago a decision in England (5 L.N. 265) by which the Salvation Army were permitted to pursue their conquests undeterred by the fear of the police. In Ontario, the police magistrates took a different view (6 L.N. 233), but on appeal to a higher tribunal the verdict is in favour of unimpeded action. In Toronto, July 24, judgment was given at Osgoode Hall by Mr. Justice Rose, on an application to quash the conviction against Bella Nunn, of the Salvation Army, for beating a drum in the streets of London. The judgment was a lengthy one, and, after referring to technical objections and the arguments of counsel, it went on to say: "In my opinion, if the beating of drums be an unusual noise or calculated to disturb, it may be prevented; otherwise not. It follows, if I am correct, that evidence must be given, and, if given for the crown, must be given for the prisoner. In this case evidence was refused on behalf of the prisoner. I am therefore of opinion that the conviction and commitment disclose no offence, that the by-law, so far as it seeks to prohibit the beating of drums simply,

without evidence of the noise being unusual or calculated to disturb, is *ultra vires* and invalid, and that as evidence must be given it must also be received on the prisoner's behalf. The evidence does not, so far as it goes, show that the noise is unusual. It is quite the other way. The evidence does not even state that there was a beating of drums; it was playing a drum. Am I judicially to know that beating a drum and playing a drum are the same? The order must go for the prisoner's discharge."

CHEAP PHILANTHROPY.

County Courts, whether in Canada or in England, are somewhat doubtful authority on the law. *Est ubi peccat.* We imagine that one of the slips is in a case noted in the columns of our contemporary the *Law Journal* (London). The person who has the honour of setting the ball of benevolence in motion should undoubtedly have the privilege of paying (and if he does not consider it a privilege, then it should be a legal obligation upon him). The *Law Journal* says: "The well-known humanity of the medical profession is put to a further test by a decision of the County Court judge at Exeter on Wednesday last. On a certain Sunday in May one of the congregation at a church in Exeter was taken suddenly ill. The Mayor, who was present, immediately sent a boy for a doctor. The doctor arrived, and having ministered to the patient's wants, sent in his bill for the modest sum of five shillings to the Mayor. The Mayor declined to pay, but suggested that if the patient did not settle the bill it should be sent in to the watch committee. This seemed to imply that the Mayor's benevolence was in his corporate and not his individual character, and the doctor, declining to take the suggestion, put the Mayor in the County Court. The County Court judge, however, held that 'merely sending for the nearest medical man is no contract.' This view, if sound, will encourage the practice of much cheap and ostentatious benevolence, and on hot Sundays the doctor who lives near the church will probably spend half his time running to and fro to cut the laces of young ladies who find it convenient to faint during the sermon. But why should this new maxim of English law apply to the nearest doctor only. 'Work and labour done at the defendant's request,' is a very ancient cause of action which might be supposed to extend to doctors. If a philanthropist finds a person disabled in the street and sends him home in a cab, he must pay the cabman. The good reputation of doctors for self-sacrifice is, however, as little to their worldly advantage as the bad name which may be given to a dog. The 'nearest doctor,' is so convenient and ready an institution, that people are apt to look upon him as a public servant, bound to respond gratuitously to the call of every one in need."

NOTES OF CASES.

PRIVY COUNCIL.

LONDON, July 12, 1884.

THE QUEEN v. DOUTRE.

Action for Professional Services—Locus contractus—Status of advocate—Action against the Crown.

An advocate of the Province of Quebec, being by law and the custom of his profession entitled to recover payment for his professional work, those who engage his services must, in the absence of any stipulation to the contrary, expressed or implied, be held to have employed him upon the usual terms according to which such services are rendered. The contract is not dependent upon the law of the place where the services are to be given, but upon the status of the person employed.

A Quebec advocate has the same right to fees against the Crown as in other cases.

PER CURIAM. On the 1st of October, 1875, the Government of Canada addressed and sent to the respondent, Mr. Joseph Doutre, a letter, signed by Mr. Bernard, the Deputy Minister of Justice, in the following terms:—

"Sir,—The Minister of Justice desires me to state that, the Government being desirous to retain counsel to act for them upon the proceedings in connection with the Fishery Commission to sit at Halifax under the Treaty of Washington, he will be glad to avail himself of your services as one of such counsel, in conjunction with Messrs. Samuel R. Thompson, Q.C., of St. John, New Brunswick,

and Robert L. Weatherbee, barrister, of Halifax. The Minister will be glad to know whether you are willing to act in that capacity, and in that case to place you in communication with the Department of Marine and Fisheries upon the subject."

Upon receipt of this letter the respondent wrote in reply that he would act as requested. The respondent is a member of the Montreal section of a body of legal practitioners incorporated by cap. 72 of the Consolidated Statutes of Lower Canada, under the title of "the Bar of Lower Canada." By the terms of the statute each member of the Bar is admitted to practise as "advocate, barrister, attorney, solicitor, and proctor at law," and no person except a member of the Bar duly admitted is entitled to conduct business in any of these capacities before the Courts of Lower Canada. Every member of the Bar must be registered in the district where he intends to practise, and he becomes answerable for his conduct to the council of that district, being liable, in case of his offending against professional rule or etiquette, to censure or to suspension from office for any period not exceeding a twelve month. It is not matter of dispute that, according to the law of Quebec, a member of the Bar is entitled, in the absence of special stipulation, to sue for and recover a *quantum meruit* in respect of professional services rendered by him, and that he may lawfully contract for any rate of remuneration which is not *contra bonos mores*, or in violation of the rules of the Bar. But it is asserted for the appellant that by the law of Ontario, the Province in which Ottawa, the seat of Government, is situated, a counsel cannot sue for his fees, and that he is under the same disability according to the law of Nova Scotia, where, according to Article 23 of the treaty, the Commission was to meet. In support of that contention, counsel for the appellant referred to the opinion of Chief Justice Harrison in *M'Dougall* v. *Campbell* (41 U.C.Q.B., 332) as correctly expressing the law of Ontario, but they mainly relied upon the proposition that in those provinces of the Dominion where the common law of England prevails, members of the Canadian Bar can neither have action for their fees nor make a valid agreement as to their remuneration, unless that right has been conferred upon them by statute.

In these circumstances it was maintained that the right of the respondent to sue for his fees must depend either upon the law of Ottawa, the *locus contractus*, or upon the law of Nova Scotia, the *locus solutionis*, and that in neither case was any suit competent to him. Were it necessary to decide all the points thus taken by the appellant, questions of much nicety would arise. It is by no means clear either that Ottawa was the *locus contractus*, or that Nova Scotia was, in the strict sense, the *locus solutionis*. It is at least a plausible view of the case that the contract was completed in Quebec at the moment of time when the respondent posted his letter accepting the employment offered him by the Minister of Justice. On the other hand, although the Commission was to sit at Halifax, it is perfectly plain that the work expected of the respondent and actually performed by him was by no means confined to advocacy of the Dominion claims during the sitting of the Commission. His employment was not limited to what would in this country be considered the proper duties of a counsel, but embraced the work of an agent or solicitor. In point of fact, he is employed to prepare the case of the Dominion Government as well as to plead in their behalf. That such was the understanding of both parties may be inferred from the known professional *status* of the respondent, as well as from the fact that, in pursuance of the so-called retainer of the 1st of October, 1875, the respondent had papers sent him, and was engaged at Quebec during eighteen months, with occasional visits to Ottawa, in collecting and putting in shape materials for framing and supporting the claim which was to be urged before the commission. Then, as regards the other questions of law raised by the appellant, there is much difficulty. Their lordships are willing to assume that the law of England, so far as it concerns the right of the bar of England to sue or make agreement for payment of their fees, was rightly applied in the case of *Kennedy* v. *Brown* (13 C.B.N.S., 677), but they are not prepared to accept all the reasons which were assigned for that decision in the judgment of Chief Justice

Erle. It appears to them that the decision may be supported by usage and the peculiar constitution of the English Bar, without attempting to rest it upon general considerations of public policy. Even if these considerations were admitted, their lordships entertain serious doubts whether, in an English colony where the common law of England is in force, they could have any application to the case of a lawyer who is not a mere advocate or pleader, and who combines in his own person the various functions which are exercised by legal practitioners of every class in England, all of whom, the bar alone excepted, can recover their fees by an action at law. But it is unnecessary, in the view which their lordships take of this case, to decide any of these questions which were raised by the argument for the appellant. The right of the respondent to sue for remuneration does not appear to them to depend either upon the law of the place where the employment was given, or upon the law of the locality within which it was performed. When any advocate or other skilled practitioner is by law and the custom of his profession entitled to claim and recover payment for his professional work, those who engage his services must, in the absence of any stipulation to the contrary, expressed or implied, be held to have employed him upon the usual terms according to which such services are rendered. That is the implied condition of every contract of employment which is silent as to remuneration, and it is dependent upon the *status* and rights of the person employed, and not upon the law of the place where his services are to be given, so long as he is employed in his professional capacity. A member of the bar in England, in accordance with the law of that country and the rules of the profession to which he belongs, renders, and professes to render, services of a purely honorary character. If in his professional capacity as an English barrister he accepted a retainer to appear and plead before commissioners or arbitrators in a foreign country, by whose law counsel practising in its regular courts were permitted to have suits for their fees, that would not give him a right of action for his *honorarium*. His client would have a conclusive defence to such an action on the ground that he was employed as a member of the English Bar, and, by necessary implication, upon the same terms as to remuneration upon which members of that bar are understood to practice. The respondent is a member of the Quebec section of the bar of Lower Canada, and it was in that capacity that he was retained by the government as one of their counsel before the Fisheries Commission. The respondent has the rank of Queen's Counsel conferred upon him by patent, but that circumstance does not appear to their lordships to affect the present case. It gave him a certain precedence in a question with other members of the bar, but it made no change upon the duties and obligations incumbent on him as a practising member of the bar, or upon his privileges as such, including the right to sue for his fees. The retaining letter of the 1st of October, 1875, makes no mention of fees, and their lordships are accordingly of opinion that it must be held to have been an implied condition of the employment thereby offered that the respondent was to be remunerated for his services upon the same terms on which these services were rendered to clients in Quebec. The respondent was engaged and undertook to go to Halifax as a Quebec counsel, subject to the same rule of his bar by which his conduct as a lawyer was regulated in Quebec, and it would be a strange result if, retaining his *status* and performing his work as a member of the Quebec Bar, he was nevertheless to be stripped of the privileges attaching to that *status* as soon as he entered the Province of Nova Scotia. A few weeks after his acceptance of the letter of the 1st of October, 1875, the respondent received a retaining fee of $1,000, and thereafter the subject of counsel's remuneration does not appear to have been considered until May, 1877, when it was discussed at Ottawa, in the course of one or two personal interviews between Sir A. Smith, Minister of Marine and Fisheries in the government of Canada, and the respondent.

The parties are widely at variance in regard to what actually passed on the occasion of these interviews. The allegation made by the respondent in his petition is:—That on the eve of his leaving his home for Halifax in

May, 1877, your petitioner made with the Department of Marine and Fisheries a temporary and provisional arrangement, under which your petitioner should be paid $1,000 a month for current expenses while in Halifax, leaving the final settlement of fees and expenses to be arranged after the closing of the Commission." On the other hand, it is alleged in the defence filed for the appellant:—"That the arrangement made with the suppliant referred to in his petition, under which he was to be paid $1,000 a month while in Halifax, was not a temporary and provisional arrangement as alleged, but that the $1,000 a month, was, with other moneys previously paid to the suppliant, to be accepted by him in full for his services and expenses." The Commission met at Halifax on the 16th of June, and brought its labours to a close on the 23d of November, 1877, having sat, with occasional adjournments, for a period of five months and seven days. In addition to the retaining fee already mentioned, the respondent received a "refresher" of $1,000, and also six monthly payments of $1,000 each during the sitting of the Commission, making a sum total of $8,000. According to the respondent, these sums were paid to him to account of his remuneration, the precise amount of his fees and expenses being left for adjustment subsequently. According to the appellant, they were paid to and received by the respondent as in full of his whole claim for fees and expenses. Both parties are agreed that in May, 1877, it was arranged that those sums (to the extent of $7,000) should be paid to the respondent, but they differ as to the footing upon which they were to be paid. Being of opinion that by the terms of his employment in 1875, the respondent was entitled to a *quantum meruit* in respect of the services which might be required of him, their lordships think that it lies with the appellant to make out that the respondent's original right to remuneration was varied by subsequent agreement, and they have also come to the conclusion that the appellant has failed to establish the existence of such an agreement. The evidence upon this point, which need not be referred to in detail, is very unsatisfactory. It is abundantly plain that the impression honestly derived by Sir A. Smith from his interviews with the respondent in May, 1877, was that the respondent had agreed to accept a refresher of $1,000, and a payment of the same amount monthly during the sittings of the Commission, as in full of all claims for remuneration. But in order to alter the then existing rights of the respondent, it is not enough for the appellant to show that such was the impression created in the mind of Sir A. Smith; he must also prove that the terms of the arrangement, as understood by Sir A. Smith, were understood in the same sense and were assented to by the respondent. But the respondent swears distinctly that he understood and believed the arrangement to be provisional merely; that its object was to fix the sums which were to be paid him to account, leaving the balance payable to him for after-adjustment, and there are circumstances proved in the case which seem to establish beyond question that the respondent at the time sincerely entertained that belief. Then the evidence of Mr. Whitcher, the Commissioner of Fisheries for Canada, and the only third party present at these interviews, is not only very inconclusive, but what he does state, as to the language actually used by the principal parties to the arrangement then made, tends to support the respondent's understanding of its terms. In that state of the evidence, their lordships are unable to hold that the appellant has satisfied the *onus* incumbent on him of proving the new arrangement alleged in his defence. In the courts below, while the learned judges were equally divided as to the result of the case, there was a remarkable diversity of judicial opinion in regard to the law applicable to its decision. The cause was tried before Mr. Justice Fournier, who, on the 12th of January, 1881, gave judgment in favour of the respondent, and fixed the amount of fees and expenses still remaining due to him in remuneration of his services at $8,000, and it is not maintained that the amount awarded by the learned judge is excessive, if the respondent has a right of action, and that right is not barred by the alleged arrangement of May, 1877. The cause was then taken by appeal before the Supreme Court of Canada, who gave their

judgment on the 13th of May, 1882. Chief Justice Ritchie and Justices Strong and Gwynne were in favour of allowing the appeal, but Mr. Justice Fournier, who was a member of the Full Court, adhered to the view which he had taken as judge of first instance, and Justices Henry and Taschereau, in substance, agreed with him. In consequence of this equal division of opinion in the Supreme Court, the order appealed from was confirmed, and the appeal dismissed, with costs. Their lordships do not consider it necessary to notice the great variety of reasons assigned by the learned judges of the Supreme Court in support of the views which were severally adopted by them, with the exception of one point raised in the judgment of Mr. Justice Gwynne. That point is deserving of notice for this reason—that if the opinion of the learned judge, which is based on the provisions of the Petition of Right Act of Canada, be well founded, the respondent, though he might have suit for recovery of his fees from any subject, could not recover them, by petition, from the Crown. By a pardonable error, Mr. Justice Gwynne refers to the Act of 1875, instead of the Petition of Right Canada Act, 1876 (39 Vict., c. 27), which repealed the statute of the previous year. Section 19, which is identical, in expression, with the similar circumstances of the repealed act, provides "that nothing contained in this act shall give to the subject any remedy against the crown in any case in which he would not have been entitled to such remedy in England, under similar circumstances, by the laws in force there prior to the passing of the imperial statute 23 and 24 Vict., c. 34." The learned judge seems to hold that these provisions place a Quebec lawyer on perfectly the same footing as an English barrister, so far as regards his right to proceed against the Crown for recovery of his fees. But it appears to their lordships that the process of reasoning by which the learned judge arrives at that conclusion confounds two things which are essentially different—"right" and "remedy." The statute does not say that a Quebec lawyer shall, in all cases, have only the same right against the Crown as a member of the English bar. What it does enact is that no subject in Canada shall be entitled to the "remedy" provided, unless he has a legal claim, such as could have been enforced by petition of right in England prior to the Imperial Act of the 23rd and 24th Victoria. It is impossible to hold that a member of the Quebec bar who, by law and practice, is permitted to sue for his fees, when he seeks his remedy against the Crown, under the Canadian Act of 1876, has no such legal claim, and that he sues under circumstances similar to those in which an English barrister is placed who, neither by the usage of his profession nor the law of his domicile, can maintain any action for his fees. Their lordships will, therefore, humbly advise Her Majesty to affirm the judgment of the courts below, and to dismiss the appeal, with costs.

Judgment affirmed.

The *Solicitor General* and Mr. *Jeune* for the Crown.

Mr. *McLeod Fullarton* for the respondent.

SUPERIOR COURT.

MONTREAL, July 30, 1884.

[In Chambers.]

Before TORRANCE, J.

McLEAN, Petitioner, and PHILLIPS et al., Respondents.

Costs—Petition for appointment of sequestrator.

The petitioner in April presented a petition for the appointment of a sequestrator to collect the revenue, of certain lots of land, in which petitioner claimed a usufructuary interest. After pleas filed, the petitioner discontinued, and now claimed the revision of a bill of costs. The bill was taxed against petitioner and a fee of $25 allowed respondent's attorney. The petitioner contended that the only fee allowable under the tariff was $3.

Ritchie, supporting the taxation, cited Wotherspoon, C. C. P., p. 321, 2, and 3 Legal News, p. 358; 17 L. C. Jur. 69.

Benjamin è contra.

TORRANCE, J. The taxing officer appears to have been guided by the rules laid down for actions not specially provided for; p. 321 of Wotherspoon.

I am inclined to place the taxation of the present proceeding under No. 83 p. 329 of

Wotherspoon. It provides for fees to obtain appointment of tutor, curator or any other such proceeding. The fees to be allowed are therefore $12 to adverse party on contestation, and $8 for law issue.

Benjamin for petitioner.

F. Ritchie for respondent.

COURT OF QUEEN'S BENCH.

[Crown Side.]

DISTRICT OF TERREBONNE, July, 1884.

Before JOHNSON, J.

THE QUEEN v. GRANGER.

Criminal Procedure—Indictment for Perjury.

Held, that where the preliminary formalities required by sec. 28, 32-33 *Vict. c.* 29, *concerning criminal procedure, have not been complied with, an indictment for perjury will be quashed if it has not been preferred by the direction in writing of the Attorney-General himself.*

In this case the indictment was signed "L. O. Taillon, atty-general, by Chs. de Montigny, Crown prosecutor."

The defendant moved to quash the indictment and his motion was granted.

Chs. de Montigny for the crown.

Wilfred Prevost, counsel.

Arthur Globensky (of Globensky & Poirier) for defendant.

CUMULATIVE SENTENCES.

The Supreme Court of Michigan recently passed upon the question of cumulative sentences in *Bloom's Case*, 19 N. W. Rep. 200. In that case a prisoner, convicted for two separate offences, was sentenced to serve three months for the first, from January 25 to April 24, and for a like term for the second offence, from and after April 24, unless the first term should expire before that time, in in which case the second should begin at the termination of the first. The court held that the second sentence was void, because a sentence to confinement, to take effect in the future, cannot be sustained unless plain and free from contingencies. This does not seem to be in accord with the current of authorities. See Desty's Crim. L. (Pony Series), p. 130. It has heretofore been held that where a prisoner is convicted of a second or subsequent offence, the judgment may direct that each succeeding period of imprisonment shall commence on the termination of the one immediately preceding, *People* v. *Forbes*, 22 Cal. 136; *Ex parte Dalton*, 49 *Id.* 463; *State* v. *Smith*, 5 Day, 175; *Kite* v. *Commonwealth*, 11 Met. 581; *Cole* v. *State*, 5 Eng. 318; *Ex parte Mayers*, 44 Mo. 279; *Ex parte Turner*, 45 *Id.* 318; *Williams* v. *State*, 18 Ohio St. 46; *Mills* v. *Commonwealth*, 1 Har. (Pa) 631; *Commonwealth* v. *Leath*, 1 Vas. Cas. 151; *Wilkes* v. *Rex*, 4 Brown Parl. C. 360; *Rex* v. *Bath*, 1 Leach, 441; *Reg.* v. *Cutbush*, L. R. 2 Q. B. 379. But see *Miller* v. *Allen*, 11 Ind. 389. Pardon or reversal of the first or preceding sentence on writ of error before expiring of time originally fixed not affecting second or subsequent sentence. *Kite* v. *Commonwealth*, 11 Met. 581; *Ex parte Roberts*, 9 Nev. 44; *Brown* v. *Commonwealth*, 4 Rawle, 259. See Opinion of Justices, 13 Gray, 618.—*American Law Journal* (Columbus, O.)

LORD COLERIDGE'S VISIT.

A statement having been made public, that Chief Justice Coleridge was writing a book about America, his lordship writes to the *Albany Law Journal* to say that there is not the slightest foundation for the report. He says: "My visit was too short, too hurried, too pleasant in all ways, to give me any real insight into your wonderful country. There *must be* by-ways I never saw, unscrupulous people I never met; and if I were foolish enough to try to generalize from such very imperfect materials, I have not the power to do so with effect. I cannot knock off a dissertation on a great country of infinitely complicated elements, and endless variety of social aspects, in half an hour. The incorrigible vanity of such a proceeding would be laughable if it were not sometimes so very mischievous. No; I must be content with the very pleasant memories of my ten weeks' American vision, during all of which I never heard an unkind word, or met an unfriendly person, and which will always warm my heart when I think of it, till it is chilled forever by that which cannot now be very far away."

GENERAL NOTES.

The death is recorded, July 23, of the Right Hon. Sir Lawrence Peel, aged 84. The deceased, who was a cousin of the late Sir Robert Peel, was born in 1799. After filling the post of Advocate General at Calcutta he was raised to the Chief Justiceship of the Supreme Court in 1842, and retired in 1855. In 1871 he was appointed a member of the Judicial Committee of the Privy Council.

The death of Sir Watkin Williams, a judge of the Court of Queen's Bench, is reported by cable July 18. The deceased was born in Llansannan, Wales, in 1828, his father being rector of that place. He first studied for the medical profession, but abandoned it for the bar. He was made a Q.C. in 1873, and was M.P. for Denbigh (liberal) for several years, and in 1880 was appointed a justice of the Queen's Bench division of the Supreme Court of Judicature.

"What is a kiss?" asks the *Pall Mall Gazette*. "The question can only be answered by experience: *solvitur osculando*. But it is easy after a decision in the Lambeth County court yesterday to say what a kiss is not. It is not legal 'consideration.' A surgeon in Lambeth kissed a workingman's wife: the husband valued the kiss at five pounds, and the surgeon gave an I O U for that amount. A month after date an action was brought on this document, but the judge promptly ruled there was no consideration and gave a verdict for the defendant. Perhaps the lady was in court, and the judge may have been influenced by that. For even the poets admit that there are kisses and kisses! The interesting question is whether yesterday's judgment was meant to lay down a general principle, or whether every case must be decided on its merits."

The Supreme Court of Louisiana lately upheld a verdict in trespass for $700, rendered against a furniture dealer for unlawfully retaking furniture upon failure to pay for it. Say the court: "The unlawful invasion of the pauper's hovel, and abstraction of its scanty possessions is an injury identical in character and magnitude with the like entry of a palace and the despoiling it of its gorgeous apparel." — *Ohio Law Journal.*

The Supreme Court of Georgia has affirmed a lower court judgment on a verdict of guilty of circulating an indecent pictorial newspaper known as the *National Police Gazette*, in *Montross* v. *State*, 17 Rep. 783. It seems that the defendant violated the law for the express purpose of making a test case, that he was anxious to vindicate the charges brought against it, and with that view and that he might not fail in his object, he sought the chief of police and bestowed on him copies of his paper. The defendant succeeded apparently beyond his own expectations, for he was sentenced to pay a fine of $1000, or, in default, to labor for one year on the public works.—*Weekly Law Bulletin*, (Columbus, O.)

The retrospective clause in the French Divorce Act will probably have the effect of keeping lawyers and the law courts busy for some time to come. Couples legally separated for upwards of three years will be entitled to demand a divorce at once, and the application may be made by either the plaintiff or the defendant in the separation suit. The court will, however, have to review the evidence given in the earlier proceedings, and if the facts should seem not to be of sufficiently grave a nature to warrant a divorce it will be withheld. Such cases will, however, it is believed, prove to be exceedingly rare; separations being rarely asked for or granted on grounds which would not warrant a divorce under the act. It is estimated that not fewer than five or six thousand applications will be made under the retrospective clause.—*St. James Gazette.*

The *New York Times* shows that there are in the city of New York only 15,450 persons liable to jury duty. Of 5,646 members of the produce, cotton, stock and petroleum exchanges less than five per cent. are liable. Seventy thousand escape by not having the property qualification, thirty thousand by physical disability, and twenty thousand by military service. The *Times* remarks that "if jury service is to be handed over to the ignorant, the vicious and dissatisfied, the day will soon come when other cities will be taught the lesson which Cincinnati has learned."

That a holiday is a necessity and not merely a luxury, is a fact, which, says the *British Medical Journal*, it especially behooves members of our hardworking profession to remember in the regulation of their own lives as well as in their dealings with their patients. For the brain-worker, periodical remission of accustomed toil has always been a necessary condition of continued vigor. For him the heightened tension of modern life has especially accentuated the need for occasional periods devoted to the recreation and recumulation of energy. The cogent physiological principles and practical purposes of systematic holidays are generally admitted. All workers, if they are to last, must have holidays. For some persons and for some occupations frequent short holidays are the best; with other natures and in other circumstances only comparatively long periods of release from routine are of service. Few real workers, if any, can safely continue to deny themselves at least a yearly holiday. Mere rest, that is, mere cessation from work, while it is better than unbroken toil, does not recreate the fairly vigorous so thoroughly as does a complete change of activity from accustomed channels. For the strong worker, either with brain or muscle, diversion of activity recreates better than rest alone. The whole body feeds as it works, and grows as it feeds. Rest may check expenditure of force, but it is chiefly by expending energy that the stores of energy can be replenished. We mostly need holidays because our ordinary daily life tends to sink into a narrow groove of routine exertion, working and wearing some part of our organism disproportionately, so that its powers of work and its faculty of recuperation are alike worn down. In a well-arranged holiday we do not cease from activity, we only change its channels. With such change we give a new and saving stimulus to assimilation and the transmutation of its products into force. As a rule, the hardest workers live longest, but only those live long who sufficiently break their wonted toil by the recreating variety of well-timed and well-spent holidays.