THE

LEGAL NEWS.

VOL. XVIII. AUGUST 1st, 1895. No. 15.

CURRENT TOPICS.

The infrequency of serious crime in this province has hitherto afforded some cause of congratulation. In the present year the record is not so satisfactory. In Quebec, as well as in Ontario, the list of capital offences has been unusually full. Attempts to defraud insurance companies were the motive in some of these cases, as, for example, the Hendershott case, in which a young man was brutally murdered for the sake of the insurance on his life. Greater care on the part of insurance companies in refusing to insure for amounts wholly out of proportion to the insurer's interest in the life would remove the temptation to commit crimes of this kind. It must further be remembered that some of the most notable crimes ever disclosed in Canada were committed by newly arrived immigrants. A distant land seems to hold out a temptation to the parents of a troublesome son, as a method of relieving their home from disturbance, but such an arrangement does not often result to their satisfaction.

The accumulation of reported decisions in the United States may be judged from the fact that one law publishing house has issued a notice of a "National Case-law Warehouse," in which "reports of 150,000 late decisions

by the highest state and federal courts" are kept stored. "If you want any one of these, you can have it at a moment's notice."

At the annual dinner of the Harvard Law School Association there were, as usual, some pithy and interesting sayings. Mr. Justice Holmes remarked: "Learning is a very good thing. I should be the last to undervalue it. But it is liable to lead us astray. The law, so far as it depends on learning, is indeed, as it has been called, a government of the living by the dead. To a very considerable extent, no doubt, it is inevitable that the living should be so governed. The past gives us our vocabulary and fixes the limits of our imagination. We cannot get away from it. There is, too, a peculiar logical pleasure in showing, in making manifest, the continuity between what we are doing and what has been done before. But the present has a right to govern itself so far as it can; and it ought always to be remembered that historic continuity with the past is not a duty—it is only a necessity. I hope the time is coming when this thought will bear fruit."

Pursuing the same theme, the learned judge added: "An ideal system of law should draw its postulates and its legislative justifications from science. As it is now, we depend upon tradition or vague sentiment, on the fact that we never thought of any other way of doing things, as our only warrant for rules which we enforce with as much confidence as if they embodied a recorded wisdom. What reasons of a different sort can any one here give for believing that half the criminal law does not do more harm than good? Our forms of contract, instead of being made once for all, like a yacht, along lines of least resistance, are accidental rulings of early nations, concerning which the learned dispute. The Italians have gone to work upon the notion that the

foundations of the law ought to be scientific. If our civilization is not destined to an eclipse, I believe that the regiment or division that follows us will carry that flag."

On the same occasion Mr. Joseph H. Choate referred to his early acquaintance with Prof. Parsons, while the latter was a professor of the Law School. "It was his maxim of life," he said, "which I have always endeavored to follow, that it was the duty of every lawyer to get all the entertainment possible out of his work as he went along; and whether in his lectures, in social converse, in court, wherever he was, he had a most delightful way of saying things, which impressed themselves as uttering the foundation principles of the common law upon the minds of the hearers in a way that I, for one, have succeeded in carrying away through a long professional career."

Dr. Chaffee, in an article in the *Medico-Legal Journal* (New York), is very severe upon trumped-up cases of damages against railway companies. "When we read of solid through express trains," he says, "being held up by masked men, we say that it requires a strong nerve; but when a nervous and hysterical woman, who has been shaken up a little and frightened in a collision, combines with medical and legal quacks, and proceeds to hold up a corporation for from twenty to forty thousand dollars, for an alleged injury, we cannot think that her nervous system is as badly shattered as she would have us believe. She is a fit subject for the expert examiner, and objections on the score of exposure of person in her case would amount to about zero. It is not an over-estimate to place the losses of railways in damage cases by miscarriage of justice at millions of dollars." It may be remarked that by an amendment passed last year by the Legislature of New York, it is now law that "if the

party to be examined shall be a female, she shall be entitled to have such examination before physicians or surgeons of her own sex,"—which opens a field for medical women.

SUPREME COURT OF CANADA.

OTTAWA, 6 May, 1895.

QUEBEC.]

ROLLAND v. LA CAISSE D'ECONOMIE DE NOTRE-DAME DE QUÉBEC.

Debtor and creditor—Loan by Savings Bank—Pledge of securities as collateral—Letters of credit—Validity of loan—Obligation to repay—Nullity—Public order—Arts. 989, 990, *C.C.*, *R.S.C.* *c.* 122, *s.* 20.

L. borrowed a sum of money from La Caisse d'Economie, a Savings Bank in Quebec, giving as collateral security letters of credit on the Government of Quebec. L. having become insolvent the bank filed a claim with the curator of his estate for the amount so loaned, with interest, which claim the curator contested on the ground that the bank was not authorized to lend money on the security of letters of credit which were not securities of the kind mentioned in sec. 20 of The Savings Bank Act, R.S.C. c. 122, and the loan was, therefore, null; and that it was a radical nullity, being contrary to public order, and the repayment could not be enforced. Arts. 989, 990 C. C. The Superior Court dismissed the contestation, and its judgment was varied by the Court of Queen's Bench which held that the bank could not recover interest on the loan.

Held, affirming the decision of the Court of Queen's Bench (Q. R. 3 Q. B. 315), that assuming the loan to have been *ultra vires* the borrower could not avail himself of its invalidity to repudiate his obligation to pay his debt, nor could his creditors; that a contract of loan and one of pledge are so far independent that the one may stand and the other fall; and that the contestation was rightly dismissed.

Held, also, on cross-appeal, reversing the decision of the Court of Queen's Bench, that the bank was entitled to interest on its claim as well as to the principal money.

Appeal dismissed with costs and cross-appeal allowed with costs.

Drouin, Q.C., for the creditors, appellants.

Langelier, Q.C., and *Fitzpatrick, Q.C.*, for La Caisse d'Economie, respondents.

---

6 May, 1895.

BAKER v. MCLELLAND.

QUEBEC.)

Construction of deed—Sale of phosphate mining rights—Option to purchase other minerals found while working—Transfer of rights —Ambiguity.

M. by deed sold to W. the phosphate mining rights in certain land, the deed containing a provision that "in case the said pur-"chaser in working the said mines should find other minerals of "any kind whatever he shall have the privilege of buying the "same from the said vendor or representatives by paying the "price set upon the same by two arbitrators appointed by the "parties." W. worked the phosphate mines for five years and then discontinued it. Two years later he sold his mining rights in the land which, by various conveyances, were finally transferred to B, each assignment purporting to convey "all mines, "minerals and mining rights already found, or which may here-"after be found" on said land. A year after the transfer to B, the original vendor granted the exclusive right to work mines and veins of mica on said land to W. & Co., who proceeded to develop the mica. B. then claimed an option, under the original agreement to purchase the mica mines and demanded an arbitration to fix the price, which was refused, and she brought an action against M. and W. & Co., to compel them to appoint an arbitrator, and for damages.

Held, affirming the decision of the Court of Queen's Bench, that the option to purchase other minerals could only be exercised in respect to such as were found when actually working the phosphate, which was not the case with the mica as to which B. claimed it.

Held also, that any ambiguity in the agreement granting the option must be interpreted against the purchaser.

Appeal dismissed with costs.

McDougall, Q.C., for the appellants.

Aylen for the respondents.

6 May, 1895.

Ontario.]

BARTHEL v. SCOTTEN.

Deed conveying land — Description — Patent ambiguity — Legal maxims—Res magis valeat quam pereat—Verba fortius accipiuntur contra proferentem—Intention of parties

Land was conveyed by the following description:—" All that " certain tract or parcel of land situate, etc., being part of " lot 43 ...... commencing in the southerly limit of said lot 43, " at a distance of 20 feet from the water's edge of the Detroit " River, thence northerly parallel to the water's edge 208 feet, " thence westerly parallel to the said southerly limit 600 feet, " more or less, to the channel bank of the Detroit River, thence " southerly following the channel bank 208 feet, thence easterly " 600 feet more or less to the place of beginning." In an action of ejectment for land alleged to be covered by this description, in which the point of commencement was difficult to ascertain:—

Held, reversing the decision of the Court of Appeal (21 Ont. App. R. 569), King, J., dissenting, that the construction of the description did not depend upon the terms of the patent of said lot 43; that it must be construed by the terms of the instrument alone read in the light of surrounding circumstances tending to explain it, even if such construction should make the grantor purport to convey more than he had title to; that the maxim *res magis valeat quam pereat* does not authorize a construction contrary to the plain intention of the parties; and that the maxim *verba fortius accipiuntur contra proferentem* cannot be applied to explain away a patent ambiguity.

Appeal allowed with costs.

Armour, *Q.C.*, for the appellants.

McCarthy, *Q.C.*, and *Nesbitt*, for the respondent.

---

6 May, 1895.

KING v. EVANS.

ONTARIO.]

Mill—Construction of devise—Devise for life, remainder to issue " to hold in fee simple"—Rule in Shelley's case—Intention of testator.

A testator by the third clause of his will devised land as

follows:—"To my son James for the full term of his natural life and from and after his decease to the lawful issue of my said son James to hold in fee simple." The will then provided that in default of issue the land should go to a daughter for life with a like reversion to issue, failing which to brothers and sisters and their heirs. Another clause was as follows:—"It is my intention that upon the decease of either of my children without issue if any other child be then dead, the issue of such latter child (if any) shall at once take the fee simple of the devise mentioned in the second and third clauses of this my will."

Held, affirming the decision of the Court of Appeal (21 Ont. App. R. 519), which reversed that of the Divisional Court (23 O. R. 404), that if the limitation had been to the heirs general of the issue, the son, James, would have taken an estate tail according to the rule in Shelley's Case; that the word "issue," though *primâ facie* a word of limitation and equivalent to "heirs of the body," is a more flexible term than the latter, and more readily diverted by force of a context or superadded limitations from its *primâ facie* meaning; that the expression "to hold in fee simple" is one of known legal import, admitting of no secondary or alternative meaning, and must prevail over the fluctuating word "issue"; and that effect must be given to the manifest intention of the testator that the issue were to take a fee.

Appeal dismissed with costs.

Armour, *Q.C.*, and *McBrayne* for the appellants.

Nesbitt, *Q.C.*, and *Bicknell* for the respondents.

WITCHES.

The *Clonmel Witch-Burning Case*, which terminated last week in the principal participators in this orgy of revived mediævalism being sentenced to periods of from twenty years' penal servitude to six months' hard labor, will be, we hope, the last chapter—so far as this country is concerned—in a truly lamentable and disgraceful history. For the existence of witches, strong, if negative, authority is to be found in the Mosaic precept, "Thou shalt not suffer a witch to live," and we all know how this dictum influenced the views not only of Sir Matthew Hale, but of Sir William Blackstone, who lived a century later, and ought to have known better. It did not seem to have struck either of these sages that the gradual evolution of a higher to a lower state of

civilization, which commenced under the Israelitish leader, may both have produced forms of mental disease, and have created a necessity for rigor in the treatment of them, which have since disappeared. But there is something to be said both for the prevalence in the eighteenth century, and the flickering survival to the end of the nineteenth, of belief in witchcraft. For long after the Mosaic dispensation was over, scientific men, legislatures, and judges vied with each other in their efforts to keep it alive. Look at the facts stated in Calmeïl's "De la Folie," and in Michelet's "La Sorcière" of the Middle Ages; we see also Pope Innocent VIII. issuing bulls for "the discovery and burning of witches;" look at the wholesale massacres (disposing of at Geneva 500 wretches in three months) of witches on all parts of the Continent in the fifteenth century; and who can wonder that a creed with so much confidence in itself caused the perpetration of these acts of persecution and hideous cruelty for the purpose of emphasizing its supremacy? It held its own amongst the upper classes in England till the beginning of the present century, and can any human being say that there is no onger some excuse for its survival among an ignorant peasantry in the example of their betters? Though it may be a duty to punish for the excesses, does it lie in the mouth of a generation which has believed in planchette, in spiritualism, and in the "prophetic religions," in spite of the *Bridgewater Agapemone Case*, and the still worse fraud of the itinerant seer who induced —with results which may be imagined—seven credulous young women to accept the view that they had been assigned to him by heaven for his spiritual comfort, to upbraid the Irish peasantry for their faith in witchcraft? In all seriousness, however, it is satisfactory to find that the Clonmel outbreak has been sternly dealt with. Sir Matthew Hale said that "he made no doubt there were such creatures as witches" in 1665; Sir William Blackstone, in 1765, wrote "that to deny the possibility—nay, the actual existence—of witchcraft and sorcery is flatly to contradict the revered Word of God in various passages of the Old and New Testaments," and, in 1597, James the Sixth of Scotland, in his treatise on "Demonology," proceeded as follows: "Witches are not generally melancholic; but some are rich and worldly wise, some are fat and corpulent, and most part are given over to the pleasures of the flesh; and, further, experience daily proves how loath they are to confess, without torture,

which witnessethe their guiltinesse." Perhaps there was in Clonmel some lingering belief that the conceptions of witchcraft embodied in these passages were still authoritative. It is just as well that the illusion has now been dissipated.—*Law Journal* (*London*).

PETTY PERJURY.

The *Law Journal*, in reviewing an article by Judge Chalmers on "Petty Perjury," remarks:—"Everyone who is even superficially acquainted with the ordinary course of proceedings in our Courts is familiar with the lamentable pestilence of false swearing which infects them. It is an evil of the first magnitude, but, so far, our legislators have treated it as being no more amenable to treatment than the blot of original sin. Judge Chalmers makes a practical suggestion. Taking the position that many perjuries are in themselves small affairs, such offences may be properly treated by a small punishment, and he advocates the creation of a class of 'petty perjury' to be dealt with summarily by a magistrate. 'The point I wish seriously to insist on is that, in the case of a crime like perjury, the certainty of punishment is far more important than its severity. The probability of getting fourteen days' hard labour within a week's time at the nearest Police Court would be far more deterrent than the bare possibility of a long sentence at the next assizes.' Whether a moralist would agree to distinguish the guilt of perjuries by the harmfulness of the ends to which they were addressed, and whether even a law-maker, with his rough and practical methods, could safely adopt the criterion suggested, may be doubted; but there can be no question that the judge's other proposal for classifying the offences accords with the general opinion upon the matter. A witness who under pressure blurts out the first lie which occurs to him is less guilty than one who deliberately concocts and repeats a false tale. And 'an unfaithful wife who denies her guilt uses perjury as a weapon of defence,' and she merits far less punishment than 'the hired witness who falsely swears away the reputation of an innocent woman.' The testimony of so experienced an observer as Judge Chalmers, who has been judicially employed not only in the important County Court district of Birmingham, but in India and at Gibraltar, to the terrible frequency of perjuries, both petty and serious, in the witness-box, is very remarkable, and it merits the grave consideration of Gov-

ernment. 'I certainly think it is harder to get at the truth in an English County Court,' he declares, 'than it was in a North-West cutchery.' And he adds, 'I took a note of a hundred consecutive cases for less than £20 tried before me at Birmingham. I found there was hard cross-swearing in sixty-three. Of course there is much hard swearing which is not perjury,' but 'after making all allowance for hard swearing which is not perjury, there remains a terrible residuum of wilful and corrupt perjury, which urgently calls for a remedy if the administration of justice is not to be reduced to a farce.' The expression here employed is by no means adequate. If the orders of a Court are so infected by false testimony as to be as often wrong as right, or to anything like that extent, the administration of justice is not a 'farce,' but an outrage, and the sooner the Courts are shut up the better. Bad as matters are, however, they have not reached so terrible a pitch as that. No one doubts that the truth is very generally arrived at in the result, and, although we should agree with Judge Chalmers that the administration of the oath is nowadays very often an 'irreverent farce,' we see no ground for thinking that it is more difficult than at any former period to determine issues of fact. With the proposal that the judge should deal with perjury committed before him as a contempt of Court, Judge Chalmers will have nothing to do; and in this he shows the sound sense which characterises the whole of his article. Apart from the great and necessary safeguard which the concurrence of two independent tribunals constitutes, the judge who tries the cause in which the perjury is committed is not, at the moment, a fair judge of the offence. 'There is a good deal of human nature in most judges, and a judge is naturally annoyed when he discovers an attempt to deceive him and to make him do injustice in a case he is trying.' Besides, the liberty of men and women is not to be disposed of in the mood or the hurry which a press of business introduces, at least in County Courts, into the determination of small debt cases. 'We have no time to do things regularly,' a very capable London County Court judge recently said, in answer to a remonstrance from the Bar. This is perfectly true, and it constitutes a final objection to the exercise of criminal and civil jurisdictions concurrently and contemporaneously. If the procedure for the prosecution of petty perjury were made simple, easy, and expeditious in the way the article proposes, it would be necessary to provide a safeguard

against vindictive private prosecutions. Judge Chalmers suggests that the fiat of the Attorney-General or of the Public Prosecution should be required, but this would be to reintroduce the objectionable element of delay. It would merely be a sufficient check, in the absence of such a fiat, to allow the prosecution wherever the judge who tried the case expressed in writing his opinion that perjury had been committed."

THE LATE SIR JAMES BACON.

We regret to announce the death of the Right Hon. Sir James Bacon, which took place on the 1st of June. The death of Sir James Bacon, in his ninety-eighth year, removes the most venerable landmark of the extinct Court of Chancery. Sir James Bacon was a lad of fifteen years before the office of Vice-Chancellor of England was created, and as to the much more recent office of a Vice-Chancellor of the High Court of Chancery, he was within five years of taking silk when the first appointment to it was made. While a Vice-Chancellor he was also chief judge in bankruptcy. He was a Commissioner of Bankruptcy under the system in force up to the end of the year 1869, and thus, at the time of his death, represented in his own person high judicial office in two extinct systems of legal administration, the old Court of Chancery and the old Bankruptcy Commissions. James Bacon was born on February 11, 1798, being the son of Mr. James Bacon, then a certificated conveyancer, and afterwards a barrister-at-law of the Middle Temple. The late Vice-Chancellor entered as a student at Gray's Inn on April 4, 1822, having attained the age of twenty-four, and he was called to the Bar in his thirtieth year, after the then usual period of five years' study, on March 16, 1827. Mr. Bacon was in early life an industrious reporter and contributor to the Press. He had obtained large practice at an earlier date than the late Sir Richard Malins, and took silk three years before his rival; but they afterwards appeared together as competing leaders in Vice-Chancellor Stuart's Court; and Sir Richard Malins, then being a member of Parliament, was raised to the Bench in 1866, while Mr. Bacon, Q.C., remained at the Bar. In the vacation of 1868 Mr. Bacon was offered the Commissionership of Bankruptcy for the London district. Mr. Bacon had attained the age of seventy years, and the comparative retirement of the Bankruptcy Com-

mission was acceptable to him, although he acceded to the post at some loss of professional income. He was appointed on September 7, 1868. The unusual age which he had attained before reaching the Bench is marked by the fact that Vice-Chancellor Bacon's son, the well-known judge of the Bloomsbury and Whitechapel County Courts, held legal office before his father, having been appointed revising barrister for Middlesex in succession to Mr. Edmond Beales in 1866 and secretary to Vice-Chancellor (afterwards Lord Justice) Giffard in 1868. The late Sir James Bacon served for fifteen months as a Commissioner of Bankruptcy, and on the coming into force of the Bankruptcy Act, 1869—that is to say, on January 1, 1870—became the first (as he was the last and only) chief judge in bankruptcy under that Act. In the course of the year a vice-chancellorship of the Court of Chancery fell vacant owing to the promotion of the late Sir William James to the Court of the Lords Justices of Appeal, and Mr. Bacon succeeded to the office shortly before the Long Vacation of 1870. He discharged vacation business in 1870, was knighted on January 14, 1871, and continued the double duties of a vice-chancellor and of chief judge in bankruptcy. He was, at the time of his retirement, the oldest judge upon the Bench. Sir James was a great caricaturist, and when his notes were sent up to the Court of Appeal they sometimes disclosed very graphic representations of the states of fact which had impressed the mind of the tribunal. These were his notes in a nuisance case: "Plaintiff's witnesses: Stench very bad. Defendants denied it. Mr. H———, same old arguments. Myself, same old answer." Sir James Bacon retired from the Bench of the High Court on November 10, 1886. A few months after this event Sir James Bacon confessed to Mr. Millar, one of the leaders of his Court, that if he had known how agreeable his leisure was to be he would have resigned his post long before. Sir James Bacon was born in London, worked in London, took such recreation as he allowed himself mainly in London, and attained a patriarchal age. It was thus of a Londoner *par excellence* that the late Lord Coleridge observed: "A man of keener intellect, of more vigorous health, both of mind and body, at ninety, I never met." —*Ib.*

GENERAL NOTES.

THE LATE MR. JUSTICE STEPHEN.—In reviewing a biography of the late Sir James Stephen by his brother, the *Law*

Journal says:—"He had never had, as his biographer suspects, that constant practice in everyday business by which alone he could have 'acquired the practical instinct which qualifies a man for the ordinary work of the Law Courts,' although he appears to have had between his call in 1854 and the time when he took silk in 1868 a good deal of business on circuit and at sessions, and both then and after his return from India to have been occasionally employed in a big case. 'The steady gale never blew.' Blackstone declares that not less than twenty years' constant work at the Bar will qualify an advocate for judicial service, and in Stephen's case the twenty-five years of intermittent employment, interrupted by many other absorbing occupations, were not sufficient to give him the easy and confident touch which enables an experienced barrister of no extraordinary ability to discharge judicial functions with regular and competent success. His confident habit of mind, too, and even his strongly-held opinion that the State ought to act as guardian and teacher of morality, to be 'the organ of the moral indignation of mankind,' as he said, were probably hindrances rather than aids to him when he came to sit as a judge. He had grown accustomed, in his abundant journalistic labours, to express his opinion dogmatically and as forcibly as possible, to choose rather than avoid the manner of expression least agreeable to his opponents; and often to speak with contempt of opponents with whose arguments he did not agree; and when he found himself in a position of authority he could not always restrain the inclinations fostered by his old habits, and not infrequently he met what he deemed to be undue persistency by a manner which was certainly overbearing. He was too much like a schoolmaster on the Bench, and the fault was more unfortunate because, from the causes suggested above, his knowledge, if upon some subjects, and especially criminal law, extensive and perhaps unparalleled, was deficient upon some other matters falling within the competency of even an undistinguished junior. He could not always control the indignation which his theory of criminal jurisprudence directed him to express in sentencing a criminal until the verdict had been given, and the complaint of his conduct in the unfortunate *Maybrick Case*, made, not by reckless and ignorant scribblers in the Press, but by persons who were aware of the facts and entitled to form an opinion upon them, was that he dwelt so much on the offence of adultery,

which was not in question, as possibly to over-influence the jury in regard to the crime of murder, which was. A judge must add to clearness of thought and power of mind quickness of apprehension and a moderate fluency of expression, if he is to deliver lucid and satisfactory judgments impromptu. He cannot wait, as a writer may, for the most appropriate or the most forcible word, and these qualifications Mr. Justice Stephen possessed in small degree."

LEGISLATION FOR INEBRIATES.—The Inebriates Bill, which has been introduced into the House of Lords by the Lord Chancellor is, in the main, a salutary measure. Of course, the clauses which enable the Court to send to an inebriate reformatory for a maximum period of five years any person convicted of being drunk in a public place or on licensed premises if he has been more than once convicted of a similar offence within the preceding twelve months, and the Court is satisfied that he is an habitual drunkard, will have to be abandoned or modified. But the provisions which enable habitual drunkards to be sequestered compulsorily, raise the maximum period of detention from one to two years, and secure the compliance of patients in retreats with regulations as to *work*—we hope *exercise* will be added—are, by almost universal admission, necessary if the existing legislation as to habitual drunkards is not to be a dead letter. The scheme of this bill is incomparably superior to that drafted for Scotland some years ago by Mr. Charles Morton, late Crown agent, under which the jurisdiction over habitual drunkards was to be vested in the Commissioners in Lunacy. There was a provision in an old Scotch Lunacy Act enabling an inebriate (by implication) to confess himself a lunatic, and take the benefit of the lunacy jurisdiction. No inebriate ever availed himself of this privilege, and to yoke the jurisdiction over habitual drunkards to the jurisdiction in lunacy would be sufficient to secure the defeat of the present measure.—*Law Journal.*

UNANIMITY SECURED.—At a certain assize held recently in the South of England, the jury could not agree, and were locked up. After a long and animated discussion a division was taken, when ten were found to be for conviction and two for acquittal.. Another long and acrimonious debate followed and eventually a big, burly farmer, who was leading the majority, went over to the diminutive individual who, with a companion, formed the minor-

ity, and, assuming the most aggressive attitude, said: "Now, then, are you going to give in?" "No!" defiantly replied the small man. "Very well," was the answer, "then us ten will!" And they did.

THE LONG VACATION.—The *Pall Mall Gazette* thinks that no greater anomaly, no more cynical survival of the unfittest, exists in any civilized country; to suit the convenience of the few this contemptible remnant of a once widely exercised ecclesiastical tyranny is allowed to effectively block the legitimate carrying on of mercantile affairs, and to deprive Her Majesty's subjects of that justice for which they already pay an exorbitant price. It proceeds to say that the Long Vacation as it exists is an unbearable anomaly, and the Long Vacation Sittings an unedifying farce. It is a general and just complaint that work is rapidly leaving the Law Courts, and is being decided before lay tribunals. The remedy, however, is in the hands of the legal profession; if that profession refuses to adopt the reasonable methods of ordinary business men, then it has only itself to thank for the result.

LAWYERS' FORTUNES.—The *Daily Telegraph* has published an article on lawyers' fortunes. The writer thinks that the average earnings of a barrister are no larger than the average in other callings. Three hundred pounds a year is a fair average, he thinks; £500 distinctly better than the average; £1,000 very good; and £2,000 as much as any but a very few are likely to win. The fortune-makers are those who gain the great prizes of their calling. Here are a few of them during the past five or six years: Sir Montague Edward Smith, £238,615; Sir James Bacon, £135,647; Sir Henry Manisty, £122,815; Sir John Mellor, £97,000; Baron Huddleston, £64,579; Lord Justice Baggallay, £64,609; Baron Bramwell, £60,954; Lord Justice Cotton, £59,089; Lord Hannen, £57,085; Earl of Selborne, £57,552. Lord Coleridge does not appear in the above selection, for his estate was sworn for probate at £14,455; but he had disposed of about £50,000 by settlement a few years before his death. County Court judges and police magistrates appear to leave fortunes varying from a few thousand to fifty or sixty. Taking the estates of judges alone during the five or six years under review, the average works out at nearly £52,000 each. A list of forty-four solicitors' estates is also given. Excluding all fortunes

under £100,000, we find: John Clayton (town clerk of Newcastle-upon-Tyne), £728,746. Joseph Maynard, £436,383; Chas. Kaye Freshfield, £256,089; Sir William Richard Drake, £237,-080; Bernard Wake (Sheffield), £100,614; John Giles Mounsey (Carlisle), £128,038; Alfred Grundy (Manchester), £121,962; Robert Edmund Mellersh (Godalming), £193,607; George Woodcock (Birmingham), £113,324; George Burrow Gregory, £186,-307; Charles Bull (Bedford Row), £133,358; Preston Karslake (Regent Street), £180,288; Frederick Willmott (Hawks, Willmott & Stokes), £117,766; Bartle John Laurie Frere (Frere, Foster & Co.), £114,392; Edward Walmisley (Abingdon Street), £133,240; Frederick Itid Nicholl (Howard Street), £106,057; William Smith (Stockport), £115,057; John Hope (Edinburgh), £145,223; Henry Ray Freshfield, £338,630. Total, £5,160,995. An average of forty-four estates (over and under £100,000 included) gives a fortune of £117,000 to each solicitor. Judging by these results, it pays better to be a solicitor than a barrister. The *Law Journal*, commenting on the above, says: "Of all the fallacious methods of ascertaining the prosperity of a profession, probably the most unreliable is counting the fortunes left by its old members. A contemporary has devoted a lengthy article to 'Lawyers' Fortunes,' in which the wealth that was bequeathed is treated as the accumulated results of professional labors. Little value, as a matter of fact, can be attached to the figures, because it is impossible to tell to what extent inherited wealth is responsible for them. During the past six years the three judges who left the largest fortunes were Sir Montague Edward Smith (£238,615), Sir James Bacon (£135,647), and Sir Henry Manisty (£122,815). The three wealthiest members of the Bar were Mr. Frederick Calvert, Q.C. (£255,043), Mr. Edward Kent Karslake, Q.C. (£207,960), and Mr. G. S. Fereday Smith (£172,920); while the three solicitors who possessed the largest estates were Mr. John Clayton, town clerk of Newcastle-on-Tyne (£728,746), Mr. Joseph Maynard, of Crowder & Maynard (£436,383), and Mr. Henry R. Freshfield, formerly solicitor to the Bank of England (£338,630). With the exception of Sir Henry Manisty and Sir James Bacon, both of whom had exceptionally long careers on the Bench, all these rich lawyers derived the larger part of their wealth from sources other than their professional labors."