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CONTENTS OF VOL. IX., No. 50.

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The Legal News.

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It is satisfactory to observe that the Montreal Appeal list, which is sufficiently lengthy, does not increase. The November list contained 106 cases, and a year ago it contained 104 cases. In September last, after the summer vacation, it crept up to 109, but in November it fell to 106. During the November term, 25 cases were heard, of which 5 were determined in the same term. There remain 20 *en délibéré*, besides 3 cases heard during the September Term.

With reference to the *supersedeas* granted by Chief Justice Scott, of the Supreme Court, in the case of the Chicago anarchists, the *Chicago Legal News* says:—"Before a judge can grant a *supersedeas*, after inspecting the record, he must be of opinion that there is reasonable cause for allowing a writ of error, and must also be of opinion that there is a reasonable doubt as to the guilt of the defendants. The statute in relation to the issuing of a *supersedeas* is as follows:—"If, after inspecting such transcript, the court or judge is of opinion that there is reasonable cause for allowing a writ of error, and shall also be of the opinion that there is a reasonable doubt as to the guilt of the defendant, it shall be granted by endorsement on the back of such transcript, with the direction that the same shall be a *supersedeas*."

While the spirit of anarchism is invading the most conservative quarters, it is not wonderful that it should manifest itself in the criminal courts. A Paris court recently had some experience of this, but the way in which it was punished will not tend to encourage criminals to make such ebullitions an every day occurrence. The following is the case referred to:—

Lemoine et Pigeon, deux récidivistes qui comparaissaient hier devant la chambre des flagrants délits, sont des criminels de la nouvelle école. Ils se montrent ordinairement durs pour leurs juges. Jean Hiroux les eût reniés.

Lemoine est inculpé de filouterie.

Le 22 septembre dernier, il est entré chez un restaurateur auquel a commandé un dîner dont la note s'éleva à 5 francs 50 cent. Quand sonna le quart d'heure de Rabelais, Lemoine fit appeler le patron de la maison, se plaignit de la qualité des cure-dents de l'établissement et déclara ensuite qu'il n'avait pas un sou dans sa poche. On le fit naturellement arrêter.

A l'audience, Lemoine affecte un air très cassant.

Le président.— N'ayant pas un sou vaillant dans votre poche, vous auriez bien dû vous montrer plus sobre et ne pas faire un diner de cinq francs cinquante centimes...

Le prévenu.—De quoi!....de quoi!....

Le président.—Qu'avez-vous à dire pour votre défense?

Le prévenu.—J'ai à dire que si j'ai pas de travail et pas d'argent c'est de votre faute à vous, tas de brigands qui m'avez toujours condamné pour des riens. Sans vous, je ne serais pas ici....

Le tribunal, pour couper court à ces injures, condamne Lemoine à six mois de prison pour le délit de filouterie et à deux ans de prison pour celui d'outrages aux magistrats. Ces deux peines ne se confondront pas.

A peine Lemoine disparu au milieu des gardes qui l'emmenèrent sans courtoisie aucune, Pigeon, un vieux "cheval de retour," se lève. Le prévenu est inculpé d'infraction à une interdiction de séjour.

Avant toute question du président, il s'écrie:

Tas de canailles, si vous me reléguez, je vous déclare que je n'irai pas à Cayenne. Ou bien, si j'y vais, ce sera contraint et forcé. Entendez-vous, tas de canailles?

Pigeon est condamné à six mois de prison pour infraction à l'interdiction de séjour et à deux ans de prison pour outrages aux magistrats. Pas de confusion de peine, en outre.

SUPERIOR COURT.

AYLMER, Nov. 15, 1886.

Before WURTELE, J.

BATE *v.* LANG.

Judicial Abandonment — Curator — Domicile.

The curator in the case of a judicial abandonment of property, must be domiciled or resident within the Province. A non-resident is ineligible for such office.

PER CURIAM. This is a meeting of creditors of the defendant, convened for the purpose of taking their advice on the appointment of a curator to his property.

The plaintiff has moved that Peter Larmonth, "of the city of Ottawa," be appointed curator, and his nomination is opposed by Mr. Lindsay and other creditors, on the ground that he is not a resident of the province.

The curator in the case of the abandonment of property, is an officer of the court, and he is, says article 770a. of the code of civil procedure, "subject to the summary "jurisdiction of the court or judge." He is liable under article 2272 of the civil code, to coercive imprisonment for neglect to fulfil his duties or to account for the monies in his hands.

To be appointed curator to the property of a debtor on a judicial abandonment, one must therefore be amenable to the court. The writ of this court for contempt, or for coercive imprisonment does not run outside the province, and to be amenable to the courts of this province, one must be either domiciled, or at least present on its territory. Strangers, that is to say, persons who are not inhabitants of this province, but who reside in another province of the Dominion, are therefore unqualified for the office of curator.

Mr. Larmonth, being a stranger, in the sense just mentioned, is consequently excluded from the curatorship, and cannot be appointed. I therefore reject the motion for his nomination.

Mr. W. Alexander Caldwell, of Montreal, was then proposed and appointed.

N. A. Belcourt, for plaintiff.

J. M. McDougall, for Montreal creditors.

SUPERIOR COURT.

AYLMER, Nov. 20, 1886.

Before WURTELE, J.

MAJOR et vir *v.* MCCLELLAND.

Procedure—C.C.P. 515 — *Security for Costs—Notice.*

HELD:—*That the opposite party is entitled to notice of putting in security for costs, and security put in without notice may be rejected.*

PER CURIAM. On the 25th October, 1886, the plaintiffs were ordered to give security for costs, and, on the 8th November, within the time fixed by the Court, a bond was entered into, but without notice to the defendant. On the 11th November, a notice was served upon the defendant's attorney, informing him that the security had been given.

The defendant objects to the sureties, and now moves that the security given be rejected, inasmuch as it was entered into without previous notice and in the absence of the defendant and of his attorney.

Article 515 of the C. C. P. provides that sureties are offered after notice served upon the opposite party, and article 129 provides that any person under obligation to give security for costs, may at any time, whether the same has been demanded or not, put in such security after one clear day's notice.

It is contended by the plaintiff that this notice to the opposite party is not essential, inasmuch as section 6 of the Act 35 Vict. ch. 6, provides that the delays for filing preliminary exceptions and pleas to the merits, begin to run only from the service upon the defendant's attorney, of a notice informing him that the security has been given.

There is no clashing between these enactments. The defendant has the right to see that sufficient security is given, and to require the sureties to justify; for this purpose notice must be given to him. He may be satisfied with the sureties offered, and consequently may not attend when the security is put in. The law, therefore, provides that the delays for pleading do not begin to run until after the service of a notice that the security has been given.

The motion is granted with costs, and the security put in is rejected, as having been irregularly given; but the delay to put in the security is extended to the 25th November.

N. A. Belcourt, for plaintiff.

Henry Aylen, for defendants.

CIRCUIT COURT.

HULL, District of Ottawa, Nov. 11, 1886.

Before WURTELE, J.

BERTRAND *v.* LABELLE et al.

Jurisdiction of Circuit Court—C.C.P. 1054.

In an action on a promissory note bearing interest from date, where the interest accrued at the date of the institution or service of the action, added to the principal or balance due thereon, forms a sum exceeding $200, the demand is not within the jurisdiction of the Circuit Court.

PER CURIAM. This suit is founded on a promissory note, signed by the defendants on the 19th May, 1883, for the sum of $197.08, payable on the 1st August, then next, (1883,) with interest at 8 per cent.

The defendants have filed a declinatory exception, alleging that the demand exceeds the jurisdiction of the Circuit Court.

At the argument, the plaintiff's counsel contended that the interest on the promissory note should not be taken into account, and that the competency of the court had to be determined by reference to the principal alone.

The jurisdiction of the court is to be determined by the amount due and exigible at the time of the institution, or more properly of the service of the suit. That amount is the demand and the subject of the suit. If it is $200 or less, the suit is cognizable by the Circuit Court. When interest accrues after the service of a suit, it does not affect the jurisdiction of the Court, as the amount claimed is alone the subject of the litigation which is submitted to the judgment of the Court, and as interest after the service is only allowed as a penalty for the defendant's default, and is merely a subsequent accessory to the demand. In such a case, the contention of the plaintiff applies to this extent, that the competency of the Court is determined by the amount, or in other words, the principal claimed, without reference to the interest to accrue afterwards.

In this case, the plaintiff's claim on the day of the institution of the suit, was composed of the principal of the promissory note, and of the sum of $51.93 for accrued interest, amounting together to $249.01. This aggregate forms one debt, and it is on the demand for this debt that the plaintiff asks for the adjudication of the court against the defendant. The debt sought to be recovered, therefore, exceeds the jurisdiction of the court.

I must consequently maintain the declinatory exception, and declare the tribunal incompetent; and I dismiss the parties, saving to the plaintiff his recourse before a competent court.

Rochon & Champagne, for the plaintiff.
Henry A. Goyette, for the defendants.

SUPREME COURT OF CANADA.

Manitoba.]

FEDERAL BANK OF CANADA v. CANADIAN BANK OF COMMERCE.

Writ of Execution — Payment of Amount to Sheriff—Application of Proceeds—Interest of third party in defendant's lands—Interpleader.

In August, 1881, the H. B. Company executed an agreement for the sale of certain lands to A. In March, 1883, A. conveyed the land to R., manager of the Federal Bank. The trustees of a church corporation wishing to purchase the land, R. reconveyed it to A., to enable him to get a deed from the Company, and A., on Aug. 4th, 1883, having obtained his deed, executed a deed to such trustees. It was agreed that the F. Bank was to receive a portion of the purchase money from the church. On the same day that the deed to the trustees was executed, the Bank of Commerce, having a judgment against A., placed an execution in the sheriff's hands. The trustees paid to the sheriff the amount of the execution, believing that the same was a charge upon the land bought from A., and received a certificate from the sheriff that the land was free from execution. The Federal Bank gave notice to the sheriff that they claimed the money, and an interpleader order was issued to try out the title to it.

Held, affirming the decision of the Court below, 2 Man. L. R. 257, that the money having been paid to the sheriff on an execution duly issued, must be paid to the execution creditors, and a third party could not claim it.

Semble, that the lands were neither "taken or sold," within the meaning of the interpleader Act, and the proceedings were, therefore, improper.

Appeal dismissed with costs.

McCarthy, Q. C., for appellant.
Robinson, Q. C., for respondent.

Nova Scotia.]

CONFEDERATION LIFE ASSOCIATION v. O'DONNELL.

Life Insurance—Delivery of Policy—Escrow — Instruction to Agent—Policy not Countersigned—Payment of Premium—Admissibility of Evidence—Entry in books of Deceased against Interest.

In an action on a policy of life insurance, the defence was that the policy was never delivered—that it was not countersigned by the agent, contrary to the condition upon its face—and that the premium was never paid. On the trial, an entry in the books of payment to the agent was received iu evidence, and the statement of the agent, made at a former trial, that the premium was not paid, was allowed to be read, the agent having since died. The policy offered in evidence contained the following condition: "This policy is not valid unless countersigned by ..... agent at..... Countersigned this..... day of..... ..... Agent"

The evidence of the agent which was read, in addition to stating the non-payment of the premium, was to the effect that the policy was only delivered to the deceased to be examined, and that he did not countersign it, because it was not actually delivered. The jury found a verdict for the plaintiff, but included in it a finding that the agent was instructed not to deliver the policy until it was countersigned. The Supreme Court of Nova Scotia sustained the verdict. On appeal to the Supreme Court of Canada:

Held, per Ritchie, C.J., and Gwynne, J., that the policy was in the agent's hands, merely as an escrow, not to be delivered until countersigned, and that condition not having been complied with, it was never an instrument duly executed and delivered by which the defendants could be bound.

Per STRONG, J.—That the entry in the books of the deceased, as to payment of the premium, was improperly received in evidence, and there should be a new trial.

Per HENRY and FOURNIER, J J.— That the countersigning of the policy was not a condition to which it was subject, and the defendants are estopped from denying that the premium was paid; and the jury having found that the policy was delivered, the plaintiff is entitled to retain his verdict.

The court being thus divided in opinion, a new trial was granted.

The report of this case on a former appeal will be found in 10 Can. S. C. R., 92.

Beatty, Q. C., and *C. H. Tupper*, for the appellant.

J. N. Lyons, for the respondent.

Ontario.]

THE ATTORNEY GENERAL FOR THE PROVINCE OF ONTARIO, Appellant; and the ATTORNEY GENERAL FOR THE DOMINION OF CANADA, Respondent.

Statement of Claim in Exchequer Court—Insufficiency of—Summons to fix Trial and hearing discharged — Appeal to Exchequer Court from order of a judge in chambers.

A statement of claim was filed by the Attorney General for the Province of Ontario in the Exchequer Court of Canada, praying that "it may be declared that the personal pro- "perty of persons dying domiciled within the "Province of Ontario, intestate and leaving "no next of kin, or other person entitled "thereto, other than Her Majesty, belongs to "the Province, or to Her Majesty in trust for "the Province." The Attorney General for the Dominion of Canada, in answer to the statement of claim made, prayed: "that it "be declared the personal property of per- "sons who have died intestate in Ontario "since Confederation, leaving no next of "kin or other person entitled thereto, "except Her Majesty, belongs to the "Dominion of Canada, or to Her Majesty "in trust for the Dominion of Canada."

No reply was filed, and on an application to Mr. Justice Gwynne, in chambers, for a summons for an order to fix the time and place of trial or hearing, the summons was discharged on the ground that the case did not present a proper case for the decision of the Court. A motion was then made before the Exchequer Court, (Sir W. J. Ritchie, presiding), by way of appeal from the order of Mr. Justice Gwynne, for an order to fix the time and place of trial. The motion was dismissed without costs on the ground that he was not prepared to interfere with the order of another judge of the same Court. On appeal to the full Court:

Held, affirming the decisions appealed from, that the pleadings did not disclose any matter in controversy, in reference to which the Court could be properly asked to adjudge, or which a judgment of the Court could affect.

Appeal dismissed without costs.

Irving, Q.C., for appellant.

Burbidge, Q.C., for respondent.

APPEAL REGISTER—MONTREAL.

Nov. 15.

McGibbon & Bedard.—Heard on petition for rectification of judgment.—C.A.V.

Leger & Fournier.—Motion for dismissal of appeal.—Granted for costs.

The Mayor et al. & Brown.—Similar motion, and same judgment.

Francis & Clement.—Heard on motion for order to the prothonotary to complete the record.—C.A.V.

Fairbanks & O'Halloran.—Motion to be allowed to file only one factum, and to join cause No. 96 with Nos 97 and 98.—C.A.V.

Poitras & Lebeau.—Motion for leave to appeal from interlocutory judgment.—C.A.V.

Pauzé & Senécal.—Application for extension of delay to furnish security on appeal to the Privy Council.—Application granted, security to be given within a week from this day.

Gilmour & Hall.—Heard on merits.—C.A.V.

Prince & Jones.—Heard on appeal from interlocutory judgment. The parties file a consent that the court do render a judgment to apply to three petitions in this cause filed and united by an order of the court below.

Exchange Bank of Canada & La Banque du Peuple.—Part heard on merits.

Nov. 16.

Francis & Clement.—The respondent ordered to specify the documents he wishes to have added to the record.

Thompson es qual. & Cunard Line Co.—Motion for dismissal of appeal.—C.A.V.

Vallée & Leroux.—Motion for appeal from interlocutory judgment.—Motion rejected.

Exchange Bank of Canada & La Banque du Peuple.—Hearing resumed and concluded.—C.A.V.

Hodgson & La Banque d'Hochelaga.—Part heard on merits.

Nov. 17.

Lareau & Dunn.—Motion for re-transmission of record.—Motion rejected without costs.

Francis & Clement.—Respondent files a list of the documents which he wishes to have added to the record.

Hodgson & La Banque d'Hochelaga.—Hearing on merits concluded.—C.A.V.

Nov. 19.

Fairbanks & O'Halloran.—Motion granted, and it is ordered that Nos. 96, 97 and 98 be joined, the three causes being between the same parties; appellants permitted to file only one set of reasons and one factum.

Ex parte Percy M. Ward.—Heard on petition for *habeas corpus.*—C.A.V.

Poitras & Lebeau.—Rayée du délibéré, and new hearing granted on motion for leave to appeal from interlocutory judgment.

Tassé & Ross.— Heard *ex parte* on appeal from interlocutory judgment.—C.A.V.

Nos. 35 & 36.— *Rhode Island Locomotive Works & South Eastern Railway Co.*—Heard on merits.— C.A.V.

Marchildon & Denoon.—Heard on merits.—C.A.V.

Cleveland & Exchange Bank of Canada.— Heard on merits.—C.A.V.

Normandin & Berthiaume. — Heard on merits.—C.A.V.

Normandin & Lachambre. — Heard on merits.—C.A.V.

Nov. 20.

Thompson es qual. & Cunard Line S. S. Co.— Motion granted, *congé d'appel* granted to respondent.

Francis & Clement.— Motion of Nov. 15, granted.

McGibbon & Bedard.—Petition of Nov. 15, granted, Ramsay, J., diss.

Peters & Canada Sugar Refining Co.—Judgment reversed, Ramsay, J., diss.

Cridiford & Brissette & Bulmer.—Judgment confirmed.

City of Montreal & Beaudry.— Judgment confirmed.

Duharnais & Girouard.— Judgment confirmed.

Leger & Fournier.—Heard on merits.—C.A.V.

Nov. 22.

Ex parte Percy M. Ward.— Petition for *habeas corpus* rejected.

Tassé & Ross et al.—Judgment reversed.

Gilmour & Hall.—Judgment reversed.

Exchange Bank of Canada & Hall.—Judgment confirmed, Ramsay, J., diss.

Vineberg & Moss.— Judgment confirmed, but reformed.

Poitras & Lebeau.—Case called for hearing

de novo, and the plaintiff not appearing.—C.A.V.

Hutchinson & Ingram.—Heard on merits.—C.A.V.

Reinhardt & Davidson.—Heard on merits.—C.A.V.

Brewster & Mongeon.—Heard on merits.—C.A.V.

Robb & Bain.—Case settled out of court.

Leclaire & Dessaint.—Heard on merits.—C.A.V.

Nov. 23.

Bouvier & Collette.—Judgment reversed.

Jodoin & Archambault.—Judgment reversed.

Banque du Peuple & Muldoon.—Judgment reversed, Tessier, J., diss.

Leroux & Prieur.—Part heard on merits.

Nov. 24.

Leroux & Prieur.—Hearing on merits concluded.—C.A.V.

Laviolette & Corporation N. D. de Bonsecours.—heard on merits.—C.A.V.

Compagnie Minière de Coleraine & McGauvran.—Heard on merits.—C.A.V.

Corporation of Sherbrooke & Short.—Heard on merits.—C.A.V.

Leduc & Beauchemin.—Heard on merits.—C.A.V.

Weir & Winter.—Heard on merits.—C.A.V.

Francis & Clement.—Heard on merits.—C.A.V.

Griffin & Merrill.—Heard on merits.—C.A.V.

Nov. 26.

Poitras & Lebeau.—Motion for leave to appeal from judgment ordering a new trial, granted.

Racine & Sheridan.—Judgment confirmed, with costs in court below, but without costs in appeal on principal demand, and with costs in both courts on the action *en garantie*.

Robert & Hughes.—Judgment reversed, Ramsay, J., diss.

Cie Chemin de Fer Pacifique Canadienne & Pichette.—Judgment confirmed, Ramsay, J., diss.

Ritchie et vir & Klock.—Judgment reversed.

Exchange Bank & Carle.—Heard on merits.—C.A.V.

Nov. 27.

Molson et al. & Lambe es qual.—Judgment confirmed, Monk and Cross, JJ., diss.

Exchange Bank of Canada & La Banque du Peuple.—Judgment confirmed.

Heffernan & Walsh.—Judgment reversed, Tessier, J., diss.

Francis & Clement.—Judgment reversed.

Bouchard & Lajoie es qual.—Judgment confirmed. (Two appeals).

Prince et al. & Jones.—Judgment reversed.

The Court adjourned to Dec. 31.

RETIREMENT OF VICE-CHANCELLOR BACON.

A notable event in the history of the year is the retirement of Vice-Chancellor Bacon, the last of the Vice-Chancellors, at the age of eighty-eight. The *Law Times* (London) says:—Judges are fond of impressing upon their friends their belief that a position upon the judicial bench is not only no sinecure, but also involves an incessant succession of tasks such as might exhaust any man's health; nor is there any reason to doubt that this is an exaggerated estimate of the severity of judicial labor. The strain which the mind of a judge undergoes must indeed be terribly exhausting, yet the venerable judge who has just retired from the bench, has borne that strain from his seventieth to his eighty-eighth year with ease and vivacity such as men who were in the nursery when he was called to the bar might well envy. Later in this article, an endeavor will be made to give a brief sketch of the judicial and forensic career of this extraordinary man; at the present moment, however, the depth of the impression left upon our minds by that solemn scene of Wednesday morning is such that we cannot but advert to it for a moment. It may be asserted, with the utmost certainty, that never within the memory of man—we might say within the memory of Sir James Bacon—has any scene been enacted in the courts of justice, wherever located, which possessed in so marked a degree as the scene of Wednesday morning the characteristics of solemnity and pathos. Up to Tuesday night nothing more than a casual rumour, such as lawyers hear with callous and skeptical indifference, had indicated the coming event; indeed we are not aware that even rumour had assumed a definite form, and so far as our knowledge goes, the secret was kept until the very last

moment from the knowledge of all persons, except the occupants of the judicial bench and the law officers of the Crown. But on Wednesday morning, all men knew that the long expected event was about to take place, and every person who had the opportunity went to see the venerable vice-chancellor formally retire from the position which he has long occupied with honor. The body of the judges, bound, so far as we know, by no precedent, but prompted solely by a spontaneous feeling of regard and veneration, had assembled to bid their retiring brother farewell; the representative members of the bar of England had assembled to a like end, and then ensued that touching series of speeches which will be found in another column.

An event so singular and impressive as the retirement of the last of the vice-chancellors has necessarily been the subject of much observation, and the remarks which fell from the lips of the venerable judge, touching the alterations which have, during the course of his long career, taken place in law and equity, and in the manner of their administration, have also been widely commented upon. Sir James Bacon was a young man when the first vice-chancellor of England was appointed in 1813. He was a barrister of high position and standing when two additional vice-chancellors were appointed in 1841. He had the personal familiarity of experience of those abuses of the Court of Chancery which combined to render that institution almost a national curse. He had seen every conceivable form of Bankruptcy Law in practical operation. Both at the bar and upon the bench he had enjoyed prolonged experience. Necessarily, therefore, his words are worthy of the closest of attention, and the tone in which he spoke of the alterations in practice which have taken place, was such as to give the public good ground for a feeling of comfort and encouragement. It is rarely that we find a man on the bench or at the bar, who is able at an advanced period of age to relinquish the forms and the practice of his youth; to assimilate himself to a new system, to adopt a new practice with loyalty and earnestness and endeavor, and to confess that the new is better than the old. For our own part, we are inclined to say that amongst the many things which will be remembered to the credit of the last of the vice-chancellors, not the least praise-worthy will be that open vigor of mind and that aptitude for conviction which rendered him superior to the weakness which characterizes *laudatorem temporis acti.*

Let us review the salient dates and events of this remarkable life, and endeavor to account for the extraordinary vigor of mind and body which have been its marked feature. On the 4th Feb., 1798, James Bacon was born, his father being a certificated conveyancer. He entered Gray's Inn as a student at the age of twenty-four, and was not called to the bar until he was twenty-nine years of age. He became a member of Lincoln's Inn in 1833, and was admitted a barrister *ad eundem* in 1845. In 1846 he took silk, in 1868 he was appointed a commissioner in bankruptcy, in 1869 he became chief judge in bankruptcy, and in 1870 he became a vice-chancellor, without, however, receiving any additional remuneration. On the 10th Nov., 1886, Sir James Bacon retired from the bench. These are the bare dates of the principal events in a life of unusual length and interest; our endeavour must be to read between the lines. It is obvious, in the first place, that the subject of this biography entered upon both the study and the practice of his profession at a comparatively late period of life. This, we believe, was not the result of any slow development of faculties; on the contrary, it is probable that the bright common sense and the clearness of expression for which he was famous as a judge were equally the characteristics in youth. The truth appears to be that Sir James Bacon, in the days of his early manhood, was, as many famous lawyers have been, a journalist; and it may be inferred that he did not finally commit himself to a forensic career until he felt that his footing was tolerably strong. We are told that Mr. Bacon's rise was rapid, but on looking back to dates, we find, as a matter of fact, that he had been called nearly twenty years before he took silk and obtained that position of *facile princeps* among bankruptcy lawyers which, with all due respect to bench and bar, he may be said to have retained to the last. He was attached to the courts presided over by Vice-Chancellor Knight Bruce, and Vice-

Chancellor Turner in succession, and there can be little question that his eminence came to him principally from his skill in bankruptcy law. But Mr. Bacon's practice was not confined to bankruptcy, and it is a peculiar fact, noted by a contemporary, that the commissionership given to him by Lord Cairns was in all probability given in graceful acknowledgement of the skill which the eminent bankruptcy lawyer had shown in arguing against Sir Hugh Cairns in the famous Windham Lunacy case.

The present generation, however, has most justifiably forgotten Mr. Bacon as an advocate; but of the chief judge and the vice-chancellor it has familiar experience. There has certainly been no judge of the present generation of whom more pleasant and characteristic anecdotes have been told. His alleged habit of garnishing his note-book so plentifully with illustrations that nothing but illustrations remained to be seen; his quickness of repartee; his impatience of awkwardness in manner, speech or expression; his habit of offering personal criticisms, have all become almost proverbial. More substantial memories remain of the sterling qualities of Vice-Chancellor Bacon. He had the rare merit of being able to take a clear and decided view of every case which was brought before him. His confidence was often misplaced, and it was his misfortune to be frequently reversed by the Court of Appeal; but it was always possible to have a clear view of the state of mind which urged him to pronounce a certain decision. There was, in his judgment, no tendency to loiter round the outskirts of the case, no hesitation lest a dangerous precedent should be established, no ultra superstitious veneration for authorities. He had, on the other hand, a high opinion of the virtue of brevity. Here, for example, is the whole of his judgment *in re* Earl De la Ware's Estate : "In asking my opinion you could not do otherwise than state the provisions of the statute. The answers will be in the affirmative." Curiously enough, it often happened that the cases upon which he felt most confident were those in which his decision was reversed. Thus in *ex parte* Merchant Banking Company of London, heard in Feb., 1881, Vice-Chancellor Bacon, sitting as chief judge said : "The court can protect its own proceedings, and see that nothing fraudulent is done; but it has no authority to say to forty out of forty-two men that they have taken an erroneous view of their interests, and that they are not at liberty to take 10*s.* in the pound because 10*s.* 2*d.* can be got for them.

"There is no principle, reason or authority suggested why the unquestionable power of the majority to decide upon what is best for their interests should be over-ruled by the court," etc. No words could be plainer, no conviction could be more clearly expressed; yet that the decision was wrong is obvious from Sec. 28 of the Bankruptcy Act, 1869, and from the words of Sir G. Jessel uttered upon the hearing of an appeal—"On general principles, unless there is some decision to the contrary, I should say that this section means what it says." This is but a typical case, chosen quite at haphazard from the volume of Law Reports which happened to be nearest at hand; but it goes without saying that the task would be, indeed, long of him who should undertake to collect the results of all appeals from judgments by the last of the vice-chancellors. In such a collection, the list of reversals would undoubtedly be large. Of this we think we see the reason and the origin. We believe that Vice-Chancellor Bacon was at least equal to the majority of his colleagues on the bench in knowledge of law; we believe, on the other hand, that in shrewd common sense, and in mastery of facts, he was equalled by hardly any judge of the century, except the late Master of the Rolls.

If anything, however, Sir James Bacon relied too implicitly upon his common sense, and erred in a desire to do justice at all costs. We believe that a certain tendency to make little of authorities arose from long experience of the Bankruptcy Court. There, as we know, no argument is considered complete, unless it is supported by an army of authorities, and there is a disposition to take advantage of every conceivable technicality. Cases are habitually quoted in a manner more or less irrelevant, and it becomes, if we may so speak, the duty of the judge to find a way through the authorities to justice, and to trample technical objections under foot. He becomes familiar with what somebody—we think it was Sir G. Jessel—called the hair-splitting arguments over the Bills of Sale Act, and in the end, he is apt to take a straight course toward the judgment which seems to him to be honest. This we believe to have been the chief source of Sir James Bacon's errors. Of his merits we can not speak too highly. Of sensible argument he was patient to a marvel, and if his humor was somewhat bitter on occasions, his disposition was, on the whole, kindly. The cessation of his judgments will cause a lamentable gap in the Law Reports. No judge on either side has shown such a capacity for elegant expression and clear language; none has made more valuable contributions to the literary value of the Law Reports. Sir James Bacon, in fact, was a link between the old order of judges and the new—the last member of an order of which he saw the beginning and the end. His successor will doubtless do his duty to the public satisfaction; but the vice-chancellor has a place in the affections of the profession which can hardly be filled by any other man. In the well-earned retirement of his latter years we wish him that rest and enjoyment which long and arduous public services deserve.