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THE CONSTITUTIONAL RIGHTS OF CANADA.

BY O. A. HOWLAND, M.P.P.

ENGLISH Constitutional Law, originally wholly customary, is becoming more and more statutory, particularly in the case of Canada, and great importance attaches to the constitutional law, which deals with the relative jurisdiction of the various law-making authorities. Under the constitution enacted by the Confederation Act of 1867, the statutory law of a Canadian Province has two indubitable sources: the first, because nearest and most extensive jurisdiction, is that of the Provincial Legislature. Included in its scope are those very large legislative and administrative powers, which these local parliaments have been in the habit of lavishly delegating to local municipal authorities—the whole jurisdiction of local legislatives—farther reaching in its bearings upon private rights and relations than that of the Dominion. The work of the local legislatives is the most voluminous in quantity, and may be, by general admission of lawyers, the worst in quality.

Next in order, is the Federal Parliament of Canada, with power of exclusive legislation over twenty-one specified subjects—among which are, criminal law, trade and commerce, patents and copyrights, together with all residuary powers not specifically distributed among the provincial legislatures. While these are the expressed constitutional legislatives for Canada, there is a prevalent habit of attributing an over-ruling legislative power to the parliament of Great Britain and Ireland, commonly called the Imperial Parliament.

The Hon. G. W. Ross, a Canadian whose patriotism is as great as his eloquence, quite recently quoted with approval the language of Burke in 1774, in Burke's speech to the electors of Britain: "I have always, and shall maintain to the best of my power, unimpaired and complete, the just wishes and necessary constitutional superiority of Great Britain." Curiously enough, Burke, a few sentences afterwards, adds, without perceiving its inconsistency, the following rider: "I never mean to put any colonist or any human creature in a situation not becoming a freeman." Mr. Ross, unfortunately, is not alone in his acquiescence in this assumption of Imperial legislative supremacy of the British home parliament over the other parliaments of Her Majesty's subjects, and has only too much support in dicta of English and colonial judges, and in the assumption and administration of home and colonial legisla-

tion and ministry. I may, therefore, seem to exhibit some temerity in questioning, as I shall do further, the correctness and the supposed authority for this doctrine. I do venture to not merely question, but wholly deny, the justness and legal correctness of the whole assumption. The claim of the supreme jurisdiction in the so-called Imperial parliament is at the bottom of the controversy which has been proceeding for some time upon the subject of copyright.

Her Majesty, advised by her home Privy Council, has so far withheld her assent to the Acts submitted for her approval by the Dominion Parliament relating to copyright in Canada. The reason given for the refusal is, that Her Majesty is restrained by an Act of the home parliament, entitled the "Colonial Acts Validity Act," from assenting to any Act of a colonial legislature which may be repugnant to any existing "Imperial" legislation. The Canadian Copyright Act is undoubtedly repugnant to a prior Act of the parliament of Great Britain and Ireland, 5 and 6 Victoria.

The scope and effect of this legislation of the "Imperial" parliament may be gathered from the summaries of its intent given by the judges in the case of Rutledge *v.* Lowe (L.R. 3 House of Lords, 100).

Thus, Lord Colonsay, at page 120:

"I have no doubt at all that in order to obtain the protection of copyright the first publication must be within the United Kingdom. I have also no doubt that the area of protection extends over the whole British dominions; and, thirdly, I have no doubt that an author residing at the time of publication within any portion of the British Dominions, although that author may be a foreigner, is entitled to the benefit of the protection."

Lord Westbury is still more frank, at pages 118-119:—

"It seems to contain an invitation to men of learning of every country to make the United Kingdom the place of first publication of their works, and an extended term of copyright throughout the whole of the British dominions is the reward of their so doing. The real condition of obtaining this advantage is the first publication by the author of his work in the United Kingdom. The Act secures a special benefit to British subjects by promoting the advancement of learning in this country, which the Act contemplates as the result of encouraging all authors to resort to the United Kingdom for the first publication of their works. The benefit to the foreign author is incidental to the benefit of the British public."

If the words "British publishers" were substituted for "British public," the true intent of this extraordinary piece of legislation would be more exactly stated. It is a protection or preference to the British publisher, at the expense of the subjects in the colonies. A tributary relation is imposed upon them. The assumptions upon which the Act is founded would support a re-enactment of the Stamp Act and the Tea Duties. The Act exhibits the very worst form of oppression that results from the admission of a right of legislation by a parliament representative of one portion only of the people assumed to be legislated for. There is

no oppression so unrighteous or so galling as that which is inspired by local trade interests possessing the ear of a Government.

Canada is not a Carthaginian factory. It is a country chiefly inhabited by the descendants of English colonists. It is a section of England beyond the seas. We are entitled to assume (unless the contrary proposition is established by indubitable authority) that inherently the rights of Canadian subjects of Her Majesty are precisely the same as those of Englishmen in England.

The ground taken by the able jurist and statesman whose recent loss Canada is at this moment deploring, cannot be receded from by any Canadian Government. On the contrary, the time seems to have come for asserting in more decisive and unqualified form the full rights possessed by Her Majesty's Canadian subjects.

Sir John Thompson, in his report to the Governor-in-Council on the Canadian Copyright Act of 1889, made some admissions which may be historically correct: "It has *never been claimed* that the powers of the parliament of Canada are exclusive of the powers of the parliament of Great Britain, and nobody can doubt that the parliament of Great Britain can at any time (*limitations of good faith and national honor not being considered*) repeal or amend the British North America Act, or exercise in relation to Canada its legislative power over the subjects therein mentioned. Subject to the same limitations, Her Majesty's Government can, of course, disallow any Act of the parliament of Canada." On the other hand, he submitted, "the Canadian parliament (except as to control which may be exercised by the Imperial parliament by a statute subsequent to the British North America Act, and except as to the power of disallowance) possesses unlimited power over all the subjects mentioned in the 91st section, and it is necessary that it should do so, for the well-being of Canada and for the enjoyment of self-government by its people."

A review of constitutional principles and a critical examination of the cases and Acts upon which the supposed eminent power of the Imperial parliament is based, will throw grave doubts upon its legal existence, and show that Sir John Thompson was probably using very gentle language when he relied upon "limitations of good faith and national honor" alone for the protection of the legislative independence of the Canadian branch of the English people.

Franklin, as agent for the colonies, encountered the same assumption in the eighteenth century, and met it with a counter-argument, which is worthy of being restated at this date in his own words: "That the colonies were originally constituted distinct states, and intended to be continued such, is clear to me from a thorough consideration of their original charters, and the whole conduct of the crown and the nation towards them until the Restoration. Since that period, the parliament has usurped an authority of making laws for them which before it had not. We have for some time submitted to that usurpation, partly through ignorance and inattention, and partly from our

weakness and inability to contend. I hope, when our rights are better understood here, we shall, by prudent and proper conduct, be able to obtain from the equity of this nation a restoration of them. And, in the meantime, I could wish that such expressions as 'the supreme authority of parliament,' 'the subordinacy of our assemblies to the parliament,' and the like, which in reality mean nothing, if our assemblies, with the King, have a true legislative authority—I say, I could wish that such expressions were no more seen in our public pieces. They are too strong for compliment, and tend to confirm a claim of subjects in one part of the King's dominions to be sovereigns over their fellow subjects in another part of his dominions, when in truth they have no such right, and their claim is founded only in usurpation, the several states having equal rights and liberties, and being only connected, as England and Scotland were before the union, by having one common sovereign, the King.

"This kind of doctrine the Lords and Commons here would deem little less than treason against what they think their share of the sovereignty over the colonies."

Government is a fact, not a theory. For a whole century, ever since Canadians have been a people, their political history has been an incessant, determined, and, in the event, successful, assertion of the right of complete self-government, following the advancing principles of the English constitution. The Dominion Constitutional Act of 1867 is to be read as a final summary and expression of those rights, and should have a large and liberal interpretation. Its terms mark a distinct and final advance in the recognition of the separate and practically independent status of Her Majesty's subjects in Canada. Perhaps most significant, and in striking contrast with former constitutions, is the form of the oath of allegiance, set forth in the Act, to be taken by Privy Councillors, etc. The fifth schedule: "I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria." Let this be compared with the first sentence of the long oath provided in the Union Act of 1840, section 35: "I do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, as lawful sovereign of the United Kingdom of Great Britain and Ireland, *and of this Province of Canada, dependent on and belonging to the said United Kingdom.*" The amended oath is strictly consistent with the true constitutional fact that the realm of the Dominion of Canada is united to the Kingdom of Great Britain and Ireland through its relation to the crown, and not by way of a property or dependency of the Kingdom of Great Britain itself. Whoever is King of Great Britain is King and head of the Government in Canada, but under the same terms and the same limitations as he holds his office in England. Thus, in this final constitution we have attained to an express acknowledgment of the position long contended for piecemeal, not only by Canadian and other modern Provinces, but by the former American colonists before the Declaration of Independence. The preamble to the Con-

federation Act recites that the Provinces have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom. This preamble is distinctly declaratory of the status intended by the Act to be accredited to the Canadian people. The Governor-General's commission and instructions were subsequently revised in a series of conferences between the Imperial and Dominion Secretaries of State. Every former clause has been carefully erased, which would have been inconsistent with the construction of the Act, according to the foregoing preamble. Todd, Parliamentary Government, Second Edition, page 119.

Todd, Parliamentary Government of the British Colonies: Second Edition, pages 182-3.

In 1874, a bill was passed by both houses of the Parliament of Canada, entitled, "an Act to regulate the construction and maintenance of marine electric telegraphs." In conformity with the seventh paragraph of the Royal instructions, and upon the advice of the Minister of Justice, His Excellency the Governor-General reserved this bill for the signification of Her Majesty's pleasure.

Numerous representations were made to Her Majesty's Secretary of State for the Colonies, both for and against the confirmation of this bill.

He had, therefore, decided to tender no advice to Her Majesty respecting it.

He added that, "it seems to me to be clearly within the competency of the Dominion Government and Parliament to legislate" upon this subject, "without any interference on the part of the Government of this country." It being a local question, "involving no points, in respect of which it would appear necessary that Imperial interests should be guarded, or the relations of the Dominion with other colonial or foreign governments controlled. It is obvious that if the intervention of Her Majesty's government were liable to be invoked whenever Canadian legislation on local questions affect, or is alleged to affect, the property of absent persons, the measure of self-government conceded to the Dominion might be reduced within very narrow limits. It is to the Dominion Government and Legislature that persons concerned in the legislation of Canada on domestic subjects, and its results, must have recourse; and this Government cannot attempt to decide upon the details of such legislation without incurring the risk of those complications which are consequent upon a confusion of authority."

There is no line in the Confederation Act which indubitably reserves, or grants, to the Imperial Parliament the power of amending, repealing, or overruling the provisions of that Act, although there is a second dubious phrase which seems to restrain the Act of the Canadian Parliament, and which will be referred to hereafter. In the absence of the clearest of reservation or claim, on what principle can such a demission of the rights of Canadian subjects be presumed? it can only be on the assumption of a pre-existing and continuing eminent legislative domain, inherent, for some

reasons or other, in the Parliament, allowed by so many of Her Majesty's subjects as happen to be residents of the islands of Great Britain and Ireland. For this assumption, I expect to show before I conclude that there is no foundation whatever.

In the present controversy, the Colonial Secretary has referred to the 129th section of the Confederation Act, as shewing the paramount power of legislation and authority claimed by the Home Government and Parliament. The clause reads as follows:—

129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia, or New Brunswick, at the Union, and all Courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland), to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

The Colonial Secretary appealed to this exception; it was well answered by Sir John Thompson, "if the view taken by his lordship is correct," Sir John Thompson points out to the Governor-General, "it will be impossible for the Parliament of Canada to legislate in respect to any one of the twenty-one subjects which constitute the 'area' of the Canadian Parliament." There undoubtedly did exist Imperial Legislation in respect to all these subjects in the colonies. Any lawyer construing this document, whether as a declaration of rights or as a grant of power, must agree that Sir John Thompson's objection was well taken. Nearly every great English statute, affecting private rights, has been amended by subsequent colonial legislation. The amendment affecting private rights, the statute of frauds, the wills act, acts respecting trustees and bankruptcy, descent and limitation, would all be void if we admit the contention of the Colonial Secretary as to the construction of clause 129, and the other clauses. There may be possible some class of legislation to which the section might properly be applied, for instance, affecting the acts vesting the commands of the army in Her Majesty's mutiny act, etc., or acts regarding the position of Ambassador. So far as it would not include the twenty-one subjects exclusively handed over to the Dominion Parliament, or those exclusively handed over to the local Parliament, the short way of regarding the matter is to construe the exception in that case as repugnant and inoperative.

No doubt there are many *dicta* even of our Courts to be cited in favor of the customary assumption, even since the Confederation Act, of a persistent, original supremacy in the Home Parliament. Thus, in Regina v. Taylor, 36, U.C.R. 215, C. J. Wilson seems to have assumed it: "The Dominion Government possesses the general sovereignty of the country, subordinate, of course, to the Imperial Parliament." The Chief Justice, in Appeal, inclined to the opinion that the Confederation Act had *conferred* exclusive legislative authority on the Govern-

ment of Canada, and was a renunciation by the Parliament of Great Britain of powers over the internal affairs of the new Dominion. In Smiles v. Belford, decided by the Ontario Court of Appeal in 1877, even this view was remarked upon. Moss, Justice, at page 147, Ontario Appeal Reports, Volume I., reverts to the old assumption: "It must be taken to be beyond all doubt," says the learned Judge, "that our legislature had no authority to pass any laws opposed to Statutes which the Imperial Parliament had made applicable to the whole Empire. Now, it was settled by the highest authority that a copyright when secured in England extended to every part of Her Majesty's Dominions, including Canada." Citing Rutledge *v* Lowe, L.R., 3 H.L. 100. Judging from the report of this case, the argument before the court was not upon these constitutional principles, but assuming them as existing solely upon the terms and construction of the various Acts passed by the Imperial Parliament, including the British North America Act, 1867. The question of the inherent right of the Imperial Parliament to so legislate seems to have gone by default. The case did not reach a higher court. In no case since the Confederation Act has the Privy Council been asked to pronounce on this broad constitutional ground.

The case of Rutledge v. Lowe, Law Reports, 3 House of Lords, page 100, was referred to in the Canadian Court of Appeal case as authority for the general assumption and the particular proposition that the Imperial Copyright Acts had operation in Canada.

In the case itself the fundamental question seems not to have been argued, or any reason given or authority quoted for the conclusion cited by the Ontario Court of Appeals. The whole question for determination in the case before the House of Lords was the rights *in England* of an alien author *under the English Statute*, the Imperial Copyright Act, 5 and 6 Victoria. It was decided that under the terms of that statute, an alien friend who, during his temporary residence in a British colony, published in the United Kingdom a book of which he is the author, is entitled to the benefit of English copyright. The reason given was the express intent of the British statute, which undoubtedly was that British copyright should extend over every part of the British dominions; although it was not argued, and was, perhaps, unnecessary, yet the court certainly expressed the opinion that the English Act was operative to the extent of its terms in that respect, not only in Great Britain, but in every colony. The whole reference to this latter point is merely incidental, and in the briefest terms. There was not, in fact, any argument upon the question of the existence of British legislative jurisdiction over the colonies. The argument on the part of both appellant and respondent assumes the jurisdiction, if exercised, and the whole argument is one of construction. Thus the appellant, at page 102:

"The 25th section makes copyright personal property, and the 29th section extends the Act to every part of the British dominions. Now, referring the 29th section back to the second section, it is remarkable that no

mention whatever is made of the colonies that have legislatures of their own, and are not directly governed by legislation from England. Canada certainly is not expressly mentioned, and having a legislature of its own, it cannot be impliedly included in the general words of the 29th section."

Similarly, on the part of the respondent, at page 106 :—

"Then come the words of the 29th section of 5 and 6 Victoria, chapter 45, which declare that that Statute shall extend to 'the United Kingdom and every part of the British Dominions,' which must include Canada. A temporary residence was there declared sufficient for the purposes of conferring on the author copyright."

At page 107: "The only question, therefore, is whether for this purpose publication here by a foreigner, resident in Canada, is not sufficient to secure for him the author's copyright, in the work so published."

It is plain that counsel was only discussing the terms used by the British Legislature. The right of that body to legislate for the colonies, if the Act was construed to so express it, is not put in question in the argument.

The expressions in the judgments are equally brief and equally limited on this point. Thus, Lord Cairns, at page 108 :—

"There are three questions arising upon this statute which I will ask you to consider, and the answers to them will, as it seems to me, dispose of the controversy in the present case. First, where, in order to obtain a copyright, must the publication of the work take place? Second, what is the area in and throughout which the protection of copyright is given? And thirdly, who is the person entitled to that protection?"

Then at page 110 :—

"My Lords, the second question is as to the area over and through which protection is granted by the Act, and I cannot doubt that this area is the whole of the British Dominions. The 54th George the Third, chapter 156, extended the protection still further, over the whole of the British Dominions, and the 15th section of the present Act renews in substance the same area for the purpose of protection. My Lords, I think farther, it is obviously with reference to the protection given by the Act, and the area over which that protection is given, that the 29th section provides that the Act shall extend to the United Kingdom and to every part of the British Dominions."

Lord Cranworth states the point equally briefly, at page 113 :—

"But, though the Parliament of the United Kingdom must, *prima facie*, be taken to legislate only for the United Kingdom, and not for the colonial dominions of the Crown, it is certainly within the power of Parliament to make laws for every part of Her Majesty's Dominions; and this is done in express terms by the 29th section of the Act now in question. That Her Majesty's colonial subjects are, by the Statute, deprived of rights they would otherwise have enjoyed is plain, for the 15th section prohibits them from printing or publishing in the colony, whatever may be their own colonial law, any work on which there is copyright in the United Kingdom. It is reasonable to infer that the per-

sons thus restrained were intended to have the same privileges, as to works they might publish in the United Kingdom, as authors actually resident therein."

Lord Chelmsford, at page 115, shows still more clearly, if possible, that the question before the court is of the intent of the draughtsman, not the validity of the enactment:—

"By the 29th section it is enacted that this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British Dominions. This section of the Act requires for its full effect that the area over which copyrights prevail should be limited only by the extent of the British Dominions, but then it will follow that the term author must have a similar extension."

Lord Westbury, at page 118:—

"But, although for the creation of copyright it is necessary that the work be first published within the United Kingdom, yet, by the express words of the Statute, the copyright, when created, extends to every part of the British Dominions. This is the benefit which, by the words of the Act is offered to authors who shall first publish their works within the United Kingdom. The question then arises, who are included in the term 'authors'?"

Fortunately the case in which such sweeping dicta were uttered, is not an authority on the constitutional rights of Canada. The controversy was not one to which either the Dominion Government, a Canadian subject, or any one in a correlative position, was a party. The House of Lords is not competent to declare the constitutional law of the empire, as it affects the colonies. The judgment is *res inter alios acta*. As regards any case hereafter arising in a manner to raise the constitutional question on behalf of Canada or Her Majesty's Canadian subjects, the expressions of the House of Lords Judges are mere dicta, worthy of respect, as proceeding from a Court of equally high rank, but not a precedent, conclusive upon the Privy Council.

Now, what is the authority for their sweeping conclusions so commonly accepted, yet so contradictory to the logical consequences of essential primary doctrines, as to the inherent constitutional rights of Englishmen? It will be found that the authorities are of three kinds: first, Acts by the Imperial Parliament at various dates in its history, applied to various portions of the Dominions of the Crown, in which such authority is assumed, sometimes effectually, sometimes as a dead letter, and, in one historic instance at least, pressed unsuccessfully upon a portion of the then subjects of Her Majesty, with the most disastrous consequences to her realm. Secondly, there are apparent admissions in various constitutional statutes accepted and acted by the Canadian people, and also in the terms embodied in Acts and Resolutions of Canadian Parliaments and Governments themselves. Thirdly, there are statements in English and foreign law writers, and dicta contained in judgments. These, on examination, will prove to have been either not given in actions between the proper parties to form authorities on such a question, or matters not necessary to the deci-

sion of the questions, and therefore not forming part of the matter judicially determined.

These dicta and assumptions I propose to examine in a subsequent article, and to show on the one hand that they are wanting in authority as precedents, and on the other hand that they are utterly inconsistent with much older and better established principles, regarding the limited rights of Her Majesty's subjects wherever situated, under the Government of the British Crown.

THE HON. EDMUND BURK WOOD, LATE CHIEF JUSTICE OF MANITOBA.

BY RICHARD ARMSTRONG.

In the month of November, 1840, in the Township of Beverley, in the County of Wentworth, Edmund Burk Wood, then a young man twenty years of age, the son of Samuel Wood, a well-to-do farmer of that township, went out shooting in his father's bush. He did not succeed in killing any squirrels or other animals, but he did succeed in blowing off his left hand. No doubt he and his family thought a great misfortune had befallen him, and that it would change the whole course of his life, and so it did.

Up to that time, he had intended following his father's occupation, as a farmer, and had attended school but little. Now he could no longer make a living with his hands, so he started to school to develop his brain, and see if it would not provide equally as good a one. The next couple of years he attended the district school, making rapid progress. He succeeded in obtaining a teacher's certificate at the end of that time, and obtained a school in the neighborhood and started teaching. He was so occupied for the next two or three years. During this period, he also acted as local preacher in the Methodist church, of which he was a member.

While thus occupied, no doubt, he began to feel within himself the power of oratory. He then formed the resolution of fitting himself for the higher walks of life. He accordingly threw up his school and entered Oberlin College, Ohio, where he took an arts course, and graduated as B.A. in 1848.

Having acted as local preacher, more by circumstances than desire, he felt he could not yield to the wishes of many of his friends to enter the church. He was convinced that the walk of life most congenial to him was the legal profession. In pursuance of this resolution, he articled himself to Samuel Black Freeman, Q.C., of Hamilton, and was admitted to practise as a solicitor, in 1853. He removed at once to Brantford, which had just then become the county town of Brant. Mr. Wood was appointed Clerk of the County Court, and Deputy Clerk of the Crown, for the county. This position he soon afterwards resigned in consequence of his inability to retain it concurrently with the practice of his profession. He was called to the Bar in Trinity term, 1854, being then 34 years of age. For the next twenty years, he was the

most conspicuous figure at the Bar, and on the rostrum in Western Ontario. It was an era of prosperity, of rapid growth in reputation and population.

The young colony was entering upon its great career of cementing its provinces from ocean to ocean, and trying to realize its manifest destiny. All through this period sounded the axe of the pioneers, clearing their farms, and overcoming the hardships they were surrounded by, imbued with the spirit of hopefulness and lightheartedness.

There was a restless energy, a sanguine anticipation, which characterized Canadian thought at that time. It was not a literary age, but it was an age of large ideas and expanding prospects. The new consciousness of empire uttered itself hastily and crudely, but this noisy exultation was exhilarating, because it was not narrow,—it was not provincial. The night-mare of provincial rights had no place in their dreams, at that time.

The masculine force of Mr. Wood's personality soon impressed itself on all those he came in contact with. His look and manner were characteristic, his form was massive, his skull was large, and his jaw was solid, the underlip projecting, and the mouth firmly and grimly shut, and his dark, deep-set eyes, under shaggy brows, gleamed with smouldering fire.

During his first year of practice, he formed a partnership with the late Mr. Peter Long, under the name and style of Wood and Long. The firm soon found themselves in possession of a large and flourishing practice.

The Counsel business was chiefly committed to the senior partner, who soon came to be recognized as a successful jury lawyer.

When the project was mooted of constructing a line of railway through Brantford, connecting Buffalo with Goderich, Mr. Wood took a conspicuous part in its promotion, and was appointed solicitor to the company. This position, which was, in itself, the source of a large and profitable business, was retained by Mr. Wood until the amalgamation of the line with the Grand Trunk Railway, in 1865, in fact, he still continued to act for this division, until 1870.

It is said that during the construction of this railway, Mr. Wood walked every foot of the way from Fort Erie to Goderich, settling claims with the farmers as to compensation for their lands, etc.; his tireless energy knew no fatigue. Within five years from the time he was called to the Bar, he was engaged on one side or the other in nearly every important case in the local courts. Among the best known of these were the Queen *vs.* High Flyer, Whitehead *vs.* the Buffalo and Lake Huron Railway Company, and Widde *vs.* The Buffalo and Lake Huron Railway Company. In the first of these he defended the Indian, High Flyer, for manslaughter, and when he came to address the jury, he gave his personality the widest scope. He first dilated upon man's inhumanity to man, and especially the inhumanity of white men to the red men, and as he warmed up to this, he really felt the wrongs himself, and his indignation knew no bounds, and his deep, sombre, full-toned voice pealed

forth like a great organ. The Court House was filled with Indians, who were there to stand by their brother, and as they listened to Wood paint in graphic language their wrongs, it was with difficulty they could be restrained from scalping the entire jury, and were probably persuaded from doing so by the assurance that Wood would be sure to get High Flyer off, which sure enough he did. The Indians then christened him "Big Thunder," no doubt feeling that he was like Jove of old, hurling thunder bolts at the inferior gods. The Indians ever afterwards banked on "Big Thunder" to pull them through any difficulties they got into, until he left Brantford for Manitoba, and then they transferred their affections to Arthur Sturgis Hardy. E. B. Wood was known all over this country ever after as "Big Thunder." The Mohawk Indians were no mean judges of oratory; they produced some of the most eloquent Indians that ever lived. A nation that has produced an Oronhyatekha, a Pauline Johnston, a Joseph Brant, is capable of judging oratory and sizing men.

It is a fact that no men are quicker and keener at sizing up a man in a single sentence than an Indian. Who ever sized Sir John A. Macdonald as the Indians did, when they called him "Old to-morrow," a nick name which became famous on two continents.

The Hon. Arthur Sturgis Hardy, who began to practise at Brantford in 1865, was the only local lawyer who attempted to oppose "Big Thunder," and in course of time they became pitted against each other continually. Mr. Hardy, who is probably as small physically as he is large mentally, evidently believed in Oliver Wendell Holmes' motto:

Stick to your aim ! stick to your aim !
The mongrel's grip will loose ;
But only crowbars loose the bull dog's grip,
Small though he looks, the jaw that never yields
Drags down the bellowing monarch of the fields.

Be that as it may, Mr. Wood quit the Bar for the Bench before any such calamity happened, and Mr. Hardy became the leader of the local Bar, and was christened by the wily Indians "Little Thunder," and the way it has caught on again demonstrates that the Indian hit the nail on the head.

In 1863, Mr. Wood had attained to the largest practice in Brant, Oxford, Haldimand, Welland, and Norfolk counties, and was in receipt of an income of from $8,000 to $10,000 a year. He was a Liberal in politics, but up to this time had taken little part, but was now induced by his party to enter on the troubled sea of politics. He opposed the Rev. William Ryerson, the sitting member for South Brant, and succeeded in defeating the reverend gentleman by 573 votes. He at once took a commanding place in the House. On the 20th of July, 1867, four years after he entered the House, he was called upon by the late Sanfield Macdonald to enter the Government of Ontario, then a coalition Government, and historically known as the patent combination. He did so as Provincial Treasurer. Hundreds of his Reform friends and supporters of the Town of Brantford and County of Brant, threatened to go back on him. It was at that time generally felt that

the two Macdonalds, John A. and Sanfield, were travelling together, and the Reformers were generally opposed to them. He came back to his constituency and ran for dual representation, to support Sanfield Macdonald in the Local and John A. Macdonald in the Dominion.

Party feeling ran very high, and it was thought by a number of his best friends that he would be defeated for both Houses. Nothing daunted, he opened the campaign by a large mass meeting in the Brantford Town Hall. On the night of the meeting when he arose to address the audience, he found pandemonium reigning supreme; they were howling, hissing and threatening vengeance at him, and his friends on the platform advised him not to attempt to speak, but to retire at once for fear of bodily harm, but they did not know the courage of the man. Instead of retiring he mounted a chair and got on top of the table, and looking down at the threatening mass of humanity with its din and noise, he began to speak to them, but they only howled the louder, he then braced himself, and that all powerful voice of his rolled out in trumpet tones:

"Serpents may hiss and devils in hell may shout, but, d——n you, I am going to have a hearing."

This could be heard, clear and distinct, in all parts of the hall, above all the din. Many were so struck by the great physical courage displayed by him that they subsided to hear what he had to say in his defence, and he soon had a splendid hearing, and before the meeting was over, he was passing through the audience, shaking Bill, Tom, and Bob by the hand, and having them swear that they would never go back on him; illustrating the old adage that men will follow great men much quicker than they will follow principles. He was elected for both Houses by large majorities.

He filled the office of Treasurer until December 1871, and was undoubtedly one of the ablest men that ever filled that office; his budget speeches were master-pieces. In that month he resigned from the Treasurership, and wrecked the Sanfield-Macdonald Government. His speech on his resignation is known as the famous "speak now." No doubt that resignation did his reputation a great deal of harm, from which he never recovered. He now deserted Sir John A. Macdonald, and cast in his lot with the Reformers, going back to his first love, and though he did herculean work for them during the Pacific scandal, being one of the big four, the other three being Blake, Mackenzie, and George Brown, and by far the ablest speaker on the stump in the Reform ranks, yet when they obtained power, they would not trust him with a portfolio. So, finding himself broken in health and practice largely gone, he was forced to accept the Chief Justiceship of Manitoba on the 11th of March, 1874, and bid farewell to public life and removed to Winnipeg, going, as he then felt, into exile, as Winnipeg of 1874 was not the Winnipeg of today. The first case tried by him, after taking his seat on the Bench, is perhaps the best known of all the cases in which he has ever been concerned, either as advocate or Judge. It was the cause célébre of The Queen *vs.* Ambrose Lepine, for the murder of

Thomas Scott, whose tragical death before the bashaw of Fort Garry, forms so conspicuous an event in the history of the Red River insurrection. The prisoner's counsel, the Hon. J. A. Chapleau, repudiated the jurisdiction of the Court over the offence charged in the indictment.

The Crown demurred to the prisoner's plea, after which the case was argued before the two puisné Judges, who allowed the matter to stand over from term to term, without venturing to pronounce judgment.

Upon Mr. Wood's accession to the Bench, the case was at once brought before him. The trial involved grave questions, both of law and fact. At the close of the argument, he pronounced judgment for the Crown on the demurrer, without leaving his seat. He decided that both the Court in Manitoba and the Courts in the Old Province of Canada, and, since Confederation, in Ontario and Quebec, have concurrent jurisdiction over such offences as that charged, and over the particular case in question. Eminent Jurists in all the Provinces unhesitatingly gave it as their opinion that Chief Justice Wood's law was unsound, but his decision was upheld by the Privy Council, and his written judgment was pronounced a remarkable specimen of forensic learning and acumen. Another case, though of little importance as to a principle of law, yet shews the broad, honest, sterling character of the man, essentially suited to a new country.

During the building of the Canadian Pacific Railway through Manitoba, an Eastern firm had a contract, and a number of foreigners were working on their part of the railway. The work was suddenly stopped, and about 50 of these foreigners were thrown out of employment. They consulted a Winnipeg solicitor, and claimed about $25 each for arrears of pay. The solicitor made an application to the Chief Justice for a summary administration of justice, and he decided that it was a proper case to exercise a summary jurisdiction, and ordered the issue of a summons to be served upon any person in charge of the work, and returnable on the following morning.

One of the original contractors for that part of the railway appeared at the trial and examined the witnesses, and put in an assignment of the original contract to a sub-contractor, and disputed liability on that ground, but the assignment was irregular, and at the conclusion of the trial the Chief Justice gave judgment against the original contractors, in favor of each of the plaintiffs for the amount due to them.

The contractor, who appeared, was bold enough to ask the Chief Justice whether that was Canadian law, and the Chief Justice turned to him, and bringing his arm vigorously down upon the old desk, in the old Court House, answered him:

"It is Canadian law; it is the law of England; it is the law of the United States; it is the law of every civilised nation on the face of the globe, and, more than that, sir, it is the law of universal justice, which finds a resting place in the conscience of every honest man. The order will go for immediate execution in each case."

The money was paid, and the foreigners rejoiced in Canadian justice, and in broken English sang the praises of the noble Judge who was always ready to crush away a technical defence, if it stood in the way of the administration of justice.

The one thing that prevented this remarkable man from being the foremost man of all his time, was a fatal weakness for drink. The Hon. Edward Blake, the late Hon. George Brown, and all the leading men of that day, considered him the greatest platform orator Ontario ever produced. His death took place in October, 1882.

COPYRIGHT—A RETROSPECT.

In 1842 was passed Lord Mahon's Act, 5 and 6 Vic. c. 45, (Imp.) In terms, the copyright created thereunder extended to the whole of the Queen's Dominions. In 1843, the Parliament of Canada presented an address on the question. In 1846, Earl Grey, then Colonial Secretary, wrote a circular despatch to all the Governors of the North American colonies, promising legislation. In 1847 was passed the Colonial Copyright Act or Foreign Reprints Act (10 and 11 Vic. c. 95, (Imp.), which, admittedly, did not fulfil the promises of Earl Grey's despatch. In this year the Canadian Parliament passed an act pursuant to the Imperial Act of 1847. Nothing further in the way of legislation occurred to affect the question until 1865, when the Colonial Laws Validity Act (28 and 29 Vic. c. 62, (Imp.), enacted that the Imperial Legislation must govern. In 1867 was passed the B. N. A. Act, which, in terms, recognized power in the Federal Parliament to deal with copyright. In 1868, a resolution was adopted in the Canadian Senate, urging the justice and expediency of extending the privileges granted by the Imperial Act of 1847. In 1869, the Government of Canada submitted a proposal that Canadian publishers be permitted to reprint English copyrights, on paying to the owners of the copyrights, 12½% royalty on published price. In March, 1870, a meeting was held in England, of leading authors and publishers, Earl Stanhope presided. The meeting concurred in representation of the hardships sustained under Imperial Act of 1847, and urged its prompt appeal. In 1873, Lord Kimberley's circular despatch to Governors of colonies was received, enclosing draft bill to amend the Imperial Copyright Act of 1842. Section 7 of the draft contained a provision for republication of copyright books in a colony under license. In 1874, Hon. Alex. Mackenzie, then Premier of Canada, reported on this draft bill. In 1875 was passed by the Parliament of Canada, the Copyright Act, which was reenacted as R.S.C. (1886), c. 62. In the same year, this act was confirmed by Imperial Act 38 and 39 Vic. c. 53. In 1876, a royal commission (Imperial), investigated the question of copyright.

In 1881, an act was introduced into the Imperial Parliament, to give effect to the recommendations of the commission, this bill was not gone on with. In 1885 took place the negotiations which resulted in the convention of Berne. The Berne Treaty became law, pursuant to the International Copyright Act, 1886, 49 and 50 Vic. c. 53, (Imp.) In 1887, by Imperial order-in-council, the Berne convention was adopted, with respect to the foreign countries parties to the convention. In 1889, the colony of Newfoundland endeavored to legislate on similar lines to Sir John Thompson's bill of 1889. The Imperial Government disallowed the act. In 1889, Sir John Thompson's Act was passed by the Parliament of Canada, but the royal assent was reserved. In 1890 was received Lord Knutsford's despatch, stating that he was unable to authorize the Governor-General to issue a proclamation, bringing the Candian Act of 1889 into force. The dead-lock still continues, and the untimely death of Sir John Thompson again puts forward the probable date upon which Canada's right to self-government will be recognized by the Colonial Office.

TRUSTS CORPORATION.

THE directors' report presented at the sixth annual meeting of the shareholders of the Trusts Corporation of Ontario shows that during the past year a most satisfactory increase had been made in the accumulation of the company's business. The sum of $14,738 had been carried forward to the credit of the profit and loss account. The additional business acquired by the corporation during the year, embracing administrations, executorships, trusteeships, and similar offices, amounted to $2,141,000 in actual assests, and after winding up a large number of estates, and distributing the funds to beneficiaries and others, the total value of trust assets remaining in the hands of the corporation amounts to over four million dollars. In accordance with the resolution passed last year, the remainder of the authorized capital has been issued and subscribed, thus increasing the company's capital stock to $1,000,000. The following directors have been elected:—Hon. J. C. Aikins, J. L. Blaikie, Sir R. J. Cartwright, William Cooke, Hon. J. P. Gowan, William Hendrie, J. J. Kenny, Matthew Leggatt, Thomas Long, Chas. Magee, Alexander Manning, Hon. Peter McLaren, W. D. Matthews, B. B. Osler, E. B. Osler, Hugh Ryan, John Stuart, Hon. S. C. Wood. At a subsequent meeting of the board, the Hon. J. C. Aikins was re-elected president, and Sir R. J. Cartwright and Hon. S. C. Wood re-elected vice-presidents.

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TORONTO, FEBRUARY, 1895.

MR. HOWLAND, in our leading article for the month, makes an important contribution to Canada's case on the copyright question. So soon as the public, both of England and of Canada, come to understand that the true question is. whether, under the guise of protecting the British publisher, the Imperial Parliament can constitutionally impose a tax upon Canada without its consent—in that hour the question will find immediate answer. The clear, dispassionate statement of the case by Mr. Howland will do much to satisfy all Canadians of the justness and importance of Canada's contention, and will, therefore, strengthen the hands of our representatives. The public is apathetic so long as the issue is believed to affect merely a single trade, and to not involve principle. The public will not be indifferent to the question of principle involved when the real issue is understood. To assist the general reader, we print a note of the leading events in the controversy since the passage of Lord Mahon's Act.

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RE-STATED, Canada's case is, that in refusing to sanction the Canadian Act of 1889, England is, in effect, through the Berne Convention, taxing Canada for the benefit of certain privileged Englishmen, or aliens, and compelling the officers of a self-governing colony to enforce and collect the tax. Under no guise whatever can England constitutionally lay an impost upon Canada, or use the machinery of the Canadian Government for its collection. As pointed out by Mr. Howland, it has been merely courtesy, and a spirit of deference, which has hitherto prevented the Canadian authorities from stating the case bluntly. Many private representations have been made to our Government by friends of Canadian enterprise to take this strong ground. Now that the deferential spirit has failed in results, it is to be hoped that the claim of right will be asserted.

*

HISTORICALLY, we know that copyright is only a survival of a particular form of taxation, which reached its most obnoxious form in the reigns of Elizabeth and the first James. Under the name of patents, or monopolies, this form of taxation was then resorted to for the benefit of the public exchequer, or of the sovereign personally, or of particular privileged persons. Copyright still retains all the essential characteristics of the former patent, or monopoly, and cannot possibly be divested of its character of tax.

*

THE English defenders of copyright have never denied that copyright is a tax. In his speech on Talfourd's Copyright Bill in the House of Commons, Macaulay said:—

"The principle of copyright is this. It is a tax on readers for the purpose of giving a bounty to writers. The

tax is an exceedingly bad one; it is a tax on one of the most innocent and most salutary of human pleasures, and never let us forget that a tax on innocent pleasures is a premium on vicious pleasures. I admit, however, the necessity of giving a bounty to genius and learning. In order to give such a bounty, I willingly submit even to this severe and burdensome tax."

*

A PUBLISHER in England, the United States, France, or Germany, issues a book at $5.00, which a Canadian publisher, under the Canadian Act of 1889, could and would publish at $1.25. As matters now stand, England, under cover of the Berne Convention, compels Canada to prevent the manufacture of the book within its borders. Accordingly, the Canadian buyer, instead of buying a Canadian reprint, or translation, at $1.25, is coerced by England into paying $5.00, thus obviously paying to the particular privileged Englishman, American, or other alien, a tax amounting to the difference of price, or $3.75. If England were to collect this tax for public purposes, even for the general good of the Empire, as, for instance, the maintenance of the fleet, every one would see the bearing of the question. It surely does not mend matters that the tax is collected for the private gain of some privileged alien, under the plea of encouraging art or literature. If it is a tax levied by England upon Canada, without her consent, the case seems greatly simplified.

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AT this time of writing, in England, nterest in the removal of Mr. Justice Vaughan Williams from the position of winding up Judge, is unabated. The English *Law Journal* returned to the charge; in a further issue it says: "We alleged last week that the contemplated removal of Mr. Justice Vaughan Williams from the position of winding up Judge, was intended to be not a temporary but a permanent change; that the cause assigned for it, viz., the state of business in the Queen's Bench Division, was a mere pretext; and that the true reason for the transfer was the annoyance given in high places by the firm, fearless, and admirable manner in which Mr. Justice Williams discharged his duty in the case of the *New Zealand Loan and Mercantile Agency Company*, and the apprehension that he would in other pending matters act with equal courage and decision. . . . It is impossible to speak of the temporary removal of Mr. Justice Williams from the winding up work being rendered necessary by the state of business in the Queen's Bench Division. Moreover, the suggestion is untrue as a matter of fact. Whatever the Lord Chancellor may do now, it was certainly the intention to definitely remove Mr. Justice Williams from the winding up work. The preliminary steps for that purpose have been taken. . . . The statements made by us last week are correct. The strong line taken by Mr. Justice Williams in *The New Zealand Loan and Mercantile Agency Company* liquidation, gave the greatest offence in high quarters. In that investigation the learned Judge had to contend with obstruction and resistance on the part of the Board of Trade; there was friction between the Lord Chancellor and

Mr. Justice Williams, in regard to the action of the latter, and the sacrifice of Mr. Justice Williams was definitely intended to be carried into effect."

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It is fortunate for England that it has a strong press, both professional and lay. The agitation begun by the *Law Journal*, spread rapidly throughout the press, and so strong was the response evoked, that the authorities were glad to disclaim any intention of removing Mr. Justice Williams from the winding up business. Lord Herschell also found it found it necessary to give an explicit denial in the House of Lords to many of the rumors. The *Law Journal* has probably been the means of averting from the English judiciary a grave scandal. Meanwhile, it makes us a little uncomfortable to think of scandal touching the English Bench, when our final appeal is to the Judicial Committee.

*

IN the Province of Quebec, a Provincial Bar Association is in process of formation. We congratulate the Bar of our sister Province. At the same time, we may use their action as a peg for a little sermon to ourselves in Ontario. Why have we not a Bar Association for the Province of Ontario? What a useful thing, both to the profession and the public, a strong association would have been! Measures of law reform are being slowly incubated without the assistance, or even the knowledge, of the profession at large. The initiative of change, both in the statute law and in practice, ought to come from the Bar, and if the measures to be brought forward at this meeting of the Legislature are inadequate, or harmful, we have none to blame but ourselves. The Bar of this Province could be a great power, if its energies were concentrated and directed towards any given object. It would be a worthy direction of such energy to promote law reform.

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THE late David Dudley Field on one occasion did some plain talking before the American Bar Association: "Why can not we lawyers rise up to the height of our profession, and feel ourselves bound to improve the law of the land, and to do everything in our power to make it plainer, cheaper, and easier for the people?

"The majority of the lawyers appear to care nothing about it. . . . What is the reason of the indifference of lawyers to the reform of the law? The truth must be told. Too many of our calling look upon it, not as a profession, but as a craft. And it is because they so regard it that they do not strive to elevate it. The majority of the Bar of the country have hitherto opposed every great reform. I challenge the student of history to find any important law reform in our times advanced by the great body of lawyers. Every such reform has been carried by the people, with the aid of a minority of lawyers. Take heed in time. You of the majority opposed the abolition of imprisonment for debt. You opposed giving woman her rights. You have opposed any attempt at codification, and it will be so always, until you arrive at a better sense of the dignity and the duty of the profession. Profession, I call it, and not a craft."

So far as yet appears to the public, those in charge of law reform are contenting themselves with nibbling at costs. We admit that litigation is too expensive; that suitors may justly complain both of court costs and of solicitors' charges. And yet the solicitor does not profit by the system. The proportion of disbursements, including counsel fees, to total bill was never greater than it is to-day. There is something wrong, when merchants sooner forego just demands than seek the courts for relief. It is also a sign of the times when solicitors are averse to undertaking suits. With perhaps the exception of administration, and winding up proceedings, where costs are given upon a liberal scale out of the attenuated estate, proceedings calling for court work are not very welcome in solicitors' offices. This state of things is not singular to Ontario. In England, in order to attract the business of the mercantile community, a commercial court is about to be tried. It is a misfortune when the expense of justice becomes so great that suitors are deterred from using the national tribunals.

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Do the measures proposed for relief go far enough? The system of party and party costs is to be retained; a few of the suckers only are to be lopped off. The unsuccessful litigant has still to suffer a large penalty for his mistaken view of his rights. In addition to his own costs, he has the burden of his opponent's costs to bear. The two chief items of this extra burden have been the ordinary disbursements, including special examinations, and counsel fees. It is proposed to give some relief from the former outlay. Special examiners' fees are to be abolished, and the court is to provide the oil for the machinery of a reference, the number of appeals is to be lessened, and the first expense of getting to the Court of Appeal cut down. These reforms are all useful in their way, but do they go far enough?

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A MENTAL enumeration of the army of officials, directly or indirectly dependent upon suitors for their existence, is convincing that lasting relief is unattainable without radical changes in the practice, accompanied by equally radical changes in the organization of legal offices. For example, Division Court costs are out of all proportion to the amounts involved. This is directly due to the stipendiary force of clerks and bailiffs, who, under the present system, must be used in order to bring the debtor before the court. What necessity is there to employ a Division Court bailiff to serve an ordinary summons in a case for the collection of a small debt, when a suitor in a High Court, for the larger debt, may personally serve the defendant? This is but one illustration of the unnecessary burdens cast upon litigants.

*

IT was not to be expected that leading counsel, who are advising with the Government upon reforms, should deal with counsel fees—the second heavy item of the penalty imposed upon unsuccessful litigants. To saddle costs upon the other side is, in many cases, the true bone of contention. Failure and success, without costs, are alike ruinous. Therefore, the services of leading counsel are more and more in

demand, not because the solicitor is doubtful about his law, or fearful of his facts, but because neither his client nor himself can afford to run the risk of defeat. Since the Judicature Act, counsel fees have been steadily growing, and the growth has been at the expense of the solicitor's remuneration. The profession has become top heavy. The leaders of the Bar are immoderately remunerated: all others have had to suffer, with growing discontent, decreasing incomes. At the same time, there has been an actual increase in the cost to the client of litigation. This is the true grievance of the Ontario Bar.

FAILING the machinery of a Provincial Bar Association, which could have discovered remedies, we must look to the Legislature for a far-reaching inquiry into the present condition of the administration of justice. Nibbling at costs may quiet the public for a session or two, but will not, in the long run, be found to be adequate treatment. As a part of the discussion, we would like to see some member of the Legislature urge the abolition of party and party costs. Let every litigant pay his own lawyer, or plead in person. At the same time make the halls of justice free to every suitor. The Province already contributes a sum of money annually to the administration of justice nearly sufficient if unnecessary officials were dispensed with, to make the courts free to all seeking their aid.

THE old order of 'Serjeants' is now nearly extinct, for the death of Mr. Serjeant Pulling last month, at the ripe age of 82, leaves only two, viz.: Sir John Simon and Mr. Serjeant Spink.

SOME ENGLISH CASES ON COMPANY LAW IN 1894.

The year 1894 will be famous for the decision in *Verner* v. *The General and Commercial Investment Trust*, 63 Law J. Rep. Chanc. 456. It was there settled by the Court of Appeal that a company may declare a dividend if there be a profit on the year's trading, though there has been a loss of capital, and though this loss has not been made good. The view taken generally by the City company experts is that a dividend paid under such circumstances is illegal, as being in effect a dividend paid out of capital: and there were loud expressions of opinion that the judgment of the House of Lords ought to be taken. Since the time when *Trevor* v. *Whitworth* was decided, no case of company law of such far-reaching importance has occupied the Courts, unless, as some contend, the Court decided simply on the facts of the case, and did not intend to lay down any general principles. In the case of the *British American Trustee and Finance Corporation* v. *Couper*, 63 Law J. Rep. Chanc. 425, the House of Lords arrived at the conclusion that the Court has power to sanction the reduction of capital though the plan of reduction proposed involves the buying out of some members of the company. Inasmuch as such a scheme means, in effect, a purchase of its own shares by the company, the view hitherto adopted has been that such an arrangement was illegal and could not be sanctioned by the Court. The House of Lords pointed out the error which underlies such a contention.

Consequently, the dicta of the Court of Appeal in *re the Denver Hotel Company*, 62 Law J. Rep. Chanc. 450, may be in future disregarded, and *Hutton* v. *The Scarborough Hotel Company*, 34 Law J. Rep. Chanc 643, is finally overruled. Another decision tending to liberty, if not to license, is that in *Webb* v. *The Shropshire Railways Company*, 63 Law J. Rep. Chanc. 80, which settles that the prohibition against issuing shares at a discount does not necessarily hold in the case where the company is regulated by the Companies Clauses Consolidation Acts, 1845 to 1863. Debentures may be issued at a discount, even if the company be formed under the Companies' Act, 1862 (see same case). It has been settled that the judge to whom the winding-up business, under the Act of 1890, has been assigned, has jurisdiction to confirm a reduction of capital of a company.

The law dealing with directors, their powers and liabilities, has been frequently the subject of discussion. In particular, we may note that a director of a company who misapplies money of the company which has come into his hands is sufficiently a trustee to be within the section of the Trustee Act, 1888, which entitles a trustee to take advantage of the Statute of Limitations (*In re the Lands Allotment Company*, 63 Law J. Rep. Chanc. 291). In the same case it was determined that when an *ultra vires* act had been perpetrated by the board in the absence of the chairman, he was to be held liable because he had signed the minute-book on confirmation, and had, in his speech to the shareholders in general meeting assembled, defended and adopted the *ultra vires* act. Directors' qualification law remains much in the same position as in former years Two cases, though depending to a large extent upon the facts, will be found very useful for reference purposes—viz. *In re The Hercynia Copper Mine Company*, 63 Law J. Rep. Chanc. 567, and *In re The Printing, Telegraph and Construction Company of the Agence Havas (Cammell's Case)*, 63 Law J. Rep. Chanc. 536. Upon the question of application and allotment, *In re the Brewery Assets Corporation*, 63 Law J. Rep. Chanc. 653, is an authority for saying that an application for shares in a company may be withdrawn verbally before notice of allotment, Mr. Justice Chitty has decided that a chairman of a meeting of shareholders is not entitled to dissolve a meeting at his own sweet will and pleasure (*The National Dwellings Society* v. *Sykes*, 63 Law J. Rep. Chanc. 906).

Debenture points are always well to the front, for, says Mr. Justice Williams, no prudent company is formed without the protection of debenture. We think that the most important of last year's cases in this connection are, *Sadler* v. *Worley*, 63 Law J. Rep. Chanc. 551, in which the right of a holder of all the debentures to the remedy of foreclosure was recognized; *Greenwood* v. *The Algeciras Railway Company*, in which the Court exercised a jurisdiction to order the receiver, on behalf of the debenture-holders, to borrow by way of first charge in priority to the debentures, a sum of money necessary to preserve the property of the com-

pany: *Wallace* v. *The Automatic machines Company*, 63 Law J. Rep. Chanc. 598, which shows that a debenture-holder may realise the full value of his security on the winding up of the company, though at that date the time fixed for payment of the principal has not yet arrived. In some respects *The Industrial and General Trust* v. *The South American and Mexican Company*, 63 Law J. Rep. Chanc. 169, is a most important case, for it shows that, where the assets are of a mercantile nature and difficult to realize by an official, the Court will not always oust the debenture-holders' receiver in favor of the official receiver.—*Law Journal* (Eng.)

NOTES OF RECENT ENGLISH CASES.

THE true test of the validity of a covenant which is in restraint of trade —whether the restraint be general or partial—is, whether it is or is not reasonable—*i.e.*, if it is not more than is reasonably necessary for the protection of the covenantee, and is not injurious to the interests of the public, the covenant may be unlimited in point of space. In early times, all agreements in restraint of trade would have been held bad, whether general or restricted in area. The first exception was made in favor of covenants where the restraint of trade was limited to a particular place. Mitchell *v.* Reynolds 1 P. Wms., 181. The difficulty of applying this rule will lead to each case being considered on the facts involved, and the rule is now,—is the restraint reasonable or not? Homer v. Graves, 7 Bing. 735. The restraints are bad unless they are natural, and not unreasonable for the protection of the parties, in dealing legally with some subject matter of contract. Leather Cloth Co. *v.* Lorsont, L.R. 9 Eq., 345. Nordenfelt *v.* Maxim, etc., Co. 11 R. Jan. 1.

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IN an appeal from the Supreme Court of Cape Colony, the Judicial Committee have had to consider the issuing of company's shares at a discount. It was held that the directors were not at liberty to issue fully paid shares at a discount, and were, therefore, liable for the difference between the price at which they were actually issued, and the par value; but they were not liable for the difference between the par value and any higher amount which the shares might have fetched on the market. Hirsche *v.* Sims, 11 R. Jan. 44.

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On appeal from Vaughan Williams J. held by the Court of Appeal in *re* South American and Mexican Co. (12 R. Jan. 91), that a judgment of consent operates as an estoppel *inter partes* as much as a judgment which has been arrived at by the Court, after exercising its mind on the matters in controversy.

*

THE proprietors of "Yorkshire Relish" obtained an interim injunction against another firm, vending a similar article under that name, although the labels and wrappers were different. The rule was deduced, that the maker of a secret preparation, or of a patented article, may, while the secret remains undiscovered, or the patent is unexpired, obtain an injunction to restrain the sale of a different kind of article passed off under the name by which the article was known. Po-

well *v.* Birmingham Vinegar Brewery Co., 13 R., Jan. 305.

*

IN the case of a gift to a class of children upon attaining 21, or (if females) marrying, and there was no prior life estate, such children as attain the age of 21, or (if females) marry, are entitled to be paid their shares immediately. The rule applies both to settlements and wills. In *re* Emmet's estate, 13 Ch. D., 484; and Watson *v.* Young, 28 ch. D., 436, explained. In *re* Knapp, 13 R., Jan. 299.

*

A MORTGAGE of a freehold farm and chattels, contained an attornment clause by the mortgagor. After the death of the mortgagor, the son entered as heir at law, and for six years paid the interest on the mortgage, but was in ignorance of the allowment clause. The court refused to confer an agreement for a new tenancy at will, entitling the mortgagee to distrain. Scobie *v.* Collins, 15 R. Jan. 362.

THE LAW OF EVIDENCE AND CONFESSIONS.

IN the American case of. *The State v Harrison*, 20 S. E. Rep. 175 (N.C.), it appeared that the defendant, an ignorant and superstitious woman, was convicted of the murder of her husband. The Court admitted in evidence a confession obtained from her under the following circumstances. A detective disguised himself, and, pretending to possess magical powers, so worked on her superstition that she believed him, He told her, 'If you tell me all about it, I can give you something so you can't be caught.' Whereupon she confessed that she was the one who had committed the murder. The Court above held this evidence admissible, on the ground that the promise was not one that would be likely to induce the defendant to tell an untruth. If she were really guilty, it would be a strong inducement to her to tell the truth; but if she were not, there would be no incentive to tell a lie and say she was guilty. commenting on this the *Harvard Law Review* says: 'One may fairly argue that the inducement held out might very well have led the woman to lie, in order to obtain the charm or talisman. She might think it of great value to her, even though she was innocent, but granting the Court's position, that the favor promised was one that would induce none but a guilty person to confess, have we here the true test of admissibility? Are confessions obtained by promises of favor to be excluded for the sole reason that they lack credibility? There are numerous dicta to that effect. So Mr. Justice Keating, in *Regina* v. *Reason*, 12 Cox, 228; Mr. Justice Littledale. in *Rex* v. *Court*, 7 C. & P. 486: and Mr. Justice Coleridge, in *Rex* v. *Thomas*, 7 C. & P. 345. But in none of these cases, or others hitherto decided, has it been necessary to go so far as to hold that the sole ground of exclusion. May it not be that the true ground is an aversion on the part of English-speaking people to the use in criminal cases of evidence obtained by such questionable means? May it not be from a spirit of fair play to the defendant? That would seem to be the reason why confessions obtained by threats are excluded. At

all events, such a feeling has always had great influence on the minds of English and American judges. Whether it is wise to be so careful of the prisoner, is another and larger question. Protests against such an excessive solicitude are not wanting to-day, and among them one may, perhaps, count this North Carolina case.'

BRIEFS FROM EXCHANGES.

Old Grizzle was a man of will,
And money, too, galore;
He quarrelled with his relatives,
With him, they calmly bore.

For men must die, and Grizzle did,
But with his latest breath,
He gave his money to the poor,
He had a will in death.

The Supreme Court of Justice of Belgium has just been called upon to decide a novel and extraordinary question. One of the leading surgeons of Brussels had occasion, about a year ago, to amputate the right leg of a young married lady belonging to the highest circles of the aristocracy. The operator was so pleased with his job that he preserved the leg in a jar of spirits of wine, and placed it on exhibition in his consulting room, a card being affixed to the jar giving the patient's name and the details concerning the circumstance which had rendered the operation necessary. On hearing this, the husband of the lady demanded the immediate discontinuance of the exhibition, and the return of the severed member, as being his property. To this the surgeon demurred. He admitted that the plaintiff had property rights in the leg while it formed part of his wife, but argued that the leg in its present condition was the result of his (defendant's) skill and the work of his own hands, and that he was clearly entitled to keep it. The court seemed rather staggered by this line of argument, and after taking a fortnight to consider the question, has finally decided against the doctor and in favor of the huband's claim to the possession of the amputated leg of his better half.

A loan association may be compelled to accept such a sum in satisfaction of a mortgage given by one of its members, and held by it, as accords with the representations in reference to its by-laws, made by its secretary in his dealings with plaintiff at the time of making the loan. Grant and Hooker, JJ., dissenting.—*Sawyer* v. *Menominee Loan and Bldg. Ass. re* (S.C. Michigan. Dec. 22, 1894.)

An extraordinary suit has been instituted in Alabama. A young widow was passenger in a train from Louisville to Nashville, and occupied a seat near those of a newly-married couple. The bridegroom, having left his wife's side for a moment, returned while the train was passing through a tunnel, and in the darkness kissed the widow in mistake for his wife. The lady will not believe that it was an acci-

dent, and claims a thousand dollars from the young husband as a solace to her ruffled feelings.

A SINGULAR CASE:—It may be safely said that the case of State *v.* Hall, in which the opinion of the Supreme Court of North Carolina was filed lately, has had no parallel. Hall, standing on the North Carolina side of the line, fired and killed a man just over in Tennessee. He was tried and convicted in North Carolina. On appeal, this was reversed on the ground that "in contemplation of law," Hall was in Tennessee when the killing was done. He was then arrested and held as a fugitive from justice. The judge below refused to discharge him. On appeal, the Supreme Court, by a majority of one, decides that he must be discharged, because, not having been in Tennessee at the time of the killing, he cannot be a fugitive from justice.

A DEMAND by an insurance company for arbitration, in the manner provided for by the policy under which a fire loss has taken place, waives formal proofs of the loss. *Walker v. Insurance Co.* (Kan.) 33 Pac. 597; *Home Insurance Co. v. Bean*, 60 N.W. 907.

RECENT statistics of divorce in Ohio expose a most shocking state of affairs, as disclosed in one of our Ohio exchanges, namely, about one divorce to every twelve marriages in the year from July, 1893, to July, 1894, or 2,753 divorces in all! In 1892-1893, the number was 2,913, and in 1891-1872, it was 2,737, In three years, 8,403 divorces! The total number of suits brought during the year was 3,696, and 2,918 were pending when the year began. There were 858 cases dismissed during the year. In one county, 399 divorces were granted. The women get about 73 per cent. of the divorces. It is significant that 1,380, or more than half the whole number, were granted for absence and neglect, while only 385 were granted for adultery, and the usually prolific cause of "cruelty" furnished only 567.

A NEW YORK man pleaded in his petition for divorce that "the defendant would not sew on this plaintiff's buttons, neither would she allow him to go to fires at night." The court decided that the plaintiff was entitled to a decree on the ground that his oppression was cruel and inhuman.

THE by-laws of a corporation are denied effect as notice to a stranger dealing with a general manager of the company to restrict the latter's authority, in the South Carolina case of Moyer *v.* East Shore Terminal Co. 25 L.R.A., 48. Much confusion in the authorities is said by the annotator of the case to have existed until recently, but to be now substantially removed by the overruling of earlier New York decisions by the court of last resort in that State, so that now, as the note shows, it is almost universally established that corporate by-laws do not operate as notice to strangers

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BUT hypnotism, as an agency in crime, seems likely to be recognized by some of the U.S. courts. A case where an actual murderer went free,

while the person who was said to have incited him to the crime by hypnotic influence was convicted, and has been sentenced to death for the killing, has just been tried in Wellington, Kan. The facts are reported as follows: Thomas McDonald, while under the alleged hypnotic influence of a man named Gray, killed Thomas Patton. The murdered man had incurred the enmity of Gray, who was claimed to have hypnotized McDonald and then incited him to do the killing. McDonald was tried for the offence and on the plea named, was acquitted. Gray was then placed on trial for the murder he was claimed to have suggested to the hypnotized subject, was found guilty, and has been sentenced to death.

THE London *Globe* has the following story:—

In an assault case at Bow Street, yesterday, the following conversation took place:—

Mr. Vaughan—Why did you assault the woman? Prisoner (in a tone of surprise)—Why, Your worship, she is my mother-in-law (laughter). A woman at the back of the court—All right, I will give you mother-in-law, Jimmy. Mr. Vaughan—Is that your mother-in-law? Prisoner—No, sir, that is only my mother-in-law's sister (laughter).

At this point, Mr. Vaughan discharged the prisoner, realizing that no punishment inflicted by him could compare with the treatment adumbrated by the mother-in-law's sister.

THE law seems to be settled that money paid under a mistake of facts cannot be reclaimed, where the plaintiff has derived a substantial benefit from the payment, nor where the defendant received it in good faith in satisfaction of an equitable claim, nor where it was due in honor and conscience. 2 *Greenl. Ev.* (15 Ed. § 123; *Norton v. Marden*, 15 Me. 45; *Moore v. Eddowes*, 2 Adol. & E. 133; *Glenn v. Shannon*, 12 S. C. 570; *Foster v. Kirby*, 31 Mo. 496; *Brisbane v. Dacres*, 5 Taunt. 143-163, 14 Eng. Rev. Rep. 718; *Farmer v. Arundel*, 2 W. Bl. 824. The right to recovery in such cases turns on the question as to whether the party receiving the money paid by mistake can, in good conscience, retain it.

SCENE: A chemist's shop. To the assistant, enters an Irishman. He points to a pile of soap:—

Clerk: "Well?"

Customer: "I want a lump of that."

Clerk: "Thank you. Will you have it scented or unscented?"

Customer: "I'll take it wid me."

PROF. "What right did the wife have at the common law designed to secure her maintenance after her husband's death and before the assignment of her dower?"

Student No. 1. "She had the right to remain in her husband's castle forty days after his death."

Student No 2. "I don't understand how the mere right to stay in his castle was going to secure her maintenance."

Student No. 1. "Oh! she could rent rooms."

"BOB Ingersoll's my style of man," observed the slim, long-haired party who was discussing theology with the little fat man over in the corner.

"There's no bigotry about him. I can't stand bigotry and intolerance!" he went on, loosening his collar. "The bigotry and intolerance of the churches is what I object to. If I had my way I'd turn about nine-tenths of the churches into theatres, and drive nine-tenths of the members into the Atlantic ocean—That's what I'd do!"

"So glad you're not bigoted and intolerant, Mr. Poppenduke!" said the little fat man with a dreary yawn.

An elaborate discussion of the difference between a glove contest and a prize fight is presented in the Louisiana case of *State v. Olympic Club*, 24 L.R A. 452, in which the Court concludes that sports like the Sullivan-Corbett contest do not constitute prize fighting. Testimony of various leading citizens including prominent lawyers, a college professor, and other persons of like standing, is given at great length. One of the witnesses considered these contests much superior, both from a humane and æsthetic point of view, to the game of football.

If A. lets goods to B. on a hire purchase agreement, and B. sells them to C. who believes they are B's., C. has a good title. This was decided in Helby *v.* Matthews (L.R., (1894) 2 Q.B., 262.) But suppose B. is prosecuted to conviction, does this make any difference? The Divisional Court, on the 21st January last, in a case of Payne *v.* Wilson, decided that it does not.

According to a contemporary, the police in New Zealand have the power, if they think a man is injuring his own health or neglecting his family as the result of habitual drinking, to take him before a magistrate and get his drink stopped for twelve months, within a radius of twenty miles. After that, any hotel keeper supplying such a man with drink, and any person privately giving him drink, is liable to a fine; and if a prohibited man is found the worse for drink, he is to be arrested at once, and sent to gaol for three months' at hard labor.

It has often been said that the law is an exact science. It would seem that in applying it to the decision of cases, it is not exact or certain. Mr. Justice Gary, Illinois, in Tripp *v.* O'Brien, cites an opinion of Lord Mansfield to show that a wager upon a decision of a court of last resort is staked upon an uncertain event, this, so far as betting is concerned, places a horse race and the decision of a court upon the same footing.

Before Ferguson, J., in Chambers, Jan. 18.

Merchants Bank of Canada *v.* Kemp. — Examination — Special Examiner's Chambers — Discretion as to Admission of Persons.

A Special Examiner has a discretion to admit or exclude from his chambers persons who desire to be present upon an examination; and where the defendant attended for examination as judgment debtor, but refused to answer questions unless a former partner of his, who was present to instruct counsel for the judgment creditor, was excluded. Held that the examiner rightly exercised his discretion in refusing to exclude, and the defendant was ordered to attend again at his own expense.

Biggar, Q.C., for the plaintiff.

Waldron for defendant.

LAW SCHOOL DEPARTMENT.

LITERARY SOCIETY NOTES.

The regular weekly meetings of the society during January and February have so far failed, for want of a quorum. The meetings after Christmas have always been slimly attended, and interest in the society seems to be wanting after the Christmas vacation.

The only event to notice since our last issue was the holding of the annual At-Home on Friday, Feb. 9th.

A brilliant assembly was present at the ball this year. Many legal luminaries were present; and the bar and bench were well represented. The committee had superintended admirable arrangements, and the guests were greatly pleased with the whole affair; one and all spent a most enjoyable evening. The event proved to be one of the most enjoyable functions ever given in Toronto.

The Osgoode "At Homes" have always been looked forward to by Toronto society with the certainty that the arrangements will be carried out with that scrupulous attention to all matters of detail which are essential to the carrying out of a large ball; and that as far as good floors, good music, and agreeable partners contribute to its success, they are certain thoroughly to enjoy themselves. One of the agreeable peculiarities, which have always characterized Osgoode "At Homes," is, that the number of private rooms, chambers, and court-rooms, affords abundant opportunities for those who are fond of cosy and sequestered nooks to sit out between or during the dances, and to carry on those little flirtations which are indispensable to the enjoyment of all well-conducted balls.

Owing to the inclemency of the weather, the attendance was hardly as large as that on previous occasions, about five hundred guests being present, a diminution in numbers, which was in some respects an advantage, as the party assembled was admirably suited to the accommodation, and there was no overcrowding. Special arrangements had been made by which carriages entered by the east entrance and passed out by the west, thus preventing the inevitable confusion arising from two lines of carriages arriving from opposite directions.

The arrangements in the building for the accommodation of the guests were very complete, and reflected the greatest credit on the committee in charge, the more so that it is no easy matter to convert halls of justice into ball-rooms, and judges and lawyers were scarcely able to recognize the familiar surroundings, occupied as they were by crowds of well-gowned ladies and faultlessly equipped young men. In many cases, the chairs of the judges in the various court-rooms had been seized upon as particularly desirable for sitting out, and they were occupied by couples entirely oblivious to the magisterial nature of their surroundings.

The dancing was carried on in three different rooms, the Convocation Hall, the Law School, and the library. In the first two rooms, Glionna's orchestra was in attendance, and in the lat-

ter the Grenadiers' band occupied the east gallery. An arrangement of electric signals had been established, by which, as in former years, a button pressed by the leader of the Convocation Hall orchestra notified the orchestra in the other rooms to commence the next dance on the programme. In Convocation Hall, a number of flowers and foliage plants were tastefully arranged in front of the dais, and in the library, along the lines of book-cases, creating an excellent effect. The accommodation for sitting out was very extensive, and several rooms were set apart for the purpose, namely, the students' reading-room, the benchers' committee rooms, the benchers' library and dining-room, and several others. These rooms were all tastefully ornamented with flowers, and filled with furniture of a handsome and luxurious appearance. All the court-rooms, with the exception of the Court of Appeal, were also thrown open, and extensively patronized. An innovation on previous years' arrangements was the establishment of two card-rooms, which were well-filled during the evening. The guests who received complimentary tickets entered by the entrance in the east wing, and the others by the west wing. The room of the Master-in-Ordinary was used as a ladies' cloak room, and the old Chancery Court as a gentleman's coat-room, and a man from "C" School of Infantry was stationed at the top of the south stair-case to call out the ladies' names for the benefit of their escorts. Several other "C" School men were stationed here and there in the passages and corridors. The programme was beautifully got up in blue and white, with a representation of Osgoode Hall on one side, and the arms of the society embossed in gold on the other, and contained the following selections: Extras, 1, waltz; 2, waltz: 1, Lancers: 2, waltz; 3, Deux Temps; 4, waltz; 5, Military Schottische; 6, waltz; 7, polka; 8, waltz; 9, Deux Temps; 10, Lancers; 11, waltz; 12, Deux Temps; 13, waltz; 14, Military Schottische; 15, waltz; 16, polka; 17, waltz; 18, Deux Temps; 19, Lancers: extras, 1, Deux Temps: 2, waltz. Rendezvous, *A to D, in rotunda; E to J, in* library.

The supper, which was supplied by Harry Webb, and was faultlessly appointed in every detail, was laid out on tables arranged on the north and west sides of the lower rotunda, and was done ample justice to by the guests. The upper rotunda was equipped with chairs, and made an admirable lounge. Several refreshment buffets were also established in different parts of the building.

Following are the ladies under whose patronage the ball was held:—Mrs. A. B. Aylesworth, Mrs. Walter Barwick, Mrs. J. K. Kerr, Mrs. Z. A. Lash, Mrs. D'Alton McCarthy, Mrs. Charles Moss, Mrs. Frank Mackelcan, Mrs. B. B. Osler Mrs. Christopher Robinson, Mrs. C. H. Ritchie, Mrs. W. R. Riddel, Mrs. G. F. Shepley, Mrs. G. H. Watson.

The following are among the invited guests:—His Excellency the Governor-General and the Countess of Aberdeen, His Honor the Lieutenant-Governor and Mrs. Kirkpatrick and Miss Kirkpatrick, Sir Charles Hibbert and Lady Tupper, the Chief Justice of Ontario and Mrs. Hagarty, Chief Justice and

Mrs. Meredith, Chief Justice and Miss Armour, Chancellor and Mrs. Boyd, Sir Mackenzie Bowell, Sir Oliver Mowat, Mr. Justice and Mrs. Osler, Mr. Justice and Mrs. Burton, Mr. Justice and Mrs. Maclennan, Mr. Justice and Mrs. Ferguson, Mr. Justice and Mrs. Robertson, Mr. Justice Meredith, Mr. Justice and Mrs. Rose, Mr. Justice and Mrs. MacMahon, Mr. Justice and Mrs. Street, Mr. Justice and Mrs. Falconbridge, Sir Thomas and Lady Galt, His Honor Judge and Mrs. McDougall, His Honor Judge and Mrs. Morgan, His Honor Judge and Mrs. Morson, Æmilius Irving, Q.C, Hon. S. H. and Mrs. Blake, Mr. and Mrs. A. B. Aylesworth, Mr and Mrs. Walter Barwick, Mr. and Mrs. R. Bayley (London), Mr. and Mrs. John Bell (Belleville), Mr. and Mrs. B. M. Britton (Kingston), Mr. and Mrs. A. Bruce (Hamilton), Mr. and Mrs. W. Douglas (Chatham), Mr. and Mrs. D. Guthrie (Guelph), Dr. and Mrs. John Hoskin, Mr. and Mrs. J. K. Kerr, Mr. and Mrs. Z. A. Lash, Mr. and Mrs. Colin MacDougall (St. Thomas), Mr. and Mrs. Frank Mackelcan (Hamilton), Mr. and Mrs. D. B. Maclennan (Cornwall), Mr. and Mrs. John Magee (London), Mr. and Mrs. Edward Martin (Hamilton), Mr. and Mrs. D'Alton McCarthy, Mr. and Mrs. Charles Moss, Mr. and Mrs. Martin O'Gara (Ottawa), Mr. and Mrs. B. B. Osler, Mr. and Mrs. C. H. Ritchie, Mr. and Mrs. W. R. Riddell, Mr. and Mrs. Christopher Robinson, Mr. and Mrs. G. F. Shepley, Mr. and Mrs. H. H. Strathy (Barrie), Mr. and Mrs. J. W. Teetzel, (Hamilton), Mr. and Mrs. G. H. Watson, Mr. and Mrs. Thomas Hodgins, Mr. and Mrs. John Winchester, Commander and Mrs. Law, Captain Urquhart and Mr. Erskine, A.D.C's., Hon. J. C. and Mrs. Patterson, Hon. John and Mrs. Haggart, Col. and Mrs. Otter, President and Mrs. Loudon, Chancellor and Mrs. Burwash, Rev. Professor Jones (Trinity College), Principal and Mrs. Dickson, Hon. Richard and Mrs. Harcourt, Hon. G. W and Mrs. Ross, Mr. and Mrs. N. W. Hoyles, Mr. and Mrs. E. D. Armour, Mr. and Mrs. G. T. Blackstock, Hon. A. S and Mrs. Hardy, Hon. J. M. and Mrs. Gibson, Hon. John and Mrs. Dryden, Hon. Wm. Harty, Mr. and Mrs. John King, Mr. and Mrs. A. H. Marsh, Mr. and Mrs. Douglas Armour, Mr. Wallace Nesbitt, Mr. and Mrs, Geo. Kappele, Mr. and Mrs. W. H. Ludwig, Hon. G. W. and Mrs. Allan, Mr. and Mrs. C. W. Bunting, Capt. and Mrs. Forsyth Grant, Mr. John Martland, Mr. and Mrs. Herbert Macbeth, Mr. and Mrs. Holmsted, Mr. and Mrs. M. B. Jackson, Mr. and Mrs. J. S. Cartwright, Mr. and Mrs. Daniel Clark, Mr. Day Baldwin, Hon. D. Montague, Hon. W. B. Ives, Hon. John Haggart, Hon. J. F. Wood, Hon. T. M. Daly, Col. Tisdale.

On account of the railway accident, several who were to have danced in the opening set were unable to be present, namely:—Mr. Justice Street, and Mrs. Street, Mr. Justice Osler, and Mrs. Osler, Mr. George H. Watson and Mrs. Watson, Mr. C. H. Ritchie, Mr. B. B. Osler, Mr. D'Alton McCarthy and Mrs. Aylesworth. As danced, the set was composed as follows:—

Mr. Leighton G. McCarthy and Mrs. Kirkpatrick.

The Lieutenant-Governor and Lady Tupper.

Sir Mackenzie Bowell and Mrs. D'Alton McCarthy.

Sir Charles Hibbert Tupper and Mrs. J. K. Kerr.

Mr. Æmilius Irving and Mrs. Charles Moss.

Mr. J. K. Kerr and Mrs. Mackelcan.

Mr. Z. A. Lash and Mrs. Barwick.

Mr. G. F. Shepley and Mrs. Ritchie.

Mr. Frank Mackelcan and Mrs. Shepley

Mr. W. E. Burritt and Mrs. Melfort Boulton.

Following is the personnel of the committee which had charge of the arrangements:—Leighton G. McCarthy (president), R. A. L. Defries (secretary), J. McGregor Young, F. W. Harcourt, W. E. Burritt, R. O. McCulloch, E. C. Senkler, W. A. H. Kerr, J. H. Moss, E. Scott Griffin, A. Y. Blain, F. G. Anderson, G. R. Geary, Peter White, jr., R. E. Gagen, A. F. R. Martin, R. A. Grant, F. M. Gray, J. B. Pattullo, Stewart Houston, Arthur Kirkpatrick, H. L. Watt, W. A. Lamport, W. E. L. Hunter, J. T. Scott, W. E. Buckingham, W. Martin Griffin, W. H. Moore, R. K. Barker (treasurer).

At the meeting of the Society on Saturday, Feb. 16th, the question of a State censorship of the press will be discussed.

DINING IN HALL.

THE next event in the student's life, after he has been admitted, is his first dinner in hall. The cost of the dinner is not the same in all the Inns, nor is the manner of serving it precisely similar. In the largest Inn, the Middle Temple, the dinner tickets are 2s., including wine. Of course, some allowance must be made for the fact that incidental fees have to be paid, but even then it is a remarkably cheap dinner, especially to those who take wine. At the Inner Temple the charge is somewhat more, and the meat is cut by an attendant, instead of a joint being allotted to each mess, as is the case in the Middle Temple.

A student is permitted to leave early if he sends his card to the benchers with a sufficiently good reason written on the back of it, and many funny stories are related of the subterfuges to which men have resorted in order to get away. There is a tradition in one of the Inns, concerning a man who regularly sent up his card, and it was noticed that at about the same time, a hansom, containing a young lady, was driven to the door. At last these circumstances came to the hearing of Mr. Justice ——, who was presiding on one particular evening, and he sent the card back with the laconic reply inscribed upon it, "She can wait." Other students, who have merely given as a reason "To catch a train," have been asked for particulars, and some, whose excuses appeared equivocal, have been told that it was too early; but as a general rule it may be taken for granted, that if the request is at all reasonable it will be granted at once. Many university students are excused in order to enable them to return to their colleges the same night.

The six attendances which non-university candidates are required to make each term are rather a trouble to a man who is working hard; but the rules are very nearly like the laws of the Medes and Persians, so that university men must put in 37 attendances (their call night being one extra), and non-university candidates 75.

SPORTS.

INTERCOLLEGIATE HOCKEY.

TRINITY showed fine form, and defeated Osgoode Hall 14 goals to 11 on Granite ice, on Thursday, Feb. 8th, at 8 p.m. The red and black won a well-earned victory. The game was capital display of the favorite winter pastime. Trinity showed an almost perfect combination, while the individual play of the seven was also of a brilliant order, especially the clever work of Senkler and Tempie, who worked well together, and kept our goal-keeper busy. Our men worked hard, and were in prime fettle, as the close score at the close of the game showed. At half-time, Trinity led by 8 to 6, and at the finish had increased their lead a goal—14 to 11.

Patterson, Henry, and Gilmour, worked like Trojans all through the game; all three putting up an unusually strong game. Chopin in goal was a decided improvement on any of our previous goal-keepers, and Osgoode might have had a winning chance if they could have induced him to play goal at the beginning of the season.

Teams—Trinity (14): Murray, goal; Douglas, point; Wilkie, cover; Senkler, Temple, Osler, McDonald, forwards.

Osgoode (11): Chopin, goal; Moss, point: Gilmour, cover; Patterson, Anderson, W. Henry, Scott, forwards.

Referee—Walter Windeyer, Granite.

(*From the Telegram of February 1st.*)

CHAMPIONS NO MORE—VARSITY GIVES OSGOODE A BAD BEATING AT HOCKEY.

Osgoode played hard, but the pace was too fast. After holding the championship for two years, it was charitable to give some one else a chance. Hockey enthusiasts will now see what Varsity can do. There is one consolation for Osgoode—the champions are still in Toronto.

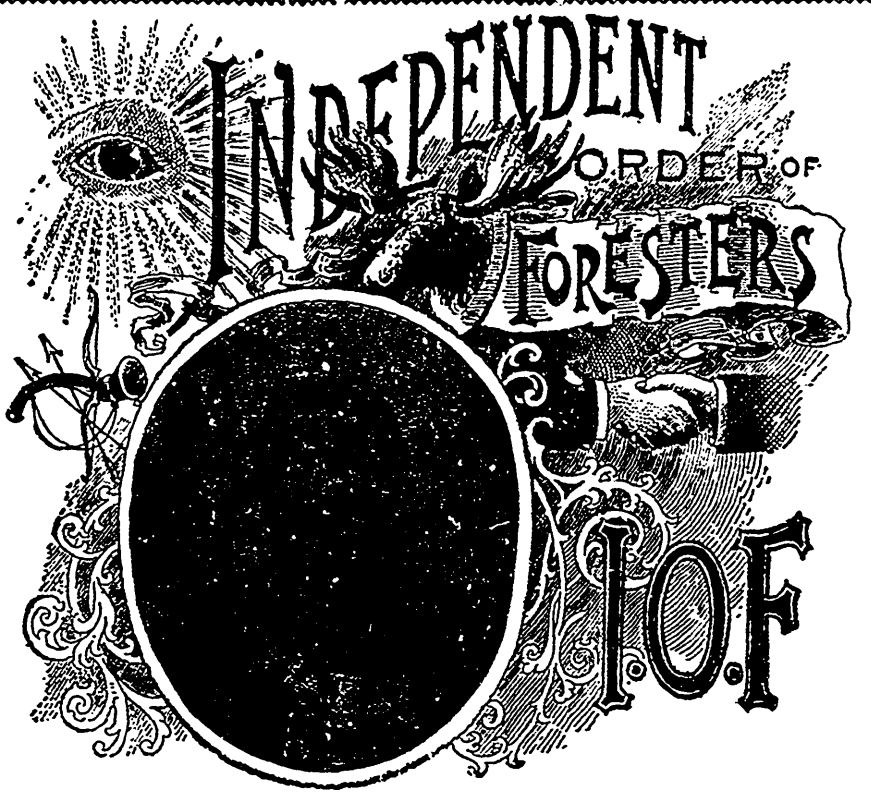
After the game last night, the friends of Mr. Price presented him with a handsome lawn tennis net to be used in his next match. Chili's terpsichorean feet were a little in the way last night. 'Tis a question whether he used his pedal extremities or his stick most.

*

THE weather was too "Chili" for Mr. Price.

*

FRED. ANDERSON was a little off in the second half, although in the first part of the match he played fine hockey.



EVERYBODY who knows anythingabout insurance acknowledges that the Independent Order of Foresters is far and away the **Best** Fraternal Benefit society **in the World.** It was founded in Newark, New Jersey on the 17th June, 1874, and has spread all over the United States and Canada, and is rapidly spreading in Great Britain and elsewhere.

The Unexampled Progress and Prosperity of the Independent Order of Foresters

is shown by the following figures:

	No. of Members.	Balance in Bank.		No. of Members.	Balance in Bank.		No. of Members.	Balance in Bank.
October, 1882	880	$ 1,145 07	January, 1888	7,811	$ 86,102 42	January, 1894	54,481	$859,857 89
January, 1883	1,134	2,769 53	January, 1889	11,618	117,599 88	February, "	55,149	875,880 06
January, 1884	2,216	13,070 85	January, 1890	17,026	188,130 86	March, "	56,559	876,230 08
January, 1885	2,558	20,922 30	January, 1891	24,466	283,967 20	April, "	58,339	911,120 93
January, 1886	3,648	31,082 52	January, 1892	32,303	408,793 18	May, "	59,007	928,707 04
January, 1887	5,504	60,325 02	January, 1893	43,024	580,597 35	June, "	60,266	951,571 62

Membership 1st July, 1894, about 61,000. Balance in Bank, $985,434.68.

The total number of applications considered by the Medical Board for the six months ending 30th June, 1894 was 13,381, of whom 12,296 were passed, and 1,085 rejected.

The cause of this unexampled prosperity and growth of the I. O. F. is due to the fact that its foundations have been laid on a **Solid Financial Basis,** and every department of the Order has been managed on business principles, thereby securing for all Foresters large and varied benefits at the lowest possible cost consistent with **Safety** and **Permanence.**

At date all Benefits have been paid within a few days of filing the claim papers, amounting in the aggregate to the princely sum of **Two Millions Three Hundred and Sixty Thousand Five Hundred and Sixty-four Dollars.** Notwithstanding the payment of this large sum, as well as all the management expenses, including large sums for planting the Order in New Territory, there remains the handsome cash balance in the treasury, as noted above, of the sum of **Nine Hundred and Eighty-five Thousand Four Hundred and Thirty-four Dollars and Sixty-eight Cents.**

Look at this list of the Benefits which you may obtain for yourself by becoming a Forester:

FOR YOURSELF.—1. The fraternal and social privileges of the Order. 2. Free medical attendance. 3. Total and Permanent Disability of $500, $1,000, or $1,500. 4. A benefit for your old age of $100, $200, or $300 a year. 5. A Benefit, payable on reaching your expectation of life, of $1,000, $2,000, or $3,000. 6. Sick Benefits of $3 to $5 per week.

FOR YOUR FAMILY.—1. Funeral Benefit, $50. 2. Mortuary Benefit of $1,000, $2,000, or $3,000.

The cost of admission to the Order in most Courts is only $7 to $9, according to the amount of Benefit taken, besides medical examination fee, which is $1.50 if you are taking only $1,000 of insurance, and $2 if taking $2,000 or $3,000. **Agents wanted in Canada, the United States, and Great Britain and Ireland.**

For further information, apply to

ORONHYATEKHA, M.D., S.C.R., Toronto, Canada. HON. D. D. AITKEN, M.C., S.V.C.R., Flint, Mich. JOHN A. McGILLIVRAY, Q.C., S. Secretary, Toronto, Canada. JAMES MARSHALL, Gen. Manager, Great Britain, 172 Buchanan-street, Glasgow, Scotland, or to REV. W. J. McCAUGHAN, Gen. Manager, Belfast, Ireland.