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LEGAL NEWS.

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CURRENT TOPICS AND CASES.

The Court of Appeal at Montreal, on the 24th February, reversed the decision of the Superior Court, Archibald, J., in *Cusson* v. *Delorme*, referred to on p. 3 of this volume, and since reported in Quebec Reports, Vol. 10, S. C., p. 329. The case presented an interesting and important question as to the rights and obligations of the parties where a person in erecting a wall has inadvertently encroached a few inches on his neighbour's land. Can the neighbour ask for the demolition of the wall, or merely for the value of the land taken ? The court below declined to maintain the action for the demolition of the wall, considering that there was proof of acquiescence and renunciation of right by the plaintiff, and also taking into consideration the fact that the value of the land taken was extremely insignificant. The Court of Appeal has set aside that judgment and maintained the action for demolition, the grounds for reversal being briefly as follows:—The fact that the respondent acted in good faith did not justify him in erecting his wall before he had ascertained the true line of division. The court was of opinion, as a matter of fact, that there had been no acquiescence on the part of the neighbour in the line

built on, and further, that while the construction of the wall was proceeding, appellant notified respondent that he was encroaching. Subsequently appellant resorted to an action *en bornage*, and the encroachment was established. The Court of Appeal considered that the value of the land was not so insignificant as to justify the application of the maxim "de minimis non curat lex." The action for demolition was therefore maintained.

In the case of *Plummer* v. *Gillespie*, referred to, *ante*, p. 2, the Court of Appeal (Feb. 24) unanimously affirmed the judgment of Mr. Justice Archibald, since reported in Q. R., 10 S. C. 243. The underlying principle of the decision seems to be that services volunteered by strangers or outsiders do not give them a legal title to remuneration against the party to whom the services are rendered, where there is no evidence whatever that the latter requested or recognized the service in any way, or was even aware that it was rendered; and the alleged usage to the contrary, in the case of real estate agents, it was held, had not been established.

The Quebec Statutes, 60 Victoria, have been issued, and contain some matters of special interest. The draft code of procedure prepared by the commission charged under 57 Vict., ch. 9, with the revision of the Code of Procedure, has been finally adopted, but the provisions respecting the Code of Procedure passed during the last session have to be embodied, and when the roll is completed and deposited the Code is to be brought into force by proclamation. It is to be regretted that these amendments could not have been incorporated before the end of the session, and the whole enacted as one statute, as difficulties may possibly arise with respect to the changes made by the commission after the draft was approved by the legislature. The changes made in the Code of Pro-

cedure render necessary certain amendments in the Revised Statutes of Quebec, and these are enacted by chap. 49.

The New York State Library has just issued its seventh annual comparative summary and index of state legislation, covering the laws passed in 1896. Each act is briefly described or summarized and classified under its proper subject-head, with a full alphabetical index to the entries. Perhaps the most important legislation of the year was that enacted by the people directly through their votes upon the numerous constitutional amendments submitted to them. The bulletin records the amendments defeated as well as those adopted, a special table arranged by states being inserted for convenient reference. It is of interest to note that of 57 separate constitutional amendments voted on, only 24 were adopted. There is a steadily growing appreciation of this bulletin by all persons interested in improving state legislation. It is already widely used and aids materially in raising standards and promoting uniformity in the laws of the different states. It is proposed that the eighth bulletin shall consolidate into a single series with the legislation of 1897 the summaries for the preceding seven years. This material will be closely classified and so presented as to give a clear view of the general progress of legislation for the eight years ending in 1897.

Lamond v. *Richards* (pp. 70, 71 of this number) is a case of great interest to hotel-keepers, inasmuch as the law as laid down by the Court of Appeal, enables them to eject any traveller, without assigning cause, after he has made a stay of moderate length. The case seems to have been hotly contested, but the hotel won in all three courts.

SUPREME COURT OF CANADA.

OTTAWA, 25 January, 1897.

Quebec]

MACDONALD v. WHITFIELD.

WHITFIELD v. THE MERCHANTS BANK.

Principal and surety—Judgment against sureties—Discharge of one —Trust funds—Rights of co-sureties—Guarantee.

A bank holding judgments against several sureties released one, reserving his recourse against the others, with a declaration that the release gave no warranty against claims the other sureties might seek to enforce against the one released by reason of the exercise of the recourse reserved. The surety released had at the time a sum of money in his hands to be applied towards payment of the bank's debt.

Held, that notwithstanding the release said surety could be compelled by his co-sureties to pay such moneys to the bank, or to the co-sureties if the bank had been paid by them.

Held also, that the bank was not liable as a warrantor to the sureties not released, having entered into no agreement creating an obligation in guaranty towards them.

Appeal dismissed with costs.

Geoffrion, Q.C., and *Fleet*, for appellant Macdonald.

Abbott, Q.C., and *Taylor* for Whitfield.

Abbott, Q.C., for Merchants Bank.

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25 Feb., 1897.

Quebec]

MCGOEY v. LEAMY.

Appeal—Bornage—Agreement as to—Title to land—Future rights —R.S.C., c. 135, s. 29—54 & 55 V., c. 25, s. 2.

The owners of contiguous lands with no established line of division agreed by notarial deed to have such line established by a surveyor, but one owner refused to accept the surveyor's report, and to acquiesce in the boundary thereby fixed. In an action by the other owner to have the same declared the true

line of delineation, the Court of Queen's Bench held that the report did not bind the parties.

Held, that the judgment affected title to land and might bind future rights, and an appeal therefrom would lie to the Supreme Court.

Foran, Q.C., for the appellant.

Geoffrion, Q.C., and *Champagne*, for the respondent.

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25 Jan., 1897.

Ontario.]

CITY OF KINGSTON v. DRENNAN.

Municipal corporation—Negligence—Snow and ice on sidewalks—By-law—Construction of statute—55 V., c. 42, s. 531—57 V., c. 50, s. 13—Finding of jury—Gross negligence.

A by-law of the City of Kingston requires frontagers to remove snow from the sidewalks. It was allowed to remain on the crossings which were therefore higher than the sidewalks, and when pressed down by traffic an incline more or less steep was formed at the ends of the crossings. A young lady slipped and fell on one of these inclines, and being severely injured, brought an action of damages against the city and obtained a verdict.

The Municipal Act of Ontario makes a corporation, if guilty of gross negligence, liable for accidents resulting from snow and ice on sidewalks; notice of action in such case must be given, but may be dispensed with on the trial if the Court is of opinion that there was reasonable excuse for the want of it, and that the corporation has not been prejudiced in its defence.

Held, affirming the decision of the Court of Appeal, Gwynne, J., dissenting, that there was sufficient evidence to justify the jury in finding that the corporation had not fulfilled its statutory obligation to keep the streets and sidewalks in repair; *Cornwall* v. *Derochie* (24 Can. S. C. R. 301) followed; that it was no excuse that the difference in level between the sidewalk and crossing was due to observance of the by-law; that a crossing may be regarded as part of the adjoining sidewalk for the purpose of the act; that "gross negligence" in the act means very great negligence of which the jury found the corporation guilty;

and that an appellate court would not interfere with the discretion of the trial judge in dispensing with notice of action.

Appeal dismissed with costs.

Walkem, Q.C., for the appellants.
Hutchison, for the respondent.

NOTE.—In our last issue, in *Salvas* v. *Vassal*, p. 49, for "Appeal dismissed" read "Appeal followed."

QUEEN'S BENCH DIVISION.

LONDON, 22 January, 1897.

LAMOND v. RICHARDS AND THE HÔTEL MÉTROPOLE COMPANY.
(32 L.J.)

Innkeeper—Duty to receive guest—Traveller—Right to eject guest.

Appeal from Brighton County Court.

The plaintiff, who had stayed for some months at the Hôtel Métropole at Brighton, went out for a short time on August 31, 1896, and on her return was refused admittance. It appeared that she had paid her bill regularly, and that there was sufficient accommodation for her in the hotel, but she had received notice to quit. The plaintiff brought an action against the defendants for damages for unlawfully expelling her. The County Court judge held that the plaintiff had ceased to be a 'traveller,' and that the defendants were not therefore bound in law to allow her to remain in the hotel after reasonable notice to quit had been given. He gave judgment for the defendants.

The COURT (WRIGHT, J. and BRUCE, J.) held that the common law obligation of an innkeeper to receive guests extended only to travellers; that the plaintiff had in August, 1896, ceased to be a traveller; and that the defendants were therefore entitled, after giving reasonable notice, to eject her.

Appeal dismissed.

COURT OF APPEAL.

LONDON, 22 February, 1897.

LAMOND v. RICHARDS ET AL. (32 L.J.)

Innkeeper—Common inn—Traveller continuing to stay at inn and abandoning intention to proceed—Liability of innkeeper to lodge.

Appeal from decision of Divisional Court (WRIGHT, J., and BRUCE, J.) affirming judgment of the judge of Brighton County Court for defendants.

The action was for damages for illegal expulsion from the Hôtel Métropole at Brighton, of which the defendants were the manager and proprietors.

The plaintiff went to the defendants' hotel in the autumn of 1895, and stayed there until the end of August, 1896, paying her bill regularly.

In August, 1896, the defendants gave to the plaintiff reasonable notice to quit the hotel, and when she failed to do so, during her absence from the hotel for a short time, packed up her goods and placed them in the hall of the hotel, and on her return refused to allow her to enter the hotel.

The County Court Judge held that the hotel was a common inn under the common law liability to afford accommodation to travellers coming to it, and that there was nothing in the condition or conduct of the plaintiff to justify the defendants in refusing to provide her with accommodation, but that the plaintiff had long ceased to be a traveller in the ordinary sense of the term, and that therefore the defendants were entitled to determine the accommodation claimed by the plaintiff by reasonable notice, and justified, on her paying no attention to the notice, in preventing her from re-entering the hotel and in placing her goods at the entrance for her to take away. The County Court judge, on these grounds, gave judgment for the defendants.

The Divisional Court affirmed the decision of the County Court judge.

The plaintiff by leave appealed.

Their Lordships (Lord Esher, M.R., Lopes, L.J., Chitty, L.J.) dismissed the appeal, holding that the County Court judge was right in finding upon the whole of the evidence, and taking

into consideration that ten months had elapsed since the arrival of the plaintiff at the hotel, that the plaintiff had ceased to be a traveller, and that the defendants were entitled in those circumstances to terminate the relation of host and guest between themselves and the plaintiff by reasonable notice.

ELECTION LAW—PRESENTATION OF PETITION—FORTIETH DAY AFTER POLLING DAY A SUNDAY.

Through the courtesy of Mr. J. A. Chisholm, of the firm of Borden, Ritchie, Parker & Chisholm, barristers, of Halifax, N.S., we are enabled to publish an interesting decision recently pronounced, in the case of *Lowther* v. *Logan*, by Mr. Justice Weatherbe, of the Supreme Court of Nova Scotia, on a question in connection with election petitions. It will be observed that the learned judge follows the Quebec decision in the case of *Déchêne & City of Montreal*, Q.R., 1 Q.B. 206, confirmed by the Privy Council.

HALIFAX, 16 February, 1897.

LOWTHER v. LOGAN.

WEATHERBE, J.:—

The only preliminary objection relied on is that the petition is too late.

The poll was held on the 23rd of June and the petition was presented on the 3rd of August, which was Monday.

By section 5 of Cap. 20 the petition where there is a contest, must be presented not later than forty days after polling day.

The fortieth day fell upon Sunday.

By section 7 of the Interpretation Act, sub-sec. 26, holiday includes Sunday. By sub-sec. 27 "If the time limited by any "Act for any proceeding or the doing of anything under its pro- "visions expires or falls upon a holiday the time so limited shall "be extended to and such thing may be done on the day next "following which is not a holiday."

It is admitted that there would be a good service if this were mere procedure—a thing to be done in the conduct of a cause such as the service of a pleading, but on the part of respondent

it is urged that this is a matter of right and not procedure, that the petitioner's "title is cut off" by the statute which establishes the immunity of the respondent.

In *Dechêne* v. *The City of Montreal*, App. Cas. 1894, page 640, a by-law was passed by the Corporation of the City of Montreal appropriating over one million, nine hundred thousand dollars to the expenses of the year.

By a statute of the Province of Quebec previously passed, "any municipal elector may by a petition presented to the "Superior Court * * * demand the annulment of any by-law "* * * with costs against the corporation, but the right of "demanding such annulment is prescribed by three months "from the date of coming into force of such by-law * * * and "after that delay every such by-law * * * shall be considered "valid and binding for all legal purposes whatsoever, provided "that it be within the competence of the said corporation." The day after the period of three months from the passing of the by-law expired, the petitioner, a municipal elector, presented a petition to the Court praying for annulment of the appropriation to the extent of $136,000. The last day of the three months was a holiday, and there was a plea that the petition was out of time. The plea was sustained by the Court of first instance and by the Court of Queen's Bench in Quebec, and was afterwards held good on appeal to the Privy Council.

By section 3 of the Quebec Code "If the day on which any-"thing ought to be done in pursuance of the law is a non-"juridical day such thing may be done with like effect on the "next following juridical day."

Another Act, 49 and 50 Vic., cap. 95, sec. 20, was relied on, which is in these words:—

"If the delay fixed for any proceeding or for the doing of any-"thing expires on a non-juridical day, such day is prolonged "until the next following juridical day."

Lord Watson said:—

"The respondents do not dispute that when an action is depen-"ding, the rule upon which the appellant relies is applicable to "proceedings in the litigation. But they maintain that the "statutory title of the appellant to petition the Court and their "own statutory immunity, which arises immediately upon the "cesser of his title, are matters of right and not of procedure."

After citing sec. 3 above quoted, Lord Watson proceeds:—"In " the opinion of their Lordships, that enactment refers *exclusively* " to things which the law has directed to be done either by the " plaintiff or the defendant *in the course of a suit*, and has no " reference to the title or want of *title* in the plaintiff to institute " and maintain it."

The contention of petitioner is, in the words of counsel, that chapter 1 of the Revised Statutes of Canada, section 7, sub-sections 26 and 27, extends the time for filing the petition to the Monday on which the petition was in fact filed. This provision, it is argued, cannot be restricted to procedure; it in terms applies to anything done under the provisions of any Act of Parliament. And it is further said that in the case referred to there was no such general Act as the above; but simply special regulations regarding procedure were invoked to extend the time for doing an act beyond the time prescribed by the statute on the subject, that is to say, the interpretation clause in the Code of Civil Procedure refers to all the things to be done by authority of that Act and nothing beyond.

Dechêne v. *City of Montreal* is of course binding, and the above is the distinction I am invited to consider. That is to say, both in the Dominion and our Provincial Revised Statutes, I am to apply the language there to be found in the interpretation acts (equivalent to that discussed by Lord Watson) as applicable not only to "proceedings" in the nature of procedure, but to everything to be done under every Act passed by Parliament and the Province. No authority was cited for this and perhaps there is none to be found. The first question with me is whether I am not relieved from independent judgment by the Judicial Committee of the Privy Council.

Lord Watson, in addition to his reference to the Code of Civil Procedure, refers to sec. 3 (the section of cap. 95 of Vic. 49 and 50 passed after the petition in the case was brought). The language is very similar to our sec. 27.

He did not follow the line of argument addressed to me, namely that the Quebec clauses were simple regulations confined in terms to legislation on the prescribed subject of "procedure." He dealt with the clauses as if they might have application to a statute of limitations or any other statute, or anything to be done by virtue of a statute. He took a ground broad enough I suppose

to apply to our interpretation provisions. He said of the last cited clause:—"Its language is not calculated to suggest that a "claimant may bring an action for recovery of land after the "period of limitation has run if he can show that the last day or "days of that period were non-juridical, and that his claim is "preferred upon the first juridical day after its expiry. Yet "that would be the logical result of giving effect to the argu-"ment of the appellant."

He adds after discussion another objection to the application of the section: "Even if sec. 20 were *prima facie* applicable to the "present case their Lordships venture to doubt whether having "regard to that reservation it could be permitted to control the "plain intendment of the legislature as expressed in the clause "which gives a *right of challenge to the appellant.*"

I observe so far as I have had access to the Statutes that matters in the Statutes of Quebec under the phrase "Civil Procedure" are not in all cases matters of procedure, but matters of title or right in some instances, which is consistent with the reasoning in *Dechêne* v. *City of Montreal.*

It was stated at the argument that petitions have been dismissed recently in the Province of Ontario, or Quebec, or both, on the ground raised here. It is a satisfaction to know that if my view is incorrect it may be reviewed.

BOUNDARIES — COSTS — ARTICLE 504, *CIVIL CODE —DESVOYEAUX DIT LAFRAMBOISE & TARTE DIT LARIVIÈRE.*

We have received communication of the notes of the Hon. Mr. Justice Bossé in this case, which is reported in the Montreal Law Reports, 6 Queen's Bench, pages 477-483. The notes in question are not included in the report, but as the case is frequently cited they may be of interest to our readers.

Bossé, J.:—

Motion a été faite pour appeler d'un jugement interlocutoire. Il s'agit, dans cette cause, d'une question qui revient constamment devant la cour, savoir: qui doit payer les frais d'une action en bornage et quelle est la forme dans laquelle le jugement qui ordonne un bornage doit être rendu.

Ici Tarte a sommé Taillefer, son voisin, de consentir au bornage demandé, sous 48 heures. Taillefer n'ayant pas répondu à cette sommation, Tarte a intenté une action contre Taillefer pour procéder au bornage.

Tarte dans son action allègue formellement que Taillefer a empiété sur sa propriété, et il poursuit ce dernier en bornage, se réservant de le poursuivre en dommage plus tard. Alors Taillefer a appelé Desvoyeaux en garantie, et ce dernier a déclaré prendre fait et cause pour Taillefer et a plaidé à l'action, disant que si la ligne de division entre le demandeur et le défendeur n'a pas été bien placée, c'est sans mauvaise intention, et que les défendeurs ont toujours été prêts et le sont encore, à borner mais à frais communs. Le demandeur a répondu que tous les allégués de son action étaient bien fondés et que les allégués de la défense étaient mal fondés. Là-dessus intervint le jugement qui répète les allégations de l'action et de la défense.

(*Judgment quoted.*)

Voilà le jugement rendu et dont on demande appel pour deux raisons :

1. C'est que les défendeurs ne devraient pas être condamnés aux frais, ne s'opposant pas au bornage ;

2. C'est que le jugement ordonne à l'arpenteur d'aller planter des bornes, sans les lui désigner, mais suivant la possession et les titres des parties.

Ce dernier point a été formellement jugé dans différentes causes, entre autres celle de *Loiselle & Paradis*, 1, D.C.A., 264, où il a été décidé que : " C'est la cour qui doit juger où les bornes " doivent être placées ", et dans celle de *Rivard* v. *La Fabrique de l'Ile Perrot*, où il avait été ordonné à l'arpenteur d'aller planter des bornes suivant les titres des parties, il fut jugé que ce n'était pas à l'expert de décider ou mettre les bornes. L'expert est pour éclairer la cour, et c'est à la cour de lui dire, après avoir pris connaissance du rapport, maintenant allez placer les bornes aux endroits qui vous sont indiqués sur le plan.

Ainsi la cour ne peut ordonner d'aller planter les bornes suivant les titres et possessions des parties, ça ne décide rien.

Sur la question des frais.

Cette question a été, aussi, maintes fois décidée.

Dans la cause de *Weynless* v. *Cook*, 2 L.C.J., 486, il a été jugé : que " les frais d'une action en bornage dans les actions ordinaires, " doivent être supportés en commun."

Cette opinion a été exprimée plusieurs fois, à ma connaissance. " Les frais de bornage doivent être en commun, excepté quand il y a contestation d'une part ou de l'autre, alors c'est la partie qui succombe qui doit payer." C'est aussi ce qui a été décidé dans la cause de *Loiselle* v. *Loiselle*, 10 L.C.J., 258; dans la cause de *Thornton et al.* v. *N. Trudel*, 30 L.C.J., 202; dans la cause de *Patenaude* v. *Charron*, 17 L.C.J. 85. " Les frais de bornage sont " communs et ceux du litige sont à la discrétion du tribunal, " lorsque il y a contestation." Cependant à Québec on semble suivre une règle contraire, et le juge Casault entretient une opinion différente de celle que nous émettons.

Cette question se décide par l'autorité de l'article du C.C., 504, qui dit " que tout propriétaire peut obliger son voisin au bornage " de leurs propriétés contiguës. Les frais de bornage sont com- " muns, ceux du litige, au cas de contestation, sont à la discré- " tion du tribunal."

Il est évident qu'ici il s'agit d'un bornage judiciaire car s'il n'y avait pas eu de bornage judiciaire, il n'y aurait pas eu de contestation, et, par conséquent, les frais de bornage seuls sont en commun. Les codificateurs disent que c'est de droit ancien; en effet le " N. Dénisart", bornage, page 655, dit: " S'il y a eu quelques " contestations, ou relatives ou incidentes au bornage, c'est la " partie qui succombe qui paie les frais seulement de la contesta- " tion."

Pourquoi a-t-on mis cet article dans le code? C'est qu'on a voulu établir une différence entre une action en bornage et une autre action. Les parties ont toujours le droit de se borner en justice, sur demande à cet effet, il n'est pas besoin de donner avis à son voisin, on intente une action et on a le droit d'avoir le bornage en justice; chaque partie paie ses frais, et n'est tenu aux frais de contestation que celui qui a mal à propos contesté la demande. C'est là ce qui est dit dans la cause de Loiselle dont l'interprétation a été méconnue par le juge Casault.

En outre du Nouveau Dénisart, un auteur de renom, Millet, page 552, dit: " A l'égard des incidents qui peuvent se présenter " dans le cours de l'opération et même au début, les frais en doi- " vent être supportés par ceux qui succombent dans leurs préten- " tions." " S'il n'y a pas de bornes qui existent, le défendeur qui " a soulevé une mauvaise contestation, devra payer les frais de " la manière mentionnée."

Guay, dans son nouveau traité du bornage, dit: "Les frais de "procédure pour bornage et les frais du jugement qui établit le "bornage doivent être partagés par les parties, etc."

Ainsi tous les auteurs sont unanimes sur ce point. Nous avons, en outre, l'opinion d'un grand nombre de jurisconsultes éminents qui abondent dans le sens de l'article 504 de notre code, qui est d'ailleurs très formel sur ce point: Les frais sont en commun, mais celui qui fait une mauvaise contestation, doit en payer les frais.

Dans cette cause-ci, il y a eu contestation à l'occasion du bornage. Ce n'est que lorsque le jugement final sur le point en litige viendra que la question des frais pourra être décidée. Cependant le défendeur a été condamné aux frais, cette raison seule serait contraire au code.

La cour à l'unanimité déclare ce jugement mauvais, et la cour est d'opinion que l'appel doit être accordé.

GENERAL NOTES.

EXCHEQUER COURT OF CANADA.—Special sittings of the Exchequer Court of Canada, for the trial of cases, etc., will be held for the year 1897, at the following times and places, provided that some case or matter is entered for trial or set down for hearing at the office of the Registrar of the Court, at Ottawa, at least ten days before the day appointed for such sitting, viz.:—

At the Court House, City of Ottawa, Ont., Monday, 29th March, at 11 a.m. At the Court House, City of Toronto, Ont., Tuesday, 6th April, at 11 a.m. At the Court House, City of Montreal, P.Q., Tuesday, 13th April, at 11 a.m. At the Court House, City of Quebec, P.Q., Tuesday, 20th April, at 11 a.m. At the Court House, City of Ottawa, Ont., Monday, 26th April, at 11 a.m. At the Court House, City of St. John, N.B., Thursday, 20th May, at 11 a.m. At the Court House, City of Halifax, N.S., Tuesday, 25th May, at 11 a.m. At the Court House, City of Ottawa, Ont., Monday, 7th June, at 11 a.m.

SERJEANTS' RINGS.—There has just been added to the library of the Inner Temple an interesting little collection inscribed 'Serjeants' Rings.' It contains, says the *Pall Mall Gazette*, four gold rings which once belonged to Serjeants Channell (1840),

Crompton (1852),Ballantine (1856),and Field (1875) respectively. The dates are those of their being made serjeants. All these gentlemen, except Ballantine, became judges; Lord Field alone survives. On each ring is engraved the motto the serjeant took. Channell's is 'Quid quandoque deccat'; Crompton's 'Quaerere verum'; Ballantine's 'Jacta est alea'; and Field's 'Fais ce que dois, avienne que pourra.'

A TRUSTEE IN A DIFFICULTY.—The *London Law Journal* refers to a case before Mr. Justice Williams, which illustrated a case of hardship where no one is to blame. The victim of the law or of circumstances was a trustee under a deed of arrangement, and the Board of Trade was proceeding against him for not rendering an account of his stewardship. The "estate" had realized £3 5s. The disbursements were £3 10s. The Board called for an account; the trustee rendered it, but he neglected to stamp the account, as required by the rules, with a 5s. stamp, and the Board refused to receive it unstamped. "We have no power," said the Board, "to dispense with the stamp. It belongs to the Inland Revenue. We are bound by the Act to exact the 5s." "I have no assets," pleaded the trustee. "I don't like sending a man to prison," said the judge, "unless he is contumacious." Each plea was in its way unanswerable. In the end the trustee was ordered to pay, but the Court intimated that it was not a case for incarceration.

A QUESTION OF COSTS IN ENGLAND.—An attempt was made recently in an action for false imprisonment, which had resulted in nominal damages against one defendant and a verdict in favour of the other, to render the plaintiff's solicitor personally liable to the successful defendant for his costs. It failed, however, because, although the plaintiff was undoubtedly without means, the judge was not satisfied that the action as against this defendant was frivolous and vexatious. There are numerous instances of a solicitor having been ordered to pay the costs of the opposite party. Most of them are cases in which the solicitor has brought an action without authority from the client, or has taken proceedings which must clearly be futile, either for an impecunious client or for one out of the jurisdiction, or has guaranteed the client against the costs of the proceedings, and thereby made the action his own. The mere fact that a solicitor

has undertaken an unsuccessful action for an impecunious client is not, and ought not to be, a reason for mulcting him in the other party's costs; but before beginning the action he may be obliged to satisfy himself by all reasonable inquiries of the worth of his client's case, and, for having neglected to do so, the solicitor in this particular litigation was refused his costs of successfully opposing the application.—*Law Journal.*

PHOTOGRAPHY IN THE DETECTION OF CRIME.—The *Tagliche Rundschau* mentions a practical use of photography in the detection of crime that is novel and ingenious. The murder of a woman was traced to one of two men—her husband and a neighbour. Each had hairs upon his clothes. Dr. Jeserich, "the inventor of criminal photography," photographed the clothes of the suspected men, and the camera disclosed the fact that the hairs on the husband's clothes were from his wife's head, while the other prisoner had hairs from his own head on his clothing. The same scientist has shown that the differences in inks used in writing and in altering a document can be shown clearly in a photograph of the document. Even on surfaces from which, to the eye, all trace of writing has been erased, the camera reveals legible characters; and the forger or thief fails of his purpose of irrevocably destroying the original purport of the document with which he tampers.

"TRUTH."—It was one of the delights of the late Lord Coleridge to profess ignorance of things supposed to be of common knowledge. In a newspaper libel action his lordship, in his most silvery tones, asked, "What is 'Truth'?" "It is a newspaper, my Lud," replied counsel. "Oh!" said his lordship, preserving his simplicity and splendid gravity; "isn't that an entirely new definition?"—*Legal Adviser.*

PHOTOGRAPHS AS EVIDENCE.—Evidence was being taken as to the value of certain water privileges, and photographs were put in of the *locus in quo*. The fall in question was only some few inches, but the photographer's art had improved on it. Counsel wishing to magnify the descent of water, and the consequent value of the right to use it, holds up the picture and remarks: "Why, my Lord, it is a perfect cataract." C. M. ——, Q. C., in his dry way, replies: "On investigation, my Lord, the cataract will be seen to be in my learned friend's eye."