THE LEGAL NEWS.

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THE PRESS AND THE LAW OF LIBEL.

In the case of Armstrong and others *v.* Armit and others, the Lord Chief Justice and Mr. Justice Denman, sitting in banc, gave judgment on a point of considerable interest to newspaper writers and newspaper readers. The question involved was simple enough. Would the court grant an interim injunction to restrain the defendants in a libel action, from further publishing libelous matter to the prejudice of the plaintiffs, while the hearing of the original libel action was pending? The dispute between the parties arose from the publication in a weekly paper called the *Admiralty and Horse Guards Gazette*, of an alleged false and malicious libel contained in an article reflecting upon Sir William Armstrong, Captain Noble, W. G. Armstrong and Mitchell and Co. The article, if not protected by the publishers' ability to prove that its publication was in the interest of the public, and so privileged, was doubtless a most uncompromising and offensive libel. As described by the plaintiffs' counsel, its object was "to convey that the plaintiffs either were, or at some time had been, members of a ring having for its object the acquisition of public contracts for the manufacture of ordnance, and had effected, or were endeavoring to effect their object, by means of dishonest practices, and by oppression, corruption and other discreditable means." This was the question for the jury to decide; meantime the plaintiffs sought to restrain any further comments on, or reiterations of the accusation by the defendants.

Lord Coleridge is never more happy in his judicial decisions than when he has to decide some point of public interest. Ever since Lord Mansfield's famous judgments, the public has considered that it has a right to look to the Chief Justice of England, for statements of the law on popular subjects which shall be both intelligible and authoritative. In the present case, though Lord Coleridge did not reserve judgment in order to present the court with a finished legal essay, as in the case of cannibalism a year or two ago, he yet contrived in the course of his decision to put the existing state of the law, and the policy to be pursued by the courts, clearly and well. He began by stating the extreme importance of the particular issue; how it was "a matter, if there be any in the world, of public interest," and how, if the alleged libel were true, "the person who exposed such a system and such a mischief would do a great public service." He continued: "I cannot for a moment hesitate in saying that the subject-matter which constitutes the writing is a privileged communication. It is to the interest of the whole country that the selection of our chief weapon of defence should be made by indifferent and disinterested persons." After pointing out that this privilege must not be made "the cloak of private malice," he shows that since "the subject and the occasion are privileged," the "onus is on the plaintiff to show that the privilege has been exceeded." In other words, the duty and right of a newspaper to expose any public scandal or misdeed is explicitly recognized by the law, and when such exposure has taken place, it is for the aggrieved party, if he can, to rebut the presumption of privilege. Such a statement of the law of libel as that contained in the Lord Chief Justice's judgment makes, of course, no change in the law, and only expresses a well known principle. Still, the public, which is very fond of law, but yet never looks at a text book, will feel pleased at this re-statement of the law in the only form which it really believes in—the dictum of a judge reported in a newspaper. To a lawyer, the chief point of interest is to be found in the fact that the court, following the decision in the case of The Quartz Mining Company *v.* Beal, 20 Ch. Div. 501 refused to grant the interim injunction.

The courts are sometimes inclined to be too much influenced by such fears as that juries will be affected in case of pending actions by comments in the newspapers. It is therefore particularly satisfactory that in the present case the Queen's Bench Division has refused to make a precedent for stopping a newspaper, on any side issue, from (ac-

cording to its contention) exposing a great and dangerous public scandal; and has instead declared that comment can only be stopped after the articles have been proved libelous by a verdict given in the main action. Were interim injunctions freely granted in cases of alleged newspaper libels, a very heavy blow might easily be struck at the liberty of the press. A newspaper cannot always expose a public wrong in one issue, and it would be a very serious infringement of its freedom if, apart from the merits of a case, it were liable to be muzzled the moment an action for libel was begun. Such a result would entirely do away with the principle upon which the liberty of the press exists in England. That principle, as Blackstone has so well said, "consists in laying no *previous* restraint upon publications." Blackstone's words on this subject are, indeed, so weighty and so clear, that it will not be out of place to quote another sentence from the "Commentaries." "Every freeman," he says, "has an undoubted right to lay what sentiments he pleases before the public; to forbid this is to destroy the freedom of the press; but if he publishes what is improper, mischievous or illegal, he must take the consequences of his own temerity." With such a principle we should have thought that very few people would be found to quarrel. When, however, the right of the newspapers to make free comment was further extended, as it was by the act 6 and 7 Vict. c. 96, any possible subject of complaint would seem to have disappeared. By that statute it was enacted that in an action for a libel inserted in such publications, the defendant—although the statement published was, in fact, libelous—may plead that it was inserted without actual malice, and without gross negligence, and that he (the defendent) had, before the commencement of the action, or at the earliest opportunity, inserted a full apology in the same publication, provided only that to render the plea good, a sum of money should, by way of amends, be paid into court. One of our contemporaries, however, whose latest mission is to magnify the office of "the watchdogs of civilization," appears to consider that these safeguards for editors who have not been careful in verifying the writings of their contributors are not large enough. It would seem that "the watchdogs of civilization" are in a difficulty. "The journalist," we are told, "is in this dilemma—he must either publish what nobody will read, or he must publish what it is absolutely impossible to verify, and for every line of which he may have to pay through the nose."

The "watch-dog of civilization" does not at all consider it is his business to keep silent when there is nothing to bark at. On the contrary, he feels it a great grievance that if he rouses the household every time he sees a shadow or a ray of moonshine, the inmates of the house should be inclined to regard him, to say the least, as a somewhat tiresome and inefficient guard. But "the watchdog of civilization" is not going to be put down thus. He tells us that the public like incessant howling at the moon. "The public has altogether altered the standard of what it expects from its newspapers; but the standard which the law expects, and which is entirely inconsistent with the former, the public has left exactly where it was." If we may be pardoned a metaphor on a subject so grave, the law is the crusty, old-fashioned fogey who sometimes cannot stand the incessant din in the back yard, and so occasionally lets fly his boot-jack at "the watchdog of civilization," an act deeply resented by the watchdog, who imagines that all the time he has been howling to the entire satisfaction and delight of the whole house.

Taken as a whole, we fancy that the public and the more reasonable journalists are fairly well satisfied with the existing state of the law. Doubtless it tends to make journalists careful, but that is hardly an evil. It is curious to speculate upon what amendment of the law would be necessary in order to satisfy the aspirations of "the watchdogs of civilization." We presume that no change, except a general declaration that all statements made in newspapers should be privileged, that no circumstances whatever should rebut the presumption of privilege, would be likely to be really satisfactory. Let us trust, however, that some time will elapse before we are yelped into so doubtful a reform.—*The Spectator* (London).

SUPERIOR COURT.

QUEBEC, June 30, 1886.

Before ANDREWS, J.

BARRAS v. LAGUEUX.

Marriage Contract—Substitution.

On the 5th February, 1836, by ante-nuptial contract between *Pierre Lecours dit Barras* and *Christine Lagueux*, community of property was stipulated.

That act contained, moreover, a covenant of *mutual donation à cause de mort*, expressed in these terms:—

"Et pour la bonne et sincère amitié que les "dits futurs époux se portent l'un à l'autre, "et pour s'en donner des marques, ils se sont "fait *donation mutuelle et réciproque* au profit "du survivant de tous et chacuns de leurs "dits biens pour en jouir *moitié* en pleine et "entière propriété et *l'autre moitié* en jouis-"sance sa vie durant seulement, *pour retour-"ner du côté de* CELUI, D'OÙ *les dits biens pro-"viendront.*"

"Cette donation n'aura pas lieu, si, au jour "du *décès*, il y a eu des enfants nés *ou à* "naître du dit mariage."

There was no issue of their marriage; and the husband died intestate.

In the plaintiff's declaration it is not averred that any *immovable*, owned by the husband, at that time, or that he should thereafter acquire, as a *propre*, had been made a movable (*ameubli*) by that contract.

The widow, by her will, made the defendant her universal legatee and the executrix of that will.

Held:—That a substitution had not been created, and could not be created, by that covenant.

Text of the judgment:—

"Considering that, in and by the clause of mutual donation between the consorts, made in the marriage contract of the late Pierre Lecours *dit* Barras and Christine Lagueux, upon which the plaintiff bases his present action, no substitution is intended to be created in favor of the next of kin, or natural heirs of either of said consorts; nor would such substitution, or institution, of them as heirs, had they really intended that it should be so, be legal;

"Considering, therefore, that the plaintiff shows no right or title in him to any portion of the property or succession of the said late Pierre Lecours *dit* Barras, this action is dismissed with costs."

J. G. Bossé, Q.C., for the plaintiff.

Darveau & Lemay for the defendant.

(J. O'F.)

SUPERIOR COURT.

BEAUCE, March 19, 1884.

Before ANGERS, J.

O'FARRELL v. DUCHESNAY.

Mining License—Navigable River.

In this case, the plaintiff averred and proved that he was in possession, as riparian proprietor, of the half bed of the Chaudière river, adjoining the plaintiff's land, at the place, called the "Devil's Rapids," where that river is unnavigable.

The defendant, then being "Inspector of Mines for the Chaudière gold mining division," had, within a year immediately preceding this suit, granted, to a third party, a gold mining license for a portion of the bed of that river; that license included that portion of the bed of that river, at that place, so in possession of the plaintiff.

The defendant, as a means of defence, set up and proved that he had issued such license, in obedience to an order in council of the executive government of the province of Quebec.

The plaintiff proved that the licensee, claiming, under that license, the right to mine on the plaintiff's above-mentioned portion of the bed of that river, did actually take possession of, and mine for alluvial gold on, that portion of the bed of that river.

HELD:—1. *That the issue of such license, against the plaintiff's will, was a molestation of the plaintiff's possession to be condemned, and to be prohibited in the future;*

2. *That the defendant should be personally condemned to pay the costs of the suit.*

The following is the judgment:—

"Considérant que le demandeur est propriétaire et en possession à ce titre depuis le seize Novembre, 1860, de l'immeuble suivant, savoir, &c.

(*Description of the immovable.*)

"Considérant qu'au dit endroit la rivière Chaudière n'est point navigable ni flottable

sauf à bûches perdues dans les hautes eaux du printemps et que partant la concession faite du dit immeuble au dit Vital Roy et à ses auteurs s'étendait jusqu'au fil de l'eau,—que la dite rivière au dit endroit est passée dans le domaine privé, sujette aux servitudes de droit, et que le dit Vital Roy avait droit de vendre au demandeur la partie du dit immeuble décrite dans son titre et sa déclaration ;

"Considérant que le défendeur sous le prétexte d'accorder une licence ou permis de miner sur le domaine de la Couronne a accordé dans le mois de juin, 1881, une licence ou permis de miner à Henry K. Porter dans la Rivière Chaudière sur une certaine étendue comprenant cinq cents pieds le long de la rive jusqu'au fil de l'eau situés dans les limites du terrain décrit en la déclaration du demandeur et dont ce dernier était en possession à titre de propriétaire depuis le mois de novembre, 1860, que le dit Porter en conséquence a fait des travaux au dit endroit et troublé le demandeur dans la jouissance de ses droits et sa possession ;

"Considérant que le défendeur, en accordant la dite licence ou permis de miner sur la propriété du demandeur contre son gré et volonté, l'a troublé dans la jouissance de ses droits et sa possession,—qu'en agissant ainsi il a violé la loi et engagé sa responsabilité ;

"Déclare que le défendeur n'avait point droit d'émaner la dite licence ou permis de miner sur l'immeuble du demandeur, et lui fait défense de le troubler dans la jouissance de ses droits et possession et d'émaner à l'avenir un telle licence, et rejette les plaidoyers du défendeur comme étant mal fondés et condamne le défendeur à payer les frais de l'action."

Authorities showing what *is*, and what *is not* a navigable river:—

FERRIÈRE, *Dict. de Droit*, vbo. *Rivière*.

DECLARATION OF LOUIS XIV., of April, 1683.

ARRÊT DU CONSEIL D'ETAT, of December, 1693.

2 HENRYS, book 2, question 49, p. 19.

ARRÊT OF THE COUR DE CASSATION, 23 August, 1819.

MERLIN, *Rép. de Jur.*, vbo. *Rivière*, pages 542 & seq.

IBIDEM, *Questions de Droit*, vbo. *Dénonciation de nouvel œuvre*, p. 145.

Boswell v. *Denis*, 10 L. C. R., p. 295,—Q. B., 1859.

Reg. v. *Robertson*. Rep. Sup. Ct. of Canada.

2. Authorities showing the right of action:

1 LANGE, *Nouvelle Pratique du Chatelet*, p. 259.

2 HENRYS, book 2, question 49, p. 19.

ANCIEN DÉNIZART, vbo. *Champart*, p. 54.

IBIDEM, vbo. *Dommages et intérêts*, p. 692.

IBIDEM, vbo. *Complainte*, p. 21.

GUYOT, *Rép. de Jur.*, vbo. Dom. et intérêts, p. 122.

2 JOURNAL DES AVOUÉS, vbo. Action possessoire, p. 466, No. 69.

John O'Farrell for the plaintiff.

Henri Jules Juchereau Duchesnay for the defendant.

F. X. Drouin, Counsel.

(J. O'F.)

COUR DU RECORDER.

MONTRÉAL, 12 juin 1886.

Coram DE MONTIGNY, R.

LA CITÉ DE MONTRÉAL v. ALBERT FOX.

Règlements de la Cité de Montréal—Manufacture de colle—Common Nuisance.

JUGÉ:—1o. *Que d'après les règlements de la Cité de Montréal, il est prohibé de tenir, dans les limites de la Cité de Montréal, une manufacture de colle que l'on obtient en faisant fondre des substances animales.*

2o. *Que ce genre de manufacture est ce qu'on peut appeler une "common nuisance," en droit criminel.*

PER CURIAM:—L'action est dirigée contre le défendeur pour avoir, le 2 avril et avant, contrevenu au règlement No. 135 de la cité qui dit: "L'érection, l'usage ou l'exploitation dans les limites de la dite cité, de savonneries, de chandelleries et manufactures du même genre, où l'on fait fondre de la graisse ou des suifs, ou dans lesquelles l'on fait fondre ou l'on prépare, pour être fabriqués, des détritus d'animaux ou autres substances nuisibles, sont prohibés."

Il est prouvé que le défendeur tenait, depuis longtemps avant la passation de ce règlement et même avant qu'il n'y eut aucune

maison d'habitation dans le voisinage, une manufacture de colle qui a été agrandie beaucoup depuis peu, où l'on fait fondre des substances animales, que l'on réduit en colle ou en suif. Ces substances, depuis quelque temps surtout, paraissent avoir été fraîches, mais elles répandent, en se fondant, une odeur mauvaise qui incommode le voisinage à une grande distance, plus même que ceux qui vivent dans le voisinage immédiat de la fabrique, vu que les chaudières où se fait l'opération sont fermées et que l'odeur qui s'engouffre dans une longue cheminée ne retombe qu'à une certaine distance.

L'intérieur de la manufacture est tenu proprement. Ceux qui ne trouvent pas que cette odeur soit fatigante sont des employés depuis longtemps dans ces sortes de fabrique et qui ont évidemment l'odorat émoussé.

Cette odeur est-elle préjudiciable à la santé?

Tous ces établissements, dit Clerault, dans son traité des établissements, p. 23 et beaucoup d'autres de cette espèce, considérés sous le rapport de la salubrité, ne peuvent et ne doivent pas, à cause de la mauvaise odeur qu'ils répandent, être placés près des habitations. En vain essaie-t-on de prouver par de simples raisonnements l'innocuité des gaz qui proviennent de ces fabriques, jamais on ne parviendra à persuader qu'on peut les respirer impunément et que l'air qui les contient n'est pas aussi insalubre qu'on le croit.

Voyez aussi Bunel, Etab. insal. p. 141; Trebuchet, Rapp. du Cons. D'hyg. de la Seine de 1849 à 1858, p. 342; Lasnier, *id.* de 1862 à 1866, p. 193, Dr. Demange, Rap. du Cons. D'hyg. de la Meurthe de 1858 à 1859, p. 124; De Freycinet, Assain...ind. p. 41.

L'ensemble de la preuve cependant parait contraire à cet avancé.

Quand je dis qu'elle n'est pas préjudiciable à la santé, j'entends directement, car indirectement il est prouvé qu'elle affecte les gens en les écœurant, en leur faisant perdre l'appétit; ce qui en réalité conduit à la maladie.

Cette odeur est-elle nuisible, et par conséquent, cette manufacture que tient le défendeur est-elle une nuisance?

Pour savoir ce qui en est, il faut recourir au droit criminel qui décrit ce que c'est qu'une nuisance.

"Common nuisances, dit Harris, Princ. of the C. L., p. 131, are such annoyances as are liable to affect all persons who come within the range of their operation. They consist of acts either of commission or of omission, that is, causing something to be done which annoys the community generally, or neglecting to do something which the common good requires.

"It is for the jury to determine whether a sufficiently large number of persons are or may be affected so as to make the nuisance 'common or public.'"

It is a matter of some difficulty, dit Roscoe Cr. Evid., p. 792 (Philadelphia ed., 1854), to define the degree of annoyance which is necessary to constitute a public nuisance.

"It was held that it was not necessary that the smell should be unwholesome, but that it was enough if it rendered the enjoyment of life and property uncomfortable. (White's case, 1 Burr. 333.)

"So it was ruled by Abbott, C.J., in the case of indictment for carrying on the trade of a varnish maker, that it was not necessary that the public nuisance should be injurious to health; that if there were smell offensive to the senses, it was enough, as the neighbourhood had a right to pure and fresh air. Neil's Case, 2 C. & P. 485, Engl. Com. Law Rep. XII., 226. Case of Lynch & al., 6 Rogers Rec. 61.

"So, dit encore Roscoe, p. 791, the keeping of hogs in a town is not only a nuisance by statute (W. & M. Sess. 2, c. 8, s. 20), but also by common law. (Wigg's case, 2 Ld. Raym. 1163.)

"La Cour du Recorder a déjà consacré le même principe dans la cause de la Cité vs. Pillow & Hersey, jugée le 29 mai 1885, et ce jugement a été confirmé par la Cour du Banc de la Reine le 27 janvier 1886.

"Voici d'ailleurs un jugement de la Cour Supérieure (Taschereau, J.,) qui, indirectement confirme ce principe dans Beardsell et la Cité de Montréal:

"Considérant, dit la cour, qu'il appert des allégations de la demande et des lois en force qui régissent la matière, que le règlement municipal passé par la Corporation défenderesse le 27 février 1883, en vertu duquel l'établissement des demandeurs (fabrique de colle,

glue factory), aurait été fermé pour cause d'utilité publique, a été édicté en conformité des pouvoirs conférés à la dite Corporation, défenderesse, par la législature de cette province pour la prohibition dans les limites de la cité de Montréal, d'établissements malsains et insalubres ;

"Considérant que la dite autorité législative, en conférant les dits pouvoirs, n'a pas pourvu à l'octroi d'une indemnité à être accordée en pareil cas au propriétaire de l'établissement fermé ou prohibé, et qu'en l'absence de telle disposition, aucune action en dommages-intérêts ou pour indemnité ne peut être portée contre la Corporation défenderesse, laquelle n'a fait qu'exercer, dans l'espèce, que les pouvoirs qui lui sont conférés, et une discrétion qui lui est laissée dans l'intérêt public.

"Maintient la défense au fond en droit, produite par la dite Corporation, défenderesse, et déboute le demandeur de son action avec dépens."

Ainsi donc l'acte du défendeur d'exercer l'industrie de faire de la colle et de faire fondre du suif, industrie qui répand une odeur désagréable dans tout le voisinage, est nuisible.

Le défendeur est donc trouvé coupable, et comme le règlement suscité ne me laisse aucune alternative, je suis obligé de le condamner à $100 et les frais ou deux mois de prison."

(J. J. B.)

THE UNITED STATES EXTRADITION TREATY.

The new Extradition Treaty between the United States and Great Britain which has been agreed upon by Mr. Phelps and Lord Rosebery has been long delayed. The negotiations which have been going on for nine years have at length been brought to a head, and there can be little doubt that the result is due largely to the energy and experience of law possessed by the present United States Minister in London. The existing extradition treaty between these two English-speaking countries is at present represented by one clause of the Ashburton Treaty of 1842, and applies only to the crimes of 'murder, assault with intent to commit murder, piracy, arson, robbery, forgery, and the uttering of forged paper.' In addition to these offences, the new treaty is to apply to manslaughter, burglary, embezzlement, and larceny of the value of 10*l.* and upwards, and malicious injuries to property, whereby the life of any person shall be endangered. A long list of crimes will still remain unprovided for, such as counterfeiting money, rape, abduction, and perjury. These additional cases and others of inferior gravity are to be found in most of the treaties between Great Britain and other European countries. Mr. Phelps, in his despatch to his Government, says: 'It is not intended to be asserted that there may not be other offences proper to be included in an extradition treaty. A large class of crimes justly punishable by law are, in my judgment, not only beneath the dignity of a treaty between nations, but, having different definitions and degrees under different statutes, are likely, if embraced in such a treaty, to be fruitful in controversy.' It would be ungracious to criticise the words of a man who has done so much to improve the international law of two great countries, but if it be possible to work treaties of more extended application betwen England and France, and England and Austro-Hungary, how much more easy must it be to do so between two countries speaking one language and owning the same fundamental laws. It appears, however, that the length of the negotiations was due to differences of opinion in regard to minor offences, and it was a wise proceeding to postpone these questions for future consideration while putting at once in formal shape the subjects upon which an agreement could be arrived at. The treaty, as signed, has not yet been formally sanctioned by the United States Senate, where a two-thirds vote must be given in its favour, but there is no reason to doubt that it will receive every formal sanction in its present shape.

Attention has naturally in these times been concentrated on the crime described in the new treaty as 'malicious injuries to property, whereby the life of any person may be endangered.' This, no doubt, must be read in conjunction with the clause which prevents a criminal being surrendered for 'a crime of a

political character, or if he prove to a competent authority that the requisition for his surrender has in fact been made with a view to try or punish him for a crime of a political character." It must be remembered that this latter clause is of general application, and does not directly bear on the crime of malicious injury. For instance, it bears equally on the crime of murder, assault with intent to murder, and arson. In all these cases, and perhaps in some others within the treaty, it might be contended that the crime was of a political character. The only crime which is almost necessarily of a political character is treason, and this crime, besides being excluded from all treaties, cannot be included in this, for the sufficient reason that treason is unknown to the law of the United States. There are forms of treason which may be not of a political character, but no treaty could apply to them, because the offence would not be the same in England or Canada as it would be in the United States. In any future treaty it would be as well to provide that any offence not of a political character, amounting to treason in the British Empire, shall be included, if according to the law of the United States, the same act would amount to any one of the offences named in the treaty. The clause in regard to political offences is expressed in the same terms as the corresponding clause in the treaties between Great Britain and Continental nations. It was the sole advantage, if advantage it can be called, of the Ashburton Treaty that it contained no clause excluding political offences; but it was tolerably clear that neither Great Britain nor the United States would have given up a political prisoner even under the Ashburton Treaty. Mr. Phelps says that 'the provision that no surrender shall be made for a political offence is unnecessary, because such a clause establishes a universal rule to which all extradition treaties are subject, but its insertion can do no harm, but its omission might excite comment.' If the practice is spoken of as distinguishing from the strict law, no fault need be found with this statement; but, in theory, an extradition treaty applies to every crime included in and not excluded from its four corners. Probably the clause about offences of a political character does not appear in the Ashburton Treaty, because none of the crimes there mentioned were supposed capable of a political complexion. The addition of this clause makes those crimes, as well as the new crimes added, capable of that character. In practice there will probably be no difficulty in applying the clause in question to cases which may arise. We in England have found it necessary to treat some of the dynamite outrages as overt acts evidencing a levying of war against the Queen. The question whether a man could be demanded from the United States on such a charge will not depend on the clause as to political offences, but will turn on the fact that this offence does not come within the general words of the treaty. On the other hand, if evidence be produced that a man has actually been guilty of maliciously injuring inhabited places with dynamite or otherwise by himself or through others, he must be surrendered as 'guilty of malicious injury to property whereby the life of any person shall be endangered,' unless he can show that the very charge with which he is charged is of a political character. It is not enough for him to show that his motive was a political motive. If so, a man who shot a Prime Minister or a foreign minister in the belief that he was ruining his country could not be surrendered. The actual charge, or the offence really meant to be charged in cases in which an evasive charge is suggested, must be of a political character —that is to say, it must partake of treason and an overt act to subvert the Government; and, as we see that the treaty in no part applies to this class of case, its application is practically *nil*.

Mr. Phelps is quite right as a general principle when he says, in commenting on the new clause requiring convicted prisoners to be given up, that, 'if those accused of crimes should be surrendered, much more should those actually convicted;' but care should be taken that this clause, which does not appear in the Continental treaties, should not be introduced into them without careful inquiry into the law of the country in question. In the United States, as in England, there is no such thing as trial *in absentid*, and therefore the clause can do no harm in a treaty

between these countries. The object, however, would have been much better met by inserting 'prison-breach' among the offences for which extradition may be demanded on condition that the offence for which the prisoner was in prison was an offence within the treaty. In treaties with Continental countries, where criminal trials *in absentia* are common, even the clause suggested would not be safe, as a man might be convicted *in absentia*, be arrested, and escape. No English treaty can afford to omit taking care that the man surrendered shall at least have a trial face to face with his accuser. The third article, solicitous for the security of those who have adopted a new country in reliance on the permanence of the existing law, provides that the new treaty shall not apply to offences committed before its operation. The fifth article deals with a case which at one time gave rise to serious questions between the two countries. A person surrendered is not to be tried for any other offence than that in respect of which he is demanded until he has had an opportunity of returning to the surrendering country. The sixth article also expressly provides a rule on a subject at one time much discussed—namely, that the treaty shall be carried out subject to the laws of the surrendering State. The old extradition treaty with the United States was the first of the British extradition treaties, and made in days when the subject was undeveloped, and the new treaty, although far from perfect, is a very great advance on it. — *Law Journal* (London).

TO YOUNG LAWYERS.

A question that troubles young lawyers is, where to locate and what branch of practice to select. The puzzle lasts even into middle life with many able men, and some never solve it—life itself is an unsolved riddle.

Letters from Dakota, Oregon, Iowa, Georgia and Arkansas, indicate a fast growing settlement in each locality, and where growth is rapid, young lawyers secure more chances of promotion, while in Eastern and Middle States, habits are fixed and titles established, and older men do the leading business.

But there is a place for every one of genius and ability somewhere, and only let him say, *I will reach it*, and he is half to it already. Men live where their hopes are, and prosper when they *will* prosper. Men invent when they have courage to think out problems alone and advance them. The man who surrenders to a theory like this: I'm only a little moth around the candle of the earth, burning my wings with each flutter, and doomed to fall unknown and early into an unforgotten hereafter, is very likely to do so—he is halfway on the journey.

Men who have within them the *I will be a lawyer and a good one*, the *I will live happily, battle bravely*, the *I will succeed invariably*, must make a bright mark some day, for such lives are never failures; they are heard of, marked, remembered. "Make up your mind to have a front seat in life, and you attract to you the powers that carry you to it."

Confidence in yourself, the "I will" is everything. Look at the leaders of great enterprises! They seem to care little for competition; most of them are sharpened by it. They aspire to be first, and the first is ever just ahead of them. They have already half reached it when once fairly started. *Think* to the front and you will get to the front; lag to the rear and it is ever ready for your coming.

Get out of the notion that the man who cites the most law and reads the most reports, is the best lawyer. No man carried less books to court than did Carpenter, but he carried his manhood there always, his clear insight was thought out by himself, and his facts applied to principles and results demanded. It is not the most learning but the best wisdom that wins. What a weak ambition one must have to spend a lifetime in dreaming over the prospects of personal failure! Why not anticipate success and aim for it? The courage of the *I will lawyer* secures him, first, standing room; next, an opening, and then, early, a front seat in the ranks of his profession. If you never have set your heel down with emphasis, in an "I will" determination to win, the sooner this resolution is reached the nearer you will be to the goal of ambition. The hand is never stronger than the heart, and the man is never greater than his mind. His life is below or above his true condition, very much as he wills it, and no one will cheer him till he wins something worthy of applause. The world is both stingy and liberal, reluctant to risk on uncertainty, and willing to advance thousands on ventures, when successful. The demonstration of success is what they wait for and demand.—J. W. DONOVAN in *Central Law Journal*.