THE

LEGAL NEWS.

VOL. XVII. FEBRUARY 15, 1894. No. 4.

CURRENT TOPICS AND CASES.

The recounts demanded by the candidates defeated in the Montreal municipal elections have not changed the result materially, but a considerable amount of valuable time has been consumed. The task of a recount where twenty-three thousand ballots have to be examined, is a serious one, and it might be asked whether the duty could not be performed equally well by other than a judge of the Superior Court. The examination of the ballots, however, has disclosed woful carelessness and ignorance on the part of some of the deputy returning officers. A code of plain directions to these officials seems to be needed, to inform them as to their duties, and also to instruct them as to which ballots should be counted and which rejected, and disobedience to these instructions should be visited with heavy punishment, for it is clear that the result of an election may be changed by the fraud or neglect of a single person among a hundred.

The points decided by Mr. Justice Archibald in the course of the recount *In re McShane*, petitioner, may be concisely stated as follows:—1. Crosses irregularly or unskillfully made—Accepted, where there is no indica-

tion of concerted deviation from the ordinary form. 2. Crosses with wide and black bars—Accepted. 3. Crosses resembling a capital X—Accepted. 4. Crosses accompanied by some other mark—Rejected, unless the other mark appears to have been accidental. 5. Crosses made upon the line between compartments—Counted for the candidate in whose compartment the intersection of the bars occurs. 6. Crosses outside of the compartments allotted to the candidates—Rejected, for uncertainty. 7. A straight line, or other mark not a cross, in a compartment—Rejected. 8. Large crosses extending across the names of both candidates—Rejected. 9. Crosses found on two ballots in the same poll, of a peculiar form, and closely alike—Admitted, where either ballot alone would have excited no suspicion and been accepted, as each ballot must be judged separately. 10. Ballots with crosses or other marks on the back—Rejected, unless the marks were clearly unintentional. 11. Ballots with numbers on the back—Rejected. 12. Ballots not initialed by the deputy returning officer—Rejected. 13. Ballots bearing initials different from those used elsewhere by the deputy—Rejected.

The death of Mrs. Myra Bradwell, editor of the "Chicago Legal News," occurred on the 14th instant, after a long and painful illness. Mrs. Bradwell, many years ago, was refused admission to the bar of Illinois, on the ground that she was a married woman, and in May, 1873, the judgment of the Supreme Court of Illinois was affirmed by the Supreme Court of the United States. But before this decision was reached, Mrs. Bradwell, in 1868, had established the "Chicago Legal News," of which she continued to be the able managing editor for a quarter of a century. At a later day the legislature came to her aid, and she was conceded the right to practise, but she did not avail herself of it. The legislature of Illinois also afforded her great assistance by passing Acts which

made her journal a valid medium for the publication of legal notices, and evidence in the courts. Mrs. Bradwell was not only devoted to legal pursuits herself, but her family connections were in the same profession. Her husband is a lawyer, and was a judge for a number of years. Her surviving son and daughter are both lawyers, and the daughter has married a lawyer. Mrs. Bradwell leaves a most honorable record as a journalist and was equally esteemed in private life.

The death of Mr. T. J. Doherty, Q. C., has removed from professional life in Montreal, a gentleman very favorably known to a large circle of his *confrères*. Mr. Doherty has been in poor health for some years, and was compelled to give up work entirely a year ago. He was the eldest son of Mr. Justice Doherty, who recently retired from the bench, and a brother of Mr. Justice C. J. Doherty.

THE MONSON APPEAL.

That the Court of Appeal was right in dissolving the interlocutory injunction recently granted by Mr. Justice Mathew and Mr. Justice Henn Collins in the cases of *Monson* v. *Madame Tussaud* (*Lim.*) and *Monson* v. *Tussaud*, on the fresh evidence which was not before the Divisional Court, it is impossible to doubt. Whether Mr. Monson is or is not ultimately proved to have authorised the negotiation between Mr. Tottenham and the defendants Madame Tussaud (Lim.) for the sale of his gun and shooting clothes and the taking of a better effigy than the one that now stands in Napoleon Room No. 2, within the turnstile which admits curious visitors to the Chamber of Horrors, it is unquestionable that the conflicting affidavits laid before the Court of Appeal made it the imperative duty of that tribunal to leave the issue of alleged license for the jury without any provisional expression of opinion in regard to it. We have, therefore, no adverse criticism to pass on the actual *chose jugée* in these remarkable cases. But the condition in which the judgment of the Court of Appeal has left the numerous, varied, and highly

important legal questions incidentally raised before it is eminently unsatisfactory. The plaintiff's counsel, in both Courts through which Mr. Monson's effigy has now passed judicially, did not press for a decision in his favour on the ground that the exhibition by one person of an unauthorised representation of the face or figure of another can be restrained by injunction; and this interesting practical question, therefore, remains undetermined. There is, of course, no doubt that the ingenious French artist who drew the face of King Louis after the likeness of an over-ripe pear would have met with as scant consideration from English judges as he received from those of France. It hardly needed Mr. Coleridge's elaborate review of the authorities from the time of Charles II — Sir John Culpepper's pillory, *La Belle et la Bête*, and the rest — to establish the proposition that the exhibition of an effigy is libellous if it is intended to excite hatred, ridicule, or contempt. What we should have liked to know is whether in the opinion of the Courts a person who objects to such permanent publicity as the Tussauds assigned to Mr. Monson is not entitled to have his objection enforced and made effective by due process of law. It is perfectly true that there is no authority for an affirmative answer to this question, for *Pollard* v. *The Photographic Company*, 58 Law J. Rep. Chanc. 251; L. R. 40 Chanc. Div. 345, turned on contract and property in the negative. But neither is there any authority on the other side. Mr. Justice North's query in that case, 'Do you dispute that if the negative likeness were taken on the sly the person who took it might exhibit or sell copies?' is not even an *obiter dictum*. Our American, and probably also our French, neighbours have already solved this question to some extent, and it is to be regretted that the Courts in the *Tussaud Cases* had not the opportunity of making a precedent on the subject. Other questions of equal importance have also been left open by the Courts in these *causes célèbres*. It must now apparently be taken that the old distinction between trade and other libels in the law of interlocutory injunction no longer exists, although Lord Justice Lopes clung with some tenacity to the opposite view during the argument, and said nothing in his judgment to indicate that he had undergone any change of opinion. But the Court of Appeal are far from unanimous on every other point in the cases. Does *Bonnard* v. *Perryman*, 60 Law J. Rep. Chanc. 617; L. R. (1891) 2 Chanc. 269—where it was declared by the full Court of Appeal that the

publication of an alleged libel ought not to be restrained by interlocutory injunction, except in the clearest cases — lay down a principle of law? Lord Justice Lopes and Lord Justice Davey hold that it does, and we think they are right; indeed, the notorious history of the case seems conclusive on the point. But Lord Halsbury strongly entertains the contrary opinion. Again, can a person take a photograph picture or representation of another who has been accused of a crime, exhibit it in a permanent form, and defend the exhibition by saying, 'I do this because the public are interested in this person; and it is true that he has been accused of a crime, which is the only allegation (if any) that I make?' Lord Halsbury says, 'No,' partly, it would seem, on the authority of *Leyman* v. *Latimer*, 47 Law J. Rep. Exch. 470; L. R. 3 Exch. Div. 15, 352. Lord Justice Lopes apparently differs, and holds that in any event the question is one for the jury. Lord Justice Davey preserves a judicial silence. We trust that ere long, in some form or other, these moot points will come before the House of Lords. *Interest reipublicæ ut sit finis litium* is no doubt a salutary principle; but *interest reipublicæ ut sit finis causarum litigandi* is a better one.—*Law Journal* (London).

SUPREME COURT OF CANADA

23 Oct., 1893.

KINGHORN v. LARUE.

Quebec.]

Opposition afin de conserver on proceeds of a judgment for $1,129—*Amount in dispute—Right to appeal—R.S.C., c.* 135, *sec.* 29.

K. (plaintiff) contested an opposition *afin de conserver* for $2,000, filed by L. on the proceeds of a sale of property upon the execution by K. against H. & Co. of a judgment obtained by K. against H. & Co. for $1,129. The Superior Court dismissed L's opposition, but on appeal the Court of Queen's Bench (appeal side) maintained the opposition and ordered that L. be collocated *au marc la livre* on the sum of $930, being the amount of the proceeds of the sale.

Held, that the pecuniary interest of K. appealing from the judgment of the Court of Queen's Bench (appeal side) being under $2,000 the case was not appealable under R. S. C., c. 135, sec. 29. *Gendron* v. *McDougall* (Cassels's Dig., 2 ed. 429) followed.

Held, also, that sec. 3 of 54 & 55 Vic., c. 25, providing for an appeal where the amount demanded is $2,000 or over, has no application to the present case.

Appeal quashed with costs.

Belcourt, for appellant.

G. Stuart, Q.C., for respondent.

---

20 Nov., 1893.

O'GARA v. UNION BANK OF CANADA.

Ontario.]

Surety—Interference with rights of surety—Discharge.

The Union Bank agreed to discount the paper of A. S. & Co., railway contractors, endorsed by O'G. as surety, to enable them to carry on a railway contract for the Atlantic & North-West Railway Co. O'G. endorsed the notes on an understanding or agreement with the contractors and the bank that all moneys to be earned under the contract should be paid directly to the bank and not to the contractors, and an irrevocable assignment by the contractors of all monies to the bank, was in consequence executed. After several estimates had been thus paid to the bank, it was found that the work was not progressing favourably and the railway company then, without the assent of O'G., but with the assent of the contractors and the bank, guaranteed certain debts and made large payments directly to the creditors of the contractors other than the bank for monies subsequently earned by the contractors, and in October, 1888, the bank having applied for and got possession of a cheque of $15,000 accepted by the bank and held by the company as security for the due performance of the contract, signed a release to the railway company "for all payments heretofore made by the company, for labour employed on said contract, and for material and supplies which went into the work." The contract under certain circumstances gave the right to the company to employ men and additional workmen, etc., as they might think proper, but did not give the right to guarantee contractors' debts or pay for provisions and food, etc., due by the contractors.

Held, that the payments for supplies and provisions made by the company, for which the bank signed a release without O'G's

assent, were not authorised by the contract and were such a variation of the rights of O'G. as surety as to discharge him.

Taschereau and Gwynne, JJ., dissenting.

Appeal allowed with costs.

D. McCarthy, Q.C., and *A. Ferguson, Q.C.*, for appellant.

Meredith, Q.C., and *Chrysler, Q.C.*, for respondent.

---

20 November, 1893.

NEELON v. THOROLD.

Ontario.]

Company—Stock in—Payment by holders of shares—Appropriation by directors—Formal resolution.

N., a director and shareholder of a railway company, agreed to lend $100,000 to the company, taking as security among other things, 168 shares of their stock held by R., who owned altogether 188 shares of $50 each and had paid thereon $3,750, or about 40 per cent of their value. Before the agreement was consummated it was found that B. was unable to pay the balance due on said 188 shares, and at a meeting of the directors of the company it was proposed, and decided, to appropriate the sum paid by B. to 75 of his 188 shares, making that number paid up, and offer them to N. in lieu of the 168. N. agreed to this and B. signed a transfer to N. of 75 paid up shares, and retained the balance as stock on which nothing was paid. There was no formal resolution of the board of directors authorising the said appropriation of B's payment.

Judgment creditors of the railway company issued writs of execution on their judgment, which were returned *nulla bona*. They then brought an action against N. for the amount due on their executions, claiming that the $3,750 paid by B. could not legally be appropriated as it was by the directors, but was paid on the whole 188 shares, and N., therefore, held the 75 shares as stock on which only 40 per cent was paid, and the remaining 60 per cent was still due to the company. The judge trying the action found as facts that N. took the 75 shares believing that they were fully paid up, and relying on the representations of the proper officer of the company to that effect; that if he had had any doubt about it he would not have received them, nor advanced his money; and that he had a general knowledge of what had taken place at the meeting of the board of directors. A judgment in favour of

N. was affirmed by the Divisional Court, but reversed by the Court of Appeal on the ground that the want of a formal resolution authorising the appropriation made the action of the board invalid.

Held, reversing the decision of the Court of Appeal, (18 Ont. App. R. 658) and restoring that of the Divisional Court (20 O. R. 86), that as it appeared from the books of the company that the sum paid by B. was not paid on, nor appropriated to, any particular shares, the directors could, with B's consent, re-appropriate it to the 75 shares; that the rights of creditors were not prejudiced as B. was still liable on the balance of his stock; that the matter was not one between the whole body of shareholders and the directors, but only between N. and the company; that the want of a formal resolution by the directors authorising the re-appropriation was a mere irregularity which could not affect the rights of a third party contracting with the company; and that it made no difference that such third party was himself a director of the company and had knowledge of all that had been done.

Appeal allowed with costs.

W. Cassels, Q.C., and *Cox*, for appellant.
Collier, for respondents.

---

20 November, 1893.

WEBB v. MARSH.

Ontario.]

Title to land—Crown grant—Conveyance by grantee out of possession—Disseizin—Statute of Maintenance, 32 *H. VIII.*, *c.* 9—*Conveyance to wife of person in possession—Assent by husband—Statute of limitations.*

In 1828 land in Upper Canada was granted by the Crown to King's College. In 1841, King's College conveyed to G. In 1849, G. conveyed to the wife of M., who had been in possession of the land for some years before the deed to G. in 1841. In an action by the successors in title of M's wife to recover possession, the defendants, claiming through M., alleged that the deed from King's College to G. in 1841, was void under the Statute of Maintenance, being made by a person not in possession of the land, and that G. had, therefore, nothing to convey to M's wife in 1849. They also pleaded the Statute of Limitations, claiming that M. in 1849, had been in possession more than twenty years.

Held, affirming the decision of the Court of Appeal (19 Ont. App. R. 564) and of the Divisional Court (21 O. R. 281) that defendants had failed to prove continuous possession by M. for twenty years prior to the conveyance to his wife in 1849; that if he had entered before the grant from the Crown, the Statute of Maintenance would not have avoided the conveyance by the grantee; that for that statute to operate disseizin of the grantor must be established and the Crown could not be disseized, and that the original entry not having been tortious, it would not become so against the grantee from the Crown without a new entry; that though M. entered while the title was in King's College and was in possession when the College conveyed to G., such conveyance was not absolutely void, but at the most was only void as against M.; and that M. having executed the conveyance to his wife must be taken to have assented thereto, and such assent and M's subsequent acts created an estoppel against him, and took the case out of the Statute of Maintenance being a conveyance to a person appointed by the party in possession, which was good under the fourth section of the statute.

Appeal dismissed with costs.

Riddell and *Webb*, for the appellants.

Roaf, for the respondents.

---

20 November, 1893.

BROOKFIELD v. BROWN et al.

Nova Scotia.]

Practice—Parties to action—Mortgagees out of possession—Holder of equity of redemption—Effect of transfer of interest.

The first mortgagee of property on which there were two other mortgages foreclosed two days before the sale under foreclosure. B., the second mortgagee, with an agent's assistance, entered the mortgaged premises and removed the personal property therefrom and certain fixtures attached to the freehold. The sale took place and realized enough to pay off the first two mortgages. On the same day the purchaser at the sale received a deed from the sheriff, an assignment of the third mortgage and a conveyance of the equity of redemption. Some little time after an action was brought against B. and his agent for trespass and injury to the mortgaged property, in which action the first and third mortgagees, the original owner of the equity of redemption and the purchaser at the sale were joined as plaintiffs.

Held, affirming the decision of the Supreme Court of Nova Scotia (24 N. S. Rep. 476) Gwynne, J., dissenting, that the owner of the equity at the time of the trespass was the only one of the plaintiffs who could maintain the action; that the first mortgagee could not, after his mortgage had been satisfied by the proceeds of the sale; that the third mortgagee had no *locus standi*, having parted with his interest before action brought; and that the purchaser at the sale, who was also assignee of the third mortgage and equity of redemption, could not, he having had no interest when the trespass was committed.

Held, per Gwynne, J., that the third mortgagee, who was in actual possession when the tort was committed, was the only person damnified; that he was not estopped by having consented to the sale under chattel mortgage of the personal property on the mortgaged premises to B., one of the trespassers; and that the tort-feasors could not claim such estoppel even though the amount recovered from them, added to the sum received on assignment of his interest, should exceed his mortgage debt.

Appeal dismissed with costs.

Ross, Q.C., for appellants.
Borden, Q.C., for respondents.

QUEEN'S BENCH DIVISION.

LONDON, Feb. 5, 1894.

THE SINGER MANUFACTURING COMPANY v. THE LONDON AND SOUTH WESTERN RAILWAY COMPANY. (29 L. J. 100.)

Bailment—Deposit of a hired article—Abandonment by hirer—Lien of bailee as against owner—Obligation of railway company to receive deposit—Cloak-room—A "reasonable facility" for traffic, &c.—Railway and Canal Act, 1854 (17 & 18 *Vict., c.* 31), *s.* 2.

Appeal from the Southwark County Court.

The plaintiff company had let out to one Woodman one of their sewing machines under a hire-and-purchase agreement. Woodman had while still in possession of the machine, but when in default of payment of instalments under his contract, deposited the machine at the cloak-room of the defendant company at Waterloo Station, and he did not again call for it. After a laspe

of some months the cloak-room ticket came into the possession of the plaintiffs, who applied to the defendants for the delivery of the article. The defendants declined to deliver up the article unless payment was made of their charge for so warehousing the article. It did not appear for what purpose Woodman had deposited the article, or whether he had travelled or was intending to travel over the company's railway at the time.

His Honour Judge Bristowe held that Woodman was lawfully in possession of the machine at the time of the deposit, and that the defendant company were entitled to their charges for the custody of an article legally deposited with them, but gave leave to the plaintiffs to appeal.

Cluer, for the plaintiffs: There is no lien here as against the true owner, only as against the depositor (*Hollis* v. *Claridge*, 4 Taunt. 807; *Hiscot* v. *Greenwood*, 4 Esp. 174; *Castellain* v. *Thompson*, 13 C. B. (N. S.) 105; 53 Law J. Rep. C. P. 79).

Acland, for the defendants: A particular lien for warehouse charges on the goods retained by a wharfinger was admitted in *Rex* v. *Humphrey*, M'Clel. & Y. 173, and is recognised in *Moet* v. *Pickering*, 47 Law J. Rep. Chanc. 527; L. R. 8 Chanc. Div. 172, and *De Rothschild* v. *Morrison*, *Kekewich & Co.*, 59 Law J. Rep. Q. B. 557. Railway companies are bound to give "reasonable facilities" for passengers and traffic. A cloak-room is part of such reasonable facility. They are bound to receive articles there handed in; they have, therefore, just the same lien on such articles for storage as an innkeeper or carrier as against all the world (*Nailor* v. *Mangles*, 1 Esp. 109; *The South Eastern Railway Company* v. *The Railway Commissioners*, 50 Law J. Rep. Q. B. 201; L. R. 6 Q. B. Div. 586).

Cluer, in reply, cited *Threfall* v. *Borwick*, 44 Law J. Rep. Q. B. 87; L. R. 10 Q. B. Div. 210.

The COURT (MATHEW, J., and COLLINS, J.) dismissed the appeal, on the ground that the hirer was admittedly entitled, so long as he was in lawful possession of the article, to have carried it by train and so to have deposited it at a cloak-room of a station; that a cloak-room was a "reasonable facility" for the carriage of passengers or their goods which a railway company was bound to provide; that the principles, therefore, of a carrier's lien applied equally to a railway company under such circumstances, and that they were entitled to maintain such lien until their proper charge for safe custody had been paid.

PHOTOGRAPHING PRISONERS IN ENGLAND.

In a case before Mr. Lane on February 3, counsel for a prisoner stated to the magistrate that while his client had been in custody on remand in Holloway Gaol, four photographs of him had been taken against his will, and submitted to the magistrate that this proceeding was illegal. Mr. Lane declined to interfere, and, we presume, left the defendant to his remedy, if any, by civil action. But we believe the objection is untenable. By section 6 (6) of the Prevention of Crimes Act, 1871 (34 & 35 Vict., c. 112), "a Secretary of State may make regulations as to the photographing of all prisoners convicted of crime who may for the time being be confined in any prison." This enactment was, we believe, for a time regarded as authorising the photographing of every prisoner. But the word "crime" as defined in section 20 of the Act is restricted to a series of offences there specified. This appears to have been drawn to the attention of the authorities, and by section 8 of the Penal Servitude Act, 1891 (54 & 55 Vict. c. 69), the powers of the Secretary of State are extended so as to include the *measuring and* photographing of *all* prisoners who may for the time being be confined in any prison. This extended provision is wide enough to include untried prisoners; and its effect appears to be to legalise the photographing of any person detained in a prison, whether on remand or after conviction; and it is wide enough to include debtors and persons committed for contempt.—*Law Journal.*

THE OFFENCE OF REFUSING TO WORK.

Alice King was prosecuted before Mr. Denman, by the guardians of the Wandsworth and Clapham Union, for becoming chargeable to the union by neglecting wholly or in part to maintain herself, though able to do so, which is an offence against section 3 of the Vagrancy Act, 1824 (5 Geo. IV. c. 83). She had absolutely refused to do any work or to take two situations when found for her, and the only energy she ever showed was in breaking the workhouse windows. The facts really raised the question whether idleness is criminal, and Mr. Denman, after consideration, decided that where a person becomes a pauper by his own conduct—*e.g.* by deliberately refusing to earn his living—he is guilty of a criminal offence. And though this may seem strange, we have

no doubt that this has been the law of England for centuries, since the Statutes of Labourers and before the Poor Law. It is to be regretted that the law thus reaffirmed is not severely applied to tramps and all persons who are idle of *malice prepense*, to whatever class they belong.—*Ib.*

[The Criminal Code of Canada, sect. 207, enacts that every one is a loose, idle or disorderly person or vagrant who (*b*) "being able to work, and thereby or by other means to maintain himself and family, wilfully refuses or neglects to do so;" and by sect. 208 such person "is liable, on summary conviction before two justices of the peace, to a fine not exceeding $50, or to imprisonment, with or without hard labor, for a term not exceeding six months, or to both."]

THE PHILOSOPHY OF KISSING.

Here is a true and singular story of contemporaneous human interest. A young man in a village near Utrecht, in Holland, kissed a young woman whom he did not know, in the street, and against her wish. She complained to the burgomaster. He fined the offender one florin or imprisonment for one day. There was an appeal, and the "Appeal Court" at Amsterdam dismissed the case. The judges declared that "to kiss a person cannot be an offence, as it is in the nature of a warm mark of sympathy." This decision recalls curious customs that long prevailed in the Netherlands as well as in other countries. It was a universal habit for years for strangers to kiss "other men's wives, widows and maidens, when they made them ceremonious visits;" although there were ancient sages who condemned it. Kornmanus assures us that there were many places in Germany "where it would be looked upon as great unpoliteness for a young man to meet with a maiden without embracing and kissing her." Erasmus was delighted with a similar English custom: "Whithersoever you come, they all receive you with kisses; and whenever you go away, you are dismissed in the same manner. Do you meet with them anywhere you feast upon kisses." But let us ponder the reasonable words of the philosopher De Saint Evremont. "See how the manner of saluting, which is peculiar to our nation, lessens the pleasure of kissing, by making it too common..... Nor do we men get much by it, for as the world stands divided, we must kiss fifty old and ugly

women, if we have a mind to kiss two or three who are handsome. And to a weak stomach, as those of my age generally have, one disagreeable kiss overpays a delicious one."—*Albany Law Journal.*

PORTRAIT PUBLISHED WITHOUT CONSENT.

Judge McAdam, in the New York Superior Court, Dec. 29, 1893, decided that a publication has no right to print a picture of a person, in a voting contest to decide his popularity, as compared with another, without his consent. The decision was handed down in the case of Rudolph Marks against Joseph Jaffa, a publisher. The plaintiff is a Hebrew Actor, at present studying law in the University of the City of New York. The publisher recently started a voting contest to decide whether Marks was the most popular student. Judge McAdam said in his opinion: "If a person can be compelled to submit to have the use of his name and his profile put up in this manner for public criticism, to test his popularity with certain people, he could be required to submit to the same test as to his honesty or morality, or any other virtue or vice he was supposed to possess, and the victim selected would have either to vindicate his character in regard to the virtue or vice selected, or be declared inferior to his competitor, a comparison which might prove most odious; indeed, he might be placed in competition with a person whose association might be peculiarly offensive, as well as detrimental, to him. Such a wrong is not without its remedy. No newspaper or institution, no matter how worthy, has the right to use the name or picture of anyone for such purpose without his consent." An injunction is granted pending trial.—*Ib.*

DEBTS OF HONOR IN CHINA.

The Department of State at Washington has recently issued a series of reports from American consuls abroad on debts of honour, or debts the payment of which cannot be legally enforced. In most countries the same general principles of law prevail as are applicable to the subject in this country. The chief exception is China, where there is a system which the consul at Amoy says, though at utter variance with the systems of other countries, possesses great wisdom and practical merit. All Chinese law is

customary and all litigation is regarded as an evil. There are no lawyers, no costs, no fees. A magistrate hears and settles a case very much as a father determines a dispute between two of his children, or as an arbitrator between two friendly merchants. Litigation being an evil, public policy has increased largely the number of obligations which have no binding nature except the honour of the debtor. Among these are moneys advanced by friends or relatives to start a man in business, to extricate him from trouble, or to help in litigation; money lent to a gambler, spendthrift, drunkard, opium-smoker, or fugitive wife; all debts contracted in inns or gambling hells, all money lent upon parol without security or bond, debts of minors, persons of unsound mind, servants or visitors, services rendered by physicians, priests, fortune-tellers, geomancers, and monks, all commissions and brokerage, and all money lent at a higher rate of interest than 36 p. cent. per annum. Drinking debts are extremely rare, for drunkards, as well as total abstainers, are almost unknown. Gambling debts are pre-eminently debts of honour in China, and are more willingly and speedily paid than any others. To pay them a Chinaman will pawn all his property and even sell his children. For this he is regarded by the public as worthy of all praise, and the relatives who allow themselves to be sold are treated as models of filial devotion. Meanwhile, a tradesman to whom a debt is due may starve. Although payment for professional services cannot be enforced, physicians, sorcerers, scribes, and the like may insist on a bond beforehand, and this can be enforced like any other business security. One way of collecting debts which cannot be enforced by law is for the creditor to visit the debtor's house, sit on the threshold, and weep, expostulate, harangue, *coram populo*, until he is paid. The main security for the payment of debts in China is the fear and disgrace of being a delinquent debtor. 'A Chinaman who becomes financially embarrassed will sell himself for a plantation coolie, go into exile for twenty years, or even commit suicide. It is part of his religion to pay off all he owes in the last week of the year, in order that he may begin the next one free from care and obligation. At this time of the year creditors are lenient and liberal.' The consul at Ningpo describes the Chinese merchant as honourable in all business affairs; 'the great merchants are the soul of honour, and foreigners prefer transacting business with them.'

GENERAL NOTES.

NEWSPAPERS AND CRIME.—At the annual meeting of the Prisoners' Aid Association, at Toronto, the Hon. S. H. Blake, the president, said the reforms he and his confrères wish to effect include a scheme for separating all prisoners awaiting trial for charges which have not been proved against them in the preliminary investigation, from the hardened and well-known criminals. Many of these men may be innocent, but under the present system they forever carried the taint of their surroundings. One of the greatest evils of modern times, Mr. Blake said, was the daily newspaper, with its vile details of every brutal crime as instruction for beginners. Journalists tell the public how to poison folk and how to cover up crime; they have taught young women how to commit infanticide without discovery. The public trial, too, was as bad. Nothing was so disgusting to him as to have to sit in court waiting for another case while a criminal trial was in progress. The court room is crowded with boys and girls, and men and women; the nudging, the ripples of laughter, as the beastly, abominable details were elicited was horrible to contemplate. The incentive to crime supplied by the newspapers and the courts was inestimable. In the majority of cases the criminal was made before he was twenty. Prevention was better than cure. Boys arrested for breaking glass, etc., should be dealt with in a fatherly way. They should not be thrown in with a lot of criminals to be forever contaminated. A reformatory for drunkards should be provided; the present $2 or thirty days system was a cruel farce. Poverty was not a crime, and not a single man should be in jail because he is insane or destitute. Poorhouses with work for everyone, should be insisted on.

THE LATE MR. LAFLAMME.—At a meeting of the faculty of law of McGill University, held on January 26th, the following resolution was passed:—

"That this faculty record an expression of their deep regret at the death of the late Honorable Rodolphe Laflamme, for many years one of the professors of this faculty; they desire to bear tribute to the profound scholarship and extensive experience of their regretted colleague, to his uniform kindliness of demeanor towards all who came into contact with him in the faculty, whether as fellow-professors or as students. They bear testimony to the valuable services which he rendered the cause of legal education in connection with the faculty."