THE

LEGAL NEWS.

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CURRENT TOPICS.

The September appeal list at Montreal exhibited a considerable increase of business, the roll containing sixty cases—a number which has not been reached for several terms past. The long interval which had elapsed since the May term accounts for the principal part of this increase. The Bar got to work with much alacrity, and seldom has better progress been made with the arguments. On one day, besides motions, five appeals were fully heard on the merits, being an average of less than sixty minutes to each case. In all, 31 cases were heard, and a large number of judgments rendered, the court rising on the 24th September.

The first annual banquet of the Bar of Montreal was certainly attended with a most gratifying success, and the result must have been extremely pleasing to the *bâtonnier* and others, who kindly gave much time and exerted themselves to make the arrangements as perfect as possible. The judges, by their attendance at the opening dinner, contributed largely to the *éclat* of the occasion. The absence of Sir Melbourne Tait, who was suffering at the time from indisposition, was generally regretted. From the success which attended the first meeting, it is natural to expect that succeeding celebrations will be

even more interesting and noteworthy. We give elsewhere a short account of the event, derived in substance from reports in the daily press. The *résumé* is somewhat meagre as regards the speeches, but it serves to indicate the purport of what was said.

At the date of writing, rumors have been in circulation that the Chief Justice of the Supreme Court is about to retire from that position, and that he will restrict himself in future to his duties as a member of the Judicial Committee. It is usually safe to disregard rumors of judges' resignations, but if this particular one prove true it will not occasion much surprise. The position of Chief Justice of the Supreme Court of Canada is obviously incompatible with that of a member of the Judicial Committee of the Privy Council, the Canadian appeals to the Judicial Committee—the most important of them at all events—being usually from the Supreme Court. Moreover, there is an obvious difficulty—not inconsiderable in any case and still more serious to a person of advanced years—in sitting in two courts three thousand miles apart. This difficulty may be diminished if the roller ship of the future enables the traveller to cross the Atlantic between dawn and dusk on a single day, but pending some such triumph of science, the duties of the judge in England cannot but interfere with his work in Canada, and even if this were not so, there seems to be no occasion for such duplication of offices.

EXCHEQUER COURT.

26 April, 1897.

Before BURBIDGE, J.

GEORGE B. BRADLEY, claimant; and HER MAJESTY THE QUEEN, defendant.

Civil servant—Extra work—Hansard reporter—The Civil Service Act, Sec. 51—Application.

The provisions of sec. 51 of *The Civil Service Act*, preventing the payment of any extra salary or additional remuneration to

any Deputy Head, officer, or employee in the Civil Service of Canada, or to any other person permanently employed in the public service, do not apply to a reporter on the Debates' staff of the House of Commons. (Affirmed on appeal to Supreme Court, 19th October, 1897.)

W. D. Hogg, Q.C., for claimant.

E. L. Newcombe, Q.C., (D.M.J.) for defendant.

COURT OF APPEAL.

LONDON, 14 May, 1897.

Before LINDLEY, L.J., LOPES, L.J., RIGBY, L.J.

OGILVIE v. LITTLEBOY. (32 L.J.)

Setting aside voluntary deed—Burden of proof—Mistake—Intention not carried out.

The object of this action was to set aside two voluntary deeds which had been executed by the plaintiff, Mrs. Ogilvie, with the object of founding two charities in London and Suffolk.

She did not ask for rectification, but desired to have the deeds entirely set aside, on the ground that they did not carry out her intentions, inasmuch as they did not reserve to her absolute control of the capital and income during her life, nor protect her from liability to account, especially to the Charity Commissioners, nor give her a power of sale free from the interference of the Charity Commissioners; and, further, that she had not been informed of a difficulty which might arise in the appointment of new trustees through the possible refusal of the Society of Friends to take part in such appointment.

Byrne, J., dismissed the action with costs, and the plaintiff appealed.

Their Lordships dismissed the appeal with costs. They said that voluntary deeds of gift could not be set aside simply because the donors wished that they had not made them and would like to have back the property given. Where there was no fraud, no undue influence, no fiduciary relation between donor and donee, no mistake induced by those who derived any benefit by it, a gift, whether by mere delivery or by deed, was binding on the donor. Where all those elements were absent, there was no general principle of equity that the burden was on the donee to

prove that the donor knew what he was doing and was under no mistake. In the absence of such circumstances of suspicion the donor could only get back the property by showing that he had acted under some mistake of so serious a character as to render it unjust on the part of the donee to retain the property. The evidence showed that the plaintiff thoroughly understood and approved of everything that had been done, and her advisers had acted honestly and to the best of their judgment in her interest. The deeds could not be set aside on the ground that it had been found impossible to avoid the jurisdiction of the Charity Commissioners, nor on any of the other grounds, either singly or combined.

COURT OF APPEAL.

LONDON, 16 July, 1897.

Before LORD ESHER, M.R., SMITH, L.J., CHITTY, L.J.

THAMES CONSERVATORS v. SMEED ET AL. (32 L.J.)

Thames—Foreshore—Rights of owner of shore—Right to take sand —'Bed' of Thames.

Appeal from the judgment of Bruce, J., at the trial of a point of law raised in the action.

The action was brought for a declaration that a place called Hadleigh Ray, situated in Essex, on the north side of the Thames within the plaintiffs' district, was part of the bed of the Thames within the meaning of section 87 of the Thames Conservancy Act, 1894, and for an injunction to restrain the defendants from dredging and raising gravel and ballast and other substances therefrom without the licence of the plaintiffs. It was admitted that the defendants raised sand at the place in question between high and low water marks at ordinary tides; that the place was private property; and that the defendants raised the sand under a licence from the owner of the place, but without the licence of the plaintiffs. The question of law was whether the place from which the defendants had raised the sand was part of the "bed of the Thames" within the meaning of section 87 of the Thames Conservancy Act, 1894.

Bruce, J., held, on the authority of *Pearce* v. *Bunting*, 65 Law J. Rep. M.C. 131; L. R. (1896) 2 Q.B. 360, that the place from which the sand was raised being between high and low water

marks was not a part of the "bed" of the Thames within the meaning of section 87, and gave judgment for the defendants.

The plaintiffs appealed.

Their Lordships, after taking time to consider, held, disapproving *Pearce* v. *Bunting, supra*, that the expression "bed of the Thames" in section 87 of the Thames Conservancy Act, 1894, includes foreshore, although it belongs to private owners, which is situated between high and low water marks of the river at ordinary tides, and allowed the appeal.

SOME OLD LAW BOOKS.

Law books are certainly among the things that have kept pace with the population. It is especially true of legal treatises that of the making of them there is no end, and there is scarcely a lawyer who would not add that much study of them is a weariness of the flesh. Although law books were amongst the earliest works that issued from the printing press in England—the statutes of Henry VII. were printed by Caxton himself—yet Coke, writing some 250 years ago, could not count more than fifteen treatises on the law. Now the libraries in the inns are scarcely less spacious than the dining halls, and the text-books, to say nothing of the reports and statutes, are to be numbered by their thousands. Copies of all the ancient works mentioned by Sir Edward Coke may be found in the libraries of the inns, and, though most formidable in appearance, some of them possess an interest for the general reader as well as the legal student. To Ranulf de Glanville, who was chief justice in the reign of Henry II., belongs the distinction of writing the first treatise on the law. He combined with the learning of the lawyer the valor of the soldier, and he is known to fame not only as the father of legal literature in England, but also as the captor of the King of Scots at the battle of Alnwick. Among the most precious volumes in Lincoln's Inn Library is a M.S. copy of his treatise more than 500 years old. A peculiarity of Britton's work, which is believed to have been written under the direction of Edward I,, is that the words are put into the mouth of the king. This treatise was written in French, in which language law books continued to be written for nearly four centuries. During the same reign the commentary on English law called "Fleta" was written. Nothing is known of the author except that he commenced and completed the work while he was confined in the

Fleet Prison, a fact which explains its curious title. Littleton, who bears among Coke's fifteen authors the most familiar name, was a judge of Common Pleas in the time of Edward IV. His celebrated work, the first edition of which was printed in 1481, is devoted to an explanation of the law as to the tenure of land. Its fame has, of course, been largely preserved by the remarkable commentary of Coke, which, according to the enthusiastic and eloquent Fuller, will be admired "by judicious posterity, while Fame has a trumpet left her and any breath to blow therein."

A modern legal writer, who arranged his work in the form of a dialogue, would be regarded as frivolous. Yet this was the form in which two of the old jurists cast their work. Fortescue, who wrote his treatise in the reign of Henry VI., while in exile in France with the Prince of Wales and other members of the Lancastrian party, represented himself as conversing with the young prince on the laws of England, and proving their superiority to those of other lands. "Doctor and Student," which was written early in the sixteenth century by Christopher Saint Germain, of the Inner Temple, is a series of dialogues between "A Doctor of Divinity and a Student in the Laws of England, concerning the Grounds of those Laws." Perhaps the most interesting fact about this quaint production is that it was cited as an authority by the judges at the trial of Hampden. On a fly-leaf of the Lincoln's Inn copy of Fitzherbert's "Grand Abridgment of the Law" is the following curious inscription: "Of your charity pray for the soul of Robert Crawley, sometimes donor of this book, which is now worm's meat, as another day shall you be that now are full lustye, that remember, good Christian brother. Farewell in the Lord. 1534." The first edition was printed in 1516, and this is the date in the copy in Lincoln's Inn Library, which is singularly rich in ancient volumes. It would appear that the producers of law books in Fitzherbert's days were gifted with a greater love for art than is possessed by the authors of modern law books. Some of their title pages were adorned by the most elaborate designs. The first part of "Fitzherbert" contains a wood cut of the king on his throne, whilst the second is ornamented by a wonderful collection of the royal arms, a dragon and a greyhound, two angels, some scrolls, and a rose. It would be difficult for an illustrated law book to command the serious attention of lawyers in these days, even though its artistic embellishments came from Sir Frank Lockwood.

After speaking of such writers as Bracton and Littleton, one hesitates to describe Blackstone's Commentaries as an old law book. It was first published at Oxford 137 years ago. But legislation moves so fast that, to glance at an early edition of the famous work, is to believe that it is older than it actually is. No law book has ever enjoyed so great a measure of popularity. As many as twenty-one editions were published before any alteration was made in Blackstone's text, and innumerable attempts have since been made to adapt it to the ever-changing law. How far these endeavors have been successful may be judged from the fact that the value of the Commentaries is now solely historical. As was once said, "The cannonade which has been playing on the Commentaries, exposing, as they do, so wide a front, has rendered them, as they were left by their author, a mere wreck." Not a little of their popularity was due to the impressive style in which they were written. Never in a law book has lucidity been wedded so happily to felicity. It is clear, notwithstanding the complaints he addressed to his fellow-tenant in Brick-court, that Blackstone's literary powers were unaffected by the boisterous sounds in Goldsmith's rooms overhead. The basis of the Commentaries was a series of lectures which Blackstone delivered at Oxford, and this may partly account for their sonorous note. Like most of the eminent legal writers of the old school, Sir William Blackstone was a judge. Here, again, a change may be observed. The bench is no longer recruited from the ranks of text-writers. Judges whose stepping-stones to fame were books are still to be found in the courts. Lord Justice Lindley, for instance, owes his judicial seat largely to his standard work on partnership. But there is now a strong tendency to exclude text-book writers from the active practice of the law, to make them a separate class of superior persons whose refined minds ought not to be devoted to anything less noble than the theory of the law. Among the first six leaders of the bar, there is not one with any reputation as an author.

During the past thirty years the publication of leading cases has been under the control of a council representative of both branches of the profession. The Law Reports have not, however, caused such old-established reports as the Law Journal Reports to disappear. The earliest reports in the libraries of the inns were issued in the reign of Edward II. Until the time of Henry VIII. the business of reporting was in the hands of lawyers, who were paid by the crown. Their reports, which were published

annually, are known as "Year Books." These are among the most quaint and valuable volumes in the libraries. To modern eyes, it is true, neither their bulk nor price is imposing. At the end of the Tenth Book of Edward IV's reign, which consists of forty pages, are these words: "The price of thys boke is iiiid. unbounde." The ordinary reader, who looked for entertainment in these time-worn pages would suffer some disappointment, but it is said that Sergeant Maynard had "such a relish of the Year Books that he carried one in his coach to divert his time in travel, and chose it before any comedy." After the crown ceased to supply the courts with reporters, the business of preserving the important decisions of judges was undertaken by a succession of eminent lawyers, among the number being Coke and Plowden. Law reporters grew so numerous after the Restoration that a diminution in their number was regarded as imperative, and an act was passed prohibiting the publication of law books without the license of the judges. The rapid increase of reporters had, however, no peculiar relation to the restoration of the Stuarts, for Bulstrode, the foremost reporter during the Commonwealth, alluded to the multiplicity of reports in these picturesque terms: "Of late we have found so many wandering and masterless reports, like the soldiers of Cadmus, daily rising up and jostling each other, that our learned judges have been forced to provide against their multiplicity by disallowing of some posthumous reports, well considering that, as laws are the anchors of the republic, so the reports are as anchors of laws, and, therefore, ought to be well weighed before being put out.—*London Globe.*

ANNUAL DINNER OF THE BAR OF MONTREAL.

The first annual dinner of the Bar of Montreal took place at the Windsor Hotel on the evening of 23rd September, and was pronounced a gratifying success. Over 150 persons sat down at the tables, including nearly all the members of the Bench of this district. Sir Melbourne Tait was unfortunately prevented by illness from being present.

The banquet hall was handsomely decorated with flags on all four walls. The menu was an excellent one, and the list of dishes was embellished with amusing and appropriate selections from Shakespeare and other works.

Mr. C. B. Carter, Q.C., the *bâtonnier* of the Bar of Montreal, presided, and on his right were Sir Alexander Lacoste, Mr. F. X.

Lemieux, Q.C., *bâtonnier général*, Mr. Justice Wurtele, Mr. Justice Pagnuelo and Mr. Justice Archibald, while on his left were his Worship Mayor Wilson-Smith, Ald. Prefontaine, Mr. Justice Curran, Hon. L. O. Taillon, Mr. Justice Doherty and Mr. Justice Purcell. There was no attempt, however, to group the speakers at any one table, and Mr. Justice Davidson, who responded to the toast of the Bench, Hon. J. E. Robidoux, who replied for the Bar, and Mr. Donald Macmaster, Q.C., who also responded to the toast of the Bar, all occupied seats at different tables.

Those present at the dinner, besides the names already mentioned, were: Judges L. A. Jetté, L. O. Loranger and A. Ouimet, Recorder de Montigny and Magistrate Sicotte, Hon. Horace Archambeault, C. A. Geoffrion, J. E. Robidoux, P. E. LeBlanc, Th. Chase Casgrain, Gedeon Ouimet, A. W. Atwater, Donald Macmaster, Gustave Lamothe, R. D. McGibbon, H. C. St. Pierre, H. J. Kavanagh, S. Beaudin, E. L. de Bellefeuille, J. Alexandre Bonin, L. Henri Archambeault, J. J. Beauchamp, F. X. Choquet, P. B. Mignault, L. J. Ethier, James Crankshaw, Arthur Globensky, James Kirby, G. B. Cramp, N. W. Trenholme, E. N. St. Jean, W. J. White, L. P. Berard, Philippe Demers, J. U. Emard, L. J. Marechal, Jos. A. Descarries, Wilbrod Pagnuelo, L. G. A. Cressé, L. E. Bernard, Chas. Raynes, M. J. Morrison, C. A. de L. Harwood, J. E. Martin, G. P. England, A. Rives Hall, Peers Davidson, William Donahue, S. Carmichael, L. G. Glass, Victor E. Mitchell, S. W. Jacobs, J. W. Blair, R. C. Smith, Elzear Roy, A. Falconer, N. T. Rielle, Chas. A. Duclos, J. F. Mackie, R. A. E. Greenshields, Geo. F. O'Halloran, A. E. Beckett, Percy C. Ryan, J. T. Cardinal, Albert E. de Lorimier, J. M. Ferguson, P. J. Coyle, E. J. Duggan, W. Henry Burroughs, A. E. Harvey, H. J. Cloran, G. A. Morrison, J. A. Robillard, J. H. Migneron, G. E. Mathieu, Romuald Delfausse, C. I. de Lanaudiere, J. P. Whelan, J. Wilson Cooke, Edouard Fabre Surveyer, Aimé Geoffrion, J. P. Landry, J. A. Drouin, Chas. Archer, C. A. Chenevert, A. W. P. Buchanan, A. T. Hogle, Alphonse Decary, Jeremie L. Decarie, J. A. Labelle, A. Marsan, W. E. Mount, Ls. J. Loranger, Paul St. Germain, Maxwell Goldstein, Horace A. Hutchins, J. P. Cooke, Robert Stanley Weir, W. Simpson Walker, D. A. Lafortune, A. Dorion, A. Bergevin, M. Hutchinson, D. R. McCord, N. Driscoll, Lomer Gouin, Wilfrid Mercier, R. Dandurand, Rodolphe Lemieux, F. A. Genereux, F. X. Roy, Victor Geoffrion, L. Jos. Lajoie, A. E. Poirier, Paul Lacoste, Jos. A. Lamarche, C. B.

Beaubien, R. G. de Lorimier, Oscar Lavallée, Eug. Lafontaine, Robert Taschereau, J. L. Perron, Chas. A. Wilson, J. S. Buchan, Gonzalve Desaulniers, Paul G. Martineau, E. L. Desaulniers, Honoré Gervais, L. A. Rivet, C. H. Stephens, Oscar Gaudet, Emile Joseph, Tancrede Pagnuelo, Pierre Beullac, J. A. C. Madore, Jas. B. Allan, Eugene Lafleur, F. E. Marshall, Fred. H. Markey, D. C. Robertson, R. Stanley Bagg, Donat Brodeur, Eug. H. Godin, Seth P. Leet, Ernest Pellissier, Campbell Lane, Arsene Lavallée, C. Theoret, T. P. Butler.

The chairman, Mr. C. B. Carter, in proposing the first toast, "The Queen," spoke of the reforms which had been instituted during the reign of Her Majesty, and from which the Bar had greatly benefited.

The toast was then drank standing, the whole gathering joining in singing "God Save the Queen."

After Mr. Brodeur had next favored the assemblage with a song, the toast of "The Bench" was proposed by the chairman, who said:—"The toast which I am about to propose is one which should be received and drank by us all with every honor, for it refers to an honorable body with which we are brought in daily contact: I refer to the Bench of this province. In the fulfilment of their duties our judges have had many obstacles to contend with, their paths have not always been pleasant, our system of law and procedure may not be perfect—('hear, hear') —but in the administration of justice our judges are impartial and conscientious, and, like Shakespeare, we may point to them and say, 'There sits a judge that no king can corrupt.' During the past few years great reforms have been introduced into our law; the exigencies of trade and commerce have demanded speedy justice. Amendments without number to the Code of Procedure were introduced, giving rise to an immense amount of litigation, until finally a new Code of Procedure was formulated, which came into operation on the first of this month.

"With this problem our judges have to grapple, and we ask them to interpret the code liberally, in the interest of the public as well as of the Bar, so that in the future there will be no cause for complaint against judges and lawyers of unnecessary delay. (Hear, hear).

"There have been, and are to-day, on the bench men whom any country might be proud of, and who have done much to make Canada what she is, the brightest jewel in the dominions of the

great Empire to which we belong. I said a moment ago that the judges' paths were not always pleasant. The remark applies to Montreal in particular. Members of the Bar need look back but a few months to the congested state of the rolls of the Court of Appeal and the Superior Court. See the splendid results of the work done by the Montreal judges, with the co-operation of their brethren from the other districts, for to-day there are practically no arrears in these courts. I say the judges are entitled to the praise and thanks of all. I only trust that the question of their salaries will soon be dealt with in a substantial and just way, befitting the high position which they occupy. (Applause). There are many things I would like to speak of concerning the bench, but I shall not take up more of your time, as we have promised to be brief in our addresses. I have much pleasure in proposing the toast of 'The Bench.'"

Chief Justice Sir Alexander Lacoste, replying to the toast of the Bench, thanked the chairman for the kind expression of confidence in the Bench to which he, on behalf of the Bar of Montreal, had given expression. It would, he continued, perhaps seem indelicate were he to refer to the matter of the salaries of the judges, which the chairman had mentioned. But he was not present as a judge, but as one of the Bar, and he could say that it was in the interest of the good administration of justice that the salaries of the judges should be adequate to the responsibilities of their position and the work they had to perform. Speaking of the status of the law in the Province of Quebec, the Chief Justice said that there were in the Province of Quebec a sufficient number of judges, but it was desirable that there should be a more equitable distribution of the work. The speaker then related a little incident of his early experience as a lawyer. He was practicing in a small town in Quebec, and one day there was a new crier to open the court. The crier was seemingly quite proud of the temporary dignity with which he had been invested, and gathering his robe about him and swelling out his chest he opened the court thus: "Voyez, voyez, voyez! Serrez vos pipes, La cour va commencer; Vive la Reine!"

Mr. Justice Davidson, in the absence of Acting Chief Justice Tait, also responded. For the first time in the history of the province, he said, judges and lawyers had gathered together to express the mutual friendship and respect which they felt for each other. That was a fact of paramount importance. Reference

had been made to the introduction of a new code of procedure. He was not without some anxiety as to its future success. The work was one which was surrounded with difficulties. The code of procedure of France was now some 100 years old and during that time it had undergone only three changes. During our existence as a Dominion of some 30 years, however, our code had undergone some 400 changes. He thought he might safely say, however, that the code of procedure of the Province of Quebec was the most simple and the most effective in the Dominion. There was, however, the grievance that here lawyers were bounded by the limits of their particular judicial districts. He had always regretted that in this province there was not a larger system of circuits. Lawyers were bounded by the narrow confines of their own judicial district, whereas throughout Ontario and the other provinces of the Dominion, rising advocates came face to face with audiences throughout the length and breadth of the province. That was also the case in regard to the judges. By this means the people throughout the province not only heard but were brought face to face with those qualities of integrity, of judicial honor, and of professional acumen which must give them an added idea of the dignity of the profession. If the Bench had failed in the performance of its duties, it had, at least, striven to do honest justice. Might it never be said that it was not eager to do even justice between people of unequal fortunes, and to make all in this province understand that they must be obedient to the law, and that they were not beyond its reach.

Mr. Justice Curran, as the youngest member of the Bench, proposed the toast of the Bar. The profession of law, he said, was one of the oldest and most honorable in the universe. Lawyers had at all times played a leading role in the history of the world, and in the history of no country had they played a more prominent part than in that of our own Dominion. What, for instance, would the history of Canada be if the names of Macdonald, of Cartier, of Mowat, of Dorion, of Thompson, of Laurier, and of innumerable others, were stricken out? A short time ago, he continued, there were in Montreal the most eminent men of the medical profession from all parts of the Empire, and the one great idea sought to be impressed upon the minds of the profession was that in the future it should be sought to require a university education on the part of those who were aspiring to become members of the profession. The legal profession had

sought to elevate the standard, and to have all obtain their degrees in arts before commencing the study of law. All had been done that men could do to give the profession in this province a high standing. That was being achieved day by day, and it was hoped that success would crown the efforts being put forth in that direction.

Before the toast was responded to the chairman read the following letter from Sir Melbourne Tait:

Mr. Bâtonnier,—I regret extremely that following the advice of my doctor I am obliged to forego the pleasure of attending the dinner to-night. In thought and spirit I shall be with you and drink most heartily the toast of the Bar of Montreal, for they are jolly good fellows as I have good reason to know. Wishing you a pleasant evening, and hoping to be on hand at the next dinner,

Believe me,

Yours faithfully,

M. M. TAIT.

The Hon. J. E. Robidoux responded to the toast of the Bar. He spoke of the erroneous impression which many persons held with regard to the members of the legal profession. The latter were often represented as prowling about seeking to rob and despoil the widows and the orphans, while, as a matter of fact how often it was that the lawyer's heart had been touched by a piteous appeal, and he had contributed his services freely and fully without expectation of any material reward.

Mr. D. Macmaster also responded. He spoke of the honorable traditions of the Bar, and quoted from the Lord Chancellor of England, to the effect that the first duty of the profession was to maintain its honorable traditions. The first duty of an advocate was to serve his client; but there was a duty higher than that, and it was that of honor. "The advocate should always fight with the sword of the soldier, never with the dagger of the assassin." He spoke of the courtesy, consideration and kindness with which the Bench received the members of the Bar, and said that everything should be done to cement the good feeling that now existed between them.

"Our Guests" was responded to by His Worship the Mayor. After thanking the Bench and Bar for their kindness, His Worship said that before he left the mayoral chair, he wanted to see two things take place. He wanted to see a revised charter, and

steps were being taken in that direction. He also wanted to see the harbor improvements commenced and carried out with some prospect of their being commensurate with the port of Montreal. He would not be sorry, when his term of office had expired, to hand over the responsibilities and cares of the mayoralty to his successor. He was somewhat like the American who came here and had his first experience of tobogganing, and who said that he would not have missed it for $1000, but he would not repeat it for $10,000.

Mr. F. X. Lemieux, *bâtonnier général*, also responded, and in concluding proposed the *Bâtonnier* of the Bar of the District of Montreal, to which Mr. Carter appropriately and briefly responded. It was past midnight when the banquet was over.

GENERAL NOTES.

CRIME IN FRANCE.—Since 1881 the number of criminal cases in France has, says the *Revue des Deux Mondes*, increased by 30,000, although practically the population has not increased at all. Especially has the number of murders and homicides increased. Up to recent times Italy reported the largest percentage of criminals of this kind—namely, from 250 to 300 each year. France has now the sad distinction of being in the lead, the average in late years being about 700. While Italy reported annually about 80 child murderers, France now averages 180. Taking all the data together, the criminality of France has just about doubled in the last fifty years. The saddest feature about this increase is the fact that it is proportionally greatest among the youth of the country. The actual fact is that the number of criminals who are yet children or youths is twice as large as the number of adult criminals, although France has only about seven million children and youths, and twenty million adults. In Paris more than one-half of the criminals arrested are less than twenty-one years of age. Prostitution among children is alarmingly on the increase. During the last ten years an average of 4,000 of such cases were brought to the attention of the authorities every year. In 1830 there were but five suicides to every 100,000 inhabitants; in 1892 there were 24, and the rate is increasing. Suicides of children under sixteen were formerly unknown in France; now there are on an average 55 each year. And in 1875 there were 375 suicides between sixteen and twenty one.

CITING LAW TO A VETERAN.—Lord Esher, master of the rolls, still active at 82 years of age, has, it is said, been giving some unconventional *dicta* from the bench. In an action for libel involving the professional sensibilities of two musicians, one of whom was Tito Mattie, the composer, the judge stopped a counsel who wished to quote authorities as to what may be libel, saying "If you do, it will be a serious libel on us. We ought to know enough law to decide a wretched case of this size, where the damages were only £20, without counsel having to help us by referring to authorities. Do shut up your book."

THE QUAKER AND HIS HAT.—During the hearing of a case before Mr. Justice Grantham at Leeds, one of the witnesses for the plaintiff, an old man named James Briggs, stepped into the witness-box wearing an old-fashioned broad-brimmed Quaker hat, and ignored a whispered intimation from the judge's clerk that he must remove it. His Lordship asked him if it was part of his creed to keep his hat on, and under what circumstances he wished to keep it on. The witness replied that he believed it to be required of him to keep it on in the presence of all men, but that he thought it right to take it off when using the name of the Almighty. He added that, although he did not wish to act with any want of respect to the Court, he did not feel called upon to uncover. The learned judge said he should be sorry to say anything to hurt anyone's conscience, and that he would not ask the witness to remove his hat, and the old man accordingly was allowed to make an affirmation with his hat on.

THE following headnotes, says the American *Case and Comment*, appear in Kulp's report of a recent Pennsylvania case: '1. When a cow, city-bred and country-sold, dissenting from its changed environment, and disregarding the right of its purchaser, returns to the city and conducts herself upon the highway in a manner prejudicial to little children, and repugnant to municipal ordinances, a constable who recognises her as an old acquaintance, and extends the friendly shelter of his barn, being assisted therein by a policeman, is not guilty of obstructing the latter in the performance of duty by subsequent refusal to surrender possession, without evidence upon the record showing special authority in the policeman from the mayor under the ordinance involved, because, in the absence thereof, neither officer had exclusive right, and hence the constable being *prior in tempore*, was *potior in jure*. 2. *Semble*, a case which involves, upon *certiorari*, the

judicial relation of a cow to a constable, and of both to a policeman, demands more elaborate consideration than Courts usually bestow upon litigation originating before justices of the peace.'

"An Old Bailey Sessions Paper of Two Hundred Years Ago" is the title of an article in the *Westminster Review*, and the extracts given by Mr. Vellacott, who contributes the article, show that the offences tried differ but little from those with which modern judges are accustomed to deal. He says: "If we compare these sessions papers with any of our own time, we shall notice points of both likeness and unlikeness—likeness, because human nature is very much the same in all ages, and there is in legal phraseology a rugged conservatism; unlikeness, because criminal law and criminal procedure have altered with the embracing fabric of civilization. Some offences are now obsolete; other new ones have sprung up. If the clippers of coin are no longer hanged and burned, the counterfeiter and the utterer are sent to hard labour and penal servitude. The murder of a husband is no longer petty treason, benefit of the clergy is gone, and the infamous branding which was its outcome. No more is the convict transported to the American plantations or the West Indian sugar islands. The receiving of stolen goods is more dangerous than in times of yore. The acquisition of money by false pretences, if thoroughly established, receives a more specific, if not more effective, punishment than the pillory."

Sir William Leece Drinkwater, first deemster of the Isle of Man, who this month has completed fifty years' service as judge of the Manx High Court, will at the end of the month send in his resignation of the office of deemster. Sir William, who is eighty-five years old, has seen longer judicial service than any judge in the United Kingdom. Since his appointment he has been *ex officio* a member of the Legislative Council or upper branch of the Manx Legislature. He is a native of Liverpool, but is Manx by descent.

The trial, in England, of a man named William Lennox Watson, for manslaughter, in causing the death of a lady, whom he assumed to treat for cancer, has resulted in the acquittal of the prisoner— greatly to the dissatisfaction of the medical profession. His treatment consisted in the application of a plaster containing arsenic. The patient died of arsenical poisoning. The defence was that she kept the plaster on longer than he directed, and that his services were wholly gratuitous.