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CURRENT TOPICS.

The September appeal list at Montreal, showed considerable activity in the inscription of new cases, no less than 33 having been added since the appearance of the May list. The September total was 64, an increase of 3 over the May list. Apparently, however, the September term follows too closely on the vacation, or the vacation terminates too soon, for there was a remarkable unreadiness on the part of counsel. After the entire list had been called over more than once, and several adjournments had been made at an earlier hour than usual, the Court was forced to rise on the 22nd September, five days before the end of the term, only 16 of the 64 cases having been heard. Of course, in many of these cases there is a considerable amount of evidence to be copied and printed, and the preparation of the factums is thereby delayed, the result being that the argument of the case is postponed to a later term. But making every allowance for this obstacle, the total of cases continued to next term—48 out of 64—seems unduly large, especially when we recall the public complaints of delay in the Court of Appeal, and the eagerness which used to be displayed to have cases declared privileged and accorded precedence.

Some of the provisions of the "Notice of Accidents Act," passed in England last session, are interesting. Where in any employment specified in the schedule to the Act an accident occurs which causes to any person employed therein either loss of life or such bodily injury as to prevent him, on any one of the three working days next after the occurrence of the accident, from being employed for five hours on his ordinary work, his employer shall, as soon as possible, and, in case of an accident not resulting in death, not later than six days after the occurrence of the accident, send to the Board of Trade notice in writing of the accident, specifying the time and place of its occurrence, its probable cause, the name and residence of any person killed or injured, the work on which any such person was employed at the time of the accident, and, in the case of an injury, the nature of the injury. If any person wilfully makes default in complying with these requirements of the Act he is liable on summary conviction to a fine of 40*s*. Power is also conferred upon the Board of Trade to hold formal investigations in cases of serious accidents.

These are days of record-breaking in various lines of activity, and there seems to be a tendency to get out the watch to measure the pace of judicial work. Thus it is prominently stated of one learned judge sitting in London in vacation, that "he rose for the day at half-past one, having heard more than thirty-five applications in three hours. He sat in chambers at half-past ten, and, before going into Court at eleven o'clock, disposed of eleven summonses." On another day the same judge disposed of over twenty cases by two o'clock. But even this is exceeded by another judge whose exploits are duly noted. Dispatch and celerity are excellent qualities, and some men by reason of their mental constitution may achieve marvellous tasks without any risk of committing errors.

But it would be matter for regret if the bar or the judges generally began to measure judicial proficiency by the progress of the clock.

The question of sons practising before their fathers is one which we have heard discussed very frequently in this province during the last thirty-five years. The objection often seems to have considerable force in a country where there is no distinction between barristers and attorneys, and where a counsel who is also attorney of record may have an interest in the costs. A recent issue of the *London Law Journal* refers to the same subject. "The time-honoured question," it says, "whether a barrister is entitled to practise before his father has again been raised—this time in the House of Commons—but without any satisfactory result. Mr. Asquith was asked whether there was any rule to prevent barristers whose fathers are chairmen of quarter sessions from practising at such sessions, and his answer was in the negative. The question whether such a rule ought not to exist might advantageously occupy the attention of the General Council of the Bar; for it is derogatory to the dignity of justice and injurious to the interests of the profession that the practice that prevails in certain quarters should be allowed to continue. No general rule could be framed to prevent a barrister from appearing in a professional capacity before his father. A large number of judges of the High Court have sons at the Bar, with whom it would be manifestly unjust to interfere. The evil lies in a barrister localising and practising regularly in a Court always presided over by his father; and it ought not to be difficult for the representative body of the Bar to put an end to this."

The Chicago Legal News has some pleasant words about the Chief Justice of the United States. "Chief Justice Melville W. Fuller," says our contemparary, "spent several

days of the past week in this city, for so many years his home and the scene of his triumphs at the bar. It is here he is known best and loved most by his professional brethren of all parties. Is there any more honorable position in the world than Chief Justice of the Supreme Court of the United States? Chief Justice Fuller does not magnify his office. He is the same pleasant, social gentleman he was when at the bar, and greets a friend as kindly as of yore. Chicago is justly proud that she has furnished the Chief Justice to the Nation, but more so that she has furnished such a Chief Justice as Melville W. Fuller makes."

PAYMENT BY CHECK.

We really see and handle but little of our money. We pay our larger bills by check, and conversely debts are paid to us by checks which we pass through our banking accounts. It is consequently of some importance that we should know when we may pay by check, and when, if we are acting for others, we are justified in accepting a check instead of cash. When acting for ourselves we can insist on our strict rights and refuse a debtor's check, if we do not mind the inconvenience of the cash. We have heard of the case of a solicitor declining to accept the check of some other solicitor, and of the latter arriving in a cab with thousands of pounds sterling in bags, much to the horror of the creditor solicitor, who had hoped to have received bank-notes, and now had the labor of counting out the gold.

When payment is accepted by check, bill of exchange, or promissory note, it "may be absolute or cónditional, the strong presumption being in favor of conditional payment." (Chalmers's Bills of Exchange, 4th ed., p. 305.) The meaning of "conditional" is that it will be treated as payment only if honored; if dishonored the debt revives. A person who accepts a check instead of cash in payment of a debt due to himself has a perfect right to run the risk of its being dishonored and the debtor's having disappeared, but when the acceptor is only an agent, a question of his liability to his principal arises. In some cases a check is recognized as a proper form of payment. For instance, in *Farrer* v. *Lacy, Hartland & Co.*, 53 L. T. Rep. N. S.

515; 31 Ch. Div. 42, the Court of Appeal decided that the custom of auctioneers to accept checks, instead of cash, in payment of deposits on sales, is reasonable. "If," said Lord Justice Baggallay, "persons intending to purchase property were compelled to go with all the cash in their pockets, it would be almost impossible to conduct large sales by auction." "Mr. Lock," said Lord Bowen (then Lord Justice), "referred us to the well-known proposition that an agent to receive money must not take payment by check. It is an identical proposition that an agent to receive a bird in the hand must not accept a bird in the bush. The question is whether the conduct of the plaintiff was reasonable in the case of a person who was acting in the interests of another. Is it an unreasonable practice—to say nothing of custom—to allow the auctioneer to take a check, when that practice is adopted in ninety cases out of a hundred?"

But though an agent in the ordinary course of business may receive a check in payment, "the law being that a person who owes money to an agent, knowing him to be an agent, must pay in such a manner as to facilitate the agent in transmitting the money so paid to him to the principal,"—Evans on Principal and Agent, 2d ed., p. 136,—he cannot do so in all cases. In *Papé* v. *Westacott*, 70 L. T. Rep. N. S. 18; (1894) 1 Q. B. 272, a house agent was instructed by the landlord not to hand over to the tenant a license to assign until the latter had paid his arrears of rent. The tenant gave the agent a check for the arrears and the agent's charges, and in return received the license, but the check was dishonored, and the tenant had disappeared. It was held by the Court of Appeal that there was no such custom as would authorize the acceptance of a check by the house agent in such a case, and that he was liable to his principal for the amount of the arrears. In commercial transactions customary methods must be sanctioned, or business would come to a standstill, but in this case it is evident that the agent was, to employ Lord Bowen's expressive simile, accepting a bird in the bush instead of one in the hand, and one that must have appeared likely to fly away, since he had allowed his rent to be in arrear. At any rate an agent who does accept a check should accept one which he can immediately transmit to his principal, and not one which has to be paid into his own account first, owing to the fact that the sum payable under it is for money owing to him as well as for that payable to his principal. In *Bridges* v. *Garrett* (22 L. T. Rep. N. S.

448; L. Rep. 5 C. P. 451), however, the Court of Exchequer Chamber justified the finding of a jury that a check paid into the agent's banking account was payment to the principal under the following circumstances: The steward of a manor appointed the defendant's attorney as deputy steward to take the defendant's admittance. The defendant subsequently gave the attorney a crossed check for the fine and the steward's and attorney's fees. The check was duly honored by the defendant, and the money credited to the attorney's banking account, but, the attorney's balance being against him, his bankers refused to pay him the money. The court thought that the jury might have come to an opposite conclusion, but that there was sufficient evidence to entitle the jury to find that the copyholder had in paying the deputy steward paid the lord his fine. It is obvious that in that case, cash might have shared the same fate as the check, for, if it had been paid into the deputy steward's account, it would have been stopped by the bank and never have reached the lord of the manor.—*Law Times.*

PUNCTUATION AND THE LAW.

From time to time it is announced in correspondence from Washington D. C., that the punctuation of acts passed by Congress is defective, and the legal advisers of the government are called upon to settle the knotty questions arising from these errors. Several instances of defective punctuation have been noted in the new Tariff Act, and similar errors occurred in the wording of the Tariff Act of 1890. None of the errors can be corrected without a joint resolution of the two houses, for the "law print" of the bill must be an exact copy, wording, spelling, punctuation and everything else contained in the enrolled bill, which is the copy that becomes a part of the archives of the government.

It is unfortunately too true that now, as in the time of Chaucer,

> A reader that pointeth ill
> A good sentence may oft spill.

Those who have tried by means of the law courts to take advantage of erroneous punctuation have had their trouble and bills of costs for their pains, and it may be said that a similar fate awaits the person who may endeavor to defeat by legal means the manifest intent of the law. One of the oldest legal maxims, as old as the law itself, is to the effect that bad grammar does not vitiate a

deed (*mala grammatica non vitiat chartam*), and in the eye of the law the same principle applies in the case of bad or wrong punctuation. As the late George Perkins Marsh, LL. D., long representative of the United States at the court of Italy, says in one of his lectures on the English language, delivered at Columbia College and afterward published in book form: "Mistakes in the use of points, as of all the elements of language written and spoken, are frequent; so much so, in fact, that in the construction of private contracts, and even of statutes, judicial tribunals do not much regard punctuation; and some eminent jurists have thought that legislative enactments and public documents should be without it."

Bishop, in his "Commentaries on Written Laws and Their Interpretation," says: "The statutes in England are not punctuated in the original rolls: but more or less marks of punctuation appear in them as printed by authority. With us the punctuation is the work of the draughtsman, the engrosser or the printer. In the legislative body the bill is read so that the ear, not the eye, takes cognizance of it. Therefore, the punctuation is not, in either country, of controlling effect in the interpretation."

Punctuation, in fact, forms no part of the law, as pointed out in the foregoing extract—a fact well recognized in Great Britain as may be observed in legal advertisements for next of kin, and often reprinted in the leading daily papers here, which are noticeable for their want of punctuation. Some of the cases in the United States in which the above cited principle has been laid down are *Doe* v. *Martin*, 4 T. R. 65; *Barrow* v. *Wadkin*, 24 Bean, 326; *Cushing* v. *Worrick*, 9 Gray (Mass.), 385, and *Gyger's Estate*. 65 Penn. Stat. 311. Those interested may also consult Sedgwick on "Statute Law" for further information on this subject.

Punctuation cannot have a controlling effect, but may be disregarded altogether when plainly contrary to the legislative intent, in which case the courts will repunctuate to give effect to such intent, as decided in the *United States* v. *Isham*, 17 Wall. (U. S.), 502, *Albright* v. *Payne*, 43 Ohio St. 15, and in *Pancoast* v. *Ruffin*, 1 Ohio, 385.

The following extracts are from some of the decisions of the courts on this interesting question:

"Punctuation is a most fallible standard by which to interpret a writing; it may be resorted to when all other means fail." *Ewing* v. *Burnet*, 11 Pet. (U. S.), 54.

"Punctuation is no part of the statute." *Hammock* v. *Farmer's Trust and Loan Company*, 105 U. S. 71.

"For the purpose of arriving at the true meaning of a statute, courts read with such stops as are manifestly required." *United States* v. *Lacher*, 134 U. S. 624, opinion given by Chief Justice Melville Fuller.

"Punctuation in written contracts may sometimes shed light upon the meaning of parties, but it must never be allowed to overturn what seems the plain meaning of the whole contract." *Osborn* v. *Farwell*, 87 Ill. 89.

"Punctuation may perhaps be resorted to when no other means can be found of solving an ambiguity, but not in cases where no real ambiguity exists except what the punctuation itself creates." *Weatherly* v. *Mister*, 39 Md. 620.

"The want of proper punctuation is, if objectionable at all, no more allowable in vitiating the contract or destroying its effects than bad grammar, the rule against which is a maxim of the law." *White* v. *Smith*, 33 Penn. St. 186.

From the writings of the authorities cited, and from the foregoing extracts from decisions, it will be gathered that there is no hope for any litigants who may base their cases solely upon the erroneous punctuation of the acts passed by Congress.—*American Bookmaker.*

FRENCH AND ENGLISH LEGAL PROCEDURE CONTRASTED.

The first thing that strikes one in comparing foreign with English lawyers is the marked difference between our barristers and French *avocats*, and English solicitors and French *avoués*. In common conversation they are respectively treated as identical, whereas they are by no means so in fact. In England a solicitor demands payment, issues and serves process, delivers statements of claim and defence, instructs the barrister to appear in Court, and, dispensing with the latter immediately after the trial, concludes the work by entering up judgment and enforcing it, either through the sheriff's officer or by bankruptcy measures. An English barrister, with rare exceptions, only moves when the solicitor sets him in motion. On the other hand, in France or Belgium the *avocat* is sometimes consulted first, leaving him to select the *avoué*, the latter's services being limited substantially to

exchanging pleadings (there called 'conclusions'), after which the *avoué* retires to the background pretty much as our barristers leave the case as soon as the Court or jury gives its verdict.

Everybody here is, of course, aware that, besides the already adverted to functions of an English solicitor, he has the preparation of testamentary documents and deeds of conveyance of property, and other innumerable duties involved in advising clients (many of which duties are much better performed by the aid of common-sense than by a knowledge of common law), whereas on the Continent these united offices are divided among a number of different people.

In England a man unconnected with the law who demands payment and threatens legal proceedings commits a statutory offence, such duty being the absolute privilege of a solicitor. The person who does this in France is the *agent d'affaires*, who, in the general way, has no pretence to be, and does not affect to be, a lawyer; and he can and does perform all the work of negotiation connected with enforcing a claim. In Belgium the *agent d'affaires* is very little known; there *avocats* often make preliminary demands for payment—a step which would be a breach of etiquette in Paris. The *avoué* does not come upon the scene even after the demand for payment; for the man who has to be instructed to issue and serve process is a quasi-official person called the *huissier*, who alone has the privilege of attending to this work, and who commonly quits the scene when he has served the equivalent to our writ and officially recorded the fact. It is true that some *huissiers* carry on the joint business of *agent d'affaires*, and sometimes act in Court, but, as I have said, the function of *huissier* is the subject of official appointment. It is when, and when only, the defendant shows signs of defending that the *avoué* comes into play.

I may mention that a defendant cannot act in person in a French Civil Court (I will speak of the Commercial Division later), though he may appear as his own advocate when once professionally represented. His *avoué* deals with the pleadings, the latter, as before stated, usually retiring immediately that operation is concluded, the *agent d'affaires* instructing the *avocat*, who alone has professional audience in civil, as contra-distinguished from mercantile, tribunals. After the trial is over the *agent d'affaires* resumes his sway, the *huissier* being again called in for the purposes of execution.

An important contrast between the English and French systems is the almost practical exclusion of oral evidence. In the first instance written materials alone are dealt with (each party having to exchange papers relied on beforehand), and it is only when some positive denial of the genuineness of the document arises that verbal evidence is allowed, and even then there is no examination or cross-examination of the witnesses, except by the judge himself. There are no juries in civil cases; but, as several judges sit at a time, they, in a sense, constitute a sort of jury. Documents are admitted much more freely on the Continent than with us, and in this respect I think the foreign system has some advantage over ours. Every English solicitor knows that by the rule recently promulgated the strictness of proof of documentary evidence has been usefully relaxed here, and we might perhaps go farther; but I do not think that we should be prepared to adopt the foreign regulation wholesale, which in many cases is very loose, and leads to rather rough justice.

The next striking contrast between English and French practice is in the number of judges. While the population of France is only some 50 per cent. over England, the judges are at least ten times as many.

In round figures, the number of persons in England having any pretence to the title of judge of a Civil Court does not exceed a hundred, taking the County Court, the several other minor Courts, such as the Mayor's Court, London, the Northern Palatine, and and other local Courts of record, and so on up to the Supreme Court and the House of Lords. In France there are at least a thousand judges.

Under the French system there is no High Court as understood here. We are all aware that a common writ may be issued for service at Land's End or Berwick, whereas legal process cannot, except under special circumstances, be instituted in Paris against a man domiciled at Marseilles or Calais. In this sense the whole of France is divided somewhat like our English County Courts, the French metropolis itself being only provided with what is equivalent to a central County Court. In France there is this further distinction, that the Court of Appeal for all these French districts is local—*i.e.* situated in the chief town of each group of districts—about equivalent to what would happen if we had a 'Divisional' Court sitting in every English county town. For most purposes these numerous Courts of Appeal are

final, the only higher tribunal in France being the Cour de Cassation, which, as the words imply, is not a Court of Appeal, but a tribunal capable only of quashing previous decisions, and on points of law only, with no power to vary or adjust. This Court, if it differ, simply says that the Court below has gone wrong, without possessing machinery for putting it right; in short, the parties have to start afresh, and for these reasons the Cour de Cassation (the only Court in France which permanently holds its sittings in Paris) is less resorted to than it otherwise would be.

I may notice one rather important matter of practice in France. In all the Courts at the opening hour the entire list is called, and the advocates answer (there are no leaders and juniors in our sense of the word), by which means adjournments are often arranged where required and some approach to the possible length of a case can be arrived at, not to speak of friendly arrangements being often achieved by the parties being brought together thus early. I think we might usefully adopt some such plan here. There is often a good deal of reserve removed when counsel once meet face to face; moreover, it is a great convenience to the judges to get to know where the weak and the strong cases lie. I ought to state that, theoretically, the judges abroad are supposed to try and conciliate the parties before actual trial, but except where the litigants appear in person this theory falls short of practice.

I stated in a previous paper that the number of solicitors in France (it is somewhat different in Belgium) is limited for each district. As a rule, a solicitor or barrister admitted to practise in the Court below has no audience in the Courts above, and *vice versa;* so that one has to change one's *avoué* and *avocat* at each move. This accounts for the comparatively isolated concern of the *avoué*—the *agent d'affaires* (who, as I have said, is not a lawyer at all) being mostly the only man in touch with the client from the beginning to the end. In France and Belgium a solicitor cannot of his own accord set up in business. A man may undergo the needful legal examination, but he can no more practise than a person in England can be a member of Parliament unless somebody dies, or retires, so as to create a vacancy. Law partnerships are absolutely unknown.

The fees of *avoués* are not large, but that body being limited in number, the aggregate income earned is good. In point of fact, an *avoué* is more like one of our old 'pleaders' than an English

solicitor. Having regard to the very limited duties they perform, and to the mechanical character of the work coming ordinarily within their province, their office appears to be of a comparatively unimportant character, and but for the vested interests involved it is difficult to see what separate functions they carry out which could not equally well be blended elsewhere, just as our pleaders have been superseded.

It was said of a well-known deceased English solicitor, whose practice was mainly confined to criminal Courts, that he was the only one amongst us who kept no books and drew the whole of his costs beforehand (a natural precaution, perhaps, with clients who were mostly hanged or transported); but it is the regular practice to this hour in France for the *avoué* to name his *honoraires* in advance and to receive cash down. He may be guided to some extent by the knowledge that a client more readily pays while indulging in the pleasures of hope, but the reason, no doubt, mainly lies in the explanation already given, that the taxable fees recoverable from the other side are so infinitesimal that, as far as the solicitor is concerned, there is little to hope for in this direction.

As to costs generally, I consider that the French system contrasts disadvantageously with ours, as I share the views of modern reformers, who think that the wrongdoer should bear the expense attendant on his own default, and that the recent efforts made in England to throw the whole of the properly incurred costs upon him, instead of a limited portion, is a step in the right direction.

The payments to *avocats* are much less in France than in England. In a recent English case the leader's brief was marked with a fee of 1,000 guineas. This is not altogether uncommon in heavy cases here, but although I know of one action in France where a barrister received 30,000 francs (*avocats* are not too modest to suggest their own fees, and they try for an *ad valorem*), the ordinary scale is low. The average smallness of such fees abroad may not be entirely disconnected with the fact that the winning party is unable to make his adversary pay a single sou towards them!

Judicial salaries in France are in keeping with counsel's fees, the emoluments of the president of the highest Court of Appeal which is the single Court having jurisdiction over all France, beimg only the same as that of an English County Court judge.

Fifteen hundred sterling, when magnified into a trifle short of 40,000 francs, seems a large official remuneration in a Frenchman's eyes. Judges in France are altogether different from our judges. Here they are promoted from the front rank of the Bar; there it is quite otherwise, and, to my mind, our system compares very favourably in this respect. I may mention, in passing, that the judges of the Commercial Tribunal in France are picked mercantile men, acting without salary, being satisfied with the honour conferred upon them by the votes of their mercantile *confrères*, all such posts being the subject of election under carefully prescribed rules.

Perhaps on the whole the most important contrast between French legal procedure and our own arises from the civil business being divided into commercial and non-commercial. There are distinct tribunals in every place in France, with a few unimportant exceptions. I am one of those who have always advocated a similar division in this country, after arriving at the issue to be tried (if not from the actual issuing of the writ), and I was pleased to be able to successfully pioneer a resolution on this subject at our Plymouth meeting in 1891. The council used its unstinted influence to realise the expressed desire of the profession conveyed at that meeting, and it is gratifying to find that the judges have now formulated a scheme under which we are shortly to have a separate Court for the trial of mercantile disputes. We shall all watch with interest the official rules, expected to be issued after the Long Vacation, to carry out the announced judicial experiment.

I was aware that I had to encounter doubts when I read my Plymouth paper. At the outset of the debate there I went so far as to suggest even three divisions—one for mercantile cases, another devoted entirely to libel, slander, malicious prosecution, etc., leaving miscellaneous causes of action to be put into a third list, so as to still further define and maintain the proposed isolation of the commercial division. I myself never could understand why the comparatively simple issues of law and fact arising out of mercantile transactions should be mixed up for trial with what one may call the sensational list. I cannot conceive anything more repelling to the city merchant than to find that a question turning upon the judicial construction of a strictly commercial contract must be sandwiched between such trials as, say, the *Baccarat Case*, or that of the *Missing Pearls*. It may or

may not be too late to resuscitate our old commercial lists, other agencies having been at work to diminish them, but one may, I think, hope that the dispatch and certainty likely to be the outcome of the new proposal will, after a reasonable lapse of time to enable the change to become known, insure more or less revival of Queen's Bench mercantile lists. I know that many members of our profession have hesitated to lend encouragement to the severance, on the plea that it is difficult to define commercial and non-commercial business, but in this respect I heartily commend the distinction drawn in France as a sound basis for action. In a foot note [1] I give substantially a list of causes treated in France as commercial, but for the purposes of to-day they may be spoken of as disputes between traders in relation to goods or services (excluding debt collecting from retail customers, unless the debtor has given an acceptance), litigation arising on all negotiable instruments, or out of banking or suchlike transactions, and, finally, Bankruptcy and Admiralty.

It is, perhaps, not strictly germane to this paper to touch upon what are known as chambers of arbitration here and there recently established in England; but as I happened at Manchester to act as the mouthpiece of my colleagues, and in various Press notices the attitude was seemingly misunderstood, it is as well to contrast the actual procedure in the French Tribunal de Commerce with that contemplated by these English chambers, especially as some of my respected friends schooled themselves into the belief that there was some analogy between the two ideas. In France, and also in Belgium, if A contracts with B to supply him goods to sample to resell, and B alleges default, he sues A in the commercial division, and procures a more or less speedy trial in a public Court of justice permanent in its character, with Government power behind it to peremptorily enforce its decrees. Among other advantages of this Court is that a special day is set apart for the hearing of cases arising out of negotiable instruments—a practice, I hope, that we shall adopt here; for I have

[1] Disputes arising out of contracts between merchants, bankers, or partners—Sales of produce or goods for re-sale or hire—Agreements for manufacture or carriage of goods—Sales by auction—Contracts for commissions—Transactions arising out of bills of exchange or remittances of money—Contracts to build or purchase vessels, or for the supply of rigging or stores—Charterparties, insurance, and other contracts concerning maritime commerce—Agreements for pay of crews, engagements of seamen for the merchant service, and all contracts between traders and their employés in relation to business.

never ceased expressing my regret that the Bills of Exchange Summary Procedure Act was undercut in this country on the allegation that Order XIV replaced it—obviously not the case, as the onus of an affidavit was shifted from the debtor to the creditor—a material difference. I myself am a member of the London Chamber of Commerce, and I confess that I welcomed the idea of giving a trial to this scheme of arbitration, which had the benefit of highly-reputed sponsors. I may say personally that I should have preferred to have seen it, if possible, tacked on to the jurisdiction of that useful institution, the Mayor's Court. When it accidentally fell to my lot to state publicly that the Council of the Incorporated Law Society could not see their way to officially recommend the profession to father the chamber (a very different matter from individual adherence), the two positions taken up by me were so distinct and yet reconcilable, that I did not anticipate any misapprehension would arise. I am not concerned to-day in justifying the course taken at Manchester, but if any evidence were required of the foresight of the decision of the executive of our society to remain passive, it is to be found in the *coup de grâce* contained in a recent leading article in the *Times*, undoing its powerful support to the venture when launched, and favourably advocating the new scheme propounded by the judges themselves for dealing with the commercial legal business of the country.

To return to the more immediate object of my paper, I have already drawn attention to several points upon which I submit that foreign procedure may be contrasted advantageously with our own. In many respects, especially in regard to delay, we are better off than our neighbours. The Long Vacation is practically from August 1 to September 30 (a better interval to my mind, enabling one here to avoid the conflict of Bank Holiday), but adjournments at all times are granted on the most flimsy pretexts, and procrastination is occasionally insufferable. I think that in the comprehensiveness of the labours of an English solicitor (and the continuous hold which the Court has over him) we are far ahead of our friends across the Channel; but I certainly feel justified in suggesting that we may borrow some useful hints in commercial cases from a practice based upon the Code Napoléon, which has been in operation in many places on the Continent for the best part of a century.—*Francis K. Munton in Law Journal* (London).

THE STOP WATCH SYSTEM.

Some time ago, Mr. James T. Carter, of the New York Bar, was asked to argue the elevated railroad cases before the Supreme Court. A number of distinguished counsel were engaged on one side or the other of the case. Mr. Carter may perhaps be said to approach as nearly as it is possible for any one man, to the position of leader of the American Bar. After the argument was over, during a conversation, he is reported to have made a statement substantially as follows: "I have had the pleasure of listening to a number of the leaders of your Bar in argument before the Supreme Court, and, if I may be permitted to say so, what has most struck me has been the breathless haste manifested in their style of argument." To this one of the aforesaid leaders replied: "Well, Mr. Carter, you are not accustomed to the discipline which brings you under the wire in obedience to a stop watch."

In connection with this subject the following appears in Judge Dillon's work, entitled 'Our Law in its Old and New Home, 1894.' "It must be admitted that the temptation to apply the 'Stop Watch doctrine' must be very strong. Scores of cases go up on appeal that either have no merit or which have been fully and fairly considered below; cases which involve no new principle, and which turn on mere horn book law. The trifling cost of taking a case up, the fact that appellant does not even have to pay for printing of the paper books of appellee, whom he has dragged into litigation, with several other considerations, all have a tendency to provoke improvident appeals. Parties will gamble on the chances when they can do so without responsibility for the costs of the game. For the bulk of these cases the half hour limit is abundant."

LEGAL ANTIQUITIES.—Bishop Burnet relates a curious circumstance respecting the origin of that important statute, the Habeas Corpus Act. 'It was carried,' he says, 'by an odd artifice in the House of Lords. Lord Grey and Lord Norris were named to be the tellers. Lord Norris was not at all times attentive to what he was doing; so a very fat lord coming in, Lord Grey counted him for ten, as a jest at first; but seeing Lord Norris had not observed it, he went on with this mis-reckoning of *ten;* so it was reported to the House, and declared that they who were for the bill were the majority, and by this means the bill passed.'—*Green Bag.*

Probate duty was paid on £57,085, as the value of the personal estate of the late Lord Hannen, who died on the 29th of March last.