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THE BEHRING SEA ARBITRATION.

The result of the Behring Sea dispute is worthy of the means employed to settle it. It is based upon the soundest principles of international law, and is in accordance with the views expressed by all competent authorities on the subject. Establishing, as it does, 'the freedom of the sea,' it places the comity of nations upon a firmer and broader foundation and it constitutes another historic precedent for the settlement of international questions by rational and peaceful means. 'Full, perfect, and final'—to quote the words of the treaty—the award of the arbitrators may not be, inasmuch as circumstances are almost certain to arise which will render it necessary for some judicial interpretation to be placed upon the rules which have been framed with the object of preventing the extinction of the seal and of enabling Indians 'not in the employment of other persons' to carry on their fishing operations in the way hitherto practised by them; but this want of perfection in the regulations does not affect the extremely satisfactory character of the decision of the arbitrators on the broad issues of the case. The chief claim of Great Britain, made not only in her own interests but in those of other nations, has been fully recognised, the essence of the award being an embodiment of 'the great principle lying at the root of the matter—the freedom of the sea'—to use the words in which the Attorney-General summed up the matter. The simple origin of the dispute, concerning which so much erudition and ingenuity have been expended, was the seizure by the United States of a British ship engaged in fur-seal fishing seventy miles from the shore, the United States contending that they possessed exclusive

jurisdiction over the Behring Sea. No doubt, in resisting this contention, Great Britain had a winning case, but none the less are Sir Charles Russell and Sir Richard Webster entitled to the praise of the public for the masterly fashion in which they did their work in Paris, and to the gratitude of the profession for having maintained so worthily, in the presence of eminent foreign jurists, the highest traditions of the English Bar. It is a matter for sincere congratulation that two men whose political opinions have absolutely nothing in common, and whose forensic conflicts have sometimes been fierce, should, when the interests of this country are concerned, join forces with readiness and ease, and conduct a complicated case in perfect unison. The manner in which the two leaders of the Bar presented Great Britain's claims has added not a little to the annals of the profession, of which for some years they have been most distinguished ornaments. The incisiveness and eloquence with which the Attorney-General addressed the Court of Arbitration in a speech that occupied ten days have increased even his brilliant reputation as an advocate and orator, while not less worthy of admiration were the profound learning and keen reasoning power displayed by his predecessor in office in combating the ingenious arguments of the distinguished counsel for the United States. It cannot fail to be gratifying to the profession to know that the persons engaged in the peaceful settlement of the Behring Sea dispute were, for the most part, lawyers—that to the legal profession belongs the honour of being most closely connected with an event which is universally recognised as an important step towards the general adoption of the principle of international arbitration. Lawyers, indeed, possess a special interest in all advances towards this great consummation. The spirit of law is utterly opposed to war. 'The flinty and steel couch of war' can never be the seat of justice, since the battle is to the strong and not necessarily to the just. Arbitration is the triumph of law, and the progress of the one must mean the ennobling of the other. The position of law officer must inevitably acquire additional importance if the practice of submitting international questions to Courts of Arbitration grows. The lawyer will, in some measure, supplant the soldier, the man of words succeed the man of blows; and although the black gown is never likely to catch the popular fancy as the red coat does, yet it is not unsafe to predict that when the conspicuous part which lawyers

have played, and must continue to play, in the progress of international arbitration has been fully realised by the masses, whatever want of appreciation of the legal profession may still linger among them will disappear and its honourable traditions and important functions be universally acknowledged.—*Law Journal (London.)*

COURT OF APPEAL ABSTRACT.

Procédure—Procureur-Général—Poursuites contre des corporations qui excèdent leurs pouvoirs—Désistement—Mandamus—Intervention—Suppression d'une rue—Qualité pour s'en plaindre—Articles 154, 997, *C. P. C.*

Jugé:—1. Le procureur général peut, sous l'article 997 du code de procédure civile, permettre l'usage de son nom et de sa qualité de procureur-général pour des poursuites de la nature de celles énumérées en cet article, mais il est le seul juge de l'opportunité ou de l'inopportunité de la procédure et de la question de savoir s'il convient ou non d'intervenir.

2. Même dans le cas où le procureur général refuserait, sans cause valide apparente, d'intervenir et de prêter son nom à la poursuite, les tribunaux ne peuvent pas le forcer de le faire.

3. Le procureur-général est toujours libre de se désister d'une semblable poursuite et de retirer l'autorisation de se servir de son nom.

4. Il n'y a pas de mandamus contre la couronne.

5. L'intervention n'est qu'un appendice de l'action principale, et son sort est liée fatalement à celle-ci en ce sens que si la demande a été irrégulièrement formée soit qu'elle ne remplisse pas les formalités voulues pour la validité des exploits, soit que les règles de la compétence aient été méconnues, soit encore qu'elle soit accueillie par une fin de non recevoir tirée du défaut de qualité du demandeur, d'autorisation, etc., l'intervention tombe avec l'action principale, quel que soit d'ailleurs le but de cette intervention.

6. Des propriétaires riverains qui ont été expropriés de tout leur terrain sur une rue et qui ont reçu, en sus du prix du terrain et des constructions, une somme fixe pour leur tenir lieu de tout dommage leur résultant de l'expropriation, n'ont pas un intérêt suffisant pour se plaindre de la suppression de cette rue.—*Atlantic and North West Railway Co. & Turcotte, & La cité de Montréal*, Montréal, Baby, Bossé, Blanchet, Hall, Wurtele, JJ., 23 décembre 1892.

SUPERIOR COURT ABSTRACT.

Procédure—Contestation d'élection municipale—Cumul.

Jugé :—Qu'on ne peut par un seul et même bref de *quo warranto* demander l'annulation de l'élection de plusieurs conseillers municipaux.

Que dans le cas d'un tel cumul, il sera ordonné au demandeur de déclarer contre lequel des défendeurs il entend procéder, et que son action sera renvoyée quant aux autres défendeurs.—*Bourbonnais* v. *Filiatrault et al.*, Montréal, Mathieu, J., 20 octobre 1892.

Prohibition—Dépôt—Déchéance— Art. 1074, § 5, *S. R. P. Q.*

Jugé :—Que l'article 1074, § 5, S. R. P. Q., ne prononçant aucune déchéance ou nullité des procédures sur un bref de prohibition, pour le défaut du requérant de déposer préalablement la somme requise par cet article pour garantir le paiement des frais de la partie adverse, ce dépôt pourra, avec le consentement du tribunal, être fait par le requérant subséquemment à l'émanation du bref, sur paiement des frais occasionnés par son défaut.—*Paquette & Desnoyers, & Lambe*, Montréal, de Lorimier, J., 19 août 1892.

Procedure—Examination of party—Art. 251*a*, *C. C. P.*

Held :—Where the defendant, before the inscription of the case for *enquête*, has been served with a subpœna to appear for examination on a day named therein, it must be presumed that it was the plaintiff's intention to examine defendant under the provisions of Art. 251*a*, C. C. P., before proceeding with his *enquête* under the inscription for *enquête* filed by him two days later. The defendant, therefore, is not dispensed from attendance in obedience to the subpœna, by the fact that he has moved to dismiss the inscription for *enquête*.—*Polette* v. *Brown*, S. C., Montreal, Tait, J., November 4, 1892.

Procedure—Alien—Summons—Art. 27, *C. C.*

Held :—Where an alien, not resident in the province of Quebec, is sued in its courts, for the fulfilment of an obligation contracted by him in a foreign country, the question is not one of jurisdiction but of due service of process, and if the defendant appears and does not attack the service made upon him by exception to the form he must be held to be properly before the Court.—*Baxter* v. *Sterling et al.*, Montreal, Wurtele, J., Sept. 19, 1892.

Lessor and lessee—Saisie-gagerie where no rent is due.

Held:—Where the lessee is removing or has removed his effects from the leased premises, the lessor has a right to issue a *saisie-gagerie* to preserve his *gage* whether any rent be actually due at the time or not.—*Dufaux et vir* v. *Morris*, S. C., Montreal, Davidson, J., January 29, 1892.

Hypothèque—Enregistrement—C. C. 2098—*Variante entre versions française et anglaise.*

Jugé:—L'effet de l'enregistrement du titre de l'acquéreur fait avant celui du titre de son auteur n'est que suspendu; l'enregistrement subséquent de ce dernier titre donne à celui de l'acquéreur son plein et entier effet, même à l'encontre des droits de l'auteur dont le titre n'a été enregistré que plus de trente jours après sa date.

Dans l'espèce, le demandeur ayant enregistré l'acte d'échange lui donnant la garantie sur les lots possédés par les défendeurs, un an après l'enregistrement de l'acquisition des dits lots par ces derniers, lui dit demandeur n'avait pas sur les dits lots, pour la dite garantie, une hypothèque qu'il put invoquer contre les défendeurs. (Andrews, J., diss.) *Sylvain* v. *Labbé et al.*, C. R., Québec, Casault, Routhier, Andrews, JJ., 30 sept. 1892.

Registration—Art. 2098, *C. C.*

Held:—The effect of article 2098 of the Civil Code is simply to suspend the effect of the registration of a real right granted by the acquirer of an immovable so long as the title of such acquirer has not been registered, but when the suspensive condition is fulfilled and the title of the acquirer registered, the priority as between real rights granted by him is governed by Art. 2130, C. C., and regulated by priority of registration. *Huet dit Dulude* v. *Laporte dit Denis, N. J. Laporte dit Denis*, collocated creditor, & *Alex. Laporte dit Denis*, creditor contestant, Montreal, Doherty, J., June 14, 1892.

Procedure—Action for rent and resiliation of lease accompanied by saisie-gagerie—Exception to the form.

Held:—An action for rent and resiliation of lease, which is accompanied by a *saisie-gagerie*, cannot be dismissed on an exception to the form based solely on alleged irregularities in connection with the seizure.—*Brewster* v. *Campbell*, Montreal, Davidson, J., February 24, 1892.

COLONIAL TITLES.

The following despatch from the Marquis of Ripon to the Earl of Derby appears in the *Canada Gazette:*—

DOWNING STREET, 15th June, 1893.

MY LORD,—The title of "Honourable" as conferred by the Queen in the Duke of Buckingham's despatch No. 164 of the 24th of July, 1868, upon certain persons in the Dominion of Canada and as appertaining to members of Executive and Legislative Councils in other colonies possessing responsible government, has generally been understood not to run beyond the particular colony, but in these cases Her Majesty has now, on my recommendation, been graciously pleased to approve of its use and recognition throughout Her Dominions.

In the Duke of Buckingham's despatch of the 24th of July, 1868, there was no express confinement of the use of the title within the Dominion of Canada, and you will understand that the persons upon whom it was thereby conferred will enjoy it throughout Her Majesty's Dominions for so long as they may be entitled to it.

I have, etc.,

(Signed,) RIPON.

Governor General,
etc., etc., etc.

LAWYERS AND MARRIAGE.

Marriage tends to get later and later, as the Registrar-General tells us. People who twenty years ago married at twenty-five, now put it off till thirty-five, and of all classes the latest to marry are lawyers. A doctor is bound to marry. Lady patients do not like an unmarried doctor. Clergymen, too, must marry, for a clergyman's wife is as essential a part of the parish as her husband. Moreover, the persistent worship of curates by young lady devotees is sooner or later fatal to the most determined celibate. A lawyer, professionally speaking, is none the worse for being unmarried. Ambitious men, (and ambition is the besetting sin of lawyers) think themselves very much better without it. A variety of qualifications for getting on in that profession have been enumerated,—influential connections, "devilling," writing a book, and not possessing a shilling,—but marriage

is not numbered among them, unless it be the pseudo marriage of the song, with a solicitor's "ugly elderly daughter." Hence marriage to an unrisen lawyer is a luxury, and an expensive one. We hear much of the uncertainty of the law, but its uncertainty as a source of income is undeniable. When Lord Bacon spoke about giving hostages to fortune, he was probably thinking of his own profession. Certainly he did not commit the imprudence of early marriage himself, for he was forty-five before he found the "handsome maiden to my liking," whom he married, and who afterwards incurred his deep displeasure by flirting with his gentleman usher, or whatever else was the "great and just cause" for which he disinherited her. And the "handsome maiden" he took care should be one with a handsome portion too. But Bacon was of a cold nature, and like many others he waited too long. "I'm no for a man marrying," says Mrs. Poyser in "Adam Bede," "before he's old enough to know the difference between a crab and an apple; but he may wait ower long, and then he's like a man that goes past his dinner-time, and he turns his meat ower and ower wi' his fork, and finds fault wi' the victual when the fault's wi' his own inside." There are many men who are predestined old bachelors, like the eminent lawyer mentioned in Sergeant Robinson's Reminiscences, who said "he was born a bachelor, and in that persuasion he intended to remain." Selden, himself a great lawyer, was one of this type. In his "Table Talk," he calls marriage "a desperate thing." "The frogs in Æsop," he says, "were extremely wise. They had a great mind to some water, but they would not leap into the well because they knew they could not get out." This is rank misogyny. Even Lord Campbell contemplated a solitary old age with dismay. Over and above professional prudence or ambition, there may be a want of susceptibility on the part of lawyers to the tender passion. Their energies, to put it physiologically, all run to brains, leaving the emotional or sentimental part atrophied. Lawyers, at all events, are credited with hard hearts as well as hard heads. "Gentlemen of your profession," said Mr. Pickwick to Sergeant Snubbin, "see the worse side of human nature. All its disputes, all its ill-will and bad blood, rise up before you." "You must admit," said a doctor, addressing Bobus Smith, Sidney's lawyer brother, "that your profession doesn't make angels of men." "No," replied Bobus; "your profession gives them the first chance of that." On the other

hand, there is a great deal of truth in the saying that a man never settles down to work till he gets married;—ranges himself, as the French say. Lady Hardwicke often humorously laid claim (as she had good right to do) to so much of the merit of Lord Hardwicke's being a good Chancellor, in that his thoughts and attention were never taken from the business of the court by the private concerns of his family, the care of which, the management of his money matters, the settling all accounts with stewards and others, and above all, the education of his children, had been wholly her department and concern, without any interposition of his, further than implicit acquiescence and entire approbation.

If marriage, too, brings responsibility, it furnishes a new incentive. John Scott would never have become Lord Eldon, unless he had run away with "his Newcastle beauty," Miss Surtees. "I have married rashly," he writes; but it is my determination to work hard for the woman I love." This was the right spirit; and work hard he did, getting up at four o'clock to read law, and wrapping his head in wet towels. Yet these laborious days in Cursitor street, when he slipped out at night to Fleet market to get six penny worth of sprats for supper, were among the happiest in his life. His labors were lightened by the constant companionship of his amiable and beautiful wife, who accustomed herself to his hours, and would sit up with him silently watching his studies. "There is nothing," he afterwards said, "does a young lawyer so much good as to be half-starved." When Erskine made his brilliant début in *Rex* v. *Baillie*, he was asked how he had courage to stand up so boldly against Lord Mansfield. He answered that he thought his little children were plucking his robe, and that he heard them saying, "Now, father, is the time to get us bread." Marriage, too, had a good deal to do with the success of Lord Truro, not to speak of improving the then over-convivial habits of the circuit bar. When Wilde (Lord Truro) joined the Western Circuit, he was an invalid, and travelled with his wife. He rarely dined at the circuit mess, and devoted the entire evening to his briefs. This compelled a corresponding alteration of habits in others; and a popular leader, afterwards a distinguished judge, is reported to have said to him, "I'll tell you what it is, Wilde, you have spoiled the circuit. Before you joined us we lived like gentlemen, sat late at our wine, left our briefs to take care of themselves, and came into

court on a perfect footing of equality. Now all this is at an end, and the assizes are becoming a drudgery and a bore."

Lord Campbell had a poor opinion of lawyers' matrimonial choice. "Generally speaking," he says, "the wives and daughters of lawyers are nothing by any means to boast of. Barristers do not marry their mistresses so frequently as they used to do, but they seldom can produce a woman that a man can take under his arm with any credit." This is certainly a monstrous libel. Lord Campbell might have remembered that the wife of the judge whose decisions he reported, Lord Ellenborough, had been a reigning beauty and a toast; that the wife of his great rival, Lord Lyndhurst, was one of the chief ornaments of London society; that the wife of his friend, Lord Tenterden, was all that a wife could or should be; that it was despair for the death of an amiable and accomplished and too well-beloved wife which had caused Sir Samuel Romilly, in a "horrible dismay of soul," to take his own valuable life; to say nothing of Lady Abinger, Lady Denman, and Lady Hatherley. One of the most pleasing incidents in the life of the late Lord Hatherley is that which illustrates his attachment to his wife :—

Some years before his death Lord Hatherley, having to attend the Queen as Lord Chancellor, was bidden to stay as her Majesty's guest after the business for which he had come was finished. He betrayed some hesitation at this command, and being pressed to explain, told her Majesty that it was the first occasion in his married life on which he had passed twenty-four hours away from Lady Hatherley. The Queen allowed him to depart, and graciously commanded that the next time the Lord Chancellor visited her he should be accompanied by Lady Hatherley.

"Hatherley," said Lord Westbury, "is a mere bundle of virtues without one redeeming vice."—*Law Gazette.*

COLLISION—RE-HEARING.

In the case of *The Cynthia* v. *The Polynesian*, July 3, 1893, before Sir Francis Jeune, President of the Probate and Admiralty Division, Dr. Raikes, on behalf of the owners of the *Polynesian*, made an application under peculiar circumstances which, in the report of the *London Times* are stated as follows:—Some years ago a collision occurred in the River St. Lawrence between the Polynesian and the Cynthia. The latter sank, and the Polyne-

sian was considerably damaged. Proceedings were commenced in this country, but before they had proceeded far action was commenced in the Vice-Admiralty Court in Lower Canada, and there the case was tried. The decision of the Canadian Court was that the Polynesian was solely to blame. Her owners proposed to appeal to the Privy Council, but the case was settled on the Polynesian undertaking to pay 50 per cent. of the Cynthia's damage. The action pending in this country was thereupon revived, and the case went to the Registrar and merchants in order that the amount of the damage might be ascertained. The owners of the Cynthia made an affidavit for this purpose, in which they stated that there was no salvage of the wreck; that it was impossible to find anyone to attempt it, and that the underwriters had determined that the abandonment of the wreck was the only prudent course. No doubt that affidavit was *bonâ fide*, and the owners of the Cynthia were under the impression that there would be no salvage. The Registrar consequently made his report on the basis that the vessel was a total loss. On that report the owners of the Polynesian had made payment; but they had quite recently ascertained, first of all by means of the newspapers, that one of the owners of the Cynthia had since undertaken to give something for the wreck as it lay, and for what might be recovered from the cargo. There was no doubt there had since been a substantial salvage. Under these circumstances he applied that the report of the Registrar might be re-opened, if necessary.

The President observed that the report had been made on May 13, 1891, and the money had been paid. Was there any decision showing in these circumstances that the matter could be re-opened?

Dr. Raikes cited the Franconia (3 P. D.), the James Armstrong (4 L. R., A. and E., 380), and the Thyatira (5 Aspinall).

Mr. Butler Aspinall, for the owners of the Cynthia, contended that the Court had no power to re-open the matter, that if such power existed it ought not to be exercised in the present case, and that by agreement between the parties, the owners of the Polynesian were estopped from this application.

In the course of the argument it transpired that the value of the property salved was about 160*l.*

The Court refused the application.

The PRESIDENT, in giving judgment, said, I have no real doubt

in this case as to what I ought to do. It was suggested in the first instance that there might be a question whether this fund when recovered might not belong in part to the Cynthia and in part to the other vessel, but I am unable to follow that. The real questions appear to me to be—first, whether I have jurisdiction under the circumstances to re-open this matter, and, secondly, whether I ought to do so. On the first point I have the gravest possible doubt whether I have the right to re-open this matter. It is quite true that before the Judicature Act cases have been cited to me where the questions were re-opened, and since the Judicature Act the case of the Thyatira, a case bearing a resemblance in some respects to this one, was re-opened, but in that case I don't think it could possibly be contended, and it is quite clear that Sir James Hannen did not think so, that the order was a perfected order. The principle seems to me clear that where an order has been perfected, the power of the Court to deal with it ceases. The question here of course is whether it has been perfected. If ever a proceeding of this kind came to an end, I should say this proceeding had come to an end. The Registrar's report was as long ago as May 13, 1891, money was paid on the strength of it, and distributed amongst the underwriters, and the matter came absolutely to an end, and that being so I should have no jurisdiction to interpose upon the other point. The Registrar had the affidavits of the owners before him, and came to a conclusion. The claim was for 26,000*l.*, 120*l.* for spare propellers, 23*l.* 2*s.* for something else, and the Registrar gave a sum of 20,000*l.* in round figures, and I very much doubt if he had known the facts, as we know them, whether that figure would have been substantially varied. But that is not the question I have to decide; the question I have to decide is whether, seeing the mistake was, in any way, a small one, that it was not discovered or thought of for a considerable time by either the owners of the Cynthia or by the owners of the other vessel, I ought to set aside an award made so long ago. Under such circumstances I am clearly of opinion that I ought not, and therefore this motion must be refused with costs.

THE LAW'S DELAY IN ENGLAND AND FRANCE.

A long-suffering Chancery judge had on one occasion an opportunity of commenting, in the presence of Dickens, on the latter's strictures on delays in Chancery. Fixing his eye on the novelist in Court (who, of course, could not answer back), he informed irresponsible writers in general that the true cause of the prolongation of suits in Chaucery was to be found in the perverseness of a 'parsimonious public'—who, with a population ten times greater, and litigation increased in proportion, were content to pay only the same number of judges as in the time of Edward III. There seems to be some show of reason in this judicial contention. It is not always mere wickedness of lawyers that causes the prolongation of suits. A good deal of comment has been made in the daily press on the length of the Chancery suit dating from 1740 which was the subject of an order recently. But this was merely a case of revival of a suit long dormant, claimants coming forward to prove their title to a fund in Court. It is not by any means the law's delay which is at the bottom of such proceedings as this. It is rather the exceeding, perhaps the excessive, scrupulousness with which the English law regards the sacredness of title by succession to property. In other countries the fund in Court would long since have escheated to the State as *bona vacantia*, if, indeed, it had not disappeared, with the Court itself and many other things, in a revolution.

In France a Republican constitution and a written code and a prohibition to the judges to legislate do not prevent the institution of suits based on claims dating centuries back. Not unusually, however, means are found of preventing a claimant from establishing his title against the State, which no doubt, must be disheartening to litigants with a turn for antiquarian research. It will be somewhat surprising to those who think everything in France is new to see the decision in the case of *Dame Roussel* c. *Gouvernement Français* (*succession Thiéry*) rendered in the Conseil d'Etat in August, 1891. The claim was against the Republic to a fund estimated at 640 millions of francs, dating from 1676—the days of the effulgence of the Roi Soleil.

A Frenchman, one Sieur Jean Thiéry, died in Venice in 1676, having among his property the considerable sum of '800,000 écus d'or Venitien à la Croix,' securely invested in the National Bank of Venice at 3 per cent interest. This sum is estimated in pre-

sent money at 9,920,000 francs. He made a will leaving this property to his relatives in France. These persons, however, could not be ascertained, and meanwhile the fund and accruing interest continued to remain for over a century in the custody of the Venetian Republic. In 1791 the Constituent Assembly of France remitted the question of heirship to the Tribunal of the Seine. In 1796, Bonaparte, commending the French troops in Italy, was instructed by the Directory to demand the millions of the Thiéry succession from the Venetian government, and to apply them—temporarily, it is supposed—to replenishing his military chest. Before the demand was complied with, the French troops took possession of Venice and abolished its ancient constitution. They also, it needly hardly be said, took possession of the public funds. On June 6, 1797, an official letter was sent by the Directory to Bonaparte recapitulating their letter of the previous year and adding: 'Tous ces fonds sont entre nos mains, l'Arsenal et la Banque sont en notre pouvoir; et la République Française est en droit d'en disposer selon sa volonté et ses intérêts.'

Although the Republic of St. Mark had vanished, the undaunted claimants to the property of the *de cujus* of 1676 remained, and now proceeded against the French Republic, as possessors of the Thiéry fund reclaimed from Venice. The decision of August, 1891, it is to be supposed, has ended this historic litigation. It is held by the Conseil d'État that the annexation of the Venetian Republic and the seizure of its public funds was an Act of State, giving rise to no recourse by private individuals against the supreme authority of France. 'Ce fait de guerre ne saurait donner ouverture contre l'État française à aucun retour ou action de la part des créanciers des dites caisses." This, no doubt, is the French way of saying that the Republic can do no wrong.

And so, for Dame Roussel, no debtor no debt. Venice and its liabilities have vanished together. Even lawyers cannot fail to be impressed with a sense of disproportion when they see applied to the once glorious Queen of the Adriatic and bulwark of Europe the every day maxim of the civil law applicable to private mortals, 'Actio personalis moritur cum personâ.'—*Law Journal* (*London.*)

MR. JUSTICE BLATCHFORD.

Samuel Blatchford, associate justice of the Supreme Court of the United States, died July 7, 1893. The deceased was appointed an associate justice of the Supreme Court of the United States, March 22, 1882, to fill the vacancy caused by the resignation of Justice Hunt. His grandfather, Samuel Blatchford, was an English dissenting minister, who came from Devonshire to the United States in 1795. His father, Richard Milford Blatchford, a native of Stratfield, Conn., was a school teacher, and still later counsel for the bank of the United States.

Samuel Blatchford was born in New York city, March 9, 1820, was educated at a boarding school at Pittsfield, Mass., and at the school of William Forrest, a well known teacher in New York, and at the grammar school of Columbia College. He entered Columbia College at the age of thirteen and was graduated in 1837, at the age of seventeen. He then became private secretary to William H. Seward, who had been elected governor of New York, and held the position until his resignation in 1841, when he was appointed military secretary on the staff of the governor. In the following year he was admitted to the bar, and practiced law in New York with his father and his uncle, E. H. Blatchford, until November, 1845, when he removed to Auburn, and became the law partner of Governor Seward and Christopher Morgan.

In 1854, removing to the city of New York, he formed a copartnership in connection with Clarence A. Seward and Burr W. Griswold, under the firm name of Blatchford, Seward & Griswold. May 3, 1867, he was appointed district judge of the United States for the Southern District of New York, in the place of Samuel R. Betts, who had resigned. March 4th, following, he was appointed circuit judge of the Second Judicial Circuit in the place of Alexander S. Johnson, deceased. In 1852 he commenced the publication of his series of reports of the Circuit Courts of the United States within the Second Circuit, and published 24 volumes.

As an admiralty judge, justice Blatchford ranked among the foremost in the land. As a patent lawyer he was clear-headed and sensible, determining, among other notable cases, the validity of letters patent for insulating telegraph wires by gutta-percha, and the liability of a common carrier for infringing a patent, when it carried the infringing article, which was to be sold at its

destination for use. Besides these he adjudicated numerous questions in bankruptcy, questions of copyright and libel, the power of the president to cancel a pardon before it had been delivered to the prisoner, the legality of the Brooklyn Bridge as a structure suspended over navigable waters, the validity of a statute of New York discriminating in rates of wharfage in favor of canal boats of the State, and many kindred controversies.

His appointment to the Supreme Bench by president Arthur was received with general approval. Justice Blatchford's accuracy, care, impartiality and firmness were conspicuous.

Chief Justice Fuller, when informed of his death, observed: "Justice Blatchford was a profound lawyer and judge. He was a man of indefatigable industry and of exact method. He was an especially able judge of admiralty and patent law, but was an able all-round jurist. He was greatly beloved by his associates, and the loss the Supreme Court sustains by his death is great."

GENERAL NOTES.

PHOTOGRAPHING THE WHITE CITY.—No man can estimate how much the financial affairs of the World's Exposition have been injured by the mistaken policy of the directors in refusing to allow the scientific and artistic photographers of the world to take negatives of the beautiful buildings of the White City, for the purpose of having them reproduced in the illustrated papers of the world, and by beautiful pictures and kind words making the people of every race not only familiar with the magnificent buildings, but creating a longing within their breasts to attend the Fair and behold its wonders for themselves; but no, the directors would not have it so. Had this been a private enterprise the proprietor would have met Mr. Beach of the *Scientific American* (and all like him) at its gates and welcomed him with heart and hand. The photographers and the illustrated press of the world came to help save from financial ruin the finest and greatest exposition that has ever been upon the earth, and they were kicked from its doors.—*Chicago Legal News.*

REMARKS AFTER VERDICT.—It has frequently been declared of late that the duties of a prosecuting counsel need to be defined, and the statement has been emphasised by the conduct of Mr. Charles Mathews at the conclusion of a murder trial at the Exeter Assizes. The prisoner, who was tried for murdering her illegi-

timate child, was acquitted, but Mr. Mathews was not content to let the matter rest with the verdict of the jury, and proceeded to give an utterly irrelevant account of the dark incidents of the woman's career. He expressed his conviction that 'it should be known' that the prisoner had given birth to three illegitimate children, that she had been charged with causing the death of her second child as well as of her third, and that, being acquitted of the charge of murder, she had been sentenced to fifteen months' imprisonment for concealment of birth. With perfect accuracy Mr. Justice Grantham described Mr. Mathews' observations as 'unusual,' but he made it clear that he thoroughly concurred in them, and that he was in some measure responsible for them, for he stated that he 'was anxious that the statement should be made, so that the prisoner might learn that these facts were known, and that if anything of the kind happened again the verdict of the jury would probably be very different.' These remarks are perilously near the famous verdict, 'Not guilty, but don't do it again.' But they may be strongly objected to on several more important grounds. If trial by jury is to retain its value, neither prosecuting counsel nor judge ought to qualify a verdict of acquittal by any irrelevant references to the prisoner's past. When the jury found the prisoner innocent the trial was at an end, and the counsel for the prosecution was not entitled to address the Court. The circumstances of any particular case may be very suspicious, but in nowise do they justify a serious departure from the elementary principles of our criminal procedure.—*Law Journal (London.)*

SPORT ON THE THAMES.—A curious case of shooting arose on the August Bank Holiday. Thomas Wyborn, paperhanger, of Fulham, went to Craven Steps, Hammersmith, with a shot-gun to seek sport on the river. There, he says, he saw a snipe flying across the river and he fired, and shot four men in a passing boat, one so badly that he lost an eye. They maintain that no bird was flying by, and that he aimed at them. To find a snipe off Hammersmith Bridge on an August Bank Holiday is an event calling for much proof, and to shoot at it when found a deed worthy of a mad ornithologist, and it is not surprising that the sportsman is charged with shooting with intent to murder, and runs great risk, whatever his real intent, of falling within *Regina* v. *Salmon*, 50 Law J. Rep. M. C. 25; L. R. 6 Q. B. Div. 79.—*Ib.*