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Editor.—JAMES KIRBY, D.C.L., LL.D., Advocate.
1709 Notre Dame Street, (Royal Insurance Chambers, opposite the Seminary.)

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Mr. Justice Stephen tried a case at Worcester, May 25, which raised an interesting question of criminal law. The prisoner, Mary Taylor, performed several operations upon one Alice Lightbund, a domestic servant who was *enceinte* and anxious "to get herself out of her trouble." The consequence was that a child was prematurely born, and died sixteen hours after birth. The prisoner was indicted for murder, and the jury, under the direction of the judge, found a verdict of manslaughter. The medical evidence proved clearly that death was due to feebleness in consequence of the premature delivery induced by the operations of the prisoner. The prosecution relied upon a case of *Regina v. West*, 2 Car. & K. 784, in which Mr. Justice Maule, under very similar circumstances, ruled that the crime amounted to murder. In the present case, the prisoner's counsel, Mr. Amphlett, asked Mr. Justice Stephen to reserve a case, on the ground that there was no evidence upon which the prisoner could be convicted of manslaughter. Mr. Amphlett said that neither he nor his learned friends knew of any authority which would support the ruling of the learned judge, that a person causing death in the act of committing, or intending to commit, a felony, was guilty of manslaughter and not murder. He submitted that the offence was either murder or nothing. The learned judge reserved his decision as to whether he should grant a case or not.

The Supreme Court of Kansas has given an opinion on the question as to when a legislative act signed by the Governor passes beyond his control and becomes a law. The Legislature of that State had passed a prohibition act. It was duly sent to the Governor, who signed it and deposited it with the Secretary of State. Some time after doing this the Governor sent a message to the Legislature saying that he had signed the bill, but made objections to several of its provisions. This circumstance gave rise to the question whether the bill had become a law. The Supreme Court decides in the affirmative. The Court says :—

"It is not claimed that the Governor signed the bill through mistake, inadvertence or fraud. On the other hand, the facts clearly show that he approved and signed the bill voluntarily and that he deposited it with the Secretary of State as a law of the State. After the bill, therefore, had been approved and signed by him and he had deposited the same with the Secretary it passed beyond his control. Its status then had become fixed and unalterable so far as he is concerned. His subsequent message was no part of his approval or signature, and whether his objections to the bill and his construction thereof after he had approved and deposited the same with the Secretary of State were good or bad is wholly immaterial. The act was regularly passed by the Legislature, was approved and signed by the Governor, was deposited with the Secretary of State, and therefore has received all the constitutional sanctions required to give it effect."

The Supreme Court of Pennsylvania the other day, was asked to decide as to the disposition of a reward of $500 offered by the city of Philadelphia for information leading to the recovery of a stolen child of one J. L. Claxton. It appeared from the evidence that the information of two persons combined led to the recovery of the child. One of them knew where the child was, but did not inform the police. The other told the police that the former knew something, and the police then obtained the information from her. The Court held that it was a case for an equitable distribution between the two claimants.

Mr. James Stirling, who has been appointed a judge of the High Court of Justice in the place of the late Sir John Pearson, was born in 1836, and educated at Trinity College, Cambridge, where he took his degree of M.A. in 1863. From 1865 to 1876 he was a reporter at the Rolls. Mr. Justice Stirling was Senior Wrangler at Cambridge. The previous instances of Senior Wranglers on the Bench are given by the *Law Journal* as follows :— Sir John Wilson, a judge of the Common Pleas (1786-1793), who was Senior Wrangler in 1761 ; Sir Joseph Littledale, a judge of the

Queen's Bench (1824-1841), Senior Wrangler in 1787; Lord Chief Baron Pollock (1844-1866), Senior Wrangler 1806; Mr. Bickersteth, afterwards Lord Langdale, Master of the Rolls (1835-1851), Senior Wrangler, 1808; Baron Alderson (1830-1857), Senior Wrangler, 1809; Mr. Justice Maule (1839-1855), Senior Wrangler, 1810.

THE LAW OF EVIDENCE.

The following is the text of Chapter 50, "An Act further to amend the law of evidence in certain cases," assented to June 2, 1886:—

"Whereas it is expedient to amend the law of evidence so as to render easier the proof of Provincial Statutes in certain cases: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

"**1.** In any criminal proceeding or any civil proceeding in respect of which the Parliament of Canada has jurisdiction in this behalf, where it becomes necessary or expedient to prove or give in evidence any statute of any province of the Dominion of Canada or of the late Province of Canada, passed either before or after the passing of "*The British North America Act*, 1867," the court or judge before whom such proceeding is pending, or being heard or tried, shall take judicial notice of any such provincial statute, in like manner and way, as if such statute was a statute of the Province where such proceeding is being heard or tried; and any copy of any such statute purporting to be printed and published by the printer authorized to print and publish the same, shall be receivable and received in evidence to prove the contents thereof in every court having cognizance of any such proceeding.."

OFFENCES AGAINST THE PERSON.

Chapter 51, "An Act to amend 'An Act respecting Offences against the Person,'" is as follows:—

"Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

"**1.** Section 25 of the Act passed in the Session held in the 32nd and 33rd years of Her Majesty's reign, intituled "*An Act respecting Offences against the Person*," is hereby amended by adding thereto the words following: "and in any prosecution of any person under this section, for refusing or neglecting to provide necessary food, clothing or lodging for his wife or child, his wife shall be competent to give evidence as a witness, either for or against her husband.

"(2) The person charged shall be a competent witness in his own behalf."

THE SEDUCTION ACT.

Chapter 52, "An Act to Punish Seduction, and like Offences, and to make further provision for the Protection of Women and Girls," reads as follows:—

"Whereas it is expedient to make further provision for the punishment of offences against chastity: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

"**1.** Any person who—

"(1) Seduces and has illicit connection with any girl of previously chaste character, or who attempts to have illicit connection with any girl of previously chaste character, being in either case of or above the age of twelve years and under the age of sixteen years, or—

"(2) Unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the offence that the woman or girl was an idiot or imbecile, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided.

"**2.** Any person above the age of twenty-one years who, under promise of marriage, seduces and has illicit connection with any unmarried female of previously chaste character and under eighteen years of age, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided.

"**3.** Any person who procures a feigned or

pretended marriage between himself and any woman, or any person who knowingly aids and assists in procuring such feigned or pretended marriage, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided.

"**4.** Any person who, being the owner and occupier of any premises, or having, or acting, or assisting in the management or control thereof, induces, or knowingly suffers, any girl of such age as in this section mentioned, to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally,—

(1) Shall, if such girl is under the age of twelve years, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned in any penitentiary for a term not exceeding ten years, or for a period of less than two years in any other place of confinement:

(2) If such girl is of or above the age of twelve and under the age of sixteen years, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided:

Provided, that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury before whom the charge shall be brought, that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years.

"**5.** No person shall be convicted of any offence under this Act upon the evidence of one witness, unless such witness be corroborated in some material particular, by evidence implicating the accused.

"**6.** In every case arising under this Act the defendant shall be a competent witness in his own behalf upon any charge or complaint against him.

"**7.** No prosecution under this Act shall be commenced after the expiration of one year from the time of committing the offence.

"**8.** Any person convicted of any offence declared to be a misdemeanor under this Act, shall be liable to imprisonment for two years in a penitentiary, or for a less term in any other place of confinement, in the discretion of the court having jurisdiction."

COURT OF REVIEW.

QUEBEC, April 29, 1886.

Coram CASAULT, J., CARON, J., ANGERS, J.

NOONAN *v.* NEILL.

Action to compel defendant to fence—Allegations—Evidence.

In a suit, brought to compel a defendant to fence a road, his private property, leading to his mill, in another municipality,

HELD, 1. *That it is necessary to allege that the defendant is proprietor of the mill, of which the road is an accessory, and, as such, is bound to make his portion of the fence of that road and has not done so, but also to conclude that the defendant should be declared to be the owner of that mill and of the road, its accessory, and to make the other and further necessary conclusions in such a case.*

2. *There being no proof, as required by article* 1218 *of the Civil Code, of the destruction, by fire or other accident, or otherwise, of the loss of the original of a notarial deed, duly enregistered, proof of the contents of such original notarial deed cannot be made by a copy of such original, certified to be true by the Registrar of the Registration division wherein it may have been enregistered.*

3. *That, in order to compel the defendant to separate, by a fence or otherwise, the road in question from the plaintiff's land, it was necessary that the plaintiff should have had recourse to the remedy provided for that purpose by Art.* 425 *and following of the Municipal Code.*

The following is the text of the judgment:

"Considérant que le demandeur n'a pas légalement établi que le défendeur était propriétaire du moulin, dont le terrain qu'il allègue dans sa déclaration être en la possession du dit défendeur, à titre de propriétaire, était un chemin accessoire, et comme tel une dépendance;

"Considérant de plus qu'au lieu de demander que le défendeur fût déclaré propriétaire de ce chemin connue sa propriété privée et obligé de le clôturer, ou autrement séparer,

de la propriété du dit demandeur, celui-ci n'a conclu qu'à la construction même de la clôture, construction, qui devait être requise et poursuivie conformément aux articles 425 et suivants du Code Municipal, le jugement prononcé en première instance, le 31ème jour de décembre 1885, est confirmé avec dépens; mais sauf recours au demandeur pour faire déclarer le dit défendeur propriétaire du dit chemin et obligé à le clôturer, ou autrement séparer, du terrain du dit demandeur."

Judgment confirmed.

Fitzpatrick & Dorion for plaintiff.

Caron, Pentland & Stuart for defendant.

(J. O'F.)

SUPERIOR COURT.

QUEBEC, April 22, 1886.

Before CASAULT, J.

GIRARD *v.* GIGNAC.

Negligence—Damages—Coercive imprisonment.

On the 22nd November, 1883, in broad daylight, the plaintiff, a clothes-washerwoman, earning her living by so washing in private houses, was passing, from one side of Fabrique street to the other side of that street, over one of the flagstone crossings, when the defendant, driving with very unusual speed down the street, his horse harnessed to a calèche, knocked the plaintiff down, ran over her, the consequence being that her arm and hand were very severely bruised and one of her fingers was dislocated.

The medical testimony disclosed the fact that, owing to an ulcerous sore that formed between the thumb and forefinger of the injured hand, she was unable, for over two months, to do any work. It also appeared in evidence that, instead of stopping to see whether or not he had injured the plaintiff, the defendant continued his course with unabated speed.

HELD:—*That a person, so inflicting bodily injury, can be constrained, by coercive imprisonment, to the payment of whatever compensation, in the shape of damages, may be awarded against him by the Court.*

The following is the text of the judgment:

"La Cour, ayant examiné la procédure et la preuve de record et entendu les parties par leurs avocats, la présente cause ayant été inscrite aux enquêtes et mérite en même temps;

"Considérant que le défendeur, par sa faute et négligence avec sa voiture, a renversé la demanderesse sur la voie publique, lui a infligé une blessure, qui l'a fait souffrir et l'a empêchée de se livrer à ses occupations habituelles pendant un temps assez considérable;

"Considérant néanmoins que le défendeur est charretier, dont, en l'absence de preuve au contraire, les moyens doivent être très-limités, condamne le défendeur, *même par corps*, à payer, à la demanderesse, $60, avec intérêt de ce jour et les dépens."

Tessier & Pouliot for the plaintiff.

F. X. Lemieux for the defendant.

(J. O'F.)

CIRCUIT COURT.

WATERLOO, Co. Shefford, April 13, 1886.

Before BUCHANAN, J.

CROSS et al. *v.* SNOW.

Prescription—Note made and payable in foreign country—Maker changing Domicile to Province of Quebec—Remedy upon Note—Matter of Procedure—C.C. Arts. 6, 2190.

1. *No action can be maintained in the Province of Quebec upon a promissory note made and payable in a foreign country, after the expiration of five years from the time when the defendant established his domicile openly and without any concealment in the province of Quebec,—whatever may be the time required to prescribe such note in the country where it was made. C.C. 2190.*
2. *The rule that the law of the place of the contract governs the contract, does not apply to the remedy or action upon a promissory note. This, being matter of procedure, is governed by the law of the place where the remedy is sought to be enforced (C.C. 6), and therefore no action can be maintained in the province of Quebec, upon a note which, though not prescribed by the law of the country where it was made, is prescribed by the law of the province of Quebec, where the action is brought.*

BUCHANAN, J.:—

The plaintiffs, as payees of a promissory

note for $59.90, sue the defendant as the maker of the same. The note is dated at St. Johnsbury, in Vermont, on the 25th Feb., 1878, payable there in seven months after its date, and consequently became exigible on the 28th Sept., 1878. The action was instituted on the 24th June, 1885, more than five years after such note was so due.

The plaintiff alleges that when this note was made, the defendant was domiciled in Vermont, and that the controversy must be governed by the laws of that State; that the defendant soon after came to this province where he has ever since been domiciled; that by the laws of Vermont, the defendant having left the State, prescription does not run against the note, and that the payment of the same may be enforced here. This state of the laws of Vermont is proved by a professional witness examined in the cause.

The defendant meets the suit by the prescription of five years under our code, and denies the legal propositions submitted by the plaintiff, to the effect that payment of a note in such a case could be enforced here.

The case cited, and relied upon by both parties, is that of *Wilson & Demers*, 14 L. C. J. 317; but there is a very material difference between that case and the present one. There the *motif* of the action was that the defendant had absconded to Canada and kept himself in concealment so that the plaintiff was not in a position to adopt his remedy, and upon the correct principle *contrà non valentem agere nulla currit prescriptio*, the Court condemned the defendant. Again, the prescription there invoked was under ch. 64 of the C. S. L. C., section 31, which was restricted to notes payable in Lower Canada, and it was a matter of doubt with one of the judges whether that prescription could apply to a note made and payable in a foreign country. In this case there is no pretence of evasion or concealment by the defendant, and it is admitted that the defendant left Vermont in 1879, and has since resided in this province, so that during all that time the Courts here were open to the plaintiff. Then the prescription under our Code makes no distinction as to the place of payment, and is absolute in its terms, and after five years (2267) denies any action or remedy thereon.

I am quite at one with the counsel for the plaintiff, in his contention that the law of the place of the contract governs the contract itself; but there is no issue here as to the contract as contained in the promissory note or any part of it. It is not contested that the contract is a good one, but what is denied is the remedy on that contract. Is that to be governed by the laws of this province, where the remedy is sought, or by the laws of Vermont?

It appeared to me at the hearing that the question being one as to the right of action here, it was one of procedure and regulated by our law. The plaintiff's right of action in Vermont still exists by reason of the law regulating prescription there. The defendant contends that by the law regulating prescription here the action has been barred.

I find that I am supported in my impression by that learned judge Mr. Justice Badgley who, in rendering judgment in the case of *Wilson & Demers*, says, "all such limitations are necessarily matters of procedure, that is, in the use of local Courts for the enforcement and defence of contentious litigation, and it is plain that if the law of a country will not allow its Courts to be used for a particular purpose, after the expiration of a limited period of time, this is a law of procedure which does not reach the merits of the contract. The foreign suitor coming into our Courts does not bring his foreign procedure with his contract. He, having resorted to our Courts and our procedure, is therefore subject to the restrictions and limitations of our local law (*lex fori*) which, in that respect, sets aside the limitation and incidents of the *lex loci contractus*."

Story, in his conflict of laws, expresses the same opinion, §576: "In regard to statutes of limitation or prescription of suits and lapse of time, there *is no doubt* that they are strictly questions affecting the remedy, and not questions upon the merits. They go *ad litis ordinationem*. § 577. It has, accordingly, become a formulary in international jurisprudence, that all suits must be brought within the period prescribed by the *lex fori*, otherwise the suit will be barred.

Pothier very properly treats prescription as a *fin de non recevoir*, and not so much as an extinguishment of the debt or claim as an extinguishment of the right of action. We find in Daniel I. §884: The time within which suit may be brought, is purely a question of the *forum*. The statute of limitations of the *forum* prevails, and no suit can be maintained if it be barred there, although by the law of the contract there was no limitation or a less restricted limitation. This doctrine rests upon the ground that the time of suit is purely a matter for local municipal regulation.

It is without doubt from these authorities that the question here mooted is one of procedure, as involving merely a remedy sought before our Courts, and by art. 6, C.C., it is declared that the law of Lower Canada is applied whenever the question involved relates to procedure. The question here does relate to procedure, and by our law the plaintiff's right of action is barred.

Again, by art. 2190, C.C., it is enacted that as regards promissory notes there may be invoked any prescription acquired from the time when the debtor becomes domiciled in Lower Canada. The defendant has been domiciled here more than five years since the note became due, and the prescription he invokes is specifically given to him by our Code, and no foreign law can over-ride that, and the action must be dismissed with costs.

Action dismissed.

D. Darby for plaintiffs.

C. A. Nutting for defendant.

COUR DE CASSATION (CH. DES REQUÊTES.)

19 avril 1886.

Présidence de M. BÉDARRIDES.

DUROIZANT v. BONNET.

Servitude—Eaux—Écoulement naturel—Fonds supérieur—Mode d'exploitation—Changement—Étang—Dessèchement—Pré—Fonds inférieur—Absence de préjudice—Digue—Travaux modificatifs.

Il n'y a point aggravation de la servitude du fonds inférieur, par cela seul que le propriétaire du fonds supérieur, en changeant le mode de son exploitation, a exécuté des travaux qui ont eu pour résultat d'accroître le volume d'eau, coulant par la pente naturelle des lieux vers le fonds inférieur, si du reste il n'en résulte pour ce dernier fonds aucun dommage sérieux.

Il en est ainsi spécialement au cas, où un ancien étang supérieur ayant été converti en pré, les eaux, provenant de cet ancien étang, ont été amenées, suivant la pente naturelle, sur une parcelle de terrain inférieure, sans causer à celle-ci aucun préjudice.

Le propriétaire de la dite parcelle inférieure est donc, en ce cas, justement condamné à faire exécuter, à ses frais, à une digue qu'il a établie sur son fonds, et qui arrête les dites eaux dans leurs cours, les modifications nécessaires pour permettre leur libre écoulement.

"La Cour,

"Sur le moyen unique du pourvoi tiré de la violation des art. 544 et 640 C. civ.:

"Attendu que l'art. 640,* sagement interprété, n'interdit pas au propriétaire du fonds supérieur tout changement et toute transformation dans son héritage; qu'il ne l'empêche pas de changer le mode de son exploitation, alors même que les travaux de transformation auraient pour résultat d'accroître le volume d'eau coulant, par la pente naturelle des lieux vers le fonds inférieur si, du reste, il n'en résulte pas un préjudice sérieux pour ce dernier;

"Attendu, d'autre part, qu'aux termes du § 2 du même art. 640, il est interdit au propriétaire du fonds inférieur d'élever une digue faisant obstacle à l'écoulement naturel des eaux;

"Attendu, en fait, qu'il résulte des constatations de l'arrêt attaqué que Bonnet, ayant converti en pré un ancien étang supérieur à la parcelle 361 appartenant à Duroizant, les eaux provenant de cet ancien étang ont été, suivant la pente naturelle, amenées sur la parcelle 361, sans qu'il y eût pour celle-ci un préjudice que Duroizant dans ses conclusions n'a jamais invoqués;

"Attendu que ces eaux ont été arrêtées dans leurs cours, par une pêcherie formant digue, élevée depuis moins de 30 ans, sur la parcelle 361;

"Attendu que la Cour de Limoges (29 avril

*Civil Code of Lower Canada, Art. 501.

1885), en prescrivant certaines modifications à la pêcherie pour permettre le libre écoulement des eaux, et en mettant à la charge de Duroizant les frais occasionnés par ces modifications, n'a fait qu'imposer justement à celui-ci les frais d'une réparation qui rendait nécessaire la construction élevée par lui ou ses auteurs en contravention de l'art. 640, § 2, C. civ.; que, par suite, l'arrêt attaqué n'a pas viole les articles visés au pourvoi, mais fait une juste application de l'art. 640 précite;

"Rejette."

NOTE.—V. conf. Cass. 31 mai 1848 (S. 48.1. 716—J. du Pal. 48.2.294—D. 48.1.154); 22 janvier 1866 (S. 66.1.68—J. du P. 66.159—D. 66.-1.272). *Adde:* Pardessus, Servitudes, no. 82 et suiv.; Daviel, Régime des eaux, no. 737; Duranton, t. V, no. 156; Demolombe, Servitudes, t. I, no. 39; Aubry et Rau, t. III, § 240, texte et note 21, p. 11; Laurent, Pr. de dr. civ., t. VII, no. 370.—*Gazette du Palais.*

LITTLETON ALIAS WESTCOTE.

So Camden calls the famous lawyer; wherefore, is thus explained by Sir Edward Coke:

"Thomas de Littleton" (or Lyttleton, or Luttleton,—the orthography of those days was vague), "Lord of Frankley, had issue Elizabeth, his only child, and did bear the arms of his ancestors, viz., argent a chevron between three escalop-shells sable.

"With this Elizabeth married Thomas Westcote, Esquire, the King's servant in court, a gentleman anciently descended, who bare argent a bend between two cotisses sable, a bordure engrayled gules, bezanty. [This sounds like the classical poem of the Jabberwock.]

"But she being of a fair and of a noble spirit, and having large possessions from her ancestors, De Littleton resolved to continue the honor of her name, and therefore prudently, whilst it was in her own power, provided, by Westcote's assent before marriage, that her issue inheritable should be called by the name of De Littleton.

"Thomas, the eldest of that issue, was our author, who bore his father's Christian name, Thomas, and his mother's surname, De Littleton, and the arms De Littleton also."

His three brothers, however, preferred the name of Westcote. Upon their mother's expostulating with them, and asking them whether they thought better of themselves than their elder brother, they answered that "he had a fair estate to alter his name, and "if they might share with him they would "do the like."

Coke thus goes on to record Littleton's career: "He was of the Inner Temple, and read learnedly upon the statute of W. II., *De donis conditionalibus.* He was afterwards called *ad statum et gradum servientis ad legem*, and was steward of the Court of Marshalsea of the King's household, and for his worthiness was made by King Henry VII. his sergeant and rode justice of assize the Northern Circuit; which places he held under King Edward IV., until he, in the sixth year of his reign, constituted him one of the judges of the Court of Common Pleas [and granted him 110 marks yearly, *ultra consuetem feodum, ut statum suum decentius teneret, et expensas sustinere voleret*, and moreover the sum of 106*s.* 10½*d.* for a robe and furs, and 66*s.* 6*d.* for a summer robe, called *linura*], and he then rode the Northamptonshire Circuit. He married with Johan, [widow of Sir Philip Chetwynd,] one of the daughters and co-heirs of William Burley, a gentleman of ancient descent, and bare the arms of his family, argent a fess checkie or and azure, upon a lion rampant sable, armed gules."

He wrote his celebrated "Tenures" at some time prior to 1480. There is doubt as to when they were first printed. Sir Edward Coke reasoned that they must have appeared in print for the first time in 1532; but later investigation has disclosed several editions before that time, the first being that printed by Lettou and Machlivia, without date, but probably about 1481. Since then there have been numerous editions of Littleton's Tenures (apart from Coke's Commentaries), the latest and best being that by Tomlins, published in 1841.

Coke considered the Tenures to be "the ornament of the common law, and the most perfect and absolute work that ever was written in any human science, and that it is a work of so absolute perfection in its kind, and as free from error, as any book that I

have known to be written of any human learning." But Hottoman (who was Hottoman?) criticises it thus:—"Libellum ita inconditè, absurdè, et inconcinnè scriptum, ut facilè appareat verissimum esse, quod Polydorus Vergilius testatus est, stultitiam in eo libro, cum malitiâ et calumniandi studio, certare." Even to one not familiar with Latin, Hottoman and Polydorus Vergilius would appear to differ somewhat from Coke in his estimate of the Tenures.

"The body of our author is honorably interred in the cathedral church of Worcester, under a fair tomb of marble, with his statue or portraiture upon it; . . . . and out of the mouth of his statue proceedeth his prayer *Fili Dei miserere mei*, which he himself caused to be made and finished in his lifetime."—*Soule's Legal Bibliography.*

THE LEARNED AND LABORIOUS COKE.

Sir Edward Coke (Cook the name was probably pronounced, for so his second wife and others of his acquaintance used to spell it, after the phonetic fashion of those days) was born somewhere about 1550, and lived until 1634—a good old age. How he lived and what he did—from the diverting circumstances of his birth to his dramatic colloquies with King James—may be found set forth at length in Campbell's Lives of Chief Justices, and elsewhere. The salient historical points of his life are well known; but it may point a moral to recall some of the trivial circumstances which illustrate his character.

In the first place, he set the bad example of rising too early and studying too hard. Every morning he rose at *three*. He read Bracton, Littleton, the Year Books, and the folio Abridgments of the Law, till the courts met at eight. He then went to Westminster and heard cases argued till twelve. After a short repast he attended readings or lectures, then resumed his private studies till supper time. Then he attended the moots, and afterwards shut himself up in his chamber and worked at his commonplace book until nine, when he went to bed. Evidently, he was not an eight-hour man.

He had a keen eye for the almighty dollar. He married twice, and each time "married money." He speculated largely and shrewdly in real estate. Besides his private practice, his fees, etc., as Attorney-General amounted to over $35,000 a year. His twelve children were therefore "well fixed" in this world's goods.

He ventured slowly and cautiously into legal authorship. He began taking notes in 1580, but did not bring out the first volume of his Reports until twenty years later. Eleven parts of the Reports appeared between 1600 and 1615; the twelfth and thirteenth were found in manuscript among his papers, and were published long after his death, as were also the Second, Third and Fourth Institutes. The First Institute (Coke on Littleton) was published in 1628.

He was an enthusiast in his profession—as witness the Preface to his Reports. Either he draws the long bow, or the Bar of his generation was more select than it is now; for he says, "I never saw any man of a loose and lawless life attain to any sound and perfect knowledge of the laws; and, on the other side, I never saw any man of excellent judgment in the laws but was honest, faithful, and virtuous."

His personal appearance was prepossessing. "His features were regular, and their expression engaging. His frame was vigorous and well proportioned; his air and manner, grave and full of dignity. In his habits of life he was temperate, laborious, and exact; neat in his dress, and studious of the cleanliness of his person."

An agreeable tinge of gossip may be given to this brief notice, by concluding with an extract from Sir Francis Bacon's "Expostulation," addressed to Coke on his removal from the chief-justiceship, in 1616:—

"First, therefore, behold your errors. In discourse you delight to speak too much, not to hear other men. . . . Secondly, you cloy your auditory when you should be observed; speech should be either sweet or short. . . . Thirdly, you converse with books, not men; and have no excellent choice with men, who are the best books. . . You are wont to praise or disgrace upon slight grounds, and that sometimes untruly. You will jest at any man in public, without respect of the person's dignity or your own. You make the law to lean too much to your opinion, whereby you show yourself to be a legal tyrant. . . . Your too much love of the world is too much seen, when, having the living of a thousand, you relieve few or none: the hand that has taken so much, can it give so little?"—*Ibid.*