THE

LEGAL NEWS.

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CURRENT TOPICS AND CASES.

The appeal list at Montreal, after showing a steady increase for several years, dropped last month to 99 cases, —only ten new cases having been put on the roll since the November term. In January, 1891, the number of inscriptions on the printed list was 86; in January, 1892, it was 118; in January, 1893, it was 138. The January list of 1894 brings it nearly back to what it was in 1891. A peculiarity of the last list was that out of 99 cases, only 19 were indicated as ready for hearing. In 80 cases the factums were not filed, and, under the rules of the court, these cases could not be called for hearing, with the exception of two or three in which the factum on one side only was lacking.

The consequences of this state of the list were very soon apparent. On the third day of the term the seventeenth case on the list was reached, and from that day forward cases were called in any order in which counsel could be induced to argue them. There being no privileged cases, and no very long case to impede progress and afford the other members of the bar a chance to get their factums ready, the Court, on the ninth day of the term, was hearing cases which stood near the end of the printed

list. On the forenoon of the tenth day judgments in cases standing over were rendered, and the court adjourned two days before the regular closing day. The list was cleared of about forty cases in all, including those settled and discontinued. Unless unusual activity is shown in the institution of appeals during the next six weeks, the March list will not much exceed 70 cases, which will nearly all be disposed of before the long vacation, leaving the September list entirely unincumbered by appeals of the year 1893.

The trial of Hooper for murder ended, as was generally anticipated, in a verdict of "not guilty." No trace of poison was detected by the expert intrusted with the analysis of the contents of the stomach of the supposed victim, and, owing to some unfortunate blundering in the *post mortem* examination, the actual cause of death was left in doubt; for it was admitted by the Crown that the symptoms, while agreeing with those of poisoning by prussic acid, were not inconsistent with the theory of death from fatty degeneration of the heart, and the *post mortem* examination was not minute enough to negative this hypothesis. The jury, therefore, could not do otherwise than render a verdict of acquittal. It is evident that greater care must be taken in the future in the examination of bodies, where foul play is suspected. It is possible, as far as can be judged at present, that a proper *post mortem* examination in this case might have saved the Crown the necessity of a costly investigation and useless trial.

In *Molson & Barnard*, Montreal, January 25th, 1894, the Court of Appeal maintained the doctrine of the immunity of a witness, for statements made under examination, unless gross malice has been apparent in the witness' deposition. This goes somewhat further than the recent

decision of the Court of Review at Montreal, in *Hibbard* v. *Cullen*, where the Court seemed inclined to hold the witness to a stricter responsibility for his answers under examination. The view taken of the question by the Court of Appeal differs little from the opinion expressed by Mr. Justice Davidson in giving the original judgment in *Hibbard* v. *Cullen*, R. J. Q., 3 C. S. 463. Mr. Justice Davidson said: "A witness is punishable for perjury, but may not be assailed by civil writs." In *Molson & Barnard* the Court of Appeal reversed that portion of the judgment of the Court below, which condemned Mr. Molson in damages for offensive statements made by him in his deposition with reference to Mr. Barnard.

The Monson trial, in Scotland, in one respect resembled that of Hooper in Canada: the evidence for the Crown left some doubt whether a crime had been committed. In the Monson case the Scotch verdict of "not proven" was found. Does this admit of his re-arrest and re-trial for murder? The London *Law Journal* says:—"In spite of the curious silence of the law of Scotland upon the point, there would appear to be little doubt that Monson has 'tholed his assize,' and that he is now, in the quaint language of Caledonian law, 'forever free from all process or question' touching the alleged murder, or attempted murder, of Lieutenant Hambrough.

The Court of Appeal at Montreal, (January 25th, 1894), in confirming, by three to two, the decision of Tait, J., in *Pullman Car Co. & Sise*, R. J. Q., 1 C. S. 1, did not consider it necessary to decide whether companies supplying accommodation to the public by means of sleeping cars attached to railway trains, occupy the same position as hotel-keepers, as regards responsibility for occupants' luggage. The majority of the court held that the

company were responsible by reason of the gross negligence proved against them, while the minority differed on the question of fact. It would have been more satisfactory to have a decision on the question of law, but when that comes to be decided it may be found that it does not give rise to very serious difficulty.

The serious illness of Sir Francis Johnson during the past month has been the cause of much anxiety to his friends. The learned Chief Justice of the Superior Court last year suffered during several months from a severe attack of influenza, and this second illness ensuing before he had regained his usual strength, has reduced him to a condition of extreme weakness, which is not without danger in view of his advanced age.

NEW PUBLICATION.

THE CRIMINAL CODE OF CANADA, and the Canada Evidence Act, 1893, with an extra appendix containing the Extradition Act, etc., by James Crankshaw, Esq., B.C.L., Advocate etc, Montreal: Whiteford & Theoret, Publishers, 1894.

This work, the publication of which was briefly noticed in our last issue, is designed to give a complete general view of our criminal law and procedure, and is intended for the everyday use of judges, magistrates, advocates and others concerned in the administration of justice. The author states in his preface that to this end, in the preparation of the notes and comments, appropriate references have been made to, and extracts taken from the leading English, Canadian and American authors and reports, as well as from Imperial and Canadian statutes, and the English Draft Criminal Code with the report of the Royal Commissioners thereon. Forms of indictment,

etc., are placed at the end of the titles to which they appertain. Among other matter given in the appendix may be found the debates on the Criminal Code in the House of Commons, in 1892.

This work, though in part anticipated by that recently noticed, from the pen of Mr. Justice Taschereau, contains features which merit the favorable consideration of the bar. The authorities cited, and the illustrations given cannot fail to be of great assistance in the elucidation of the text. The labor involved in the preparation of a book of nearly one thousand pages will be adequately appreciated by few. That it has been successfully executed the work before us bears testimony. The arrangement, it may be observed, is careful and methodical, and the typography clear and satisfactory. Mr. Crankshaw must be congratulated upon his successful achievement.

GARANTIE DE FOURNIR ET DE FAIRE VALOIR—RECOURSE OF TRANSFEREE.

The following notes were prepared by Mr. Justice Loranger in the case of *Boisvert* v. *Augé*, in Review, Feb. 13, 1892, reported in R. J. Q., 2 C. S. 177:—

LORANGER, J.:—Il s'agit de savoir quelle est l'étendue de la garantie du cédant sous la clause de fournir et faire valoir.

L'obligation transportée est du 15 octobre 1872. pour $600 payable avec intérêt à 8 p. c. par installements annuels de $100 à commencer le 18 octobre 1873. Le transport est du 9 janvier 1893, dix mois avant l'échéance du premier paiement; il a été fait par le défendeur créancier du nommé Isidore Augé, débiteur de la dite obligation, au nommé John L. Clarke. Ce dernier étant décédé, sa légataire universelle a transporté la créance au demandeur actuel. Ce dernier transport est du 21 mars 1882, quatre ans après l'échéance du dernier paiement. Le débiteur a été régulièrement saisi des deux transports. Il a payé du vivant de Clarke une somme de $400 en différents paiements à partir du 13 février 1874 à aller au 22 novembre 1878.

Le demandeur n'a réclamé en justice le montant qui lui était dû, que le 28 février 1883, et son jugement est du 11 février 1884.

Le 16 juin 1884 la banque St-Hyacinthe a fait vendre sur le défendeur l'immeuble sujet à l'hypothèque donnée comme sûreté de la créance transportée, et le demandeur n'a été colloqué que pour une partie des frais qu'il avait encourus sur son action contre le débiteur Isidore Augé. Il avait lui-même discuté les meubles dans le mois de mars précédent et il y a eu carence. Le demandeur a essayé une seconde fois en décembre 1886 de faire exécuter son jugement, et il y a eu également retour de *nulla bona*. Il s'adresse maintenant au défendeur le cédant, et alléguant l'insolvabilité du débiteur, il réclame le montant dû sur le transport et les frais encourus sur la discussion des biens du dit Isidore Augé. Le montant total est de $908.69.

Le défendeur plaide que le débiteur, Isidore Augé, était solvable lors du transport à Clarke et aux échéances mentionnées dans l'obligation ; que le demandeur et son auteur ont perdu par leur négligence et incurie, l'occasion de se faire payer en temps convenable, et qu'il se trouve en conséquence déchargé.

La cour en première instance a jugé que la garantie du cédant ne s'étend pas au-delà de l'époque convenue pour l'exigibilité de la dette, mais comme matière de fait, a trouvé que le débiteur, Isidore Augé, était insolvable à chacune des échéances de l'obligation transportée, et elle a condamné le défendeur. Nous partageons l'opinion de l'hon. juge de première instance et croyons que la garantie du cédant ne s'étend pas au-delà de l'exigibilité de la dette. C'est une erreur de l'assimiler à la caution, et les articles de notre code qui concernent la caution n'ont pas leur application au cas actuel. La différence est en effet importante. Dans le cas de cautionnement, le créancier peut toujours s'adresser directement à la cour et il n'est tenu à la discussion que lorsqu'il est mis en demeure de le faire, et quand on lui a offert les frais nécessaires à la discussion du débiteur ; tandis qu'au contraire le cessionnaire, qui est le maître absolu de la créance cédée, le seul porteur du titre, est obligé de voir à sa conservation. C'est à lui qu'incombe le devoir de protéger la créance, et s'il ne le fait pas et qu'elle devienne perdue par son propre fait, la perte est pour lui.

Telle est la doctrine enseignée par Loyseau, sous l'ancien droit et reconnue par la majorité des auteurs modernes, entr'autres M. Troplong, nos 939 et suivants, de son traité de vente.

Etant admis que le défendeur n'a garanti la solvabilité du débiteur, Isidore Augé, que jusqu'à l'échéance des paiements, il reste à savoir si à ces différentes époques Isidore Augé était solvable et si le cessionnaire a fait les diligences nécessaires en temps utile. C'est là une matière de fait sur laquelle un certain nombre de témoins ont été entendus contradictoirement.

La cour de première instance a jugé que l'insolvabilité d'Isidore Augé avait été prouvée aux différentes époques des paiements.

Nous trouvons que la cour a erré dans l'appréciation des faits: Isidore Augé possédait l'immeuble qu'il a hypothéqué comme garantie du paiement de l'obligation transportée. Cet immeuble valait suffisamment pour protéger la créance, puisque le créancier s'est déclaré satisfait de la garantie qu'il recevait. Il est prouvé en outre qu'il tenait un magasin; qu'il avait le roulant nécessaire pour les fins de son commerce, et qu'il exploitait un moulin à scie,—sans être riche il jouissait d'assez de crédit pour faire face à ses affaires. Il me paraît résulter de la preuve que si à l'échéance de chacun des paiements, c'est-à-dire le 18 octobre 1873 et les années suivantes, on avait exigé les $108 qui étaient dues, au lieu de laisser arrérager les échéances, le cessionnaire aurait pu se faire payer:

Comme matière de fait, il a payé $400 sur le capital de $600, et les intérêts échus depuis 1872 jusqu'à 1878, date du dernier paiement.

Il est en preuve que le demandeur lui-même a fait des affaires avec Isidore Augé après l'échéance de la dite obligation; il lui a avancé du bois et d'autres effets pour son moulin, pour un montant s'élevant à $162. Ces avances ont été faites en février et mars 1882; la dernière est du 10 mars et le transport de la créance au demandeur est du 21 du même mois. Aussi, lorsque le demandeur s'est porté acquéreur de la créance il reconnaissait qu'Isidore Augé était solvable puisqu'il faisait des affaires avec lui à crédit. Pourquoi ne l'a-t-il pas fait payer dans le temps? Pourquoi a-t-il attendu jusqu'au mois de février de l'année suivante pour prendre son action? La preuve nous le dit, c'est que dans l'intervalle le moulin que le demandeur exploitait a été incendié; ce qui, naturellement, a porté le désordre dans ses affaires. C'est alors seulement que le demandeur s'est décidé à faire valoir sa créance en justice. Il était malheureusement trop tard; Isidore Augé était devenu insolvable et toutes les diligences que le demandeur a pu faire n'ont produit que des frais qu'il voudrait maintenant faire payer au cédant.

Nous croyons que, sous les circonstances, le cédant est relevé de son obligation et qu'il y aurait injustice à le contraindre à payer une créance perdue par la faute et la négligence du cessionnaire.

Le jugement est en conséquence infirmé avec dépens de la cour de première instance et de cette cour.

EXCHEQUER COURT OF CANADA.

OTTAWA, January 9, 1894.

Coram BURBIDGE, J.

Ottawa.] THE QUEEN v. PERMELIE LA FORCE.

Scire Facias to repeal a Canadian patent—Prior foreign invention unknown to Canadian inventor.

The pneumatic tire as applied to bicycles came into use in 1890. It consisted of an inflatable rubber tube with an outer covering or sheath, which was cemented to the under surface of a *U*-shaped rim similar to that which had been used for the solid and cushion rubber tires which preceded it. This tube was liable, in use, to be punctured, and as the sheath was cemented to the rim of the wheel, it was not readily removable for the purpose of being repaired. La Force's invention met that difficulty by providing for the use of a rim with the edges turned inward so as to form on each side a lip or flange, and of an outer covering or sheath, to the edges of which were attached strips made of rubber or other suitable material, which fitted under such lips or flanges and filled up the recess between them. When the rubber tube is not inflated, this tire may readily be attached to or removed from the rim of the wheel, but when inflated the covering or sheath is expanded and the outer edges of the strips attached thereto are forced under the flanges of the rim, and the whole securely held in position by the pressure of the inflated tube upon such strips.

The defendant's assignor hit upon this idea in April, 1891, and in company with his brother made a section of a rim and tire on this principle in May following. On the 3rd of August, in the same year, he applied for a patent therefor in Canada, and on the 2nd December following obtained it. In March, 1891, Jeffery, at Chicago, in the United States, conceived substantially

the same device, and confidentially communicated the nature thereof to his partner and patent solicitor. On the 27th of July, he applied for a United States patent, and on the 12th day of January, 1892, such patent was granted to him. On the 5th of February, 1892, he applied for a Canadian patent, which was granted to him on the 1st of June, in the same year.

When, in May, 1891, LaForce's conception of the invention was well defined there had been no use of the invention anywhere, and the public had not anywhere any knowledge or means of knowledge thereof.

Held, that the fact that prior to the invention of anything by an independent Canadian inventor, to whom a patent therefor is subsequently granted in Canada, a foreign inventor had conceived the same thing, but had not used it or in any way disclosed it to the public, is not sufficient, under the Patent laws of Canada, to defeat the Canadian patent.

Baxter v. *Howland*, 26 Grant, 135; and *Smith* v. *Goldie*, 9 Can. S. C. R. 46, followed.

2. That the drawings annexed to a patent may be looked at by the Court to explain or illustrate the specification. *Smith* v. *Ball*, U. C. Q. B. 122, followed.

W. Cassils, Q.C., and *Gormully, Q.C.*, for relators.
Ritchie, Q.C., and *Ross*, for respondents.

LIBELS BY LIBRARIANS.

Martin v. *The Trustees of the British Museum* raises a question of great public interest—viz. whether the preservation, in a public department, of a book containing defamatory statements is equivalent to the publication of a libel, and whether such publication is privileged. We have not the slightest intention of discussing the particular books said in this case to contain defamatory matter, and shall confine ourselves to considering the results of a decision adverse to the Museum.

By law, all publishers of books must send a copy to the Museum. They are under no legal obligation to publish libels; but if they do so they are sending a copy to the Museum in pursuance of a public duty. But the liability of the Museum, if any, must rest on other considerations—viz. on cataloguing and rendering available to readers the books sent to them. The Museum, and to

some extent free public libraries, stand in a different position from Mudie's and Smith & Son's, and other libraries conducted for profit. Whether the Museum is privileged absolutely, or by the occasion, must depend on whether under the charters and statutes constituting the Museum they are bound to give facilities for reading, and to publish to that extent the books sent to them. A possible distinction may be taken between British and foreign works, inasmuch as the Copyright Acts, apart from conventions, do not apply to the latter; but here also the answer to the question must be sought in the statutes and charters. If it is decided that the Museum is not absolutely privileged, we shall be in this curious position: that any person who has been defamed in any book will be able to insure the destruction of all record of the defamation, even in the National Library, and, moreover, the authorities may at any moment be indicted for obscene libel in respect of the undeniably numerous works on their shelves which are unsuitable for general reading. The reasons for stopping general circulation of a libel are obvious; but they are inapplicable to a national repository of all published books, and, if they had been applied in the past, many manuscripts and documents which have been of the greatest value to historians would have been ruthlessly destroyed. If, therefore, the ultimate result of the litigation now pending is unfavourable to the Museum, as on the general principles of the law of libel and the particular decision of the Divisional Court seems possible, legislation will undoubtedly be necessary to protect the National Library, and such legislation will not really prejudice any living person.—*Law Journal* (London).

RIPARIAN RIGHTS.

A point of some interest and novelty on the subject of riparian rights was considered in the Scotch appeal case of *Young* v. *The Bankier Distillery Company*, L. R. (1893) App. Cas. 691. Some sixty years ago the company, the respondents to the appeal, established a distillery on the banks of the Doups Burn, in the county of Stirling, attracted apparently by the soft character of the water. The appellants, the lessees of certain mines, had taken to pumping water from these mines into the Doups Burn at a point above the distillery. The water so added to the stream, which would not otherwise have flowed into it, was perfectly

pure, but hard in quality, and rendered the water of the stream less suitable for distilling purposes. The House of Lords, affirming the Court of Session, held that the appellants had no right to introduce what they described as "foreign" water into the stream with this result; but a point of much wider interest was discussed—that is to say, whether a riparian proprietor when he uses the water of the stream itself for what are called "secondary purposes," such as the manufacture of some particular produce, and afterwards restores it to the stream, has a right to restore it in an altered chemical condition so long as it is pure and fit for ordinary purposes. On this point the Court of Session thought that the upper riparian owner might alter the character of the water so long as he returned it fit for the ordinary purposes of a running stream. The House of Lords distinctly dissented from this view, and though it was unnecessary to decide the point, laid down in terms which will probably now be taken to be law both in England and Scotland, that the lower riparian proprietor is entitled to have the natural water of the stream transmitted to him not only in a pure state for drinking and other ordinary purposes, but without sensible alteration in its character or quality.— *Ib.*

BARRISTERS IN THE JURY-BOX.

The refusal of Mr. Baron Pollock to exempt a barrister from serving on a jury at Guildhall will probably occasion surprise to most readers of the report, for, although it is common knowledge that solicitors can only claim exemption so long as they continue to practise and to take out their annual certificates, yet it is currently believed that all members of the Bar are—as all clergymen are—relieved from the duty of serving as jurors. This belief is, however, erroneous, for the Jurors Act of 1870, like the earlier Act which it replaced, extends the privilege of exemption only to serjeants, barristers at-law, and certificated conveyancers if actually practising. The limitation, therefore, is clear enough, but the application of it suggested by the learned judge, according to the account of the incident in the daily papers, seems open to question. He is stated to have refused to release the juror because the latter had not, in fact, practised for six months. Being prepared to practise is not practising, he said, for he might just as well call himself an admiral of the fleet because he

would be ready to take command. With great deference to the learned judge, the cases are not the same. There are, of course, a large number of gentlemen who are called to the Bar but never prepare themselves for professional work or hold themselves out as candidates for briefs, and these are, no doubt, excluded from the privileges of practising barristers. But to enter upon an inquiry whether a barrister whose name appears in the Law List and upon chambers in an Inn of Court as practising at the Bar has succeeded in getting work, or when his last brief was delivered, would be a highly inconvenient course. And it would be melancholy indeed if, when a client at length arrived to retain the services of one who had long waited on fortune in vain, the counsel sought for were to be found locked up in the jurors' room, or actually engaged in trying the part-heard case in which his assistance was required.

We have always understood, too, that the privilege extended to members of the Bar rested partly upon a belief that their training unfitted them to discharge the useful but uncritical functions of the judge's lay assessors. The introduction into the jury-box of jurors who are educated and prepared to practise as advocates is certainly calculated to lead to the delivery to their co-jurors of supplementary and, perhaps, conflicting summings-up which would not, we fear, ease the wheels of the car of justice.—*Ib.*

CHANCERY DIVISION.

LONDON, Jan. 22, 1894.

Before ROMER, J.

THORNELOE v. HILL, (29 Law J. 63.)

Trade Name—Right to Use—Right in Gross—Assignment.

The plaintiff claimed the exclusive right to mark and sell watches with the name 'John Forrest.' In 1871 one John Forrest, who had carried on in London in his own name the business of a watchmaker, marking his watches 'John Forrest, London,' died, and his administratrix sold his business and goodwill to Carley & Co. Carley & Co. did not continue Forrest's business, but from 1871 to 1874 they placed the name 'John Forrest' on some of their watches. In 1874 they granted an exclusive license

to another firm in Liverpool for seven years to use the name for watches. After the expiration of the license they used the name on their own watches, but only to a very limited extent. In 1890 Carley & Co. assigned their assets to a trustee for creditors, who sold to one Clemence their business and goodwill, and purported to assign to the plaintiff for 20*l.* 'the name, title and goodwill of John Forrest.' The plaintiff carried on business at Coventry, and never in London or under the style 'John Forrest,' but he had used that name since his assignment by placing it on some of his watches.

Sir R. Webster, Q.C., and *Sebastian* for the plaintiff.

Moulton, Q.C., and *Willis Bund* for the defendant.

ROMER, J., held that, assuming Carley & Co. had ever any right to mark their watches with the name 'John Forrest,' they had lost it during the period of the license, and possessed no title to the goodwill of the business originally carried on under that name. No right passed under the assignment to the plaintiff, and the action could not be maintained.

QUEEN'S BENCH DIVISION.

LONDON, Jan. 23, 1894.

MARTIN AND WIFE v. THE TRUSTEES OF THE BRITISH MUSEUM AND ANOTHER, (29 Law J. 64).

Libel—Interrogatories—Privilege—Onus probandi—Questions Directed to Show Malice.

This was an appeal from an order of Bruce, J., in chambers, allowing certain interrogatories. The action was brought against the defendants for publishing a libel on the female plaintiff by allowing books containing a libel to be read by visitors to the British Museum. By their statement of defence the defendants denied publication, and also set up that they had placed the books in the library by virtue of powers conferred upon them by 26 Geo. II. c. 22. They further set up that by the statute the trustees had power to make rules for the inspection of the books contained in the library, and that in this case they had exercised due care and had acted without malice. The plaintiff then administered interrogatories to the defendants, containing ques-

tions (*inter alia*) asking when and how the defendants came into possession of the book, and what care they had taken to ascertain its contents. The defendants objected to answer; but on summons the judge in chambers ordered them to answer.

The defendants appealed.

The Attorney-General, (Sir Charles Russell, Q.C.) and *Sutton*, for the appellants: The interrogatories objected to ought not to be allowed; at the most they are only relevant as to damages (*Rideway* v. *Smith*, 6 Times Rep. 275).

Sir R. Webster, Q.C., and *R. M. Bray*, for the respondents: The defendants plead non-publication and privilege. The latter defence throws the onus on the plaintiff to prove malice; and these questions are directed to facts showing malice. *Ridgeway* v. *Smith* only applies where the defence is a denial of publication.

Sutton, in reply, cited *Parnell* v. *Walters*, 56 Law J. Rep. Q. B. 125, and *Henessey* v. *Wright*, 57 Law J. Rep. Q. B. 530.

The COURT (MATHEWS, J., and COLLINS, J.) held that there were two lines of defence. The second line was that the defendants received the books under a statutory right. It was then part of the plaintiff's case to prove negligence, and he was entitled to question the defendants on facts showing negligence.

Appeal dismissed.

A FAMOUS SOLICITOR.

Sir George Lewis has passed through the ordeal of an examination at the hands of an "interviewer," and the result is an illustrated article in the *Strand Magazine*, in which some interesting expressions of opinion are recorded. He thinks that it is much to be regretted that at an inquest the advocate is not allowed to make a speech to the jury. "Had I been able to do so," said Sir George, referring to the Balham mystery, "I could and should at once have relieved both Dr. Gully and Mrs. Bravo from any suggestion that they in any way participated in the crime. You are at liberty to say—and I am publicly expressing this for the first time—that I then and still do believe them not guilty." He first briefed Sir Charles Russell on behalf of Mr. Labouchere in a newspaper libel case, and he regards him as "the greatest advocate" of his time. "I knew both Sergeant Ballantyne and Sergeant Parry when in their best days practising at the Old Bailey. Ballantyne was famous for his power of cross-

examination and Parry for his advocacy, but I question if they would be successful to-day." Speaking of Mr. Labouchere, whom he called the "Napoleon of litigants," he remarked, "No litigant has been more successful than he, except that he has been left to pay some £20,000 in costs."

It is not uninteresting to learn how Sir George Lewis, who was born in one of the rooms in Ely Place now used as an office, made his first appearance as a Police Court advocate. It occurred during the absence of his father and when he was about nineteen. A woman rushed into the office in a terrible state of anxiety, and stated that her son was in custody at the Westminster Police Court on the charge of robbing the till of a public-house. The young practitioner rushed away in a cab and fought the case and won. "Whilst I was questioning the witnesses I didn't know whether I was on my head or my heels. The mother was a very big, muscular woman, and waited for me outside. I was made very happy by the words which accompanied her little-too-enthusiastic smack on the back: "Well done, young'un!" But the enthusiasm hurt. Of the many *causes célèbres* in which Sir George Lewis has been engaged, he regards the Parnell Commission as the greatest. He discovered that the famous letters were forgeries soon after the documents were submitted to him. "During the first six months of the inquiry I had to sit with the secret that I knew *who* was guilty, and unable to tell a soul. When Piggott—and a greater scoundrel I never met—was put in the box I soon relieved myself of it." What the distinguished solicitor remembers best about the Baccarat case is the last words of Lord Coleridge's summing-up: "Gentlemen, in considering the honor of Sir William Gordon-Cumming, do not forget your own." Sir George Lewis has not kept a diary for twenty years. The affairs of his clients were of too confidential a nature to admit of any record. At one time he thought that this departure from the general rule of solicitors would lead to some severe observations from the Bench; but a Lord Justice told him that no judge, under such peculiar circumstances, would ever blame him.—*Law Journal* (*London*).

GENERAL NOTES.

THE SUPREME COURT OF PENNSYLVANIA.—The labors of the Supreme Court Justices are greater than those of any other Judges in the State. In the Eastern District alone, during

the year 1892, this Court heard and disposed of 707 cases, the arguments in which must have covered at least 1,000 hours, without including the time spent in consultation and reading opinions; in these cases 1,400 printed paper-books were examined, and 700 opinions written. The State reporter has published up to date over 7 volumes of decisions handed down during 1892, each one of which contains over 600 pages. Well might Chief Justice Paxson say, in speaking of the death of Mr. Justice Clark: 'It may not be inappropriate for me to say that our Brother Clark is the fifth Justice of the Court who has died in commission since I have been a member of it. Our labors are now so exacting that nothing short of a constitution of iron will carry a man through a term of twenty-one years." (144 Pa. 26.)

THEORIES OF INSANITY.—It has been doubted by distinguished minds whether any man lives, or ever has lived, wholly free from a taint of mental unsoundness on all topics, at all times, and under all circumstances. Dr. Johnson declared that "all power of fancy over reason is a degree of insanity," and Montaigne affirmed that between madness and genius there is but "a half turn of the toe." Our ordinary life borders all the time on insanity, according to the philosopher Taine, "and we cross the frontier in some part of our nature." All of which is fair food for speculation and thought among persons of learning and culture. But society cannot entertain any theories of insanity which make men who know what they are doing, and know that it is wicked, unlawful and forbidden on pain of death, unaccountable for their acts. It was the late Chief Justice Cockburn, of England, who, as a young barrister, while pleading for Robert Pate, who struck the Queen in the face with his cane, invented the now well-worn phrase "uncontrollable impulse." Pate, as he argued, struck Victoria under an "uncontrollable impulse." But Baron Alderson, who tried the case, gravely and wittily said in his charge: "The law does not recognize such an impulse. If a person was aware that it was a wrong act he was about to commit, he was answerable for the consequences. A man might say that he picked a pocket from some uncontrollable impulse, and in that case the law would have an uncontrollable impulse to punish him for it." It is reported that a leading criminal lawyer has been retained, through private subscription, to assist the district attorney in the prosecution of the assassin of Mayor Harrison.—*Albany Law Journal.*