DECEMBER, 1894.

Vol. I.

The Barrister

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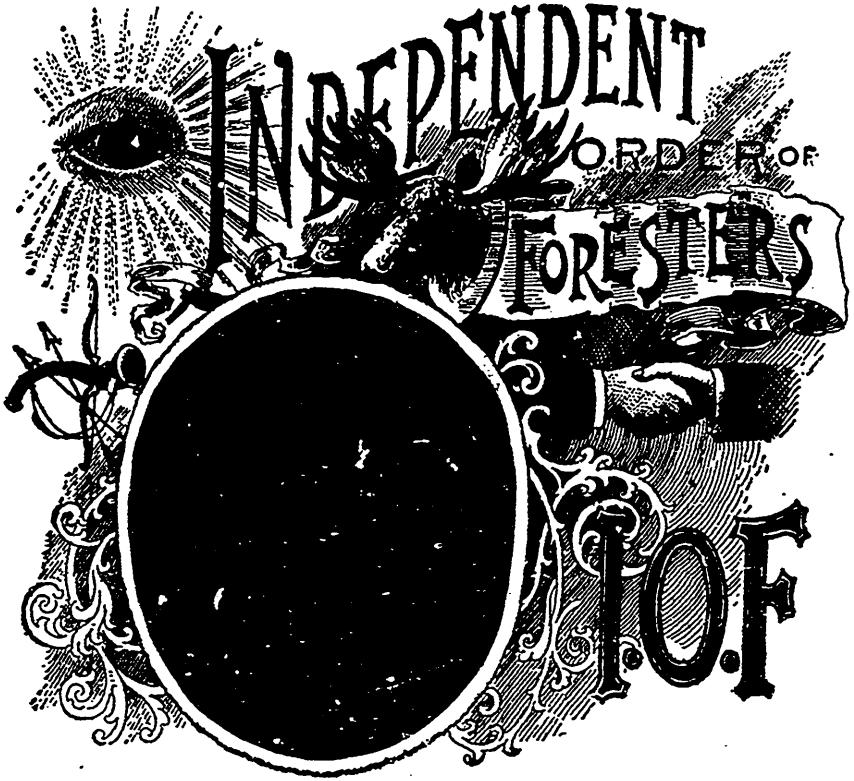
ASSESSMENT SYSTEM.



Everybody who knows anything about insurance acknowledges that the Independent Order of Foresters is far and away the **Best** Fraternal Benefit **Society in the World.** It was founded in Newark, New Jersey, on the 17th June, 1874, and has spread all over the United States and Canada, and is rapidly spreading in Great Britain and elsewhere.

The Unexampled Progress and Prosperity of the Independent Order of Foresters

is shown by the following figures:

	No. of Members.	Balance in Bank.		No. of Members.	Balance in Bank.		No. of Members.	Balance in Bank.
January, 1882	1,019	$ 3,555 47	January, 1888	7,811	$ 86,102 42	January, 1894	54,484	$858,857 39
January, 1883	1,134	2,769 58	January, 1889	11,618	117,599 83	July, "	62,738	985,434 68
January, 1884	2,216	13,070 85	January, 1890	17,026	188,130 86	August, "	63,528	1,018,484 62
January, 1885	2,558	20,992 30	January, 1891	24,466	283,967 20	Septem'r "	64,080	1,053,557 44
January, 1886	3,648	31,082 52	January, 1892	32,303	408,796 18			
January, 1887	5,804	60,325 02	January, 1893	43,024	580,537 85			

Membership 1st Oct., 1894, 64,889. Balance in Bank $1,079,370.70.

The total number of applications considered by the Medical Board for the six months ending 30th June, 1894, was 13,381, of whom 12,296 were passed, and 1,085 rejected.

The cause of this unexampled prosperity and growth of the I.O.F. is due to the fact that its foundations have been laid on a **Solid Financial Basis,** and every department of the Order has been managed on business principles, thereby securing for all Foresters large and varied benefits at the lowest possible cost consistent with **Safety** and **Permanence.**

At date all Benefits have been paid within a few days of filing the claim papers, amounting in the aggregate to the princely sum of **Two Millions Five Hundred and Forty-eight Thousand Four Hundred and Seventy-six Dollars.** Notwithstanding the payment of this large sum, as well as all the management expenses including large sums for planting the Order in New territory, there remains the handsome cash balance in the treasury as noted above, of the sum of **One Million, Seventy-nine Thousand, Three Hundred and Seventy Dollars and Seventy Cents.**

Look at this list of the Benefits which you may obtain for yourself by becoming a Forester:

FOR YOURSELF.—1. The fraternal and social privileges of the Order. 2. Free medical attendance. 3. Total and Permanent Disability of $500, $1,000 or $1,500. 4. A benefit for your old age of $100, $200, or $300 a year. 5. A Benefit, payable on reaching your expectation of life, of $1,000, $2,000, or $3,000. 6. Sick Benefits of $2 to $5 per week.

FOR YOUR FAMILY.—1. Funeral Benefit, $50. 2. Mortuary Benefit of $1,000, $2,000 or $3,000.

The cost of admission to the Order in Most Courts is only $7 to $9, according to the amount of Benefit taken, besides medical examination fee, which is $1.50 if you are taking only $1,000 of insurance, and $2 if taking $2,000 or $3,000. **Agents wanted in Canada, the United States, and Great Britain and Ireland.**

For further information apply to

ORONHYATEKHA, M.D., S.C.R., Toronto, Canada. HON. D. D. AITKEN, M. C., S.V.C.R., Flint, Mich. JOHN A. MCGILLIVRAY, Q.C., S. Secretary, Toronto, Canada. JAMES MARSHALL, Gen. Manager, Great Britain, 24 Charing Cross, London, England, or to REV. W. J. MCCAUGHAN, Gen. Manager, Belfast, Ireland.

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The Barrister.

VOL. I. TORONTO, DECEMBER, 1894. No. 1.

ANNOUNCEMENT.

WITH this number the BARRISTER makes its bow to the lawyers of Canada, and asks the indulgence of a profession which has always extended a cordial support to all journals devoted to its interests.

***

IT may be thought by some that there is no need for an additional law journal; we believe there is room without encroaching upon the field occupied by the present journals.

***

THE law profession has suffered, and is suffering from many causes and it shall be our aim to discuss these and to try and arrive at a solution.

***

WE invite members of the profession to make use of the pages of the BARRISTER to express their views upon any question affecting law and lawyers. One of the things we shall advocate first and last is the formation of Provincial Bar Associations. We believe that these would be of the greatest benefit to the profession.

***

IF the lawyers of a province formed themselves into an association and conscientiously devoted one or two days in each year to advancing the common interest and the interest of good government, no public opinion could withstand their advocacy of a righteous cause.

***

IN these days of union and combination of all kinds, colors and degrees, it is a lamentable fact that individual effort, however intellectual and unselfish it may be, is powerless to obtain needed legislative relief.

***

ALL the lawyers of a province acting as individuals would we fear have much less weight in obtaining legislation upon any subject than would be accorded to a less numerous but organized body. Assailed as we are by concerted opposition of all kinds, we must recognize that we are to-day confronting a condition and not a theory, and the more promptly it is met and remedies applied from within, the grander will be the results achieved. Many of the Provincial Statute Books exhibit year after year crude additions to existing laws, many of them needless, others harmful or at best of doubtful benefit. Here is a large field for law reform. Like legislation upon matters in which the provinces have a kindred interest is of living importance to the community and in particular to our merchants. This will be the chosen field of a Dominion Bar Association, the natural outgrowth of provincial organizations.

***

IT is our intention to insert a series of articles on the leaders of the Canadian Bar, past and present. We shall for the most part select such as have been distinguished for their meritorious elevation from the humbler to the higher ranks of the profession. Our reason for this preference is obvious. We shall especially note the early life of these ornaments of the law and the means by which their rise was promoted and detail the difficulties they overcame. Even the general reader will feel an interest in such a career. These

sketches of early perseverance and final excellence will not fail to be acceptable, and we trust in no small degree advantageous to the junior members of the profession to whom we must look for the support of its future honor and independence and the maintenance of its character for learning and intelligence. The first steps in their career must always be attended with difficulty and often encountered with reluctance. We believe that genius and industry are often united, but no doubt many young men whose innate ability fits them for high attainments are often careless, and these we hope to attract and by our lighter articles to allure to more extensive and vigorous research. It is also one of our pleasing anticipations that we shall be enabled to relieve by the shorter and lighter articles of our miscellanea the anxieties and the labor of professional duty. This department of our task, though less solemn than others, we trust will not be unproductive of agreeable reminiscence and that by the wit and vivacity of our contributions we shall be enabled sometimes to beguile our brethren of their severer meditations and to scatter over the walks of professional life a few of the flowers of literature.

***

WE are desirous of avoiding what is petty and frivolous; let the improvements which are suggested for discussion through the medium of these pages be important and comprehensive. We will review legislation and give condensed reports of cases involving important principle, but the parliamentary and judicial summary will be confined to prominent points, avoiding all trifling topics and uninteresting details. We are especially desirous that our pages shall be free from personality. Improvements will be proposed and abuses pointed out without acrimony towards individuals. Evils complained of and remedies suggested for their reform will be considered, and with this object in view the state of the law in the various provinces and existing institutions of foreign countries will be reviewed. A large number of gentlemen have consented to be contributors to this journal and a series of articles will appear from month to month on various questions of law and matters of interest to the profession.

***

Arrangements will be made to have on file an extensive exchange list of the best journals published. From these shall be culled from month to month what is of general interest to the profession.

***

The Editor of the publication to whom its general supervision has been confided, claims no merit of its composition. His duty is to collect the sentiment of his brethren and to suggest and advise. He may occasionally furnish some of the "raw material" of the work; but the skilful manufacture, the polish and completion of the fabric, he leaves to his learned coadjutors. His pride is to assist in promoting the interests of a body of men who require from him nothing but justice, who inculcate strict integrity of purpose, and who leave him free to the exercise of the most determined impartiality; who are willing that the door of temperate discussion should be thrown open to all, and that the most liberal preference should be given to communications of public interest concerning the administration of justice. For the best interest of the profession is identical with the welfare of the community.

The Barrister.

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TORONTO, DECEMBER, 1894.

IT is not new to point out that so far as parties in politics are founded on real differences of opinion that the natural division is into Liberal and Conservative. Whenever the choice of party is determined by the point of view, the party chosen is the true sequence to the bent of the mind and mental habit. A curious parallel has been shown to have existed in the profession in former days, between Whig and Tory, and Equity and Common Law lawyer. The great English Common Law lawyers were for the most part Tories; the leaders of the Equity Bar were Whigs. With this fact in mind we can now explain some seeming anomalies in the history of legislation, for we can see that many measures were linked with party objects. For instance, who would have expected, *a priori*, that conservatives should found the new doctrine of employer's liability for accidents to workmen received in the course of employment, or that conservatives should interfere with parental rights by enacting the Factory Acts? The root of such legislation is to be found, perhaps, in the fact that the majority of manufacturers were liberals. Whether it was that these measures were passed, as it were, in retaliation for the unkind treatment of landed interests, which were chiefly conservative, by repeal of the Corn Laws, or because the liberals could not bring themselves to burden their party friends. To the conservatives belongs the honor of first placing this remedial legislation upon the statute book. On the other hand the liberals advanced the scope of their favored jurisprudence. For liberals passed the Judicature Acts which subordinate the Common Law to the rules of Equity. In this view the Judicature Acts might fairly be termed a party triumph over professional as well as political opponents. It may now be found that the party triumph has, in the interests of jurisprudence, been pushed too far. It is not possible that judges can always be selected of that mental habit which takes naturally to indefinite expansion of the principles of Equity jurisprudence. It would seem inevitable that the fusion of law and equity will result in the crystalization of principle and the refinement of practice. Some new liberalizing force will be required to prevent the conjoint product of law and equity degenerating into a code and the subject of technical interpretation by the judges. Will this force come from the Legislature or from the Bar?

*

A CORRESPONDENT, who feels that the time is sadly out of joint, finds the root of all the evil to be in the ever present question of costs. He thus delivers himself:—"What is the reason of the clamour against lawyers to-day? I think the universal answer of all the clamourers would be that the public are being eaten up by law costs. In their heated fancy a lawyer is pictured as a dragon devouring by his bills of costs fields and meadows. Can an older brother tell us whether litigation to-day

is more expensive to the litigant than it was ten or twenty years ago. If it be so, I am sure it has brought with it no advantage to the profession generally. I had more money out of my years' work ten years ago than I will have this year. If it is more expensive to come into court now, can we not reduce the cost with benefit to ourselves?"

*

THIS is a sensible query and merits the attention of all the brethren. Costs fall under two categories—out of pocket costs and profit costs. We are all agreed that it would be highly meritorious to cut down out of pocket costs. Our columns are open to suggestions in this direction. When we come to the so called profit costs, the matter is by no means so clear. The first question to be settled is why the distinction between solicitor and client, and party and party costs? It is a constant source of irritation in the relations of the general practictioner to his client that there is still a margin of expense to be borne by him in spite of his complete success. He cannot understand why he has to pay when the court has adjudged that he shall receive his costs from his adversary, and in these days of heavy counsel fees, this margin frequently represents all that the lawyer who retains counsel has for his own labors and responsibility. It has been suggested that, either we abolish the distinction so that solicitor and client costs may be received as party and party costs, or adopt the rule in force in many of the states of the Union, that a successful litigant receives by way of costs merely marshal's and clerk's fees, an unsubstantial sum compared with the attorney's costs. A litigant is therefore aware that whether successful or unsuccessful he will have his attorney's fees to pay. The advantages claimed for this system are two fold—non-success is not so ruinous, therefore there is less hesitation in seeking the aid of the law. Litigation itself is, on the average, less expensive to the community. For where under our system in five contested cases, assuming the costs on each side to be $100 in each cause, five men are mulcted in $200 each; under the American system ten men are mulcted in $100 each. It is also found that speedier trials are had, for there is no object in proceedings either unnecessary or of little benefit in the final result. It is said that under our system the real fight is often over the costs, and that as the costs frequently constitute the serious item, large counsel fees are incurred in the effort to saddle other costs upon the enemy. We offer this as a fruitful subject for discussion by the Bar.

*

IT is a new departure in Canada for a legal periodical to announce that its reports of current decisions will be confined to cases involving principles or that are otherwise of importance, and that no attempt will be made to digest everything. Our brethren have the right to ask us for our reasons for such novel treatment.

The legal mind is broader and more robust than it used to be. This is due to various causes. The abolition of the more abstruse technicalities of pleading and conveyancing has helped lawyer and judge to take what may be termed a common sense view of law. The new school of text writers have undoubtedly caught the spirit and are treating the several topics of law as founded upon recognized principles of jurisprudence. Again the vast mass of reported decisions which now load

the book shelves of every lawyer has in itself lowered the value of reports. No one man can now pretend to be familiar with even a moiety of the reported cases. On the other hand the main principles are as a rule abundantly settled and legal decisions now generally fall into one of two classes—either they confirm the statement of principle in older cases, or they deal with some point in practice or the construction of some statute. If this latter group of cases were expunged from the standard reports it would be found that their bulk would be largely reduced. Practice reports may be congenial reading to the lawyer engrossed in chamber work at Osgoode Hall, and a report which decides the particular construction of some words of a section may be exceedingly useful as a gloss on that act, but neither report really adds to the general store-house of the law. Our aim ought to be a more solid acquaintance with the general principles. So will our knowledge of the law broaden and deepen.

*

Is it the news gatherer's greater diligence in gratifying our lust for the sensational, or is it actual increase of serious crime in our community, that has, of late, caused the papers to teem with details of murder and of loathsome crime? Before we can be certain of the answer we must ask the statstician to take our average and say if this years' number conforms to that average. In the meantime the public has assumed that there is an increase and is busy in the discussion of causes. Two widely differing theories are put forward. It is said that hard times in the United States has augmented largely the undesirable element, what Booth has called the submerged tenth of the population, the class which subsists by beggary and plunder. The pressure of increased numbers upon diminished resources has forced the predatory population to range more widely and has resulted in an overflow into Canada. If this be the case, the remedy is to be found in more efficient policing of the exposed districts. It may be necessary to better protection that the local constabulary be supplemented by a permanent provincial police. Close pursuit of crime will make crime unsafe, and to make crime unsafe is the best protection that the state can give.

*

THAT such an overflow from the United States did occur at the end of the civil war is history. Numbers of men had lost by long disuse their habits of settled industry. Accordingly both camp followers and a percentage of the disbanded soldiers became tramps. The discarded blue army great coat was the badge of the tribe, well known in Canada even as far west as British Columbia. In fact in that province, the late chief justice, Sir Matthew Begbie, was supposed to be especially severe with members of this new blue coat school who came before him for trial. On one occasion, so the story goes, Sir Matthew was travelling by stage to an outlying assize. It came on to rain and the chief justice accepted the loan of one of the despised army coats from the stage driver. Still arrayed in this he descended from the stage at his journey's end and entered the little mountain inn. He was met by the landlord who surveyed him and said "Say, stranger! you had better come up out of that coat smart. There's an old fellow named Begbie coming. If he sees you in that coat he

will hang you on sight, sure!" Sir Matthew's answer is not on record.

*

The other theory of the increase of crime is founded in the greater immunity from the death penalty which is supposed to be enjoyed by criminals of to-day. This proceeds, it is said, from two sources. First there is a hesitancy on the part of juries to return verdicts for capital felonies, as in the Hartley case. Secondly, even after conviction it is not easy to carry out the extreme penalty of the law. After conviction, the felon seems to become a hero for all the weakly sympathetic and sentimental persons of the neighbourhood. Newspapers parade the woes of the condemned: stories are put into circulation of evidence unfound at the time of the trial; soon a tide of petitions pour in on the minister of justice, and backed by this tide of sensibility the counsel for the condemned reargues the case, not on the evidence, but on the possibilities now laid, not before judges, but before him upon whose shoulders the final responsibility is placed. This easy magnanimity of a portion of the people who are always ready to forgive in the name of the whole body politic, renders it doubly hard for the administration to do its duty and enforce the decree. In many instances when the administration gives way and commutes the penalty, a reaction of popular feeling sets in and it is heartily abused for doing that which has been pressed upon it to do. This is the MacWherrell case. We venture to predict that it will go hard with the next few murderers put up for trial. They will have the benefit of the reaction. But it is not seemly that the justice of a country should thus pulse from one extreme to another.

It would seem that there are too many steps between apprehension and trial. The coroner's inquest, the investigation before a magistrate, and, in addition, the daily trial by newspaper, all these too thoroughly expose the crown's case, and keep the community in a ferment. Again, what is now gained by the form of an inquest by Grand Jury? Instead of all these preliminaries before the accused is placed upon his real trial, it has been suggested that, on the occurrence of murder or other grave crime, some Queen's Counsel be designated as examining magistrate to sift *in camera* the evidence against each suspect. To him would be given power to summon witnesses and to detain suspected persons pending the inquiry.

*

When such a case against the prisoner appears as would justify him, if prosecuting at assize, in presenting an indictment to the Grand Jury, he would certify the case, with a minute of the evidence supporting it, to the Attorney-General. If a *prima facie* case has been made out to the Attorney-General, then the prisoner would be put upon his trial at the assize, without the intervention of the Grand Jury, upon the fiat of the Attorney-General. In the exercise of these functions the examining counsel should be under the authority of the Attorney-General. After trial and conviction, it is urged it should be by statute made unlawful for newspapers to print more than that the execution had taken place. In this respect is cited the example of the state of New York.

This suggestion is worthy of consideration and perhaps some of our brethren who are familiar with the French system of examining magistrates can

tell us whether it bears too harshly upon the accused or is otherwise objectionable.

*

THE fisherman who was remonstrated with for his cruelty said that the eels had grown used to skinning. This was truth, but reversed. The fisherman had grown used to it. So it seems proper and usual enough to us to begin an action by writ, to deliver pleadings, to examine before trial or for discovery, in short the countless and one things that it has become second nature to do, until the very last endorsement in which we are good natured enough to advise Mr. Sheriff to be mindful to collect his own fees and poundage. It is all in the routine of the day's work. It never occurs to us to examine the steps of this routine with a view to substituting something simpler, something speedier, something less onerous in costs. And how instinctively we fight shy of new legal machinery! How many of us have tried the novel practice under the last Mechanic's Lien Act? Or how many of us use the statutory conveyance by beneficial owners? New things have to be thrust upon us, for we naturally dislike to leave the accustomed paths and abandon our legal bearings. Why have we a Judicature Act? It is not because we felt the necessity and asked for it; but for the reason that England had it, and following that fine old custom of Provincial legislatures we repeated the English enactments when it had become sufficiently mellowed by four or five years' use.

*

IT is this *vis inertiae* of the profession, this passive resistance to any meddling with the old ways to which our feet are accustomed, that is the real grievance that the country might have against us as a profession. But the country does not see clearly. It is felt that there is something about us to complain of. What it is, is not very clearly recognised, but as there is that something in the air, somebody must be attacked, something must be altered, some institution must be destroyed. When we are considered as individuals we all seem to be estimable citizens and not to be dangerous to the communities in which we live. So the attack is not personal against any of us. But it is directed against the ideal lawyer—the outward corporate symbol of the profession. The Law Society must be guilty. For it has been dinned into the public ear that great and mysterious evils flow from class legislation and exclusive privileges. So anything blameworthy to-day in the legal profession must have its root in the fact that lawyers are admitted to practice only on satisfying certain tests of fitness. It is given to all others to be as litigious as they please; to him only who has satisfied the Society of his fitness is given the right to plead for others. And yet, burning with the like zeal that inspires the missionary in heathen India to attack the system of castes, the Patron of Industry will wage a bitter war of words against the Society in the next legislature.

*

THE brethren have the machinery nearly at hand to convert the Law Society into a force useful alike to the profession and to the public. Once a year there should be a parliament of the profession—that is, a meeting of a Provincial Bar Association. The functions of such an association would be in general terms:—to advance the science of jurisprudence, to promote

the administration of justice, to uphold the honor of the profession and encourage cordial intercourse among the members of the Bar. When translated into concrete terms, it will be seen that these functions will not be properly fulfilled merely by holding one big dinner and by listening to half a dozen addresses each year, with or without papers on *mandatum* in the Roman Law. Hitherto it has been no one's business to prepare work for a general meeting of the profession. It will be our self-appointed task to prepare, as it were, an agenda paper for meetings of the Bar. This will be done by ourselves proposing from month to month various matters for the opinion of our brethren; these opinions will be collected and set forth in our columns. We desire the brethren to use our columns freely month by month for the discussion of everything touching law and lawyers, principles and practice. By the time the association meets many matters will already have been thoroughly discussed and ready for action by the Bar. Other changes will have been mooted, partially digested and ready for further examination. When the programme for the coming year is arranged by the Bar, the Society in the name of the Bar, should have no hesitation in devoting its influence to carrying this programme into effect. If such hesitation does develop it is in the hands of the Bar to change their representatives. In quite a short time the public will be content to wait for the approval of the Society before important changes are made either in the principles of law or in the procedure of the courts. There must be change where there is growth. It will be better for juris prudence, better for the profession, that the direction of the changes should come from within.

ACCORDING to our view, it is the work of all the brethren, and not the work of the editors, that will make these columns useful to the profession. We can suggest, we can assist in the discussion; but after all, our views, however interesting they prove to be, cannot prevail unless they happen to chime with the opinion of the majority of the brethren. It is to ascertain the majority view that at the very beginning of our history we have opened our columns to the widest discussion.

*

In one of his dainty songs, Horace compliments a lady of his acquaintance with the epithet *simplex munditiis*, which means a whole lot of things more than one terse English phrase may express. For want of a better translation, the phrase means that his friend is very charming by reason of her simple neatness. We have each of us espoused the *law* for better or for worse as the lady of our busy thoughts, and it will do that dame no harm to hold up a mirror in which she may see and despise her fantastic adornments.

*

ANYTHING from the pen of Mr. D. E. Thomson, Q.C., on bankruptcy, will we believe be received with pleasure by the profession.

*

Mr. A. C. Macdonell has for some time made a study of Building and Loan Societies, and his article is short, clear, and concise, on that question.

*

Mr. Long's article on the Ancient Laws of Japan is to be followed next month by one on the Modern Laws of that Country. We believe these articles will be very interesting at the present juncture. Mr. Long spent some time in Japan studying its laws.

WIT AND HUMOR.

HERE is an anecdote of how Sir Thomas Galt once spoiled an address by counsel. Sir Thomas was presiding at a criminal assize in Toronto, when a motion was made by Mr. X. to discharge the prisoner at the bar as the evidence disclosed no offence. Mr. X. briefly stated the ground taken and was proceeding in an eloquent and learned argument to show his reasons. Sir Thomas interrupted and ruled upon the points raised in favor of the prisoner adding a few words showing the grounds of his ruling. Now, Mr. X. had, which was unusual for him, carefully prepared his argument and was determined not to lose the opportunity of delivering it. He began "Besides the reasons your Lordship has given, there are others" and started again at the place where he had been made to leave off. Sir Thomas looked at him curiously for a moment then interrupted him again, "Mr. X., Mr. X. go on! Pray go on! You may be able to convince me that I am wrong." The counsel at last took his seat glad to let well enough alone.

*

THE story of an injunction in the great litigation over the Erie Railway is told in the *American Lawyer*. The attorney was called upon at a late hour one evening to seek a judge of the Supreme court in order to obtain an injunction against the sale of some rolling stock, which was to take place on the following morning at nine o'clock at Yonkers. Armed with the affidavits, which had been hastily drawn at ten o'clock in the evening, he sought a member of the family of the judge of whom he was in pursuit at the various clubs in town, and finally succeeded in locating him at about twelve o'clock. The attorney together with the relative of the judge secured a cab, drove away out to the confines of Harem, where his Supreme court justice lived, and gained entrance to his house by a night key at two o'clock in the morning.

The relative of the judge went up to the sleeping apartment on the second floor, rapped on the door, which was ajar, it being summer time, when the jurist, who was slumbering in his bed beside his worthy spouse, inquired: "Who is there? What is wanted?" His relative made himself known, and the object of his mission. "Very well," said the judge, "light the hall gas, and let him stand in the hall by the hinges of the door and read his papers." And there, with the court in bed and his life companion by his side, the judge listened to the reading of papers for nearly an hour; they were then tossed into the room, the judge arose, affixed his signature and granted the motion. The attorney hastened away, caught the first train to Yonkers in the morning, served the injunction on the sheriff, and a famous chapter in Erie was concluded. What would the bewigged chief justices in England think of such proceedings as this?

*

A "Tombs" lawyer had been endeavoring all the week to get his client out of durance vile. He walked into the "Tombs" and sent for his client. His face was as smiling as the proverbial basket of chips. "It's all right," said the lawyer, grasping his client's hand. "Yes!" ejaculated the client, brightening up. "Yes, everything's fixed." "How?" "I can get you out on a habeas corpus;" and then the clients face lengthened as he replied, "can't be done, would not dare to try

it, my cell's on the third tier, and the darned thing might break!"

*

THE Green Bag reports the following:—Chief Justice Jeremiah Black of Pennsylvania, in reviewing a case which came up from the court of his old friend, Judge Moses Hampton, remarked that "surely Moses must have been wandering in the wilderness when he made this decision," and sent the case back to the lower court. Judge Hampton on his second trial took occasion to remark that, although he would have to submit to the higher authority, yet he still thought he was right, "in spite of the Lamentations of Jeremiah."

*

IN the judicial districts of the Province of Ontario the lives of the lawyers are occasionally brightened by unconscious humor from the local bench. Mr. W. tells a story, that once upon a time a client of his missed a valuable retriever. Some time afterwards he met his dog in the possion of a fellow sportsman. Mr. W. prepared the usual material for a replevin order and confidently tackled the judge of a district which shall be nameless. Instead of an exparte order being granted affidavits and counter affidavits were piled up until the judge was befogged. Finally he said: "Mr. W. you can take your order for replevin, but as in this case I feel so much doubt I will direct that the defendant may keep possession of the dog until trial." It is needless to add Mr. W. did not take out the order.

*

A VERY angry man walked into a lawyer's office the other day and, after considerable puffing and stammering, exclaimed:

"I vants to sue dot condracdor already yet!"

"I see," said the lawyer, "you are building a house?"

"Yah, and de tam condracdor peat me."

"Please state your case." he said.

"Vy, I pought a lot und let a condract to puild me a house already. Uad der vas rock under the lot vot had to be plasted. Und choost now my neighbor, Pete Schmidt, he come by vere de lot vas und he say to me: 'Vot you dink happen to your lot?' Und I say: 'Vot did happen?' Und he say: 'Dot condracdor he put a pig plast under your lot and he plow it clean ofer to de East Side vich it vas on de Vest side ven I pought it already. Und lots ain't vorth so much on de East side, don't it?' I vants to sue dot condracdor."

*

A GEORGIA magistrate was perplexed by the conflicting claims of two women for a baby, each contending that she was the mother of it. The judge remembered Solomon, and drawing a bowie knife from his boot, declared he would give half to each. The women were shocked, but had no doubt of the authority and purpose of the judge to make the proposed compromise.

"Don't do that," they both screamed in unison, "you can keep it yourself."

*

MR. ECCLES was once fined by a justice of the peace for contempt of court in telling the magistrate too bluntly what he thought of one of his decisions. "All right," said Mr. Eccles, "I have got a note in my pocket against you which I have been trying to collect for the past ten years, and I'll endorse the fine on it. I never expected to get that much."

A TREATISE ON THE ANCIENT LAWS OF JAPAN.

BY C. T. LONG.

THE laws of Ancient Japan were founded upon Chinese Codes and applied chiefly to the lower classes, or in other words to the thirty millions of farmers, artisans, merchants, and laborers who made up fifteen sixteenths of the nation. These to whom the law applied were ignorant and could keep no record of the Judgments or procedure while their Masters who applied the law had no interest in it further than to use it as a weapon for their own protection, and the continued subjugation of their inferiors. As a consequence the records were but imperfectly kept, and were it not for the writings of two or three Buddhist priests, it is doubtful if much would be known to-day of the past history of law within the Mikado's Empire. Much has been accomplished by the Asiatic Society of Japan within recent years in unfolding the back Numbers of Japanese law, and perhaps it was the efforts of this Society in that direction that awakened the interest of the Government, which has within recent years been making great efforts, with some degree of success, to thoroughly sift the whole matter. So far as has been discovered the laws, during the first five centuries A.D. Civil and Criminal did not apply to Daimyos (Feudal Lords) or Samurai (retainers). Punishments were administered with the most cruel and rigorous severity ; death was inflicted for almost trivial offences, and no other method was known of punishing heinous crimes than by accompanying that death with tortures of the most painful description. The first historical Japanese record is that which chronicles the death of the Mikado, Jimmu-Tenno, who reigned 660 B.C. The account of his death is in Chinese characters, as are also several Judgments which he endorsed.

Assuming that the Chinese laws were in force in Japan at that time, it is not difficult to imagine what they were, since China has, according to her best historians, changed but little in her habits, customs or laws during the past 3000 years. These laws remained in force until 1602 A.D., when Ieyasu, the founder of the Tokugawa Shogunate, promulgated a new Code of 100 chapters. This Code, which he drew up for the guidance of his successors, was, until 1868, when his dynasty was overthrown, held in full force and great veneration by the people of Japan.

Up to the time of the fall of the Shogunate in 1868, Japanese law was essentially feudal in its spirit. The country was divided into estates owned by Daimyos who owed allegiance to the Mikado. He lived in seclusion and delegated his powers to the Shogun. Each Daimyo was an absolute ruler in his own territory, was unto himself a law, and dispensed justice to suit his own ideas. The common people neeessarily came in for a meagre amount of respect

in the feudal polity, except as wealth-producing instruments on whose labors the military classes, as well as their masters, depended. They were restricted and punished with a severity characteristic of feudalism everywhere. The features of their status and the kinds of punishments were not substantially different from those of China at the present day. They were subjected to tortures of all kinds: placed between boards and sawed in two; boiled in hot lead; decapitated; flesh cut from their bodies in pieces; crucified; their eyes destroyed by hot irons, and their tongues cut out. The commoners assumed the most abject attitudes in the august presence of the Judge.

This class of citizens refrained almost entirely from entering civil suits against their neighbors, because of the humiliations they were subjected to in their quest for justice. They were required, for instance, to crawl on hands and knees from the door of the court room to the judgment hall. The result was that arbitration was largely resorted to in the settlement of disputes, both of a civil and criminal nature. It was, in consequence, but seldom that common people were arrested for crimes committed against the persons or property of their equals, but in most instances against their superiors. The old system had apparently the effect of stamping out of the character and blood of the masses a disposition to comit crimes. It seems paradoxical, that with so lawless, unfair, unjust and merciless a Government the people should become moral. It is sufficient to say that one would see in one night in New York, or London such exhibitions of violence, brawling, and abandoned lawlessness, as would not be witnessed in an entire year in Tokyo even at this late date. Poverty and want are nowhere accompanied by such tranquility and sobriety as in Japan.

The first authentic account of regularly organized criminal courts dates back only as far as 1602 when Ieyasu ascended the throne as Shogun. There were courts long previous to this but the Judgments both civil and criminal were according to Chinese codes and the caprice of the Magistrate. When Ieyasu ascended the throne he consolidated the government of the country as well as its laws. A supreme tribunal of appeal was created in 1631. This Court consisted of the Town, Temple and Finance Magistrates of the country. A new Judicial system was enaugurated.

The Judges were required to be appointed from the higher classes of samurai,—the Temple Magistrate from the "loyal diamyo (10,000 or more), the Town and Finance Magistrates from the upper Hatamoto (3,000 to 1,000 koku). But this did not prevent the easy elevation of men of talent, for promotion to such an office could be accompanied by investment with a fief of the grade required to make the appointee eligible. Moreover, these offices seem never to have become hereditary to any extent, as so many offices became in the times of peace which the Tokugawa family procured for Japan. Further than this the appointments were—at any rate to a great extent—made for the promotion of those who had shown talent, rather than by mere favor. From acting well as daikwan, a man might come to a Magistracy. From Osaka he might look for promotion to Yedo; and the line of promotion from Finance to Town Magistrate, and from Town to Temple Magistrate, can often be traced. When a good Judge was found, he was kept in office as long as his ambition

would consent; for the next step to the Magistracies was the Council of State. The famous Oka, Lord of Echizen, was fifteen years Town Magistrate of Yedo and then twenty years Temple Magistrate. This to be sure, was under Yoshimune, the only Tokugawa Shogun after Iemitsu (3rd Shogun) who showed ability to direct the Government personally. But other instances occur in which magistrates held office for equally long periods. Towards the end of the Shogunate, when the very foundations of government were trembling, public office became a difficult and hazardous occupation; for successful administration was almost impossible, and failures cost the loss of office and perhaps, also, of honor and therefore life. Thus we find in those closing years a constant change in the magistracies: and the incumbents are often upstarts of low degree, brought into prominence only by the refusal or failure of their superiors to accomplish impossibilities. Court days were set apart in 1602, when Civil and Criminal cases were tried, and this system then established continued with but few changes until 1868 when the Tokugaya Shogunate was overthrown and the Mikado assumed the head of the government. As has been stated Ieyasu's first great work was the promulgation of a new code of laws. It was published in 1602. Mr. Lowder commenting on this code known as "The legacy of Ieyasu" says:—"There is nothing in history to campare with it except the will of Peter the Great. In it the student of Japanese history will find the solution of many difficulties and its readers will have before them the constitution under which the country was governed until the time, within the recollection of all, when it gave way to the irresistable momentum of a higher civilization."

The "legacy," is a manuscript of 100 chapters. It is contained in the Imperial despository at Tokyo and may be seen only by Japanese of the highest rank. The following is a translation from three collated copies of the original:—

CAP. I—It is necessary before all to apply the undivided attention of the mind to that which is naturally distasteful, setting aside one's own inclinations.

CAP. II—Show special commiseration for the widower, the widow, the orphan and the lone; for this is the foundation of charitable government.

CAP. III—Keep your heart pure; and as long as your body shall exist, be diligent in paying honor and veneration to the gods.

CAP. IV—In future ages, in the event of there being no direct successor to a dynasty, The Chief Councillors of Ii, Honda, Sakakibara, and the Sakai, will assemble in conference; and after mutual deliberation and consultation, unbiassed by considerations of consanguinity or affinity choose a fit and proper person, and duly insure the succession.

CAP. V—The etiquette to be observed upon being installed as Sei-Shogun, is to be patterned after the example of the Lord of Kamakura, (Yoritomo).

The whole amount of the revenue of the Empire of Japan is 28,190,000 koku (of rice). Of this 20,000,000 is to be divided anomg the Daimio and Shomio who render faithful service, and the remaining 8,190,000 koku form the public revenue, which should provide for the effectual protection of the Emperor, and for keeping in subjection the barbarians of the four coasts.

CAP. VI—Although it has been said that ancient customs are to be preserved as laid down in the several articles of the laws framed for the military

classes, these may be modified or supplemented as it becomes beneficial.

CAP. VII—The Fudai are those Samurai who followed me and proffered me their fealty before the overthrow of the castle of Osaka, in the province of Sesshiu.

The Tozama are those Samurai who returned and submitted to me after its downfall, of whom there are 86.

There are 8,023 Fudai calvary lancers. Besides these there are eighteen amurai of my own house, and five Guests of honor.

This division is recorded that they be not regarded as all holding the same position.

CAP. VIII—The space enclosed between the "Circular Dragon" on the left and the "Revolving Hawk" on the right, within the boundaries of the Castle of Yedo, is the "Chief Enclosure." The region of the sign of the Dragon is the "Second Enclosure." That of the Rat is the "Third Enclosure." That of the Bird is the "Fourth Enclosure," and that of the Monkey is the "Fifth Enclosure."

The "Obagumi" (Guards) represent the twelve Spirits (corresponding to the twelve signs of the Zodiac).

The "Shoimban" (Private Guards) correspond to the Ten Elements.

The "Zenku" (Advance Cavalry) is distinguished as the Thirty-three Heavens.

The Musket bearing Corps is assimilated to the Seven Planets.

The Chiefs of the several guards are to be known as the Twenty-eight Constellations.

The Gorojiu correspond to the Four Heavens.

The Chief of all these, knowing himself to be Shogun (Shogun is a term applied also to a certain star) should steadfastly and firmly maintain his position to the close of life.

CAP. IX—Although the collected Fudai are numerous, I put on record those whom I brought from Mikawa, my ancient seat.

TORII.	AKIMOTO.	KATO.	ITAKURA.
SAKAKIBARA.	TSUCHIYA.	OKUBO.	SAKAI.
NAGASAKI.	TODA.	ISHIKAWA.	NAKANE.
HONDA.	KUZE.	AKABA.	OGASAWARA.
	ABE.	IZAWA.	

This is a separate class, from among the male issue of which are to be chosen such as possess talent and ability and entrusted with the direction of the business of the Shogun's government. They are denominated "Roshin" (or Gorojiu); and even though there may be some among the Tozama of extraordinary ability, it is not permitted to appoint them to this office.

CAP. X—The Fudai-Samurai, great and small, all have shown the utmost fidelity, even suffering their bones to be ground to powder and their flesh to be chopped up for me. In what way soever their posterity may offend, for anything less than actual treason, their estate may not be confiscated.

CAP. XI—If there be anyone, be he Kokushi, Rioshiu, or Joshiu, Tozama, or Fudai—none are excepted—who shall disobey the laws to the injury of the

people, his territory or castle shall immediately be confiscated, that martial severity may be reverenced. This is a part of the Shogun's duty.

CAP. XII—In order to prevent any misunderstanding as to precedence among officers of the higher grades of the same seniority, it is decreed that they take order according to the amount of their revenue. This does not apply to the Gorojiu and Wakadosiyori.

CAP. XIII—The magistrates of the Civil and Criminal Courts are reflectors of the mode of government. The persons invested with this office should be chosen from a class of men who are upright and pure, dintinguished for charity and benevolence. Once every month one of the Gorojiu should be sent unexpectedly to inquire into their mode of administration; or the Shogun should himself go unexpectedly and investigate and decide the case on hand.

CAP. XIV—It is inevitable that disputes will occassionally arise between public functionaries and those employed in the household regarding precedence in rank. The established rules are as follows:—

1—Tai-ro-shin, or Gotario (President).
2—Orusui (Chief Guards in charge).
3—Tairojiu or Gorojiu (1st. Council of State).
4—Kioshoshi (Representative of Kioto).
5—Osaka Jodai (Delegate at Osaka).
6—Sunshiu Rioban (The two Guards at Suruga).
7—Wakadoshiyori (Young-Elders, or second Council).
8—Soba yonin (Court attaches or Attendants).
9—Koke (Are men of limited means, but high rank, whose duty it is to receive and entertain ministers from the Imperial Court and occasionally to represent the Shogun on minor occasions).
10—Sosha (Reporter and Advisers).
11—Jisha Bugio (Superintendents of the Temples).
12—Okudoshiyori (Household Elders).
13—Nishi-maru Rusui (Guards in charge of the Western Inclosure).
14—Omédsuké (Chief Supervisors).
15—Kotaiyoriai (Katamoto who are obliged to spend every alternate year in Yedo).
16—Hirayoriai (Hatamoto permanently resident in Yedo).
17—Kanjo Bugio (Treasurers and Judges).
18—Machi Bugio (Superintendents of municipality, or Chief Magistrates).
19—O-okukosho-gashira (Chiefs of the Household Attendants).
20—Naka-okukosho-gashira (Second Household Attendants).
21—Shoimban-gashira (Chiefs of the Private Guards).
22—Oban-gashira (Chiefs of the Guards).
23—Néban-gashira (Chiefs of the Night Guards).
24—Rionando-gashira (Chiefs of the two Dressing-rooms).
25—Kirinoma tsuméban (Keepers of the Kirinoma).
26—Gannoma tsuméban (Keepers of the Gannoma).
27—Fuyonoma yakuuin (Functionary of the Fuyonoma).
Ts'kai-ban (Chief Couriers).
Hommaru, Ninomaru, Sannomaru } Kirokusho yokunin (Officers of the Record Offices in the 1st., 2nd. and 3rd. Inclosures).
28—Omoté-medzuké (Public Supervisors).
29—Tenshiu-ban (Keeper of the Look-out).
Hozo-ban (Keeper of the Treasury).

30—Hata Bugio (Superintendent of the Flag).
31—Katana-ban-gashira (Chief keepers of the Sword).
32—Mochiyumi-gashira (Chiefs of the Archers).
33—Mochidsutsu-gashira (Chiefs of the Musket Bearers).
34—Zenku-gashira (Chiefs of the Advance Cavalry).
35—Yari-bugio (Superintendent of the Spears).
36—Gusoku-Bugio (Superintendent of the Armour).
37—M'maya-no-betto (Groom of the Stables).
38—Funaté-gashira (Chief of the Barge).
35—Makanai-gashira (Chief of Cooking Department).
40—Jiushin (Preceptor of Religion and Morals).
41—Ishi-hondo-Gékwa (Doctors, Physicians and Surgeons).
42—Fushin-Bugio (Superintendent of Buildings).
43—Tansu-Bugio (Superintendent of the Wardrobe).
44—Dobo-gashira (Chiefs of the shaven-pated servants).
45—So-zashiki-ban (Keepers of the drawing rooms).
46—Hino-ban-gashira (Superintendent of Fires).
47—Kachimé is'ké (Supervisor of the out-door attendants).
48—Kobito-gashira (Chiefs of the Inferior Servants).
49—Iga-kumi-gashira (Chiefs of the Iga Corps).
50—Kuro-kuwa'kashira (Chiefs of the Black Hoe).
51—Chojikata-kashira (Chiefs of the Constabulary).

All these are heads of departments. Inferiors holding appointments under them will follow their several lines of duty under the superintendence of their respective chiefs.

The Goro jiu has jurisdiction over persons in receipt of a yearly revenue of 10,000 koku and upwards.

Persons in receipt of less revenue than 10,000 koku are under the jurisdiction of the Wakadoshiyori. The Gotario is the President of all.

CAP. XV—In my youth my sole aim was to conquer and subjugate inimical provinces, and to take revenge upon the enemies of my ancestors. Yuyo teaches, however, that, "to assist the people is to give peace to the Empire," and since I have come to understand that the precept is founded on sound principle, I have undeviatingly followed it. Let my posterity hold fast this principle, anyone turning his back upon it is no decendent of mine.

The people are the foundation of the Empire.

CAP. XVI—The reclamation and filling in of new ground was originated in the time of Yoritomo; and there are doubtless ancient regulations extant bearing upon this subject. Petitions having in view the recovery of the land should be taken into consideration and no opposition should be made to them; but if there exists the slightest objection, according to ancient usages, it is strictly prohibited to entertain them.

CAP. XVII—In the absence of precedent, forbid the making of new ground, new water courses and so forth, and the framing of any new measures of what kind soever. Know that disturbances always arise from such innovations.

CAP. XVIII—It is forbidden to alter a faulty regulation if, through inadvertency, it has been allowed to remain in force during fifty years.

CAP. XIX—There will always be some individual of ancient lineage to be found living among the lower classes of district towns and hamlets. Such a

one as this should be selected for appointment to minor official situations; but care should be taken not to choose refugees and the like.

The import of this should be notified to the Tax-Collectorates particularly; and also to Kokushi, Riôshiu, Jitô and downwards.

CAP. XX—The Daimio and Shomio of the Fudai and Tozama who do not hold official appointments are divided into two halves. One of these is to reside in Yedo until relieved by the other.

When relieved, they are to employ their period of rest in making at our of inspection into the prosperity or adversity of the population of their territories.

Those on service should be entrusted with the various duties connected with the castle and the protection of the outer enclosures. They should lend assistance in repairing rents and damages, in the erection of new buildings, and in extinguishing fires, and so on.

These duties are not exacted solely for myself or my house; but for the Shôgun, whose duty it is to protect and defend the Emperor.

CAP. XXI—The modes of commending virtue and rewarding merit are:—

1—Grant of name or title (Often bestowed after death).
2—Spoken commendation.
3—Rank and Revenue.
4—Official situation.
5—Minor superintendencies.

The modes of punishing crime for the repression of vice are:—

1—Branding (or tattooing).
2—Splitting the nose.
3—Banishment.
4—Transportation.
5—Strangulation.
6—Imprisonment.
7—Decapitation and exposition of the head.
8—Crucifixion and transfixion.
9—Burning
10—Decapitation, and so on.

These rewards are to be bestowed and punishments to be inflicted only after a strict investigation into the merits of commendable or criminal conduct; and although a notification to the above effect has been issued to the Courts of Law, particular pains should be taken to impress it upon their strict observance.

The infliction of the severe punishments of tying a criminal's legs to two oxen, and driving them in different directions, and of boiling in oil, is not within the power of the Shogun.

CAP. XXII—You should not hastily attach to your person officers of the higher grades who are ever ready and obedient; nor should you precipitately dismiss the lukewarm. They should be attached or dismissed in a quiet way, after due consideration of the behaviour of each, and consultation with the Gorôjiu. Neither should be done in a hurried or inconsiderate manner.

CAP. XIII—It has been said of old, "Although advised on all sides to put to death, put not to death; but when all the people of the country advise capital punishment, inflict it only after re-iterated investigation into the merits of the case in question."

"Though advised on all sides to confer reward, confer not reward; but when all the people of the country advise the bestowal of reward, concede only after reiterated enquiry into the merits of the case in question."

The art of governing a country consists in the manifestation of due deference on the part of a suzerain towards his vassals. Know that if you turn your back upon this, you will be assassinated, and the Empire will be lost.

CAP. XIV—Although a person of former days deprecates the custom of fishing with divers, and of hawking, such sauntering for amusement does not entail a needless destruction of life. "The tribute offering, by noblemen, of the spoil of the hunt and of the chase to the Emperor" is an ancient custom among the military classes of other countries as well as Japan. It tends to render soldiers expert in the use of the bow, and in horsemanship; and in times of great peace is beneficially remindful of the excitement of war. It is a custom which should not be discontinued.

CAP. XXV—Although singing and instrumental music are not the calling of the military class, at times they expand the spirits, relieve depression, and are delightful recreations in the joyfulness of great peace. In the first festivals of the years and months, these also should not be discontinued.

CAP. XXVI—The successive generations of military chiefs of the family of Gen. from Sadazumi Shin-no downwards, are enshrined at Momijiyama in the Western Inclosure, for the repression of evil influences, and for the protection of the shrines dedicated to ancestors within the boundaries of the castle. Future generations shall pay them the highest respect and veneration, and shall be diligent in sacrificing to, and worshipping them.

CAP. XXVII—I, although the offspring of Seiwa, and born in the family of Matsudaira of Mikawa, was overcome by inimical provinces, and for a long time depressed and confined among the common people. Now I am thankful to say, being engirdled with the favor of Heaven, the ancestral estate of Serata, Nitta, Tokugawa, and Matsudaira have returned to me Henceforth let succeeding generations venerate these four families, and not depart from the teaching. "Let there be a careful attention to parents, and let them be followed when long gone."

CAP. XXVIII—Reverting to the scenes of battle at which I have been present during my career, there must have occurred eighty or ninety hand to hand encounters. Eighteen times have I escaped with my life from ten thousand deaths. On this account I have founded eighteen "Danrin" (lit: sandal groves, or temples) at Yedo as a thank-offering. Let my prosperity ever be of the honored sect of Jodo. (Buddhist sect.)

CAP. XXIX—With respect to the temple of Yeizan on the East of the Castle in the Military capital, (Yedo), I have received much repeated instruction from the late Daishi. Is it well that I should not demonstrate my gratitude? I have reverentially begged for him the office of Preceptor of the first degree, and Chief Priest of Tendai; and have offered up prayers and supplications that wicked resentment may entirely cease, and that the country and its households may enjoy undisturbed peace and harmony.

CAP. XXX—The Preceptor will be a sufficient provision for the defence of

the royal castle; and in the event of the Imperial residence being assailed by inimical barbarians he shall be elevated to the "Throne of divine blessings," and the Shogun shall aid and assist him in subjugation and exterminating them.

CAP. XXXI—High and low alike may follow their own inclinations with respect to religious tenents which have obtained down to the present time, except as regards "the false and corrupt school." (Roman Catholic). Religious disputes have ever proved the bane and misfortune of the Empire, and should determinedly be put a stop to.

CAP. XXXII—The families of Gen, Pei, To, Kitsu, the two families, of Kan and Ki,—Ariwara and Kiowara, derive their names from the Supreme Ruler, (Emperor). It would be no shameless thing if one among these, attaining to the military command-in-chief although apparently possessing the necessary capability, were nevertheless a man void of knowledge and erudition, to whom the path of wisdom and virtue is dark, all whose deliberations proceed from his own mind, ignorant of the military accomplishments necesary in a military man.

From time to time colleges should be instituted, where by self-exertion, others may be stimulated and encouraged to enter, and receive virtuous instruction.

CAP. XXXIII—The way to govern a country and to keep an empire tranquil, originally proceeds from the "Gate of Perfection of Wisdom." (Confucian teachings).

To endeavor to attain to literary or military perfection in any other path is like "climbing a tree in search of fish, or plunging into the water to look for fire."

Reflect that this is the height of shallow-brained stupidity.

CAP. XXXIV—There is always a certain amount of sickness among the population of the Empire. A sage of old, being grieved at this, established a medical code; and although there may be proof, in the effectual cure of disease, that others have drawn from this stream, such should not be endowed with large territory, lest being in possession of landed estate they straightway become indolent in the exercise of their profession. A suitable reward should be bestowed upon them, adequate to the shallowness or depth of the cure effected.

CAP. XXXV—By an ancient custom of the Empire, Niidono, the Spiritual Chief, has the entire control of every particular connected with the physical study of the Heavens, and the management of the Spirits of the Five Grains. Should anyone, however, set himself in opposition to the examples and precepts of the Military Chief of the Empire, there should be no hesitation or delay in punishing him severely.

CAP. XXXVI—All wandering mendicants, such as male sorcerers, female diviners, hermits, blind people, beggars, and tanners, have had from of old their respective rulers. Be not disinclined however to punish any such who give rise to disputes or who overstep the boundaries of their own classes and are disobedient to existing laws.

CAP. XXXVII—A girded sword is the living soul of a Samurai. In the

case of a Samurai forgetting his sword, act as is appointed; it may not be overlooked

CAP. XXXVIII—A written record of the amount of public, private, and other possessions, including mountains, woods, fields, and rivers in the several provinces, was made out according to a survey of Okawachi and Asano in the first year of Bunroku (A.D. 1592) and forwarded to the Supreme Government House. War requirements should be officially allotted in proportion to the amounts of the several possessions.

CAP. XXXIX—

For	1,000	koku	rice,	5	cavalry-men	may be	required.
"	10,000	"	"	50	"	"	"
"	50,000	"	"	250	"	"	"
"	100,000	"	"	500	"	"	"
"	200,000	"	"	1,000	"	"	"

One thousand cavalry form an army; and three thousand form three complete armies.

The Commander-in-Chief takes command of the whole. The second in command takes command of two armies. The third in command is the leader of one army. The other smaller details are minutely recorded.

CAP. XL—By a fortunate choice on my part, Ii Manchio-maru is created Commander-in-Chief, and holds the "Golden Baton." Honda Hehachiro, is created Second Commander, and holds the "Silver Baton." Manrakami Hikotaro is created Third Commander, and is authorized to bear the "Paper Baton." It is necessary that every Samurai should know these particulars.

CAP. XLI—The boundary lines of possessions held by Samurai may not be varied or trespasssed upon so much as a hair's breath. In the event of disputes of this nature being referred for decision, the plan in the Civil Court should be compared with the Register, and the boundary line fixed. But if there should be any difficulty in determining the matter an Inspector, a chief Supervisor, and a Judge, should repair to the place in dispute, and in the usual manner give their decision in accordance with the Register. In the event of such decision not being accepted, and one of the disputants making still further complaint, the place in dispute shall be confiscated, and the amount of the possessions of the appellant reduced.

CAP. XLII—There is a difference in the ceremonies to be observed by direct retainers and secondary retainers of rank.

CAP. XLIII—Parties fighting and wounding each other with sharp itstruments are equally culpable, but should be judged according to the severity of the wounds inflicted. The rule of procedure on such occasions is to arrest the criminal party; but at times it may not be expedient to trace him.

CAP. XLIV—The strictest and most careful search shall be made for persons guilty of murder by stratagem, or with malice prepense—of poisoning for selfish purposes, and of wounding others while robbing a house—who, when found, shall be executed.

CAP. XLV—The Samurai are the masters of the four classes. Agriculturers, artizans, and merchants, may not behave in a rude manner towards

Samurai. The term for a rude man is "other than expected fellow" and a Samurai is not to be interfered with in cutting down a fellow who has behaved to him in a manner other than is expected.

The Samurai are grouped into direct retainers, secondary retainers and nobles and retainers of high and low grade; but the same line of conduct is equally allowable to them all towards an "other than expected fellow."

CAP. XLVI—The married state is the great relation of mankind. One should not live alone after sixteen years of age, but should procure a mediator, and perform the ceremony of matrimonial alliance. The same kindred, however, may not intermarry.

A family of good descent should be chosen to marry into; for when a line of descendents is prolonged, the foreheads of ancestors expand. All mankind recognize marriage as the first law of nature.

This subject should be circulated, that it be not lost sight of.

CAP. XLVII—A childless man should make provision, by the adoption of a child, to ensure the succession of the family estate; but it is not customary for a person under fifteen years of age to adopt a child.

An adopted son of the Emperor is called "Hom-miya;" of the Shogun, is termed Shokun (heir apparent); of the Lord of a province is designated Seishi; of Hatamoto and downwards is called Yoshi (adopted child).

The family estate of a person dying without male issue and without having adopted a son, is forfeited without any regard to his relations or connections.

Nevertheless, as it is taught by the sages and worthies that the Empire is the Empire of its people and does not appertain to one man alone, in the event of an Infant on the point of death wishing to adopt a child, there is no objection to his being allowed to prolong his race in the person of one who is of age.

CAP. XLVIII—In lieu of the practice which has hitherto obtained, viz: that of the Emperor in person making a tour of investigation to the several provinces for the purpose of hearing verbally from the Princes an account of their several administrations, let an Inspector be sent every five or seven years to the different provinces to examine into the traces of the behaviour of the Kokushiu and Rioshiu during their absence from Yedo. The inspection into the well-being or dissatisfaction of the peasantry, the increase or decrease of the produce, the repairs and alterations effected in the castles, and so on, are not to be discontinued.

CAP. XLIX—The territories entrusted to the Daimio, with the exception of the Kokushiu, shall not be perpetuated to successive generations. They should be interchanged every year, the territories being apportioned relatively. Should the territory entrusted to one Daimio remain in his possession for too long a time, he is certain to become ungovernable and oppress the people.

CAP. L—If a married woman of the agricultural, artizan, or commercial class shall secretly have illicit intercourse with another man, it is not necessary for the husband to enter a complaint against the persons thus confusing the great relation of mankind, but he may put them both to death. Nevertheless,

should he slay one of them and spare the other, his guilt is the same as that of the unrighteous person.

In the event, however, of advice being sought, the parties not having been slain, accede to the wishes of the complainant with regard to putting them to death or not.

Mankind, in whose bodies the male or female elements induce a natural desire towards the same object, do not look upon such practices with aversion; and the adjudication of such cases is a matter of special deliberation and consultation.

CAP. LI—Men and women of the military class, are expected to know better than to occasion disturbance by violating existing regulations—and such as one breaking the regulations by lewd trifling or illicit intercourse, shall at once be punished without deliberation or consultation. It is not the same in this case as in that of agriculturers, artizans, and traders.

CAP. LII—In respect to revenging injury done to master or father it is granted by the wise and virtuous (Confucius) that you and the injurer cannot live together under the canopy of heaven.

A person harboring such vengeance shall notify the same in writing to the criminal court; and although no check or hindrance may be offered to his carrying out his desire within the period allowed for that purpose, it is forbidden that the chastisement of an enemy be attended with riot.

Fellows who neglect to give notice of their intended revenge are like wolves of pretext; and their punishment or pardon should depend upon the circumstances of the case.

CAP. LIII—The guilt of a vassal murdering his suzerain is the same in principle as that of an arch Traitor to the Emperor. His immediate companions, his relations, and all even to his most distant connections shall be cut off and mowed to atoms, root and fibre. The guilt of a vassal only lifting his hand against his master, even though he does not assassinate him, is the same.

CAP. LIV—The position a wife holds towards a concubine is the same as that of a lord towards his vassal.

The Emperor has twelve imperial concubines. The Princes may have eight concubines. Officers of the higher class may have five mistresses. A Samurai may have two hand-maids. All below this are ordinary married men.

A sage of old makes this known in his Book of Rites, and it has been a constant law from of old to the present day.

Silly and ignorant men neglect their true wives for the sake of a loved mistress, and thus disturb the most important relation. In olden times the downfall of castles and the overthrow of kingdoms all proceeded from this alone. Why is not the indulgence of passion guarded against? Men so far sunk as this may always be known as Samurai without fidelity or sincerity.

CAP. LV—It is a righteous and world-recognized rule that a true husband takes care of outside business, while a true wife manages the affairs of the house. When a wife occupies herself with outside affairs her husband loses his business, and it is a pre-evidence of ruin to the house—it is as when a hen is afflicted

with a propensity to crow at morn, and an affliction of which every Samurai should beware. This again is an assistance in the knowledge of mankind.

CAP. LVI—The nine Castles, viz:—those of Iwatsuki, Kawagoi, and Oshi in the province of Mausahi; of Sakura, Sekiyado, and Kogawa; and of Odawara; of Utsunomiya in Shimodsuke; and of Odawara in Sagami are all branch-castles of the Chief at Yedo.

They may not be entrusted to the charge of any one but a Samurai of the Fudai class especially appointed to the trust. They are outworks for the protection of the chief castle.

CAP. LVII—The two castles of Fuchu and Kuno in the province of Suruga shall be entrusted to the guardianship of the Chief of the "Private Guards." They are acessory to the principal castle.

CAP. LVIII—The Warden of the two castles of Osaka in the province of Setsu, and of Fushimi in the province of Yamashiro, should be a vassal of ancient lineage, and above the "Fourth-Grade." Certain of the guards should be stationed there as resident guards. When war is made one of these Castles should be the head quarters of the Main Army.

CAP. LIX—There are sixteen guard houses established on the main roads and bye roads of the districts and provinces, some on the seashore, some inland, in order to prevent man or woman disturbing the public peace, and for defences of the boundaries of the state. The superintendence of these should be entrusted to a Samurai of the Fudai class of ancient lineage, without regard however to his wealth. He shall see that the rules written for their regulation are properly carried out. Under certain circumstances not even a needle should be permitted to pass; but on ordinary occasions horses and vehicles may go through.

CAP. LX—The protection of the Castle of Nijo shall be entrusted to some reliable and trustworthy Fudai of good lineage, instead of to that of the Commander-in-Chief; he shall be called "The Kioto Representative," and on all occasions of disturbance the Thirty Western States shall take their orders from him.

CAP. LXI—The office of Prefect of Kiusiu has for a long time, since the time of Odono, been temporarily discontinued. This office should be entrusted on alternate years to the two houses of Shimadzu (Satsuma) and Nabeshima (Hizen).

It is forbidden to give this trust to any other house for ever.

CAP. LXII—In the inner inclosure, beneath the Castle at Yedo, there are twenty-eight curtained guard houses, and there are also twenty-eight in the outer inclosure.

The superintendence of the Inner Inclosure shall be entrusted to a Fudai, for the time being resident in Yedo; that of the outer Inclosure to a Hatamoto on duty at the time.

They shall be directed as a matter of course to attend to the guard-house regulations, and to see that the military weapons, swords, insignia, and all the implements of war are kept clean and in proper order.

CAP. LXIII—The several duties about the Castle to be performed by the Samurai on duty, and the work to be done in connection therewith should be well considered, and allotted in proportion to their revenues; but they should not be appointed to high offices of the State. Some three, four or five of them should be set apart for the transaction of contingent official business.

CAP. LXIV—Nagasaki is the province of Hizen, being a port at which vessels of other countries touch, has dominion over three nationalities. The administration of this place should be entrusted to the chief member of the Gorojiu.

The resident guard shall consist of four chiefs from among the Fudai Samurai, each in receipt of 3,000 koku upwards. They shall each be provided with a riding horse and foot soldiers, and are salaried officers.

CAP. LXV—In the revolutions of nature, lands, houses, mountains, rivers, and ferries become damaged and ruined, and considerable outlay is requisite to put them in repair.

A part of such expenses is to be borne by the neighboring province in proportion to the number of koku it produces. This tax is called "Provincial thank-tribute."

Yoritomo introduced this custom, taking example from the period of the sages; the principle is by no means a selfish idea of my own. It is a custom which shall be observed by future generations for ever.

CAP. —LXVI—Regarding thoroughfares, both in Government territory and throughout the Empire, 36 feet is the proper width of the "great sea road;" but including the trees on either side, it should have a uniform width of 120 feet. 18 feet is the proper width of the "small sea road," but including the margins on either side it should be of a uniform width of 60 feet.

Twelve feet is the proper width of cross-roads and horse-roads, inclusive of the side-walks 30 feet should be the uniform width.

Six feet is the proper uniform width of foot-paths, inclusive of margins on either side.

Three feet is the proper uniform width of bye-paths, and paths through the fields, inclusive of margins on either side.

On either side of a river, where crossed by a ferry, there should be an open space of 360 feet or thereabouts.

Post houses have been established at intervals for the despatch of public business, and are also of manifest assistance to foot passengers.

This is an ancient regulation, handed down from Oinos'ke, an ancestor of the Tokugawa.

CAP. LXVII—The several taxes leviable on hills, rivers, seas, and ports, should not be exacted irregularly. They should suffice for the current expenses of the Imperial household.

CAP. LXVIII—Dwellings shall not be erected on ground under cultivation by husbandmen, as the growth of bamboos and trees around the walls is prejudicial to the crops.

When disputes arising from a question of new and old plantations is referred

for decision, the test is in the height of the trees forming the enclosure of such plantation.

If they are seen to be three feet high, the plantation may be known to be an old one; if they are not three feet high the plantation is a new one, and trees should be cut down, and the party in the wrong confined to his house for one hundred days.

CAP. LXIX—If the boughs of large trees in the immediate neighbourhood of villages in which the houses are built consecutively, become so large as to interfere with the drying of grain, or to interrupt the payment of annual tribute, in the first place the branches shall be cut off; and if that is not sufficient the whole tree shall be cut down.

Overshadowing branches should be lopped off annually.

CAP. LXX—Although there are many bad roads and bridges in the frontier villages of the different provinces, there is a great deal of carelessness and neglect evinced and the consequence is great inconvenience to travellers.

The care of aqueducts for water in case of fire also is neglected and water is allowded to stagnate in the drains, because it is not the business of any particular individual to look after them. And the deepening or filling in of the beds of rivers is overlooked as entailing trouble.

Circular instructions should be issued in the customary years from the Inspectorate, that such neglect cease to exist.

CAP. LXXI—From of old the harmony between lord and vassal has been likened to that existing between water and fish. Ought it not to be so? It is, indeed, no difficult thing. If the golden rule, "Do not unto others that which you would not have others do to you," be so firmly grasped in the heart as not to be lost sight of for a moment, the force of example will induce inferiors to conform to this virtuous teaching; and not only immediate attendants, but the population at large, will naturally flow smoothly along as water to its outlet.

CAP. LXXII—My body and the bodies of others, being born in the "Empire of the Gods," to adopt the teachings of other countries in Toto, such as Confucian, Buddhist, and Tauist doctrines, and to apply one's whole and undivided attention to them, would in short be to desert one's own master, and transfer one's fidelity to another. Is not this to forget the origin of one's being.

Judging from a medium and unprejudiced point of view, a clear decision should be arrived at as to what is proper to adopt, what to reject. The delusions of witchcraft and superstitious arts should on no account be unquestionably accepted; but on the other hand they should not be forcibly and obstinately rejected.

CAP. LXXIII—Virtuous men have said both in poetry and standard works that houses of debauch for women of pleasure, and for streetwalkers, are the wormeaten spots of cities and towns. But they are necessary evils, which if forcibly abolished, men of unrighteous principles would become like revelled thread, and there would be no end of daily punishment and flogging.

These separate chapters are intended to suffice as a general basis of the law of the Empire; but with regard to minute details affecting the inferior classes individually, learn the wide benevolence of Koso, of the Kan Dynasty.

CAP. LXXIV—As a pattern for the house of Tokugawa, adjust your line by that of the Lord of Kamakura (Yoritomo); you may not adopt the fashions of other houses. Nevertheless, the tendencies of the Lord of Komatsu should not be entirely rejected.

CAP. LXXV—Although it is undoubtedly an ancient custom for a vassal to follow his Lord in death, there is not the slightest reason in the practice. Confucius has ridiculed the making of Yo. These practices are strictly forbidden, more especially to primary retainers and also to secondary retainers, even to the lowest.

He is the opposite of a faithful servant who disregards this prohibition; his prosperity shall be impoverished by the confiscation of his property as a warning to those who disobey the laws.

CAP. LXXVI—A knowledge of military tactics, and the art of managing an army, are nothing but necessary accomplishments in a leader.

An ordinary man is like a manufactured article—he is not composed of many bodies. Every manufactured article has it own separate use, and a hammer will not answer the purpose of a chisel, nor can a gimlet be used for the purposes of a saw.

In precisely the same manner, every individual man has a special use. Make use of a wise man's wisdom; of a brave man's courage; of a strong man's strength; of a weak man's weakness; of each, in short, according to his individual capability—for just as a gimlet will not answer the purpose of a saw, neither will an ignorant or a weak man answer the purpose of a strong man, and should therefore not be employed in his stead. The substance of this is inculcated as an incipient principle by the five virtues; and the adoption or disregard of this principle tests the ability or inability of a chief.

In looking at the principle again as applied to men who are employed for purposes of war, unity of feeling among one another and mutual regard between high and low, will ensure peace and tranquility in the Empire without having recourse to arms. This does not apply exclusively to times of war, but is equally applicable to all occasions.

CAP. LXXVII—When military power becomes full to overflowing, even in the absence of all ambition, the proper veneration for the "Throne of Divine blessings" is apt to become blunted; and there arrives a tendency as has been demonstrated in the persons of so many of old, to remissness in respect, and oblivion of the origin of the "Kingdom of the Gods," the source of self-desire is apt to overflow. Such a sin is not a light one, and will be undoubtedly followed by annihilation from Heaven.

CAP. LXXVIII—The Shinno and the several Miya, being related to the son of Heaven, should be treated with the highest respect. This immediately concerns the Shosho, You should not set yourself in opposition to the Kuge, who by ancient custom come next in order. Impolite behaviour and a rough and indifferent manner are to be avoided.

CAP. LXXIX—There are five families whose heads are by custom Quests of honor; and mindful of the circumstances on record from which this custom originated, your intercourse with them should resemble the mutual friendship of

neighbouring states. The manners, customs, and fashions of their houses are not under the care of the Tokugawa family. Nevertheless, if anyone among them evince contempt towards superiors, or injure the people by tyrannical oppression, he should be immediately reprimanded. This is a duty of the "Sarbarian destroying Shogun," and one which should not be delayed for a moment.

CAP. LXXX—With regard to the prosperity of Owari, Kishiu, and Mito, and the fifteen Kammon immediately following them, the fortune decends to the eldest male child, and the revenue of their possessions shall not be divided among the remaining children. These last should choose some family of good pedigree and great wealth, and marry into it. The family thus allied shall rank only with the Kammon, who should receive them with amity. The thirteen (*) families, however, may not become thus united.

(*) These are probably the thirteen principal Kammon-Daimio.

CAP. LXXXI—Daimio with an annual revenue of 100,000 koku and upwards—the Gorojiu—public officers of the higher grades, and all Generals though in receipt of small incomes, are entitled to the same distinguished insignia, etc., as the Lord of a province or a castle.

CAP. LXXXII—The travelling suites of Fudai and Tozama, and likewise of higher grades of officers who may be on their way to assume their duties at Yedo, or returning from Yedo after being relieved, shall strictly observe the established rules. They shall not carry their flowery manifestations beyond the adjusted limits, neither shall they in aught detract from the regulations. They shall not disturb or harass the people at the post-houses, being puffed up with military pomp.

This subject should be impressed upon their attention by the Gorojiu at the time of leave taking.

CAP. LXXXIII—Regarding the charges for boats and rafts—men and horses, horse-hire, boat-hire, porterage, and so on, should be regulated by the distance to be travelled, and weight by scale. This regulation should be made generally known to prevent misunderstanding.

The Horse-express and Government Carriers, however, are not included in this regulation; particular care should be taken to afford them every facility for speedy locomotion.

CAP. LXXXIV—The Fudai, Tozama, Kokushiu, and Rioshiu Daimio alike, at the time of leave-taking shall bring treasure and silk, and present them to the Gorojiu in office at the time, as a customary offering, for their administration. The Gorojiu shall receive from those in receipt of an annual revenue of 10,000 koku and upwards the price of a horse in gold; and from those in receipt of less than 10,000 koku the price of a horse in silver, from each in proportion to his revenue. This shall suffice for their official salary.

CAP. LXXXV—Among the many employees there will be some who flatter, adulate, and endeavour to bribe influential men having authority; again, there will be others, true men, who evince a grave and decorous respect towards their superiors.

The faithful and unfaithful are clearly apparent among these, and ignorance in distinguishing between them tends to degeneracy in the Government. Much reflection and grave consideration is requisite and a liberality in punishment and reward.

CAP. LXXXVI—Regarding the erection of (temples called) "Ji-in" and "Sam-moh." At the time I established the "Sandal Grove," an embarassing remonstrance was made by the Chief Priest of the Sect of Tendai (Buddhist). He argued thus:—

"My mountain is situated immediately under the Three felicitous stars exactly "in the centre of the heavens, by permission of a former Emperor, who intended "that it should give adequate protection to the Imperial Palace of the Empire. "The idea was taken from the Tandai Sam-mon, instituted for the defence and "protcetion of the Imperial Capital of another Empire (China); and for this "reason the term Sam-mon can be properly applied to my mountain alone "throughout the Empire of the Rising Sun. By what right does the Shogun "raise another Sam-mon?"

On this occasion I was dumb before him. But at last I found words, and replied that I had established it in perpetuity in order that the omniscient Being of Kinjo (Emperor at the time) might attain eternal longevity. I at the same time made a reform in the nomination of the "Ji-in" throughout the Sixty-six provinces; and seventy-three different temples came to be termed "Sam-mon." A memorandum was drawn up, setting forth their number and situation, and sent to the Chief Temple of Tandai on the 11th day of the fourth moon, of the 2nd year of Bunroku (A.D. 1593).

From the first, though cognizant of the law, I yet willfully made an innovation. This should not be done.

CAP. LXXXVII—The title of Sei-Tai-Shogun originated in the person of Yoritomo, and the ceremonies observed on appointment are the bestowal of the "Sancho-no-Fuyetsu" and "Chingo-no-in," and the grant of the "Sambo-no-Gorei" by the Emperor.

This office is similar to that of "Shingi-K'wan," inasmuch as Samurai employed under it to fill official situations, high and low alike, are required, upon the death of a blood relation, to retire into solitary confinement to purify themselves from contaminating uncleanness, in accordance with ancient custom. This custom should be carefully and circumspectly maintained.

CAP. LXXXVIII—To neglect one's daily occupation in gambling and excess in wine to stupefaction is to rob the clear daylight; and although to yield to this can hardly be pronounced as insubordination, it is a practice eminently calculated to have an evil effect upon the lower classes, eventually resulting in the destruction of their families and the extermination of their lives.

It has been said that "to be a teacher and not to teach, is the fault of the teacher, but to neglect his teaching is the fault of the pupil." By this rule the severity or leniency of the punishment should depend upon circumstances.

CAP. LXXXIX—When the four classes neglect their several avocations they are reduced to hunger and cold, and eventually commence to break the

laws, and vex and disturb mankind. These are serious crimes and should be distinguished as capitally punishable.

Incendiaries, forgers of seals, poisoners, forgers of coin—all these ruffians are liable to the severe punishments of burning, exposition of the head after decapitation, and crucifixion and transfixion.

CAP. XC—In cases of investigation, if public and martial intimidating power is properly directed, there is nothing between Heaven and Earth, in the distant abodes of the Barbarians throughout the four quarters of the globe, at the roots of the grass, or even under the earth, which cannot be brought to light. The only thing which is difficult to discover is the thread of the heart of man. Yoaitomo adopted an ingenous plan of Sokutaku of the Daito dynasty. and caused the hearts of the lower orders to be reflected by suspending gold and silver, or advertising rewards, on notice boards which were exhibited in the thoroughfares and streets of the capitals.

This custom is still kept up; but it is to be feared that there is an indisposition on the part of Samurai to respond to the spirit of this principle of reflection.

CAP. XCI—When the Imperial mode of government is unclean, the five grains do not ripen.

When punishments and executions abound in the Empire, it may be known that the Shogun is without the virtue of benevolence, and degenerate. Such crises should induce reflection upon past conduct, a disposition not to act remissly or carelessly.

CAP. XCII—When laws are made by the eminent, and issued to the people, a nonconformity to the provisions of such laws on the part of the eminent, engenders ridicule and opposition on the part of the lower orders.

It is no easy matter to make one's practice conform to what one preaches; so that it is incumbent to face one's own self, and investigate each particle of conduct with grinding torture.

CAP. XCIII—When a Kokushiu or Rioshiu of great wealth shall unwittingly commit a fault against the Shogun, or in the event of a difference of opinion between them, it hardly amounts to a punishable crime; but it is of such a nature as not to admit of its being lightly passed over, instead of criminating the offender, appoint him some arduous duty incommensurate with the amount of his revenue.

CAP. XCIV—The departure from life of the Emperor, the Imperial Sire, the Imperial Spouse, or the Imperial Mistresses, or any of the Imperial blood relations, are occasions of profound darkness, and great and ominous calamity for the whole Empire. In high antiquity on such occasions the eight sounds were suppressed within the four seas; and holidays and festivals on the 1st day of the year and months, the "Gosek'ku," the feast of the first appearance of the Boar—and all kinds of festivals were observed in silence.

When an occasion of public mourning arises, a fixed term of mourning should be appointed for observance by the Ministers of State, the "Sanko," the Shogun in office at the time, and by all Government Officers, during which every instrument that emits a sound, of what kind soever, shall cease.

CAP. XCV—It is the duty of the Shogun to provide the necessary expenses upon the accession of the Emperor to the throne, and for the "Daijoye"—they should not be parsimoniously diminished in an infinity of ways.

CAP. XCVI—On those occasions when foreigners come to offer presents, they should be entertained with proper abundance and uniform politeness. The beauty and elegance of the military accoutrements, and the caparisons of the horses should be made to appear to the utmost advantage. From the port at which the ship arrives, as far as the Yedo capital, whether the road lie through Government or other territory, the castles and moats, and all the houses on the way should be in a thorough and complete state of repair, that the broad and extensive affluence, and the intrepidity of the military power of the Empire may shine forth. The whole management should be undertaken by the Ministers of the Shogun.

CAP. XCVII—When foreign vessels arrive by chance at our shores information of the fact shall immediately be given, and by means of written communication through an interpretor their business shall be learned. According to circumstances they shall be treated with commiseration and benevolence, or with dignified reserve. In all cases a guard shall be placed on board for their restraint.

CAP. XCVIII—The accessor to the Imperial throne should look upon the people as one who nourishes an infant. How much more should the Shogun to whom the Empire is entrusted cherish this feeling. The term applied to this feeling is "benevolence"; and benevolence includes the whole of the five relations. Further, through its practice, the noble and ignoble become apparent.

I, having learnt this, distinguish between the attachment of the Fudai and the reserve of the Tozama; nor is this discrimination at all at variance with Heavenly principles; it is by no means a partial and one-sided idea of my own.

I cannot particularly record this for transmission to posterity by tongue or pen; but it is a subject which will naturally develop itself if viewed with deep attention from a medium point between the two extremes.

CAP. XCIX—When rewards and punishments are not properly administered, faithful servants are hidden, and not made manifest—when they are properly regulated all mankind esteem the one and dread the other.

There shonld not be the difference of the slightest particle of dust either in excess or insufficient; but they should be administered with self-possession, and after deep reflection.

Confucius has exemplified my meaning in his "Comments on the Law of my mind."

CAP. C—Since I have attained to my present office I have increased and diminished the ancient examples of successive generations of the house of Gen; and although I have drawn up these several heads of rules of conduct, my object has been to be a transmitter, not a framer. I have not allowed myself to be in the slightest degree influenced by selfish motives; but have rather embodied the foregoing Chapters as an example which, although it may not hit the mark, will not be very far wide.

In all questions of policy cherish precedents and do not give exclusive attention to small or large matters; let this be the rule of your conduct.

There are further subjects I would bring under notice, but I have no leisure.

Let my posterity thoroughly practice with their bodies the particulars I have above declared. They are not permitted to be looked upon save by the Fudai-Gorojiu. In them I have exposed and laid bare the limited reflections of my breast. Let not future generations be induced to ridicule me as having the heart of a venerable old grandmother.

I bequeath this record to my posterity.

This remarkable Code did not interfere with the torture system which had been imported from China. Any criminal before he could be convicted was required to confess his guilt. In case he refused it was at the discretion of the Inquisitor whether or not he should be placed upon the rack or otherwise tortured into a confession. This law requiring a confession with its attendent torture was in force until as recent a date as 1876. This was of course one of the chief objections held by Europeans and Americans against revising the treaties, and it was no doubt in consequence of their remonstrances that the law was changed. It has been shown that, previous to the beginning of the Tokugawa Shogunate which began in 1602, the Criminal Laws of Japan were identical with the Chinese Codes, known to this day as Ming and Tsing. Ieyasu altered, amended, and added to these as above in 1602, and under these latter laws, modified from time to time, the country was governed until the Mikado's government in 1869. The chief changes in the laws inaugurated by Ieyasu may be briefly recorded a follows:—The granting of religious liberty, except to Catholics; the law for the government of Medical Men; exalting the Marriage State; and the making of Gambling a crime. It is clearly demonstrated in Chapter 55 that he was not a believer in the claims of those who may have advocated women's rights in his day.

HENRY ECCLES, Q.C., AS A LAWYER.

BY D. B. READ, Q.C.

A HALF a century ago perhaps the most striking figure and stalwart form to be seen on the streets of Toronto was that of Henry Eccles, Q.C., of whom perhaps more anecdotes are told than of any other man who ever practiced at the Ontario Bar. His career was singularly brilliant, for his span of life was short and his great achievements were all clustered within the forty-five years stretching between the time of his birth in Bath, England, and his death in the city of Toronto in 1863. Conspicuous as he was in face and figure, his magnificent endowment of brain and force excited even greater admiration. Though with the mutations of time those who were his contemporaries have nearly all passed away, yet lawyers of the older school even yet tell their students of the great things accomplished by their fore-

runners at the bar and hold up as an example the career of Henry Eccles as affording to the youthful ambition a wide horizon of possibility.

The subject of this sketch was the son of Capt. Hugh Eccles, who entered the army near the beginning of this century and was through the Peninsular war with Wellington. Retiring on half pay, he lived for a time in Wales, then in England, and finding his means insufficient to support the status in society which a half-pay officer is expected to take, removed to Niagara in 1834. His son had few opportunities of acquiring a finished education, and excepting instruction given by his father, the parish school of Bath and the district school of Niagara furnished the only preparatory course to his legal studies. In 1836 Henry Eccles entered the office of James Boulton of Niagara, and was called to the bar in 1842. Niagara was then a much more important town than it is now, being the country seat of Lincoln and the scene of a great deal of litigation. In the case of Henry Eccles, as in the case of even more illustrious men, the axiom proved true that a man is not without honor save in his own town, and he removed to Toronto, where his father had already taken up his residence. Almost penniless and without influence, he entered the list against a *coterie* of the most distinguished barristers that has perhaps ever been gathered together at any one time in the history of the bar in a city which has never been devoid of sufficient lawyers. The boldness of his youthful venture was typical of the man, and his next move towards eminence was even bolder. He recognized what everybody recognizes now, that to be eminently great a man must be a specialist, at the beginning at least. He took his own measure and decided that the Hon. John Hillyard Cameron, Q.C., then recognized as the greatest of Canada's special pleaders, should no longer hold undisputed eminence in that respect. The drawing of pleadings in those days was one of the most difficult phases of a lawyer's practice, and until the special demurrers were abolished the man most skilful in taking exceptions seemed to be regarded as the most valuable counsel. At that time it must have puzzled the old practitioners to see this able-bodied and aggressive stripling attacking the work of a man who had been almost invariably successful, not only in defending his own pleadings but in tearing to pieces the pleadings of others. Yet before he had been long in practice it was discovered that he had a genius for stating his case concisely, forcibly and always within the forms prescribed. At that time pleadings were exceedingly lengthy and all conveyancing was in the nature of a special statement of facts which often occupied a hundred or a hundred and twenty folios. Mr. Eccles was such a master of legal principles that he would draft in a beautiful hand, almost without lifting his pen and without an erasure, the most difficult pleading and uphold it against all objections which accounted for the dominant position he afterwards occupied. He knew before he entered upon a task what to do; he knew how to do it; he had a thorough conception of every feature of it, and this came to him by nature and not by the burning of midnight oil, indicating that very often a lawyer, like the poet, is born, not made. No one who knows anything about law would argue that study

is not absolutely necessary to success, even in the case of a man who is specially endowed, yet it also proves that the gift of mental power and force are the necessary equipment for the career of a great lawyer.

In the Eccles period, as has been noticed, declarations, pleas, replications, rejoinders, surrejoinders, rebutters and surrebutters abounded, and his skill in the tactics of the times soon brought him into notice as an eminent office lawyer who could always be relied upon for general and special demurrers and technicalities without end. This did not please the gentleman of the bar whose work began to be so largely submitted to the searching eye of Henry Eccles, but it pleased his clients and won him fees and reputation. His conquests where not of an insignificant sort, for the men whose pleadings he overthrew will live in the history of the Ontario Bar as the brighest lights of their time, and many of them afterwards became distinguished ornaments of the Bench.

But great as was his success as an office lawyer, when shortly he began to appear before the courts he demonstrated that he was the equal, if not the superior, of all his rivals when addressing either a judge or jury. His towering form and bold front, his confidence of manner and almost fierce assertion of what he held to be true, carried a weight with it which could not be matched by the polished diction and splendid rhetoric of any of those who trusted to the rounding of sentences and the piling up of climaxes. In examination of witnesses he excelled, and in cross-examination he was like the B. B. Osler of to-day, a man who conld break down all the subterfuges and pretensions of a witness and stand him mentally naked in the box to be viewed by the jury in almost any light he desired to put him in. Himself a man of strong grasp and intense feeling, he could not be put aside by indirectness nor was he satisfied by anything that was not conclusive. He gave himself up heart and soul to his client and his case, just as he once did in Cobourg to flute-playing, and the satisfaction of a different section of his wonderful make-up, regardless that he had a case in court which had to be adjourned for a couple of days while he and his friends played duets, locked up in the ball-room of a country tavern. It is remembered of him that he despised case law, the quoting of precedents, which might or might not apply but which if useful, except where the point has become celebrated, is to ease the mind of both judge and counsel of responsibility and leave it with the one who made the decision which is being urged as relevant. With supreme contempt he often referred to the little red-covered books from which his opponent was quoting and proceeded to enunciate the broad and unalterable principles upon which all decisions must rest. In this manner he gave his personality the widest scope and left himself free to ignore the petty decisions which might be urged against him. Once while arguing a case before Chief Justice Draper, his Lordship asked, what was his authority for the statements he was making? When, drawing himself up to his full height, he said, with great dignity, I am the authority your Lordship. Furthermore, he was never addicted to over-proving his case. If with a witness or two whose integrity could not be impeached he

established a point, he left it there and did not darken counsel by dragging in others to establish what was already established. He was a man of common sense and knew better than to kick against a stone wall. If he could not combat a phase of the evidence he proceeded to belittle or ignore it, and such was his power in this respect that it took an exceedingly strong man and able argument to make it appear anything but insignificant to the jury.

In 1853 he became a bencher, just about eleven years after he was called to the bar, and by this time he had obtained an eminence which was sufficient to attract students from all over the province to hear him plead. He was a born orator, and had great convincing powers in addressing a jury, and succeeded in a wonderfully large percentage of the cases he undertook. No doubt he had a great influence on many of the young limbs of the law who heard him pleading in court. The Hon. Edward Blake, Chancellor Boyd, Mr. Justice Ferguson and many others used to listen to him for hours.

In politics Henry Eccles was a Liberal, but he took but little part in the contests of the time and cannot have very strongly exerted his influence on the minds of those about him in this direction for once when asked to act as scrutineer in an election he said he thought he had a student who was smart enough to attend to that, and told the committee that he would send Mr. Tom Ferguson out to attend to it. This student, still affectionately known by his old-time friends as Mr. Tom Ferguson, though to the public he is Vice-Chancellor Ferguson of to-day, no doubt acted the part of scrutineer to the satisfaction of the committee and his preceptor, but his politics were not influenced thereby. Another student who grew in grace and has become prominent in law, failed to have his politics liberalized by the great mind in law. William Laidlaw, Q.C., who succeeded Mr. Ferguson and had the advantage of observing the methods of Henry Eccles and of studying law in his office. The force and tenacity with which Mr. Laidlaw sometimes surprises the court and the public, perhaps received an early impetus and took upon itself unconsciously the manner of the great pleader that he must have admired.

We may select from his recollections of his student life a striking incident illustrative of the character of his great master. The Provincial Insurance Company carried a risk on the stock of The Hamlin Company of Buffalo. A fire happened; a number of the insurance companies paid their proportions of the loss, but The Provincial disputed liability on the ground of alleged incendiarism. The Hamlin Company retained Mr. Eccles and an action was brought against The Provincial. In the course of the proceedings an officer on the staff of General Rosinerans was brought over to Toronto by the Insurance Company to be examined under an order before a special examiner in support of the plea of incendiarism. The Brief was prepared for Mr. Eccles to take the cross examination. The witness in his examination in chief swore to a series of suspicious circumstances and then came under the terrible ordeal of cross examination by Mr. Eccles. He was not prepared for the attack and when he found that his general statements would not be taken and that he must come down to an account of all the surrounding

circumstances he became restless and impertinent, and as the special examiner had no powers of committel or enforcement of direct answers Mr. Eccles took the matter iuto his own hands. The witness equivocated and at last Mr. Eccles dem .ded that he should withdraw an impertinent observation. He refused and aggravated his offence by more impertinence, when, quick as a flash, the strong arm of the Queen's Counsel crossed the table and amid broken plaster and general confusion the bleeding form of the officer in military dress, sword and all, lay prostrate on the floor. Mr. Eccles turned calmly to the examiner with the remark, "adjourn this examination until to-morrow" and marched from the room. The officer went to his hotel for repairs and then to the Police Magistrate and Mr. Eccles was duly summoned to appear on the following morning on a charge of assault. The witnesses related the language used by the officer, and then Mr. Eccles rose in his own defence, and addressing His Worship began. "I understand the science of pugilism," and after a clear and convincing argument on the principles of provocation and pugilism His Worship was so fully impressed with the legality of the defence that he ordered the dismissal of the summons with costs.

Henry Eccles was born in Bath, England, in 1817. He entered law in 1836, was called to the bar in 1842, became a bencher in 1853, and died at Toronto on the 2nd of November, 1863, and a fitting finale of this sketch and of his life is to be found in the words of a distinguished Chief Justice who was holding court at the time. Much disturbed by the news he arose and said, "I am imformed of the death of Henry Eccles, one of the most brilliant men at the bar, a man who could express more in fewer words than any one who has ever appeared before the Canadian Bench. I doubt if his like has ever been in this country and it is possible that his like may never be again. The court is adjourned."

BANKRUPTCY LAW IN CANADA

BY D. E. THOMSON, Q.C.

By an Act of the Parliament of the old Province of Canada, passed in 1864, provision was made for the liquidation of the estates of insolvent debtors, and for the relief of such debtors after surrender of their assets. That Act applied in Lower Canada to traders only and in Upper Canada to all persons whether traders or non-traders, and was in operation when the British North America Act came into force.

By the latter statute (section 91), "bankruptcy and insolvency" is one of the subjects enumerated as coming within the exclusive legislative authority of the Parliament of Canada. This is quite in harmony with the scheme of confederation adopted. Bankruptcy laws whether applicable to all classes or to traders only, must always owe their chief importance to trade. That the subject of "trade" was deemed by the framers of the constitution to be a national rather than a provincial one, is sufficiently indicated by the enumeration of the following

other subjects as coming within the exclusive authority of the Parliament of Canada: "The regulation of Trade and Commerce;" "Navigation and Shipping;" "Currency and Coinage;" "Banking Incorporation of Banks and the Isssue of Paper Money;" "Bills of Exchange and Promissory Notes." Further it will be noted that the scheme was not like that of the American Republic, a union of States with the presumption on doubtful points in favor of state rights; but a fusion of Provinces based on the reverse presumption of predominating central authority.

The Dominion Parliament took early cognizance of the jurisdiction thus conferred. The year following confederation (1868) the House of Commons appointed a select committee to inquire into and report upon the insolvency laws in force in the several Provinces. In due time that committee reported: "In New Brunswick there "is no bankrupt or insolvent law "whatever, nor are there any provisions "of law under which the estate and "effects of a person unable to pay his "debts can be distributed among his "creditors, otherwise than by the or-"dinary means of execution issued at "the suit of those obtaining judgments, "nor, under which the preferences and "liens to which executions give rise "under the common law and statute "law can be avoided or set aside for the benefiit of creditors generally.

"In Nova Scotia an act is in force "for the relief of insolvent debtors, "but its operation is limited. It is "rather a remedial measure, intended "to supplement and mitigate the law "of imprisonment for debt, that a com-"plete system of insolvent or bankrupt "law, having for its object the discovery "and realization of the assets of an in-"solvent and his discharge from liabil-"ity in consideration of the surrender "of his property.

"This act cap. 137, of the Revised "Statutes of Nova Scotia, third series, "permits a person imprisoned upon "any writ of mesne process, execution, "or attachment for non-payment of "money issuing out of the Supreme "Court to petition for his discharge. "And upon complying with the con-"dition prescribed by the act, he has "a right to obtain an order discharging "him from custody, in the suit or pro-"ceeding in which the warrant for his "imprisonment issued. These con-"ditions render necessary a discovery "by the insolvent under oath of the "property he possesses, and of the "debts he has incurred, and require of "him, as a preliminary to his release, "the execution of a deed of assign-"ment in trust, for the benefit of the "creditor upon whose suit he was ar-"rested. The effect of the order for "his discharge seems only to release "him from the restraint upon his "liberty, actually imposed upon him "in the suit or proceeding in which "the order is made. And the assign-"ment in trust seems only calculated "to enure to the benefit of the creditor "who is plaintiff in each case.

"The act, therefore, seems to afford "to any creditor effective means for "compelling payment of the debt due "him; but its tendency must be to "impede or entirely prevent the dis-"tribution of assets among creditors "generally. And it affords no "means by which on any conditions "whatever, a debtor once insolvent, "can be enabled to continue his busi-"ness with any hope of ultimate suc-"cess.

"In the Province of Quebec no in-"solvent law is in existence except the "Insolvent Act of 1864; although one "of the principles upon which every "system of bankrupt law rests is a lead-"ing feature of its common law. The "right of the creditors of an insolvent "to a just distribution of his assets "among them all, has always been re-"cognized by the Bar of Lower Canada; "although the means under the com-"mon law of enforcing that right, were "cumbrous and expensive. The effects "of the debtor would only be realized "under execution, and by this process "only the minimum price of the goods "sold was obtained."

The following session, 1869, an insolvency law was passed. The preamble recited that "it is expedient that the acts respecting bankruptcy and insolvency in the several Provinces of Ontario, Quebec, New Brunswick, and Nova Scotia be amended and consolidated and the law on those subjects assimilated in the several Provinces of the Dominion." That act applied to traders only and continued in force until 1875 when a new measure was was substituted applicable "to traders and to trading co-partnerships and to trading Companies whether incorporated or not except incorporated banks, insurance, railway and telegraph companies." This was followed by an enumeration of employments deemed trades within the meaning of the Act.

That Act departed from former procedure in abolishing voluntary assignments, and providing for the initiation of proceedings either by the issue of a writ of attachment on the application of a creditor, or by an assignment made pursuant to a demand in that behalf by creditors. The Act of 1875, amended from time to time, continued in force until 1880, when it was repealed. Since then we have had no Dominion law on the subject.

Last session an insolvency bill was promised in the speech from the throne, was in due time introduced in the Senate, passed by that body, and introduced in the Commons but not pressed beyond the first reading. The provisions of this measure undoubtedly received much more discussion and consideration than had been bestowed upon any of the preceding Acts. It received the earnest attention not only of members of the Government and of the House but of the Canadian Bankers' Association and it is believed of every Board of Trade and Chamber of Commerce in Canada.

The result was a bill containing some new features, but in its main provisions based on the Act of 1875, and the present English Bankruptcy Law. The chief departures from the Act of 1875 related to three points. First, it was proposed that the officer to whom process should first issue should not be eligible for appointment as liquidator; and that his ordinary duties should be confined to taking and holding custody of the estate, and calling the creditors together at the earliest moment practicable. This was intended to vest in creditors the power, and cast on them the responsibility of selecting a liquidator. Under the Act of 1875 they had nominally the right of selection, but experience had demonstrated that their choice had been in effect forestalled, by the length of time which elapsed, and the large proportion of the work of liquidation which had been done prior to the holding of the first meeting. Secondly, while leaving the work of administration as before under the control of the

Local Courts, it was proposed in order to secure greater firmness and uniformity in dealing with applications for discharge, to transfer the jurisdiction on that subject to the Superior Courts. Thirdly, special provision was made for the speedy and economical closing of small estates.

A further departure from the former act suggested by some of the Boards of Trade abolishing entirely composition settlements, was not favorably entertained by the Government; nor was a suggestion emanating from the bankers for the appointment of public officers to conduct examinations of insolvents and etc.

As introduced by the Government, the bill was made applicable to non-traders as well as traders. This evoked much discussion in the House, resulting in an amendment limiting the measure to traders. Should the bill be reintroduced next session, the conflict on this point will probably be renewed. In this view the experience of England is perhaps worth noting. The first English Act 34 and 35 Henry VIII., Chap. 4, treated bankruptcy as a fraud and was directed against bankrupts of all classes. The subsequent statute 13 Elizabeth Chap. 7 was restricted to traders, and in this it was followed by all subsequent acts down to 1861. The act of that year consolidating and amending the law, extended it to non-traders also. This departure appears to have worked satisfactorily the subsequent consolidations in 1869 and 1883 following the Act of 1861 in that respect. Apart from these consolidations the law has been amended from time to time the more extensive amendments being those of 1887 and 1890. Notwithstanding the almost continuous parliamentary attention the subject has received in England since 1861 there would appear to have been no serious suggestion for a return to the former practice restricting the law to traders.

In considering whether we should have a Dominion Law on the subject of Bankruptcy it ought to be borne in mind that there must be some legal machinery for dealing with the property, if not with the persons of insolvents. The question is whether such machinery shall be provided by, and be under the control of the Dominion Parliament, in which the constitution has vested the jurisdiction; or shall be provided by and be under the control of the Provincial legislatures which the constitution debars from any direct jurisdiction over the subject. Shall we have a uniform law for the whole Dominion passed by competent authority, or shall we have different laws in each Province enacted by an authority which is hampered by limitations and doubts at every point?

Since 1880 the Dominion Parliament though clothed with plenary power has in effect abdicated its authority, leaving the rights of parties concerned to be wrought out under the diverse and necessarlly defective laws of each Province. The result is what might have been expected. In Nova Scotia and New Brunswick the existing laws are substantially those in force when the Parliamentary Committee of 1868 made its report. The giving of preferences by insolvent debtors is not only permitted, but has by long continued practice been reduced to a system, one might almost say to a fine art, in those Provinces.

In Quebec the position is substantially what it was when the Committee's report was made in 1868, minus the

Insolvent Act of 1864. That, so far as merely local dealings are concerned, the need of an Insolvent Law is felt in that Province less than elsewhere in the Dominion may be conceded. According to the trade organizations of the Province, however, the existing state of the law is not satisfactory to mercantile men, whatever it may be to other classes of the community.

Of the other Provinces, Ontario and Manitoba are believed to be the only ones in which the Local Legislatures have made any considerable effort to remedy the evils resulting from the failure by the Dominion Parliament to exercise its jurisdiction. Lack of authority has prevented these well-meant efforts from attaining more than a limited success.

This state of things prejudicially affects the credit of our merchants abroad. It is difficult for foreign exporters to understand why their rights should differ so widely in the repective Provinces, and still more difficult to understand why the laws of any Province should tolerate the scandalous preferences of which they have too often been made the victims.

Quite as important to our national prosperity is the effect upon inter-provincial trade. All patriots must be ambitious to develop that trade, widely as they may differ with reference to ways and means. In seeking its development, we have since confederation spent millions in building railways and canals, and other public works. Wisely, or unwisely, we have since 1878, framed our tariff largely with the same supreme object in view. We then leave the law on a subject vitally affecting such trade in a state of incompleteness and confusion, which goes far to defeat the purpose for which we have sacrificed so much.

THE LAW RESPECTING BUILDING SOCIETIES IN ONTARIO.

BY A. C. MACDONELL, D.C.L.

BUILDING Societies here and in England are of two kinds :—

(1) Terminating.

(2) Permanent.

A Terminating Society is a Society which by its Rules is to terminate at a fixed date, or when a result specified in its Rules is attained.

A Permanent Society is one which has not by its Rules any fixed date or specified result at which it shall terminate. Permanent Societies are undoubtedly the best and most equitable; they continue their operations for an indefinite period, whereas the Terminating Society disbands upon the maturity of its shares and distribution of its funds composed of subscriptions paid in by its members and interest which has arisen from their investment. The earlier Societies were all of the Terminating class, the Permanent Society being an invention of a later date.

Building Societies were established and authorised in this Province as early as the year 1846 by the Act 9 Victoria, c. 90. In England they were first known as "Building Clubs", and appear to have been established by deed or founded under the auspices of some wealthy and influential person; and when the "Friendly Societies' Act"

of 1834 gave effect to Societies for co-operative investment purposes, several Building Societies were certified under it. So numerous did these Societies become that in 1836 an Act was passed, (6 & 7, Will. IV, c. 32,) confirming in them the privileges accorded to Friendly Societies under the Act of 1834, and granting them exemption from the usury laws. This exemption was exceedingly valuable and greatly encouraged the formation and growth of these institutions. In this Province these Societies were also held to be exempt from the usury laws. Freehold Permanent Building & Saving Society v. Choate. 18 Grant, 412.

We first find these Associations in the United States in the year 1836, after which they began to develop in large numbers, principally in the Eastern States, sometimes as unincorporated voluntary Associations, and sometimes as incorporated under General Acts of the several States. In some States they proved a failure, and their formation has been frequently prohibited or abandoned. In other States they have been incorporated and protected and have prospered and multiplied until their number and the amount of capital invested is very large. During the last few years these and kindred Associations have experienced a great expansion in the Western States where numerous instituitons of the mushroom species have arisen with fabulous capitals and impossible promises. These concerns usually commence business on the most elaborate scale, as to appearances, survive for a sufficient time to put the savings of many into the pockets of the enterprising promoters, and then cease to exist, and thus bring discfedit and injury upon many sound and prosperous institutions of an apparently similar character, which are left in the field to explain to the public that they are honest institutions. Many of these itinerant Company promoters have cast their eyes upon the Province of Ontario as a fair field to operate upon, and it is submitted that the Statute Law of this Province as it now stands is inadequate to cope with these more modern methods, and insufficient for the protection of existing honest and successful Companies. Our law as originally framed had not in contemplation the present state and condition of the Building and Loan business as now carried on. The law as it stands on our Statute books today is with a few exceptions the same law ss that which half a century ago encouraged a member of a certain guild or parish or other defined locality to "become his own landlord". In those early days the members, who were simple mechanics and artisans, formed clubs and met, say once or twice a month, at some social centre. The circumstances surrounding the formation and promotion of these Companies at the present time are entirely different. The expectation that the Society should be local is exemplified by the fact that section 2 of our Building Societies' Act, R.S.O. 1887, c. 169, which deals with the incorporation of these Societies, requires the applicants (who must be not less than twenty in number) to be all residents of the same County. The whole scope of the Act is local and parish in its nature till we reach section 21, tacked on to this ancient legislation by 42 Victoria, c. 26, which, out of all harmony with its surroundings, provides for the extension of the Society's business into the various Provinces of the Dominion. This is a useless provision, as special legislation or incorporation under some General Act in the other Provinces is a necessity

before a Society incorporated under our Act can do business there. This point has been made clear by a recent amendment to the Act 56 Victoria, c. 31, which provides that "No Society constituted or incorporated under the Act after the 1st day of June 1893 shall have power to loan money or to transact a loaning business or carry on its operations outside the limits of the County in which the Society is constituted or incorporated".

It must be admitted that for simplicity, expedition and cheapness no method of incorporation can excel the manner of incorporating a Building Society under our Act, sec. 2 of which provides "In case twenty or more persons agree to constitute themselves a Building Society and execute under their respective hands and seals a declaration to that effect and deposit the same with the Clerk of the Peace in the County in which they reside (who for receiving said deposit shall be entitled to a fee of fifty cents) such persons and such other persons as afterwards become members of the Society and their successors etc. shall be a Corporation, body corporate and politic, etc., etc."

By the outlay therefore of fifty cents, any person can obtain a Charter from the Clerk of the Peace and set up in business as a Building and Loan Society with a capital of millions. Moreover, no restrictions other than those imposed by the General Act are placed upon such a Society. Their Charter practically consists of their By-laws Rules and Regulations, and these are made by the Society or by the individual who owns and composes it to suit his own methods and objects. Many of these temporary concerns with self-made Charters have entered the field for short periods and have discriminated unfairly against honest Companies while they lived, and by their exit have reflected injuriously upon them.

The principle upon which the law is founded is, however, most beneficial. Some of our largest financial institutions at present engaged in the occupation of loaning money in this Province were established under the Building Societies' Acts. These Companies grew rapidly and accumulated vast sums of money which helped and is helping to build up the newer sections of this and the other Provinces. But many of these Companies have found the General Act to be unsatisfactory, incomplete and weak and have secured special legislation for the better protection of the funds and securities entrusted to them

The recent revision and consolidation of the Provincial Insurance Laws, 55 Victoria, c. 39, will doubtless do a large measure of good, and will it is hoped through its Inspector and otherwise accomplish much in relation to Friendly Societies.

One of the tendencies of the present age in matters of legislation appears to be to make revisions of the various branches of the law, and to codify it and strengthen the hands of the authorities in carrying it out by making provision for Government supervision, where such is possible; and it is submitted that a revision of the Building Societies Act would be just and fair to these Companies incorporated thereunder, who are doing legitimate and successful businesses, and also to the public whose savings are entitled to protection. On this latter point it is well to bear in mind that by far the greater number of subscribers for shares in these Societies are the poor and the ignorant, and hence more easily imposed upon, and who by their thrift are enabled to accumulate small monthly payments.

In England the Building Societies' Act of 1836, (6 & 7, Will. IV, c. 32,) continued in force until 1874 when the Act 37 & 38 Victoria, c. 42, entitled "An Act to Consolidate and Amend the Laws relating to Building Societies" was passed. This Act recast and reformed the old law. It was passed largely at the instance of the Building Societies themselves upon whom it conferred certain privileges. But the repeal of the usury laws rendered the provision exempting those Societies therefrom unnecessary.

It is a debatable question independently altogether of the law exempting Building Societies in this Province from the operation of the usury laws, whether they ever came within the operation of these laws or whether they now come within the operation of the Dominion Interest Act, commonly known as the "Blake Act" R. S. C. 1886, c 127, upon the ground that these Societies are partnerships. They certainly contain some of the elements of a partnership transaction in the profit and loss aspect of the question. The Dominion Act, however, has been practically overcome by the present form of mortgage now in common use by Building Societies. The Imperial Act of 1874 contains a distinct declaration to the members, which might with advantage be adopted here, of entire freedom from liability to pay anything beyond the arrears due from them at the time of winding-up, or the amount actually secured by their mortgages in the event of their being borrowing members. Our Winding-up Acts applicable to Building Societies would seem to make the member liable to contribnte the amount unpaid on his shares of the capital stock or on his liability to the Company, which would be the unpaid portion of his shares which could be called up by the liquidator.

The power to borrow money is also clearly and expressly given by the English Act in a satisfactory manner to both borrower and lender. In England these Societies are permitted to take money on deposit and to do a Savings Bank business. This would scarcely be a desirable addition to the powers of a Building Society as at present regulated by our Statute. The chief advantage of the English Act over our law, however, consists in the "Treasury Regulations" of 1884, passed under the authority of the Imperial Act of 1874. The Act appoints the Registrar of Friendly Societies in England, to be the Registrar of Building Societies, and by these regulations every application for a certificate of incorporation for a Society shall be made to the Registrar in the form prescribed by the Act, and shall be accompanied (1) by a printed copy of the Rules of the proposed Society verified as mentioned in the form. (2) A statuary declaration by the applicant that the application for incorporation and the Rules have been assented to by the members of the proposed Society. If the Registrar is fully satisfied that the Rules and By-laws are in conformity with the Building Societies' Act and the Treasury Regulations and the various forms thereby prescribed, he grants a certificate of incorporation, and thereafter no alteration whatever shall be made in the Rules and By-laws without the authority of the Registrar who certifies to each and every change upon the same evidence of regularity as required by the Act in passing the original Rules and By-laws By means of the Treasury Regulations the Registrar has complete supervision of the formation of the Societies, transfer of stock, dissolution or amalgamation;

and has also power to settle or arbitrate disputes between the Society and any member thereof. The regulations contain a number of concise forms for all necessary official purposes from the application for incorporation to final dissolution or amalgamation. The By-laws required by the Regulations include Rules prescribing the manner in which stock or funds are to be raised, the purposes to which the funds of the Society are to be applied, the terms upon which shares are to be withdrawn, the manner of altering Rules, the manner of appointing, remunerating and removing the Board of Directors and many other necessary regulations ensuring uniformity of business methods, and honesty and efficiency on the part of those entrusted with the management of the Society.

It is submitted that some such system in this Province would strengthen legitimate business and protect the public against enterprising promoters of temporary Building Companies.

LAW SCHOOL DEPARTMENT.

EDITED BY A STUDENT-AT-LAW.

SINCE the opening of the Law School at Osgoode Hall there has been a long felt want among the student body in general of having somebody to look after and further their welfare and interests.

The establishment of a journal was mooted by some members of the Legal and Literary Society in March last. But owing to the great expense of such an undertaking and the lateness of the session nothing was done. It is the intention of this journal to devote four or five pages monthly to a department for Law students. Contributions on legal and other subjects of interest are invited from the student body. The secretaries of the various students' societies are requested to send in their reports not later than the 25th of each month to ensure insertion in the following issue.

Our hope is that this department will be productive of much good to the students at Law and that it will tend to strengthen and unite the various student bodies in one band.

Mr. Newman W. Hoyles, Q.C., our new principal, made his appearance for the first time at lectures on Monday, October 22nd. He has so far delivered lectures in all the years. He lost no time in getting out the schedule of lectures, and the list of statute law presented. All who have heard him congratulate themselves on having obtained so worthy a successor to our late beloved principal.

THE students of the second year are displeased because they are not to have any lectures on "contracts" this session.

THE committee in charge of the "Reeve memorial" have about completed their labors.

ONE of the most obliging and popular officials around the law school is Mr. Symons, the librarian in the students' library. The library is open from 9.30 a.m. to 12 noon, and from 1 to 4.30 p.m. In the evening the main library is open to students from 7.30 to 10.30.

THERE are 50 students in the third year, 70 in the second year, and 45 in the first year, at the law school for the session of 1994-5. The attendance is 40 per cent. less than last year.

MR. JOHN KING, Q.C., the popular lecturer on Evidence, has just completed his course of lectures to the second year. The students appreciated the lectures very much. Mr. King is very popular with the student body owing to the interest he takes in all matters pertaining to their welfare.

SCHEDULE OF LECTURES, LAW SCHOOL 1894-5.

First year.—October 29th to December 7th, 9 a.m., Equity; 3:15 p.m., Contracts; December 10th to 21st, 9a.m., Common Law; 3:15 p.m., Contracts; January 7th to January 24th, 9a.m., Real Property; 4.30 p.m., Common Law: January 28th to 31st, 9 a.m., Common Law; 3.15 p.m., Real Property; Feb. 4th to 28th, 9 a.m., Common Law; 3.15 p.m., Contracts; March 4th to May 2nd, 9 a.m., Real Property; 4.30 p.m., Common Law.

Second Year.—October 29th to November 15th, 9 a.m., Evidence; 4.30 p.m., Real Property; November 15th to 22nd, 9 a.m., Evidence; 4.30 p.m., Torts; November 26th to December 6th, 9 a,m., Personal Property; 4.30 p.m., Torts; December 10th to December 20th, 9 a.m., Equity; 4.30 p.m., Torts; January 7th to January 24, 9a.m., Equity; 3.15 p.m., Torts; January 28th to February 7th, 9 a.m., Personal Property; January 28th to January 31st, 3.30 p.m, Torts; February 11th to February 28th, 9 a.m., Personal Property; 4.30 p.m., Const. Hist; March 4th to 7th, 9 a.m. Const. Hist.; 3.15 p.m., Criminal Laws; March 11th to May 3rd, 9 a.m., Practice; 3.15 p.m., minal Laws.

Third year.—Oct. 29th to Nov. 8th; 9 a.m., Real Property; 4.30 p.m., Equity; Nov. 12th to Nov. 22nd, 9 a.m., Real Property; 4.30 Practice; Nov. 26th to Dec. 23rd, 9 a.m., Constitution. Laws; 4.30, Practice; Jan. 7th to Jan. 24th, 9 a.m., Const. of Statutes; 4.30 p.m., Private Int. Laws; Jan. 28th to Feb. 7th, 9 a.m., Evidence; 4.30 p.m., Private International Laws; Feb. 11th to March 7th, 9 a.m., Evidence; 4.30 p.m., Torts; March 11th to April 18th, 9 a.m., Common Law; 4.30 Criminal Laws; April 22nd to May 2nd, 9 a.m., Common Law; 4.30 p.m., Contracts.

MOOT COURTS, FRIDAYS.

Second Year.—November 9th, 3 p.m., Evidence; November 16th, 3 p.m., Equity; November; 30th, 3 p.m., Real Property. (Lecture); December 14th, 3 p.m., Personal Property; Jan. 11th, 3 p.m., Practice; January 25th, 3 p.m., Torts; February 8th, 3 p.m., Equity; Feb. 22nd, 3 p.m., Torts; March 8th, 3 p.m., Personal Property; March 22nd, 3 p.m., Contracts; April 5th, 3 p.m., Criminal Law; April 19th, 3 p.m., Practice.

Third year.—November 9th, 4 p.m., Real Property; November 16th, 4 p.m., Personal Property; November 30th, 4 p.m., Equity; December 14th, 4 p.m., Evidence; January 11th, 4 p.m., Constitutional Law; January 25th 4 p.m., Practice; February 8th, 4 p.m., Torts; February 22nd, 4 p.m., Commercial Law; March 8th, 4 p.m., Common Law; March 22nd, 4 p.m., Real Property; April 5th, 4 p.m., Const. of Statutes; April 19th, 4 p.m., Contracts.

A MOCK parliament ought to be formed in the Legal and Literary Society. Greater scope is wanted in the Society for the improvement in

extempore speaking, It is to be regretted that the subject of essay writing on legal and other subjects has been dropped.

If the executive want to have the confidence of the students, live programes must be arranged. The debates should be on subjects of a broader and more interesting nature. There is considerable room for improvement in the arranging of the programme. The chair should be taken at 8 p.m. sharp. The attendance at meetings will only be increased by the executive working the meetings up well during the week, and arraing-ing an attractive and bright programme.

Mr. McCarthy, our new president, has made a good beginning in getting the programmes well posted early in the week. We want our Society to grow in usefulness.

We could easily arrange to send some of our speakers to the regular weekly meeting of the Literary Societies of Trinity and 'Varsity, on Friday evenings, and arrange a series of debates with the colleges; not necessary public debates.

Mr. Leighton McCarthy, the newly elected president of the Literary Society, presided at the regular weekly meeting of the Society, on November 3rd. The programme was a good one, and consisted of music, a debate, and an address by Mr. W. A. Lamport. The subject of debate was "That the abolition of capital punishment would tend to the better administration of justice." Messrs. Davis and Crann, supported the affirmative, while Messrs Morton and McLean supported the negative. Some valuable and interesting arguments were presented on both sides. The president summed up the argument and gave his decision in favor of the negative.

Students are requested to attend the weekly meetings of the Legal and Literary Society, held every Saturday night in Convocation Hall. It is to be hoped that all the members of the Executive will attend regularly. It cannot be expected that our society will grow in usefulness if only ten per cent. of the students attend the meetings.

The Czar of Russia, the second Deputy Reeve of Hamilton, the kings of Timbuctoo and Zulu Land, and various other celebrities, were all made the subjects of congratulatory messages and resolutions in the Literary Society. On second consideration, it is to be hoped that the folks are all well.

The annual Society dinner will be held in December.

The Society ought to arrange a social evening, or smoking concert, such as Mr. McCarthy's ticket gave. Our students should get to know one another. This would be a good way of getting them interested in the Society and its work. Let the students have an evening among themselves.

THE programme should take precedence over all business in the Literary Society. Only one programme has been rendered this session. It is very discouraging to the members who accept a part on a programme, not to be given a chance to render what they have taken time and trouble to prepare. If this rule were adopted it would prevent the unseemly disturbances over business questions that have taken place at the last two or three meetings. Although the Presidentruled that the "At Home Committee" was a distinct organization last year; and not a committee of this Society. Yet

he allows and permits motions to be introduced and discussed on At-Home matters, causing and creating a good deal of bad feeling among the members. These matters would soon drop and be forgotten if everything was ruled out that bears or pertains to At-home business. If these matters are continued we will not reach the end of them this session. Our society should exist for the benefit of the students, and try and cultivate their legal and literary attainments; and not for the benefit of the Student-Barristers. Let these matters drop or an agitation will grow up for the formation of a new students' society. The attendance at all the meetings during the past month has been very large. We have an able presiding officer in Mr. McCarthy, and it is to be hoped he will see that programmes in the future are not crowded out.

THE Literary Society intend holding a public debate on Friday, December 7th. The programme will consist of music, a debate, and an address by our popular president, Mr. Leighton McCarthy. Refreshments will be served and an impromptu dance will be held after the debate. Tickets are free and may be had from the secretary or committee.

SOCIAL AND PERSONAL.

THE many friends and admirers of Mr. A. F. R. Martin, Captain of the Fifteen, will be pleased to hear that he has recovered from the painful injuries he received in playing with Hamilton, on October 20th. He was elected at the head of the poll for Committee in the Osgoode Legal and Literary Society elections.

MR. W. MORAN is now with Beatty & Co.

OSGOODE was not represented very extensively this year in the Halloween ceremonies at the theatres.

MESSRS. White, Griffin, Beattie and Stuart, contested a stated case in the Moot court, of the 2nd year, on Friday the 9th inst. Mr. John King, lecturer on Evidence, presided.

MR. D'ARCY HINDS, of the 3rd year, was elected to represent the Young Men's Liberal Conservative Association on the Central Executive Committee of Toronto, in the room and place of Past President McPherson, who resigned.

CYCLING is now a favorite pastime with some of the students, judging from the parade of wheels after lecture.

MR. JOSEPH THOMSON, of Ottawa, second son of Sir John Thompson, has commenced the study of law in Beatty & Co's office.

WE have some martial blood amongst us. Mr. J. F. Patterson is a son of the Minister of Militia. Messrs. Barker, White, Gilmour, and Royce, are Lieutenants in the Queen's own, and Messrs. Bain and Lex. Martin hold commissions in the Grenadiers. Several students hold commissions in rural battalions. A number of our boys belong to the rank and file of our crack city corps.

MR. A. H. MARSH, Q.C., will soon finish his lectures on "Equity" to the first year. The students of this year have appreciated his lectures to them and are sorry they are about to part with his genial presence for this session.

MR. WILLIAM MULOCK, JR., of the class of '94, joined the rank of the benedicts during the past summer. He has taken up house on Charles Street. His many friends in the Law School wish him a successful and happy life.

MR. MCGREGOR YOUNG, our popular and genial lecturer, was one of the number who went up to Hamilton on Saturday, Oct. 26th, to witness the football game. There is no more popular member of the Junior Bar in Ontario than Mr. Young. An ex-mayor of Picton, in conversation with me the other day, told me the people down east think Mr. Young is a grand young Canadian; his ability is widely known. He is very courteous and obliging to the student body in general, and we take this opportunity of thanking him for the lively interest he takes in our welfare. He is a hard working and painstaking lecturer, with a great deal of personal magnetism, which is a distinctive mark of a good teacher, or lecturer.

MR. R. K. BARKER, Manager, and Mr. Lex. Martin, captain, of Osgoode Ruby Football Club, deserve the thanks of the students for the able, conscientious, and energetic manner, in which they discharged their arduous duties during the late football season.

MESSRS. Edmund Bristol, M. H. Ludwig, A. C. Galt, W. D. Gwynne, J. H. Moss, E. B. Ryckman, W. A. Lewis, Leighton McCarthy, W. A. Lamport, S. A. Jones, and R. McCulloch, were nominated for the chair of the Literary and Legal Society.

MR. W. P. REEVE, eldest son of our late respected principal, is studying at Harvard University.

THAT rising young statesman, Mr. W. A. Lewis, a much respected and esteemed member of the class of '94, was, we regret, defeated by a few votes for the Presidency of the Young Men's Liberal Club. Mr. Lewis made a splendid run, and is to be congratulated on the large vote he polled. He will no doubt receive the Presidency next year by acclamation.

A SHORT sketch and portrait of the lectures in the Law School will soon appear in this column.

MR. LEIGHTON MCCARTHY, the newly elected President of the Legal and Literary Society, is a son of Dr. McCarthy, of Barrie, and a nephew of Mr. Dalton McCarthy, Q.C. He received his early education at Barrie High School. He commenced the study of law in Barrie, and was called to the bar in 1891. The new president is very popular with the student body in general, and with the junior bar. He is a young man of excellent ability and will no doubt raise the Society to the prestige it once had.

IT is with a great deal of pleasure, that we congratulate the management of the *Trinity Review*, on having secured the service of so talented a writer as Mr. Carter Troop, M.A., as permanent Manager. Mr. Carter Troop is a polished and gifted writer, of repute, and possesses a clear and finished style, with a marked degree of simplicity about it, that will soon place him in the front rank of our Canadian Journalists.

THE ever popular and genial Mr. W. A. Lamport, delivered a capital address at the meeting of the Literary Society, on Saturday, Nov. 3rd, and was an interested spectator at the other two meetings of the month.

MR. E. DOUGLAS ARMOUR, Q.C., has completed his course of lectures, to the second year, on Real Property. There is no abler law lecturer than Mr. Armour in Canada. His lectures are very clear, and he has a peculiar, entertaining way of delivering them.

MESSRS. P. White, J. C. T. Thompson, C. A. Stuart, and Miss Martin, contested a stated case on Equity, on Friday, Nov. 16th, in the second year class, Moot Court, Mr. Marsh presided, and reserved judgment.

MISS CLARA BRETT MARTIN is a candidate for School Trustee in Ward No. 2, of the city of Toronto. The old Trustees, Messrs. Hambly and Dr. Thompson, will seek re-election. Against such able and formidable opponents her chances of election, at this date, seem poor.

THE Law School examination papers for Easter Term, 1894, will be published in the next issue.

MR. C. A. S. BODDY, and Mr. J. S. Courstairs, of the first year class of '94, have dropped out of the school for a year. The former is an Assistant Master in Ridley College, St. Catharines, the latter, is Head Master of a High School.

OUR own Capt. D. I. Sicklesteel, "M.P.P." is practising law at Windsor.

MR. PETER WHITE, JR., has conducted two cases in the Moot court in a manner that would have done credit to an old Q.C.

LEGAL AND LITERARY SOCIETY.

AT the regular weekly meeting of the Literary Society on November the 10th; the President, Mr. McCarthy, was in the chair.

The reports of committees were considered. The report of the auditors, Messrs. Davis and Ford was then taken up. Each of the auditors presented a different statement of the finances of the Society for the past year. A two hours somewhat heated debate arose, as which report should be adopted. The principal speakers were Messrs. Vining, Ford, Davis, Church, Lafferty, Kerr, Lamport, Cashman, Lewis, Shaver, White, Defries, Griffiths, Gagan, and others.

The reports of both auditors were adopted. It was resolved that in future the "'At-Home,'" committee shall be directly responsible to the Society, and shall be under the control and supervision of the Society, and shall report and account to the Society on all moneys received by it." The President is very impartial in his rulings and kept the meeting well under his control. The Society is rapidly growing in everyway and will no doubt this year attain the distinguished position it once hadas the premier Literary Society in Toronto. It is the intention of the President to present a good programme at every meeting. The meeting was the largest held for two years. Now that the business discussions are all over it is hoped that the students will rally in large numbers at every meeting and encourage the members who participate in the programme, and the executive. The Annual Dinner, Public Debate and "At-Home", will be arranged for shortly. Much enthusiasm has prevailed at all the meetings this session, and a most successful season's work is looked forward to under President McCarthy's able occupancy at of the chair.

The attendance was even larger at the meeting of November 17th. An unsuccessful attempt was made to re-open the embroglio of matters relating to the annual At-Home. A large amount of the discussion was of a trivial nature: the programme was not reached and was on motion postponed for one week. It is to be hoped that the contending parties will bury the "election hatchet," and settle

down to busines for the session. These endless disputes and counter disputes ought to cease, they are productive of much injury and harm to the Society. We have got a good President and he has done his best to get a good programme for the meetings; but the evenings have been devoted to discussions on the adoption of the minutes.

SPORTS.

NOW that the football season is over steps ought to be taken at once to form an athletic association, that would supervise and control athletics in general about the Hall. It might be composed of barristers and students.

OSGOODE HALL in sports needs more union and combination work. The *esprit de corps* is greatly lacking at Osgoode. The student body don't support their teams in the manner they should. Look at the backing the 'Varsity and Trinity teams receive from the undergraduates. If such an Association were formed it would consolidate and unite the various sporting organizations and give a stimulus to sports.

OUR teams have suffered greatly from lack of grounds. At a small cost the lawn adjoining the west wing of the Hall, could be placed in a satisfactory condition for sports, and the Benchers ought to be asked to do this.

NOW that the government are to build a fence around the new Drill Hall, and are going to sod the lawn steps might be taken to secure this lawn for practice, as it will not be in use during the morning or afternoon.

WE have a number of promising young athletes in the school, who would make good men if properly trained and encouraged. This ought to be the policy of our executives, to give the younger blood a chance, by furnishing good grounds and having plenty of practice. If this policy were pursued we would have a reserve force to fall back on, and would not have to rely on our old war horses in times of need. All our men are imbued with the spirit of the true sportsmen. We trust that the new Drill Hall lawn will be obtained for practice. and our management won't have much trouble in getting any number out to the practices. Osgoode, we feel confident will achieve in the near future greater and renewed success on field and ice. An annual athletic meet should be arranged for at the end of October.

OSGOODE will have a good hockey team this year. Capt. Patterson will be ably assisted by Anderson, Kerr and Smellie, of last years term. W. A. Gilmour, of last year's 'Varsity team, will be an acquisition; while several good men come from 'Varsity, Queen's, and Trinity, with good recommendations. The annual meeting of our Hockey club will be held at the end of the month.

LORD HAWKE considers Jack Lang the best bowler in America.

Several Osgoode men will probably accept positions in the Ontario Cricket Association's team for England next June.

MR. E. DOUGLAS ARMOUR, Q.C., has been an interested spectator at a number of the football games in which Osgoode has been engaged this season. Mr. Armour was once himself a good football player. He has been on all occasions one of the most enthusiastic supporters of our various teams.

OSGOODE met Montreal at Rosedale on Saturday, November, 17th. Several of our first fifteen could not play. The weather was all that could be desired. The visitors after a good game proved victorious by 7 points. In the evening Osgoode dined the members of the visiting team at the Walker House.

THE annual meeting of the Hocky club was held at McCarthy & Co.'s office on Monday, November 25th A large attendance was present and much enthusiasm prevailed. The following officers were elected for the ensuing year: Hon. Pres., Mr. F. W. Harcourt; Pres., Mr. W. H. H. Kerr; 1st Vice-Pres., Mr. E. C. Senkler; Sec., F. G. Anderson; Treas., Peter White, Jr.; Executive Committee, Messrs. J. F. Patterson, A. F. R. Martin, and W. A. Gilmour.

MR. "LEX" MARTIN, Captain of the fifteen, who was injured at Rosedale, on Saturday, October 21st, has recovered.

TOO PROMISCUOUS.

A DAKOTA school-marm sued three young men for breach of promise. Counsel for one of the defendants moved for a non-suit, on the ground that she was too promiscuous. The Court seemed disposed to grant the motion, whereupon the plaintiff asked, "Judge, did you ever go out duck shooting?" His Honour's eyes lighted up with the pride of a sportsman as he answered, "Well, I should say so! and many's the time that I've brought down a dozen at a shot." "I knew it," eagerly added the fair plaintiff. "That's just the case with me Judge. A flock of these fellows besieged me, and I winged three of them." The motion for non-suit was denied.

A NOLLE PROSEQUI.

A JUDGE had a man before him, charged with stealing the spoons from certain tavern in the a neighbourhood. His excuse was that he was drunk. "Did you get your liquor at Bushell's, young man?" inquired the Judge. "Yes, your Honour," replied the thief. "And then stole his spoons?" "Yes." "Mr. Clerk," exclaimed the Judge, "enter a nolle prosequi in this case. I have drunk Bushell's liquor myself, and it always made me feel mean enough to steal."