The Legal News.

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AN IMPERIAL COURT OF APPEAL.

The *Law Journal* (London), of Aug. 2, says: "The Judicial Committee of the Privy Council has finished its list and given judgment in every case. Since the improvement of the colonial tribunals and the establishment of Courts of Appeal, particularly in Canada, the business of the Judicial Committee, once very much in arrear, has become less and less. It would tend to uniformity in the law of the empire if the jurisdiction of the Privy Council were merged in that of the House of Lords, and the decisions of the lords would undoubtedly carry more weight in the colonies than those of the Privy Council at present carry. The tendency of recent legislation has been to make the *personnel* of the Judicial Committee identical with that of the law-lords, and the transfer of jurisdiction might be effected by a very slight constitutional adjustment. Mr. Forster and the friends of confederation might try their hands on this subject."

THE QUEEN v. DOUTRE.

It is a pity for two reasons that this case was carried to the Privy Council. In the first place, it seems that the only question of law was not raised, and that the principal question of fact was almost admitted. Their lordships say:—"It is not matter of dispute that according to the law of Quebec, a member of the Bar is entitled, in the absence of special stipulation, to sue for and recover a *quantum meruit* in respect of professional services rendered by him, and that he may lawfully contract for any rate of remuneration which is not *contra bonos mores*, or in violation of the rules of the Bar." And further on, they thus deal with the facts: "It is not maintained that the amount awarded by the learned judge is excessive, if the respondent has a right of action, and that right is not barred by the alleged arrangement of May, 1877." If a member of the Quebec Bar is entitled, in the absence of special stipulation, to sue for and recover a *quantum meruit*, and if it be admitted that in the particular case the amount demanded was not excessive, it was scarcely necessary to enquire so elaborately whether Sir Albert Smith's testimony established a special stipulation, or to ventilate Mr. Justice Gwynne's "pardonable error" in mistaking the Act of 1875 for the Petition of Right Act of 1876, and in confounding two things "essentially different—'right' and 'remedy.'"

From another point of view it is to be regretted that this very simple domest matter should not have been decided i Canada. Taking as exact the points sub mitted by the appeal, as set forth in the opinion of the Judicial Committee, the judgment is irreproachable, but unfortunately, to to a good judgment a dissertation has been tacked on, which gives rise to considerable difficulty. The London *Law Journal* slyly suggests that "on a subject of so much interest the judgments in the Court of Appeal and the House of Lords would have been doubly interesting." We should then have the opinions, *seriatim*, of judges responsible for their utterances, instead of a rambling note, over which no one but the registrar has an individual influence. It is difficult to suppose that any eminent English lawyer, writing deliberately of the professional disability to sue for fees, should say that it "may be supported by usage and the peculiar constitution of the English Bar, without attempting to rest it upon general considerations of public policy." It is not more easy to understand the sentence immediately following: "Even if these considerations (public policy) were admitted, their lordships entertain serious doubts whether, in an English colony where the common law of England is in force, they could have any application to the case of a lawyer who is not a mere advocate or pleader, and who combines in his own person the various functions which are exercised by legal practitioners of every class in England, all of whom, the bar alone excepted, can recover their fees by an action at law." Surely if there be reasons of "public policy" which

forbid a barrister suing for his fee, they must exist whether the two branches of the profession be united or not. That is to say, the general practitioner cannot sue for his fee when acting as an advocate, but he may when acting as an attorney. But it is apparent at every line that their lordships were dealing with a subject about which they had forgotten anything they ever knew. The question is as old as the hills, and the difficulty is not one of "public policy" properly speaking, but of the nature of the service. There is no way of measuring the value of intellectual and moral services. This is equally true of the advice of a physician, the consolations of a priest and the advocacy of a lawyer. It has nothing to do with "usage or the peculiar constitution of the English Bar." It existed in Rome, and the law of France is not really very different from that of England. In England the action is peremptorily denied—in France the right of action is admitted and the remedy is practically refused. The whole question was well explained in the case of *Devlin & Tumblety* decided in 1858, 2 L. C. J. p. 182; and this case is not over-ruled by *Amyot & Gugy*.

R.

THE TIME FOR VACATION.

The *Law Journal* (London) seems to approve of the proposal that the Long Vacation in England shall begin on August 1, (and end on old Michaelmas Day, Oct. 11). This seems to be a reasonable suggestion, and if the time of the year were the only consideration we suppose there are few lawyers who would not welcome the change. Our own Vacation has just been made nine days earlier as well as nine days longer, beginning July 1. Our contemporary says the "abnormal heat" of the weather (80 deg. in the shade) supplies an argument in favour of the proposal. In this "margin of the frozen zone" (*vide American Law Review*), the thermometer as we write (Aug. 21) marks just 91 deg. in the shade and has stood nearly at that point during the best part of seven days; so that our friends of the British Association and tourists from across the border have an opportunity of solving their doubts as to whether the streams and lakes of the country are ever clear of ice, or whether our broad lands are ever anything but "acres of snow."

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, Feb. 8, 1884.

Before TORRANCE, J.

MAJOR v. PARIS.

Procedure—Absentee—Power of attorney.

The production of a general authorization to sue for the recovery of debts due to an absentee is a sufficient compliance with C.C. P. 120, § 7. It is not necessary that the attorneys ad litem be named therein.

The plaintiff, residing at Chicago, had authorized, by a writing produced, two persons named therein, to buy the book debts of F. X. Major, of Montreal, and to sue for the recovery thereof. The action was on notes in favor of said Major.

The defendant moved that the power of attorney be declared insufficient, contending that a special authorization to plaintiff's attorneys was necessary.

The COURT held that the power of attorney to collect the debts of Major, which had been filed, was a sufficient compliance with the Code.

Motion rejected.

Trudel & Co. for plaintiff.

J. G. D'Amour for defendant.

SUPERIOR COURT.

MONTREAL, January 28, 1884.

Before RAINVILLE, J.

DORION v. DIETTE, & DIETTE, opposant.

Execution—Sale of moveables—Error in advertisement of sale.

An error in the advertisement of sale of moveables seized, giving a wrong number to the place of sale, does not annul the seizure, but merely makes it necessary to give other and correct notices of sale.

In an advertisement published in a newspaper of a sale of moveables, the number of the house where the sale was to take place was given incorrectly.

The defendant filed an opposition *à fin d'annuler* based on the error in the number.

The COURT held the notices to be irregular, but rejected that part of the opposition which asked that the sale be annulled; each party to pay his own costs.

G. A. Morrison for the plaintiff.

N. Durand for the opposant.

U. S. CIRCUIT COURT, N. D. ILL.

UNITED STATES v. BANK OF MONTREAL.

Liability of Bank of Montreal to pay Internal Revenue Tax—Power to establish branch—Intention of Congress as to Banks of Foreign Countries.

1. *As the Bank of Montreal can have no corporate existence here, but only transacts business by comity, its Chicago agency must, for the purposes of the internal revenue law, be considered the same as a private person engaged in the banking business, and pay the tax upon the amount of money it employs in its business, without regard to whether it is technically capital, that is, the fund contributed by its stockholders or not.*
2. *The power of the bank to establish a branch in Chicago, considered.*
3. *It could not have been the intention of Congress to allow banks of foreign countries to send their money here to be loaned and used by an agent for the profit and benefit of such banks, without subjecting them to the same burdens imposed by the law on domestic banks and bankers.—(Chicago Legal News.)*

BLODGETT, J.—This is a suit to recover internal revenue taxes claimed to be due from defendant on the capital employed by defendant in the business of banking, from the 1st of Nov., 1871, to the 1st of December, 1879.

The defendant is a corporation created and existing under the laws of the Dominion of Canada, having its principal place of business in the city of Montreal. Its chartered capital is $12,000,000 fully paid up, and it has a reserve fund of $5,000,000, and average deposits of about $17,000,000.

On the first of November, 1871, it established a branch, or agency, in the city of Chicago, which has been continued to the present time. At the time this branch or agency was established here, its manager was informed that the sum of $100,000 had been assigned to his agency as capital.

The business here has been the receiving of deposits, to be paid out on draft or check of the depositors, buying and selling of domestic and foreign exchange and the loaning of money on warehouse receipts for grain and provisions as collateral security, the deposits averaging about $2,000,000, and the profits on the business transacted here amounting to about $10,000,000.

The $100,000 assigned as capital has been treated and known upon the books of the agency as "fixed capital," and the internal revenue regularly paid thereon.

In June, 1881, an examination was had by F. J. Kinney, agent of the Internal Revenue Bureau, of the books and accounts of the agency, from which it was ascertained that a much larger amount of money had been used in the business of this agency than the $100,000 capital allotted to it, and he reported the amount due for tax on capital, under the second paragraph of section 3408, of the Revised Statutes, which imposes a tax of one twenty-fourth of one per cent per month upon the capital employed in banking, to be $83,773.56; after this report was received, an assessment was made and warrant issued for the collection of the portion of said tax which had accrued within two years, amounting to $24,543.88, and the amount of this assessment was paid under protest. This suit is now brought to recover the balance of $59,229.68 of the tax so ascertained to be due, or reported to be due by examiner Kinney, and which it is claimed accrued between the establishment of the bank December 1st, 1871, and December 1st, 1879. Several defences to the right to recover this money are interposed:

1st. That this Chicago agency is a branch of the parent bank in Montreal, and as such only liable to pay internal revenue taxes on the capital allotted to it by the parent bank, under the last clause of the third paragraph of Sec. 3408.

2nd. That the funds used and loaned here cannot be considered capital of this bank, as

they are sent here for temporary use, and liable to be withdrawn for use elsewhere, at the will of the home management.

3rd. That the funds used here are not a part of the capital of the parent bank, but are part of its surplus funds made up in part, at least, of the profits of this agency or branch.

4th. That most of the funds used by this branch are not employed in the business of banking, as defined in section 3407, Rev. Stat.

The assistant manager of this branch or agency, who was called as a witness on the trial, explained the course of business by saying, "when we see a chance to loan money here to good advantage, we notify the home office at Montreal, and they send it to us if they have it;" and his testimony shows that the average amount of money used for the first five months after this branch was established was over $400,000 per month; that for the next twelve months it was over $900,000 per month, and from the time the agency was established there was a steady increase in the business, so that the amount of money employed in the business for the twelve months ending the 31st of May, 1879, averaged $1,496,635 per month.

It will thus be seen that a large sum of money belonging to the parent bank was constantly employed in its business here; whether the profits made in the business here were retained and used here, or whether those profits were remitted to Montreal as fast as made, and the money to be used here was sent from Montreal as wanted, does not seem to me to be material.

Section 3407 defines a bank and banker as follows: Section 3407.—"Every incorporated or other bank, and every person, firm or company, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker."

Certainly the business carried on by the defendant here must be held to be a banking business within this definition. It had a "place of business" where credits were opened by the deposit of money subject to be paid or remitted upon draft, check or order, and where bills of exchange were issued and sold. The last clause of the 3rd paragraph of Sec. 3408 reads as follows:—

"In the case of banks with branches, the tax herein provided shall be assessed upon the circulation of each branch severally, and the amount of capital of each branch shall be considered to be the amount allotted to it."

It is contended that the defendant is a bank with branches within the meaning of this provision, and that only the sum of $100,000 capital was allotted to this branch by the parent bank.

At the time the internal revenue system was adopted, in 1861, there were no national or United States banks, but in several of the States there existed what were called State banks, with power to establish branches. As I now recall the facts from memory such banks existed in Ohio, Indiana, Missouri, and Iowa, and in the charters of these State banks there was a provision for establishing branches and allotting or determining the amount of the capital of such branches, and I am of opinion that this provision as to the taxation of branch banks had special reference to the then existing State banks and their branches, although the language used is comprehensive enough to apply to any future institutions of the same character, whether State or national.

The evident meaning and intent of the whole section 3408 was to assume that the active money employed by an incorporated bank was represented by its capital, and that the capital of a branch bank was the amount which was allotted to it, or which it was permitted to use; and the branch for the purpose of this tax on capital was deemed a separate entity.

Ordinarily what is known as the capital of a bank is the fund paid in by its shareholders on their capital stock, and this forms the basis upon which the business of the bank is conducted. The banks loan this money or use it in the discount of commercial paper in the purchase and sale of ex-

change, or in the cases of bank of circulation, for the purpose of redeeming or securing their current notes. The profits of the business are, as a rule, after payment of expenses, distributed as dividends to shareholders. If for any reason, all or part of the profits are retained by the bank, such retention may be only temporary, and they are liable to be paid out in dividends at any time, so as a basis of this internal revenue tax the paid up capital as a fixed fund was taken—assuming that, as a rule, the capital represented the moneys which the bank used in its business. In this case, however, we have a foreign bank with the control of a very large amount of money establishing an agency here for the loaning of its money. It conducts, through such agency, all the business of a bank; receives deposits, buys and sells exchange, discounts notes and bills and loans money. As the Bank of Montreal can have no corporate existence here, but only transacts business by comity, this agency must, I think, for the purposes of this law, be considered the same as a private person engaged in the banking business, and pay the tax upon the amount of money it employs in its business without regard to whether it is technically capital, that is, the fund contributed by its stockholders, or not. It sends its money here to be used in banking business, taking, perhaps, only that which it has accumulated from its home business, and which has not been divided, or leaving here the profits realised from the business here.

If the defendant has power under its charter to establish branches, that power would only authorize the establishment of branches within the jurisdiction of the sovereignty which created the corporation; that is, it cannot establish a branch with its corporate powers here, but the business it transacts here is more in the nature of an agency than that of a branch; and if any of the funds of the home corporation are sent here and used here in conducting a banking business, they should, in my opinion, pay the tax imposed under the second paragraph of Sec. 3408, as capital employed by a person, in the business of banking.

It could not have been the intention of Congress to allow banks of foreign countries to send their money here to be loaned and used by an agent for the profit and benefit of such banks, without subjecting them to the same burdens imposed by the law on domestic banks and bankers.

It is further urged that the money used here by the defendant was not its capital, but was part of its surplus or reserve, and the decision of Mr. Justice Nelson in Mechanics and Farmers Bank *v.* Townsend, 5 Blatch. 156, is cited in support of this position. It may be sufficient to distinguish this case from the one at bar to say that the question then under consideration was the meaning of the word "capital" as used in paragraph one of Sec. 79 of the Internal Revenue Act of June 30, 1864, and had application to the amount to be paid for license to do business as a bank or banker; but it does not seem to me the rule given in that case is at all applicable to an agency like this of a foreign bank. If this defendant, being incorporated as a bank in a foreign country, had transacted all its business here, then its capital paid in and forming the basis of its business might be properly held to be the measure of its liability for this tax; but when such a corporation uses its surplus or reserve fund in conducting a banking business in this country, its capital for the purposes of this tax must, I think, be the amount of money it uses from month to month in the business here. It is said this surplus was only temporarily used here, but the proof shows how much was used each month, and the statute imposes a tax of one twenty-fourth of one per cent per month on the money so used. If at the end of a month it had been withdrawn and returned to the defendant in Montreal, all further liability would be at an end.

It is further urged that the business transacted by the defendant here was not a banking business as defined by Sec. 3407, because the money was not advanced or loaned on stocks, bonds, bullion, etc., but was loaned on the pledge of warehouse receipts for grain and provisions. The assistant manager for defendant says in his testimony, "when we lent money, we took a note and the warehouse receipts as collateral. We rely wholly on these collaterals."

Sec. 3407 declares in effect, that every incorporated bank and any firm or company having a place of business, where credits are opened by the deposit or collection of money or currency subject to be paid or remitted upon draft, check or order, or where money is advanced on bonds or stocks, etc., shall be regarded as a bank or banker. This defendant had a place of business here, where credits were opened and deposits received and paid out on checks, so that it comes within one of the definitions of a bank or banker, and being such, it is liable to pay the tax in question without regard to what security it took for money loaned or advanced. So, also, a person or firm who advanced or loaned money on stocks, bonds, etc., is a banker; but when a banker, that is, one who comes within either of the definitions, loans money on other security than stock or bonds, that does not relieve him from this tax liability as to such business.

Many banks, especially in the older eastern States, only loan money on notes secured by the name of an approved indorser or surety; but if they are banks, it makes no difference what security they take for their loans, they are still liable to this tax.

I therefore conclude that the defendant is liable for the amount of tax claimed in this case, $59,229.68, with interest at six per cent from the time when such tax accrued. No computation of this interest was made at the time of the trial, but it may be made and submitted.

The proof also shows that the defendant paid $9,629.82 for taxes on clearing house checks, on which there has been refunded $2,573.91, leaving a balance yet due of $7,-056.01.

As I understand the proof, after this tax had been paid several years, the commissioner ruled that the banks were not liable to pay on these checks, and refunded what had accrued within two years, but refused to go further back, leaving this balance of $7,056.-01 unpaid; and defendant now insists that this amount should be set off against the taxes now found due.

This is an equitable action, and the inquiry really is, how much is justly due the plaintiff; and I think it is conscionable and right to deduct this sum of overpaid tax on clearing house checks from the tax on capital, as this claim and counter-claim accrued contemporaneously and out of the same business.

R. S. Tuthill, Dist. Att'y.

Boutelle & Waterman, for Deft.

HIGH COURT OF JUSTICE.

LONDON, May 10, 1884.

Before LORD COLERIDGE, L. C. J., GROVE, J., FIELD, J., STEPHEN, J., and SMITH, J.

REGINA v. MALLORY.

Evidence—Paper written by prisoner's wife by his direction.

The following case was reserved by the Deputy Chairman of the East Riding Quarter Sessions.

The prisoner was indicted for feloniously receiving certain articles knowing them to have been stolen. He was a marine-store dealer, and it appeared that the stolen articles were such as he might have bought in the lawful exercise of his business. It was not disputed that they had been stolen by the man who brought them to his shop, and the price given by the prisoner for them thus became a material element in the case. With the object of showing that the amount so paid was much less than the real value of of the goods, it was proposed to put in a list of the articles bought, with the amount paid by the prisoner for each article, the list being in the handwriting of his wife. When asked about them, he said 'his wife should make out a list,' and she afterwards, in his presence, handed the list to a police officer.

The COURT held that the paper was admissible in evidence, as having been made out by the wife by her husband's direction, and handed over in his presence and with his authority.

Conviction affirmed.

THE QUEEN v. *DOUTRE.*

To the Editor of the LEGAL NEWS:

SIR,—The members of the Judicial Committee appear to assume that there can be no dispute as to Mr. Doutre's right if the case is to be governed by Lower Canadian law, as they decide it is. To this conclusion the

views expressed by the two Lower Canadian members of the Supreme Court no doubt irresistibly led, and hence the fact that the Privy Council have not passed upon the different points which have been so hotly contested of late years in the Province of Quebec.

The real importance of the decision in England, however, lies in the fact that if Mr. Doutre had come before our own Court of Appeal he must have lost his case, and yet the decisions in *Larue & Loranger*, and similar cases, were cited in the Supreme Court as if they favoured the right of counsel in such a case.

The confusion comes from this, that our Lower Canadian Courts admit the right of action of counsel, but they admit it not as the rule, but as the exception. The fallacy was to suppose that our Courts admitted the right absolutely, or at any rate admitted it in a case such as Mr. Doutre's.

Our Court of Appeal holds, no doubt, that professional services may pass beyond the *honorarium* stage, but the only contract so far admitted has been that in which everything has been expressed, and the amount of the fee specially defined by the parties themselves. In particular they have rejected not only indefinite promises of a fee in addition to the amount allowed by the Tariff, but they have considered as prohibited a contract where the fee was to be paid contingently and out of the amount to be recovered. In fact the rule has been to place professional men at the mercy, or, what is more euphonious, make them dependent upon the generosity of their clients. It is true that in a recent case the correctness of the report in *Larue & Loranger* has been questioned, but the remarks of the judges in *Dugdale & The City*, as well as in *Dorion & Brown*, leave no doubt as to the opinion of the majority in the Court of Appeal.

As to the case of *Devlin & The City*, it never was reported, but if the judgment itself is referred to, it will be found that the *considérant* immediately preceding that quoted by Taschereau, J., in the Supreme Court, rests upon the report of the Finance Committee that Mr. Devlin should receive at least $2,500.

The truth is that some of our judges have been influenced, far more than they were aware of, by the feeling so touchingly referred to by Chief Justice Harrison in *McDougall & Campbell*—a weakness to be gloried in as strength by those whose standard of professional duty, if no longer reconcilable with the law as it stands, is at any rate a high and noble one. What I regret is that we should have been deprived—by a misunderstanding as it were—of a carefully prepared *exposé* of the law and the jurisprudence of Lower Canada on the subject of the action of counsel for their fees, an *exposé* which could not but have been interesting, since it must have retraced the numerous and devious courses we have had to go through before reaching the present satisfactory position.

E. B.

A JUDGE'S GHOST STORY.

The following is the account given in the article on "Visible Apparitions," by Messrs. Edmund Gurney and Frederick W. H. Myers, in the July number of the *Nineteenth Century*, referred to *ante*, p. 258:—

One further case we received from Sir Edmund Hornby, late Chief Judge of the Supreme Consular Court of China and Japan, who describes himself as "a lawyer by education, family, and tradition, wanting in imagination, and no believer in miracles." He first narrates how it was his habit at Shanghai to allow reporters to come to his house in the evening to get his written judgments for the next day's paper.

They generally availed themselves of the opportunity, especially one editor of an evening paper. On the day when the event occurred, in 1875 or 1876, I went to my study an hour or two after dinner, and wrote out my judgment. It was then about half past 11. I rang for the butler, gave him the envelope, and told him to give it to the reporter who should call for it. I was in bed before 12. I am a very light sleeper, and my wife a very heavy one. I had gone to sleep, when I was awakened by hearing a tap at the study door, but thinking it might be the butler, I turned over with the view of getting to sleep again. Before I did so, I heard a tap at my bedroom door. Still thinking it might be the butler, who might have something to say, I said, "Come in." The door opened, and, to my surprise, in walked Mr. ——. I sat up and said, "You have mistaken the door, but the butler has the judgment, so go and get it." Instead of leaving the room he came to the foot edge of the bed. I said, "Mr. ——, you forget yourself. Have the good-

ness to walk out directly. This is rather an abuse of my favor." He looked deadly pale, but was dressed in his usual dress, and was certainly quite sober, and said, "I know I am guilty of an unwarrantable intrusion, but finding that you were not in your study I have ventured to come here." I was losing my temper, but something in the man's manner disinclined me to jump out of bed to eject him by force. So I said, simply, "This is too bad, really; pray leave the room at once." Instead of doing so he put one hand on the footrail and gently, as if in great pain, sat down on the foot of the bed. I glanced at the clock and saw that it was about twenty minutes past one. I said, "The butler has had the judgment since half-past eleven; go and get it." He said, "Pray forgive me; if you knew all the circumstances you would. Time presses. Pray give me a *précis* of your judgment, and I will take a note in my book of it," drawing his reporter's book out of his breast pocket. I said, "I will do nothing of the kind. Go downstairs, find the butler, and don't disturb me—you will wake my wife; otherwise I shall have to put you out." He slightly moved his hand. I said, "Who let you in?" He answered, "No one." "Confound it," I said, "what the devil do you mean? Are you drunk?" He replied, quietly, "No, and never shall be again; but I pray your lordship give me your decision, for my time is short." I said, "You don't seem to care about *my* time, and this is the last time I shall ever allow a reporter in my house." He stopped me short, saying, "This is the *last* time I shall ever see you anywhere."

Well, fearful that this commotion might arouse and frighten my wife, I shortly gave him the gist of my judgment in as few words as I could. He seemed to be taking it down in shorthand; it might have taken two or three minutes. When I finished, he rose, thanked me for excusing his intrusion and for the consideration I had always shown him and his colleagues, opened the door, and went away. I looked at the clock; it was on the stroke of half-past one.

(Lady Hornby now awoke, thinking she had heard talking; and her husband told her what had happened, and repeated the account when dressing next morning.

I went to the court a little before 10. The usher came into my room to robe me, when he said: "A sad thing happened last night, sir. Poor—— was found dead in his room." I said, "Bless my soul! dear me! What did he die of, and when?" "Well, sir, it appears he went up to his room as usual at 10 to work at his papers. His wife went up about 12 to ask him when he would be ready for bed. He said: 'I have only the Judge's judgment to get ready, then I have finished.' As he did not come, she went up again, about a quarter to 1, to his room and peeped in, and thought she saw him writing, but she did not disturb him. At half-past 1, she again went to him and spoke to him at the door. As he did not answer, she thought he had fallen asleep, so she went up to arouse him. To her horror he was dead. On the floor was his note-book, which I have brought away. She sent for the doctor, who arrived a little after 2, and said he had been dead, he concluded, about an hour. I looked at the note-book. There was the usual heading:

"In the Supreme Court, before the Chief Judge.

——*v.*——

"The Chief Judge gave judgment this morning in this case to the following effect"—and then followed a few lines of undecipherable shorthand.

I sent for the magistrate who would act as coroner, and desired him to examine Mr. ——'s wife and servants as to whether Mr. —— had left his home, or could possibly have left it without their knowledge, between eleven and one on the previous night. The result of the inquest showed he died of some form of heart disease, and had not, and could not, have left the house without the knowledge of at least his wife, if not his servants. Not wishing to air my "spiritual experience" for the benefit of the press or the public, I keep the matter at the time to myself, only mentioning it to my Puisné Judge and to one or two friends; but when I got home I asked my wife to tell me as nearly as she could remember what I had said to her during the night, and I made a brief note of her replies and of the facts.

As I said then, so I say now—I was not asleep, but wide awake. After a lapse of nine years my memory is quite clear on the subject. I have not the least doubt I saw the man—have not the least doubt that the conversation took place between us.

I may add that I examined the butler in the morning—who had given me back the MS. in the envelope when I went to the court after breakfast—as to whether he had locked the door as usual, and if any one could have got in. He said that he had done everything as usual, adding that no one could have got in, even if he had not *locked* the door, as there was no handle outside—which there was not. I examined the coolies and other servants, who all said they opened the door as usual that morning—turned the key and undid the chains, and I have no doubt they spoke the truth. The servants' apartments were separated from the house, but communicated with by a gallery at the back, some distance from the entrance-hall.

The reporter's residence was about a mile and a quarter from where I lived, and his infirmities prevented him from walking any distance except slowly; in fact, he almost invariably drove.