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A CORRESPONDENT, in dealing with the question discussed recently in these pages, as to the abolition of Grand Juries, makes some valuable suggestions on the subject. We shall look with interest to see if any action is taken this session by the Dominion Government. We notice that several of the judges advocate the retention of the venerable institution. There have always been those who have opposed reforms which have eventually proved their usefulness.

WE fancy none but an Irish lawyer would ever have conceived the idea of bringing an action such as *Walker* v. *Great Northern Railway Co.*, 28 L.R. Ir. 69. It has such a delightful air of audacity that no one of any other nationality would imagine, much less put into action, so extraordinary a claim as was there preferred. The plaintiff was an infant, and, while *en ventre sa mère*, her mother was a passenger on the defendants' railway. Owing to some negligence on the part of the defendants' servants an accident occurred and the mother was injured, for which she made a claim against the company, which was settled Subsequently the plaintiff was born, and the action we refer to was brought by her, claiming £1000 damages for permanent injury received by her in the accident before she was born. It is almost needless to say the action failed. Mr. Justice O'Brien was of opinion that "In law, in reason, in the common language of mankind, in the dispensations of Nature, in the bond of physical union, and the instinct of duty and solicitude, on which the continuance of the world depends, *a woman is the common carrier of her unborn child, and not a railway company.*"

IT is rumored that the Law Society, from motives of economy, are going to dispense with the flower beds in Osgoode Hall grounds during the coming summer. We hope the rumor will prove to be unfounded. The beauty of the grounds during the past few years has been very much enhanced by the flower beds, the freedom of which from any danger of theft or spoliation has been amply demonstrated. Of course a few flowers in the grounds may be made a somewhat expensive luxury. A special gardener may be appointed at a high salary to look after them, etc.; but while such extravagance is not to be desired, it is no reason why the Society should forego its garden. The comparatively few flowers which have heretofore been planted ought to be got for about $20 or $30. The planting and taking care of them should not cost more than another $20 or $30 at the outside, and if the Society is reduced to such an extremity that it

cannot afford to spend that much on beautifying the grounds, it is to be pitied. If this kind of economy goes on, we may next expect to hear that the lawns at Osgoode Hall have been let out as a pasture field; that would save the expense of mowing the grass, and, besides, might bring a few dollars into the treasury for the agistment of cattle.

It might have been expected, amid the multitude of legislatures over the border, that some peculiar, not to say interesting, enactments should have been produced. Among the acts before the New York Legislature, we find one directing the confinement of any person acquitted of murder on the ground of insanity in an insane asylum for a fixed term of years, there to remain until pronounced cured and *pardoned by the governor*. We fail to understand why one who has been acquitted should require a pardon. We are reminded by this of the case of one Borras, at Narbonne, France, who some time ago was condemned to death for murder and subsequently pardoned and set at liberty as innocent, who has just been ordered by the Court to pay 3000 francs as damages to the son of the murdered man. It seems a peculiar judgment to pronounce against an innocent man, but serves to show that France and New York State have ideas in common. Minnesota next comes forward with a bill making it a misdemeanor for a newspaper proprietor to publish any article without the writer's signature. The St. Paul *Pioneer Press* points out that under this law every market report, death notice and joke must state its compiler, author or perpetrator respectively. In Wisconsin and Illinois, foreign immigration seems to be paving the way for the abandonment of the provision that children in the public schools shall be educated in the English tongue. The *Albany Law Journal*, in commenting on this subject, says: "The integrity of this country depends in a great degree on a common language. There is nothing more disturbing in Canada than the co-existence of the French with the English tongue. Foreigners ought to understand that although America is an asylum for all nations, yet they may not graft their languages, customs and political notions on us. They may come, but they should conform in matters of essential importance. There should be one tongue for legislative and judicial proceedings, enactments and decisions, and for all public promulgations, and that should be the English." Our neighbors, in addition to the negro problem and the race element in politics, are beginning their struggle with the dual language question, now so prominent in the politics of our own Dominion.

The snarl into which the practice relating to actions against partners has drifted in consequence of recent English decisions has suggested the idea that the rules of practice on this subject need a very careful revision, which, it is to be hoped, they may soon get at the hands of the English judges. The principle which the rules were designed to carry out was a good one, but as is often the case when some new method of procedure is introduced, unexpected difficulties arise in working it out which failed to present themselves to the mind of the

draughtsman. No one can be expected to provide for every contingency, or to see with prophetic forecast all the results which may flow from a given state of things, and it is, after all, only actual experience which can be expected fully to test a system or disclose its defects. The scheme of the rules, as they stand, enables a suitor to sue a firm by its firm name, in many cases an obvious convenience. But in the event of the action being successful it may be necessary to levy execution, not only against the firm, but also against the separate individuals of which the firm is composed, and it is in the endeavor to provide machinery to reach that desirable result that the present rules appear to have broken down. The names of the individual partners need not be stated in the writ, but any partner who is actually served with the writ is liable, should the plaintiff recover judgment against the firm, to have execution issued against him. And this is where the difficulty arises. The firm may be served, either by serving the writ on one or more of the partners, or upon any person having the control or management of the partnership business, at its principal place of business.

There appears to be nothing which requires a plaintiff to state in what capacity he effects service on an individual, whether as partner or manager, and the consequence is, a person so served is left in somewhat of a quandary. If he has been served as a partner and does not appear and successfully dispute his liability as a partner, he is liable, as we have said, to execution on a judgment being recovered against the firm. If, on the other hand, he has been served as manager, he has no business or right to appear. No provision is made for the entry of a conditional appearance; and the poor man is left in the dilemma either of appearing unnecessarily and being put in for costs, or of not appearing and leaving himself liable to execution. This obviously is a result not taken into account by the framers of the rules, and exhibits a state of things calling for early attention.

COLONIAL JUDGES IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

The Act for the better administration of justice in the Imperial Privy Council (3 and 4 Wm. IV., c. 41, Imp.), among other recitals, states that "whereas from the decisions of various Courts of Judicature in the East Indies, and in the plantations, colonies, and other dominions of His Majesty abroad, an appeal lies to His Majesty in Council," and that it is expedient to make certain provisions "for the more effectual hearing and reporting on appeals." It then proceeds to constitute a tribunal for colonial appeals as the "Judicial Committee of the Privy Council," and designates who are to comprise that tribunal, with power to the Crown to appoint certain other judicial persons, who are thus described in s. 30 of the Act:

"And be it enacted, that two members of His Majesty's Privy Council, who shall have held the office of judge in the East Indies, or any of His Majesty's dominions beyond the seas, and who, being appointed for that purpose by His Majesty, shall attend the sittings of the Judicial Committee of the Privy Council, shall severally be entitled to receive, over and above any annuity

granted to them in respect of having held such office as aforesaid, the sum of £400 ($1,946.67) for every year during which they shall so attend as aforesaid, as an indemnity for the expense which they may thereby incur, and such sum of £400 shall be chargeable upon and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland."

The Act is a parliamentary recommendation to the Crown to appoint Indian and colonial judges as members of the Judicial Committee; but so far as it authorized the appointment of colonial judges to the Judicial Committee, it has been a dead letter. The only appointments made by the Crown under the clause of the Act of 1833 cited above were of retired Chief Justices of the Indian courts, and in 1871 those were Sir James W. Colvile and Sir Lawrence Peel, ex-Chief Justices of Calcutta, but we are not aware whether any of them received the pittance of £400 a year authorized by the Act as "an indemnity for the expense" of attending the sittings of the Judicial Committee.

In 1871 the Crown was authorized to appoint four additional judges to the Judicial Committee, but the Imperial Parliament limited the Crown's right of selection to judges of the English courts or retired Chief Justices of the Indian courts, and provided that the salary to be attached to the office should be £5000 sterling ($24,333) a year, or just twelve and one-half times more than the salary of £400 allowed by the Act of 1833 to colonial judges.

One of the appointments under this Act caused a great scandal, and many high judicial functionaries wrote wrathy letters to the English press denouncing the appointment of the Attorney-General, Sir R. P. Collier, to the Judicial Committee, as an evasion of the provisions of the Act, and as a political trick to relieve the Government of an inefficient Attorney-General, and to make way for an abler man, Sir J. D. (now Lord) Coleridge. The statute limited the appointments to English judges, and Sir R. P. Collier was temporarily appointed to a judgeship in the Court of Common Pleas, which he immediately resigned, and was thereupon appointed to the Judicial Committee.

The Indian ex-Chief Justices appointed as paid judges under this Act were Sir James W. Colvile (previously a member), and Sir Barnes Peacock (recently deceased), who had been a retired Chief Justice of Calcutta, each of whom received the salary of £5000 a year authorized by the Act. We are not aware whether Sir Lawrence Peel, who was designated "Indian Assessor," became entitled to any salary. Sir Richard Couch, ex-Chief Justice of Bombay, and Lord Hobhouse, a former member of the Indian Viceroy's Council, were subsequently appointed and are now the representatives of the Indian courts on the Judicial Committee.

In 1876 a further change was made in the composition of the Judicial Committee by the "Appellate Jurisdiction Act, 1876," which provided that whenever any two of the paid judges of the Judicial Committee should die or resign, the Crown might appoint a third "Lord of Appeal in Ordinary," and that on the death or resignation of the remaining two paid judges of the Judicial Committee the Crown might appoint another "Lord of Appeal in Ordinary." The office entitled the judge to a life peerage, and a salary of £6,000 sterling ($29,200) a year.

The House of Lords and the Judicial Committee, as now constituted, have judicial representatives from the English, Irish, Scotch, and Indian judiciary; but there is no representative from any of the great colonies of the Empire. Canada and Australia have the largest populations of any of the colonies, and that of Canada is greater than United Australia, and is about equal in population to that of Ireland, and greater in population than that of Scotland; but the Imperial Parliament have not thought proper to give the judiciary of either great colony preferment to the Judicial Committee of the Privy Council; and their financial estimate of the judicial qualifications they are willing to pay for, or the value they place on colonial judicial assistance to that tribunal may be learned from the salary of £400 a year, which is about equal to the salary paid to each of the junior clerks attached to the Registrar's office. Whilst noting these facts, we shall await a sufficient reason (as heretofore suggested by us) why the colonies or outlying provinces of the Empire should not be represented. It is one of the points on which we are open to conviction.

In 1887 Parliament provided that the salary to be paid to an ex-colonial judge, whenever a qualified one could be found who would be willing to accept the proffered "indemnity for the expense" of attending the Judicial Committee of the Privy Council, might be £800, the same as the salary of one of the senior clerks of the Council, and was embodied in the following amendment:

"Any person who shall in virtue of the 30th Section of the Act of the 3rd and 4th William the Fourth, Chapter 41, attend the Sittings of the Judicial Committee of the Privy Council, shall be deemed to be included as a member of the said Committee for all purposes; and shall, if there be only one such person, be entitled to receive the whole amount of the sums by the said section provided, that is to say, £800 ($3,893.33) for every year during which he shall so attend; but if there shall at any time be two such persons, they shall severally be entitled to the sums provided in the said section (*i.e.*, £400 a year)."

Such is the Imperial estimate of the value of the judicial services of a colonial judge in the Judicial Committee, the Supreme Court of Colonial Appeal. The Lord Chancellor (Lord Halsbury) in moving the clause intimated that the proposed salary of £800 a year was "to induce those with judicial learning and experience, gained in the great centres of administration in India, to give the advantage of them to the Judicial Committee of the Privy Council." The Imperial estimate of the value of the judicial services of police magistrates and county judges in England is that they are worth from £1,500 ($7,300) to £1,800 ($8,760) a year.

It is some satisfaction to those Canadians who have strong views on this subject, to find that the question as to propriety of having colonial judges on the bench of the Imperial Court of Colonial Appeals is attracting some attention in England. Of all the colonies, Canada has sent the largest number of great constitutional questions for adjudication to that great Imperial tribunal; but up to the present none of our able and experienced Canadian jurists have been sought for by the Imperial authorities for appointment to, or have been "requested to attend" the Judicial Committee. And even if the appointment were offered or a request made to a Canadian judge, we think the paltry salary attached to the office, as compared with the salary given in 1871 to Indian judges, which

must be held to presume judicial inferiority in the colonial judges, would necessarily compel a prompt refusal.

Of the various colonial tribunals, those in Canada are vested with a larger power and a more delicate duty than have been given to or can be exercised by the English or any of the other colonial courts. The British North America Act has established two separate and independent legislative and executive sovereignties* with enumerated, and therefore limited, though exclusive powers. Each of these separate sovereignties derives its legislative and executive authority from the same constitutional instrument, and each, although within the same territorial limits, has distinct and defined powers, which prohibit the one from encroaching upon the exclusive functions of the other. The delicate duty of defining the limits and exclusive powers of this intricate and interlaced legislative and executive authority, and of enforcing the constitutional limitations and prohibitions of the B.N.A. Act, are confided to our Canadian judges. The legislative conflicts must necessarily be submitted to the arbitrament of an independent and competent authority. The judicial function of interpreting the laws involves, under our constitution, the higher duty of ascertaining whether a special law of the Dominion or Provincial Legislature is within the legislative authority of the enacting power, and therefore conformable to the constitution. If found to be beyond the grant of legislative power, and therefore *ultra vires*, our judges must declare the legislative enactment void and inoperative. It will scarcely be questioned, therefore, that if Canadian judges have hitherto successfully exercised the responsible power and fulfilled the delicate duty of guarding the constitutional limits of our legislative and executive powers, and have faithfully interpreted the laws, their presence in the Imperial Privy Council would be eminently beneficial, for it would add judicial strength and experience to that tribunal.

We had intended quoting here, as an appropriate ending to the present discussion, the observations of Mr. Stanley Leighton, M.P., in the *Imperial Federation* for May 1st, entitled, "Colonial Judges for the Privy Council," but want of space forbids; it is therefore reserved for our next issue.

COMMENTS ON CURRENT ENGLISH DECISIONS.

(Notes on the April Numbers of the Law Reports—continued)

VENDOR AND PURCHASER—CONTRACT BY LETTERS—SPECIFIC PERFORMANCE.

In *Bellamy* v. *Debenham* (1891), 1 Ch. 412, the Court of Appeal (Lindley, Lopes and Kay, L.JJ.,) affirmed the judgment of North, J., (noted *ante* p. 43), but in doing so, without expressly deciding that there had been no concluded contract, they express considerable doubt whether there was—and the main reason on which they sustained the judgment of the Court below was that the vendor had not got what he contracted to sell, he having contracted to sell the fee, whereas the mines, minerals, clay, gravel, etc., did not belong to him, but were vested in the lord of the manor, and that the vendor not being in a posi-

*The colonial legislatures within the restrictions necessarily arising from their dependency on Great Britain are *sovereign* within the limits of their respective territories: *Story on the U.S. Constitution*, s. 171

tion at the time fixed for completion to give what was bargained for, this was an answer to the plaintiff's claim either for specific performance, or for damages for breach of contract; notwithstanding that, after the defendant had repudiated the contract on this ground, the plaintiff had, before action, got in the outstanding right to the mines, minerals, etc. This case deserves consideration in connection with *Paisley* v. *Wills*, 19 Ont. 303, recently affirmed by the Court of Appeal.

INVESTMENT OF TRUST FUNDS—INSTRUMENT GIVING NO POWER TO VARY INVESTMENTS—POWER TO VARY EXISTING SECURITIES—TRUST INVESTMENT ACT (52 & 53 VICT. C. 32) S. 3—(R.S.O., C. 110, SS. 29, 30.)

In re Dick, Lopes v. *Hume-Dick* (1891), 1 Ch. 423, the Court of Appeal (Lindley, Fry, and Kay, L.JJ.,) refused to follow *In re Manchester Royal Infirmary*, 43 Chy. D. 420 (noted *ante* vol. 26, p. 264), and held that where trustees hold securities under an instrument giving them no power to vary investments, they nevertheless have power to sell such securities and reinvest the proceeds in securities authorized by the Trust Investment Act (see R.S.O., c. 110, ss. 29, 30).

COMPANY—WINDING UP—RECEIVER APPOINTED IN ACTION BY DEBENTURE-HOLDER—SUPERSEDING RECEIVER BY LIQUIDATOR.

In re Stubbs, Barney v. *Stubbs* (1891), 1 Ch. 475, the Court of Appeal (Lindley and Kay, L.JJ.) refused to interfere with the discretion exercised by Kekewich, J., (see *ante* p. 137) in refusing to displace a receiver of a company appointed in an action by debenture-holders in favor of the liquidator of the company, which had been ordered to be wound up. In such a case, where the receiver has been appointed by the Court, there is a discretion as to who shall be the receiver, though it is otherwise where the debenture-holders have themselves appointed a receiver in pursuance of a power so to do. In the present case there was practically nothing for the liquidator to do, except get in a sum of £180 from the shareholders for uncalled capital.

PRACTICE—TRIAL BY JURY—ORD. XXXVI., R. 6, 7 (ONT. JUD. ACT, S. 77).

Jenkins v. *Bushby* (1891), 1 Ch. 484, was an action brought by one mine-owner against another to restrain trespass and for an account of the minerals which had been taken by defendant from the plaintiff's land. The case turned on the question whether the *locus in quo* was part of the plaintiff's estate, or part of the waste of the manor. The plaintiff applied for a trial by a special jury. Stirling, J., refused the application for a jury on the ground that the case would involve the examination of many documents; but on appeal his order was reversed. The Court (Lindley, Lopes and Kay, L.JJ.) thought the importance of a view was so great that a trial by jury ought to be ordered.

WINDING UP—STAYING PROCEEDINGS IN AN ACTION AGAINST THE COMPANY—PRACTICE.

In re General Service Co-operative Stores (1891), 1 Ch. 496, the Court of Appeal (Lindley, Lopes, and Kay, L.JJ.), affirming Kekewich, J., held that notwithstanding the jurisdiction regarding the winding up of companies under the

Winding Up Act (1890) is assigned to the Chancery Division, yet nevertheless when it is necessary to apply to stay proceedings in an action in the Q.B.D. the application must be made to that Division, as that was a jurisdiction conferred by the earlier Act of 1862, and since the Judicature Act the proper branch of the Court to apply to to stay proceedings is that in which the proceedings are being carried on.

TRUSTEE—WILL—INVESTMENT—COMPANY INCORPORATED BY ACT OF PARLIAMENT—COMPANY INCORPORATED BY CHARTER GRANTED IN PURSUANCE OF A STATUTE.

In *Eve* v. *Boyton* (1891), 1 Ch. 501, a testator had empowered the trustees by his will to invest in shares of any company incorporated by Act of Parliament. They invested in the shares of a company which had been incorporated by a charter issued in pursuance of an Act of Parliament, and which company was subsequently by another Act amalgamated with another corporation, whose powers were vested in it; and the question was whether this was an investment authorized by the will. The Court of Appeal (Lindley, Lopes, and Kay, L.JJ.) held that it was, because the company could not have been created by charter with the powers it possessed except by virtue of the Act of Parliament, and therefore the company was a company incorporated by Act of Parliament within the meaning of the will.

MARRIED WOMEN'S PROPERTY ACT, 1882—ESTATE TAIL—ENLARGING BASE FEE—DEED BY MARRIED WOMAN ENLARGING BASE FEE.—R. S. O., c. 132, s. 4, s-s 3: Ib., c. 134, s. 3: Ib., c. 103, s. 3.

In re Drummond & Davie 1891), 1 Ch. 524, an interesting question of real property law was discussed by Chitty, J. Two unmarried ladies, being tenants in tail in remainder, executed a disentailing deed which had the effect of converting the estate tail into a base fee, there being a protector of the settlement, and he not having joined in the deed. The ladies married, after the Married Women's Property Act, 1882, and the protector having died they, intending to convert the base fee into a fee simple, executed a further deed in favor of their grantee. This deed was not acknowledged by them before justices of the peace, nor did their husbands concur in it. Upon a subsequent sale of the property it was objected that this deed was invalid, it being contended that the right to enlarge the base fee into a fee simple was not "property" within the meaning of the Married Women's Property Act, 1882, but a mere power, and therefore a married woman had no power to execute a deed enlarging a base fee, except with the formalities required before the passing of that Act. But Chitty, J., was of opinion that this right of completely unfettering the estate which remains in a tenant in tail who has converted the estate tail into a base fee is "real property" within the meaning of the Married Women's Property Act, and was capable of being conveyed by a married woman under that Act as a *feme sole*, and he therefore held the deed to be valid and effectual.

CONFLICT OF LAW—COMPANY—UNPAID CAPITAL—DEBENTURES CHARGING UNPAID CAPITAL—SCOTCH JUDICIAL PROCESS CHARGING UNPAID CALLS—NOTICE—PRIORITIES.

In re Queensland Mercantile & Agency Co. (1891), 1 Ch. 536, a question of priority arose in a winding-up proceeding, as between rival claimants on the unpaid

capital of the company. On the one side were debenture-holders whose debentures were a charge on the unpaid capital, and on the other creditors who, after the capital had been called but before it had been paid, had arrested the calls on the shares of the company held in Scotland, by proceedings taken in a Scotch court. The holders of the Scotch shares had no notice of the debentures, and according to the Scotch law the arrestment of the calls was equivalent to an assignment with notice to the debtor, and took priority over an earlier assignment without notice; and it was held by North, J., that the claimant under the Scotch process had the first charge on the proceeds of the Scotch shares, notwithstanding that according to the law of England no notice by an assignee to the debtor is necessary as against a subsequent assignee.

PARTNERSHIP—MISREPRESENTATION BY A CO-PARTNER—CONCEALED FRAUD—LIABILITY OF INNOCENT PARTNER—STATUTE OF LIMITATIONS, (21 JAC. I, C. 16).

In *Moore* v. *Knight* (1891), 1 Ch. 547, the plaintiff between the years 1867-1874 had deposited with a firm of solicitors various sums of money for investment. One small sum was invested, the rest were in fact embezzled by a clerk of the firm. Accounts were rendered to the plaintiff and representations made to her by, or on behalf of the firm, so as to lead her to believe that the whole of the moneys had been invested, and interest was paid to her by the firm down to the death of one of the partners in 1877, and by the surviving members of the firm down to 1886. In 1886 the fraud was discovered. The partners having all died, the present action was brought against their representatives. The representative of the partner who died in 1877 set up the Statute of Limitations (21 Jac. 1, c. 16), and also the English Trustee Act of 1888, enabling trustees in certain circumstances to set up the statute as a bar to claims by their *cestuis que trust*. Stirling, J., however, held that the defence was not tenable except as to the money which actually had been invested, and that the effect of misrepresentations by the members of a firm whereby a fraud was concealed, was to make the firm liable as if the representations were true; and that *Blair* v. *Bromley*, 2 Ph. 354, 5 Hare 542, did not proceed upon any principle or rule of equity applicable to trustees, but on the effect of misrepresentations by a partner as affecting the liability of the firm, and was unaffected by the Trustee Act, 1888, and therefore governed the case. He therefore declared the plaintiff entitled to recover against the assets of the firm, and if this proved insufficient, then against the separate estates of the members of the firm, with the exception before mentioned as to the sum actually invested, for which the partners who survived after 1877 only were held liable.

PRACTICE—ARBITRATION—AWARD—ARBITRATOR, MISCONDUCT OF—MOTION TO SET ASIDE AWARD—EVIDENCE—ADMISSION BY ARBITRATOR.

In re Whitely & Roberts Arbitration (1891), 1 Ch. 558, Kekewich, J., held that on a motion to set aside an award evidence of an admission by one of the arbitrators out of Court that he had made his award improperly, as, for example, by collusion, or in consequence of a bribe, is inadmissible. The decision, we may observe, proceeds not of course upon the principle that proof of such misconduct

would not be sufficient to set aside an award, but simply on the principle that an admission by an arbitrator is not evidence of the fact, the admission by a third party being no evidence against anybody but himself, except in certain cases where he is associated with others who are also bound by his admissions.

EVIDENCE—ADMISSIBILITY—PROMISSORY NOTE INSUFFICIENTLY STAMPED.

The only other case is *Ashling* v. *Boon* (1891), 1 Ch. 568, which has no longer, since the repeal of our Stamp Act, much interest for us. It is a decision of Kekewich, J., in which he holds that under the English Stamp Act (33 & 34 Vict., c. 97) a promissory note insufficiently stamped cannot even be used as evidence to prove the receipt of the money for which the note was given.

Notes on Exchanges and Legal Scrap Book.

THE ancient practice of taking oaths has been preserved even in the midst of the greatest corruption, not for the sake of restraining wickedness by religious fear, but to complete the tale of crimes by adding that of perjury.—*Civ. Dei.*, iii. 2.

WE are glad to see that the *Times* is fully alive to the importance of the *Jackson Case*. It now appears to be absolutely necessary to reconsider our whole law of marriage and the relationship of the sexes. The law of breach of promise, by which a man must perform his promise at the risk of his life; the law of the nubile age, by which marriage between a boy of fourteen and a girl of twelve is valid, and the consent of parents or guardians, though nominally required, may be easily misrepresented to exist; the law of liability of a husband for his wife's debts and torts; the law by which a married woman alone of all debtors is exempt from imprisonment, when she can pay her debts but will not; and, lastly, the law of divorce, by which a woman may leave her husband for no reason, good or bad, the day after marriage, with no remedy but a judicial separation—all these and many more points in our law of marriage require immediate and careful consideration and revision.—*The Law Journal.*

THE *Indian Jurist*, published at Madras, is as well-edited a law journal as can be found anywhere. It is a shining illustration of the capacity of our British cousins to adapt themselves to circumstances, and, like the Romans of old, to erect a civilization in strange lands and out of the most uncouth material. There, away out in British India, they have built up a body of law superior in many respects, because untrammelled by ancient precedents, to that enjoyed by the Englishman on his native shore. They have their own legal literature and their own law reports, which latter, by the way, would be quite a curiosity to many of our readers. Think of having to report a case under the title of *Sadashir*

Rayaji v. *Maruti Vithal*, or *Easnara Doss* v. *Pungavanachari*, or *Faki Abdulla and another* v. *Babaji Gungaji*, and having to state as a part of the syllabus that the case of *Rao Karan Singh* v. *Raja Bakar Ali Khan* and *Mohima Chunder Mozoomdar* v. *Mohesh Chunder Neogi* are explained. The case we have before us as we write is one involving a question under the Hindu Statute of Limitations, and we are informed that it is an appeal from an order of remand made by Rao Bahadur G.A. Mankur, "First-class subordinate judge of Thana, A.P." That the appellant's counsel was Shantaram Narayan, who cited the case of *Mohima Chunder Mozoomdar* v. *Mohesh Chunder Neogi*, and that Manekshah Jehangershah argued for the respondent, and cited to the Court the case of *Rao Karan Singh* v. *Raja Bakar Ali Khan*, whereupon Telang, J., delivered the decision of the Court, in which he expresses the opinion that the case of *Rao Karan Singh* v. *Raja Bakar Ali Khan*, relied upon by the learned counsel Shantaram Narayan, should be read in connection with *Gopaul Chunder* v. *Nilmoney Mitter* and *Moro Desai* v. *Ramachandra Desai*, as well as that of *Nawab Mahomed Amanulla Khan* v. *Badan Singh*. Thank heaven, we live in a land where plain *Doe* v. *Roe* and *Smith* v. *Jones* is enough to satisfy the Court. We are not yearning to practise law in Madras, even though so excellent a law journal as the *Indian Jurist* be published there.—*Washington Law Reporter.*

LEGAL FEES IN ENGLAND AND CANADA.—Now and again there appear inquiries in our columns as to the advantages of practising in Canada, and it is always interesting to get facts on these points. Not long ago an English firm were instructed to draw a certain instrument; their charges came to five guineas; an exactly similar document had to be drawn by a Canadian firm, whose charges came only to fifteen shillings, or seven times less than the sum paid to the English firm. If one is to assume that the law forms in Canada are similar to those usual in England, the disparity between these fees is remarkable. Either the Canadian lawyers must do a much larger business than their English brethren, or the fees of the latter must be unduly heavy. Probably the fact is that Canada is much less overridden by officialism than England is, for it may be said without error that many of the items charged in a modern lawyer's bill go into the pockets of the State officials, and but a small percentage is left to remunerate the lawyer.—*The Law Journal.*

THE CLITHEROE CASE.—The history of this now celebrated case, which has caused such great commotion in England, and in which the rights and privileges of a wife have been given such a liberal construction, with the necessary consequence, the curtailment of the power of the husband, is given in brief by the *Central Law Journal*:—"The proceeding was by way of *habeas corpus* on the part of a Mrs. Jackson, directed to her husband, requiring him to bring his wife, 'now detained by him,' before the Court, with a view of determining whether she was actually imprisoned by her husband, and, if so, by what right. The sub-

stance of the return of the writ was that Mrs. Jackson was the lawful wife of Mr. Jackson, but had refused to live with him, and consequently he had taken and detained her in his own house, using no more force or restraint than was necessary for the purpose of so taking and detaining her, in order to have full opportunity of gaining her affections. The Court, consisting of Lord Chancellor Halsbury, Master of the Rolls Esher, and Lord Justice Fry, gave judgment for the wife in long and well-considered opinions. The body of English matrimonial law has not for a long time been enlarged by so important a decision. The time-honored *dicta* of English legal text-books were dismissed by the lord chancellor as 'quaint and even absurd.' Whatever these *dicta* might be, 'there was no case to be found anywhere establishing the proposition that the mere relation of husband and wife gave the husband complete dominion over the wife's person, when her behavior was unaccompanied either by misconduct or the approach of a proximate act of misconduct.' 'No English subject, in fact, had a right,' said Lord Halsbury, 'to imprison any other subject who was *sui juris*, whether she be wife or anybody else.' The legal pith of the case may be stated thus: A husband has no right to restrain the liberty of his wife's person in the absence of any other injury or reasonable cause to apprehend other injury to him than mere loss of her society."

CONSPIRACIES AND RIGHT OF ACTION.—If, in speculating for "differences," a man sells on the Stock Exchange shares which he has not got, and on being compelled to deliver them has to buy them at an exorbitant price, he cannot sue any persons who, by false representations to any particular person or to the public generally as to the value of the shares, may have unnaturally forced the price up. Such appears to be the result of the judgment of the Court of Appeal in *Salaman* v. *Warner and others*, in which the plaintiff was a broker who claimed more than £7,000 damages against the defendants, who were the promoters, stockbrokers, and financiers of Warner's Safe Cure Company, "for fraudulently rigging the market," and thereby causing him to lose that sum in fulfilling his contracts to deliver shares. The High Court held that no specific fraud had been committed which affected the legal rights of the plaintiff. "The fraud, if any," observed Mr. Justice Day, in delivering judgment, "which was practised on the committee of the Stock Exchange is not one which the plaintiff can connect with the original transaction out of which his losses occurred." "The plaintiff," said the Master of the Rolls, "claimed a right of action because, as he said, the defendants had not told some one else, who was in no way connected with the plaintiff, the truth. There is no such right as this by the law of England." Upon the authorities there is no doubt of the correctness of these views, *Bedford* v. *Bagshawe*, 4 H. & N. 538, so far as it points the other way, having been overruled in *Peek* v. *Gurney*, 43 Law J. Rep. Chanc. 19. The Court of Appeal has further and expressly laid down that no civil action can be maintained for a conspiracy unless the conspirators conspire to do something against the rights of the plaintiff, and effect their purpose and commit a breach of those

rights, the Master of the Rolls stating that the fact of a conspiracy does not increase a right of action in the least—a statement which should be compared with the judgment of the Exchequer Chamber in *Gregory* v. *The Duke of Brunswick*, 16 Law J. Rep. C.P. 35, in which a declaration for conspiracy to hoot an actor off the stage was held good.—*The Law Journal.*

VERDICTS OF JURIES.—A case which occurred a short time ago in England, at the Chester Assizes, shows the inexpediency and injustice of detaining a jury for any excessive period in the hope of getting a verdict. A married woman named Cutler had been convicted of perjury, the trial lasting fifteen hours, and the verdict being found shortly after midnight. The presiding judge, Mr. Justice Vaughan Williams, sentenced the prisoner to five years' penal servitude. The case excited much comment, and an effort was made to obtain the views of the jury, in order to press the Home Secretary for a reduction of the punishment. One juryman writes: "I was one of the five to hold out against the verdict of guilty. You will naturally inquire why I gave way. One reason was that we had sat from 9.30 a.m. until midnight, and it was of great importance that I should be at home the following morning. Had it not been for that, I would have sat for a week without giving way, because I considered that there was a doubt in the case, and that the woman should have the benefit of it. I did not think the sentence would have been more than six months at the most." Another juryman says: "I was very reluctant in convicting the prisoner, as there are very grave doubts in the case. For myself, I was in favor of giving the prisoner the benefit of the doubt." A third juryman writes: "I think there has been a miscarriage of justice. Although a verdict of guilty was returned, many of us were very hard to convince, but owing to the late hour we felt that a verdict must be arrived at. As to the sentence, I should like it to be considerably reduced or entirely cancelled." A fourth juryman says that the verdict turned on certain plans of premises, and he was so dissatisfied with the sentence that on the following day he went to inspect them, and he made up his mind at once that, had he seen the premises prior to the trial, he certainly would not have given a verdict of guilty. He adds explanatorily: "The jury were about equally divided, but none were strongly against the prisoner."—*Montreal Legal News.*

LYNCH LAW.—Mr. Justice Harrison, one of Her Majesty's judges in Ireland, recently declared on the bench at the Galway Assizes that he wondered why the people did not resort to lynch law to put a stop to infringements of public peace. Mr. Dillon brought the words of the magistrate before the House of Commons, where they created some sensation. In the debate which followed, reference was made rather satirically to "American methods of justice," which were not desired under the "saner and more conservative institutions of the United Kingdom." The incident and debate have brought out the well-authenticated fact that lynch law did not originate in the United States, but in the United

Kingdom, and, oddly enough, in Galway; and still more oddly, that its modern significance is not precisely what it originally meant.

It is true that Webster's dictionary attributes its origin to the peculiar method of a Virginia farmer named Lynch, who was accustomed to dispensing with legal forms when administering what he supposed was justice with a whip on the bare backs of persons who interfered with his rights.

It is also incorrectly noted in Reddall's "Fact, Fancy, and Fable," and in Edwards' "Words, Facts, and Phrases." In the "Dictionary of Phrase and Fable" it is doubly ascribed to the true source and to the false Virginian source.

It is correctly given in the "Biographical Dictionary of Ireland," by Lewis, printed in London in 1837. James Lynch Fitzstephen was warder, in 1493, of the town of Galway, which had a considerable commerce with French and Spanish ports. His son had a friend, a Spaniard, whom he believed to have alienated the affections of his betrothed wife, and young Fitzstephen, or Lynch, as the family name ran, killed him at sea. Lynch was condemned to death, and sentenced by his father, upon whom the cruel duty fell on account of his office. The people sympathized with the son, and, perhaps, with what they believed to be the real feeling of the father, and prepared to prevent the execution. The executioner refused to do his work. The father, resolved that the law should be obeyed, hanged the condemned boy with his own hands out of the window of his house.

In 1624 a monument of this episode, comprising a skull and crossbones carved on black marble, was erected and is now on the wall of St. Nicholas churchyard.

It was the mob, therefore, and not James Lynch, who proposed to break the law or suspend its usages and force; but the caprice of time has transferred the epithet to lawless deeds. The coincidence acquires further interest from the fact that it is also from Ireland the English language has derived another word descriptive of passive abrogation of law—boycott. The methods and objects implied in both words, however, are as old as civilization. It is only the descriptive appellatives that are modern.—*Chicago Herald.*

Reviews and Notices of Books.

Principles of the English Law of Contract and of Agency in its Relation to Contract. By Sir William R. Anson, Bart., D.C.L., of the Inner Temple, Barrister-at-Law, etc. Sixth edition. Oxford: The Clarendon Press, 1891.

This work is recognized almost universally as the best epitomized discussion of the Law of Contract in existence. The fact of its use by students of all years as a text-book is not the worst recommendation it could receive. Several chap-

ters have been entirely rewritten, and all have been brought up to date. The author, in his preface, refers to the references necessitated both to the *Times* Law Reports and the *Law Times* Reports, and says that the apology should come, not from him, but from the editors of the reports "whose selection of cases and manner of reporting are a grievance to all concerned in the study and practice of the law."

Correspondence.

GRAND JURIES.

To the Editor of THE CANADA LAW JOURNAL:

SIR,—In the last number of this journal you published an article from the pen of a writer who has evidently bestowed some attention on the question as to what feasible substitute can be provided in place of Grand Juries. His suggestions contain the germ of what might probably be elaborated into a satisfactory scheme for supplying all that is needful in the Grand Jury system, and at the same time be more efficient and less open to be perverted by occult influences.

There are two things to be guarded against, (1) the unnecessary subjection of any man to the trouble, annoyance, and loss of liberty and expense involved in his being, without reasonable cause, submitted to the ordeal of a public prosecution for any alleged criminal offence; and (2) the prevention of the failure or perversion of justice by reason of cases being burked which ought to be submitted to public investigation. Bearing in mind these two things, it is obviously most essential that no public functionary should be permitted to exercise any autocratic power in matters of this kind. Should it be determined to transfer the functions of the Grand Jury to the shoulders of an individual, the latter must be surrounded by such checks as will effectually guard against the exercise of his powers in an arbitrary or capricious manner. It seems essential that the functionary, whoever he may be, should be brought face to face with the witnesses for the prosecution in the same manner as the Grand Jury is; and that though his preliminary investigation should be conducted in private, yet that a record should be kept of the testimony given before him, and that in every case this testimony should be preserved and transmitted to the Attorney-General's Department, together with the written report of the functionary making the investigation, in order that his conduct may at all times be open to the fair and reasonable criticism which is absolutely essential for the safety of the public and the due administration of so important a public duty. One of the greatest defects in our Grand Jury system is that Grand Juries are not amenable to public criticism for the way they discharge their duty. They are practically autocratic.

The writer of the article proposed that one such officer should be appointed for each circuit. Whether that would be an adequate number is perhaps open to

doubt, but at any rate counties might be grouped in such a manner as to enable one such officer to discharge the required duty for several counties. The proposal to pay such officers by fees seems to me to be undesirable. Any scheme whereby any individual is required to undertake the duty of a Grand Jury should be so devised as to remove as far as possible every motive for any such officer to authorize a prosecution save a supreme regard for public welfare and the due vindication of the law of the land. The possible imputation that his action was instigated by the fact that a prosecution would bring him so much more pay in the way of fees ought to be carefully guarded against. Such a functionary, to fulfil his duties satisfactorily to himself and the public, must, like Cæsar's wife, be above suspicion. The men chosen for such positions should have all the qualities calculated to inspire public confidence—undoubted integrity and a reputation for fair dealing, and a judicial bent of mind.

The appointment of such an officer as has been suggested should be made in such a way as to insure efficiency. It would never do to give any appointee a life term of his office, as that would almost inevitably lead to men continuing to hold the office after they had ceased to be capable of efficiently discharging its duties.

As the appointment of such an officer would relieve the counties of the expense of summoning and paying the Grand Jury, they might not unreasonably be required to assume the duty of paying the salary of such an official, if one were appointed.

H.

Proceedings of Law Societies.

LAW SOCIETY OF UPPER CANADA.

TRINITY TERM, 1890.

The following is a *résumé* of the proceedings of Convocation during the above term:—

The following gentlemen were called to the Bar, viz.:

September 8th.—Arthur Cyril Boyce, with honors and bronze medal; Alexander James Armstrong, William Henry Nesbitt, Augustus James Jackson Thibeaudeau, William Alexander Logie, Archibald Crozier, George Henry Hutchison, Hiram Erskine Stone, Philip Henry Bartlett, Archibald Abbott, Walker Lewis Edward Marsh, Saxon Bismarck Arnold, Thomas George Alexander Wright, William John Hanna, Archibald Bain McCallum, Arthur Henry O'Brien, John Jacob Drew, Francis William Maclean, John Almon Ritchie, Edwin Owen Swartz, Isaac Greenizen, Colin Fraser, and Alexander David Crooks (who passed his examination in Easter term).

September 13th.—Edmund Baird Ryckman, with honors and gold medal, and Alexander James Keeler.

The following gentlemen were granted Certificates of Fitness as Solicitors, viz.:

September 8th.—A. J. Armstrong, S. B. Arnold, H. Carpenter, A. Crozier, J. J. Drew, C. Fraser, W. J. Hanna, W. J. Hatton, A. J. Keeler, W. A. Logie, E. B. Ryckman, R. M. Thompson, A. Abbott, J. H. McGhie, A. D. Crooks (passed Easter term, 1890).

September 9th—H. E. Stone, T. G. A. Wright, W. H. Nesbitt, M. R. Allison, E. U. Sayers, F. W. Maclean.

September 13th.—I. Greenizen, W. H. Kennedy, J. Fraser.

The following gentlemen passed the Second Intermediate Examination, viz.: E. Pirie, W. E. Gundy, N. P. Buckingham, J. G. Harkness, J. A. Harvey, U. A. Buchner, H. B. McGiverin, J. F. Carmichael, C. B. Rae, J. B. Ferguson, G. C. Hart, and W. A. Cameron, L. G. McCarthy, S. S. Reveller, as students-at-law *only*.

The following gentlemen passed the First Intermediate Examination, viz.: R. J. Sims, W. McFarlane, G. E. J. Brown, J. McKay, H. M. Graydon, H. D. Smith, C. T. Sutherland, A. E. Fripp, E. F. Burritt, G. T. Copeland, C. C. Fulford, M. A. Brown, D. Campbell, T. A. Duff, N. H. McIntosh.

The following gentlemen were entered on the books of the Society as Students-at-Law and Articled Clerks, viz.:

Graduates—Wm. Robert Givens, Jno. Lamont, And. Bethel Carscallen, Jno. Gladstone Campbell, Jno. Lynden Crawford, Fred. Marshall Brown.

Matriculants—Jas. Wilson Hannon, Robert George Bourns, George Henry Bradshaw, Avery Casey, Ed. Chas. Pinckney Clark, Edwin Coulson Clark, Thos. Coleridge, John Frederick Faulds, Frank Ford, Fred. Charles Kingston, Frank McMurray, Arth. Murray Panton, Sam. Price, Bernard Wm. St. Denis Thomson, David Whiteside.

Law School Examinations.

The following gentlemen passed the First Year Law School Supplementary Examination, viz.:—J. H. Coburn, W. D. Earngey, V. M. Hare, and E. C. Senkler.

The following gentlemen passed the Second Year Law School Supplementary Examination, viz.:—J. N. Anderson, K. H. Cameron, S. A. C. Greene, J. H. D. Hulme, J. A. Mather, E. L. Middleton, L. V. McBrady, R. G. H. Perryn, and G. R. Sweeny.

Monday, September 8th.

Convocation met.

Present—Messrs. Bruce, Cameron, Foy, Hoskin, Kingsmill, McMichael, Meredith, Moss, Osler, and Shepley.

In the absence of the Treasurer, Mr. Moss was appointed Chairman.

The minutes of last meeting of Convocation were read and approved.

Mr. Osler, from the Committee on Reporting, reported that in consequence of severe illness Mr. Boomer will be unable to perform his duties for over two months, and recommended that he be granted leave of absence for three months from 1st September without deduction of salary, and that Mr. E. B. Brown be appointed to do his work in the meantime, being paid therefor at the rate of fifty dollars a month from the 1st of September.

Ordered for immediate consideration.

Adopted, and ordered accordingly.

Mr. Kingsmill, from the Legal Education Committee, presented a Report on the subject of the number of Examiners-in-Law.

Ordered for consideration to-morrow.

Mr. Kingsmill, from the same Committee, presented a Report on the cases of J. A. Murphy and William Johnston, recommending an amendment of Rule 142. Also in the matter of proposed legislation as to admission to practise of certain barristers; also in the matter of proposed legislation as to the admission to the Bar of persons holding the position of Minister of Justice of Canada.

Ordered for consideration to-morrow.

Mr. Kingsmill gave notice that he will to-morrow introduce a Rule to amend Rules 38 and 147, as regards the number of Examiners.

The petitions of Messrs. C. R. McKeown, L. P. Duff, and D. R. Tate were read.

Ordered, that they be referred to the Legal Education Committee.

The Secretary was directed to acknowledge the receipt of F. A. T. Dunbar's communication.

The letter of Messrs. Parkes & Gunther, complaining of the conduct of a student-at-law, was read.

Ordered, that it be referred to the Discipline Committee to report whether a *prima facie* case has been shown for enquiry.

The Report on honors in connection with call to the Bar was read

Ordered, that it be referred to a Special Committee composed of Messrs. Foy, Bruce, and Kingsmill.

Mr. Hoskin, from the Discipline Committee, in the matter of the complaint against Mr. B——, reported that a *prima facie* case had been shown.

Ordered for consideration on Saturday, 13th September.

Mr. Foy, from the Special Committee to whom was referred the Report of the examiners on honors, reported as follows:

That Messrs. E. B. Ryckman and A. C. Boyce are entitled to be called with honors, and that the former is entitled to a gold medal and the latter to a bronze medal.

The Report was received, ordered for immediate consideration, and adopted.

Ordered, that the above named gentlemen be called with honors, and that Mr. Ryckman do receive a gold medal and Mr. Boyce a bronze medal.

Tuesday, September 9th.

Convocation met.

Present—Messrs. Beaty, Bell, Foy, Hoskin, Kingsmill, Mackelcan, Martin, Meredith, Morris, Moss, Murray, Osler, and Purdom.

In the absence of the Treasurer, Mr. Martin was appointed Chairman.

The minutes of last meeting were read and approved.

The petition of F. B. Fetherstonhaugh was received and read.

Ordered, that it be referred to the Legal Education Committee.

The report of the Legal Education Committee on the subject of the number of examiners was then considered.

Ordered, that it is expedient to increase the number of Examiners-in-Law to three.

Mr. Kingsmill introduced a Rule to amend Rules 38 and 147, as regards the number of examiners, and moved, seconded by Mr. Mackelcan, the first reading of the Rule.—Carried.

On motion, the Rule was read a second and third time and adopted unanimously as follows:

Sub-section 6 of Rule 38 is hereby amended by substituting "three" for the word "two" in that Sub-section, and Rule 147 is hereby amended by substituting "three examiners" for "two examiners" in the last paragraph thereof.

Ordered, that the advertisement be inserted calling for applications for three examinerships, to be sent in by 18th September at noon, and a call of the Bench ordered for the 19th inst., to make the appointments.

The consideration of Mr. Osler's notice of motion on the subject of the new Law School building was adjourned till Saturday next, on the understanding that it was then to be again adjourned after such discussion as may be practicable; Mr. Storm, the architect, to attend if notified.

Saturday, September 13th.

Convocation met.

Present—The Treasurer and Messrs. Christie, Hoskin, Irving, Kerr, Kingsmill, McMichael, Mackelcan, Meredith, Morris, Moss, Murray, Osler, and Shepley.

The minutes of last meeting were read and approved.

The consideration of Mr. Osler's motion that the proposed new Law School should be of a moderately ornamental character, designed to contain the following rooms:—One hall, seating two hundred; two lecture rooms, seating one hundred each; a library, a students' reading-room, cloak-room, closets, four lecture-rooms, principal's room and ante-room, two examiners' rooms; heating to be independent of Osgoode Hall, and that plans and elevations of such building be submitted next term by the architect, the expenditure upon such building and furniture to be about fifty thousand dollars, was, pursuant to order, taken up and discussed at length, and after such discussion, adjourned to the next meeting of Convocation.

Mr. Irving, for Mr. Shepley, presented the Report of the Special Committee on the hours, order and convenience of business, which was as follows:

The Special Committee appointed by Convocation on 23rd November, 1889, to consider and report on the question whether and how the hours of business and the order and arrangement

thereof can be modified so as to secure greater convenience in the conduct th reof, beg leave to report as follows:

On the first and second days of term, Convocation shall sit at 10 a.m., and on other business days of Convocation at 11 a.m.

On the first and second days of term, during the hour between 10 and 11 a.m., three members of Convocation shall be a quorum, and shall have power to transact business hereinafter specified.

1. *On the First Day of Term:*

(1) Reading the minutes of last meeting of Convocation.

(2) Reports of the examiners on the examination of candidates for call, received, read, and approved, or otherwise disposed of.

(3) Secretary's report on standing of candidates.

(4) Reports of the examiners on the examination of candidates for admission as Solicitors, received, read, and approved, or otherwise disposed of.

(5) Reports of the examiners on the Intermediate Examinations, received.

(6) Reports of the Committee on Legal Education on admission of students-at-law and articled clerks, received and read.

(7) Reports of Standing or Special Committees received and read, and a time appointed for the consideration or adoption of the same.

(8) Petitions received, read, and referred.

(9) Communications received, read, and disposed of.

(10) Consideration of any other business specially appointed for the first day of term.

(11) Motions of which previous notice has been given.

(12) Notices of motion.

(13) Second reading of draft rules..

2. *On the Second Day of Term:*

(1) Reading the minutes.

(2) Reports of Committees on petitions respecting call of barristers, admission of solicitors, or respecting students or clerks, or their examinations; or on special cases under the Rules 206 to 213 inclusive, and the consideration or adoption of the same, and of the reports of the examiners on the Intermediate Examinations.

(3) Special reports from the examiners.

(4) Such items of the business authorized to be transacted on the first day as may be unfinished.

It shall be the duty of the Treasurer or Chairman for the time being to defer until after the hour of 11 a.m. the consideration of any question or matter arising out of the business hereinbefore specified which requires special consideration, or is not of a formal character, or is reported by the Legal Education Committee as fit to be deferred.

It shall be the duty of the Treasurer or Chairman for the time being to announce to Convocation at the hour of 11 o'clock on the first and second days of term, and at the opening of Convocation on other business days of Convocation, any special or important matters on the order of business for the day, and to take the sense of Convocation as to the order of disposition of the same.

Signed on behalf of the Committee,

G. F. SHEPLEY, *Chairman.*

The Report was received and ordered for immediate consideration.

Mr. Mackelcan proposed to strike out so much of Section 2 of the work to be done on the second day as relates to reports of Committees.—Lost.

The Report was adopted.

Mr. Irving moved for leave to bring in Rules in pursuance of the report as follows:

Rule to amend Rules 11, 15, 23 and 24:

Rule No. 11 is amended by inserting after the word "quorum," "except on Monday and Tuesday of the first week of term, during the hour between 10 and 11 o'clock in the forenoon, during which hour any three Benchers shall be a quorum," and.

Rule No. 15 is amended by striking out the words "half-past ten" in the fourth line thereof and inserting after the word "meeting" in the said line, "on Monday and Tuesday of the first week, ten o'clock in the forenoon, and on other standing Convocation days, eleven."

Rule No. 23 is amended by inserting after the words "on the first day of term," "during the hour between ten and eleven o'clock in the forenoon, the matters numbered in the said Rule 1, 2, 3, 5, 6 and 7."

Rule No. 24 is amended by inserting after the figure 24, "on the second day of term during the hour between ten and eleven o'clock, the matters numbered 1, 2 and 4 and the following matter, such items of the business authorized to be transacted on the first day as may be unfinished," and by inserting after paragraph 11 of Rule 24 as follows:

"24 A. It shall be the duty of the Treasurer or Chairman for the time being to defer until after the hour of eleven o'clock the consideration of any question or matter arising out of the business hereinbefore specified which requires special consideration or is not of a formal or routine character or is reported by the Legal Education Committee as fit to be deferred."

"24 B. It shall be the duty of the Treasurer or Chairman for the time being to announce to Convocation at the hour of eleven o'clock on the first and second days of term and at the opening of Convocation on other business days of Convocation, any special or important matters on the order of business for the day, and to take the sense of the Convocation as to the order of disposition of the same.—Carried."

Mr. Irving moved that the Rules be read a first time.

Ordered for a second reading at the next meeting of Convocation.

Mr. Hoskin, from the Discipline Committee, reported on the reference of the complaint of Messrs. Parkes & Gunther against Mr. W——, that a *prima facie* case had been made for enquiry.

Ordered for immediate consideration, and adopted.

Ordered, that the said complaint be referred to the Discipline Committee for enquiry and report, according to the Rules of the Society.

Mr. Hoskin, from the same Committee, reported on the case of Mr. B——e, referred to them for enquiry, and the letter of Mr. Bowes, withdrawing the complaint, also referred, recommending that under the circumstances no further action be taken, and that the order of reference be discharged.

Ordered for immediate consideration, adopted and ordered accordingly.

Mr. Hoskin, on the complaint of Messrs. Riddell and Hunter against a solicitor, brought up the Report of the Committee on Discipline, presented to Convocation on 8th September, and ordered to be taken into consideration to-day, moved the adoption of the Report to the effect that a *prima facie* case had been made for enquiry.

Adopted.

Ordered, that the above complaint be referred to the Committee for enquiry and report, according to the Rules.

The letter of the Principal to Mr. Moss was read and referred to the Finance Committee for immediate action.

Mr. Moss presented a Report from the Legal Education Committee, as follows:

(1) The Committee have considered the petition of Mr. J. A. Murphy and the papers accompanying it, and the communication of Mr. William Johnston, with reference to the application of Rule 142 to their respective cases. The Committee are of opinion that this Rule ought not to apply retrospectively, and, in order to remove all doubt upon the point, recommend that the Rule be amended by adding thereto the words, "But this Rule shall not apply to students-at-law who were admitted prior to Hilary Term, 1889."

(2) The Committee have also had under consideration the communication of the Honorable the Attorney-General, referring to a proposed amendment of the "Act respecting Solicitors," so as to permit the admission to practice as solicitors of certain barristers who have not served under articles as at present required by the Act.

The Committee recommended that Convocation give its concurrence to an amendment to the effect set forth in the annexed draft. This, the Committee is of opinion, will enable Convocation to deal with all such cases as may arise.

(3) The Committee have also had under consideration the question of the propriety of applying for legislation similar to that passed by the Legislature of the Province of Quebec, providing for the admission to the Bar of Ontario of any person who is or has been or shall hereafter hold the office of Minister of Justice of Canada, and they recommend that such legislation be procured and suggest the annexed draft amendment to the "Act respecting Barristers-at-Law" as sufficient to meet the case.

Ordered for immediate consideration.

Ordered that the 2nd and 3rd clauses be considered at the next meeting of Convocation.

The first clause was adopted.

Ordered, that the subject of providing an Annual Official Law List for Ontario be referred to the Reporting Committee, with instructions to report a plan for the consideration of Convocation.

Mr. Moss moved for leave to introduce a Rule in pursuance of the first paragraph of the Report of the Legal Education Committee, adopted this day.

Ordered accordingly.

The Rule was introduced, and is as follows:

Rule to amend Rule 142: Rule 142 is hereby amended by adding thereto the words, "But this Rule shall not apply to any such student who was admitted prior to Hilary Term, 1889."

Ordered, that the Rule be read a first time.

Ordered, that the said Rule be read a second time at the next meeting of Convocation.

Friday, September 19th.

Convocation met.

Present—The Treasurer, Sir Adam Wilson, Kt., and Messrs. Beaty, Bruce, Britton, Foy, Hoskin, Irving, Kerr, Lash, McCarthy, McMichael, Macdougall, Martin, Meredith, Morris, Moss, Murray, Purdom, and Shepley.

The minutes of last meeting were read and approved.

Mr. Moss, from the Legal Education Committee, presented a Report.

In the case of Henry White, recommending that his Second Intermediate Examination, taken in Hilary Term, 1890, be allowed as of that term notwithstanding the previous direction of Convocation.

Ordered for immediate consideration and adopted.

In the case of W. P. McMahon, recommending that the petition be reserved until next term and be then brought up for favorable consideration as to the allowance at that time of the final examinations already passed.

Ordered for immediate consideration and adopted.

On the petition of D. R. Tate *et al*, as to their attendance on the Law School for their second and third years, recommending that each of the petitioners and others in a similar position may exercise an option as to whether they shall attend the course of the school for their second year in the year 1890 or in the year 1891, on signifying their option by letter to the Principal on or before the 6th October,

Ordered for immediate consideration and adopted.

Ordered, that the petitioners be notified of the decision by the Secretary, and that he do cause a notice of the same to be put up in the Library and the Law School.

On the petition of L. P. Duff *et al*, recommending that they be allowed to take the Second Intermediate Examination in November next, under the old curriculum, taking the Law School course in the third year for 1890-91, and that the examination in that course may stand for their final examinations,

Ordered for immediate consideration and adopted.

Ordered, that the order of the day for the appointment of examiners for the Law School be now taken up.

Mr. Moss presented a Report showing the names and date of call to the Bar of each of the applicants.

Messrs. M. G. Cameron, F. J. Joseph, and A. W. A. Finlay, were then elected examiners by Convocation.

The Report of Mr. McCarthy's Special Committee, as follows, was then taken up:

Report of Special Committee appointed 29th November, 1889, to consider and report on the question of unauthorized persons practising in the Surrogate Courts, as set forth in the letters of Messrs. Carroll, Beaumont, and Ross.

Your Committee to whom was referred the letters of Mr. Carroll, accompanied by communications from Messrs. Beaumont and Ross, charging that Mr. P. Heaslip is practising in the way of procuring probate of wills in the Surrogate Courts, for enquiry, beg leave to report:

(1) That it is the right of the members of the Society to call upon it to protect the profession against the unlawful encroachments of those who, not belonging thereto, practise or assume to practise in legal matters contrary to the statute in that behalf, and that the Society is bound to assume the burden of prosecuting such offenders.

(2) That no prosecution, however, should be undertaken unless authorized by Convocation upon the report of a Committee by whom the complaint and the evidence in support thereof has been investigated, and such Committee may, if it think fit, obtain the assistance of the Solicitor in making such investigation.

(3) That with reference to the complaint against Mr. P. Heaslip, your Committee has made no investigation as to the alleged violation of the statute, but your Committee is of opinion that a

prima facie case is presented, and that, if the facts are as stated, he did act as a solicitor in the Surrogate Courts in preparing and presenting papers to obtain probate, and in so doing he did commence a proceeding in a Court of Civil Jurisdiction contrary to the statute.

All which is respectfully submitted,

(Signed) D'ALTON MCCARTHY,
Chairman.

Mr. McCarthy moved the adoption of the Report.

Ordered to be taken by paragraph.

On the first clause, Mr. McCarthy moved that the first paragraph be amended by striking out after the word "Society" where it last occurs the words "is bound to," and inserting the words, "in cases thought by Convocation of sufficient moment should."

Mr. Macdougall moved that the further consideration of the Report be deferred until the first Tuesday of next term.—Lost.

The amendment was adopted.

The clause as amended was adopted.

The second clause was adopted.

Mr. McCarthy moved to add to this clause the following words: "But as the offence, if any, was committed before the adoption of the Rule proposed in the Report, it is recommended that no further action be taken thereon by Convocation."

The clause as amended was adopted.

The Report as amended was adopted.

Mr. Lash (for Mr. Hoskin) presented the petition of the Osgoode Lawn Tennis Club, praying for relief.

Mr. Lash proposed that the petition be referred to the Finance Committee to report to Convocation.

Mr. Moss moved that the order of the day for the consideration of the Report of the Legal Education Committee on the subject of proposed legislation do stand to the second day of next term.

On the order of the day for the further consideration of Mr. Osler's motion as to the erection of a Law School building,

It was ordered that the question be deferred till after a further report of the Select Committee, already ordered, on the subject, and that they be requested to report further on the subject on the first day of next term.

On the order of the day for the second reading of the Rules as to the order of business, the same were read a second and third time and adopted.

Mr. Moss, pursuant to order, moved the second reading of the Rule amending Rule 142.

The Rule was read a second time and third time, adopted, and is as follows:

Except in special cases provided for by any statute, students-at-law who are not articled clerks shall actually and *bonâ fide* attend in a barrister's chambers for the same respective periods as articled clerks are required to serve under articles, but this rule shall not apply to any such student who was admitted prior to Hilary Term, 1889.

Mr. Moss presented a Report from the Legal Education Committee:

In the case of Mr. S. M. Evans, recommending that the prayer of his petition be not granted.

In the case of Mr. G. F. Downes, recommending that the prayer of his petition be not granted.

In the case of J. F. Macdonald, recommending that he be allowed to present himself for his final examinations in November, provided he attends the Law School meanwhile.

In the case of C. R. McKeown, recommending that he be admitted as a student-at-law as of this term on producing to the Secretary and Chairman of the Committee proper evidence of his having received his degree of B.A., as the result of the May and Supplementary September Examinations.

In the case of A. C. Boyce, recommending that his Certificate of Fitness be granted on his producing to the Secretary proper proof of the completion of his service.

In the cases of J. B. Quinton, recommending that the prayer of his petition be not granted.

In the case of W. B. Mills, recommending that his examination be not allowed.

In the case of F. B. Fetherstonhaugh, to the effect that the Rule of 1885 should apply to his case, and that the prayer of the petition should not be granted.

The Report was ordered for immediate consideration and adopted.

Mr. Meredith gave notice for the second day of next term of a motion for the amendment of the Rules, with a view to putting graduates of the Royal Military College on same footing as graduates of Universities.

Convocation adjourned.

J. K. KERR,
Chairman Committee on Journals.

DIARY FOR MAY.

1. Fri.....St. Philip and St. James.
2. Sat.....J. A. Boyd 4th Chancellor, 1881.
3. Sun.....*Rogation Sunday.* Mr. Justice Henry died, '88.
5. Tues.....Supreme Court of Canada sits. First Intermediate Examination.
7. Thur....Ascension Day. Second Intermediate Exam.
8. Fri.....York evacuated by U. S. troops, 1813.
10. Sun.....*Sunday after Ascension.* Indian Mutiny, 1857.
12. Tues.....Court of Appeal sits. Gen. Sess. and County Ct. Sitgs. for trial in York. Solicitors' Ex.
13. Wed.....Barristers' Examination.
17. Sun.....*Whitsunday.*
18. Mon.....Easter Term commences. H.C.J., Q.B.D., and C. P. D. Sittings begin. Law School Examination, 3rd year (Honors), begins.
21. Thur....Confederation proclaimed, 1867.
22. Fri.....Earl Dufferin, Governor-General, 1872.
24. Sun.....*Trinity Sunday.* Queen Victoria born, 1819.
25. Mon.....Princess Helena born, 1846.
27. Wed.....Habeas Corpus Act passed, 1679. Battle of Fort George, 1813.
28. Thur....Law School Exam., 3rd year (Pass), begins.
29. Fri.....Battle of Sackett's Harbor, 1813.
31. Sun ...*1st Sunday after Trinity.*

Early Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

Div'l Court.] [March 6.

PRATT *v.* BUNNELL.

Husband and wife—Dower—Bar of, in mortgage—Conveyance of equity of redemption by husband alone—Rights of wife—R.S.O., c. 133, ss. 5, 6.

Held, that under ss. 5 and 6 of the Dower Act, R.S.O., c. 133, a wife who joins to bar dower in a mortgage of land made by her husband to secure part of the purchase money is entitled to dower notwithstanding a conveyance by him of the equity of redemption without her concurrence; that the wife so joining in the mortgage is not merely a surety for her husband, and that she is entitled to dower out of the surplus only of the land or money left after satisfying the mortgage debt.

Re Hague, 14 O.R. 660; *Re Croskery*, 16 O.R. 207; and opinion of PATTERSON, J.A., in *Martindale* v. *Clarkson*, 6 A.R. 1, dissented from.

Judgment of ARMOUR, C.J., reversed.

Middleton for the plaintiff.

Langton, Q.C., for the defendant Bunnell.

Snow for the defendant Gordon.

Div'l Court.] [March 6.

COFFIN *v.* NORTH AMERICAN LAND CO.

Statute of Limitations—Possession of land—Tenancy—Payment of taxes—Owners putting up new fence—Entry—Resumption of possession—Acts of possession—Sufficiency of summer crops—Drawing manure in winter—Vacant possession in winter.

In 1857 or 1858 J. entered upon the land in question in this action as tenant to the true owners, upon the terms that he should pay the taxes, and he cultivated the land during his occupation. In the autumn of 1864 he gave up the place to the plaintiff, who paid him something for improvements, and in the spring of 1865 began to work upon it, living upon and occupying an adjoining lot of land, separated by a fence. The plaintiff disclaimed any knowledge of J.'s tenancy, and said that he entered as a purchaser of J.'s rights as a squatter, with the intention of acquiring a title by possession. In 1868 the true owners pulled down an old fence and put up a new one upon part of the land in question. In 1877 the plaintiff executed a writing under seal whereby he agreed to lease the land from the true owners and to pay as rent the taxes thereon, and to give up possession when requested. From the time the plaintiff bought out J. till 1884, when he ceased to use or occupy the land, he grew crops and vegetables upon it in the summer, and did nothing at all in the winter except draw manure upon it, which he spread in the spring.

Held, following *Finch* v. *Gilray*, 16 A.R., that the mere fact that the plaintiff paid the taxes was not sufficient to keep the right of the owners alive against him; but what was done by the owners in 1868 was an entry upon the land in the capacity of owners, an assertion of their rights as such, and a resumption of possession for the time being, before the statute then in force had given a title to the plaintiff, and it furnished a new starting point; and, further, that what the plaintiff did upon the land did not show such a possession as entitled him to assert that he had acquired a title as against the true owners; the acts done in the winter did not constitute an occupation of the property to the exclusion of the rights of the true owners, but were mere acts of trespass covering necessarily but a very short portion of the winter, and the possession must be taken to have been vacant

for the remainder of it; the right of the true owner would attach upon each occasion when the possession became thus vacant, and the operation of the Statute of Limitations would cease until actual possession was taken again in the spring by the plaintiff.

J. W. McCullough for the plaintiff.

Foy, Q.C., *MacGregor* and *F. E. Hodgins*, for the several defendants.

Div'l Court.] [March 6.

MCKAY *v.* BRUCE.

Easement—Grant of lands with right to use of springs on adjoining lands—Access to springs—Right to lay pipes to springs—Prescriptive rights—Enjoyment for twenty years—Interruption after twenty years—R.S.O., c. 111, ss. 35, 37—Unoccupied lands—Owners absent—License—Revocation of—Possession—Extinguishing easement—Registry laws—Notice—Mortgagor and mortgagee.

The plaintiff claimed title to two springs, C. and E., under conveyances in 1841 and 1843 of lands north of the springs. One conveyance granted the sole and perpetual right to spring C. together with the right to use the road from the southern boundary of the land granted to the springs; the other granted the sole and perpetual use of and right to the water of spring E., without indicating the manner in which the water was to be approached or its enjoyment had. The defendant was the owner of the land to the south upon which the springs were situated. The water had been carried from the springs by means of pipes through the defendant's land to the plaintiff's land from 1861 till 1882 or 1883, when the defendant tore up the pipes, insisting that the then owner of the plaintiff's land had no right to maintain them, and thereupon an arrangement was made under which the pipes were again put down with the addition of certain troughs for the convenience of the defendant's cattle.

Held, that under the conveyances the plaintiff had a right of access to spring C. by the road mentioned, and to spring E. by a convenient road to be laid out, but had no right to the easement of conveying the water by pipes through the defendant's land.

The result of the interruption in 1882 or 1883 and the arrangement then made was that since that time the plaintiff must be taken to have maintained the pipes, not as a matter of right, but by the license of the defendant; under ss. 35 and 37 of R.S.O., c. 111, the fact that twenty years had expired before the interruption was immaterial; and therefore the plaintiff had not acquired a prescriptive right to the easement.

The fact that for nearly the first half of the period from 1861 to 1881 or 1883 the land over which the easement was claimed was unoccupied and its owners out of the country constituted another objection to the acquisition of a prescriptive right under s. 135.

The license of the defendant under which the pipes were maintained since 1882 or 1883, being by parol, was determinable at any time by the defendant; and the defendant in subsequently taking up the pipes, which led to the bringing of this action, was acting within his strict legal right of revoking the license; and the plaintiff was not entitled to damages for their removal or for disturbing the ground in which they lay, whereby the water was rendered impure.

The possession by the defendant of the land through which access to the springs was to be had, for upwards of ten years, did not extinguish the plaintiff's right of access.

Mykel v. *Doyle*, 45 U.C.R. 65, followed.

Before the conveyances of 1841 and 1843, G., the then owner of all the lands now in question, conveyed them to M. by a deed absolute in form, but really intended as a mortgage, and in 1857 in a redemption suit brought by persons who had acquired the equity of redemption from G. after the registration of the conveyances of 1841 and 1843, it was declared that this conveyance was a mortgage only, and in 1858 a conveyance was made by the representatives of G. pursuant to the decree reciting the payment of the mortgage moneys and conveying the lands to the plaintiffs in the redemption suit. The defendant claimed the land upon which the springs were situated under the grantees in the conveyance of 1858,

Held, that the defendant was affected under the Registry Acts, with notice that M. was a mortgagee only, and that those who redeemed him did so as owners of the equity; and the defendant could not set up the estate of the mortgagee, which, upon payment of the mortgage, was a bare legal estate, carrying with it no rights as against the beneficial owners of the land.

Aylesworth, Q.C., for the plaintiff.

C. J. Holman for the defendant.

GALT, C.J.] [April 27.

UNION BANK *v.* NEVILLE.

Constitutional law—Assignments and preferences—R.S.O., c. 124, s. 9—Ultra vires—Bankruptcy and insolvency.

Section 9 of the Assignments and Preferences Act, R.S.O., c. 124, providing that an assignment for the general benefit of creditors under that Act shall take precedence of all judgments and of all executions not completely executed by payment, etc., gives to the assignment a much greater effect than the assignor could give; it is a provision relating to bankruptcy and insolvency, and therefore *ultra vires* of a Provincial Legislature, by s-s. 21 of s. 91 of the B.N.A. Act.

W. R. Meredith, Q.C., for the plaintiffs.

Beck for the assignee of the judgment debtors.

Middleton for the Sheriff of Carleton.

Robinson, Q.C., for the Minister of Justice for Canada.

Irving, Q.C., for the Attorney-General for Ontario.

Chancery Division.

BOYD, C.] [March 25.

ALDOUS *v.* HICKS.

Purchaser of equity of redemption—Covenant to pay mortgage—Action by mortgagee against purchaser.

Held, that though the purchaser of an equity of redemption, when he covenants to pay the existing mortgage upon the property, becomes primarily liable for the mortgage debt as between himself and the mortgagor, that does not create any privity of contract between him and the mortgagee; and no right of action arises to the mortgagee whereby he can recover the mortgage debt directly from the purchaser.

F. Mackelcan, Q.C., for the plaintiff.

J. T. Small for the defendant Hicks.

Practice.

MEREDITH, J.] [December 10.

CORNELL *v.* SMITH.

Parties—Action to establish will—Next of kin of testator—Adjournment of trial—Removal of case from Surrogate Court.

The plaintiffs propounded a will in a Surrogate Court under which they took the whole estate and were named as executors. The defendant, who was one of the next of kin, all having an equal interest if the will was invalid, contested its validity and the case was removed into the High Court. The other next of kin also disputed the will, but were not acting in concert with the defendant.

Upon an objection taken by the defendant at the trial,

Held, that the other next of kin should be made parties; and the trial was adjourned for that purpose, it appearing that they could conveniently be added.

Lount, Q.C., and *Heighington*, for the plaintiffs.

Osler, Q.C., and *H. S. Osler*, for the defendant.

MEREDITH, J.] [April 16.

WAGNER *v.* O'DONNELL.

Report—Appeal from—Summary proceedings to enforce mechanics' lien—53 Vict., c. 37, ss. 13, 35 (O.)—Rule 850—Court or Chambers.

In summary proceedings under the Act to simplify the procedure for enforcing mechanics' liens, 53 Vict., c. 37 (O.), the appeal to a Judge in Chambers under section 35 is confined to orders and certificates; the final report under section 13 is not included in the words "orders and certificates," and the appeal from such a report shall be to a Judge in Court under Rule 850.

H. C. Fowler for the plaintiffs.

McCabe for the defendants, Norton and McCabe.

G. C. Campbell for the mortgagee.

Flotsam and Jetsam.

JUDGE (to prospective juryman)—"What is your occupation?" P.J.—"Collector for the gas company." Judge.—"You are excused. It would be impossible for you to bring in a true bill."—*Irish Law Times.*

A TRAGEDY AVERTED.—An amusing incident occurred in the Lord Mayor's Court on April 15th, where the Recorder was sitting trying cases. A jury had heard a case, and, being unable to agree, retired to deliberate. After a while a note from the jury was handed to the Recorder, who, after perusing it, said: "I must prevent a tragedy; send for the jury." Upon returning into Court the jury were discharged without giving a verdict, as they were still unable to agree. It was afterwards stated that the note to the judge ran: "Ten of us agree; but the other two decline to agree while they have breath in their bodies."—*The Law Journal.*

PROBABLY the most unique trial on record in the Union Circuit Court took place recently. It was the suit of *James Roll* v. *Adelaide A. Hanson.* The proceedings were remarkably short, and were substantially as follows: Judge Van Syckel to sheriff—"Call a jury." About five minutes were devoted to swearing the jury. Mr. Robert G. Bell, plaintiff's attorney—"I will make no opening. Take the stand, Mr. Roll." Roll's testimony—"I loaned defendant $55 without any paper." Mr. Bell—"That is our case." Defendant's attorney—"No opening. Take the stand, Mrs. Hanson." Defendant's testimony—"Roll did not loan me $55." Defendant's attorney—"That is our case." Judge Van Syckel—"Will you sum up, gentlemen?" Mr. Bell—"I do not care to, your honor." Defendant's attorney—"I will leave it to the jury." Judge Van Syckel to jurors—"The Court will leave it to you, too, gentlemen. Swear an officer." This unique charge caused much merriment. The jury retired, and soon filed back again into the court-room with a verdict for the defendant.—*Elizabeth Journal (U.S.).*

Law Society of Upper Canada.

THE LAW SCHOOL, 1891.

LEGAL EDUCATION COMMITTEE.

CHARLES MOSS, Q.C., *Chairman.*

C. ROBINSON, Q.C. Z. A. LASH, Q.C.

JOHN HOSKIN, Q.C. J. H. FERGUSON, Q.C

F. MACKELCAN, Q.C. N. KINGSMILL, Q.C.

W. R. MEREDITH, Q.C.

This notice is designed to afford necessary information to Students-at-Law and Articled Clerks, and those intending to become such, in regard to their course of study and examinations. They are, however, also recommended to read carefully in connection herewith the Rules of the Law Society which came into force June 25th, 1889, and September 21st, 1889, respectively, copies of which may be obtained from the Secretary of the Society, or from the Principal of the Law School.

Those Students-at-Law and Articled Clerks, who, under the Rules, are required to attend the Law School during all the three terms of the School Course, will pass all their examinations in the School, and are governed by the School Curriculum only. Those who are entirely exempt from attendance in the School will pass all their examinations under the existing Curriculum of The Law Society Examinations as heretofore. Those who are required to attend the School during one term or two terms only will pass the School Examination for such term or terms, and their other Examination or Examinations at the usual Law Society Examinations under the existing Curriculum.

Provision will be made for Law Society Examinations under the existing Curriculum as formerly for those students and clerks who are wholly or partially exempt from attendance in the Law School.

Each Curriculum is therefore published herein accompanied by those directions which appear to be most necessary for the guidance of the student.

Curriculum of the Law School, Osgoode Hall, Toronto.

Principal, W. A. Reeve, Q.C.

Lecturers: E. D. Armour, Q.C.; A. H. Marsh, B.A., LL.B., Q.C.; R. E. Kingsford, M.A., LL.B.; P. H. Drayton.

The School is established by the Law Society of Upper Canada, under the provisions of rules passed by the Society with the assent of the Visitors.

Its purpose is to promote legal education by affording instruction in law and legal subjects to all Students entering the Law Society.

The course in the School is a three years course. The term commences on the fourth Monday in September and closes on the first Monday in May; with a vacation commencing on the Saturday before Christmas and ending on the Saturday after New Year's Day.

Students before entering the School must have been admitted upon the books of the Law Society as Students-at-Law or Articled Clerks. The steps required to procure such admission are provided for by the rules of the Society, numbers 126 to 141 inclusive.

The School term, if duly attended by a Student-at-Law or Articled Clerk is allowed as part of the term of attendance in a Barrister's chambers or service under articles.

The Law School examinations at the close of the School term, which include the work of the first and second years of the School course respectively, constitute the First and Second Intermediate Examinations respectively, which by the rules of the Law Society, each student and articled clerk is required to pass during his course; and the School examination which includes the work of the third year of the School course, constitutes the examination for Call to the Bar, and admission as a Solicitor.

Honors, Scholarships, and Medals are awarded in connection with these examinations. Three Scholarships, one of $100, one of $60, and one of $40, are offered for competition in connection with each of the first and second year's examinations, and one gold medal, one silver medal, and one bronze medal in connection with the third year's examination, as provided by rules 196 to 205, both inclusive.

The following Students-at-Law and Articled Clerks are exempt from attendance at the School.

1. All Students-at-Law and Articled Clerks attending in a Barrister's chambers or serving under articles elsewhere than in Toronto, and who were admitted prior to Hilary Term, 1889.

2. All graduates who on the 25th day of June, 1889, had entered upon the *second* year of their course as Students-at-Law or Articled Clerks.

3. All non-graduates who at that date had entered upon the *fourth* year of their course as Students-at-Law or Articled Clerks.

In regard to all other Students-at-Law and Articled Clerks, attendance at the School for one or more terms is compulsory as provided by the Rules numbers 155 to 166 inclusive.

Any Student-at-Law or Articled Clerk may attend any term in the School upon payment of the prescribed fees.

Students and clerks who are exempt, either in whole or in part, from attendance at The Law School, may elect to attend the School, and to pass the School examinations, in lieu of those under the existing Law Society Curriculum. Such election shall be in writing, and, after making it, the Student or Clerk will be bound to attend the lectures, and pass the School examination as if originally required by the rules to do so.

A Student or Clerk who is required to attend the School during one term only, will attend during that term which ends in the last year of his period of attendance in a Barrister's Chambers or Service under Articles, and will be entitled to present himself for his final examination at the close of such term in May, although his period of attendance in Chambers or Service under Articles may not have expired. In like manner those who are required to attend during two terms, or three terms, will attend during those terms which end in the last two, or the last three years respectively of their period of attendance, or Service, as the case may be.

Every Student-at-Law and Articled Clerk before being allowed to attend the School, must present to the Principal a certificate of the Secretary of the Law Society shewing that he has been duly admitted upon the books of the Society, and that he has paid the prescribed fee for the term.

The Course during each term embraces lectures, recitations, discussions, and other oral

me ·ods of instruction, and the holding of moot courts under the supervision of the Principal and Lecturers.

During his attendance in the School, the Student is recommended and encouraged to devote the time not occupied in attendance upon lectures, recitations, discussions or moot courts, in the reading and study of the books and subjects prescribed for or dealt with in the course upon which he is in attendance. As far as practicable, Students will be provided with room and the use of books for this purpose.

The subjects and text-books for lectures and examinations are those set forth in the following Curriculum :

FIRST YEAR.

Contracts.
Smith on Contracts.
Anson on Contracts.

Real Property.
Williams on Real Property, Leith's edition.

Common Law.
Broom's Common Law.
Kerr's Student's Blackstone, books 1 and 3.

Equity.
Snell's Principles of Equity.

Statute Law.
Such Acts and parts of Acts relating to each of the above subjects as shall be prescribed by the Principal.

SECOND YEAR.

Criminal Law.
Kerr's Student's Blackstone, Book 4.
Harris's Principles of Criminal Law.

Real Property.
Kerr's Student's Blackstone, Book 2.
Leith & Smith's Blackstone.
Deane's Principles of Conveyancing.

Personal Property.
Williams on Personal Property.

Contracts and Torts.
Leake on Contracts.
Bigelow on Torts—English Edition.

Equity.
H. A. Smith's Principles of Equity.

Evidence.
Powell on Evidence.

Canadian Constitutional History and Law.
Bourinot's Manual of the Constitutional History of Canada. O'Sullivan's Government in Canada.

Practice and Procedure.
Statutes, Rules, and Orders relating to the jurisdiction, pleading, practice, and procedure of the Courts.

Statute Law.
Such Acts and parts of Acts relating to the above subjects as shall be prescribed by the Principal.

THIRD YEAR.

Contracts.
Leake on Contracts.

Real Property.
Dart on Vendors and Purchasers.
Hawkins on Wills.
Armour on Titles.

Criminal Law.
Harris's Principles of Criminal Law.
Criminal Statutes of Canada.

Equity.
Lewin on Trusts.

Torts.
Pollock on Torts.
Smith on Negligence, 2nd edition

Evidence.
Best on Evidence.

Commercial Law.
Benjamin on Sales.
Smith's Mercantile Law.
Chalmers on Bills.

Private International Law.
Westlake's Private International Law.

Construction and Operation of Statutes.
Hardcastle's Construction and Effect of Statutory Law.

Canadian Constitutional Law.
British North America Act and cases thereunder.

Practice and Procedure.
Statutes, Rules, and Orders relating to the jurisdiction, pleading, practice, and procedure of the Courts.

Statute Law.
Such Acts and parts of Acts relating to each of the above subjects as shall be prescribed by the Principal.

During the School term of 1890-91, the hours of lectures will be 9 a.m., 3.30 p.m., and 4.30 p. m., each lecture occupying one hour, and two lectures being delivered at each of the above hours.

Friday of each week will be devoted exclusively to Moot Courts. Two of these Courts will be held every Friday at 3.30 p.m., one for the Second year Students, and the other for the Third year Students. The First year Students will be required to attend, and may be allowed to take part in one or other of these Moot Courts.

Printed programmes showing the dates and hours of all the lectures throughout the term, will be furnished to the Students at the commencement of the term.

GENERAL PROVISIONS.

The term lecture where used alone is intended to include discussions, recitations by, and oral examinations of, students from day to day, which exercises are designed to be prominent features of the mode of instruction.

The statutes prescribed will be included in and dealt with by the lectures on those subjects which they affect respectively.

The Moot Courts will be presided over by the Principal or the Lecturer whose series of lectures is in progress at the time in the year for which the Moot Court is held. The case to be argued will be stated by the Principal or Lecturer who is to preside, and shall be upon the subject of his lectures then in progress, and two students on each side of the case will be appointed by him to argue it, of which notice will be given at least one week before the argument. The decision of the Chairman will be pronounced at the next Moot Court, if not given at the close of the argument.

At each lecture and Moot Court the roll will be called and the attendance of students noted, of which a record will be faithfully kept.

At the close of each term the Principal will certify to the Legal Education Committee the names of those students who appear by the record to have duly attended the lectures of that term. No student will be certified as having duly attended the lectures unless he has attended at least five-sixths of the aggregate number of lectures, and at least four-fifths of the number of lectures of each series during the term, and pertaining to his year. If any student who has failed to attend the required number of lectures satisfies the Principal that such failure has been due to illness or other good cause, the Principal will make a special report upon the matter to the Legal Education Committee. For the purpose of this provision the word "lectures" shall be taken to include Moot Courts.

Examinations will be held immediately after the close of the term upon the subjects and text books embraced in the Curriculum for that term.

The percentage of marks which must be obtained in order to pass any of such examinations is 55 per cent. of the aggregate number of marks obtainable, and 29 per cent. of the marks obtainable on each paper.

Examinations will also take place in the week commencing with the first Monday in September for students who were not entitled to present themselves for the earlier examination, or who having presented themselves thereat, failed in whole or in part

Students whose attendance at lectures has been allowed as sufficient, and who have failed at the May examinations, may present themselves at the September examinations at their own option, either in all the subjects, or in those subjects only in which they failed to obtain 55 per cent. of the marks obtainable in such subjects. Students desiring to present themselves at the September examinations must give notice in writing to the Secretary of the Law Society, at least two weeks prior to the time fixed for such examinations, of their intention to present themselves, stating whether they intend to present themselves in all the subjects, or in those only in which they failed to obtain 55 per cent. of the marks obtainable, mentioning the names of such subjects.

Students are required to complete the course and pass the examination in the first term in which they are required to attend before being permitted to enter upon the course of the next term.

Upon passing all the examinations required of him in the School, a Student-at-Law or Articled Clerk having observed the requirements of the Society's Rules in other respects, becomes entitled to be called to the Bar or admitted to practise as a Solicitor without any further examination.

The fee for attendance for each Term of the Course is the sum of $10, payable in advance to the Secretary.

Further information can be obtained either personally or by mail from the Principal, whose office is at Osgoode Hall, Toronto, Ontario.