57.

JULY, 1895.

The Barrister.

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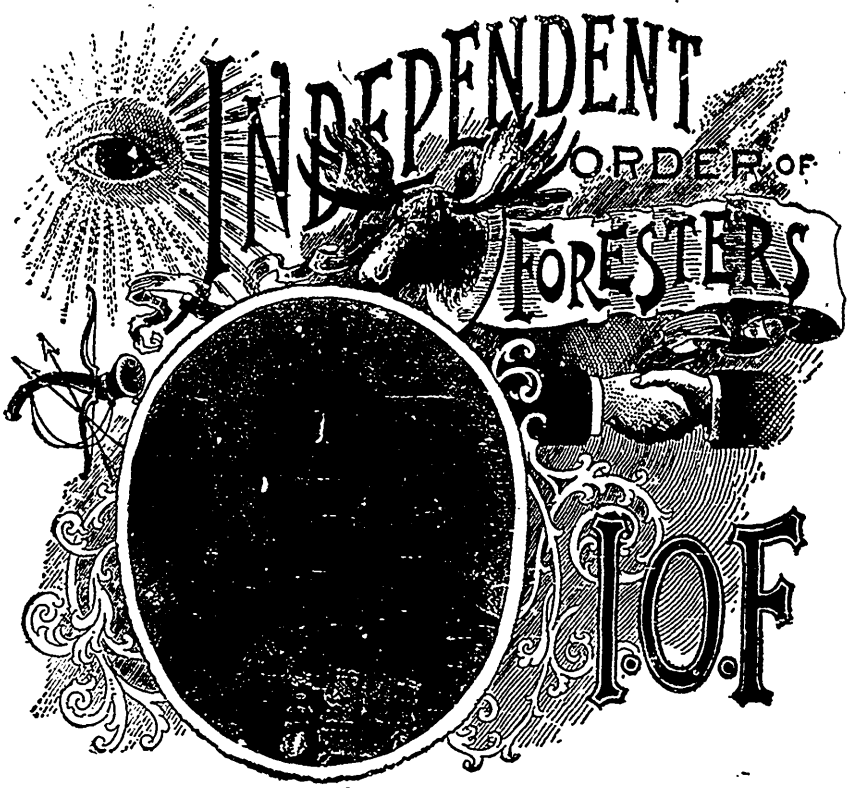

"ASSESSMENT SYSTEM."

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

The Unexampled Progress and Prosperity of the Independent Order of Foresters is shown by the following figures:

	No. of Members.	Balance in Bank.
October, 1882	880	$ 1,145 07
January, 1883	1,134	2,769 58
January, 1884	2,216	13,070 85
January, 1885	2,558	20,992 30
January, 1886	3,648	31,082 52
January, 1887	5,804	60,325 02
January, 1888	7,511	$ 86,102 42
January, 1889	11,618	117,599 88
January, 1890	17,026	188,130 86
January, 1891	24,466	283,967 20
January, 1892	32,303	408,798 18
January, 1893	43,024	585,597 85
January, 1894	54,481	$559,887 89
February, "	55,149	875,860 00
March, "	56,559	878,230 08
April, "	58,339	911,[illegible]20 94
May, "	59,607	928,707 04
June, "	61,000	951,571 62

Membership 1st July, 1894, about 61,000. Balance in Bank, $951,571.62.

The total number of applications considered by the Medical Board for the year ending 31st December, 1892, is 18,247, whom 17,028 were passed, and 1,219 rejected.

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

At date all Benefits have been paid within a few days of filing the claim papers, amounting in the aggregate to the princely sum of **Two Millions Two Hundred and Thirty-four Thousand Four Hundred and Twenty-four Dollars.** Notwithstanding the payment of this large sum, as well as all the management expenses, including large sums for planting the Order in New Territory, there remains the handsome cash balance in the treasury, as noted above, of the sum of **Nine Hundred and Fifty-one Thousand Five Hundred and Seventy-one Dollars and Sixty-two Cents.**

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

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

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

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

For further information, apply to

ORONHYATEKHA, M.D., S.C.R., Toronto, Canada. HON. D. D. AITKEN, M.C., S.V.C.R., Flint, Mich. JOHN A. McGILLIVRAY, Q.C., S. Secretary, Toronto, Canada. JAMES MARSHALL, Gen. Manager, Great Britain, 172 Buchanan-street, Glasgow, Scotland, or to REV. W.J. McCAUGHAN, Gen. Manager, Belfast, Ireland.

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The Barrister.

VOL. I. TORONTO, JULY, 1895. No. 8.

EDITORIAL.

THE Montreal Bar has locked horns with the Solicitor-General, and has emerged from the controversy slightly damaged. Thirteen months had elapsed without a successor being named to the Chief Justiceship of the Superior Court, vacated by the death of Sir Francis Johnson. Two months ago the death of Judge Barry, of the Circuit Court, added to the inconvenience of the Bar and litigants. It is suspected that the reason no appointments are made is that the Solicitor-General intends one of the judgeships for himself, and until the government can take a convenient opportunity to elevate him no vacancies will be filled. The Montreal Bar, as well as the public, had good ground of complaint, and at a meeting of the Bar adopted a resolution, moved by the Syndic, declaring that it is necessary in the interest of the administration of justice in Montreal that successors be immediately named to the Honorable Judges Johnson and Barry.

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So far the proceedings of the Montreal Bar were a well deserved rebuke to the government for treating judgeships as pure patronage and leaving them open to serve as political bait.

THE Montreal Bar went further. The resolution continued "that no nomination of a judge for the district of Montreal be made without consulting the Bar of Montreal." This is a large demand. Our constitution entrusts the duty of selection to the Government. The Montreal Bar say that the time has come when the Bar should be asked to nominate, leaving to the responsible executive the power of confirmation. The resolution says, "That if the Bench of this Province counts amongst its members many who are men of merit, knowledge and integrity, and who are deserving to be named to such a high position, there were some who were named on account of their political services which alone recommended them."

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"THAT such abuses, which dishonor our tribunals and make justice doubtful, would never have occurred if our Government had been more careful of the interests of their constituents than of the interests of certain 'coteries,' and if they had consulted the Bar."

*

"THAT if the Bar was consulted we would not notice on the occasion of a vacancy in a judgeship the intervention of persons and institutions who are little able to enlighten the govern-

ment in regard to the choice of a successor, and we would not witness the pitiful sight of unfortunate solicitors organizing a 'canvass' ε. dishonorable to those for whom they work as to the government which tolerates them, which encourages them, and which submits to them finally."

*

These statements of fact by the Montreal Bar are convincing that there is something radically wrong in the appointments in the sister province, and if the resolution had stopped at statements of fact no answer could have been made. By urging that the Bar should be consulted the Bar left itself open to an answer which the Solicitor-General was quick to adopt.

*

"I HAVE not," says the Solicitor-General, "the slightest doubt but that suggestions from the Bar will always be received with thanks by the Department of Justice here, in connection with any appointments. Under our system of government, however, the ministry of the day is responsible for all recommendations to His Excellency, and whilst the opinion of the Bar will always command great respect with the Minister of Justice, it is hardly likely that any government will delegate its authority in such matters or ask the Bar to assume its responsibility."

*

THUS the Solicitor-General avoided the unpleasantness of defending the Government for past appointments, and read the Montreal Bar a little sermon from the text, "mind your own business." But the facts of the ase remain unaltered and will come to the surface again and again until the grievance is removed by conscientious appointments of good men, regardless of politics.

VACATION.

I sing the long vacation
Which the wisdom of our nation,
Has appointed for the litigants and lawyers of our Courts,
When the judges, (oh! so gay sirs,)
Doff their gowns and don their blazers,
And dismiss all vexing questions about 'contracts, wills or torts.

Would you find our Q.C.'s, seek'em
With a writ of duces tecum,
And a posse comitatus, and all legal aids beside;
And your search will be a vain one,
For of all, there don't remain one;
They have flitted to the forest or the far sea-side.

For from June until September,
Our rules, you will remember,
Enjoin that how "in statu quo" all litigation sticks;
That each interested party,
May once more grow strong and hearty;
(Which, to verify exactly, see rule four eighty six).

But although we can't be pleading,
As I understand from reading
Of rule four eighty three (and four eight four you'll also see)
Nor examine without reason,
Any party in this season,
Without a judge's order, (see rule thirteen thirty three).

Yet so long as asses stumble,
And into pit-falls tumble,
And we've got to extricate them e'en upon the Sabbath day;
So, if the facts require,
Though we pant and we perspire
We can still extend assistance though vacation holds her sway.

Thus in matters of injunctions,
Courts will exercise their functions,
E'en in August, when 'tis urgent, without waiting for 1st prox.

In fact, if really needing,
We may take any proceeding,
Not forbidden by the rules, (for which see Hogaboom v. Cox*)

But, since it is demanded,
Of every honest, candid
And highly public-spirited and patriotic man,
To spend these days in jollity,
For sake of public polity,
Let each and all resolve to do as little as they can.

—*R.M.M.*

*15. P. R. 127.

IN THE SUPREME COURT.

An Act of the Provincial Legislature authorized the Lieutenant Governor in council to grant 4000 acres of land per mile for thirty miles of the Hereford Railway. The Act contained a section that "it shall be lawful &c.," to convert the land subsidy into cash at a certain rate per acre. The company completed the construction of the thirty miles and built the road in accordance with the Act which granted the subsidy, and the Dominion Railway Act, and now by petition of right claimed to be entitled to the sum of $49,000, balance due on said subsidy. The chief justice says "The suppliant's right to this money must depend altogether on the statute granting the subsidy, and if this did not create a liability on the part of the Government to pay the money no statutory liability in respect to this money ever existed. The language of the Act is permissive and facultative, it makes no direct grant to the Railway Company, but in using the words "it shall be lawful for the Lieutenant Governor to grant," "it imparts that the Crown is to exercise its discretion in paying over or withholding the money as it may think fit," referring to the Queen *v.* The Lord Commissioners of the Treasury, L. R. 7. Q. B., 387; Julius *v.* The Bishop of Oxford, 5 App., Cas., at p. 223; Taschereau *v.* Sedgwick JJ., dissented; Hereford Railway Co. *v.* The Queen, 24 S. C. R. 1.

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In Doyle *v.* McPhee *et al* 24 S. C. R., 65; on appeal from the Supreme Court of Nova Scotia, the Supreme Court considered the meaning of a description in a deed. The description was "a strip of land 25 links wide, running from the eastern side of the aforesaid lot, along the northern side of the railway station about twelve rods, unto the western end of the railway station grounds, the said lot and strip together containing one acre more or less. "Held reversing the Court below (Taschereau J., dissenting), that the strip conveyed was not limited to twelve rods in length, but extended to the western end of the station, which was more than twelve rods from the starting point.

PRACTICE POINTS REPORTED.

ONE of the cases which we would all gladly omit from the reports is *re* James Knowles, a Solicitor, 16 P. R., 408, in which it was ordered that the solicitor be struck off the roll unless by a named day he should pay an amount found by the report of a taxing officer to be in his hands, the moneys of a client, together with the cost of the taxation and of the motion to strike him off the roll.

*

IN Meriden Britannia Company *v.* Braden, 16 P. R., 440, held, reversing the decision of Boyd, C., 16 P. R., 346, that where one defendant agreed to save another harmless from the costs of an action, and in the written retainer of the latter to his solicitors it was provided that the costs should be charged to the former and where no reason appeared for defending by separate solicitors, the indemnified defendant was not entitled to costs against the plaintiff. Jarvis *v.* G. W. R. W. Co., 8 C. P., 280, and Stevenson *v.* City of Kingston, 31 C. P., 333, followed.

*

WHERE a contract of hiring is made within the Province of Ontario, and the work thereunder to be done there, the commission therefor will be payable there. If the contract is ended by letter sent from another province, *quaer* whether this indicates that the breach complained of was out of the Province. Upon a motion to set aside service of a writ of summons on defendant resident out of the jurisdiction on an action for breach of such contract of hiring, there was conflicting evidence as to whether the discharge of the plaintiff from the defendant's service was by letter or by the act of an agent of the defendant within the Province, the plaintiff was allowed to proceed to trial upon his undertaking to prove at the trial a cause of action within Rule 271 (e). Bell *v.* Villeneuve & Co., 16 P. R., 413.

*

A MUNICIPAL corporation is not entitled to notice of action under the Act to protect justices of the peace and others from vexatious actions; R. S. O., ch. 73. Hodgins *v.* Counties of Huron and Bruce, 3 E. and A., 169, followed. Defence of want of such notice struck out upon summary application, McCarthy *v.* Township of Vespra, 16 P. R., 416.

*

UPON a summary application under Rule 1322 (387) to strike out defences upon the ground that they disclose "no reasonable answer," the court is not to look upon the matter with the same strictness as upon demurrer. A party should not be legally deprived of a ground of substantial defence by the summary process of a judgment in chambers. In an action upon a promissory note, alleged by defendants to have been taken by plaintiff after maturity, defence of payment, estoppel by conduct, and a claim for equitable protection arising out of agreement, were allowed to remain on the record. Bank of Hamilton *v.* George Bros., 16 P. R., 418.

*

WHEN there was an admission by the defendant of the debt sued for, sworn to and not contradicted, and the writ of summons was specially indorsed so as to enable the plaintiff to move for judgment under Rule 739, an order for security for costs obtained by the defendant on præcipe after appearance, the plaintiff being out of the jurisdiction, was set aside, notwithstanding that the plaintiff might have paid $50 into court under Rule 1251, and proceed to move for judgment. Doer *v.* Rand, 10 P. R., 165, followed; Payne *v.* Newberry, 13 P. R., 353, not followed; Thibaudeau *et al v.* Herbert, 16 P. R., 420.

*

WHERE an action is brought to establish a right of way over lands adjoining those of which the plaintiff is the owner subject to a mortgage, and having regard to the value of the property, the amount of the mortgage and other circumstances, the lands may be said to be really the

mortgagee's, and the action substantially his, the defendant is entitled to security for costs if the plaintiff be without substance. Gordon *v.* Armstrong, 16 P. R., 432.

*

THE practice by which, when the defendant's costs of a former action for the same, or substantially the same cause were unpaid, the defendant was entitled to have the latter action stayed until they should be paid, is now suspended by the effect of Rule 3, the defendant's only remedy being to apply under Rule 1243 for security for costs in the second action. Campbell *v.* Elgie *et al*, 16 P. R., 440.

*

A PROSECUTION for an indictable offence is pending within the meaning of section 683 of the Crimiaal Code, 1892, when an information has been laid charging such an offence, and a commission to take evidence abroad for use before a magistrate upon a preliminary inquiry may be ordered. But the judge's discretion in ordering the issue of a commission is to be exercised upon a sworn statement of what it is expected the witness can prove. Regina *v.* Verral, 16 P. R., 444.

*

IN Huish *v.* G. T. R. W. Co., 16 P. R., 448, a second trial of the action was stayed pending an appeal to the Court of Appeal from the order directing such trial, where the principal question upon the appeal was as to the proper method of trial, and the appellants had been diligent in prosecuting the appeal, and there was no suggestion of any possible loss of testimony. Arnold *v.* Toronto Railway Company, 16 P. R., 394, distinguished.

THE Court of Appeal has pronounced upon certain disputed points arising out of specially endorsed writs in McVicar *v.* McLaughlin, 16 P. R., 450. By sections 57 and 88 of the Bills of Exchange Act the interest accruing due after the date of maturity of a promissory note is recoverable by statute as liquidated damages, &c., to be calculated at the rate of six per cent. per annum in the absence of a special contract for a different rate. When in an action upon two promissory notes, the plaintiff by the endorsement of the writ of summons claimed the principal and a definite sum for interest without specifying the rate or the dates from which it was calculated, said sum being less than interest at six per cent. from the date of maturity it was held to be a good special endorsement. London &c., Bank *v.* Clancarty [1892], 1 Q. B., 689, and Lawrence *v.* Willcocks *ib.*, 696 followed; Ryley *v.* Master, *ib.*, 674, and Wilks *v.* Wood, *ib.*, 684 distinguished. Held also that the indorsement being regular, the defendant's non-appearance was equivalent to an admission that the claim was correct, and that he was bound to pay the whole demand, and a judgment signed for default of appearance was, therefore, regular. Rodway *v.* Lucas, 10 Ex., 667 followed.

*

A PERSON brought into an action as defendant to a counterclaim delivered by the original defendant cannot deliver a counterclaim against such defendant. Such a pleading not being authorized by the Rules or the practice, was struck out on summary application. Street *v.* Gover, 2 Q. B. D., 498, followed; Green *v.* Thornton, 9 Occ. N., 139, distinguished.

SHORT NOTES OF CURRENT CASES.

English Court of Appeal.

In re James. James *v.* Gregory.—Lindley, L. J., Lopes, L. J., Kay, L. J.,—May 30.—Will—Construction—Real Estate—Trust for Sale—Power of Leasing—Building Lease.—Appeal from North J., in chambers. A testator devised his real estate to trustees upon trust for his wife for life, and after her decease upon trust to sell the same in such manner, at such times, for such prices, and subject to such conditions, whether special or not, as they should think proper. And until sale he empowered his trustees to let the same either on lease or otherwise as they should deem expedient, and upon such terms and conditions as they might consider most advisable. And the testator directed that the proceeds of sale should form part of his residuary personal estate. Part of the testator's real estate consisted of certain old freehold houses in Austinfriars, in the City of London. It appeared that this estate could be most advantageously realized by first putting up the property to auction on the terms of granting a building lease to the highest bidder, and by subsequently selling the land and the buildings to be erected thereon, subject to the proposed building lease when granted. Accordingly, on the death of the testator's widow, the residuary legatees took out an originating summons, asking that the trustees might be at liberty to carry out this proposal. North, J., refused the application. The residuary legatees appealed. Their Lordships allowed the appeal. They held that the terms of the power of leasing were wide enough to include a building lease; and, subject to the production of an affidavit showing that the ground-rent to be derived from the building lease would not be less than the net rents of the property in its existing condition, they considered that the carrying out of the proposed scheme would be a proper exercise of the power.

*

Betjemann *v.* Betjemann.—Lindley, L. J., Lopes, L. J., Rigby, L. J.,—June 14.—Partnership—Accounts—Statute of Limitations—Partners—Concealed Fraud—Reasonable Diligence in Discovery of Fraud.—Appeal from Wright, J. In the year 1856, a father and two sons, J. and G., commenced business in partnership as dressing-bag manufacturers. There were no articles of partnership. In 1870 J. married, and the partnership was continued under some new verbal arrangement. In 1886 the father died, and the sons continued to carry on the business under the same style until the death of J., in 1893. During the whole of this period there was never any settled account between the partners. J.'s widow and executrix claimed an account of the partnership dealings between J. and G from 1886 to 1893. G. claimed that the account should be taken from 1870. J.'s widow set up the Statute of Limitations. G. proved that between 1870 and 1886 J. had misappropriated the funds of the partnership under circumstances amounting to concealed fraud. Wright, J., dismissed G.'s claim, on the ground that the non-discovery of his brother's fraud was due to G.'s want of diligence in not investigating the partnership books. G. appealed. Their Lordships allowed the appeal. They held (1) that the Statute of Limitations had no application as between the brothers, the continuing partners; (2) that even assuming the statute applied as between existing partners, it was ousted by the doctrine of concealed fraud. The fact that the fraud might have been discovered if the partnership books had been investigated was not an answer to the application of the doctrine in a case of this kind, unless the complaining partner wilfully shut his eyes and did not choose to avail himself of the means of knowledge at hand (Rawlins *v.* Wickham, 28 Law J. Rep. Chanc. 188; 3 De G. & J. 304). The limitation contained in 3 & 4 Wm. IV. c. 27, s. 26, was confined to actions of ejectment. The account ought, therefore, to be taken from 1870, or if either party insisted, from 1856. [Dictum of Lord Field in Gibbs *v.* Gould, 51 Law J. Rep. Q. B. 232; L. R. 8 Q. B. Div. 305, doubted].

ONTARIO HIGH COURT.

C. P. DIVISION.

REG. v. H. C. Howard.—Judgment in Crown case reserved by Street J., before whom the defendant was tried by a jury at Welland on the 30th October, 1894, upon an indictment charging that he did on the 7th July, 1893, and on other days before and afterwards, at the village of Fort Erie, in the County of Welland, unlawfully keep a disorderly house, that is to say, a common betting-house, contrary to the statute, etc. The jury found the prisoner guilty. The question reserved was whether there was evidence to go to the jury of the committing by the defendant of the offences charged in the indictment. The evidence showed that the defendant kept at Fort Erie, a "pool-room" for the purpose of placing money on horses run at Monmouth park, New Jersey. The defendant called the place a commission office, and when money was placed by a customer, gave a receipt headed "No betting done or permitted here, money to be sent on commission to race-track at Monmouth park and there placed on (naming a horse), at track quotations, if such can there be obtained. It is understood and agreed that the undersigned (the defendant and others) act in the premises as common carriers only, for the purpose of transferring the money above mentioned to the place designated. Charge ten cents." Sec. 197 of the Code enacts that a common betting-house, is a house, office, room, or other place—(a) opened, kept, or used for the purpose of betting between persons resorting thereto and the owner, etc.; or (b) opened, kept, or used for the purpose of any money or valuable thing being received by or on behalf of any such person as aforesaid, or as for the consideration. (1) for any assurance or undertaking to pay or give hereafter any money or valuable thing on any event or contingency of or relating to any horse-race or other race, fight, game, or sport; or (2) for securing the payment or giving by some other person of any money or valuable thing on any such event or contingency." By sec. 189, "everyone is guilty of an indictable offence and liable to one year's imprisonment who keeps any disorderly house, that is to say, any bawdy-house, common gambling-house, or common betting-house, as hereinbefore defined." Judgment for the Crown affirming the conviction, following the decision of the Chancery Division in Regina v. Giles. Osler, Q. C., for defendant. J. R. Cartwright, Q. C., for the Crown. June 30th, 1895.

*

STEWART v. Woolman.—Judgment on motion by defendant Ambler to set aside findings of jury and judgment for plaintiff for $342 and County Court costs in action upon promissory note, and counter-claim for moneys collected by plaintiff, tried before Falconbridge, J., and a jury at Barrie, and to dismiss action or for a new trial. One of the grounds of the motion was that one or more of the jurors had been tampered with, affidavits of jurors and others were filed showing treating by the plaintiff himself, his brother and his solicitor, and discussion by them with the jurors. Held, a good ground for a new trial. Order made for a new trial, with costs of former trial and of this motion to defendant Ambler in any event. Strathy, Q.C., (Barrie) for plaintiff. June 30th, 1895.

*

REG. v. Archibald Patterson.—Judgment in Crown case reserved by Street, J., before whom the defendant was tried by a jury at Chatham, on the 9th April, 1895, upon an indictment charging that the defendant on the 8th Febuary, 1894, at Chatham, unlawfully knowingly, and designedly did falsely pretend to one Stevens that there was then a large quantity of beans to wit, 2,680 bushels, the property of Stevens, in the warehouse of defendant, situated in his warehouse in the village of Ridgetown, and that

two carloads of beans that had been sold by defendant to Stevens were not the property of Stevens, by means of which the defendant did then unlawfully induce Stevens to issue two bank cheques, one for $33 and one for $451.95, with intent to defraud Stevens, whereas in truth and in fact there was not the said quantity of beans in the said warehouse, and the said two carloads of beans or the most of them were the property of the said Stevens." The defendant had been brought before the Police Magistrate for the town of Chatham, and committed by him for trial on the charge of stealing. The indictment above set forth was not preferred with the authority of the Attorney-General or by his direction, or with the written consent of a judge of any cour or by the order of the court, as required in certain cases by sec. 641, sub-sec. 2, of the Code. Before the defendant was given in charge of the jury an application was made on his behalf to quash the indictment on the ground that it was not for the charge on which he had been committed, nor was it authorized by sec. 641, sub-sec. 2 of the Code. The motion to quash was refused. At the trial, against the objection of council, the indictment was amended by striking out the words "a large quantity of beans, to wit." The questions reserved were (1) Were there facts or evidence disclosed on the depositions taken before the Police Magistrate upon which the indictment could be preferred under sec. 641 of the Code, and ought the accused to have been put upon his trial upon said indictment, or ought the same to have been quashed? (2) Ought the indictment to have been amended and the trial proceeded with after such amendment, under sec. 723 of the Code? Judgment for the Crown upon the questions reserved and conviction affirmed. Clute, Q.C., for defendant. J. R. Cartwright, Q.C., for the Crown. June 30th 1895.

*

HANES v. Burnham.—Judgment on motion by plaintiff to set aside nonsuit entered by Robertson, J., at the Hamilton Winter Assizes, 1895, in an action for slander, and for a new trial The alleged slander consisted of statements that the plaintiff had stolen letters, the defendant being a postoffice inspector. The trial judge held that the occasions in which the words were spoken were privileged, and that there was no evidence of express malice. The court held that the occasions were privileged, except one, on which a communication was made to one Ryan, who had no interest, and that there was evidence to go to the jury of express malice. Held, also, that the provisions of our statute requiring notice of action to certain public officers do not apply to words spoken, but only to acts done. Order made setting aside nonsuit and directing a new trial with costs of former trial and of this motion to defendants in any event. Lynch-Staunton (Hamilton) for plaintiff. Ritchie, Q.C., and F. E. Hodgins for defendant.—June 30 1895.

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MCCURRY v. Reid. Ferguson, J. Judgment in action tried without a jury at Toronto. Action by Stipendiary Magistrate at Parry Sound to recover $15,000 worth of bonds, or $10,000 in cash, alleged to have been promised to the plaintiff by the defendant for services in promoting the Parry Sound Railway. The defence was that the alleged agreement was against public policy, plaintiff being President of the road, and that there had been a novation by which plaintiff had agreed to accept one J. R. Booth, the purchaser of the road, as his debtor. Judgment for plaintiff against defendant for $10,000 with costs of the action. W. Cassels, Q.C., and C. E. Hewson (Barrie) for the plaintiff. McCarthy, Q.C., and J. J. Maclaren, Q.C., for the defendant.—June 22, 1895.

*

HENDRIE v. Toronto, Hamilton & Buffalo R. W. Co.—Meredith, C.J. Judgment upon motion by the plaintiffs to continue an injunction restraining the defendants from cutting away or breaking up Hunter Street, in the City of Hamilton, or from interfering with it in such a manner as to interrupt the use of it as a highway, affording access to the plaintiff's premises,

and injuriously affecting such premises, being the north half of the block of land bounded by Charles, Hunter, Park and Bold streets. Held, that Parkdale *v.* West, L.R. 12, App. Cas. 602, and Brown *v.* Canada Southern R. W. Co., 14, A. R. 1, are conclusive as to the right of plaintiffs to compensation for the damage to their property, which will be occasioned by the permanent works in Hunter Street which the defendants, the railway company, intend to construct, and which their contractor, the defendant Onderdonk, was engaged in constructing at the time the injunction was granted by the local judge, and the sections of the Dominion Railway Act, 1888, under the headings, "Plans and Surveys," and "Lands and their Valuation," apply as well to lands injuriously affected as to lands actually taken for the purposes of the railway, and the authority of the Railway Committee of the Privy Council for the execution of the works is no answer to a complaint by a landowner that the railway company are proceeding with them without having taken the steps necessary to entitle them to do so, and the defendant company were therefore acting without lawful authority in interferring with Hunter Street to the injury of the plaintiff's property without having paid or tendered the compensation to which plaintiffs were entitled, unless they had procured the authority to do so of a warrant of a judge under section 163, which they had not done. But, having regard to 163, the defendant's works should not be stopped if the defendant company will give security for payment of the compensation to which plaintiffs may be found entitled, to the extent of $6,000, and will undertake to proceed forthwith under the Act to ascertain the amount of the compensation to be paid; if the defendant company desire it, the plaintiffs to undertake that the defendant company's doing so shall in no wise prejudice their right to contest the plaintiffs' right to compensation, and will consent to the costs of the references being, subject to the provisions of the Railway Act, borne by the plaintiffs, in the event of its being decided that they are not entitled to compensation, unless at the trial of the action a different order shall be made by the court as to them. If the defendant company declines to give the security and undertaking, the injunction will be continued until trial. If the company is willing to give the security and undertaking, and the plaintiffs refuse to give the undertaking and consent on their part, the motion to continue the injunction will be refused. In case the parties differ as to the security, it will be settled by the local Master at Hamilton, and until the undertaking and security are given by the defendant company the injunction will be continued. The plaintiffs are on or before next Tuesday to signify their assent to the terms imposed, in default of which their motion will be dismissed. Costs in the cause. Bruce, Q.C., for plaintiffs. Osler, Q.C., and Cassells, Q.C., for defendant company. D.W. Saunders for defendant Onderdonk. —June 28, 1895.

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WATSON *v.* Macrae.—MacMahon J. Judgment in action to wind up partnership, heard upon motion for judgment on the pleadings. Held, that under the agreement between the plaintiff and defendants, the other co-operators, parties thereto, a partnership was constituted, notwithstanding that by such agreement it was declared that nothing therein should constitute a partnership between the co-operators, and that a case for a dissolution was made out. Judgment declaring accordingly. Reference directed to take the partnership accounts, and to inquire of what the credits, property and effects of the partnership consist, and to report specially what, if any, property or credits of the partnership are in the hands of the Stereotype Plate Co., or of any person or persons on their behalf, and the nature and value of the same, and the circumstances and authority under which possession thereof was taken. The defendants, the Stereotype Plate Co., or any person or persons on their behalf, to whose hands any of the credits or effects of the co-partners, may have come, are to keep an account of the same or of any moneys received on account thereof

until any motion on further directions and costs is disposed of. Further directions reserved until after the Master's port. Bradford for plaintiff. H. H. Macrae for defendant company and directors. J. D. Montgomery for defendant Huddlestone and other co-operators.—June 24, 1895.

VACATION Court and Chambers.—During long vacation court and chambers will be held every Wednesday for motions of an urgent character. Meredith, C.J., and Rose, J., will be the vacation Judges.

MODERN TRADE MONOPOLIES.

WHEN, through sharp competition, prices approach the cost of production, those engaged in manufacture looked toward some agreement or arrangement whereby the supply, and, consequently, the price, might be controlled. The first form of the "trust" was, therefore, an agreement or contract between a number of corporations, firms, or individuals whereby the supply could be limited. Oftentimes a governing committee or board was formed with power to determine what manufacture should take place, and with power to impose fines and enforce forfeitures for infraction of the articles of agreement. The parties were thus bound together by slight ties, and usually consulted their individual interests in determining whether or not to abide by the terms of agreement. When the contracts were brought before the courts for enforcement, the courts refused to grant relief, holding the contracts void as in restraint of trade and contrary to public policy.

In 1870 a number of coal companies in Pennsylvania entered into an agreement whereby all sales should be made through a committee and a general agent, the committee having power to fix prices and to determine the quantity of coal to be supplied by each of the parties to the contract. In an attempt to enforce the contract against one of the parties, the court held that the combination was illegal and void, and refused to enforce the contract. Morris Run Coal Co. v. Barclay Coal Co., 68 Pa. St., 173.

Other cases in which this question has arisen are: Vulcan Powder Co. v. Hercules Powder Co., 96 Cal., 510; Same v. Cal. Powder Co., 31 Pac. Rep., 583; Nester v. Continental Bwg. Co., 2 Pa. Dist. Ct. Rep., 177; Judd v. Harrington, 19 N.Y. Supp., 406; Moore v. Bennett, 140 Ill., 69; Kolff v. St. Paul Fuel Exchange, 48 Minn., 215; Hilton v. Eckersley, 6 El. & Bl., 47.

Such combinations which depended upon an ephemeral contract which any party might break and which no party could enforce led to the formation of a second kind of trust. One of the members of the "trust" contracted to buy the entire product of the several remaining parties composing the "trust," thus controlling the supply and thereby the price of the commodity. Such "trusts" have also been declared illegal as in restraint of trade and contrary to public policy. In New York, a coal company bought coal from a number of formerly competing companies upon their contract not to sell to any other party, the object being to thus place it in the power of the purchasing company to control the market. In a suit against the purchasing company to enforce payment of the purchase price due one of the contracting companies, the court refused to grant relief holding that the contract was illegal as in restraint of trade and against public policy. Arnot v Pittston Coal Co., 68 N.Y., 558.

Other cases of like import are: Central Ohio Salt Co. v. Guthrie, 35 O. St., 666; Richardson v. Buhl, 77 Mich., 632; People v. North River Sugar Refining Co., 54 Hun., 354; Kolff v. St. Paul Fuel Exchange, 48 Minn., 215.

When the contracting parties are corporations, the contract has been held illegal for the additional reason that a

corporation in whose business the public is interested has no right to transfer all its property to another corporation in the absence of express legislative permission. Pa. Ry. Co. v. St. Louis Ry. Co., 118 U. S. 309; Fietsam v. Hay, 122 Ill., 293; Chicago Light Co. v. People's Light Co., 121 Ill., 530; State v. Neb. Distilling Co., 29 Neb. 700; Small v. Minneapolis Co., 45 Minn., 264; People v. Am. Sugar Ref. Co., 7 Ry. & Corp. L. J., 83.

The "trust" in the two forms of mutually contracting parties, and of a single party contracting with the remaining parties of the combination having thus proven inadequate to bind the parties together, it was sought to effect a more stable union by dispensing with contracts entirely and forming a trust by placing the properties in the hands of trustees who as holders of the legal titles might manage the property in accordance with a prearranged understanding. The most notable instance of this form of "trust" was that effected between the sugar refineries and known as the "sugar trust." According to the articles of agreement a board of eleven individuals was formed and to this board the entire stock of each of the corporations entering into the combination was assigned; such companies as were not already incorporated having become incorporated for the purpose of entering the "trust." In exchange for the stock certificates, trust certificates were issued by the board, the trust certificates possessing the characteristics of stock certificates, and enabling the holders to draw thereon their quota of the dividends declared by the board upon the combined earnings of the companies constituting the trust.

The objects of the agreement were defined to be:

1. To promote economy of administration and to reduce the cost of refining, thus enabling the price of sugar to be kept as low as is consistent with a reasonable profit.

2. To give to each refinery the benefit of all appliances and processes known or used by the others, and useful to improve the quality and diminish the cost of refined sugar.

3. To furnish protection against unlawful combinations of labor.

4. To protect against inducements to lower the standard of refined sugars.

5. Generally to promote the interests of the parties hereto in all lawful and suitable ways.

An action was brought in the State of New York against one of the contracting parties, the North River Sugar Refining Company, for the forfeiture of its charter. The combination was attacked on the ground that the contract was a contract between the several corporations effecting the formation of a partnership and that a corporation has no power to enter into a partnership, since, by the partnership agreement, one of the parties has power to bind the remaining parties by his acts, and such a power granted by a corporation to another would be equivalent to removing the power of control of the corporation from the hands of the board of directors and the officers of the corporation, and placing the power in outside parties. It was contended that the contract was not an agreement between the corporations as such, but that it was an agreement between the individual stockholders, as individuals, and, consequently, that the agreement was not a partnership between corporations, since the corporations, as such, were not concerned, their officers and directors not having sanctioned the contract. It was further argued that the transfer of the stock to the trustees was an absolute sale of stock, and that no trust was thereby created, the stockholders receiving full consideration for their stock in the trust certificates for which the stock was exchanged. The court held, however, that the transaction was not an absolute sale of the stock; but that a trust was created, the stockholders retaining the beneficial interest, and the trust certificates being nothing more than evidence of title. It was further held that by the deed, the corporations themselves had entered into a partnership, vesting the partnership power in the board, and that the vital characteristics of the corporations were thereby, of necessity, drowned in the paramount authority of the partnership, the court saying:

"It is quite clear that the effect of the defendant's action was to divest itself of

the essential and vital elements of its franchise by placing them in trust; to accept from the State the gift of corporate life, only to disregard the conditions upon which it was given; to receive its powers and privileges merely to put them in pawn; and to give away to an irresponsible board its entire independence and self-conduct. It has helped to create an anomalous trust which is, in substance and effect, a partnership." People v. North River Sugar Refining Co., 121 N.Y., 582.

Other cases in which this point was decided are: Mallory v. Hanaur Oil Works, 88 Tenn., 598; American Preservers's Trust v. Taylor Mfg Co., 46 F. R., 152; State v. Standard Oil Co., 490 St., 137.

As the transferral of stock to trustees did not prevail to elude the sharp eye of the law, it was next proposed to bind together the interests of the several contracting corporations by the formation of a corporation, whose express function it should be to get control of the contracting corporations by purchasing and holding the majority of the stock of the same. In accordance with this plan, the Chicago Gas Trust Co. was incorporated in the State of Illinois for the purpose of controlling the supply of gas in the city and vicinity of Chicago. In the articles of incorporation the business of the company was specified as "the erection and operation of gas works, etc.," and "to purchase and hold or sell the capital stock" of similar companies. An action was brought to forfeit the charter of the company on the ground that it was unlawful for a corporation to hold stock in other corporations, this being a power that could only be obtained by special legislative grant. The company contended that inasmuch as "to purchase and hold or sell the capital stock" of gas companies was specified as one of the objects of the company in the articles of corporation, it had that right; but the court held that the law and not the statement of the license or certificate must determine what powers can be exercised; and that a corporation cannot clothe itself with power to purchase and hold stock in similar corporations merely by naming this as one of the objects of incorporation. The court further held that the combination was illegal, as "All grants and contracts creating monopolies and acts tending to prevent proper competition are by the common law illegal and void." People v. Chicago Gas Trust Co., 130 Ill., 268.

In order to effect a valid combination through the agency of a stock-purchasing corporation, the power must, therefore, be expressly conferred by the legislature, and as it is quite impossible to secure such a grant, the trust is forced to look to other methods.

But the corporation has power for "the erection and operation of gas works, etc.," and it may be proposed to purchase the plants of competing corporations, the competing corporations surrendering their charters and going out of business; but the law steps in to prevent such a transaction where the sale results in creating a monopoly in an article of necessity, on the ground above stated, that a corporation in whose business the public is interested has no right to transfer all its property to another corporation in the absence of express legislation to that effect.

There is but one thing left for the parties seeking to form a combination in the manufacture of a necessity of life, to do, and that is, to begin at the beginning again, and effect some agreement or contract between the several competing corporations, either by a division of territory, as for instance the Chicago Gas Companies, or by electing as directors and officers of the several corporations individuals who will co-act in carrying on the affairs of the several corporations without friction; or in some other manner effect an understanding between the parties which will not carry them into the courts. But the Attorney-General may at any time bring an action against any of the corporations and throw upon them the burden of showing that no combination exists.

Thus the "trust" finds itself in the same position in which it began its struggle for existence, and the circle of trust machinations is rounded and completed.—W. C. JONES, in *Nat. Corp. Rep.*

SIR JAMES FITSJAMES STEPHEN AS A JUDGE.

It was expected of him that he should be a great judge. Taking the whole of his judicial service together, the later years when his mental powers were affected by overwork and illness as well as those of unclouded strength, he was not even a good judge, at least in civil causes. In these he was but little interested. He had never had, as his biographer suspects, that constant practice of everyday business by which alone he could have acquired the practical instinct which qualifies a man for, the ordinary work of the Law Courts, although he appears to have had between his call in 1854 and the time when he took silk in 1864 a good deal of business on circuit and at sessions, and both then and after his return from India to have been occasionally employed in a big case. "The steady gale never blew." Blackstone declares that not less than twenty years' constant work at the Bar will qualify an advocate for judicial service, and in Stephen's case the twenty-five years of intermittent employment, interrupted by many other absorbing occupations, were not sufficient to give him the easy and confident touch which enables an experienced barrister of no extraordinary ability to discharge judicial functions with regular and competent success. His confident habit of mind, too, and even his strongly-held opinion that the State ought to act as guardian and teacher of morality, to be "the organ of the moral indignation of mankind," as he said, were probably hindrances rather than aids to him when he came to sit as a judge. He had grown accustomed, in his abundant journalistic labors, to express his opinions dogmatically and as forcibly as possible, to choose rather than avoid the manner of expression least agreeable to his opponents, and often to speak with contempt of opponents with whose arguments he did not agree; and when he found himself in the position of authority he could not always restrain the inclinations fostered by his old habits, and not infrequently he met what he deemed to be undue persistency by a manner which was certainly overbearing. He was too much like a schoolmaster on the Bench, and the fault was more unfortunate because, from the causes suggested above, his knowledge, if upon some subjects, and especially criminal law, extensive and perhaps unparalleled, was deficient upon some other matters falling within the competency of even an undistinguished junior. He could not always control the indignation which his theory of criminal jurisprudence directed him to express in sentencing a criminal until the verdict had been given, and the complaint of his conduct in the unfortunate Maybrick Case, made, not by reckless and ignorant scribblers in the Press, but by persons who were aware of the facts and entitled to form an opinion upon them, was that he dwelt so much on the offence of adultery, which was not in question, as possibly to over-influence the jury in regard to the crime of murder, which was. A judge must add to clearness of thought and power of mind quickness of apprehension and a moderate fluency of expression, if he is to deliver lucid and satisfactory judgments impromptu. He cannot wait, as a writer may, for the most appropriate or the most forcible word, and these qualifications Mr. Justice Stephen poossessed in small degree.—*Law Journal* (Eng).

THE AMERICAN EAGLE NOT DEAD.

Any person who reads the conclusion of the briefs of the counsel in the case of Dunn v. The People, filed at the May term of the Supreme Court of Mount Vernon will, beyond all doubt, come to the conclusion that the American eagle still lives, screams loud and soars high. The brief of plaintiff in error concludes as follows: "If this court can say that, when all the evidence is considered, they have no reasonable doubt of defendant's guilt, then we should hereafter change the key of the voice of the American eagle on Fourth of July occasions, when talking of liberty in this great State of Illinois. If such outrages as this go, then we suggest that the Declaration of Independence and the Constitution of our State and the ten commandments be

amended; that defendants, when charged with crime, be prohibited from testifying in their own behalf, and that when an indictment, good or bad, is presented by a grand jury, send the indicted man at once to the penitentiary. When we think of the evidence upon which these defendants were convicted by a jury, we do not much wonder that the Lord once decided to drown the whole lay-out of humanity, like a litter of blind puppies. Deprived of their liberties as these men have been, the consoling thought remains, however, that the Supreme Court has an opportunity to pass upon this record, review the glaring errors of the trial court, and to set aside the verdict of the jury and give to these men what the Constitution and the law guarantees to every citizen—a fair trial."

Hon. M. L. Newell, assistant attorney-general, who represented the people before the court, and who is quite skilled in handling the bird of freedom, cut and slashed into the defence made for the prisoner by his counsel and tore it to pieces as easily as an American eagle would a chicken. He said:

In conclusion, I desire to submit to court that there is not, so far as I can determine, anything in this record which demands that "we should hereafter change the key of the voice of the American eagle." If your honors will read the record carefully, I feel warranted in saying that in no part of it will you find any reference to the American eagle. The nearest approach to it is the fact that certain meat was stolen, but there is no claim anywhere that it was the meat of an eagle.

Neither, I submit, if your honors please, is there anything either in the record, abstract or brief of counsel which seems to demand an amendment to the Declaration of Independence, the Federal or State Constitutions, or the ten commandments. And if there is any such demand, the junior counsel in this case has been (as your honors can take judicial notice) a member of the Illinois legislature, and he must know that is the body to which counsel must apply for such amendments.

Counsel for plaintiffs express no surprise at the deluge, and by a method of reasoning as unique as it is euphonious with modern sporting terms, they indirectly urge that there is danger of another flood if there is not a reversal of the judgment. Of course, counsel for plaintiffs had no intention of scaring the court by presenting the terrible alternative of a reversal or a second deluge, because they have no doubt been told in their childhood that the "bow of promise" was a solemn pledge that never again should there be a flood; and, judging the counsel by their argument, we have more confidence in Holy Writ than in their fifteen page brief.—*Legal News* (Chicago).

ORATORS AND ORATORY.

Few of our greater orators have had good verbal memory. Mr. Depew complains that it is the most embarrassing of his intellectual weaknesses, with a memory which is marvelous for events, and which carries in great detail things which have happened years ago. Nevertheless Depew finds it very severe, sometimes an almost impossible intellectual task, to commit even brief passages to memory. Conkling's verbal memory was not, at least at all times, to be depended upon, although some of his speeches he committed upon three or four readings of them. William H. Seward had a marvelous memory; having written a speech it was firmly fixed in his mind after one reading and that capacity President Cleveland also possesses.

The perfect preparation of a speech was, in Wendell Phillip's view, that one in which the mental operations were assisted in no way by outside aid. Only two or three times in his life did he prepare with pen and paper an address, and he always felt that these two or three speeches were the poorest of his efforts. He was constantly studying the art of oratory. In his daily work or in his reading, metaphors and similes were suggested, which he tucked away in his memory, and he even studied action as he watched the muscular movement of men whom he saw in public places.

He believed that a perfect speech could be prepared only after intense mental concentration. Of course the mind must first be fortified by such reading as provided facts. Having thus saturated his mind with information, he would frequently lie extended for hours upon his sofa with his eyes closed, making mental arrangement of the address. In fact, he used to write his speeches mentally, as Victor Hugo is said to have written some of his poems, and as Macaulay is known to have prepared all his public addresses, —every phrase and sentence was as carefully committed as if it had been written out. A speech thus prepared Phillips thought was always at command of the speaker. It might vary upon every delivery in phraseology. It might be longer at one time than another, but it would always be practically the same speech.

"RIDING THE CIRCUIT."

THE Lord Chief Justice has been combining pleasure with business on the South-Eastern Circuit by riding from one assize town to another on horseback. There was a time, of course, when horse-riding was the only means of travelling the circuit—when men spoke of "riding the circuit" instead of "going the circuit." The late Serjeant Pulling refers in "The Order of the Coif" to an address delivered by Chief Justice Dyer to a number of new serjeants in 1579, in which he advised them "to be discreet, to ride with six horses and their sumpter on long journeys, to wear their habit most commonly in all places of good assemblies, and to ride in a short gowne." The custom of "riding the circuit" gradually fell into desuetude as the number of coaches was increased. It was far from uncommon, however, in the days of Sir John Byles. This distinguished lawyer was accustomed not only to ride the circuit, but also to arrive at Westminster Hall on horseback; and the name of "Bills" was bestowed upon the horse, so that members of the Bar might speak of "Byles on Bills," and indicate the close relationship that existed between the judge and his steed. Up to the reign of Charles II. the judges rode in procession to Westminster Hall on the opening day of each term, and oftentimes the cavalcade was imposing, the judges and advocates being accompanied by a retinue of men in livery. "In my way thither," wrote Mr. Pepys in his diary, "I met the Lord Chancellor with the judges riding on horseback, it being the first day of the term." Such a procession might probably be a formidable business to most of the present occupants of the Bench, but it is likely they would prefer the restoration of this mode of proceeding to the hall of justice to the method that preceeded it. Until midway in the sixteenth century the judges were mounted on mules, after the fashion of bishops and abbots. John Whiddon, a judge of the Common Pleas in 1553, is said by Dugdale to have been the first judge to appear in the procession on "horse or gelding." When judges rode to the courts on horseback the pageantry of the law was rather more suostantial than it is in our own time, when the judges ride to the Royal Courts of Justice on the opening day of the Michaelmas Sittings in broughams and landaus, and when it is customary for them to enter an assize town by the railway, and to be driven from the station to their lodgings amid the mere relics of ancient pomp. It is recorded that when Lord Bacon first rode to Westminster Hall he was arrayed in a gown of purple satin, and was preceeded by a large body of clerks and inferior officers of Chancery, students of the law and serjeants, and followed by a long array of nobles, privy councillors and judges. The last occasion on which there was a pro-

cession of judges on horseback was when the Earl of Shaftsbury, who held the Great Seal for a short time in the reign of Charles II., paid his first visit to Westminster Hall in state. The custom had disappeared for some considerable time, but he had "an early fancy, or rather freak, the first day of the term to make this procession on horseback, as in old time the way was when coaches were not so rife." So writes Roger North, who, after describing the large number of people who assembled to witness the cavalcade, adds: "Being once settled to the march, it moved, as the design was, statelily along, but when they came to straights and interruptions, for want of gravity in the beasts, or too much in the riders, there happened some curvetting which made no little disorder. Judge Twisden, to his great affright, and the consternation of his grave brethren, was laid along in the dirt, but all at length arrived safe, without loss of life or limb in the service. This accident was enough to divert the like frolic for the future, and the very next term they fell to their coaches as before." Some of the present occupants of the Bench occasionally arrive at the Royal Courts of Justice on horseback, but no accidents have been known to disturb their journeys. Other judges were less fortunate. Lord Campbell was once thrown from his steed while returning from the Guildhall, and Sir Cresswell Cresswell was killed by a fall from his horse; but the fatal accident occurred in Hyde Park, and not in connection with his duties as judge.—*Law Journal* (Eng.)

COMMON LAW TRADE MARKS.

Two cases dealing with what Mr. Fulton in his Practical Treatise on Patents, Trade Marks and Designs (Jordan & Co., 1894), calls "Common Law Trade Marks," though he attributes the origin of the expression to Lord Justice Lindley, are those of Reddaway v. Banham and Reddaway v. Bentham Spinning Company. The former is the most recent case, and there the question was as to the right of the defendant to use the term "camel-hair" as descriptive of certain belting which he manufactured. The Court of Appeal held that the defendant had such a right. A man might call the goods he was selling by the name by which any one wanting the goods would, in ordinary course, call them in any market in which he wanted to buy or sell them, although, in so doing, he called them by the name by which the person who complained had called his goods in a market, until, in that market, the name alone was taken to mean his goods alone. The goods manufactured by the person who offends, however, must be correctly described, *e.g.* as of "camel-hair," as was the case here, and if that is a correct description, an injunction to restrain the use of the term "camel-hair" will not issue. On the other hand, if, as in the case of Reddaway v. The Bentham Spinning Company, the belting is not made, even principally, of camel's hair, then to describe it as camel-hair belting is not an accurate description, but simply a fancy name.—*Law Magazine and Review* London.

AUTUMN ASSIZES.

TOWN.	DATE. (Jury.)	JUDGE.	DATE. (Non-Jury.)	JUDGES.
Barrie	Oct. 29.	Meredith, J.	Sept. 24.	Rose, J.
Belleville	Sept. 10.	Armour, C.J	Oct. 22.	Meredith, C.J.
Berlin	Oct. 22.	Robertson, J.	Oct. 22	Robertson J,
Brampton	Sept. 17.	Robertson, J.	Sept. 17	Robertson, J.
Brantford	Oct. 22.	Rose, J	Sept. 24.	Ferguson, J.
Brockville	Oct. 22.	Armour, C.J	Sept. 17.	Chancellor,
Cayuga	Nov. 5	MacMahon, J.	Nov. 5	MacMahon, J.
Chatham	Oct. 15.	MacMahon, J.	Sept. 11.	Meredith, J.
Cobourg	Sept. 17.	Ferguson, J.	Oct. 29.	Robertson, J.
Cornwall	Oct. 8.	Armour, C.J.	Sept. 10.	Meredith, C.J.
Goderich	Sept. 17.	Rose, J	Nov. 12.	Street, J.
Guelph	Oct. 8.	Meredith, J.	Nov. 12.	Falconbridge, J.
Hamilton	Oct. 8.	Meredith, C.J.	Nov. 12.	Rose, J.
Kingston	Oct. 29.	Meredith, C.J.	Sept. 24.	Street, J.
Lindsay	Oct. 1.	Meredith, C.J.	Nov. 19.	Meredith, J.
London	Oct. 1.	MacMahon, J.	Nov. 5	Meredith, J.
L'Orignal	Sept. 9	MacMahon, J.	Sept. 9.	MacMahon, J.
Milton	Sept. 10.	Robertson, J	Sept. 10.	Robertson, J.
Napanee	Nov. 5	Meredith, C.J.	Nov. 5	Meredith, C.J.
Orangeville	Sept. 24.	Robertson, J.	Sept. 24.	Robertson, J.
Ottawa	Sept. 12.	MacMahon, J.	Oct. 15.	Rose, J.
Owen Sound	Sept. 10.	Ferguson, J.	Oct. 8.	Chancellor.
Pembroke	Oct. 1.	Falconbridge, J.	Oct. 1	Falconbridge, J.
Perth	Oct. 8.	Falconbridge. J.	Oct. 8.	Falconbridge, J.
Peterborough.	Sept. 24.	Chancellor.	Oct. 22.	MacMahon, J.
Picton	Nov. 5	Rose, J.	Nov. 5	Rose, J.
Port Arthur	Dec. 9.	Meredith, J.	Dec. 9.	Meredith, J.
Rat Portage	Dec. 4.	Meredith, J	Dec. 4.	Meredith, J.
Sandwich	Sept. 17.	Falconbridge, J.	Oct. 22.	Ferguson, J.
Sarnia	Sept. 24.	Meredith, J	Oct. 22.	Chancellor.
Sault St. Marie	Dec. 14	Meredith, J	Dec. 14.	Meredith, J.
Simcoe	Nov. 5.	Chancellor	Oct. 8.	Street, J.
St. Catharines	Sept. 10.	Chancellor	Oct. 29.	Falconbridge, J.
Stratford	Oct. 1	Street, J.	Nov. 19	Ferguson, J.
St. Thomas	Sept. 3.	Armour, C.J.	Oct. 15.	Street, J.
Toronto 1st week	Oct. 15.	Meredith, J	Sept. 17.	Meredith, J.
do 2nd do	Oct. 21.	Falconbridge, J.	Sept. 23.	Meredith, C.J.
do 3rd do	Oct. 28.	Rose, J.	Sept. 30	Robertson, J.
do 4th do	Nov. 4	Robertson, J.	Oct. 7	Rose, J.
do 5th do	Nov. 11.	MacMahon. J	Oct. 14.	Falconbridge, J.
do 6th do	Nov. 18.	Chancellor	Oct. 21	Street, J.
do 7th do	Nov. 25.	Ferguson, J	Oct. 28.	MacMahon, J.
do 8th do	Dec. 2.	Armour, C.J.	Nov. 4	Armour, C.J.
do 9th do	Dec. 9.	Street, J.	Nov. 11	Ferguson, J.
do 10th do			Nov. 18	MacMahon, J.
Walkerton	Oct. 8.	Robertson, J.	Sept. 17.	Armour, C.J.
Welland	Oct. 29.	Ferguson, J.	Oct. 29.	Ferguson, J.
Whitby	Nov. 12.	Robertson, J.	Oct. 10.	Street, J.
Woodstock	Sept. 24.	Falconbridge, J.	Oct. 15.	Armour, C.J.

TORONTO CRIMINAL.

1st week	Ferguson, J. Nov. 5.	4th week	Chancellor Nov. 25.
2nd week	Armour, C.J. Nov. 11.	5th week	Falconbridge, J. Dec. 2.
3rd week	Robertson, J Nov. 18.	6th week	Rose, J. Dec. 9.

BRIEFS FROM EXCHANGES.

Caught.

With stealthy tread he enters now
His domicile, belated.
'Tis all in vain. The man is caught
By the breath himself had baited.

The Judges at St. Paul's.

Some of Her Majesty's judges will, according to custom, attend at St. Paul's Cathedral in state on Sunday afternoon next. it being the first Sunday in the Trinity Sittings, when they will be received by the Lord Mayor and Sheriffs attired in their robes of office. The following judges are expected to attend: The Lord Chancellor, Sir Francis Jeune, Lord Justice Rigby, and Justices Kekewich and Bruce.—*Law Jour.* (*Eng.*)

Why Eli Perkins Left the Law and Became a Journalist.

I studied law once in the Washington Law School. In fact, I was admitted to the bar. I shall never forget my first case, neither will my client. I was called upon to defend a young man for passing counterfeit money. I knew the young man was innocent, because I lent him the money that caused him to be arrested. Well, there was a hard feeling against the young man in the county, and I pleaded for a change of venue. I made a great plea for it. I can remember, even now, how fine it was. It was filled with choice rhetoric and passionate oratory. I quoted Kent and Blackstone and Littleton, and cited precedent after precedent from the Digest and State Reports. I wound up with a tremendous argument, amid applause of all the younger members of the bar. Then, sanguine of success, I stood and waited the judge's decision. It soon came. The judge looked me full in the face and said: "Your argument is good, Mr. Perkins, very good, and I've been deeply interested in it, and when a case comes up that your argument fits, I shall give your remarks all the consideration that they merit. Sit down."

This is why I gave up law and resorted to lecturing and writing for the newspapers.

The Judge Accommodated Him.

A lawyer in Australia was defending a young man whose record was malodorous. Ignoring the record, however, the lawyer proceeded to draw a harrowing picture of two gray-haired parents in England looking anxiously for the return of their prodigal son to spend the next Christmas with them, and he asked: "Had they the hearts to deprive the old couple of this happiness?" The jury, however, being heartless men, found the prisoner guilty. Before passing sentence, the judge called for the prisoner's jail record, after examining which he blandly remarked that "the prisoner had some five previous convictions against him, but he was glad to say that Mr. ——'s eloquent appeal would not remain unanswered, for he would commit the prisoner to Maitland (New South Wales) jail, where his aged parents at the present moment were serving sentences respectively, so that father, mother and son would be able to spend the ensuing Christmas season under one roof."

According to a custom which has prevailed for many years past, several of Her Majesty's judges dined together at the Ship Hotel, Greenwich, on Saturday. Some of the judges proceeded to Greenwich by steamer. Among those present were: Lord Justice Lindley, Lord Justice Rigby, Sir Francis Jeune, Mr. Justice Chitty, Mr. Justice North, Mr. Justice Romer, Mr. Justice Matthew, Mr. Justice Cave, Mr. Justice Grantham, Mr. Justice Charles, Mr. Justice Kennedy, and Mr. Justice Bruce.—*Law Journ.* (*Eng.*)

Joke on a Physician.

The late Dr. Yandell of Chicago was fond of telling the following joke: A lady patient one morning greeted him with the remark: "Doctor, I had such a singular dream about you last night," "Indeed. What was it?" "Why, I dreamed that I had died and went to heaven. I knocked at the golden gate and was answered by Peter, who asked my name and address and told the recording angel to bring his book. He had considerable difficulty in finding my name and hesitated so long over the entry when he did find it that I was terribly afraid something was wrong, but he suddenly looked up and asked:

"'What did you say your name was?' I told him again. 'Why,' said he, 'you have no business here. You're not due these 10 or 15 years yet.'

"'Well,' said I, 'Dr. Yandell said—' 'Oh, you are one of Yandell's patients, are you? That accounts for it. Come right in! Come right in! That man's always upsetting our calculations in some way.'"

"My lord," began a pompous young barrister, "it is written in the Book of Nature——" "On what page, sir, on what page?" interrupted the judge, with pen in hand.

There will be two opinions as to the advisability of judges taking notice of criticism on the sentences which they, with full knowledge of the facts of the case and with a feeling of responsibility, have thought necessary to pass. The critics forget that not the crime only, but the criminal, has to be considered in the infliction of punishment. Many criticisms on sentences alleged to be unequal and unfair are based upon newspaper reports, which are necessarily short and incomplete. The judges are not inhuman, nor are they inexperienced in the due administration of the law, and they have the advantage of seeing the parties interested, and hearing every fact of the case.—*Law Journal* (Eng.)

"If your honor please, I'd like to get off the jury," said a juryman to Judge Oakley, of New York, just as the trial was about to commence.

"You can't get off without a good excuse," said the judge.

"I have a good reason."

"You must tell it or serve," said the judge.

"But, your honor, I don't believe the other jurors would care to have me serve."

"Why not? out with it."

"Well—" (hesitating)

"Go on."

"I've got the itch."

"Mr. Clerk," was the witty reply "scratch that man out."

It is needless to say that this was one of the most mirth provoking scenes that ever occurred in the court room.

What He Wanted.

When the waiter brought in the guest's breakfast he set a cup of coffee down by his plate, and the guest picked it up and took a sip.

"Cream in it, sir?" inquired the waiter.

"No."

"Sugar?"

"No."

"Perhaps you'll have a spoon, sir?" smiled the waiter.

"No. I don't want a spoon either," growled the guest.

The waiter was nonplussed.

"Won't you have anything in it?" he urged.

"Yes heat. Take it back," and the waiter took it back.

Several years ago, in the town of Greenwood, lived an eccentric old gentleman with an impediment in his speech. He was a witness in a lawsuit that his father, then deceased, had left $1,000 to have continued. The old man's father was noted for the many lawsuits he had been through, and the opposing counsel asked the witness: "How many lawsuits has your father been in since he left this world?" "N-n-not b-b-but one," said Uncle Joe, "f-f-for he went all over H-h-heaven, but c-c-couldn't find a lawyer." Even the lawyers smiled.

A new way of collecting old debts is being introduced in Maine towns. A young woman of great attractiveness is the advance agent. And between her own attractiveness and those of her scheme she is said to be having complete success. She calls on the local merchants and secures their membership in the new agency. A few days after her departure there appear in town a number of men dressed in bright green coats, who get the particulars of old debts and debtors from the members and then proceed to call on the victims. The contract provides that the horribly conspicuous collectors shall make 15 calls a day on each debtor, meeting them anywhere and everywhere. The scheme is reported to be a big success, as most of the debtors are glad to made prompt settlement rather than have the whole neighborhood see them haunted by the green-coated specter.

Power of Vision Still Fair.

Lawyer—Now, sir, did you or did you not say you saw the defendant at the time this occurrence took place? You did see him. Very good. Now, I should like to have you state to this jury, sir, whether or not your eye-sight is defective?

Witness—Why, as to that——

Lawyer—Address your remarks to the jury, sir.

Witness (to the jury)—He's right, gentlemen. My left eye is no good, but I can see tolbiy well out of the other. I can see that this here lawyer dyes his whiskers and they've grown about a sixteenth of an inch, I should judge, since he dyed 'em last.

Sir John Macdonald, the first Prime Minister of Canada, was fond of relating this story to illustrate the need of the Upper House:

"Of what use is the Senate?" asked Jefferson, as he stood before the fire with a cup of tea in his hand, pouring the tea into the saucer.

"You have answered your own question," replied Washington.

"What do you mean?"

"Why do you pour that tea into the saucer?"

"To cool it."

"Even so," said Washington, "the Senate is the saucer into which we pour legislation to cool."

Toronto's Great Fair

The Toronto Industrial Exhibition, which opens this season on the 2nd September, continuing until the 14th, will excel any heretofore held, in the number and variety of its exhibits, and the interest and brilliancy of its special attractions. An unusually large number of entries in all the leading departments have been received, and several special collections, including one of the natural products of the Great North-West will increase its attractiveness. The grounds have been greatly improved and new buildings added as required for the better accommodation of exhibitors and the public. There will be a very large showing of Bicycles by all the leading manufacturers. The interior of the Main Building has been completely remodelled. The special attractions include the brilliant military and pyrotechnic spectacle, entitled "The Relief of Lucknow," which will present the most vivid and resplendent firework effects ever witnessed. The management has secured the most favorable rates for travel by rail and steamer, so that the cost to and from any part of the country is comparatively small, and a vast influx of visitors may be looked for. Everyone who desires to keep up to date and in touch with the world's progress must visit the Industrial.

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