The Legal News.

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The case of *In re De Souza* has attracted some attention in Ontario. Mr. De Souza, who is an English barrister, claimed the right to practice before the Courts of Ontario without the intervention of the Law Society. The case came before the Common Pleas Division, which held that an English barrister, as such, is not entitled to practice in the Courts of Ontario unless admitted through the Law Society of the Province.

A telegram in the *N. Y. Herald* mentions a case before the English courts which will be of some interest. A jury had found a cabman guilty of receiving a half-sovereign at night, supposing it to be a shilling, but afterwards, when its real value was known, he retained it. The passenger carried also supposed it to be a shilling. At the trial the Court reserved the point of larceny. There being a difference of opinion between the judges as to whether the act constituted larceny, the question was ordered to be argued before the full bench.

Judge Bleckley, of the Georgia Bar Association, in a report on the subject of judicial reform, complains of the lagging administration of the law. "How is it," he asks, "with practical remedial jurisprudence? Is it up with, or is it behind the age? Compare it with other business, public or private; with operations of the war department, the navy, the treasury, the post-office, the interior; with commerce, manufactures, banking, transportation, mining, farming; with the venerable and conservative vocations of teaching and preaching; with any thing, and what is its relative position? The main bulk of world-work is ahead of it; several branches of that work, for instance, the postal service, general transportation, commerce and manufactures, are so far in advance that the law seems to crawl whilst they go on wings. Is this relative backwardness a necessary condition, rooted in the nature of things, or is it attributable to deficient energy and enterprise on the part of the legal profession? Can it be possible the law is to become obsolete; that the ages are to outgrow it; and that though sufficing for the past, it is not equal to the demands of the future? Will it be Bradstreeted as a failure? Surely this supposition cannot be entertained. And if not, the conclusion is imminent that either directly or indirectly, we lawyers are responsible for the wide chasm that separates the effective administration of the law from those industries, public and private, with which it ought to be abreast. Is it fit that a body of men so numerous, so cultivated, so capable, should suffer their quota of labour, their distinctive calling, to remain hopelessly behind? Let a noble, manly pride answer in the negative." Mr. Bleckley's suggestions, however, like those of a good many other reformers, do not contain much that impresses itself as a real improvement.

THE LAW OF LIBEL.

In charging the jury in the case of *Reg.* v. *Tassé* (*ante*, p. 98), Mr. Justice Ramsay observed:—

Gentlemen of the Jury,—This case is one of some difficulty. At all times cases of libel were surrounded with difficulty. In ordinary criminal cases we deal with the theft of a man's watch or his purse, but in libel the question is as to a man's reputation, and this investigation demands more attention and care. I shall therefore endeavor to make the object of your enquiry as clear as possible, and in so doing I shall at once refer to something that was told you at the opening of the trial. The learned gentleman, who is complainant in this case, said that your verdict would have the effect of justifying his conduct or of condemning him; that the object of the trial was to obtain this justification or condemnation. This is not absolutely correct. It is perfectly true that a verdict of "not guilty" would be a declaration on your part that all that had been said was strictly true, and that the publication was for the benefit of the public; but a verdict of "guilty" would not necessarily be a justification. I don't say this to influence

your verdict, for with the results of your verdict you have nothing to do, but in order to explain to you that the real issue is as to whether Mr. Tassé has committed an offence or not.

At common law, a libel consists of any writing by which a man defames his neighbour, unless it be by what is known as a privileged communication. The privilege does not consist in saying what is true, but one is privileged in saying what it is one's duty to say, or what it is one's interest to say for one's own protection. If, however, the utterance was to gratify what the law distinguishes as "express malice" the privilege disappears. This appears to me to be very wise law; but the number of communications thus privileged was very limited, and as popular institutions developed, and all matters were more unreservedly discussed, it was felt that the limit of privilege was too restricted for many practical purposes. In the 6th and 7th Vic. a statute was introduced into the Imperial parliament, and passed there, for the purpose of giving greater liberty to literary critics. It is true this Act was introduced under the auspices of a distinguished judge, nevertheless I think the alteration in the law was unfortunate. In the course of this trial you may have heard me say that it was deplorable. This is perhaps a strong expression; but I do not hesitate to say that when an important alteration is being made in the common law, it should be made on principles that are in accordance with those of the common law, and that there is great cause for regret when this is overlooked. At any rate, when it was attempted to introduce the new English law into Canada, it was resisted, it is said, by no less a person than the late Sir Louis Lafontaine, and it was adopted for Upper but not for Lower Canada. The law of libel, therefore, remained in this province, as it stood at the time of the Quebec Act, which introduced the criminal law of England, as it then existed, into the Province of Quebec, until 1874. Then, after a trial in this court, attention was drawn to the difference existing in this respect between the law of this province and that of the other provinces, and a change was demanded, almost with clamor. This change took place, and is now our law, and we must be governed by it, just as we had to be governed by the old law, no matter what people might think fit to say. In order to apply the new law properly, let us see to what the change amounts. The other day, in an argument which took place in your presence, Mr. Mercier described it as not being a fundamental change in the law of libel, but as being a new defence given to the person accused of libel. This is a very correct way of putting it so far, and I readily adopt it. However, it is to be observed, that it differs materially from any defence that existed before. As the law now stands the accused may plead, specially, that what he wrote was true and that it was published (not that he published it) for the benefit of the public. These two things concurring, he is absolved. It will be at once seen that under this plea no account is taken of malice. It matters not whether the defendant was moved by the direst malice or by the best motives. Truth and the public benefit are the tests of innocence or guilt. We have then three points to examine—1st, the truth of the matter alleged; 2nd, the question of whether the publication was for the public benefit; and 3rd, if you think the "defendant" guilty, whether he published the injurious matter knowing it to be false. If you think him guilty in manner and form as is laid in the indictment, you will say so simply; but if not, you can return a verdict of guilty of libel, but without knowing it to be false.

The libel is in these words (*translation*):—"We know what has happened since Mr. Mercier contested the election of Mr. Mousseau, of the very man he had contributed to elect. Being unable to seize upon a portfolio he then sold himself for $5,000. Has there ever been a more revolting suit?"

Mr. Geoffrion has told you that the libel must be taken as a whole, and that words that are not libellous by themselves may become libellous by the context. This is correct; and as to the truth of the libel I must add that the whole injurious matter must be true. It is not sufficient that there should be some truth in it, and so the false be covered by the true,—the whole thing

must be substantially true. Now, what do the words complained of import—that Mr. Mercier had contributed to the election of Mr. Mousseau; that he had tried to snatch a portfolio; and, the most serious charge of all, that failing to do this he sold himself for $5,000. We need not deal with the last words, for it will at once be conceded that if he did all this, the expression would be justified.

As to the first point, the evidence chiefly establishes a negative support of Mr. Mousseau. Mr. Mercier tells us that he preferred Mr. Mousseau as a candidate to Mr. Descarries, and that he and the other party leaders agreed not to interfere in the election. They were to leave their supporters free to vote for whom they liked, as both candidates were of the same party. This was already some assistance to Mr. Mousseau; but the evidence establishes something more than this. Several members of the liberal party took an active part in the election. One of them, a Mr. Aurelie Cauchon, now dead, obtained a letter from Mr. Laflamme, another of the liberal leaders, recommending Mr. Mousseau to the electors of Jacques Cartier in preference to the other candidate, Mr. Descarries. Mr. Cauchon took that letter to Mr. Mercier and asked him to sign it. Mr. Mercier declined. Cauchon then told him, he was being abused for the part he was taking in the election, and asked him to give him a certificate of honesty and respectability. This Mr. Mercier, unwillingly, did. To this man, armed with Mr. Laflamme's letter, he gave a special certificate, knowing it was to be used, and on purpose that it should be used, in furthering Mr. Mousseau's election. It can hardly then be said that it was not true that Mr. Mercier had contributed (for that is the mild word used) to the election of Mr. Mousseau. The next part of the charge is not supported as fully. It would be an exaggeration to say that there was no evidence about a portfolio; but it would be a total exaggeration to say that there was any evidence that Mr. Mercier had done anything improper in the negotiations referred to. It seems that in 1882 a proposition was made to Mr. Mercier by Mr. Senecal, whose influence or position is not proved in any way, that there should be a coalition. Mr. Mercier did not absolutely reject this proposition, and meeting Mr. Dansereau some time later, he asked him if it meant anything? This led to further negotiations, and a meeting took place at Quebec, in the house of Mr. Descazes, Mr. Mercier's brother-in-law, where certain propositions were drawn up, to be submitted to both parties. It seems that Mr. Mercier demanded that three seats in the cabinet should be reserved for him and his friends. The conservatives would not consent to this, and the negotiation was broken off. It may perhaps be said that in seeking to go into the ministry, Mr. Mercier tried to snatch a portfolio; but it is a pretty rough way of expressing it. Snatching or seizing a portfolio (*arracher un portefeuille*) is putting his conduct in an evil light. Perhaps if it stood alone it might hardly justify a condemnation for libel, and if the more serious part of the charge is fully justified, it may be a matter of consideration what weight to attach to it. But if the rest of the charge is not justified, it is an aggravation that his motive was to avenge himself for not getting a portfolio. Something was said during the trial about a presumption arising from the dates of the election and the negotiation; but this has not been insisted on at the argument, and I don't see exactly the necessary consequence of these facts.

The last part of the words complained of is the most important part of the charge. With regard to it there is no difficulty as to the evidence. We have almost the whole story before us by Mr. Mercier's own evidence. We have a frank admission of what he did, and we have his justification. Now what he tells us is that he did receive $5,000, which, he says, he never denied. His evidence also establishes that he instituted an election petition against Mr. Mousseau to protect his political friends in other counties, in the name of one Belanger; that having succeeded in establishing sufficiently that corrupt practices had been resorted to in the election, Mr. Mousseau was willing to let the election be annulled if Mr. Mercier would abandon the personal charges against him. That Mr. Mercier agreed to this if his costs were paid, and if his friends consented to it. That in

order to allow this project to be carried out the proceedings were adjourned on the 4th of May, 1883, to the 5th; that he called a meeting of his friends on the evening of the 4th; that they agreed that he should do this, and said that he should exact "liberal" remuneration for his trouble, and he was also reminded by his friends, that he should get as much as he could out of the opposite party, in order to help their friends in their contestations in other counties, and in certain penal actions that had been instituted by members of the conservative party; but that no sum was named. Mr. Mercier says that the sum was not definitely settled until the next day. Nevertheless it appears, by Mr. David's evidence, that the sum of $5,000 had been suggested by Mr. Dufresne, a brother-in-law of Mr. Mercier, either on the evening of the 3rd or the morning of the 4th, in presence of Mr. Mercier, and that it had been communicated to Mr. Dansereau that this sum would be required. From Mr. Dansereau we learn that so completely was it understood on the 4th that $5,000 was the sum to be given, that this amount was paid to Mr. Forget on the 4th to be placed to the credit of Mr. Mercier, with the direction that he was not to have the money till he (Mr. Mercier) filed a declaration of his abandonment of the personal charges. This declaration was filed, and he then received from the hands of Mr. Benjamin Trudel $5,000. The taxed costs under the judgment annulling the election could not have amounted to $2,000, so that Mr. Mercier received over $3,000 in addition to his costs. Mr. Mercier and his counsel say, that he was entitled to take anything he could get out of the other party, that it was fair warfare, and that the other party agreed to it. No court in the world would sanction such a doctrine. He had no right to exact anything for his benefit in abandoning these charges. The transaction was totally illicit, and so much is this the case that, if the contract had become the subject of a suit to recover the amount, it would have failed, because the consideration was unlawful. It has been said there was no ransome. Yes, gentlemen, there was a ransome, and it was the whole sum above the taxable costs. I do not say that it was the greatest of crimes, but it cannot be defended, and to do Mr. Mercier justice he hardly contends now that it was lawful. He admits he was guilty of an imprudence and he says if there was a sale there was a purchaser. That may be; no one can pretend that either party was free from blame. Of course there must be a corresponding offence in a matter like that; whether the fault of both be equally great is another question. The real causes of these disorders are the election laws, which do not accord with the moral sense of the people. Public opinion derides them, and politicians, we are told, habitually lay schemes to avoid the results which, strictly speaking, should follow on their infraction. This is not to be wondered at; nor is it a new remark that ferocious laws, which prescribe unjust punishments, out of all measure to the offence they are intended to correct, defeat their own object. It is to be hoped that before long people will open their eyes to the fact that the protection of the popular vote is purchased too dear at the expense of laws which are in themselves unjust. If I had to begin my career to-day I should refuse to run the risk of taking part in politics while these laws exist, or if I did incur such risk it would be to try to destroy them.

If you arrive at the conclusion that all that Mr. Tassé wrote was substantially true, that is not enough. There is still the question: Was it for the public benefit that it should be published? This last is not altogether an easy question. On it I do not intend to give you any special charge. It is one of those questions directly within your province to decide. I have not hesitated to explain to you the evidence where it was complicated with legal matters, but this question—What publication is for the public benefit? is one you are as well, or, probably better, able to judge of than I am.

Now, if you find that the defendant is guilty, you will have to consider whether the defendant knew that what he wrote was untrue. If there is not evidence to satisfy you that defendant knew, at the time, that what he wrote was false, you will have to say so. If, on the contrary, you think he purposely said what was false, you will have to say,

"Guilty, in a manner and form, as it is laid in the indictment."

I had nearly omitted to mention two or three things which I have noted. In the first place, you will not now have to consider the subsequent articles in the *Minerve* that have been put in. There is really no question under the plea of "not guilty," for the words alleged to be libellous do not form a privileged communication at common law. And as the defence turns wholly on the special plea there is no question of malice, and, consequently, they are of no importance in this case.

Secondly. There is little use in discussing Mr. Mercier's declaration from his seat in the house. It does not differ much from what he has stated here, except as to the point of his having a client on the petition, which he clearly had not.

Thirdly. It is insisted that Mr. Mercier had offered to give back part of the money. This was not against him, and if it had been told it would have been in his favour.

Fourthly. The report in the *Star* of the 11th September can have no weight. It was produced to establish that Mr. Mercier had denied on that day that he had ever heard before of the payment of the $5,000. In cross-examination the reporter said it only applied to the fact that the money had been paid by Mr. Benjamin Trudel. If so, the point is of no importance; but that is not what the "interviewer" said. Whether we take what he said or what he says he intended to say, the report is manifestly absurd, as has been said. Four or five days before, the receipt of the $5,000 had been admitted by Mr. Mercier at the St. Laurent meeting, and it was of no importance by whom it was actually paid.

Fifthly. The distinction of Mr. Mercier acting as a lawyer is inadmissible. He cannot thus dissever his responsibility. The profession of the law is a restriction and not a latitude.

A juror asked whether the money was paid to Mr. Forget before or after Judge Torrance had suggested to Mr. Mercier to withdraw the personal charges.

Ramsay, J.—I did not speak to you about what Judge Torrance said, because it does not appear he contemplated anything but a simple abandonment of the personal charges. What he said had therefore no significance in this prosecution. But as a fact the money was only deposited after the adjournment on the 4th, and consequently after Judge Torronce had made the remarks referred to.

The same juror then asked the court to explain what had been said as to the knowledge of the defendant of the truth of the charges.

Ramsay, J.—I will explain by the statute. The second section is in these words: "Whosoever maliciously publishes any defamatory libel, *knowing the same to be false*, is guilty of a misdemeanour."

The third section omits the words, "Knowing the same to be false;" but otherwise is in the same words as section two. In fact the law distinguishes between a lie and a misstatement, and it makes the punishment of the one greater than that of the other.

The jury having found the defendant guilty of having published a libel, but that there was no evidence that he knew it to be false, the following sentence was pronounced (March 9):—

"The duty now devolves upon the court to pronounce sentence on the defendant. Apart from the disagreeable nature of this duty, the apportionment of punishment, where any discretion is left to the court, is the most unpleasant act the judge has to perform. It is the highest exercise of the great trust society has reposed in him. Fully sensible as I am at all times of this responsibility, I am particularly so in a case where party feeling is vehemently excited, and where party interests are deeply involved. It is proper, therefore, that I should state summarily the considerations which motive the sentence I am about to pronounce. The accusation was that of publishing a defamatory libel, knowing the same to be false. The verdict was to some extent special, the jury finding that the defendant was guilty of having published a libel, but that there was no evidence that he knew it to be false. This amounts to a finding of "guilty" of the minor offence set forth in the second section of the "act respecting the crime of libel." This finding is within the instructions in law, which the court gave

them; instructions which conform perfectly to the ruling of the court (on objections raised by the defendant) on the morning of the 4th instant. Furthermore, this verdict was rendered in the exercise of the unquestionable functions of the jury, and it is not of a kind which demands any special comment on my part. The jury has found the defendant guilty of libel, but the statute has left to the court the power to measure, to some extent, its gravity by leaving a wide discretion in awarding punishment. Having left this discretion to the court, the legislature thereby imposed the duty of exercising it. In this case the fact on which the most serious part of the accusation was founded has not only been proved but it has been admitted and gloried in. That fact is that the complainant having the control of an election petition containing personal charges against Mr. Mousseau, the premier minister of this province, had abandoned those charges, and that the condition of this abandonment was the payment of a sum of money in guise of costs. This was an illicit consideration which evidently diminishes the gravity of Mr. Tassé's offence and induces me to limit the punishment to a fine, and to a fine of a moderate amount.

"The sentence of the court is that the defendant do pay a fine of fifty dollars, to be applied as the law directs, and that he be imprisoned till such fine be paid. The costs will follow the judgment."

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, March 2, 1885.

Before TASCHEREAU, J.

DAME ANN SHAW LOW v. DAME ANN BAIN, and PHILLIPS *et al.*, Opposants, and PLAINTIFF contesting.

Procedure—Inscription.

The opposants filed an opposition *afin d'annuler* to the seizure and sale of certain immovable property taken in execution by plaintiff on a judgment against defendants.

On the 26th February the plaintiff contested this opposition by an answer in law, and inscribed for hearing on the law issue on the 2nd March. On the 28th February she gave notice of motion for the 2nd March to dismiss the opposition. The opposants then served notice of motion to reject the inscription on the demurrer as prematurely filed. The two notices and the demurrer came up for argument together.

On the motion to reject the opposition the Court held that the notice came too late, being made after contestation of the opposition.

On the motion to reject the inscription as premature it was held by the learned judge after consultation with some of his colleagues, that the inscription was premature. That though the party whose pleading was demurred to might inscribe at once if he chose, yet he had a right to a delay of eight days to answer, and the party demurring could not inscribe before the expiration of the delay. (Rule of Practice 52, and C. C. P. 137, 138, 139 and 148).

Motion granted and inscription rejected.

Maclaren, Leet, Smith & Rogers for plaintiff.

Robertson, Ritchie, Fleet & Falconer for opposant.

COUR DE CIRCUIT (EN APPEL).

MONTREAL, 10 mars 1885.

Coram CARON, J.

VIAU *et al.*, Appelants et LA CORPORATION DE LA PAROISSE DE ST-FRANÇOIS D'ASSISE DE LA LONGUE-POINTE et LE CONSEIL DU COMTÉ D'HOCHELAGA, Intimés.

Conseil de comté — Procès-verbal—Appel à la cour de circuit—Juridiction.

JUGE: 1o. *Qu'on ne peut se pourvoir par voie d'appel, devant la cour de circuit, suivant les dispositions des articles* 1061 *et suiv. du Code Municipal, de la décision d'un conseil de comté, relative à un procès-verbal adopté par un conseil local et homologué par ce conseil de comté siégeant en appel.*

2o. *Que même en supposant, qu'en pareil cas, le défaut de juridiction de la cour de circuit ne serait pas invoqué, cette cour devrait renvoyer les parties, vu son défaut absolu de compétence.*

3o. *Que sur appel de la décision relative au procès-verbal en question, les intimés requérant ce procès-verbal sont intéressés à son main-*

tien ; et qu'aux termes de l'art. 1067 *du Code Municipal, ils devaient être mis en cause et copie du bref d'appel devait leur être signifiée ou à leur procureur.*

4o. *Que lorsque le conseil de comté est assigné, comme en la présente cause, il a le droit d'ester en justice tant pour se défendre que pour soutenir la décision qu'il a rendue.*

Les appelants se sont pourvus, par voie d'appel, devant la cour de circuit, d'après les dispositions des articles 1061 et suiv. du Code Municipal, d'une décision du conseil du comté d'Hochelaga. Cette décision était relative à un procès-verbal fait et homologué par le conseil local de la paroisse de la Longue Pointe, et cette homologation fut ratifiée et confirmée par le conseil du comté d'Hochelaga, siégeant en appel.

Le conseil du comté d'Hochelaga, sans soulever aucune question relative au mérite de ce procès-verbal, a répondu au bref d'appel et en a demandé l'annulation par simple motion dont voici les principales allégations :

1o. Que dans l'espèce, il s'agit de la décision d'un conseil de comté siégeant en appel d'une sentence prononcée par un conseil local, au sujet d'un procès-verbal.

2o. Que les seuls intimés, c'est-à-dire les requérants et intéressés au maintien du procès-verbal, n'ont pas été mis en cause.

3o. Que les intimés dénommés au bref d'appel, ne sont pas en réalité de véritables intimés, mais simplement un tribunal spécial, établi par le Code Municipal, pour décider les questions de la nature de celles dont il s'agit.

4o. Que le conseil de comté n'est pas un être moral pouvant être assigné, mais n'est que le mandataire de la corporation du comté d'Hochelaga, qui seule pouvait, en sa qualité de corps politique et incorporé, ester en jugement en la présente cause.

Le conseil du comté d'Hochelaga, l'un des intimés, a cité au soutien de ses prétentions, les articles 73, 95, 1061, 1067 du Code Municipal et l'art. 114 du C. P. C. Il a de plus invoqué la décision rendue par l'hon. juge Loranger dans la cause de *La corporation de la paroisse de la Pointe-aux-Trembles*, appelante, et *La corporation du comté d'Hochelaga*, intimée, rapportée au 7 L. N. 158. Et la cour s'appuyant sur les autorités ci-dessus, a accordé la motion du conseil du comté d'Hochelaga et cassé et annulé le dit bref d'appel.

Loranger & Beaudin, pour les appelants.

Préfontaine & Lafontaine, pour la corporation de la Longue Pointe.

Prévost & Bastien, pour le conseil du comté d'Hochelaga.

(J. G. D.)

TRIBUNAL DE COMMERCE DE LA SEINE.

PARIS, janvier 1885.

PUCHEN v. LA COMPAGNIE DU NORD.

Chemin de fer—Chien perdu pendant le transbordement d'un wagon à un autre—Responsabilité de la Compagnie.

JUGE :—*Qu'une Compagnie de chemin de fer est responsable de la valeur d'un animal qui lui est confié pour être transporté d'un endroit à un autre, lorsqu'il brise le lien qui le retient et s'échappe.*

M. Puchen avait confié à la Compagnie du Nord un chien griffon pour être expédié par grande vitesse, à l'adresse de Mme veuve Fourrier, à Guillancourt, en gare. A la bifurcation de la voie, au moment où le chien était transbordé dans un autre wagon, il brisa sa laisse et s'est sauvé. Il n'a pu être retrouvé. M. Puchen avait assigné la Compagnie du Nord devant le tribunal de commerce de la Seine, en paiement de 500 francs, valeur du griffon.

La compagnie du chemin de fer, pour résister à cette demande, soutenait qu'elle n'avait commis aucune faute, et que si le chien confié à ses soins s'est sauvé, elle ne saurait être responsable de cette fuite, puisque la laisse du chien était en mauvais état, et qu'il est en outre stipulé à l'article des tarifs généraux que lorsque les chiens voyagent sans être accompagnés, le chargement et le déchargement de ces animaux sont opérés par les soins et aux risques et périls de l'expéditeur et du destinataire.

Le tribunal a déclaré dans son jugement que l'article 23 ne s'appliquait qu'aux gares de départ et d'arrivée, et que la responsabilité de la Compagnie pour les agissements de ses

employés en cours de route n'était nullement dégagée par l'article précité ; et que dans l'espèce le chien avait été égaré dans le transbordement d'un wagon à un autre ; que la Compagnie n'avait pas fait la preuve du mauvais état de la laisse et au surplus qu'il lui appartenait de l'examiner au départ et de prendre les précautions nécessaires.

La valeur du chien ayant été estimée trois cents francs, la Compagnie du Nord a été condamnée au paiement de cette somme et aux dépens.—(*Du* JOURNAL DE PARIS, *rapport de Maître Louis Albert.*)

(J. J. B.)

LIBEL SUITS AGAINST NEWSPAPERS.

Mr. Labouchère having triumphantly put his latest assailant in a libel suit under his feet, naturally enough falls to criticising the libel laws of England. He shows successfully not only that he ought to have been acquitted as he was acquitted of libelling Lambri, but that he ought never to have been subjected to the annoyance and expense of defending himself against Lambri, since it was perfectly clear that in stating the truth about Lambri as he stated it he was rendering the community an important service. Mr. Labouchère's point strikes directly at a mischievous notion to which American judges cling as if it were a necessity of social existence. Mr. Labouchère says that the English law recognizes no distinction as between the publication in good faith or in bad faith of a false statement, and that the English law allows a jury to mulct a journalist or a private letter-writer in discretionary damages, no matter whether such journalist or such writer wrote in good or in bad faith. In other words the law assumes that every false statement must be a malicious statement, and equally malicious whether made with good or with bad intent. Fresh from a thorough exposition of the law of libel made by eminent Queen's counsel and a Lord Chief Justice, Mr. Labouchere thus puts his case : "Surely criminal law should make a distinction between good faith and bad faith in regard to published matter. In the former case there can be no moral criminality, and nothing is more obnoxious to justice than to make a legal distinction between what is morally and what is legally criminal. Supposing that aperson was to poison an entire family in South America, and having been tried and condemned to death for the crime, were to escape and come over to England. Were I to know of his having become an inmate of an English family and that he had with him a carefully assorted selection of potent poisons, I might be criminally prosecuted were I to warn the family by letter. And at the trial it would not suffice for me to prove that he had been condemned to death for murder in South America, but I should have to prove that he actually did murder, otherwise I should be liable to fine and imprisonment." We doubt if any judge would commit for contempt a juror who should determine for himself that in no circumstances would he ever convict or mulct a writer who could be proved to have written in good faith and without malice what he had reason to believe to be true. In this city not long ago a journal was mulcted in $1,500 damages for making a statement which was admitted to be true as to a person named we will say Smith, and innocently applying the statement to another person named Smith, living in immediate proximity with the first Smith, though the second Smith was not shown to have been injured by the misapplication. Moreover, the appellate judges upheld the damages and laid down the doctrine that the law should make no difference between good or bad faith in such a matter.—*N. Y. World.*

GENERAL NOTES.

The Act passed last month by the Legislative Assembly of British Columbia, "to prevent the Immigration of Chinese," has been disallowed by the Dominion Government.

The sudden death of Earl Cairns was reported by cable, April 2. Deceased was born in 1819 ; called to the bar in 1844 ; appointed one of Her Majesty's counsel in 1856 ; solicitor-general in 1858, and attorney-general in 1866. The same year he succeeded Lord Justice Knight Bruce in the Court of Appeal. In February, 1868, he became Lord Chancellor in Mr. Disraeli's Ministry, but left office in December of that year on the resignation of the Government. He became Lord Chancellor a second time in 1874, and held office until 1880.