

# The Canada Law Journal.

VOL. XXIV.

AUGUST 1, 1888.

No. 13.

## THE CONSOLIDATED RULES.

THE Consolidated *Rules* of Practice which have been recently promulgated, and which are to come into force at the end of the present long vacation, are intended to be in effect a complete Code of Practice. The project of framing a code on such a subject was an ambitious one, but a careful perusal of the *Rules* leads us to the conclusion that the object aimed at has by no means been attained. By *Rule* 3, all rules and orders heretofore passed, except certain exceptions mentioned in a schedule, are rescinded, and all practice inconsistent with the new *Rules* is superseded; and as to all matters not provided for by the *Rules*, the practice is, as far as may be, to be regulated "by analogy thereto." Whoever expects to find in the new *Rules* a complete code of procedure will, in many respects, find himself disappointed. For instance, by *Rule* 25, for the practice as to issuing orders of course, we are referred to the English practice prior to Trinity Term, 1856. By *Rule* 135, upon a reference in a redemption writ, we are referred to the present practice: if it is desired to appoint a guardian for an infant defendant, when he is not represented by the official guardian, by *Rule* 261 we are referred to the former Common Law practice. By *Rule* 335, we are referred to the former Chancery practice, to learn how an insane person not so found may sue or defend an action. By *Rule* 367, if we want to know in what circumstances a writ may issue to repeal letters patent, etc., we must hunt up the practice in the Court of Chancery in England on 5 Dec., 1859. So, also, the consolidation of actions is by *Rule* 652, made to depend on the practice in the Superior Courts of Law before the Judicature Act. By *Rule* 862, the practice as to enforcing a judgment for the payment of money is regulated by the practice of the Superior Courts before the Judicature Act. By *Rule* 878, writs of attachment against the person may be issued under the same circumstances and in the same manner as they could according to the practice of the Court of Chancery before the Judicature Act, but by the following *Rules* provisions are introduced wholly different from the former Chancery practice in this respect. By the former Chancery practice it was customary to indorse the decree or order sought to be enforced with a special notice to the effect that, if it were not duly obeyed, the disobedient party would be liable to be attached, and upon filing the affidavit of service with an affidavit of non-compliance, the attachment issued without further order. Now, in no case may an attachment issue without an order, to be applied for on notice. In this respect, however, it is only fair to say the consolidation of the *Rules* has merely perpetuated a blunder made in the original Judicature *Rules*.

By *Rule 1,067*, special bail may be put in and perfected "according to the established practice." Then by *Rule 1,220* the former practice of the Courts of Law and Equity and the Court of Appeal, relating to costs, so far as not inconsistent with the *Rules*, is continued. These references to the former practice are too numerous, and in not a few cases might have been avoided by the framing of rules embodying such parts of the former practice as are thought proper to be retained.

We are disposed to think the arrangement of the new *Rules* is decidedly faulty. Reference to the *Rules* would have been very much facilitated if they had been arranged more nearly in accordance with the ordinary sequence of proceedings in an action. The order of arrangement adopted by the framers of the *Rules*, is very difficult to reconcile with any proper method. For instance: *Rules 124-137*, governing the procedure in some particulars in the Master's office, are grouped together at the beginning of the *Rules* under the head of "Master's Office:" other rules on the like subject are found later, as *Rules 347-363*. Then, some of the *Rules* regulating payment of money into Court, and stop orders, are found under the head of "Accountant's Office" (*Rules 139-193*); and some way after these *Rules*, we come to the *Rules 224-249*, regulating the issue of writs for the commencement of actions; and then later on, under "Miscellaneous Proceedings," we find further *Rules 632-640*, relating to payment of money into Court. Not only is the arrangement of the *Rules* lacking in scientific method, but the printing of the official copy is indifferent, the paper of poor quality, and the number of typographical errors inexcusable.

Having said this much as to the framing of the *Rules*, and the manner in which they have been published, we will proceed to point out a few matters in which we think they might be improved. Some changes which have been made in the wording of *Rule 30*, which defines the jurisdiction of the Master in Chambers, appear to us to have been made without due consideration. In the first part of the *Rule* it is provided that the Master in Chambers is to exercise all such authority and jurisdiction in respect to all actions and matters, including proceedings in the nature of a *quo warranto*, "as by virtue of any statute or custom, or by the rules of practice," etc. are now exercised by any judge sitting in Chambers. In the sentence we have quoted the revisers of the *Rules* have incautiously substituted "of" for "or," which materially narrows the operation of the *Rule*. And in the concluding part of this *Rule*, among the matters excluded from the Master in Chambers' jurisdiction, is now included "staying proceedings after verdict or judgment." The words "or judgment," which have been added by the revisers of the *Rules*, were, no doubt, intended to refer only to cases where judgment had been pronounced by a judge in court, but the *Rule* as it stands excludes not only such cases, but also cases where judgment has been entered by default.

On referring to the schedule to the *Rules* we find *Chy. Ord. 610*, which provided for the issue of orders for the appointment of guardians *ad litem* to infants, on *procipe*, is set down as effete, and its provisions have consequently been omitted. This, we think, is a mistake, as the *Rules* do not sufficiently

provide for the appointment of guardians *ad litem* to infants in all cases, the *Rules* as they stand merely providing for cases where infants are required to be served with a writ of summons (*Rule 258*), or an office copy of a judgment (*Rule 337*); but there are a great many other cases in which infants are required to be served with proceedings in which the appointment of a guardian is necessary, and in which the procedure laid down by *Chy. Ord. 610* proved very convenient, *e.g.*, when notice of motion was desired to be given to an infant for an administration or partition judgment, or in Quieting Title proceedings. In all such cases, and many others of a like character, we suppose it will now be necessary to resort to the former practice of giving notice of motion, and applying in Chambers for the appointment of a guardian. It would have been easy enough to provide that in all civil proceedings against infants, not being for personal torts committed by them, the writ, order, judgment, notice, or other proceedings, required to be served upon an infant, may be served upon the official guardian *ad litem* on such infant's behalf, and upon such service the official guardian *ad litem* shall be *ipso facto* constituted guardian *ad litem* for such infant in such proceedings; but, as we have said, the *Rules* as they at present stand only provide for the two cases we have mentioned.

With regard to the issue of commissions to take evidence abroad, the *Rules* seem defective. *Rule 586* authorizes the issue of a commission to take the evidence of a party to the action, but there is no express *Rule* authorizing the issue of a commission to take the evidence of a witness. The English *Rule 487* should have been enacted. The provisions to be found in the English *Rules 144-153* with regard to proceedings by, or against, paupers ought, we think, also to have found a place in the new *Rules*, but we fail to see that any provision whatever is made for such cases.

In the next place, provision is now made enabling suitors to pay money into court upon requisitions to be obtained from local officers at each county town except L'Original, Cayuga and Sault Ste. Marie; at these latter places provision is made by *Rule 171* for payment to the local officers of money desired to be paid in with a defence, but no provision at all appears to be made for payment of any other money into court at these places. *Rule 164* provides generally that money to be paid into court is to be paid into the Canadian Bank of Commerce, or at some branch or agency thereof; and the following *Rule* enumerates certain other banks at places where the Bank of Commerce has no branch or agency at which money may be paid in. But *Rule 163* declares that these *Rules* are not to apply to moneys payable at L'Original, Cayuga or Sault Ste. Marie, so that, when money is payable into court at any of the latter places, either for purchase money in case of a sale at any of these places under an order or judgment of the court, or in administration or other suits, the mode of paying it in is left in obscurity. We presume the party desiring to pay money into court at these places could go to the nearest place where money is authorized to be received, and obtain a direction from the local officer and pay the money there, but the *Rules* do not appear to say so.

We were under the impression that the Accountant's office was one in which

the clerks were pretty fully occupied already, but, judging from the voluminous returns required to be made annually by *Rules* 161-162, it would seem that the framers of the *Rules* consider the copying out of the suitors' accounts, running through over thirty large folio ledgers, a little matter which may be safely added to their duties. When the accounts of the Court of Chancery were kept in a pass book, and carried around in the registrar's pocket, such returns might not involve much trouble; but to require them to be made now appears to us to be somewhat absurd, especially as due provision is made for the auditing of the accounts. The returns required to be made by the Clerk of the Process, by *Rule* 16, seem equally useless. These are matters, however, which do not concern the profession.

The diversity of names by which the local officers of the court are known, viz., Local Registrars, Deputy Registrars, and Deputy Clerks of the Crown, we notice, is the cause of some slips in the *Rules*; e.g., *Rule* 18 prescribes that Local Registrars and Deputy Registrars are to perform their duties in like manner as the Clerk of Records and Writs. There is no reason that we can see why Deputy Clerks of the Crown should not also have been included. Then, again, by *Rule* 1,075, provision is made for the transmission of a bail piece and affidavit of justification by the Deputy Clerks of the Crown to the proper officer in Toronto; but the framers of the *Rules* have evidently overlooked the fact that the like duties by Local Registrars and Deputy Registrars should also have been provided for.

We notice that an old common law Rule relating to the shorthand reporters' account has been re-enacted, the framers of the *Rules* apparently being ignorant of the fact that the Shorthand Reporters' Fund has, by an Order in Council, been placed in the care of Mr. Clark, one of the taxing officers, and is now paid into court, an arrangement which, notwithstanding *Rule* 205, we presume, is not intended to be altered.

*Rule* 214, which relates to the sitting of the judges in vacation, strikes us as a curious piece of composition, which might, very properly, have been the subject of revision, a more involved string of sentences could not well be devised.

Among the changes which the new *Rules* will inaugurate is the extension of the right to specially indorse a writ and recover judgment under what is now *Rule* 80, in cases of ejectment by a landlord against a tenant whose term has expired, or been duly determined by a notice to quit (see *Rules* 245, 739). The English *Rules*, from which this provision is taken, contain a form of special indorsement in such a case, but these *Rules* omit to do so. By *Rule* 705, execution may be issued forthwith on a judgment for default of appearance to a specially indorsed writ, without awaiting eight days as formerly.

*Rule* 275, which regulates the time for appearance, prescribes ten days after service, if service is effected within Ontario elsewhere than in the Districts of Algoma or Thunder Bay; and if service be effected in the latter places thirty days for appearance is allowed in ejectment, and twenty days in other actions, with ten days additional in each case when service is effected between 1st November and 30th June. It appears to us that this *Rule* ignores the fact that other

judicial districts have been set off since 47 Vict. c. 14, was passed, and that there are now local offices of the court established in Thunder Bay and Algoma. The time for appearance, we think, should have been regulated not inerey by reference to the place of service, but also by reference to the place where the appearance is required to be entered. For example, it seems unreasonable to allow a man served in Thunder Bay, whose appearance is to be entered in Thunder Bay, forty days, or four times as long as he would be allowed if served in Toronto; and it does not seem reasonable that a longer time should be allowed for appearance where service is effected in Thunder Bay than is allowed where service is effected, say in Rainy River District.

In *Rule 271*, which provides in what cases action may be brought in the High Court against persons resident out of the jurisdiction, the revisers have followed the English *Rules* of 1883, instead of the present Ontario *Rule 45*, and the provision in the present Ontario *Rule 45e*, to the effect that an action may be brought against a person out of the jurisdiction when he has assets of the value of at least \$200 within the jurisdiction, which may be rendered liable in the event of the plaintiff recovering judgment in the action, has been omitted. This, we think, is a serious mistake.

By *Rule 299*, when a notice disputing a claim is filed in a mortgage action, a motion for judgment will hereafter be necessary, whereas under the present *Rules*, according to the decision in *Trust and Loan Co. v. McCarthy*, 19 C. L. J. 188, judgment might in such a case be obtained on *præcipe*. It may be doubted whether the change effected by *Rule 299* is any improvement. Under the former practice in Chancery a defendant simply filing a note disputing the amount claimed, was entitled to four days' notice of the taking of the account. This provision does not appear to be preserved in the new *Rules*—such a defendant would appear to be now entitled to the ordinary notice, but what is to be "the ordinary notice" does not appear.

Under the new *Rules*, all judgments delivered at places elsewhere than Toronto are to be settled "when necessary" by the Deputy Registrar, Deputy Clerk, or Local Registrar, at the places of trial, subject to the right of either party to apply on notice to one of the judgment clerks, or to the judge, to vary the minutes. As many of the local officers have unfortunately had no legal training, and have had no experience in equity practice, the duty which is thus cast upon them is one that we fear they will not, as a rule, be very competent to perform satisfactorily. The sole merit of the procedure prescribed by *Rule 761*, if merit it can be called, is that it will probably increase costs.

It was much to be desired that some uniform rule should be laid down as to the entry of orders. While in the Chancery Division it has been customary to enter all orders made in court in full, in the other Divisions, no court orders are entered at all. The consequence will be that in the investigation of titles depending on such unentered orders, in the event of their loss or destruction, not a little difficulty is likely hereafter to arise. While the practice in the Chancery Division has been perhaps too strict, the practice in the other Divisions has undoubtedly been too lax; and it would have been well if some *Rule* had pre-

scribed the class of court orders which should be entered in full in all the Divisions. This, we regret to say, has not been done. *Rules* 546, 773, 774, do not cover the ground.

The filing of reports of Local Masters is regulated by *Rule* 84. The reports of Local Masters are to be filed in their own offices, but may at the request of any party be forwarded to the Clerk of Records and Writs; in other cases a report is to be filed in the proper office of the Division at Toronto. Reports are to become absolute at the expiration of fourteen days from their filing, unless notice of appeal is served within that time (*Rule* 848); and appeals from reports are no longer to be heard in chambers, but are in all cases to be brought on in court. The notice of appeal is to be seven days' notice, and is to be returnable within a month from the date of the report, and is to be set down for argument before a judge in court for the day on which the motion is returnable (*Rules* 849, 850).

*Rule* 892, which relates to the amounts to be indorsed on writs of execution for the costs of writs, appears to be defective. It states that it shall be the duty of the officer issuing the writ to indorse the amounts "hereinafter mentioned," but, unfortunately, no amounts whatever are thereinafter mentioned.

One of the worst instances of the typographical blundering to which we have referred is to be found in *Rule* 1020, which, as printed, is simply nonsense. It reads as follows:—

"The Local Master shall be entitled to confer or correspond Act time to time with the Inspector of Titles, for advice and assistance from questions of practice or evidence, or other questions arising under the one or under these *Rules*."

By *Rules* 1038-1044, the procedure with regard to contested municipal elections is simplified. Writs of *capias ad respondendum* are abolished by *Rule* 1045, and an order for arrest substituted. We are not, however, quite clear that the provision as to the issue of concurrent orders is sufficient to authorize such orders being addressed to different sheriffs from the one named in the original order.

The *Rules* relating to *bailable proceedings* appear to us to be sadly defective. If there be any branch of practice more than another which needs simplification and codification it is this, and yet these *Rules* leave the practice in about as incomprehensible a condition as it was before.

Writs of *replevin*, *mandamus*, prohibition and *certiorari* have been abolished, and orders substituted. The *Rules* 1141-1169, relating to interpleader applications appear to be well framed.

With regard to the vacations, some changes have been made. Since the Judicature Act came into force, the long vacation has included the 1st September, but this day has now been excluded. Formerly the Christmas vacation was excluded in the computation of time, for filing or amending pleadings, for setting down demurrers, appealing from reports, moving to discharge orders of revivor, moving to set aside a judgment by a party served therewith, or taking proceedings in appeal; but hereafter, as we read *Rule* 484, only the long vacation is excluded from the time allowed for the foregoing proceedings, so that Christmas vacation is to a great extent blotted out.

With regard to the sittings of the court for the transaction of the weekly business, provision is made for holding one weekly court for all the Divisions, on Tuesday, Wednesday and Friday—Monday and Thursday being devoted to judges' chambers, and Saturday being an off-day. But it seems to be doubtful whether these particular *Rules* will go into operation in September. In the event of their going into force, all motions, except those that are *ex parte*, are to be set down with the Clerk of Records and Writs (*Rule 541*), and also all chamber appeals (*Rule 545*).

Summonses to show cause, and rules *nisi*, we are glad to see, are abolished, and the procedure by notice of motion substituted in all cases (*Rule 526*). It has also been made clear that *ex parte* orders may be rescinded without appeal.

In *Rule 616*, we think a slip has been made by omitting to provide within what time affidavits in answer to a motion are to be filed, as did the Chancery Order 261, from which *Rule 616* is adapted.

We believe we have now touched upon the principal changes effected by the Consolidated *Rules*, and from what has been said, it will be seen that they are neither very numerous nor important; at the same time the consolidation is anything but perfect, and will, we think, need revision before the *Rules* can be considered satisfactory as a code of practice.

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## Reviews and Notices of Books.

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*The Statute Criminal Law of the Dominion of Canada, relating to Indictable Offences, with full text as revised in 1886, and put into force by Royal Proclamation on the 1st day of March, 1887, and Cases, Notes, Commentaries, Forms, etc., etc.* By HENRI ELZEAR TASCHEREAU, one of the Judges of the Supreme Court of Canada. Second Edition, re-arranged and enlarged. Toronto: Carswell & Co., Law Publishers. 1888.

As stated by the learned author in his preface to this second edition, the passing into law by Royal Proclamation on March 1st last, of the Revised Statutes of Canada rendered necessary the publication of a new edition adapting the references, notes, commentaries and forms contained in the previous edition to the sections of the criminal statutes to which they respectively apply, as they now appear in the Revised Statutes. The English Crown cases are brought down to the latest date, and to these have been added a large number of cases from all the Provinces of the Dominion, principally selected from those determined since the Criminal Statute Law was made uniform throughout the Dominion in 1869. Over 800 new cases are referred to in this edition. An important addition to the work, and one which greatly enhances its value, are the manuscript notes of Mr. Greaves on various subjects which that eminent writer gave to Judge Taschereau to be used in connection with this edition of his work. This volume also contains a number of statutes with full notes, not comprised in the first edition.

The editor informs us in his preface that it was intended to give a still wider scope to the work by including the penal clauses comprised in the Customs Act, England Revenue Act, Indian Act, Government Railway Act, Trademarks Act, Postal Service Act, the Banking Act, Wrecks and Salvage Act, with others, but this would have added largely to the volume of the work, and would not have been of sufficient general interest to warrant the expense of publication. The suggestion has been made that the Federal Government should assist the learned editor in an undertaking of this kind, and we gladly endorse this suggestion. There are many holding public positions to whom such a book would be a great boon, and the working of the various departments covered by these enactments would be very materially benefited. Book-making in the legal line is not remunerative in this country, giving very little for valuable time spent, and such a work as that proposed would be money out of pocket to anyone undertaking it.

The work before us is a valuable compendium of criminal law. It contains a mass of information collected with the greatest care from a number of sources, English, American and original. For example, we notice, in addition to the manuscript notes of Mr. Greaves, some notes by our old friend Mr. G. W. Wicksteed, who also has a thorough familiarity with the subject of Canadian Criminal Law. The cases cited, and information given, are placed under the appropriate sections of the various Acts, with full references to analogous sections. We doubt not this book will be appreciated not only in Canada, where it is necessarily of most value, but also in England and the United States. Whenever the author has found it necessary to express his own views on any point, or to criticise enactments or authorities, he lays down his propositions with clearness, and treats them in a way which shows him to be master of his subject. The country is under a debt of gratitude to Mr. Justice Taschereau for his most successful effort to clear up difficulties in this most important branch of the law, and to lay before those concerned in its administration a clear, accurate and intelligent review of the provisions coming within the scope of the work.

We are glad to see one of our judges devoting himself thus to legal literature. Speaking generally, they have not much time for such work. Their brethren in England, however, are not only not unknown in this field, but occupy a foremost position therein. We are glad that Mr. Justice Taschereau has set the example in this country, and we trust others competent to do so will follow it.

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*Lindley on Partnership. Vol. 1.* Blackstone Publishing Co., Philadelphia.

This is the last issue of the text-book series of the Blackstone Publishing Company of Philadelphia. It is reprinted from the fifth English edition. The learned editor is assisted in this edition by William C. Gull, Esq., and Walter B. Lindley, Esq., and American notes are added by Charles Y. Avdenried. These notes add largely to the value of the book in this country. We would again call the attention of those of our readers who have not yet subscribed thereto to this series of law books. The price is nominal—only \$15 a year. The selection is admirable, and taken from the latest editions of the various works republished.



## Proceedings of Law Societies.

### *THE LAW SOCIETY OF UPPER CANADA.*

#### RESUME OF PROCEEDINGS.

SPECIAL meeting of Convocation called to consider the report of the Committee on the Law Faculty.

*Saturday, 14th April, 1888.*

Present—Sir Adam Wilson, and Messrs. S. H. Blake, Bruce, Ferguson, Foy, Hoskin, Irving, Lash, McCarthy, Mackelcan, Maclennan, Martin, Meredith, Morris, Moss, Murray, Osler, Purdom, Robinson, Shepley and Smith.

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

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

Mr. Moss, on behalf of the Committee appointed by Convocation, to consider and report on the question of the establishment and maintenance of a Law Faculty, presented a report, dated 29th March last.

The said report was then laid before Convocation.

A letter was also read from the Hamilton Law Association, enclosing a resolution passed on 10th April, 1888.

Mr. Moss moved the adoption of the report, seconded by Mr. Lash.

The report is in the following words:—

#### *REPORT OF THE LAW FACULTY.*

*To the Benchers of the Law Society:*

The Committee on the Establishment and Maintenance of a Law Faculty, appointed by resolution of Convocation on the seventeenth of February last, beg to report as follows:—

1. The Committee have considered further the matters before, and by the resolution of the seventeenth of February last, referred to them, and, as directed by Convocation, they caused to be forwarded to the authorities of each of the Universities in the Province of Ontario, a copy of the report of the Joint Committee of the Law Society and the University of Toronto, and requested from the Universities suggestions in writing upon the matters before the Committee.

2. In response to such request, the Committee received suggestions from the authorities of the following Universities, viz.: Queen's College, Kingston; Trinity College, Toronto; College of Ottawa, Ottawa; and their communications are appended hereto.

3. The Committee also, as directed by Convocation, requested the presence of representatives of the Universities at a meeting held on the seventeenth instant, and in response to such invitation, the following representatives of Universities were present, viz.: Dr. Watson, representing Queen's College; Provost Body, representing Trinity College; Wm. Kerr, Q.C., representing Victoria College; W. M. Clarke, Esq., representing University of Toronto.

A prolonged discussion upon the subject of the scheme reported by the Joint Committee, and the objections thereto suggested by the appended communications, took place, in the course of which the representatives of Queen's and Trinity, in response to an inquiry as to whether, in the event of Convocation seeing fit

to modify the scheme of the Joint Committee so as to include the suggested changes, their respective Universities would come in under the arrangement, stated their inability to pledge their Universities to such a course.

4. The Committee further report that they are informed by the Secretary that he did as directed by Convocation, transmit to every County Law Association a copy of the report of the Joint Committee, and of the resolution of Convocation of the seventeenth of February last, with a request that the same be brought to the notice of the members of the Association, and that in response he has received the appended communication from the Law Association of Frontenac, but no other.

5. The Committee do not deem it necessary to make any further suggestions. All of which is respectfully submitted.

(Signed) CHARLES MOSS, *Chairman*.

March 29, 1888.

APPENDIX.

COMMUNICATION FROM QUEEN'S COLLEGE.

Queen's University, Kingston, Canada, March 10th, 1888.

J. H. Esten, Esq., *Secretary, Law Society of Upper Canada* :

SIR,—I received yours of the 22nd ult., enclosing report on the establishment of a Law Faculty under the joint management of the Law Society and the University of Toronto, and requesting me as Principal of Queen's College and University to make suggestions on the report.

Permit me to observe : First, that having looked over the scheme proposed, I find that nothing is said regarding the object to be gained by the innovation, and that nothing is said regarding the nature or extent of the examinations which candidates must pass. For example, the Preliminary Examination may mean the present Junior Matriculation, or Senior Matriculation, or it may mean something less than the Junior or more than the Senior. It is, therefore, difficult to offer criticisms. I would respectfully ask for more light. Secondly, as the terms of the proposal are to form the basis of an alliance between the Law Society and any University in Ontario, I submit, that if such alliance be thought desirable, the basis be considered by a joint committee, representing the Law Society and the Universities. To such joint committee Queen's would doubtless send a representative. The action of the Society in sending me the report for suggestions indicates that this is its view.

So much *in limine*. Coming to the merits of the question, I would simply ask: (1) Is it wise to shorten the time now required from candidates for the profession of law? The great mass of candidates will always prefer a short course, no matter how bad it may be. If a man can get a University Degree and the Degree of Barrister-at-Law, and admission as a Solicitor in four years, how many will take the present course of seven years? Can a man be as well prepared for any profession in four years as in seven? (2) Why should the Law Society and any University aim at a concurrent Academic and Professional course? The Law Society can best assist a University by requiring university standing from candidates, or by giving the present or even more encouragement to take the Degree of B.A. A University can best assist the Law Society by giving the most complete culture to those who intend to be candidates for the legal profession. Let each do its utmost to make improvements in its own department.

I have the honor to be, Sir,

Your obedient servant,

(Signed) GEORGE M. GRANT, *Principal*.

## COMMUNICATION FROM TRINITY COLLEGE.

*Memorandum on the proposed scheme for the establishment and maintenance of a Law Faculty.*

The Corporation of Trinity University have given careful consideration to the scheme for the establishment of a Law Faculty, submitted to them by the Law Society, and are of opinion that the scheme in its present form, is likely to seriously injure the Arts departments of the various Universities, and also to lower the general standard of education of members of the legal profession.

The reasons which have led them to this conclusion, are the following, viz. :

1. Whilst experience has shown that the shortening of the time of legal study for Graduates in Arts from five years to three, has always induced a considerable number of candidates to acquire the liberal education requisite for a B.A. degree, whether in Pass or Honors, before beginning their professional studies, the proposed plan of admitting to the degree of LL.B. and Barrister-at-Law, after four years passed in professional studies only, will largely remove the inducements hitherto held out to candidates to obtain this more liberal education, and will seriously diminish the number of such candidates. It is to be feared that the advantages of a B.A. degree over that of LL.B., will not be sufficiently appreciated by the mass of students, to induce them to spend two additional years in obtaining it, and thus damage will be done to the Arts departments of the Universities, and to the interests of Higher Education.

2. A further disadvantage under which Graduates in Arts will be placed by the new scheme is that they will be deprived of the present complete course of law lectures extending over their three years of legal study, and will receive only a partial course of two years on subjects not treated of in the lectures of the University of Toronto, although it seems doubtful whether, under the scheme, even the partial course will be open to such graduates or to any students not proceeding under the scheme.

3. Further, this proposed scheme will, in the opinion of the Corporation, seriously affect the work of the Law Faculty of this University, which is intended to encourage among Students-at-Law and Barristers, a course of reading of a wider, and less purely professional character, than that required for the Degree of Barrister-at-Law. A consideration of the Curriculum for B.C.L., in this University, will show that in addition to subjects of a purely professional character, candidates are required to study such subjects as Civil Law, its history and development; International Law, Political Economy, Parliamentary Government, and Constitutional History and Law. According to our present regulations candidates cannot be admitted to the Degree of B.C.L. under the age of twenty-three years, unless they are Graduates in Arts. In our opinion a great mistake would be made in discouraging this course of study of three years, and substituting in its place a course of lectures on some of these subjects extending over two years only, to be given for the most part to boys just fresh from school, of undeveloped powers of mind, and incapable of properly appreciating such subjects or assimilating such instruction. Whilst the corporation entertains these strong objections to the whole scheme as proposed, should it be approved of in principle by the Law Society, they are of opinion that it might be greatly amended by the following changes :

1. That the term of two years of legal study at Osgoode Hall should be extended to three years, thus placing it more nearly on a par with that required from Graduates in Arts.

2. That provision should be made for supplying Students-at-Law who are Graduates in Arts, as well as other Students-at-Law, with a complete course of legal lectures, such as is now furnished by the Law Society.

3. That it should be clearly provided that the two years spent at a University under the proposed scheme, should be spent in the Faculty of Law alone.

4. That the provision of the new scheme should be made applicable to any University in Ontario, without necessitating any further legislation on the part of the Law Society.

The Corporation beg to submit herewith a list of amendments to the wording of the scheme sent to them, which will have the effect of introducing into it the suggested changes :

*Proposed amendments to Report, suggested by Trinity College, according to numbered paragraphs.*

1. After "Upper Canada," omit "and the University of Toronto," and add "and such Universities of Ontario as shall be willing to enter into this scheme."
2. For "the Senate of the University," substitute "the Governing Bodies of the several Universities."
3. For "four," read "five."
4. For "the University," read "each University;" after the "third," omit "and," and after "fourth," read "and fifth."
5. For "this University," read "the Universities."
6. For "four," read "five."
7. Before the word "University," substitute "their" for "the," and add after "University," "in the Faculty of the Law."
8. For "the University," read "his University."
9. After the word "third," omit "and," and after "fourth," add "and fifth."
10. For "four," read "five," for "the University," read "his University;" after "LL.B." add "or B.C.L.," for "to the University," read "to that University," for "as the University," read "as the said University."
12. After "LL.B.," add "or B.C.L.," instead of "two," read "three."
13. Before "University," substitute "each" for "the."
14. For "the University Senate," substitute "the Governing Body of each University."
15. Omit all the words from "Composed of," to "annually," and read instead "Members, one to be chosen by each University, and the remainder by the Law Society, so that the number appointed by the Law Society shall always be one greater than the number appointed by the Universities."
17. After "Fitness," add "or with the present provision for lectures open to all Students of Osgoode Hall."
18. Omit 18.

COMMUNICATION FROM COLLEGE OF OTTAWA.

College of Ottawa, Ottawa, March 13th, 1888.

*To the Secretary of the Law Society of Upper Canada :*

SIR,—Your letter of February 22nd, and the enclosed scheme, have been duly communicated to the Senate of the University College of Ottawa, at its meeting of March 12th, and I have been instructed to send you in answer the following copy of a Resolution adopted by said Senate at the above-mentioned meeting :

*Resolved,* that the Senate of the University College of Ottawa, after having considered and examined a scheme for the establishment and maintenance of a Law Faculty, submitted by the Joint Committee of the Law Society of Upper Canada and the Senate of the University of Toronto, is of opinion that the said scheme as exposed is conducive to the advancement of the study of Law in

our Province, and that it contains nothing objectionable to the rights and privileges of other Universities. Provided that the same advantages now granted to the University of Toronto be virtually secured to any other University wishing for the same.

*Resolved*, also, that the said Senate of the University of Ottawa hereby claim the right of entering into a similar scheme with the Law Society of Upper Canada as soon as said University shall have organized its Law course.

Thanking you for your communication, and hoping that you will kindly inform us of any proceedings in this matter,

I am, Sir, yours respectfully,  
(Signed) C. F. MARSON, O.M.J.,  
*Secretary of the Senate of U. C. of Ottawa.*

COMMUNICATION FROM LAW ASSOCIATION OF FRONTENAC.

Kingston, March 15th, 1888.

At a meeting of the Bar Association, held in the office of Dr. Henderson, Q.C., the following resolutions were passed:—

Moved by James Agnew, seconded by R. V. Rogers, and

*Resolved*, "That the Bar Association of the county of Frontenac, having carefully considered the scheme of Legal Education, submitted by the Law Society, hold that it is wrong in principle, and not calculated to benefit the profession." Carried.

Moved by E. H. Smythe, LL.D., seconded by G. M. Macdonnell, Q.C., and

*Resolved*, "That while we object to any union of the Law Society with any other teaching faculty, we consider that if such a scheme is entered into, common justice demands that the same privileges shall be granted to all the Universities in Ontario." Carried.

Moved by R. W. Shannon, seconded by J. M. Machar, and

*Resolved*, "That no shortening of the time required to be spent by students or articled clerks before being called to the Bar or admitted to practise should be allowed, except where the Degree of Bachelor of Arts has been taken previously to entry into the Law Society." Carried.

(Signed) R. W. SHANNON, *Secretary.*

Ordered, that the whole question of Legal Education be referred to a Special Committee to report to Convocation at as early a day as practicable, and that the further consideration of the report of the Committee on a scheme for the establishment and maintenance of a Law Faculty, be deferred until after the Committee appointed by this resolution shall have made its report; the Committee to be asked to consider the present scheme and any other which may be presented, as well as the following:—

1. Whether or not, it is desirable to enter into any arrangement with any University for the joint education of students.
2. Whether or not, it is desirable in any such scheme to shorten in any way the period of study or service of students.
3. And whether or not, it is desirable that the Law Society should aid in establishing branches of the Law School in other centres than Toronto, by lectures to be delivered, either under the direction of Local Bar Associations, or of any University domiciled in such centre, the attendance on such lectures where established to be compulsory.

The Committee to be instructed to request the presence of a representative of each County Law Association at its meetings, to confer with the Committee on the matters referred to them.

Ordered, that the following gentlemen be a Special Committee in accordance with the previous resolution, namely: The Hon. Sir Adam Wilson, Messrs. Moss, S. H. Blake, Irving, Mackelcan, Robinson, McCarthy, Osler, Bruce, Meredith, Maclennan, Murray, Hardy, Foy, Lash, Martin, Shepley, Purdom, Britton, Hudspeth and Fraser; of whom five shall form a quorum.

Convocation adjourned.

#### EASTER TERM, 1888.

THE following is a *résumé* of the proceedings of Convocation during Easter Term, 1888:—

The following gentlemen were called to the Bar during the above Term, *viz.*:—

*May 21st.*—John Gumaer Holmes, Arthur Stevenson, Robert Alexander Grant, Edward Albert Crease, Charles Horgan, James Richard Code, Archie Foster May, William Halloway Wallbridge, Gordon Hunter, Robert Richard Hall, William Carson Pettigrew McGovern, Ernest Solomon Wigle, Robert Maxwell Dennistoun, William Wallace Jones, Joseph Missett Musson, John Franklin Wills, Charles Howard Widdifield.

*May 26th.*—Robert Kimball Orr.

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

*May 21st.*—C. Horgan, J. R. Code, W. N. Irwin, J. F. Wills, W. S. B. Hall, C. R. Hanning, W. E. Hastings, J. E. Hansford (who passed his examination in Hilary Term last).

*May 26th.*—A. M. C. Steel, R. A. Grant, D. L. Sinclair, G. Hunter, R. R. Bruce.

*June 1st.*—T. J. Blain, E. D. Cameron.

The following gentlemen passed the Second Intermediate Examination, *viz.*:—

T. J. Mulvey, A. G. Browning, G. W. Bruce, J. G. Kerr, W. A. Skeans, A. G. Farrell, F. J. Travers, T. A. Rowan, J. H. Sinclair, F. C. Hastings, R. L. Gosnell, G. S. McCarter, W. A. Smith, A. Henderson, R. Baldwin, D. T. K. McEwan, J. T. Hewitt, W. H. Irving, D. M. Robertson, C. Swabey, D. S. Wallbridge, M. O. Johnston, A. I. McDonell.

The following gentlemen passed the First Intermediate Examination, *viz.*:—

N. W. Rowell, with honours and first scholarship; E. B. Ryckman, with honours and second scholarship; W. H. Murray, with honours and third scholarship; W. A. Logie and T. D. Law, with honours; and W. J. Fleury, A. J. Keeler, C. W. Kerr, J. W. McColl, J. Reeve, N. McKenzie, T. J. Murphy, R. A. Montgomery, E. Bayley, C. J. Notter, A. G. Smith, H. W. Stewart, F. J. Roche, D. Grant, H. Chatelain, G. T. Falkiner, F. F. Pardee, A. Abbott, H. L. Drayton, W. S. Buell, J. W. Morrice, E. H. Harper, J. D. Lamont, R. G. Pegley, J. J. Maclennan, W. W. Scane, J. R. L. Starr, J. F. Macdonald, D. Fenton, A. J. F. Sullivan, J. H.

McGhie, D. J. Macmurchy, H. J. Minhinnick, J. A. McMullen, M. R. Allison, F. W. Hill, J. J. Hughes, L. Irving, J. F. Lennox, W. Mills, E. W. McIntyre, C. E. Oles.

The following gentlemen were admitted as Students-at-Law, *vis.*:—

*Graduates.*—*May 3rd.*—Christopher Lewis Crassweller, Robert Benjamin Henderson, James Hales, Harry Darling Leaske and Edwin Pirie.

*June 23rd.*—Thomas O'Hagan, Lindley H. Bowerman, Angus Urquhart Bain, Edward Francis Blake, Horatio Clarence Boulton, Norman Phelps Buckingham, Thomas Alexander Gibson, Thomas Milne Harrison, Thomas Milton Higgins, William Frederick Hull, James Edmund Jones, Samuel King, Henry Langford, Robert McKay, Edward Mortimer, Gordon Waldron and George Wilkie.

*Matriculants.*—John Henry Coburn, Herbert Lennox, Robert Lincoln Reid.

*Juniors.*—George Frederick Blair, Charles Lester Mills, William Carney, Henry Jasper Martin, John Bacon Irwin, Merritt Alphæus Brown, Thomas Cranston Gordon, William Thomas Joseph Lee, Edward Donald, James William Lewis, Charles Tyrell Sutherland, Hugh Alexander Stewart, Adam Francis Hirst Mills, Frederick William Gladman, William Bledon Bentley.

*Monday, 21st May.*

Convocation met.

Present—Sir Adam Wilson and Messrs. Beaty, Foy, Hoskin, Irving, Kerr, McMichael, Martin, Meredith, Moss, Murray, Osler and Shepley.

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

Mr. Moss presented the report of the Legal Education Committee on the case of Charles Elliott, recommending that he be allowed his First Intermediate Examination as an articled clerk as of this Term, the allowance not to be taken as any recognition of his service under articles to Mr. O'Connor.

On the case of F. H. Keefer, recommending that he should either comply with or get rid of the order of Convocation of 6th September, 1884.

On the case of F. B. Fetherstonhaugh, reporting that as Mr. Fetherstonhaugh is not yet a barrister, it is premature to deal with his application.

On the case of J. I. Poole, recommending that he be allowed to present himself next Term, for an oral examination at the same time as the candidates for the Second Intermediate Examination.

The report was received, considered, adopted, and it was ordered accordingly.

Mr. Shepley gave notice that, at the next regular meeting of Convocation, he would move a resolution with reference to the insufficiency of the provision made in the Provincial Court Rooms at Osgoode Hall for Members of the Outer Bar, in the matter of desk or table accommodation.

Ordered that the notice stand for the 26th instant.

The petitions of Messrs. Bain, Bowerman and O'Hagan were read.

Ordered that the above-named gentlemen, all being graduates, be permitted to give four weeks' notice prior to the 26th June, when their cases will be dealt with by the Legal Education Committee.

The complaint of Miss Jemetta Craine against a solicitor was read.

Ordered that it be referred to the Committee on Discipline.

Ordered that the letter of Mr. A. Clark, of Harwick, be returned to him.

The complaint of Mr. J. A. Macdonell, of 1st March, 1888, the writ of summons, of 10th May, against the Law Society and Mr. S. H. Blake, and the letter of Mr. S. H. Blake to the chairman, dated 12th May, were read.

Mr. Murray, from the Finance Committee, read a report on the subject of the suit of Macdonell against the Law Society and Mr. S. H. Blake, which was adopted.

The Secretary read a complaint from Mr. J. A. Macdonell in reference to the noise in the Library, which was referred to the Library Committee.

A letter from R. J. Wicksteed, of Ottawa, dated 6th March, 1888, was read.

A letter from D. F. McArdle, of Listowell, dated 17th March, 1888, was read.

Ordered that a certificate be issued that he was duly called to the Bar on all arrears of fees being paid.

The Secretary read the report on the Law School for the season of 1887-1888.

Consideration of the report was deferred until the 26th instant.

*Tuesday, 22nd May.*

Convocation met.

Present—Messrs. S. H. Blake, Bruce, Ferguson, Guthrie, Irving, McCarthy Martin, Moss, Osler and Shepley.

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

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

The petition of George Wilkie was read.

Ordered that he be permitted to give four weeks' notice prior to the 26th June next, when his case will be dealt with by the Legal Education Committee.

Convocation adjourned until 12.30 p.m. to-day.

Convocation assembled at said hour.

Mr. Martin, from the Committee on Aid to County Libraries, presented a report, which was read, received, considered and adopted.

Ordered that the several sums of money recommended by the report adopted this day, be paid to the various Law Associations, viz. :—

|  |          |
|--|----------|
| To the County of York Association..... | \$145 00 |
| “ “ Carleton “ .....                   | 400 00   |
| “ “ Hamilton “ .....                   | 1000 00  |

The petition of F. H. Keefer, of 21st May, was received, read, and referred to the Legal Education Committee for report.

The Secretary drew the attention of Convocation to an inaccuracy contained in the report of the Examiners relating to the examination of R. R. Bruce, for Certificate of Fitness.

The Secretary was directed to call on the Examiners for a supplementary report forthwith.



Saturday, 26th May.

Convocation met.

Present—Messrs. Britton, Hardy, Hoskin, Irving, Kerr, McCarthy, Martin, Morris, Moss, Murray, Osler and Shepley.

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

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

Moved by Mr. Martin, seconded by Mr. Hoskin,

That Mr. Edward Blake, Q.C., M.P., be re-elected Treasurer of the Law Society of Upper Canada. Carried.

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

In the case of A. M. C. Steele, that his service be allowed, and recommending that his Certificate of Fitness be granted; and in the case of R. A. Grant, recommending that the filing of his articles be allowed, and that his Certificate of Fitness be granted.

The report was received and adopted, and it was ordered accordingly.

The Committee further reported in the case of F. H. Keefer, that the Committee do not see any ground for changing the order made on the 6th September, 1884.

The report was adopted.

The petition of H. I. Lyon was read.

Ordered that under rules now in force Convocation is unable to grant the petition.

The Secretary presented the report of the Examiners in the case of R. R. Bruce.

Ordered that Mr. Bruce be granted a Certificate of Fitness.

On motion of Mr. Martin, seconded by Mr. Moss, it was

Ordered that the Standing Committees for the current year be as follows, viz. :—

#### STANDING COMMITTEES FOR 1888.

*Finance.*—Messrs. S. H. Blake, Sir Adam Wilson, J. J. Foy, Æ. Irving, Z. A. Lash, E. Martin, T. H. Purdom, L. W. Smith; H. W. M. Murray, *Chairman*.

*Library.*—Messrs. G. F. Shepley, S. H. Blake, H. Cameron, J. H. Ferguson, D. McMichael, J. H. Morris, Charles Moss, C. Robinson; Æ. Irving, *Chairman*.

*Reporting.*—Messrs. B. M. Britton, H. Cameron, G. F. Shepley, F. Mackelcan, E. Martin, D. McCarthy, H. W. M. Murray, B. B. Osler; J. MacLennan, *Chairman*.

*Legal Education.*—Messrs. J. H. Ferguson, J. Hoskin, Z. A. Lash, F. Mackelcan, W. R. Meredith, J. H. Morris, B. B. Osler, C. Robinson; Charles Moss, *Chairman*.

*Discipline.*—Messrs. A. Hudspeth, J. K. Kerr, F. Mackelcan, J. MacLennan, D. McMichael, A. Bruce, C. Robinson, L. W. Smith; J. Hoskin, *Chairman*.

*Journals and Printing.*—Messrs. J. Beatty, B. M. Britton, J. J. Foy, C. F. Fraser, J. Hoskin, D. McCarthy, Charles Moss, T. B. Pardee; J. K. Kerr, *Chairman*.

*County Libraries Aid.*—Messrs. B. M. Britton, B. B. Osler, D. Guthrie, A. S. Hardy, A. Hudspeth, J. K. Kerr, W. R. Meredith, A. Bruce; E. Martin, *Chairman*.

Mr. Shepley's motion (notice of which was given on the 21st instant) was carried.

Mr. Kerr, from the Committee on Journals and Printing, reported in the case of Mr. John Bell, Q.C., that his seat as a Bencher had not become vacant.

The Secretary was ordered to write to the Solicitor and state in relation to the action brought by Mr. J. A. Macdonell against the Society, questioning the right of Mr. S. H. Blake to sit as a Bencher *ex-officio*, that Convocation desires that steps be taken at once to have the same brought before the court by special case, and that the counsel retained by the Society be consulted with that view.

Friday, 1st June.

Convocation met.

Present—Messrs. Bruce, Foy, Fraser, Guthrie, Hardy, Irving, McMichael, Mackelcan, Murray and Osler.

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

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

Mr. Mackelcan from the Discipline Committee, reported on the complaint of Miss Jemetta Craine, that a *prima facie* case had been made out, and recommended an investigation.

Ordered that the Report be adopted, and that the complaint be referred to the Discipline Committee for investigation and report.

A letter was read from A. G. Browning, dated 28th May, 1888, explaining his non-attendance at the Honour Examination held on the 26th May last. Also a letter from J. G. Kerr, of Chatham, dated 30th May, 1888, who had attended the examination of 26th May, asking for his travelling expenses, amounting to ten dollars, he having attended the Honour Examination on the 12th May as well as that of the 26th May.

Ordered that the subject of the two letters above mentioned do stand for consideration until the next meeting of Convocation, and that the Secretary, in the meantime, do enquire whether all of the Honour men will be able to attend on the 25th August next, at the examination for honours of the second intermediate of next term.

A letter was read from Mr. Walter Read, dated 29th May last, on the subject of the suit of *Macdonell v. The Law Society*.

Saturday, 9th June.

Convocation met.

Present—Messrs. Bruce, Hoskin, Irving, Kerr, Lash, McMichael, Martin, Morris, Moss, Murray, Robinson, Shepley and Smith.

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

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

Mr. Moss, from the Special Committee, to whom was referred the question of Honours and Scholarships, presented the report of the Committee, which was read, received and adopted.

Ordered that Messrs. N. W. Rowell, E. B. Ryckman, W. H. Murray, W. A. Logie and T. D. Law be awarded Honours in connection with the first Inter-

mediate Examination and that Mr. Rowell receive a scholarship of one hundred dollars, Mr. Ryckman a scholarship of sixty dollars and Mr. Murray a scholarship of forty dollars.

Mr. Martin, from the Special Committee on Legal Education, presented a report as follows :—

REPORT OF SPECIAL COMMITTEE ON LEGAL EDUCATION AND LAW SCHOOL.

To the Benchers of the Law Society of Upper Canada :

The Special Committee, appointed under the Resolution of Convocation passed on 14th April last, beg leave to report,

That they have held several meetings and considered the questions referred to them, and have attached hereto copies of the resolutions passed at the meetings, which are submitted for the consideration of Convocation.

All of which is respectfully submitted.

(Signed)

EDWARD MARTIN, *Chairman.*

Osgoode Hall, Toronto, June 6th, 1888.

The Secretary read the minutes of all the meetings of this Committee.

Ordered that leave be given to the Committee to sit again, and that they be requested to report.

Convocation does not at present deem it necessary that a Committee should visit the other law schools.

Mr. Moss introduced a rule as follows : That the Law School be continued for a period of one year, subject to be discontinued during that period, upon the creation of a Teaching Faculty, and that the present lecturers be also continued on the same terms.

The rule was read a first and second time.

The ordinary rule as to a third reading was unanimously dispensed with, and the rule was read a third time and passed.

Mr. Kerr, from the Committee on Journals and Printing, presented a report recommending certain changes in the Standing Orders of Convocation.

The report was received, read and adopted.

Mr. Kerr then introduced the following Rule, founded on the report.

Rule to amend the Standing Orders of Convocation, Rules 3 to 9, section xxi, page 62 of the Consolidated Rules.

Rules 3, 4, 5, 6 and 7 shall be amended so as to read as follows :—

" 3. The Sub-Treasurer shall, during the term of his office, safely keep the rolls and archives of the Society.

" 4. The Treasurer shall keep the custody of the seal of the Society, and personally, or by the Sub-Treasurer, hand over the same to his successor.

" 5. No alteration or addition shall be made in or upon the rolls of the Society, except under the authority of Convocation.

" 6. At the close of every Term the entries to be made on the rolls in consequence of the admissions, calls, elections or appointments or orders of Convocation during the Term, shall be thereupon made by the Sub-Treasurer in the

paper roll and the index shall be continued, and the paper roll and index shall thereupon be submitted to the Committee on Journals and Printing for examination and approval.

"7. The entries in the parchment rolls of the society shall be made by the Sub-Treasurer from the paper roll, under the superintendence of the Committee on Journals and Printing.

"Rules 8 and 9 are hereby repealed."

The Rule was read a first and second time, and was ordered to be read a third time on 26th June next.

Moved by Mr. Martin, seconded by Mr. Moss,

Whereas the rooms known as the Library Rooms should be used exclusively for the purposes of a library, and none of the office business or affairs of the Society should be carried on or transacted therein, and such office and other business should be carried on in another portion of the building at some considerable distance from the library.

*Resolved*,—That a Special Committee to be composed of the Chairmen of the Standing Committees be and is hereby appointed to enquire into and report to Convocation the best manner of carrying into effect the changes suggested by the resolution, and it shall be the duty of the Special Committee to ascertain what rooms are available for the transaction of the office business of the Society, and also to report what new arrangements will require to be made to carry out efficiently the proposed new arrangements.

And that Mr. Irving be Chairman of the Special Committee, and that Mr. Shepley do represent the Reporting Committee in the absence of the Chairman.

The Secretary reported on the attendance of John Bell, Esq., Q.C., and the Hon. T. B. Pardee.

The Secretary reported that the parchment Student's Roll has been written up to Hilary Term, 1888.

The petition of D. R. Taite was read and considered.

Ordered, that the Secretary inform the petitioner that the prayer of the petition is not granted.

Convocation adjourned.

#### HALF YEARLY MEETING.

(Subject to confirmation at the next meeting of Convocation.)

*Tuesday, 26th June.*

Convocation met.

Present—Messrs. Beaty, Foy, Fraser, Hoskin, Hudspeth, Mackelcan, McMichael, Morris, Moss, Murray, Shepley and Smith.

Mr. Hoskin was appointed Chairman.

Mr. Morris, from the Legal Education Committee, presented the report of that Committee, on the admission of candidates entitled to be entered on the books of the Society as Students-at-Law of the Graduate Class as of Easter Term, 1888, under the provisions of Rule 6, section iv., of the Rules.

The report was received, adopted, and it was ordered accordingly.

Mr. Mackelcan, from the Discipline Committee, presented the report of that Committee on the case of J. Baldwin Hands, on the complaint of Miss Craine, which was received and read.

Ordered that it be considered on the 4th day of September next, being the second day of Term, and that a call of the Bench be made for that day.

A communication from the late Mr. Vankoughnet was received and read.

Ordered that it be referred to the Reporting Committee.

Letters from Mr. Hands were received and read.

A letter from Mr. Storm, accompanied by an estimate of the cost of the proposed improvements in the library, was received and read.

Ordered that Mr. Storm's letter and estimate do stand until next Term.

A letter from Mr. Grace, accompanied by a bill of costs, was read and referred to the Solicitor.

The Secretary reported on the application of Mr. J. G. Holmes for a Certificate of Fitness, that he had passed his examination and that his time expires to-day, the 26th instant, and that he has proved his service up to this date.

Ordered that a Certificate of Fitness be granted to Mr. Holmes.

Moved by Mr. Shepley, seconded by Mr. Mackelcan,

That Convocation would suggest to the Government of the Province the following methods for the improvement of the desk accommodation provided for the outer Bar :

1. In the Queen's Bench, Common Pleas and both Chancery Court rooms, the abolition of the passage separating the Bar seats from those provided for the public, and the utilizing of the additional space thus gained in providing the contemplated improved desk accommodation.

2. In the Court of Appeal the alteration of the front three rows of seats for the outer Bar into two rows only, with the improved desk accommodation contemplated. Carried.

Mr. Kerr's Rule to amend the Standing Orders of Convocation, Rules 3 to 9, section xxi., page 62 of the Consolidated Rules, was read a third time and passed.

A letter from Judge McDougall, was read, applying for the use of the Convocation Room, for the meeting of the county judges.

Ordered that the use of the room be granted to the county judges for their meeting.

Ordered that the Library Improvement Committee be authorized, if deemed expedient, to order the erection during vacation of such iron standard shelves on the south side of the library as may be required, in order to give further accommodation for the books.

Convocation adjourned.

## DIARY FOR AUGUST.

1. Wed. ... Slavery abolished in British West India Islands, 1838.
5. Sun. ... 10th Sunday after Trinity.
6. Mon. ... Thomas Scott, 4th C.J. of Q. B., 1860. Prince Alfred born, 1844.
11. Sat. ... Battle of Lake Champlain, 1814.
12. Sun. ... 11th Sunday after Trinity.
19. Sun. ... 12th Sunday after Trinity.
21. Tues. ... 1st Intermediate examination.
22. Wed. ... Ont. Jud. Act came into force, 1881.
23. Thur. ... 2nd Intermediate examination, [1883].
24. Fri. ... St. Bartholomew. Sir Adam Wilson, J., C. P., [1863].
26. Sun. ... 13th Sunday after Trinity.
28. Tues. ... Solicitors' examination.
29. Wed. ... Barristers' examination.

## Early Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE  
FOR ONTARIO.HIGH COURT OF JUSTICE FOR  
ONTARIO.

## Queen's Bench Division.

Divisional Court.] [June 23.]

YARWOOD *v.* HART.*Breach of promise of marriage—Evidence—Corroboration—R. S. O. (1887), c. 61, s. 6.*

In an action for breach of promise of marriage, the plaintiff swore to the promise, and the defendant denied it and alleged that the plaintiff had been his mistress, which she denied. Witnesses were called on her behalf who showed that the parties were of the same social rank; that there was nothing unreasonable or improbable in their becoming engaged to be married; that he formed her acquaintance in 1880, and then commenced and continued for about six years to pay her attention, during which time his visits to her were constant; that he took her out driving frequently; that she received the attentions of no other man during that period, nor did he pay attention to any other woman; that he was received by her family as a lover; that he went to see and sat up with her father during his last illness; and that he made her frequent presents of jewellery, wearing apparel and money. Letters, also, were put in by the plaintiff, written by the defendant to her about the time it was alleged he had broken off their engagement, addressing her in loving

terms. The jury found that there was a contract, and a breach by the defendant, and that the defendant had failed to prove his defence; and they gave the plaintiff damages.

*Held*, that the evidence given was material evidence in support of the promise to marry, and that it furnished the corroboration of the plaintiff's testimony, required by R. S. O. (1887), c. 61, s. 6.

It was contended that the evidence was as consistent with the keeping by the defendant of the plaintiff as his mistress as it was with an engagement to marry.

*Held*, that the presumption was in favour of the moral and against the immoral relationship; and the fact that the defendant set up the immoral relationship as a defence did not render the evidence less material in support of the promise.

*Clute*, for the plaintiff.

*Ritchie*, Q.C., for the defendant.

## Chancery Division.

Boyd, C.] [June 11.]

SMITH *v.* METHODIST CHURCH.*Mortmain — Charitable Uses — Methodist Church—29 Geo. II. c. 36—14-15 Vict. c. 142—47 Vict. c. 88 (O.).*

A testator by his will bequeathed and devised all his property, real and personal, to a trustee upon trust, to convert the same into money and hold the proceeds upon trust; amongst other things, to pay to the treasurer, for the time being, of the Superannuated Fund of the Methodist Church, \$1,000.

*Held*, that the said bequest was not void under 29 Geo. II. c. 36, which is commonly but inaccurately called the Mortmain Act, but is really an Act to prevent the devising of lands for charitable uses. The Statutes 14-15 Vict. c. 142, which incorporated certain benevolent societies under the name of the Conventional Society of the Wesleyan Methodist Church in Canada, and which provides that the corporation may take up, grant, devise, or otherwise dispose of any land or interest in land, and vests in the corporation all lands, etc., which should thereafter be granted, devised or bequeathed in any manner or way whatsoever in favour of the said corporation,

amounts to and indicates a repeal in favour of this corporation of so much of the Charitable Uses Act of 1736 as prohibits persons devising lands to a charity.

The said testator further provided that the trustees should, after meeting the prior bequests directed in the will, pay all the rest and residue unto the treasurer, for the time being, of the Brant Avenue Methodist Church, to be applied by them or their successors in reducing the debt existing against the church property.

*Held*, that this residuary bequest was invalid, for there was no special law empowering the said trustees to hold lands except under the Statutes already referred to, incorporating the Connexional Society of the Wesleyan Methodist Church in Canada, and 47 Vict. c. 88, s. 6 (O.), being the late Statute incorporating the Methodist Church. The first Statute, 14-15 Vict. c. 142, was intended to confer benefits mainly upon two objects; first, the book and printing establishment, and secondly, the Superannuated Preachers' Fund. It had no reference to individual churches at all, and all that is intended to be expressed by the later Statutes, 47 Vict. c. 88, s. 6 (O.), is that, as the Connexional Society has been merged in the new and larger corporation of the Methodist Church, the latter corporation shall stand in place of the other, with all its powers, rights, etc., for the purpose and objects thereof, that is to say, of the Connexional Society; and the language does not warrant the construction that the special privileges granted by the Act of 1851 are to be extended to all the purposes and objects of the new ecclesiastical corporation, and, therefore, the argument that s. 6 of 47 Vict. c. 88, enlarges indefinitely the capacity of the new corporation—the Methodist Church—to hold land for all purposes, including that contemplated in the above will for the endowment of particular churches of the body, could not be sustained. Here, the devise was not six months before the death of the testator, as required by the general law, R. S. O. (1887), c. 216, s. 19.

*Harley*, for the plaintiff.

*Riddell*, for the next of kin.

*Osler*, for A. W. Semmans and M. H. Phillips.

*Maclaren*, for the Methodist Church.

*Brewster*, for the trustees of the Brant Avenue congregation of the Methodist Church.

Ferguson, J.]

June 21.

STEVENSON v. MCHENERY.

*Misrepresentation—House described as "solid brick"—Insufficient description of lands in agreement.*

Two houses were built with extensions in rear, in a terrace or row, the inside walls of the terrace and the extensions being brick, but the inside walls between the houses themselves and the adjoining houses, and also between the extensions and the main houses, to the height of the roofs of the extensions, being of wood, lathed and plastered; but the outside rear walls of the houses above the roofs of the extensions being brick resting upon timbers at the top of the wooden wall below.

*Held*, not to be "solid brick" houses.

The property in an agreement, for instance, was described as "135 ft. on G. ave., the same being 337 ft. west from R. ave., Parkdale, on the north side of said avenue."

It was shown that R. ave. was the west boundary of Parkdale, and G. ave. a street in it, which as such street would have its termination at R. ave., but it extended across R. ave. as a road or way outside of Parkdale, and no further description of said land was given, such as the depth or by reference to a plan or otherwise.

*Held*, that the property was not sufficiently described.

*Moss*, Q.C., for the plaintiff.

*Laidlaw*, Q.C., for the defendant.

Ferguson, J.]

[June 27.

Re HARGIN AND FITZINGER.

*Will—Devise—Properties—Real Estate covered—Occupation of tenant—Possession of testator.*

A testator, by his will, provided as follows: "I will and bequeath to C. H. all properties, moneys and personal effects now in my possession for her own and sole use, to be disposed of as she may see proper."

*Held*, that this devise passed real estate.

*Held*, also, that real estate in the occupation of a tenant at the time of the testator's death was in the possession of the testator.

*Hoyles*, for the vendor.

*C. J. Holman*, for the purchaser.

Ferguson, J.]

[June 29.

WRIGHT v. COLLINS *et al.**Will — Construction — Wrong Description — Falsa Demonstratio.*

Where a testatrix by her will devised as follows: "I give, devise and bequeath to my husband all my real estate, composed of the north-west quarter of lot number ten in the sixth concession of the township of Mersea;" and it appeared that she had never owned the said lands, but had owned and lived upon the north-west quarter of lot ten in the fifth concession of the township of Mersea.

*Held*, that by virtue of the fact that the will, taken apart from the erroneous description, contained a gift or devise of all the real estate of the testatrix which would, taken alone, be a sufficient description for the purpose of passing the lands really owned by the testatrix to the plaintiff, the part of the description referring to lot ten in concession six might be rejected as *falsa demonstratio*, and the lands really owned by the testatrix held to have passed to the devisee.

*Hickey v. Stober*, 11 O. R. 106; *Re Shover*, 6 O. R. 312; *Summers v. Summers*, 5 O. R. 110, distinguished.

*Clark*, for the plaintiff.

*Blake*, Q.C., for the infant defendants.

Full Court.]

[June 30.

QUEEN v. WEBSTER.

*Municipal corporations — By-law — Favouritism — Delegation of functions — R. S. O. 1887, c. 184, s. 496, ss. 14.*

On January 7th, 1880, the Council of the town of Parkdale passed a by-law, entitled "A By-Law to Regulate or Prevent the Carrying on of Manufactures or Trades Dangerous in Causing or Promoting Fire," whereby it was provided that no such manufacture or trade should be allowed to be carried on within 300 feet of any other building, and a fine of from \$5 to \$20 imposed for each day that a violation of the by-law continued, with distress on default of payment, and imprisonment in default of sufficient distress.

Afterwards they passed another amending by-law, providing that the restriction should not exist if the owners of such buildings within 300 feet consented in writing, the said consent, however, to be submitted for approval by the Chairman of the Board of Works.

*Held*, that the by-law as amended was invalid within the principles laid down in *re Kiely*, 13 O. R., at p. 457, and in *re Nash and McCracken*, 33 U. C. R. 181, viz., because by requiring the consent of the owner of the adjoining buildings to be obtained it constituted three persons the judges of the right asked for, and divested the council of the power they should personally exercise, and by requiring the approval of the Chairman of the Board of Works it permitted favouritism, and all persons who desired to follow the same trade were not placed or might not be placed on the same footing. It was also bad because it delegated in part the exercise of the judgment and discretion that should be exercised by the enacting body alone under R. S. O. 1887, c. 184, s. 496, ss. 14.

*Shepley*, for the prosecutor and the magistrate.

*G. W. Holmes*, for the defendant.

Robertson, J.]

[July 6.

Re INGERSOLL, GRAY v. INGERSOLL.

*Registrar — Fees — Salary — Apportionment — R. S. O. (1877), c. 111, ss. 98-104.*

Appeal from the report of the Master at Woodstock, made in reference to the claim of the county of Oxford against the estate of James Ingersoll, in respect to the proportion of the fees received by the said James Ingersoll, during the year 1886, in his capacity as Registrar of Deeds.

The said James Ingersoll died on August 9th, 1886, having received up to that date \$4,042.75. His deputy filled the vacant position from August 9th, 1886, to August 25th, 1886, receiving \$272.65 in fees, and the present Registrar was then appointed, and received during the balance of the year \$2,444.85, making a total received of \$6,760.25.

The county made their claim under R. S. O. 1877, c. 111, ss. 98 to 104, and it was contended



on their behalf that the account should be taken by allowing one salary to all these officers, based on the sum of \$6,760.25, making the deduction on said amount, apportioning such deduction *pro rata* amongst each incumbent, and charging each with the amount so ascertained.

*Held*, *contra*, that the Master was right in rejecting this basis of computation, and in allowing the county only on the amount received by each of the several persons, thus letting the two latter out from an contribution, and making the contribution due from the estate of James Ingersoll \$317 only, instead of \$1,074, which would have been due on the other computation.

The meaning of s. 98 of the Statute is that each Registrar is not to account to the county for any sum whatever until after he has received the sum of \$2,500, after which he is entitled to receive ninety per cent. of the excess of \$2,500 up to \$3,000, and after that eighty per cent. up to \$3,500, and so on, according to the scale provided by the subsequent section. The Act being in derogation to the rights of Registrars as they previously existed, under the common law must be construed strictly.

*Ball*, Q.C., for the appellants, the Corporation of Oxford.

*W. Nesbitt*, for the executor.

Robertson, J.]

[July, 6.

*Re GRACY AND THE TORONTO REAL ESTATE CO.*

*Vendor and purchaser—Married woman—Conveyance by—Joinder of the husband.*

A married woman, married between 1859 and 1872, acquired before the year 1868 a vested remainder in land subject to a life estate, and in 1886, the life tenant still being alive, conveyed her remainder, by deed, without her husband.

*Held*, that the conveyance was valid to pass the whole estate, and the life tenant having since died, a good title in fee simple under the conveyance could be made.

*E. D. Armour*, with him *G. G. S. Lindsay*, for the vendor.

*E. T. Malone*, for the purchaser

*Practice.*

Court of Appeal.]

[May 8.

*MERCHANTS' BANK v. LUCAS.*

*Evidence—Court of Appeal—Application for leave to adduce further evidence.*

The defendants, upon their appeal from a Divisional Court, applied for leave to adduce further evidence to corroborate or strengthen that already taken upon a point which was argued before the Divisional Court, and decided adversely to the applicants.

The application was refused.

General remarks, per *PATTERSON*, J.A., on the reception of further evidence by appellate courts.

*McCarthy*, Q.C., for the applicants.

*Robinson*, Q.C., *contra*.

Armour, C.J.]

[June 29.

*COUSINEAU v. CITY OF LONDON FIRE INSURANCE CO.*

*Mistake—Effect of offer—Release—Costs “as between solicitor and client.”*

A party cannot be released from an offer, deliberately made to and accepted by the opposite party, on the ground that his offer turns out to have some different effect from what he supposed it would have.

Costs “as between solicitor and client” in an action includes such costs as a solicitor can tax against a resisting client under the general retainer only to prosecute or defend the action.

*Aylesworth*, for plaintiff.

*C. Millar*, for defendants.

C. P. Divisional Court.]

[June 29.

*LIVERMOIS v. BAILEY.*

*Costs, scale of—Setting off costs—R. S. O. (1877) c. 50, s. 347, ss. 3.*

In an action for damages for breach of a contract, the jury awarded the plaintiff \$68.50, and the trial judge entered judgment for that amount, and certified to entitle the plaintiff to costs on the Division Court scale, and to pre-

vent the defendant from setting off High Court costs.

On appeal, a Divisional Court varied the order as to costs so as to give the plaintiff such costs only as he would have recovered under R. S. O. (1877) c. 50, s. 347, ss. 3, where the judge at the trial did not certify.

*Held*, that there was no reason for making the defendant pay extra costs for the mistake of the plaintiff in bringing his action in the High Court.

*J. W. Nesbitt*, for the plaintiff.

*Aylesworth* and *H. H. Collier*, for the defendant.

Armour, C.J.]

[June 29.

*In re* WHITE P. GALBRAITH.

*Mandamus—Division Court—Amount—Jurisdiction—Abandoning excess of claim—Amendment at trial—Discretion.*

General Rule 8 of the Division Courts provides that when the excess of a claim is abandoned, to bring the amount within the jurisdiction, it must be done in the first instance on the claim.

*Held*, that there is nothing in this rule to prevent the Division Court Judge permitting the plaintiff to amend his claim before or at the trial, upon such terms as he thinks fit; and general Rule 118, section 304, of the Division Courts Act afford ample authority for permitting such amendment; but the judge cannot be compelled by *mandamus* to exercise his discretion to permit an amendment.

*Hands*, for the plaintiff.

*C. J. Holman*, for the defendant.

Armour, C. J.]

[June 29.

ALPHA OIL CO. *v.* DONNELLY.

*Replevin—Direction of writ to liquidator of plaintiffs as sheriff—Irregularity—Waiver—R. S. O. (1877) c. 53 s. 9.*

In a replevin action the writ was directed to a sheriff who was the sole liquidator of the plaintiffs, and as such instituted the action.

*Held*, that this was at most an irregularity, and it was too late for the defendant to raise the objection after appearance.

R. S. O. (1877), c. 53, s. 9, applies to the case of an application on the merits, and not for irregularity only.

*Quere*, whether, even if the objection had been taken in time, it should have prevailed, having regard to the kind of duty the sheriff has to perform in executing a writ of replevin, and to the position of the liquidator as a mere officer of the court.

*C. J. Holman*, for the plaintiffs.

*Aylesworth*, for the defendant.

C. P. Divisional Court.]

[June 29.

DISHER *v.* DISHER.

*Writ of attachment—Setting aside—Powers of County Judge—Absconding Debtors' Act.*

Although a County Court Judge has power under s. 2 of the Absconding Debtors' Act, R. S. O. (1877), c. 66, to order the issue of a writ of attachment from the High Court, such judge has no jurisdiction to entertain an application to set aside the writ.

*Aylesworth* and *Lancaster*, for the plaintiff.

*W. M. Douglas*, for the defendant.

## Law Students' Department.

The following papers were set at the Law Society Examination for certificates of fitness and for call before Easter Term, 1888.

### *Certificate of Fitness.*

#### REAL PROPERTY AND WILLS.

1. State shortly how a purchaser of lands may forego his right to have a good title made, and give examples.

2. Explain the operation and effect of the Registry Act with respect to competing purchasers.

3. When does the purchaser of mortgaged land incur an obligation to remove the mortgage, and when not?

4. Are the Statutes of Mortmain in force in Ontario? Why?

5. A devise to trustees in trust to permit A. B. to take the rents and profits. A devise to trustees in trust to pay A. B. the rents and profits. Was there any difference in the con-

struction of these devises before the Devolution of Estates Act? Explain.

6. What, if any, advantage is there in buying land at a judicial sale? Explain fully.

7. Upon breach of a condition in a lease, what proceedings are necessary to be taken by the landlord before he can forfeit the lease and eject the tenant?

8. A bargain and sale is made to A. B. to such uses as he may appoint. A. B. endorses on the deed "I hereby appoint the within described lands to C. D. in fee simple." Explain the effect of this.

9. On a purchase of lands from an administrator, what covenants can he be compelled to give? Why?

10. What is the present state of the law as to using words of inheritance in conveyances?

#### SMITH ON CONTRACTS AND BENJAMIN ON SALES.

1. Is it necessary to the validity of a delivery of a deed as an escrow (*a*) that it should be expressed in words to be an escrow; (*b*) that it should be delivered to some person other than the grantee? Reasons.

2. What is the difference, in point of validity, between a verbal lease, and a verbal agreement for a lease? Why?

3. What is the effect of a contract of sale of a thing which has ceased to exist? Reasons.

4. Has the knowledge of the vendor that goods are bought for an illegal purpose any, and, if so, what, effect on the validity of the sale?

5. Is parol evidence admissible (*a*) to show that a written contract has omitted a material term of the bargain; (*b*) to show that an additional term was verbally agreed to after the written contract was made? Reasons.

6. Explain the difference as regards the passing of the title between a sale of a specific chattel and a sale of unascertained goods.

7. In what ways may a sale on trial become an absolute sale?

8. What is the test by which it may be determined whether an affirmation made by the vendor of goods at the time of sale is or is not a warranty?

9. What is the effect of an offer of sale of goods which the vendor agrees to leave open for a specified time? Reasons.

10. Explain the difference in effect between a warranty and a condition precedent.

#### MERCANTILE LAW—PRACTICE—STATUTES.

1. A. is in insolvent circumstances, B. is a large creditor of A's. To save what he already has put into A's concern, B. makes a further advance and takes as security a mortgage on all A's real and personal property. On A's subsequent failure, what tests would be applied to the transaction to test its genuineness? Why?

2. A. is in trade. He desires to get an advance from B. to enable him to carry on his business, and asks B. to discount his (A.'s) promissory note. State the requisites for a chattel mortgage to be given by A. to secure B. against his indorsement under the above circumstances.

3. What powers has an agent entrusted with the possession of goods?

4. What is the difference between *general* and *limited* partnership, and how may a limited partner protect himself against outsiders?

5. A. is in difficulties. He has a policy of insurance on his life. He indorses on the policy a declaration that the policy is for the benefit of his wife and family. How far will such indorsement hold good against his creditors?

6. A. binds himself to serve B. for ten years from 1st January, 1888. They quarrel and separate, and B. sues A. for breach of the agreement. Can he succeed? Why?

7. In what cases may the Court now award an injunction with damages?

8. What right has the assignee of a chose in action who has notice of claims conflicting with that of his own assignee?

9. The pleadings in a case were closed on the 6th February, 1888. The venue was laid at C., at which place the sittings commenced on the 7th May. The plaintiff took no step except on the 6th April to get a commission to take evidence in Chicago, which was returned on the 21st April. What are the defendant's rights? Why?

10. State the results of the non-appearance at the trial of the plaintiff and defendant, respectively.

#### EQUITY.

1. Distinguish between the right of an unpaid legatee to compel other legatees to refund in cases where (1) there was an original deficiency of assets; (2) where there has been waste by the executor. Giving reasons for your answer.

2. Discuss briefly the doctrine of conversion. Is there any Provincial legislation which may affect the same; if so, what?

3. A. sells to B. a certain property for the price of \$5,000; B. pays him \$3,000 in cash. and gives him a note for the balance. How is a lien as an unpaid vendor affected? Explain.

4. What circumstances must appear in order to invalidate an award for mistake on the part of the arbitrators, (1) of law; (2) of fact?

5. A. dies intestate. B., his widow, comes to you saying that she wishes to administer the estate. State your mode of procedure.

6. State shortly the nature of the equitable relief granted, if any, in cases where by accident there is a failure to execute a power.

7. What are, and what are not, sufficient acts of part performances to take a parol agreement for the sale of lands out of the statute.

8. Distinguish between a mortgage and a pledge of personal property.

9. How far are settlements made in consideration of a wife's equity to a settlement binding upon creditors?

10. A trustee is uncertain how to proceed in the management of the trust estate. What course would you advise him to pursue?

#### Coil.

#### REAL PROPERTY AND WILLS.

1. What effect, if any, have verbal statements and declarations made at an auction sale of lands by the auctioneer or vendor, upon the rights and liabilities of a purchaser, the sale being subject to written particulars and conditions?

2. Has an agent, for sale of lands, authority to receive and give a valid discharge for purchase money? Why?

3. What particulars must an agreement for sale of land contain so as to make it valid under the Statute of Frauds?

4. A land agent is instructed to find a purchaser for a building lot. He has been previously instructed by another person to look out for a lot upon which to build, and on showing him the lot in question, it is accepted, and the sale completed. He charges commission to both. Is he entitled to do so? Why?

In the absence of express agreement, what duty is it to prepare the conveyance, and whose the mortgage, upon a sale of land? Who bears the expense of preparing each, and

of getting each executed? Who bears the expense of registering deed and mortgage?

6. What is the effect of a *lis pendens* upon the rights of parties claiming subsequently thereto?

7. What will pass under a bequest of "ready money?"

8. Under a bequest to "issue," who will take?

9. Is there any case in which covenants for title will be implied in a conveyance? Explain.

10. A mortgagor becomes lunatic, and default is made in the mortgage. The power of sale is exercisable by serving notice on "the mortgagor, his heirs, or assigns." Can the power be exercised? Why?

#### HARRIS ON CRIMINAL LAW—BROOM'S COMMON LAW, BOOKS 3 & 4, BLACKSTONE, VOL. 1.

1. Define an *accessory before the fact*.

2. What is an *affray*; and how does it differ from an *assault*, and from a *riot*?

3. If a man is tried for *murder*, and acquitted, can he be afterwards convicted of *manslaughter*, upon the same facts? Why?

4. For what different purposes may evidence of a prior conviction be given against a prisoner on a criminal trial?

5. Distinguish *robbery* from *larceny*.

6. Show in what way *intention* is a more important element in *treason* than it is in *murder*.

7. If a chattel in the possession of a *gratuitous bailee* be injured by a third party, by whom may an action for such injury be maintained? Reasons.

8. Upon what is an action of trespass to realty founded? Answer in one word.

9. State briefly the difference between the liability of a master for a tort of his servant, and that of a person for a tort committed by one, with whom he *contracts* for certain work to be done.

10. Into what three different classes is the *unwritten* or *common law* divided.

#### CONTRACTS—EVIDENCE—STATUTES.

1. What is meant by *novation*? Illustrate by an example.

2. "The revocation of a proposal takes effect only when it is communicated to the other party." Is there any exception to this rule? If so, what?

3. How far is a promissory note given for a betting debt good? Why?
4. Distinguish *fundamental error* from *mistake*. Illustrate by example.
5. How do you prove a deed at the trial of an action?
6. A., plaintiff, desires to examine B., defendant, as a witness at a trial, how can he compel his attendance, and what would be the consequences of his non-attendance?
7. A., counsel for the plaintiff closes his case; B., counsel for the defendant, announces that he has no witnesses to call. What is the order to be pursued in addressing the jury?
8. A., counsel for the plaintiff, at the trial wishes to put in evidence, as part of his case, letters written by B. the defendant; B.'s counsel objects that no notice to admit has been served. Could A. proceed to prove the letters? If so, how?
9. What is the rule as to place of trial in actions for libel?
10. How far can a party at a trial use certified copies instead of original documents?

## EQUITY.

1. Sketch briefly the duties of trustees: 1. As to getting in outstanding property. 2. As to the custody of the property. 3. As to the proper investment of the same.
2. A., a resident of Toronto, dies intestate, leaving property in Canada and in the State of New York, and leaving debts in both countries. Letters of administration are taken out in each country. According to the law of the State of New York, there are certain debts entitled to priority in administering the assets in the State of New York, which law will govern, that of Canada or that of the States?
3. What is meant by consolidation of securities; in what cases, if any, will it be allowed in Ontario.
4. A. and B. have entered into a contract for the sale of lands; A. brings an action for specific performance, which B. defends, alleging misrepresentation on the part of A. What must he prove to succeed in his defence?
5. A testator, after making several bequests, bequeathed the residue of his estate to his executors "upon trust, to dispose of the same at such times and in such manner, and for such use and purposes as they shall think fit,

it being my will that the distribution be in their discretion." Explain the effect of this devise.

6. A vendor of land in Toronto, after receiving part of his purchase money, hands the vendee his deed upon the promise that the balance of the purchase money will be paid, his vendee sells the property to B. Explain the original vendor's position in different aspects of the case.

7. What is a promoter of a company? Illustrate the doctrine of constructive fraud by an example of the dealings of promoters with the proposed company.

8. Under what circumstances will parol evidence be admitted for the purpose of showing mistakes in wills.

9. What is meant by a negative covenant being enforced by injunction? Illustrate.

10. A. brings an action against B. on a contract which contains a clause agreeing to refer all matters in dispute to arbitration. B. seeks to have proceedings in the action stayed; and the arbitration clause complied with; can he succeed? Explain.

## Miscellaneous.

WE acknowledge receipt of the *Illustrated London News*, American edition. This is a faithful reproduction of the well-known English weekly, and we doubt not has a large circulation.

LITTELL'S LIVING AGE.—The numbers of *The Living Age* for July 7th and 14th contain *The Sunday Question*, and *Matthew Arnold, Contemporary*; *Goethe*, and *The Cloister in Cathay, Fortnightly*; *The Patriotism of a Hereditary Peerage, National*; *Correspondence of Sir Henry Taylor, Blackwood*; *Some Ideas of Schopenhauer, Gentleman's*; *The Letters of Charles Lamb*, and *A Brother of the Common Life, Macmillan*; *A Poet of Prose, Some Recollections of Bishop Wilberforce, and Health-Resort Vignettes, Temple Bar*; *The Empress Victoria of Germany, Argosy*; *Vagaries of Speech*, and *A Religious Revolution in Japan, Spectator*; *Do Birds Transport Each Other Through the Air? My Brother Henry*, and *The Lake City of Borneo, St. James's*; *The Scientific Writings of Joseph Henry, Nature*; *Sledging Through Siberia, Graphic*; *Fatal Result of Morphia-Taking, Lancet*; with instalments of "The Eaves-dropper," and poetry. A new volume begins

with the number for July 7th. For fifty-two numbers of sixty-four large pages each (or more than 3,300 pages a year) the subscription price (\$8) is low; while for \$10.50 the publishers offer to send any one of the American \$4.00 monthlies or weeklies with *The Living Age* for a year, both postpaid. Littell & Co., Boston, are the publishers.

### Appointments to Office.

#### DEPUTY-GOVERNOR.

John Joseph McGee, Clerk of the Privy Council for Canada, to be Deputy-Governor whether the Governor-General be absent or not.

#### LIEUTENANT-GOVERNORS.

##### *Province of Manitoba.*

Hon. John C. Schultz, Winnipeg, on and after 1st of July, *vice* Hon. J. C. Aikins, whose term of office has expired.

##### *Province of Nova Scotia.*

Hon. A. W. McLellan, on and after the 9th of July, *vice* M. H. Richey, Q.C.

##### *North-West Territories.*

Joseph Royal, LL.D., St. Boniface, on and after 1st July, *vice* Edgar Dewdney.

#### DISTRICT AND LOCAL JUDGE.

##### *Muskoka and Parry Sound.*

William C. Mahaffy, Bracebridge, Judge of the District Court of Muskoka and Parry Sound, and Local Judge of the High Court of Justice.

#### CORONER.

##### *Welland.*

William B. Hopkins, M.D., Marshville, Associate Coroner for the county of Welland.

#### DIVISION COURT CLERKS.

##### *Norfolk.*

James F. Cohoe, township of Middleton, Fourth Division Court, *vice* Charles S. Harris, resigned.

##### *Prince Edward.*

Walter Ross, Picton, First Division Court, *vice* Robert Boyle, appointed *pro tempore*.

#### BAILIFFS.

##### *District of Nipissing.*

Louis Jodouin, township of Springer, First Division Court, *vice* H. Kinch, resigned.

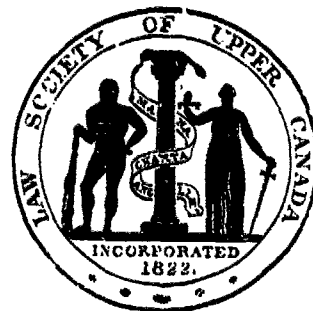
##### *Prince Edward.*

Charles H. Wright, Township of Sophiasburg, Third Division Court, *vice* I. Hamilton, resigned.

##### *District of Parry Sound.*

Walter H. Sylvester, township of Armour, Fourth Division Court, *vice* Archibald Menzies, resigned.

### Law Society of Upper Canada.



#### CURRICULUM.

1. A Graduate in the Faculty of Arts, in any University in Her Majesty's Dominions empowered to grant such Degrees, shall be entitled to admission on the Books of the Society as a Student-at-law, upon conforming with Clause four of this curriculum, and presenting (in person) to Convocation his Diploma or proper Certificate of his having received his Degree, without further examination by the Society.

2. A Student of any University in the Province of Ontario, who shall present (in person) a Certificate of having passed, within four years of his application, an examination in the Subjects prescribed in this Curriculum for the Student-at-law Examination, shall be entitled to admission on the Books of the Society as a Student-at-law, or passed as an Articled Clerk (as the case may be) on conforming with Clause four of this Curriculum, without any further examination by the Society.

3. Every other Candidate for admission to the Society as a Student-at-law, or to be passed as an Articled Clerk, must pass a satisfactory examination in the subjects and books prescribed for such examination, and conform with Clause four of this Curriculum.

4. Every Candidate for admission as a Student-at-law or Articled Clerk, shall file with the Secretary, four weeks before the Term in which he intends to come up, a Notice (on prescribed form), signed by a Benchler, and pay \$1 fee; and on or before the day of presentation or examination file with the Secretary, a petition, and a presentation signed by a Barrister (forms prescribed) and pay prescribed fee.

5. The Law Society Terms are as follows:—  
Hilary Term, first Monday in February, lasting two weeks.

Easter Term, third Monday in May, lasting three weeks.

Trinity Term, first Monday in September, lasting two weeks.

Michaelmas Term, third Monday in November, lasting three weeks.

6. The Primary Examinations for Students-at-law and Articled Clerks will begin on the third Tuesday before Hilary, Easter, Trinity, and Michaelmas Terms.

7. Graduates and Matriculants of Universities will present their Diplomas and Certificates on the third Thursday before each Term at 11 a.m.

8. Graduates of Universities who have given due notice for Easter Term, but have not obtained their Diplomas in time for presentation on the proper day before Term, may, upon the production of their Diplomas and the payment of their fees, be admitted on the last Tuesday in June of the same year.

9. The First Intermediate Examination will begin on the second Tuesday before each Term at 9 a.m. Oral on the Wednesday at 2 p.m.

10. The Second Intermediate Examination will begin on the second Thursday before each Term at 9 a.m. Oral on the Friday at 2 p.m.

11. The Solicitors' Examination will begin on the Tuesday next before each Term at 9 a.m. Oral on the Thursday at 2.30 p.m.

12. The Barristers' Examination will begin on the Wednesday next before each Term at 9 a.m. Oral on the Thursday at 2.30 p.m.

13. Articles and assignments must not be sent to the Secretary of the Law Society, but must be filed with the Registrar of the Queen's Bench or Common Pleas Divisions within three months from date of execution, otherwise term of service will date from date of filing.

14. Full term of five years, or, in the case of Graduates, of three years, under articles must be served before Certificates of Fitness can be granted.

15. Service under Articles is effectual only after the Primary Examination has been passed.

16. A Student-at-law is required to pass the First Intermediate Examination in his third year, and the Second Intermediate in his fourth year, unless a Graduate, in which case the First shall be in his second year, and his Second in the first seven months of his third year.

17. An Articled Clerk is required to pass his First Intermediate Examination in the year next but two before his Final Examination, and his Second Intermediate Examination in the year next but one before his Final Examination, unless he has already passed these examinations during his Clerkship as a Student-at-law. One year must elapse between the First and Second Intermediate Examination, and one year between the Second Intermediate and Final Examination, except under special circumstances, such as continued illness or failure to pass the Examinations, when application to Convocation may be made by petition. Fee with petition, \$2.

18. When the time of an Articled Clerk expires between the third Saturday before Term, and the last day of the Term, he should prove

his service by affidavit and certificate up to the day on which he makes his affidavit, and file supplemental affidavits and certificates with the Secretary on the expiration of his term of service.

19. In computation of time entitling Students or Articled Clerks to pass examinations to be called to the Bar or receive Certificates of Fitness, Examinations passed before or during Term shall be construed as passed at the actual date of the Examination, or as of the first day of Term, whichever shall be most favourable to the Student or Clerk, and all Students entered on the books of the Society during any Term, shall be deemed to have been so entered on the first day of the Term.

20. Candidates for call to the Bar must give notice signed by a Benchor, during the preceding Term.

21. Candidates for Call or Certificate of Fitness are required to file with the Secretary their papers, and pay their fees, on or before the third Saturday before Term. Any Candidate failing to do so will be required to put in a special petition, and pay an additional fee of \$2.

22. No information can be given as to marks obtained at Examinations.

23. An Intermediate Certificate is not taken in lieu of Primary Examination.

F E E S .

|   |        |
|---|--------|
| Notice Fee.....                                   | \$1 00 |
| Student's Admission Fee.....                      | 50 00  |
| Articled Clerk's Fee.....                         | 40 00  |
| Solicitor's Examination Fee.....                  | 60 00  |
| Barrister's Examination Fee.....                  | 100 00 |
| Intermediate Fee.....                             | 1 00   |
| Fee in Special Cases additional to the above..... | 200 00 |
| Fee for Petitions.....                            | 2 00   |
| Fee for Diplomas.....                             | 2 00   |
| Fee for Certificate of Admission.....             | 1 00   |
| Fee for other Certificates.....                   | 1 00   |

BOOKS AND SUBJECTS FOR EXAMINATIONS.

PRIMARY EXAMINATION CURRICULUM, For 1888, 1889, and 1890.

Students-at-Law.

|       |   |                           |
|-------|---|---------------------------|
| 1888. | { | Xenophon, Anabasis, B. I. |
|       |   | Homer, Iliad, B. IV.      |
|       |   | Cæsar, B. G. I. (1-33.)   |
|       |   | Cicero, In Catilinam, I.  |
| 1889. | { | Virgil, Æneid, B. I.      |
|       |   | Xenophon, Anabasis, B. I. |
|       |   | Homer, Iliad, B. IV.      |
|       |   | Cicero, In Catilinam, I.  |
|       |   | Virgil, Æneid, B. V.      |
|       |   | Cæsar, B. G. I. (1-33.)   |

1890. { Xenophon, Anabasis, B. II.  
Homer, Iliad, B. VI.  
Cicero, Catilin. m, II.  
Virgil, Æneid, B. V.  
Cæsar, Bellum Britannicum.

Paper on Latin Grammar, on which special stress will be laid.

Translation from English into Latin Prose, involving a knowledge of the first forty exercises in Bradley's Arnold's composition, and re-translation of single passages.

#### MATHEMATICS.

Arithmetic: Algebra, to end of Quadratic Equations: Euclid, Bb. I. II., and III.

#### ENGLISH.

A paper on English Grammar. Composition.

Critical reading of a selected Poem:—

1888—Cowper, The Task, Bb. III. and IV.

1889—Scott, Lay of the Last Minstrel.

1890—Byron, The Prisoner of Chillon; Childe Harold's Pilgrimage, from stanza 73 of Canto 2 to stanza 51 of Canto 3, inclusive.

#### HISTORY AND GEOGRAPHY.

English History, from William III. to George III. inclusive. Roman History, from the commencement of the second Punic War to the death of Augustus. Greek History, from the Persian to the Peloponnesian Wars, both inclusive. Ancient Geography—Greece, Italy, and Asia Minor. Modern Geography—North America and Europe.

Optional subjects instead of Greek:—

#### FRENCH.

A Paper on Grammar.

Translation from English into French Prose.

- 1888 } Souvestre, Un Philosophe sous le toits.  
1890 }  
1889 } Lamartine, Christophe Colomb.

#### OR NATURAL PHILOSOPHY.

Books—Arnot's Elements of Physics, and Somerville's Physical Geography; or, Pecks' Ganot's Popular Physics, and Somerville's Physical Geography.

#### Articled Clerks.

In the years 1888, 1889, 1890, the same portions of Cicero, or Virgil, at the option of the candidate, as noted above for Students-at-law.

Arithmetic.

Euclid, Bb. I., II., and III.

English Grammar and Composition.

English History—Queen Anne to George III. Modern Geography—North America and Europe.

Elements of Book-keeping.

#### RULE re SERVICE OF ARTICLED CLERKS.

From and after the 7th day of September, 1885, no person then or thereafter bound by articles of clerkship to any solicitor, shall, during the term of service mentioned in such articles, hold any office, or engage in any employment whatsoever, other than the employment of clerk to such solicitor, and his partner or partners (if any) and his Toronto agent, with the consent of such solicitors in the business, practice, or employment of a solicitor.

#### First Intermediate.

Williams on Real Property, Leith's edition; Smith's Manual of Common Law; Smith's Manual of Equity; Anson on Contracts; the Act respecting the Court of Chancery; the Canadian Statutes relating to Bills of Exchange and Promissory Notes; and Cap. 117, Revised Statutes of Ontario and amending Acts.

Three Scholarships can be competed for in connection with this Intermediate by Candidates who obtain 75 per cent. of the maximum number of marks.

#### Second Intermediate.

Leith's Blackstone, 2nd edition; Greenwood on Conveyancing, chaps. on Agreements, Sales, Purchases, Leases, Mortgages and Wills; Snell's Equity; Broom's Common Law; Williams on Personal Property; O'Sullivan's Manual of Government in Canada, 2nd edition; the Ontario Judicature Act, Revised Statutes of Ontario, chaps. 95, 107, 136.

Three Scholarships can be competed for in connection with this Intermediate by Candidates who obtain 75 per cent. of the maximum number of marks.

#### For Certificate of Fitness.

Armour on Titles; Taylor's Equity Jurisprudence; Hawkins on Wills; Smith's Mercantile Law; Benjamin on Sales; Smith on Contracts; the Statute Law and Pleading and Practice of the Courts.

#### For Call.

Blackstone, Vol. I., containing the Introduction and Rights of Persons; Pollock on Contracts; Story's Equity Jurisprudence; Theobald on Wills; Harris's Principles of Criminal Law; Broom's Common Law, Books III. and IV.; Dart on Vendors and Purchasers; Best on Evidence; Byles on Bills, the Statute Law, and Pleadings and Practice of the Courts.

Candidates for the Final Examination are subject to re-examination on the subjects of the Intermediate Examinations. All other requisites for obtaining Certificates of Fitness and for Call are continued.

Trinity Term, 1887.