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CURRENT TOPICS AND CASES.

The judgment of the Court of Appeal in *Déchêne & Dussault*, delivered at Quebec, December 3, (6 Q.B. 1) is of considerable interest, further explaining, as it does, the view taken by the majority of the Court, of Art. 478 of the Code of Procedure. The article referred to provides that the losing party must pay all costs, unless for special reasons the court thinks proper to reduce them or compensate them, or orders otherwise. The rule in England is to the same effect. It is well established that the Court of Appeal will reform the adjudication as to costs when it appears that such adjudication violates a principle or positive rule of law. It is clear, therefore, that the "special reasons" must be reasons which are sound. In *Déchêne & Dussault*, the plaintiff, Dussault, having sued Déchêne on a promissory note, the latter pleaded the nullity of the note under art. 425 R. S. Q., (contract referring to an election), and the action was dismissed. The first court refused to give costs against the plaintiff, but the majority of the Court of Appeal held that the nullity of the note was not a good reason for refusing defendant costs, and this part of the judgment was reversed, Mr. Justice Blanchet dissenting. "L'exercice de la discrétion," observed the Chief Justice, "est subordonnée à l'existence d'une cause spéciale juste. Ce sont ces causes spéciales

qu'une cour d'appel doit examiner; si elles existent, alors la cour n'interviendra pas; mais s'il n'y a pas de bonnes causes, elle reformera." It would also appear that where no reason is stated in the judgment for the adjudication as to costs, the court will seek in the record for the motive which influenced the judge of the court below to deviate from the ordinary rule, and if no satisfactory motive can be found, the judgment will be reformed.

The Montreal appeal list has remained steadily for some time at 29, the printed lists for November, 1896, and January and March, 1897, containing precisely the same number. Of the 29 cases on the March list, 20 were appeals from the district of Montreal, or from judgments of the Court of Review, and 9 were appeals from country districts, viz., 6 from Ottawa, and 1 from each of the districts of Terrebonne, Richelieu and St. Francis. There was some difficulty at the opening of the term, in finding a case in which the counsel on both sides were present and ready to proceed, and the court finally was obliged to adjourn to the following day without having heard a case. During the term 11 cases (including two not on the printed list) were heard, two were settled or abandoned, and 18 were continued to next term, after the list had been twice called over without finding any one ready.

The death of the Hon. George Irvine, Q C., of Quebec, has excited general regret. Mr. Irvine has been known for many years as an able lawyer, and he also took a prominent part in public affairs. He was appointed a Q. C. in June, 1867, and was one of the members returned to serve in the first Parliament of Canada after the Confederation of the provinces, on which occasion he represented Megantic. In 1884, on the death of Mr. G. O'Kill Stuart, Mr. Irvine was appointed his successor as Judge of the Vice-Admiralty Court of the city of Quebec.

HOUSE OF LORDS.

LONDON, 8 December, 1896.

NEVILL v. FINE ARTS AND GENERAL INSURANCE CO. (31 L.J.)

Libel—Defamation—Privilege—Statement in excess of privilege.

The Court of Appeal having decided that where in an action for libel the judge rules that the occasion was privileged the plaintiff cannot succeed in the action unless the jury find that the defendant was actuated by express malice, a finding by the jury that the defamatory statement complained of was in excess of the privilege is not enough.

Their Lordships (Lord Halsbury, L.C., Lord Macnaghten, Lord Shand, and Lord Davey) on these grounds, and also on the ground that in fact there was no libel, affirmed the decision of the Court of Appeal (64 Law J. Rep. Q. B. 681; L. R. (1895) 2 Q. B. 156), and dismissed the appeal with costs.

Counsel for respondent were not called upon.

COURT OF APPEAL.

LONDON, 19 March, 1897.

DODD v. CHURTON (32 L.J.)

Building contract—Delay in executing contract—Extras ordered by owner—Penalty.

Appeal from the judgment of a Divisional Court (Wills, J. and Wright, J.) affirming the judgment of a County Court judge.

The action was brought by the plaintiff, a builder, to recover a balance due under a building contract. The defendant, the building owner, made a counterclaim for 50*l.* by way of liquidated damages, for delay in completing the contract.

The contract was a contract for making certain specified additions and alterations to a house for a lump sum, and provided that the whole of the works were to be completed by June 1, 1892, under a penalty of 2*l.* per week for every week that any part of the works should remain unfinished after that date as liquidated damages. It was further provided that any authority given by the architects for any alteration or addition in or to the works should not 'vitiate the contract.'

Extra work to the amount of 22*l.* 8*s.* 8*d.* was ordered.

The works were not completed until twenty-seven weeks after June 1, 1892.

The defendant claimed damages for the delay at the rate of 2*l.* per week for twenty-five weeks, making no claim for two weeks within which time it was alleged the extra works might have been executed.

The County Court judge held that by the ordering of the extras the defendant waived the provision as to the payment of liquidated damages for delay, and gave judgment against the defendant upon the counterclaim.

Upon appeal to the Divisional Court Wills, J., was of opinion that the judgment should be affirmed, while Wright, J., was of opinion that the judgment should be reversed. The judgment accordingly stood.

The defendant appealed.

Their Lordships (Lord Esher, M.R., Lopes, L.J., and Chitty, L.J.) held that, upon the true construction of the contract, the builder had not agreed that the specified works as well as any extra work should be completed by June 1, 1892, and therefore that the case fell within the general rule that where the building owner has himself prevented the completion of the work at the agreed time by ordering additional work, he cannot recover damages for the delay. They therefore affirmed the judgment against the defendant on the counterclaim.

Appeal dismissed.

QUEEN'S BENCH DIVISION.

LONDON, 15 December, 1896.

GENERAL INSURANCE CO. OF TRIESTE v. CORY (32 L.J.)

Insurance, Marine—Ship's value declared in policy—Warranted by owner that portion of value should remain uninsured—Breach.

Action on policy of marine insurance, tried before MATHEW, J.

In 1895 the owner insured the ss. *Saltburn* with underwriters for 9,600*l.* The ship was valued at 12,000*l.*, and the policies contained a warranty that 2,400*l.* should remain uninsured. The plaintiffs underwrote 500*l.*, and reinsured with the defendants in a policy containing the same terms as the original policies. One of the original policies for 5,000*l.* was effected by the owner with the Shipowners' Syndicate. In December, 1895, the syndicate

posted a letter at Lloyds containing the following passage: 'May we ask those who hold policies to insure their risk elsewhere, and to cancel their existing policies, so that without much delay we may meet as far as possible all outstanding demands.' On December 21 the owner effected fresh policies for 3,000*l.*, calculating that this would cover the amount he should fail to obtain from the Shipowners' Syndicate. On December 30 the *Saltburn* became a total loss. The plaintiffs claimed 500*l.* against the defendants upon their policy of reinsurance, and were met by the defence that the warranty that the ship should remain uninsured for 2,400*l.* had been broken, since the owner had effected the fresh policy for 3,000*l.* It was proved that all the owner would receive under the policies effected by him would be 9,200*l.*

MATHEW, J., held that there had been no breach of the warranty. The owner was his own insurer for 2,400*l.* He had calculated that 3,000*l.* of his original insurance would become ineffective through the failure of the Shipowners' Syndicate, and in obtaining fresh policies for that amount had acted prudently, and had not effected an excessive insurance.

Judgment for the plaintiffs.

COURT OF COMMON PLEAS.

PHILADELPHIA, 29 January, 1897.

Before WILLSON, J.

MATTIS v. PHILADELPHIA TRACTION CO.

Negligence—Street railways—Measure of damages—Refusal of defendant to submit to a novel surgical operation.

Where a woman, previously of good health, who was both able and obliged to earn her living, is found by the verdict of the jury to have been turned, by the negligence of the defendant railroad company, from a condition of apparent vigor and health to a condition of almost complete wreck and dilapidation, the court, although not disposed to look with favor upon wild or extravagant verdicts, will not disturb a verdict of a size which in most other cases of a similar character would be altogether beyond propriety.

In cases of physical injury, it is the duty of the injured plaintiff to seek for and submit to such a surgical operation as would bring relief, when the operation is such that a person of ordinary prudence and regard for himself ought to submit to it.

While the victim of an accident might have experienced substantial relief and approximate cure by submitting to a surgical operation, which,

although comparatively new, and the professional mind not absolutely at rest as to the best method of performing, is regarded by the consensus of opinion as accompanied by comparatively slight risk of fatal issue, she is not obliged in law to undergo such operation nor assume the risk and anxiety attendant thereon, nor will her refusal to do so be considered as in relief of defendant's liability.

Rule for new trial. C. P. No. 4, Phila. Co.

The reasons assigned were, *inter alia:* (1) That the verdict for $10,000 was excessive; (2) refusal to affirm defendant's fifth point, which point was as follows: If the jury believe from the evidence that the plaintiff was advised by a competent physician that, if she would undergo a surgical operation, she would be either materially relieved or permanently cured from the ill effects of the accident, and was also advised that said operation was neither serious nor dangerous, and that plaintiff refused to follow the advice of said physician, and that plaintiff's present condition is due, in part at least, to the fact that she refused to undergo said operation, she cannot charge the defendant company with liability for her present condition.

The evidence tended to show a clear case of negligence on the part of defendant resulting in serious injury to plaintiff. The verdict was for $10,000.

WILLSON, J.:—In the discussion of this case, we do not propose to consider at any length the questions concerning the negligence of the defendant, or the amount of the verdict. There was undoubtedly sufficient evidence of negligence to sustain the verdict, and the amount found by the jury we do not regard, under the particular circumstances of the case, as so large or unreasonable as to justify us in setting aside the verdict upon that ground. We do not look with favor upon wild or extravagant verdicts in such cases as the present. At the same time, there are undoubtedly cases where justice can only be met by a verdict of a size which, in most other cases of a similar character, would be altogether beyond propriety. In this case the plaintiff, a woman of more than ordinary intelligence, who had shown herself possessed of considerable force of character, and who was engaged in making a livelihood for herself and family, is found by the verdict of a jury to have been turned, by the negligence of the defendant, from a person of apparent vigor and health to what is evidently a condition of almost complete wreck and dilapidation. There is no reason for supposing that

there is any exaggeration or imposition as to the present physical condition of the plaintiff. Her appearance and manner put her case beyond fair controversy upon that point. The principal struggle in the case was over the question as to whether or not the plaintiff was bound, after her injuries were received, to submit herself to an operation of a serious character, which she was advised to undergo, and which eminent physicians regard as accompanied by comparatively slight risk of fatal issue.....It may be said that the evidence of physicians and surgeons in the case makes the conclusion justifiable that a surgical operation would probably bring large or complete relief to the plaintiff from her existing physical troubles. The operation referred to is one of comparatively recent date, and perhaps it may be said that the professional judgment in regard to it, and the best method of performing it, is not as yet absolutely settled. In any event, it is a serious operation, from which any person, and particularly a woman of sensitive and nervous organization, would naturally shrink. Possibly it may be regarded as true that the overwhelming probability would be in favor of the operation being successful, and yet it can hardly be claimed that there would be no risk of serious consequences and even death following the operation. The plaintiff has been unwilling to submit to it, and it was contended on behalf of the defendant that, under such circumstances, her rightful claim against the company was, in any event, greatly reduced. The trial judge declined to take such a view of the case. The jury was instructed, in substance, that if they believed that a surgical operation would bring relief to the plaintiff, and that it was of such a character that a person of ordinary prudence and regard for herself ought to submit to the same, that then they should consider the plaintiff as having been under a duty to submit to the operation in order to bring relief from her physical ills. It may be that this instruction was quite as favorable to the defendant as justice or a true view of the case would justify. We are not disposed to go to any greater length. It does not seem to us reasonable that where one has been hurt by the negligence of another, we should hold him or her bound in law to undergo a serious and critical surgical operation, which would necessarily be attended with some risk of failure and of death. Some regard must be had to the instinctive human shrinking from such experiences. A person must be permitted to exercise a liberty of choice, under such

circumstances, as to whether suffering and feebleness will be endured, or whether the surgeon's knife shall be introduced. It seems to us it would be inhuman to hold any other view of the case, and that no principle of law requires us to do so.

Other points were raised upon the argument of this case, but we do not deem it necessary to refer to them.

We therefore hold that the rule to show cause why a new trial should not be granted must be discharged.

RECENT U. S. DECISIONS.

Damages.—A husband's right of action for the loss of his wife's society on account of injuries which resulted in her death is held, in *Louisville & N. R. Co.* v. *McElwain* (Ky.) 34 L. R. A. 788, to be defeated by a recovery of judgment for her death in an action by her personal representative.

So a right of action for damages resulting from death is held, in *Lubrano* v. *Atlantic Mills* (R. I.) 34 L. R. A. 797, to be exclusive of an administrator's right of action to recover for the pain and expense suffered by the intestate from the injuries which caused his death. With these cases are reviewed the different decisions on the question whether the causes of action for personal injuries and for death resulting therefrom are concurrent or alternative.

Electric wires.—The utmost care to keep the insulation of dangerous electric wires perfect at places where people have a right to go for work, business, or pleasure is held necessary in *McLaughlin* v. *Louisville Electric L. Co.* (Ky.) 34 L. R. A. 812, although at other places very great care may be deemed sufficient. And the fact that the insulation of the wires is very expensive or inconvenient is no excuse for failure to make it perfect at points where people have a right to go for work, business, or pleasure.

Evidence.—The destruction by a servant of his employer's books after the latter's death is held, in *Hay* v. *Peterson* (Wyo.) 34 L. R. A. 581, to be insufficient to raise a presumption that they contained charges against the servant, especially where they were not destroyed until after they had been examined and the servant claimed that in their destruction he was executing

his employer's orders. The cases on the presumption against the destroyer of evidence are reviewed in the annotation to this case.

Fire Insurance.—Gasoline kept as a part of the regular stock of merchandise is held, in *Yoch* v. *Home Mut. Ins. Co.* (Cal.) 34 L. R. A. 857, to be insufficient to avoid a policy which by its printed clause prohibits the keeping of gasoline but in its written description of the property insured named such stock "as is usually kept in country stores."

Murder.—The crime of murder is regarded, in *Debney* v. *State* (Neb.) 34 L. R. A. 851, as having been committed when the fatal blow or wound is inflicted, although death occurs at a subsequent date, so that the party is to be tried by the laws in force at the time the injurious act is done. The annotation to the case presents the other authorities on the question of the time when a homicide is deemed to be committed.

Lease.—A lease of the roof and outside of a party wall of a building projecting above the adjoining buildings for the purpose of advertising thereon by means of a stereopticon was in question in the case of *Oakford* v. *Nixon* (Pa.) 34 L. R. A. 575, and it was held that the lessee was not evicted and that the lease did not become invalid for want of consideration by the fact that the value of the wall for advertising purposes was destroyed by the tenant of the adjoining building who rented the roof of his building, with a screen constructed thereon, to another party for the purpose of advertising.

The owner of a building who has leased it as a place of residence is held, in *McConnell* v. *Lemley* (La.) 34 L. R. A. 609, to be not liable to a member of a surprise party visiting the tenant who is injured by means of a falling gallery.

And, on the other hand, it is held, in *Stenberg* v. *Willcox* (Tenn.) 34 L. R. A. 615, that a landlord is liable to a boarder on premises leased for a boarding house for injuries caused by the unsafe condition of the premises which was known, or might have been known, to the landlord by the exercise of reasonable care and diligence at the time of the lease but was not known to the boarder. With these cases are reviewed the authorities on the liability of a landlord for injuries to tenant's guests and servants from defects in the premises.

An injury to a tenant from the unsafe and dangerous condition of leased premises known to the landlord, or which might, with reasonable care and diligence, have been known to him, but not to the tenant, is held, in *Hines* v. *Willcox* (Tenn.) 34 L. R. A. 824, to render the landlord liable, although the tenant examined the premises and did not discover the defect. A note to the case reviews the other authorities on the question of liability to a tenant for defects in premises.

Although the owner of a building is not an insurer against accident from its condition, it is held, in *Ryder* v. *Kinsey* (Minn.) 34 L. R. A. 557, that he is bound to keep it in such condition, so far as he can by the exercise of ordinary care, that it will not, by any insecurity or insufficiency for the purpose to which it is put, injure any person rightfully in, around, or passing it. And the fall of the building without apparent cause will raise a presumption of the owner's negligence. With this case are reviewed the other authorities on the individual liability for falling walls or buildings.

Street railway.—Authority to a street railway company to cross any railroad operated by steam is held, in *Northern Cent. R. Co.* v. *Harrisburg & M. E. R. Co.* (Pa.) 34 L.R.A. 572, to give power to cross only where the railroad is crossed by a street or highway.

Negligence.—The injury of a person by eating unwholesome food at a restaurant is held, in *Sheffer* v. *Willoughby* (Ill.) 34 L. R. A. 464, to be insufficient to raise a presumption against the restaurant keeper that he was negligent or to make a *prima facie* case of liability on his part. But the person injured in order to recover damages must establish carelessness or negligence on the part of the restaurant keeper.

Recovery for a miscarriage resulting from fright caused by negligence is denied, in *Mitchell* v. *Rochester R. Co.* (N. Y.) 34 L. R. A. 781, on the ground that the damage was not the proximate result of the negligence, although the court recognized the fact that the authorities on the question are not harmonious.

A lord chancellor of England was once accosted by a confidence man with the salutation, "Mr. Birch, I believe." "Well," observed the tranquil jurist, "if you believe that, you will believe anything."

THE TRIAL OF ACCESSORIES.

Writs of error are now very rare, but that of *Richards* v. *Reginam*, argued on March 3, shows that they are occasionally necessary for regularity, if not for justice. Richards had been tried with one Jones at Cardiff Assizes before Mr. Justice Mathew for murder. The jury, under the direction of the judge, returned a verdict of manslaughter against Jones, and of being accessory after the fact thereto against Richards; the judge seems neither to have accepted any motion in arrest of judgment nor to have assented to the grant of a special case. This is the more remarkable because we understand that there was no evidence of any act by Richards, after the death of the person said to have been murdered, which could justify conviction as an accessory *after* the fact. Even to a tyro in criminal law and procedure it would be obvious that some statutory authority would be necessary to authorize trial for one felony and conviction of another, except in cases where the verdict while negativing some parts of the indictment amounted to a finding in the terms of so much of the indictment as amounted to a substantive felony. And the procedure of the learned judge, if prophetic as to reform in criminal pleading, savoured of the mercantile irregularities of the Commercial Court rather than the stricter methods of the administration of criminal justice. The result was that the Attorney-General issued his fiat for a writ of error, and felt constrained himself to appear and confess that he could not argue in favour of the procedure at the trial. And this is abundantly clear both on principle and on the authorities. Section 3 of the Accessories and Abettors Act, 1861, permits the indictment and conviction of an accessory after the fact (1) as such with or after the principal felon, or (2) as for a substantive felony irrespective of the trial or conviction of the principal felon. Neither this section nor sections 6, 7, authorises the trial or conviction of the accessory with the principal felon, unless words are included in the indictment charging him as accessory after the fact; and the authorities recognize this to be the case, for in *Regina* v. *Fallon*, 32 Law J. Rep. M. C. 66, it was distinctly decided that a man could not be convicted as accessory after the fact when indicted as a principal felon, and in *Regina* v. *Brannon*, 14 Cox, 394, that the same man cannot be tried at the same time as a principal offender and as accessory after the fact, and that where the

indictment charges both offences the prosecution must elect on which to proceed. These cases, however, do not affect the right of a jury, when distinct persons are separately charged as principals and accessories after the fact to murder, to convict the principal of manslaughter, and the alleged accessories as accessories thereto, which was declared in *Regina* v. *Richards*, 46 Law J. Rep. M. C. 200.—*Law Journal (London.)*

STATEMENTS BY PRISONERS TO POLICEMEN.

There are two schools of opinion among the judges as to the policy or propriety of admitting in evidence extrajudicial statements by prisoners, and in particular statements made to a constable on arrest or in answer to inquiries made by a police officer with or without caution at or after arrest. Mr. Justice Smith in *Regina* v. *Gavin*, 15 Cox, 656, laid it down that when a prisoner is in custody the police have no right to ask him questions, and when the prosecution attempts to elicit statements made by a prisoner on arrest Mr. Justice Cave always disallows the question, but permits counsel for the defence to get the statements out if he wishes to do so. He has expressed his opinion decidedly in *Regina* v. *Male* (1893), 17 Cox, 689, to the effect that the police had no right to ask questions or to seek to manufacture evidence. He said the law does not allow the judge or jury to put questions in open Court to a prisoner, and it would be monstrous if it permitted a police officer, without anyone present to check him, to put a prisoner through an examination, and then produce the effects of it against him. He should keep his mouth shut and his ears open, should listen and report, neither encouraging nor discouraging a statement, but putting no questions. And this view is substantially the same as that expressed by Mr. Justice Hawkins, if we may judge from his preface to Howard Vincent's "Police Guide," and his ruling in *Regina* v. *Greatrex-Smith* (noted *ante*, p. 46, but not yet fully reported). A contrary rule was expressed by Mr. Justice Day in *Regina* v. *Brackenbury* (1893), 17 Cox, 628, who expressly dissented from *Regina* v. *Gavin*, and admitted statements made by the prisoner in answer to questions put by the police. The learned notes in Cox to both these cases affirm that the opinion of Mr. Justice Day is that sustained by the text-books and earlier decisions. But a good deal is to be said for the view that state-

ments made in answer to police questions about the time of arrest are made to persons of authority, and under fear, compulsion, or inducement, and that if admitted in evidence at all the circumstances under which they were made should be carefully scrutinized in accordance with the rule in *Regina* v. *Thompson*, 62 Law J. Rep. M. C. 93; L. R. (1893) 2 Q. B. 12, and the strong opinions of Mr. Justice Cave in *Regina* v. *Male*, which being expressed after *Regina* v. *Thompson*, appear with that case to justify the conclusion that *Regina* v. *Brackenbury* can no longer be regarded as of any authority. It is curious that the cases of *Regina* v. *Jarvis*, L. R. 1 C. C. R. 96, and *Regina* v. *Reeve*, L. R. 1 C. C. R. 362, do not seem to have been cited in *Regina* v. *Thompson*, and their authority or applicability seems to be considerably shaken by the late decision.—*Ib.*

PREPARATION FOR THE BAR.

At a Bar dinner in Philadelphia Mr. Richard Vaux, in responding to the toast of "The Bar," dwelt on the years of discipline which Chief Justice Gibson devoted to reading the writings of "the fathers," years which tended to weld the iron of his genius by the well directed blows of knowledge, so that genius, treated by knowledge, was converted into the steel of wisdom; so that, to use Mr. Vaux's words, "he became able to write those matchless opinions which have been and always will be looked upon as *authority*. "How," asked Mr. Vaux, "was he able to do this? He lived in a country village, he had no clients and had to occupy his time in diligently practising economy; he read Blackstone ten times a year; he read Coke five times a year, and studied Ferne on Remainders till he knew what a remainder was."

"I always fear," says another great lawyer, "the young man who knows one book."

The other side of the question is presented in a story told of a late Chief Justice, famous for erudite knowledge. The person who relates the incident had occasion to visit him in chambers, when the conversation turned on a noted cause recently heard before the Chief Justice at *nisi prius*. Mr. B. had been of counsel, and speaking of his argument with half concealed contempt, the Chief Justice said: "B. took up the time of the court in arguing on general "*principles*," and discussing Coke and Littleton—but when I returned to my library, I took down my reports and found a "*case*" which was on all fours with the one at bar."

ENGLISH VIEWS OF THE STATE OF THE BAR AND QUALIFICATIONS FOR IT.

Mr. Cock, Q. C., a barrister of London, recently confided to a representative of the press his views on the bar as a profession. He thought that a young man going to the bar should be prepared to support himself for at least five years independently of his profession, and referred to a judge now on the bench who waited quite ten years before he got a single brief. He might also have referred to the case of Mr. Justice Blackstone, who waited nearly fifteen years, during which time he had only two briefs, and then retired to the university to prepare his matchless commentaries, discouraged of success at the bar. According to Mr. Cock, it is not merely talent and ability that are required at the bar, bnt rather a combination of qualities. The bar, he thinks, is by no means overcrowded with men who have the qualities necessary for the work. This he proves by citing the fact that only a certain few men conduct all the big cases. A good voice, a good temper, and a good memory, are among the qualities that he considers necessary for success at the bar.

Another barrister has just contributed an article on "The State of the Bar" to the National Review. This writer seeks to disillusion young university men who think that their scholarship and eloquence will give them the prizes of the profession. "You are a great man here," said a great lawyer to a young don at Oxford, who announced his intention of adding the law to his conquests, "but at the bar you'll be dirt." The accumulation of a knowledge of principles, grasp of mind to assimilate and see the relations of facts, knowledge of men—these are the real stock-in-trade of the successful barrister. As for eloquence, he will be amply equipped for some time if he can put clearly a plausible suggestion. As for smartness, he is better without it; and as for guile, let him stifle the very thought of it until he has established a solid reputation for ingenuousness.

THE SUCCESSFUL PRACTICE OF LAW.

In a recent interview about the practice of law to-day and the probabilities and requisites of success, Hon. John F. Dillon said:

"The successful practice of the law in modern times requires very much more than a mere technical knowledge of the practical affairs of the world. Most cases do not present mere

abstract legal problems, but concrete problems—what is the best thing to do—which involves a knowledge of business usages and of the practical affairs of life.

"Successful lawyers are hard-working machines, and unless they have a good physical constitution they will fail of eminent success. No lawyer can succeed, or long succeed, unless in addition to the requisite intellectual qualities, he has also the requisite moral qualities.

"Integrity in the broadest sense, as well as in the most delicate sense of the term, is an indispensable condition to success in the law. Intellectual qualifications, fitness and integrity will not alone insure success. The successful lawyer must also have industrious habits. The successful lawyer is the lawyer who works and toils. He must have a genius for work. These are fundamental conditions. But all these exist and yet fail to bring any marked success, because success comes from a happy combination of physical and intellectual qualities, including will, power of decision, moral qualities, integrity and saving common sense, so that the advice which the lawyer gives shall be seen to be wise; that is, the advice he gives shall be practically demonstrated to be wise, as shown in the results. The modern client wants good results."

GENERAL NOTES.

A Frontier Judge.—"One of the best 'classics' I ever knew, James Reilly, was through many years dependent on his muscles, not his brains," writes the author of "Here and There Memories." When he graduated from Dublin University he found himself a pauper—his guardian having robbed him. He went to the United States and served as trapper, navvy, farm-hand and frontier judge. He could make a piano, set a limb, grind an axe, splice a rope, mend shoes, plait a sieve, quote from the Greek poets, classify a bug, explain the binomial theorem, or fix the relation of two fossil fragments. His most cherished accomplishment was being able to lift a blacksmith's anvil by his little finger hooked in the "eye" of the iron; his proudest recollection, that he had been an effective judge. Of his judgeship he told this story:—"I had just been elected judge there. A fellow, up for horse-stealing, consented to be tried by six jurors, as most of the men were off to a new gold-digging. Well, I summed up; the jury retired. I waited outside a long time, but the jury

waited inside a long time, too. The sheriff could not get in. I did when I had lost patience. Five of them, for conviction, were bailed up by the sixth for the acquittal of his friend. He would not let the five jurors out. He was a desperate chap, and they were mean white dirt. Well, I had to tackle him. When we commenced he was "the bully of Little Elk Creek;" when we ended, I was. He volunteered to bring in a verdict of guilty before I let him up, but I lost these two fingers of my left hand by a bowie-knife amputation. Oh, I was very popular there! My calm, firm administration of the law touched them."

GIRL STUDENTS.—Among the students at the St. Louis Law School this year are two young women. When the young women registered one of the professors remarked to a reporter: "We do not invite women to the school, for we have not the facilities that we would like to have for them, but they will come, and I suppose we may as well resign ourselves to the fact that they are going to study law, for they are entering the profession more and more."

BENCH AND BAR.—Under the heading of "Judges' License" *Law Notes* gives the following version of the scene between Mr. Justice Hawkins and Mr. Kemp, Q.C.:—"Mr. Willis was examining one of the railway officials in a certain case, and submitted to him a plan showing the position of the trolley, when Mr. Justice Hawkins interrupted him, stating that he should allow no costs of a third day in this case, remarking that the facts were quite clear. On Mr. Kemp, Q.C., rising to cross-examine the witness, his Lordship again interfered, saying, "These cases are spun out." Mr. Kemp: By whom, my lord? Mr. Justice Hawkins: By all parties. Mr. Kemp: Including your Lordship? Mr. Justice Hawkins: Don't be impertinent. Mr. Kemp: Your Lordship has no right to say I prolong cases. I reply that it is your Lordship. Mr. Justice Hawkins: I say that unnecessary questions are put to witnesses. Mr. Kemp: I am the person to consider whether it is necessary to put certain questions, and you have no right to say that. Mr. Justice Hawkins: Don't be impertinent, Mr. Kemp, and sit down. Mr. Kemp: I am not impertinent, it is your Lordship. It is not because your Lordship is sitting there that you have a right to address me in this language. Mr. Justice Hawkins: I do. Now Mr. Kemp lost his temper, but small blame to him when the Judge deliberately charges him with spinning out a case to obtain another refresher."