The Legal News.

Vol. IV. APRIL 30, 1881. No. 18.

SUPREME COURT DECISIONS.

Mr. Duval is over-sensitive. No one ever said that *some* critic would be "on the heels of the reporter of the Supreme Court." Mr. Duval has misquoted our words and misunderstood the remark to which he refers—which is really of little or no importance. Nor was the correctness of his notes called in question; but we said they were an unsatisfactory substitute for the full reports of the decisions of the Supreme Court, for the preparation and publication of which a considerable sum of public money is annually expended. We now learn from Mr. Duval that the reason why two cases, in which the judgments of the Court of Queen's Bench were reversed, have not been reported is, that the judges have not authorized the reports. One of these cases was not unimportant, for what purported to be the opinion in MS. of one of the judges was flaunted in the face of the Court of Queen's Bench in a subsequent case, without, however, producing any marked effect. It might have been otherwise had the judicial argument been fortified by the approbation of the Court.

Mr. Duval's letter has some further significance as being the semi-official defence of the Supreme Court judgments in the cases of *Shaw* v. *Mackenzie*, *Reg.* v. *Abrahams*, *Levi* v. *Reed*, and *Gingras* v. *Desilets*.

We are told that the two last cases were decided on the authority of the decision of the Privy Council in the case of *Lambkin* v. *The Eastern Counties Railway*. This is confirmatory of what we said in the previous article. *Lambkin's* case was decided by a jury, *Levi* v. *Reed*, and *Gingras* v. *Desilets* by a judge. In applying the principles of *Lambkin's* case to the two others, the judges of the Supreme Court appear to have jumbled up two systems essentially different. To some people it may appear a hypercritical difference, but we think the bar would find it convenient to know precisely whether the Supreme Court has laid it down as a rule that the Court of Appeal can only touch the decision of the court below on matter of fact, for reasons similar to those on which the verdict of a jury can be set aside. It is the more important this decision should be made as public as possible, for it is at variance with the general principles of jurisprudence, and with the positive law of this province.

It is unnecessary in the *Abrahams* case to go over the ground already fully discussed, as to whether the Attorney-General can delegate his powers to direct that a bill, in certain cases, should be laid before the Grand Jury. Chief Justice Ritchie's *dictum*, that a statutory power must be strictly pursued, adds nothing to the controversy, and the introduction of the word "special" before statutory does not complicate the question. The question is, what is pursuing the terms of the statute, and the decision turns entirely on whether the power conferred is judicial or not But when the Chief Justice tells us in so many words, that "it is admitted that the Attorney-General gave no directions with reference to this indictment," we must say that the Chief Justice has had peculiar facilities accorded to him which others had not, and the record says exactly the reverse. The direction was as follows:—"I direct that this indictment be laid before the Grand Jury." L. O. Loranger, Attorney-General; By J. A. Mousseau, Q. C.; C. P. Davidson, Q. C., 24 L. C. J., p. 327. Next, the question reserved is in these words: "Whether the Attorney-General could delegate his authority to direct that the indictment be laid before the Grand Jury, *and whether the direction, as given on the indictment was sufficient to authorize the Grand Jury to enquire into the charges and report a true bill.*" 4 Legal News, p. 42, and 24 L. C. J., p. 327.

The fourth and last case to which we referred was that of *Shaw* v. *Mackenzie*. Our previous observations have drawn forth an excerpt from the opinion of Mr. Justice Taschereau, "who delivered the judgment of the Supreme Court." This is textual and consequently valuable, as it may be considered the pith of the reasons of the Court. From this we learn that this august tribunal is of opinion that because an affidavit to hold to bail is insufficient, and because the plaintiff was under a wrong impression as to what was a sufficient cause of arrest, therefore the plaintiff is liable

in damages, no matter whether he proves abundant other ground for that sort of suspicion which in legal phraseology is styled "probable cause."

We have been drawn into a fuller discussion of the merits of these cases than was at first intended, or than is suitable for this journal. The object of our allusion to them was only to show how necessary it is that faithful reports of the sayings and doings of this all-powerful Court might be within the reach of others than the small audience congregated in a back room of a small town, which might be fairly called obscure, if it were not the metropolis of the Dominion. It would seem that a new, and, in principle, defectively constructed Court, which has just escaped a condemnatory vote of the House of Commons by prudent tactics, would be only too anxious to show to the world that they did not deserve the condemnation. They should remember that it cannot be hoped that their judgments will be, as a whole, better than the Courts of appeal in each province; they should, therefore, take care that there is a record to show that they are not worse. Again, as the sole object of the existence of the Court is to keep up a certain uniformity in the jurisprudence of the country, it is absolutely necessary we should know what that jurisprudence is.

R.

APPOINTMENTS.

Since our last issue two important appointments have been officially made known. The newly created sixth judgeship of the Court of Queen's Bench of this Province has been filled by the nomination thereto of Mr. Justice Baby who has been acting as a judge of the Court during the absence of Mr. Justice Tessier. The latter, we are glad to learn, has returned from Europe with restored health, and will resume his duties forthwith. The Hon. Chancellor Spragge has been appointed Chief Justice of Ontario, in the room of the late Chief Justice Moss.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, April 28, 1881.

Before TORRANCE, J.

In re SEYBOLD, insolvent, EVANS, claimant, and SEYBOLD, contestant.

Insolvent Act of 1875, *Sec.* 71—*Lease to Insolvent —Notice required to terminate.*

The lessor of premises occupied by the insolvent claimed under a lease $2,000 for rent, and $240 for assessments, for the year ending April 30, 1880.

The insolvent contested the claim, alleging that the lease had terminated on the 30th April, 1879, by a notice from the assignee on the 31st January, 1879, and by a resolution of the creditors on the 7th Feb., 1879.

PER CURIAM. The notice by the assignee is proved by himself and was unauthorized by the creditors. It ought to have been in writing and authorized; Aguel, Code des Propriétaires, n. 885; and, moreover, the creditors were only authorized to terminate the lease, at least three months before the time fixed. Insolvent Act, 1875, Sec. 71, says their meeting must be held more than three months before the termination of the yearly term. The contestation is overruled.

D. Macmaster for claimant.

H. Abbott for contestant.

SUPERIOR COURT.

MONTREAL, April 28, 1881.

Before TORRANCE, J.

LAMBE v. HARTLAUB et al.

Unpaid Vendor—Rescision of Sale—Compliance with terms of contract—"Duty paid"—Error of Customs Authorities.

This was an action to rescind a sale of 473 half chests of tea, under C. C. 1543.

The sale had been made by the vendor Lambe, at Toronto, on the 5th February, 1880, through a broker at Montreal, at 32¾ cents per lb., duty paid, delivered in Toronto; terms, prompt cash. Lambe alleged fulfilment of his contract, the receipt of the goods by Hartlaub & Co. at Montreal, and their neglect to pay the price.

The action began with an attachment of the goods in July, 1880.

The defendants pleaded that the teas were sold duty paid, and that the duty was not paid, and in consequence they were seized on arrival in Montreal by the Customs authorities, and the seizure was only discharged on the 6th April, 1880; that meanwhile they had sold the teas to John Osborne, Son & Co., and being unable

to deliver the teas by the breach of contract of Lambe, they lost profits on their sale, and were liable in damages to their own vendee for non-delivery to him, in all $835.24; and they claimed that in the event of the teas being delivered to plaintiff they should be subject to the lien of Hartlaub & Co. for $835.24.

PER CURIAM. The facts of the case show a sale by Lambe to Hartlaub & Co. on the 5th February, 1880, duty paid—teas delivered in Toronto. They were shipped to Hartlaub & Co. by the Grand Trunk Railway Company, duty paid, but on their arrival here were immediately seized by the Customs, as having been fraudulently entered as coming direct from Japan, in which case the duty payable was 10 per centum *ad valorem*, whereas, if imported indirectly the duty was 20 per centum.

After some negotiations with the Government the teas in question were liberated, and it is proved that they were not fraudulently entered at the Customs. There is no proof of any default on the part of Lambe, and he cannot be held responsible for what was an inevitable accident. If the Customs authorities were to blame in the seizure, Hartlaub & Co. have their recourse against them, and not against Lambe who sold and delivered the teas according to contract at Toronto.

Judgment for plaintiff.

D. Macmaster for plaintiff.
W. W. Robertson for defendants.

SUPERIOR COURT.

MONTREAL, April 28, 1881.

Before TORRANCE, J.

THOMPSON et al. v. CURRIE et al.

Contract—Time of performance—Goods to be delivered "shortly"—Three months after not a reasonable time.

The action was for specific performance of a contract of sale of iron pipe, through a broker, made on the 2nd February, 1880, by plaintiffs to defendants. A portion of the iron was in store, and deliverable from there. The balance was to arrive shortly, and to be delivered by the Grand Trunk Railway Company. The portion in store was delivered and paid for, and about the 29th March about 30,000 feet of the remaining lot were delivered and paid for, and on the 11th May, of the remainder about 15,000 feet which were on board the steamer *Polynesian*, were tendered and refused. There was no evidence of the tender of the balance of 10,000 feet which came by the steamer *Lake Champlain*.

The pretension of the defendants was that the lot to arrive shortly was deliverable by the Grand Trunk Railway Company before the opening of the navigation, and that it was not reasonable or equitable to ask the defendants to take delivery at so late a date as the 12th May.

The demand of plaintiffs was that defendants be compelled to take delivery of the balance and pay for the same.

PER CURIAM. By the broker's note, the delivery was to be in two lots, one out of store, and the other to arrive shortly, and deliverable by the Grand Trunk Railway Company.

The pretension of the plaintiffs is that so long as they were not required to deliver they were in time to deliver.

The vendees, on the other hand, say that the delivery was to be by the Grand Trunk Railway Company before the opening of the navigation, which was not offered, and, moreover, it was to be shortly after the 2nd February.

The difficulty here, as in most of these cases, is, that there was a fall in price of some 45 per centum.

This is a mercantile contract, and where the time is fixed, the default arises by mere lapse of time; C. C. 1069. Benjamin on Sales, p. 481, remarking on stipulations as to time, says: "In determining whether stipulations as to the *time* of performing a contract of sale are conditions precedent, the Court seeks simply to discover what the parties really intended, and if time appear, on a fair consideration of the language and the circumstances, to be of the essence of the contract, stipulations in regard to it will be held conditions precedent."

Here, giving a fair consideration to the language of the contract and the circumstances of the case, we find that the iron was to arrive shortly, and to be delivered by the Railway. It was in the winter season, and if the time of delivery were extended into the summer, the delivery would be by a steamship in all probability, though there is imperfect evidence on this head, for I cannot supplement what is

wanting in the record by my knowledge as a citizen. Apart from this consideration it might be said that it was of no consequence to the defendant whether the delivery was by the Grand Trunk or by the river. It may have been, but, at any rate, I do not deem it necessary here to say whether delivery by the Grand Trunk was a condition precedent. We have the fact that the delivery of a portion of the part in dispute was not tendered until the 12th May—more than three months after the sale, and no tender appears of the entire balance or remainder. I do not consider an offer after three months of goods to arrive shortly to be an offer made within a reasonable time. Every day of delay was a gain to the vendor and a loss to the vendee, as shown by the fall in price of 45 per centum. The Court here determines what is not a reasonable time, having regard to the facts and circumstances of the case; further, it says that there was no complete tender of the balance, being 25,000 feet; and it finds against the vendors that they have no claim against the vendees.

Action dismissed.

W. W. Robertson for plaintiffs.
M. B. Bethune for defendants.

SUPERIOR COURT.

MONTREAL, April 30, 1881.

Before TORRANCE, J.

THE EXCHANGE BANK OF CANADA v. MURRAY, and BROWN et al., Opposants.

Privilege—The furnisher of coal for household consumption has a privilege for supplies furnished during the preceding twelve months.

The opposants claimed to be paid out of the moneys levied by the sale of the moveable property of defendant, the sum of $237.46, for coal supplied to defendant at his domicile during the last twelve months before the seizure, which took place on the 27th February, 1879.

The sale and delivery took place as regards $135.35 within the twelve months.

PER CURIAM. Is the furnisher of coal for family or household consumption entitled to a privilege for supplies furnished during the last twelve months?

There is no difficulty under the French Code, C. C. 2101. It is there held that the *fournisseur de subsistances* is entitled to the privilege. *Vide* Marcadé on this article at n. 92.

Our article, C. C. 2006, uses the word provision in both versions, and the meaning in both is the same. Bescherelle, in his dictionary, vo. "Provision," defines it as "nom collectif de tout ce qui est compris dans la consommation alimentaire, l'usage et l'entretien de la vie domestique." There can be no difficulty in saying that the rule should be here as in France, and the privilege should hold.

Opposition maintained.

J. B. Abbott for opposant.
D. Macmaster for the bank.

COURT OF REVIEW.

MONTREAL, April 29, 1881.

JOHNSON, TORRANCE, PAPINEAU, JJ.

ROLLAND v. THE CITIZENS INSURANCE CO., and LAJOIE, plff. *par reprise.*

Jury trial — Verdict — Motion for judgment non obstante veredicto.

JOHNSON, J. This is a jury case, and a verdict has been rendered, and the plaintiff moves for judgment upon it in his favor; and the defendants also ask that judgment on the same verdict may be given for them. By art. 422, C. P., *the motion for judgment on the verdict can only* be opposed by means of a motion for a new trial, a motion in arrest of judgment, or a motion for judgment *non obstante veredicto.* The defendants take the last named course. By art. 433 *whenever the verdict of the jury is upon matters of fact in accordance with the allegations of one of the parties, the Court may, notwithstanding such verdict,* render judgment in favor of the other party, *if the allegations of the former party are not sufficient in law to sustain his pretensions.* Whatever may have been done before the code, and some very strange things were done (see cases of *Ferguson* v. *Gilmore*, 1 L. C. J. p. 131, and *Higginson* v. *Lyman*, 4 L. C. J. 329), that is the law now; and that is the law laid down in the judgment of the Court of Appeals in the case of *Fletcher* v. *The Mutual Fire Insurance Co.* disposed of last term. The defendants do not now come before the Court, and ask to set aside this verdict, and get a new trial. They ask that the verdict should stand, and remain as it is, and though standing, that they should get judgment. Why? not because the declaration does

not show a right of action; but because *the evidence and the verdict show that the policy did not cover the loss! That is the sole ground taken in the motion*, and, therefore, I will not look at any other ground—such as the sufficiency of the amendment made at the suggestion of the Court of Appeals. I will not supply a ground that the party refuses to take. There is a consent, however, that the evidence be looked at; but what would be the use of that, under any circumstances, since the only consequence even of finding that the verdict was contrary to evidence would be that the verdict should be set aside, and a new trial granted, neither of which is asked for; but only that the verdict, standing as it does, may be allowed to stand, and judgment, *without new trial*, go for the defendant upon the record as it stands. That appears to me to be plainly impossible in the face of this verdict, which, whether founded on evidence or not, is not asked to be set aside; and, under Article 422, I think judgment must be entered for plaintiff.

As to the consent that the evidence should be looked at, the only consent of record is that of 13th December (the day of trial), and it says that the evidence at the former trial is to serve at that one; and that, upon the final hearing of the cause, the court is to refer to it as explanatory of the verdict to be rendered. That was plainly a consent that the evidence was to be used for legal purposes, not for the purpose of giving the defendants a right to urge what they cannot urge by law: it is a consent merely that the evidence be looked at *pour toutes fins que de droit*, and cannot cover the defendants' adoption of a wrong remedy.

Plaintiff's motion granted. Defendants' motion dismissed with costs.

F. X. Archambault & Co. for plaintiff.

Abbott & Co. for defendants.

SUPERIOR COURT.

MONTREAL, March 17, 1881.

Before SICOTTE, J.

LATOUR v. BRUNELLE, and LARBAU et al., T.S.

Attachment before Judgment—Secreting properties —Compensation of debt with costs.

PER CURIAM. The plaintiff has taken an attachment before judgment for the payment of his bill as doctor. The amount claimed was $130. The Court on the merits has allowed $12, and has compensated this sum in deduction of costs due to the attorneys of defendant, on the petition to quash the attachment before judgment. The plaintiff's allegations for attachment were, 1st. That defendant was leaving the Province of Quebec to go over to the United States; 2nd. That defendant was secreting her effects, moveables, &c., to defraud her creditors. The first allegation is altogether unfounded. It was alleged in the second, that the concealment consisted in the fact that defendant had sold all her effects, movables, &c., to one Joseph Poirier, some time before the attachment. This sale had been effected for the sum of $2000, which had been handed over to some of the defendant's privileged creditors who were holding these effects, movables, &c., in virtue of executions, when this sale took place. The sale was a public one, and the plaintiff has failed to prove any fraud. The Court is of opinion that this sale was regular and was a *bona fide* transaction, from which the defendant derives no personal profit. The attachment is quashed. The judgment of the Court is as follows:

"La Cour, etc.:

"Considérant que l'action est dirigée contre la défenderesse, comme la veuve de Gonzalve Doutre, pour soins et remèdes fournis à ce dernier, et pour soins et remèdes fournis à la défenderesse depuis la mort de son mari;

"Considérant qu'il est constant, que le demandeur, par écrit, en date du vingt-six Novembre mil huit cent soixante-et-dix-neuf, s'est obligé de soigner, comme médecin, le dit Gonzalve Doutre et sa famille, moyennant cent piastres par an, payables par trimestre, dont $10 payées à compte du premier trimestre;

"Considérant qu'il est constant que la défenderesse est séparée de biens, d'après ses conventions et stipulations de mariage, avec son mari, et qu'elle n'est pas responsable des dettes de ce dernier;

"Considérant qu'il est constant que depuis la mort de son mari, le demandeur a donné des soins et remèdes à la défenderesse, et que la somme de douze piastres est une somme plus que suffisante pour l'indemniser;

"Considérant qu'il est constant que le demandeur n'a jamais fait connaître avant l'action,

à la défenderesse, qu'elle lui fut endettée, ni fourni un compte contre elle personellement, accorde au demandeur la dite somme de douze piastres, sans frais, et déboute l'action quant au surplus.

"Et la Cour considérant, en fait, que la défenderesse, lors de l'action et de la saisie-arrêt, et longtemps avant, ne possédait aucuns biens et les avait vendus, à la connaissance du demandeur, à des créanciers antérieurs et privilégiés, pour s'acquitter envers eux de plus forte somme;

"Considérant que le demandeur était mal fondé à déclarer que la défenderesse recelait et était sur le point de receler ses biens et de laisser incontinent la Province de Québec;

"Considérant que la défenderesse a fait preuve de la fausseté des allégations de recel et de fuite faites par le demandeur dans son affidavit pour obtenir le bref de saisie-arrêt, et que la défenderesse a justifié sa requête pour annuler la saisie-arrêt;

"Considérant que le demandeur a procédé par saisie-arrêt, sans cause et dans le but de harasser la défenderesse, et qu'il lui a causé trouble et dommage par cette procédure vexatoire, déboute la dite saisie-arrêt, et maintient la requête de la dite défenderesse pour annulation d'icelle saisie avec dépens distraits à M. J. E. Robidoux, avocat de la défenderesse;

"Considérant que sous les circonstances, la défenderesse ne doit pas être condamnée aux frais pour et à raison de la somme et dette allouée au demandeur;

"Considérant qu'il est juste, pour empêcher litigation ultérieure, de compenser la dette et condamnation de douze piastres au profit du demandeur, avec les frais que ce dernier est condamné à payer à la défenderesse et qu'il lui doit, la Cour prononce la dite compensation et déclare que le demandeur paiera les frais accrus au profit de la défenderesse sur sa requête; moins cependant les douze piastres représentant la dette que lui doit cette dernière."

Barnard & Co. for plaintiff.

J. E. Robidoux for defendant.

NEW PUBLICATION.

We acknowledge receipt of a copy of Stephens' "Law and Practice of Joint Stock Companies," (Carswell & Co., Toronto), which will be noticed hereafter.

SALVAGE OF SPECIE.

No maxim perhaps is more frequently insisted on than that which forbids a judge to decide more than is necessary for the case in hand. At the same time none is more difficult to adhere to, and the judgments even of our best judges abound in *obiter dicta*. A curious instance of this arose a few days ago in the Admiralty Division in the case of *The Longford*. This vessel had the misfortune to get into a collision in the river Mersey, and, being obliged to accept assistance, was subsequently sued for salvage services rendered. At the time of the services she had on board a clerk of the Bank of Ireland with £50,000 in specie in his possession, and its owners contended at the trial that, as, even if the ship had sunk at once before the arrival of assistance, the gold could have been easily recovered by divers, it ought not to contribute to the salvage award in the same proportion as the ship and the rest of the cargo.

The earliest reported case of this character is *The Jonge Bastiaan*, 5 C. Rob. 322, which was decided in 1804. In that case there was first an unsuccessful attempt to salve the vessel by a single smack, at the end of which the master left the vessel in the smack, taking with him a quantity of bullion, and a second successful attempt by six smacks. At the trial it was contended that the bullion should not contribute, but Sir W. Scott (Lord Stowell) overruled the objection. The next reported case in which the principle of making separate allotments on the ship and on the cargo seems to have been discussed is *The Vesta*, 2 Hagg. 193, which came before Sir C. Robinson in 1828, and there that learned Judge distinctly says, "The principle of giving specific proportions of the property saved is an inconvenient rule in itself," and "I do not approve the distinction;" and he gives as his grounds "that the difference of danger to which the property is exposed would be a most difficult criterion to be applied in most cases," and that "to uphold such a notion would lead to preferences in saving one part of a cargo before another." It is true that in this case no part of the cargo was silver or bullion, but it cannot be said that the subject was not present to his mind, for in the course of his judgment he incidentally remarks: "Suppose, for instance, a casket of jewels on board which might be saved with great facility; it could not

be contended that the salvors would only be entitled to a small gratuity for carrying it on shore." This being the state of the law on the subject, the case of *The Emma*, 2 W. Rob. 319, a timber-laden vessel, came before Dr. Lushington for decision in 1844, and it is in the judgment delivered in that case that the dictum occurs which was the sole ground of the contention just raised by the owners of the specie in the case of *The Longford*, and overruled by Sir R. Phillimore: "The ordinary usage," says Dr. Lushington, "is to take the whole value of the ship and cargo, and assess the amount of the remuneration on the whole, each paying its due proportion. I am not aware, excepting in the instance of silver or bullion, that any distinction has ever been taken, or that parties have been permitted to aver that the services were of greater importance to the ship than to the cargo, and, therefore, that the ship should bear the lesser burthen, or *vice versa*. Such a distinction, if acknowledged, would in many cases lead to intricate litigation and to questions of great nicety, which it would be exceedingly difficult to adjust. With respect to silver and bullion it is true that a distinction is wisely and properly permitted, and this upon the consideration that it is more easily rescued and preserved than more bulky articles of merchandise." This is, perhaps, one of the most arbitrary dicta ever promulgated. No foundation for the rule is to be found of prior date, and Sir R. Phillimore disposed of it in very few words: "The attention of the court," said the learned judge, "has been drawn to other cases, especially to the case of *The Jonge Bastiaan*, (*ubi sup.*), from which it is clear that if any such rule as that referred to existed it would have been mentioned. With regard to specie it is like any other cargo."

This decision has removed a difficulty felt by all the writers of text books (Parsons II. 295; Pritch. Dig. II. 796) who have noticed the point, whose only course has been to place the conflicting decisions side by side and leave the matter in doubt.

It has further brought the English law into conformity with the American, a desirable thing from an international point of view: *The T. P. Leathers*, 1 Newb. Adm. 421; *Warder v. La Belle Creole*, 1 Peters Adm. 46; Marvin on Wreck and Salvage, 174.

It has, thirdly, brought the rule in salvage cases into conformity with both the English and American rule in cases of general average. No valid distinction can be drawn between the two cases, and in the latter no doubt has ever rested on the point. From Magens and Emerigon to Chief Justice Best, *Brown* v. *Stapylton*, 4 Bing. 119, all concur in the principle that all cargo put on board for the purposes of commerce, however light its weight and considerable its value—gold, silver, or jewels—must contribute to general average losses for its full value, and a doubt has even been raised as to whether the valuables of passengers not actually carried about their persons are not liable to contribution.—*Law Times* (*London*).

LAWYERS AT COLLEGE.

Many of the best English lawyers were not only good lawyers, they were also good scholars. Sir Frederick Pollock was the senior wrangler of his year, and the next year was elected Fellow of Trinity College, Cambridge. Lord Lyndhurst was second senior wrangler and second Smith's prizeman, and was also a Fellow of Trinity. Sir Nicholas Tindal was first medalist and senior wrangler. Mr. Justice Littledale was senior wrangler and first Smith's prizeman. Lord Langdale was senior wrangler and first medalist. Baron Alderson was senior wrangler, first medalist, and first Smith's prizeman—three prizes that have very seldom been taken by one man. They were the highest honors, both in classics and mathematics, which his university could bestow. During his course he gained the Sir Thomas Browne medal for the best Greek and Latin epigrams, and the members' prize for the Latin essay, and was also elected Fellow of his college. A lawyer, once applying to him while on the bench for a *nolle prosequi*, pronounced the penultimate syllable of *prosequi* long. "Stop, sir," said Alderson, "consider that this is the last day of term, and don't make things unnecessarily long." Dr. Donaldson, the eminent classical scholar, in answer to some reflections that had been made in Parliament on the Civil Service examination in Greek and Latin, called attention to Alderson's scholarship, and particularly to a note by Alderson in vol. 4, p. 129, of Barnwell & Alderson's Reports, on the verb *edo*. His knowledge of mathematics secured his retainer for the con-

testants before the committee of the House of Lords when the bill for the London & Birmingham Railway was before that House, and to him was confided the duty of cross-examining George Stephenson. He succeeded in confusing Stephenson with his figures, but the engineer could not be confused by the facts, and answered, when Alderson endeavored to show that it was impossible to get a steam engine with cars attached around a sharp curve, that all he knew about it, was that he had done it.

Lord Eldon, Mr. Justice Taunton and Lord Tenterden, each took the Chancellor's English Essay Prize. Eldon's subject was the Advantages and Disadvantages of Foreign Travel; Tenterden's, the Use and Abuse of Satire, and Taunton's was Popularity. John Taylor Coleridge won the Chancellors' prizes for prose composition, both in Latin and in English. Foss says this has happened only three times since the foundation of the prizes—the three conquerors being Coleridge, Rev. J. Keeble, and Henry Hart Milman, Dean of Canterbury. The subject of Coleridge's English Essay was Etymology. Chief Justice Cockburn, while at college, gained prizes for the best exercises in English and Latin, and afterward for the English essay; Lord Westbury distinguished himself by attaining a place in the first class in classics and in the second class in mathematics, and was elected Fellow of Wadham College, Oxford; Mr. Justice Maule was senior wrangler, and Fellow of Trinity College, Cambridge; Lord Wenleysdale was a fifth wrangler, and senior chancellor's medalist; Vice-Chancellor Shadwell was a seventh wrangler, a chancellor's medalist and Fellow of St. John's College, Cambridge; and Vice-Chancellor Wigram was a fifth wrangler, and Fellow of Trinity College, Cambridge. From this list it would appear that it does not necessarily follow that because a man has taken prizes at college he will not take any after he has left college. Dr. Donaldson has said that the honor of being senior wrangler is worth $50,000 in the prestige and other advantages it gives to the student gaining the honor.

GENERAL NOTES.

The New York city bar is to be congratulated on having a member wealthy enough to indulge antiquarian tastes. Mr. Hamilton Cole recently paid $8,000 for a copy of the famous Mazarine Bible, the first book known to have been printed with movable types, printed by Guttenberg about 1455.

Of Judge Archibald Macdonald, of Guelph, Ont., late judge of the County Court of Wellington, who is recently deceased, after a judicial service extending over twenty-four years, the *Canada Law Journal* says, "he was a man of sound common sense, a good lawyer, and much respected by his many friends."

HARD UPON THE BENCH.—In *Horton* v. *Champlin*, 12 R. I. 550, the Court remarks: "Within my own experience I have known lawyers to make points in a case almost as a matter of desperation, and to succeed by them. There is hardly any nonsense for which some authority cannot be found in a large law library."

On the Whittaker trial it is proved that on the opinion of Messrs. Payne and Southworth (professional experts) Mr. Palmer an employee in the Montreal Post Office, was dismissed, but on the confession of another was reinstated. In that case Mr. Payne said that if the writing in question was not Mr. Palmer's, then the experience of his own lifetime had been in vain.—*Alb. L. J.*

We regret to learn that the publication of the *Weekly Jurist*, of Bloomington, Illinois, is to be discontinued next week, on the completion of vol. 2. The reason assigned is "the great difficulty in making collections." Some people do not seem to realize that it is an act of dishonesty to subscribe to and receive the benefit of a journal for which they neglect and refuse to pay.

Of Vice-Chancellor Malins, who has retired from the Bench, the *Law Journal* says: "The learned judge is justly most popular with the legal profession, and throughout his career on the bench has been guided by an earnest desire to do justice. He would have earned a higher reputation as a lawyer if he had lived in the times before the system which he had to administer became stereotyped. He had all the instincts of justice, tenacity of purpose, and disregard of opposition, which would constitute a founder of the system of equity. These very qualities stood in his way as a judge in these latter days, so that his reputation as a lawyer was hardly equal to his powers."

A CANADIAN BARONY.—The recent recognition by Her Majesty of a Canadian barony is an exceptional circumstance, and the gentleman (Baron de Longueuil) whose title has been acknowledged, holds the remarkable position of being the only subject of the Queen who is a colonial peer, and who at the same time has not any precedence. The feudal barony is entirely exceptional, and is the only Canadian hereditary title existing. The patent of nobility signed by King Louis XIV, granting this title to Charles Le Moyne for distinguished services, is remarkable as creating not only a territorial barony, but also conferring a title of honor upon himself and his descendants, whether male or female. The cession of Canada to England, by the treaty of Paris in 1763, made no change in the legal right to hold honors; since this period each successive head of the family has, by assumption of right, used the title; but it was not officially recognized by the British Government until December 4, 1880.—*Debrett's Peerage*, 1881.