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CHIEF JUSTICE MEREDITH.

It is with much regret the bar have learned that the state of Chief Justice Meredith's health renders a period of repose imperative. When it was first announced that the learned Chief Justice was desirous of retiring from the bench, it was stated that the Government had requested him to withhold his resignation, and to accept a few months' leave of absence, it being hoped that a season of rest would render retirement unnecessary. It is understood, however, that the Chief Justice has pressed his resignation on the Government, advancing years having constrained him to seek the repose to which his long and eminent services so justly entitle him.

A PHASE OF EQUITY.

The *Law Journal* (London) says:—"By the retirement of Mr. Glasse, Q.C., from the bar, there passes into history the most prominent figure of what may be called the domestic era of the administration of equity, when each judge not only had his own bar into which outsiders seldom intruded, but each bar had a Queen's counsel notoriously possessing the ear of the judge. The relation between Vice-Chancellor Malins and Mr. Glasse was less that of judge and advocate than of judge and trusted friend and adviser. Mr. Glasse would mention a date on which some event in the cause happened—say August 15. 'I don't know where you were, Mr. Glasse, on that day,' the Vice-Chancellor would say, 'but I was at that pretty little place Odde, at the end of the fjord in Norway, and enjoying myself very much.' Then Mr. Glasse would recollect where he was, and notes would be compared, until at last the conversation glided back to the affairs of the litigants. Under that system a counsel was valued not more for power of advocacy and knowledge of law—although Mr. Glasse and other leaders as happily situated had both—than as a friend at Court, especially in the numerous matters which lie entirely within the discretion of the Chancery judge. Nowadays common law counsel invade the Chancery Courts, and the leaders of the bars of the various Chancery judges more frequently encroach upon one another's domains, so that the judge does not see day after day the same counsel before him, and the proceedings, though more stiff and formal, are more business-like and more suitable to the cold atmosphere of a court of law."

ADMINISTRATION OF THE LAW IN ENGLAND.

Our readers are aware that considerable dissatisfaction exists in England in consequence of the block of business before the Courts. One of the remedies which has been suggested is the limitation of the right of appeal — a suggestion which seems to be based on the notion that instead of the Courts being made for suitors, the latter should be reduced so as to suit the convenience of the Courts. In a letter signed "W.B.," which appeared in the *Times* of Aug. 21, the subject of the administration of the law is discussed in a very able manner, and the defects of decentralization, most of which have been experienced in a marked manner in this Province, are clearly pointed out. The writer says:—

"The first question seems to me to be whether the law, civil and criminal, or either of those divisions of it, should be administered by a central judicial body or by separate independent judicial bodies. Authority, great authority, is in favour of the former. For several hundred years, when journeying was difficult and absence from London therefore long, our forefathers persevered in collecting in London as the judicial body the most skilled members of the law, and in sending a certain number of that body at settled intervals to administer the law in every county in England. It seems at first sight strange, though it may nevertheless be right, that the time selected to advocate an entire reversal of this system is the time when travelling has become easy and rapid, and when, therefore, the period of absence from London is immensely shortened. The following reasons seem to me to be in favour of the old system. To alter it you must have a local tribunal in each county, or a local tribunal for certain united counties, or a partial system giving local tribunals to some places and administering the law in the rest of England, as now, by Judges from London. As to the first, you must overwhelm the County Court and introduce into it business of a far higher kind than the existing County Court Judges

have yet undertaken, or you must have a local Judge besides the County Court Judge. In either case, you could not get the highest lawyers to accept the office at any price. You might get an efficient lawyer at a certain price. But his original efficiency would deteriorate for two reasons—first, because he would be always alone; secondly, because he would have before him an inefficient Bar, which is the ruin of Judges. This would be so because there would not be sufficient business to attract a powerful Bar. Both Judge and Bar would for the same reason be constantly idle. The administration of the law would be too much criticized. A local Judge must live altogether apart, or only with his officials, or with a part only of the local inhabitants. And his course of life in these respects would be known. His opinions, too, would be known. The result would be that, although impartial in fact, his decisions would be canvassed. Another objection is that the combined salaries of so many Judges would be enormous.

"As to the second plan, that of a provincial Court, it would be established at a central place. Those who had to come to it from other places would experience all the inconveniences urged against the present system. Parties and their solicitors would have to wait away from home; the solicitors would be obliged to employ agents at the central place. The objections as to the class of Judges, as to the Bar, as to the expense, as to the waste of time, though not in so great a degree as to the first method, would seriously apply to the second. The suggestion contained in the third method is, obviously, that there should be a local judicial tribunal with a local Bar at Liverpool, Manchester, and Leeds. With regard to Liverpool and Manchester there must be one staff of Judges for both or one for each. If a different staff for each, I allege, and I have known the business of Liverpool and Manchester for many a long year, that all the objections I have stated above would apply with all their force. Neither place has legal business enough to occupy the whole time of a Court. The Bar would be stronger than in the first or second system, but it would not be the best. The Judges would not be the best that the profession can produce. The first class of barristers would not accept a provincial office and a provincial life, even in such cities as Liverpool and Manchester. The society, though large, is not large enough to absorb a Judge as he is absorbed, and thereby happily unknown, in London. Liverpool and Manchester have now the best of the profession for their Judges and their Bar. They think they would like a change. If they had it they would weep and lament. If there were to be one tribunal for Liverpool and Manchester the same objections would apply, save only that the amount of business would be greater. As to Leeds, all the objections are in full force. And if these local tribunals were established the appeal must still be heard in London, or the London Court of Appeal must hold sittings in Liverpool and Manchester and Leeds, or there must be separate independent local Courts of Appeal. In the first case, the present complaints would continue; in the second, the circuit system would still exist in a secondary stage; in the third there would be an inferior Court of first instance and an inferior Court of Appeal. And separate independent Courts of appeal mean divergent law. In considering this question of separate local Courts one should consider their effect on London. Unless they are to be an absolutely clear addition to the number of Judges the staff in London must be reduced, and then the business of London would be administered more slowly. I conclude that the central system is best for all. By no means, however, let it be supposed that the application of it cannot be improved.

"The next question is what is the best practicable method of administering the central and consequent circuit system. The problem is what is the best method by which the same staff of Judges can administer the law both in London and on the circuits. The number of Judges in the Queen's Bench Division is 15. It was lately found to be necessary that the circuit business should be undertaken solely by those Judges. It was, at the same time, for the sake of the London business, thought desirable that not more than ten of those Judges, if possible, should be absent from London at the same time. The best way of solving that problem was beyond doubt to group some of the smaller counties for the purposes of criminal and civil business, as recommended by a committee of the Judges. But to do so required an Act of Parliament, and it was said that it would not pass. The next best plan was to group certain counties for civil business; but it was stated that objections in Parliament would be irresistible. It remained to try the experiment, which is now being tried, of sending one Judge only to certain places. Until Parliament will allow a better method we must be content to try and work by an inferior one. The present plan was not tried in its full development during the last circuit. Yet I undertake to say, although there was inevitable friction in the first working of a totally new system, that it did not fail. Weak points were discovered; they will be amended. The form for fixing the commission days set forth in the Order in Council must be treated with more elasticity; the power of sending for assistance in case of emergency must be freely used. On the last circuit, however, no cause was left as a re-

manet by order of a Judge; in the Court of Appeal 75 appeals were heard, which would not have been heard if three Judges of the Court had gone the circuit; that represents 150 appeals in the year. No Judge of the Chancery Division was away; the Admiralty Court sat without intermission. In this last circuit an insufficient time was given to some places; London was too much denuded of Judges; but in the future more time can be given to those places, and the number of Judges of the Queen's Bench Division left in London will never be less than four, and that at the outside for 18 days. During the greater part of the circuit, there will be seven or eight Judges in London. The prospect is good.

"The next question is whether the right of appeal should be free or limited. It is often said, 'interest respublicæ ut sit finis litis.' This proverb is, of course, not cited to prove that an unfounded appeal should not be allowed but that on the whole it is better that a well-founded one should not be permitted. It is cited in order to prevent an appeal in a case in which by hypothesis the decision is wrong. So used can it be justified? The primary duty of the State is to administer the law, that is, decision, first between the State and individuals, which is the criminal law, and, secondly, between disputing individuals, which is the civil law. The State undertakes the latter duty for the same reason as it does the former—namely, in order to preserve the peace and to prevent oppression. How does it interest the general body that there should be no further litigation between two individuals? What difference does it make to the State? But, on the contrary, by what rule of right can the State say to an individual to whom it has promised justice, that he must rest contented to pay debt or damages and costs by virtue of a judgment admitted to be unjust? *Fiat justitia* is the only rule which interests the State, because it is the highest duty of the State to see that justice is done. If an appeal or a number of appeals is or are shown by experience to insure justice they ought to be allowed. It is only a useless reiteration of appeals which ought to be prevented. The propriety or impropriety of the present course of appeals is, therefore to be tested by the inquiry whether it is more than is necessary to secure satisfactory justice. Few people know the extent to which appeals are now limited. On points of procedure, it is often said, there may be appeal from a Master to a Judge, to a Divisional Court, to the Court of Appeal, to the House of Lords. This is true in theory. But in the last year 5,000 orders were made by the Masters of the Queen's Bench Division, of which 500 were carried to Divisional Courts, 50 on to the Court of Appeal, one to the House of Lords, who in it reversed the decisions of all the former Courts. Observe this—1 per cent. of the Masters' orders were subject to a double appeal. And many of these cases of procedure were dependent on the construction of new rules. As to other appeals, there are in all cases in the Chancery Division but two appeals, one to the Court of Appeal, one to the House of Lords. In the Queen's Bench Division, all cases tried by a Judge without a jury, all special cases, all applications made first to a Divisional Court, are subject to two appeals only, to the Court of Appeal and to the House of Lords. It is only in cases tried by a jury that there is a third appeal. In other words, in more than three quarters of the vast number of cases decided in a year in the different Courts there can be only two appeals. In a great majority of those cases there is no appeal at all. A large number do not go beyond the first appeal. And now apply the test: I have been a close observer of and intimately acquainted with the business of the Court of Appeal from the time that Court was instituted until now. I undertake to affirm, with the most undoubting conviction, that there are now hardly any appeals brought before either branch of the Court of Appeal which do not contain fair and reasonable matters for appeal. Day after day, hour after hour, the points raised are difficult and important. In hardly any case could the Court refuse leave to appeal if it were necessary to ask leave. To impose that obligation would add a hearing to most appeals. I undertake to say that reasonable satisfaction to suitors would not be fairly given without a free right of appeal to the Court of Appeal. Let those who challenge the further appeal to the House of Lords learn how few appeals there are from the Court of Appeal. And those few are not unreasonable. I am sure that I can answer for the Judges of the Court of Appeal that they consider that the further appeal to the House of Lords has conduced to justice. I conclude that to limit the right of appeal which now exists would work just dissatisfaction and cause injustice. Frivolous appeals have been stamped out. But in case they should arise again I would advocate a statute giving power to any Court to declare, if it saw reason for so doing, that any litigation instituted by a solicitor, or any step in litigation carried out by him, was frivolous and vexatious and ought not to have been undertaken by a reasonable, careful, or honest solicitor, even with the consent and at the request of his client, and upon such declaration to order that no costs should be allowed even between the solicitor and his client. And if after such order a solicitor were to accept payment it should be deemed to be misconduct as a solicitor, to be dealt with accordingly."

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, March 29, 1883.

Before DORION, C.J., MONK, RAMSAY, CROSS, BABY, JJ.

MOLSON, Appellant, & CARTER, Respondent.

Provisional execution of judgment—Aliments.

Where a judgment of the Court of Queen's Bench in appeal has been rendered, declaring that certain rents, which had been attached, were really "aliments" and "insaisissables," the party in whose favor such judgment has been rendered cannot obtain an order to execute the judgment provisionally, if permission to appeal from the judgment to the Privy Council has been granted.

Molson succeeded, by a judgment in appeal, reported in 6 L. N., p. 372, in having the rents and revenues of certain property declared to be "*insaisissables* and bequeathed *à titre d'aliments.*" Permission to appeal from this judgment to the Privy Council was granted to Carter.

Molson now moved for an order that the judgment (from which leave to appeal had been granted) be executed provisionally. It was urged in support of the application that the rents had been declared *aliments*, and that the petitioner Molson was in great want, and required these rents for the support of his family.

DORION, C.J. Judgment was rendered a few days ago, setting aside the seizure of the rents of certain real estate of the appellant Molson, on the ground that said rents were not liable to seizure under the will of the late Hon. John Molson, appellant's father. The appellant has since presented a petition, by which he asks that the judgment be executed provisionally, pending the appeal to the Privy Council. The authorities cited by the petitioner have no bearing upon the case. There is no doubt that in France judgments of this nature are often given; but the question is not what is done in France, but whether we are justified in granting such an order in the present case. Our own Code speaks of *pension alimentaire* in two instances, but there is no provision similar to that contained in the Ordinance of 1667. It is to be remarked also that the 1178th and 1179th articles of our Code, which authorize appeals to the Privy Council, say that execution of the judgment shall be suspended for six months where security has been given. In the absence of any provision similar to that contained in the Ordinance, the articles of the Code would seem to be conclusive that there is no right to provisional execution. In the case of *Morrison & Dambourges*, in 1868, the respondents produced affidavits showing that they were in the greatest need, and asked for a temporary provision. Nevertheless, the application, which was for only a small part of the sum in dispute, was rejected.

The Court is of opinion that there is no precedent under our system for granting such an application. Molson, in fact, is asking for the thing in dispute, and which would be consumed if we granted his petition, so that a reversal of the judgment would be of no benefit to Carter.

Petition rejected.

Barnard & Co. for the appellant.
Abbott, Tait & Abbotts for respondent.
S. Bethune, Q.C., counsel.

SUPERIOR COURT.

MONTREAL, September 2, 1884.

Before JOHNSON, J.

WHITE v. WHITEHEAD et al., and THE PLAINTIFF, petitioner.

Injunction—Interlocutory order.

If the defendant disputes the plaintiff's legal title or denies its violation, the Court will seldom, upon an interlocutory order, grant an injunction before the plaintiff has established his title. The burden lies upon the plaintiff of showing that his inconvenience exceeds that of the defendant.

JOHNSON, J. The plaintiff, by his petition, now asks for an *interim* injunction.

The action alleges an infringement by the defendants of the plaintiff's rights which he holds by assignment from Joseph Kieffer, the patentee. Kieffer, the patentee, first sold to Larose, and afterwards he, together with Larose, sold to Whitehead and Boivin by the name of the Coté Counter Company.

These rights consisted in the exclusive privilege to use, sell and dispose of, in whole or in part, certain machines and improvements in machines for making boot and shoe counters; and in case of insolvency of the Coté Counter Company, Kieffer and Larose were to have the right to cancel the agreement unless they got security for the royalty. The action then alleged the insolvency of the company, and of its individual members, and proceeded to aver that on the 21st May, 1884, the company (which had undergone some change of members) cancelled their agreement with Kieffer, and reassigned their rights to him; and then, on the 2nd June, 1884, there was a further transfer to Kieffer of the assets of the counter company, Darling, Whitehead's assignee, under the assignment made by the firm of Stimson, Cassils & Co., intervening. Then, on the 17th of June, 1884, Kieffer assigned all his rights to White, the plaintiff, who now alleges that Whitehead and Joseph R. Hutchins, under the name of E. A. Whitehead & Co., and two other persons of the name of Kieffer (Louis and Felix) are working and using these two machines contrary to his exclusive rights under the assignment to him by Joseph Kieffer; and he asks that they may be stopped, and made to render an account, and to pay damages. This is succinctly the plaintiff's case, as stated by himself. Before the defendants could plead to the action, and the day after the writ was returned, the present petition for an *interim* order was made, and the defendants Whitehead and Hutchins, who are said to be working and using these machines for their benefit (the two Kieffers being merely employed to run them as workmen under the former's orders) appeared, and they say in answer to the petition that Whitehead is in possession, and owner and proprietor of these machines, having a good and sufficient title, and being in possession long previous to, and at the time of the petitioner's alleged purchase, on the 17th of June. He further says that these machines were made for the counter company while they were the undisputed holders and assigns of the patent, and before the re-assignment to Joseph Kieffer by the counter company, which in no manner affected the property, and that he acquired and got possession with the express consent of Joseph Kieffer, and has had it ever since. There is no doubt that Whitehead is using two machines of the kind patented by Jos. Kieffer; but the difficulty is as to the violation of Kieffer's right; that is the main point in dispute, and it really goes to the very foundation of the case. The pretensions of the plaintiff and petitioner, on the one hand, and the defendant on the other, cannot both of them be true. Each alleges a plain and distinct right in himself, and they are irreconcileably at issue on the point.

If what the defendant says be true, he might be ruined, and certainly would be deprived of all the benefit of his defence to the action, if I were to grant the petition; while on the other hand the plaintiff suffers nothing but temporary inconvenience if I neither grant nor refuse it, but merely suspend it till the hearing. The possession of Whitehead, with Jos. Kieffer's consent, after the re-assignment to the latter (of which fact there can be no doubt), is of great possible significance, and if unexplained, would raise a very strong presumption of the truth of the defendant's main pretension. The defendant, it is said, revendicated these two machines soon after the assignment to White, and his action is still pending; and he got possession under an order of the court on giving security in the ordinary course under a writ of revendication. I do not regard that kind of possession taken merely by itself, as of much importance to show his right: but his possession up to the 17th June, the time of the assignment to White, is, or may be, a very different matter, for the plaintiff can have no greater right than his assignor; and this consent of his assignor to the continued possession of Whitehead is not satisfactorily explained.

I have confined myself strictly to the pretensions of fact of the parties as disclosed by the pleadings and the affidavits, because, although there are other questions of grave ultimate importance, they ought not to be decided now, and could not be so without prejudging the merits of the action, which are not before me.

The principles that relate to the granting or the refusal of an interim order of this na-

ture are found in a series of cases cited by Kerr in his treatise on injunctions. They apply to almost every conceivable state of circumstances under which it can be asked, and the present circumstances seem to be completely met by the cases cited in note (*u*) p. 209. The result of those authorities is that if the defendant disputes the plaintiff's legal title, or denies the fact of its violation (and here he does both), the court will seldom, however clear the case may in its opinion be, grant an injunction without putting the plaintiff to establish his legal right. It is said indeed here that the plaintiff's legal right depends upon an authentic deed. The defendant, however, denies it and says it does not apply in the manner and to the extent that it is asked for. Besides, the authenticity of the deed of reassignment and surrender to Jos. Kieffer does not necessarily affect the facts of the case, but only the mode of proof.

Upon the principles laid down in *Bacon* v. *Jones*, and the other six cases cited by Kerr, and which I have already mentioned, this petition will, therefore, stand over until the final hearing. I have alluded to the doctrine of comparative convenience, and the authorities upon that head seem no less clear than on the point of legal title and the denial of its violation where both are denied. "The burden," says Kerr, "lies upon "the plaintiff, as the person applying for the "injunction, of showing that his inconveni- "ence exceeds that of the defendant. He must "make out a comparative inconvenience en- "titling him to the interference of the court." And again: "The court, upon the application "for an interlocutory injunction in support of "a legal right, will deal with the injunction "upon the evidence before it, and, as far as "possible, abstain from prejudging the ques "tion in the cause."

In the present case, it appears to me that it would be impossible to say that either the one party or the other should get what he asks without substantially deciding the whole case.

Adjudication on petition suspended until hearing on the merits.

Laflamme & Co. for plaintiff.

L. N. Benjamin for defendants.

COUR SUPÉRIEURE.

MONTRÉAL, 17 janvier 1878.

Coram JOHNSON, J.

LABELLE v. LIMOGES.

Défense en droit — Libelle — Chaussée — Référence à des experts.

Le défendeur en cette cause est propriétaire d'un moulin à farine à Ste. Rose, et a construit une chaussée sur la rivière de cette localité pour se procurer un pouvoir d'eau qui fait mouvoir ce moulin. Le demandeur, de son côté, est propriétaire de deux terres situées sur le bord de la rivière, l'une a environ deux milles, et l'autre à trois milles de la chaussée en question.

L'action est en dommages causés par la submersion de ses terres et pour faire démolir cette chaussée.

Le défendeur a d'abord plaidé une défense en droit qui a été renvoyée parce qu'elle ne mentionnait pas, avec assez de précision, en quoi la déclaration du demandeur n'était pas pertinente; puis il a plaidé en fait niant que la chaussée soit une cause d'obstruction ou de dommages; il ajoute que si le niveau des eaux de la rivière Ste. Rose a été élevé, cela est dû à des causes purement naturelles et indépendantes de l'existence de cette chaussée.

Le jugement est comme suit:

"La COUR, etc.

"Considérant que la cause d'action en cette affaire dépende des faits qui demandent à être constatés avec précision et d'après des mesurages exacts faits par une personne de l'art, la Cour est d'opinion et décide que la preuve entendue ne lui fait point connaître suffisamment les faits essentiels à cette cause, et en conséquence elle ordonne, avant de rendre jugement sur le mérite, qu'un ingénieur civil (expert) à être nommé, suivant les Règles de Pratique, par les parties, la Cour ou par un juge en chambre, constate les faits suivants et en fasse rapport:

1o. La distance du centre de la chaussée bâtie par le défendeur, à la propriété en premier lieu décrite par la déclaration du demandeur;

2o. La distance du centre de la chaussée du défendeur, à la propriété en second lieu décrite, du demandeur;

3o. La profondeur de l'eau au milieu de la rivière, vis-à-vis la propriété en premier lieu mentionnée;

4o. La profondeur des eaux au milieu de la rivière, vis-à-vis la propriété en second lieu mentionnée;

5o. La profondeur des eaux au milieu de la chaussée;

6o. La hauteur de la chaussée à partir du lit de la rivière;

7o. La différence du niveau de l'eau entre un point du milieu de la rivière, vis-à-vis la propriété en premier lieu décrite et un point du milieu de la chaussée;

8o. La différence du niveau de l'eau entre un point du milieu de la rivière, vis-à-vis la propriété en second lieu mentionnée, et un point du milieu de la chaussée.

Et la Cour ordonne que le dit expert à être ainsi nommé, fasse rapport sur le tout le ou avant le premier de juin prochain.

Ouimet, Ouimet et Nantel pour le demandeur.

Loranger, Loranger et Pelletier pour le défendeur.

(J.J.B.)

PHILOSOPHY FROM THE BENCH.

Mr. Justice Stephen's strict views of the legal limits of discussion on the subject of religion do not prevent his handling such topics in the press with a freedom which would have startled most of his predecessors on the bench. The learned judge will not, however, require as a disputant the saving grace of the Chief Justice's milder definition of the law, which as a lawyer he repudiates, because the main argument to which the 'Unknowable and Unknown' is directed is orthodox so far as it goes. Mr. Justice Stephen, in the *Nineteenth Century*, condemns the attempt of Mr. Frederic Harrison, another lawyer, and Mr. Herbert Spencer to divorce religion from theology, and will not accept a religion of Humanity or of the Unknowable, whether spelt with or without capital letters. The learned judge thus sums up his views on this head:—

I contend that to expect to preserve the morals of Christianity while we deny the truth of Christian theology is like expecting to cut down the tree and keep the fruit; that if the Apostles' Creed be given up, the Sermon on the Mount and the parables will go too; that parodies of them are inexpressibly dreary; that to try and keep them alive by new ceremonies and forms of worship made on purpose is like preparing ingredients and charms which would make Medea's caldron efficacious.

The learned judge is, however, very far from being in despair, for he adds:—

But I also contend, on the other hand, that if Christianity does pass away, life will remain in most particulars and to most people much what it is at present.

This idea is further developed in an earlier passage in the paper:—

Love, friendship, ambition, science, literature, art, politics, commerce, professions, trades, and a thousand other matters will go on equally well, as far as I can see, whether there is or is not a God or a future state; and a man who cannot but occupy every waking moment of a long life with some or other of these things must be either very unfortunate in regard of his health or circumstances, or else must be a very poor creature.

Although he thinks the world can get on without theology, the writer fully appreciates its beauties:—

No doubt the great leading doctrines of theology are noble and glorious. To be able to conceive of the world as the work of a Being infinitely wise, infinitely powerful, and, in some mysterious way, infinitely good; to regard morality as a law given to men by such a Being; to look upon this outward and visible life as only a part of some vast whole, other parts of which may vindicate its apparent inconsistency with the wisdom and goodness which are ascribed to its Author, is a great thing. People really able in good faith to look on the world in that light are ennobled by their creed; they are carried above and beyond the vulgar and petty side of life; and, if the truth of propositions depended not upon the evidence by which they can be supported, but on their intrinsic beauty and utility, they might vindicate their creed against all others.

Lawyers who read this disquisition will be apt to attribute the solidity of these views, which contrast favourably with the vagueness of most philosophical speculations, to the practical training of a lawyer. Their cheerfulness is almost an inseparable incident of the successful man of action.—*Law Journal* (London).

READ v. *ANDERSON.*

The decision of Mr. Justice Hawkins in *Read* v. *Anderson*, 52 Law J. Rep. Q. B. 214, which was unfavourably criticised in these columns on April 7, last year, has been affirmed in the Court of Appeal, the Master of the Rolls dissenting. The question was whether a commission agent, having lost a bet made according to agreement with his principal in the agent's own name, and having paid it contrary to the directions of his principal, can recover it from the principal. The Master of the Rolls is unable to accept Mr. Justice Hawkins' ingenious 'finding of fact,' that the authority to pay was not revoked—a finding based on the notion that, although the plaintiff declined to allow the payment of this bet, he did allow the payment of other bets. The Master of the Rolls is further unable to imply any contract to indemnify the plaintiff against the discredit which would fall on him on the turf by reason of his not paying his bets. The majority of the Court, consisting of Lords Justices Bowen and Fry, are of opinion that such indemnity is implied. Betting on commission is one of the most important industries of the racecourse at the present day, and this decision will be considered highly satisfactory by commission agents, because practically it makes their debts recoverable at law. In 1845, when 8 & 9 Vict. c. 109 was passed, this form of speculation on the turf was probably almost unknown. If the principle of that statute is to be maintained, it ought to be amended, and it is not impossible that the question may arise whether the recovery of debts paid by authority ought to be allowed in a Court of law. It is, however, to be hoped that the present case will be taken to the House of Lords, when it will be open to that tribunal, besides passing judgment on this new implied indemnity, to say whether a greater effect ought not to be given to the words 'null and void' in the statute than has hitherto been attributed to them in the Courts below.—*Law Journal.*

GENERAL NOTES.

The London (Eng.) Chamber of Commerce has passed a resolution favouring the passage of a bankruptcy act in Canada.

It is stated that Lord Petre, who, at the autumn session of Parliament will take the seat vacated by his father, who recently died, will be the first Catholic priest who has sat in the House of Lords since the reformation.

The *Law Journal* (London) says: "There is little probability of the details of what would form a romantic biography being supplied from Mr. Benjamin's papers, as Mr. Benjamin made it a habit to destroy all private documents immediately they ceased to be of practical value. Half the misery of life, he used to say, was caused by treasuring old papers."

The rapidity with which the old order of serjeants is dying out of memory is evidenced by the fact that a correspondent last week wrote to ask whether serjeants or Queen's Counsel had precedence. We must refer him to Mr. Serjeant Pulling's book if he wishes to know how it all came about; but the answer is, that Queen's Counsel rank first in England, but the serjeants in Ireland. Before Queen's Counsel became a recognized institution the leader of the bar ranking before the Attorney and Solicitor-General was the Queen's ancient serjeant, over whom Mr. Serjeant Pulling so eloquently cries 'Ichabod.'—*Law Journal*, (London.)

On one of the many official excursions made by boat to Fortress Monroe and Chesapeake bay, Chief Justice Waite of the Supreme Court, Judge Hall of North Carolina, and other dignitaries of the bench were participants. When the government steamer had got fairly out of the Potomac and into the Atlantic, the sea was very rough, and the vessel pitched fearfully. Judge Hall was attacked violently with sea-sickness. As he was retching over the side of the vessel and moaning aloud in his agony, the chief justice stepped gently to his side and laying a soothing hand on his shoulder said: 'My dear Hall! can I do anything for you? just suggest what you wish.' 'I wish,' said the sea-sick judge, 'your honor would overrule this motion!'

In Paris, in May last, the dismembered portions of a human body were found in the Seine near the Pont Neuf; but, though an inquest on these remains proved that murder had been committed, no success followed the endeavonrs to find the murderer. It chanced, however, some time afterwards, that a dog was remarked whining about the river banks near the Pont Neuf, and it was ascertained that the animal belonged to a shopkeeper who had been missing from his home since the end of April. The clew was followed up. It shortly transpired that on a certain day the tradesman, with his favourite dog, had gone to the lodgings of a *café* waiter, named Mielle. The latter's neighbours deposed to hearing screams and cries for help issuing from the rooms, and it was found that the waiter had disappeared, after causing a couple of boxes containing something heavy to be removed from his lodgings to a hotel near the river. It is conjectured that the dog witnessed the ghastly dismemberment of his master's body, and followed the murderer when he went to throw it into the Seine. Enough was learned, in fact, to induce the police to issue a warrant for the arrest of the waiter, which was effected last week at Bar-sur-Aube, Mielle confessing the crime.