The Legal News.

Vol. VI. SEPTEMBER 1, 1883. No. 35.

HOW JUDGMENTS ARE PREPARED.

The *American Law Review* supplies some notes about the manner in which judges do their work in the chambers of the Supreme Courts of the several States. We give a *resumé* below :—

"If our readers have any curiosity to know the manner in which the judges of appellate courts consult and assign causes for the writing of the opinions of the Court, we can gratify it to a limited extent. The information which we give below is authentic. It is not as recent as it might be; but it will be found an accurate statement of the facts it purports to give, unless changes have been introduced in particular Courts within a recent period. It is not likely that many such changes have been made, and we shall, therefore, make the following statements in the present tense.

"In the Supreme Court of the United States all cases are decided in consultation before they are given out for an opinion. To this rule there are no exceptions. No opinion is delivered or filed until read in consultation and approved by the judges who agree to the judgment. This, however, applies only to opinions of the Court. The record in every case is examined by each judge before it is taken up in consultation. It is to be borne in mind that the record is printed, that each judge has a copy, and if this were not done this practice would not be possible. It is not done in Missouri. On the contrary, the Supreme Court of that State is prohibited by statute from requiring it to be done. Therefore it is not practicable for the judges of that Court to make separate, independent, and simultaneous examinations of the record of each cause, seasonably after the argument and submission. In the Supreme Court of the United States a case is never, under any circumstances, referred to a judge to examine and report previous to its decision. Each judge must examine the case for himself and vote in judgment, upon his own responsibility. If, when a case comes up in consultation, any judge asks further time to examine it, it is laid over as a matter of course; if not, it is discussed and decided. After that, it is given out for the opinion. Ordinarily, the cases are assigned by the presiding judge for the preparation of the opinion of the Court; but this does not prevent other judges from expressing their individual opinions, and delivering them in writing. There is no rule of rotation observed in assigning causes, and no judge has a right to make his selection. There is no rule of practice determining the number of opinions to be written by the several judges. The chief justice, or the presiding judge for the time being, has no powers different from those of other judges, except such as pertain to the ordinary duties of a presiding officer. He has no special control over the order of business; neither does he, more than any other judge, direct or control the record entries. He is charged with the duty of auditing accounts, and, in mere matters of form, sometimes acts without consulting the other judges. Except in mere routine matters, however, the sense of the judges is usually taken before action on his part. He usually takes charge of matters of practice. Some motions may be orally argued; others must be submitted in print. All this is regulated by rule. One hour on a side is allowed for the oral argument of motions, and two for the argument of causes. Additional time may be had if application is made before the argument commences.

"In the Supreme Court of Pennsylvania, the final disposition of a cause is always determined upon before it is assigned to one of the judges to write the opinion. After the argument is heard, each judge examines the case thoroughly. It is then passed upon in consultation, and agreed to be affirmed or reversed. The chief justice assigns it to one of the judges for an opinion. The opinion is read in consultation, discussed, if any one chooses, and then accepted or rejected, and sometimes revised. There is no rule regulating the assigning of causes to the judges to write the opinions of the Court. According to established custom, the chief justice assigns, keeping in view the nature of the case and branch of learning to which it belongs, and the experience and knowledge of the justice to whom he assigns. He endeavors to preserve an equality of labor as far as possible. His right to select and as-

sign is not questioned; but, of course, it is exercised with as much fairness as the chief justice is capable of. No justice selects for himself, and seldom indicates a preference, though sometimes it is done, for obvious reasons. The chief justice, in and out of Court, is the organ of the Court, to whom the preparation of *per curiam* opinions, correspondence, etc., is committed. He conducts the proceedings in Court. He appoints the times of consultation, and attends to matters of course. In general he directs the record entries; but, in all matters of importance in relation to the business of the Court, he acts with the advice and concurrence of his associates. * * * *

"In the Supreme Court of Ohio, in like manner, the final disposition of causes is always determined upon in consultation before the record is assigned to a judge to write the opinion. The record is not examined by each judge separately, as in the Supreme Court of the United States, but by all the judges together, one reading and the others listening. When five cases (for report) are disposed of the chief justice assigns one to each judge, sometimes consulting the judges as to their preferences. Each judge is assigned an equal number of cases. When there is a division of opinion, the oldest in commission of the majority assigns the case to one of the majority. The chief justice's right to assign cases is recognized where the decision is assented to by him. The chief justice calls the docket, announces the decisions not for report, and all rulings at hearings; determines the order of business, with the advice and consent of his associates, etc. * * * *

"In the Supreme Court of New Jersey the disposition of a cause by affirmance, reversal or otherwise, is usually determined upon in consultation before assignment to the judge who is to write the opinion. It is the duty of each judge to make a thorough examination of the record for himself. After consultation, the presiding judge requests a particular judge to prepare the opinion. This is the usual course, but there is no rule upon the subject. * * *

"In the Supreme Judicial Court of Massachusetts the final disposition of causes is likewise determined upon in consultation before the assignments to the judges who are to write the opinions. The record in each case is thoroughly examined by all the judges together, with rare exceptions, not amounting to half a dozen cases in a year; and in those cases, by one or more of the judges severally, and afterwards discussed by all the judges together. The chief justice assigns the cases in equal numbers, as far as may be, to his associates, and a larger number to himself. No rule of rotation is observed while the Court is in session. The presiding judge usually speaks for the Court, and directs the order of business, advising with his associates, when necessary, and subject, of course, to be overruled by a majority of the judges present. * * * * * * The Court consists of a chief justice and six associate justices. A full Court for the determination of questions of law is required by statute to consist of at least four judges, and is usually held by the chief justice and four associate justices. No question of law is finally determined without the concurrence of four judges, and a re-argument in the presence of those who have not already heard the case is ordered when necessary to secure this end.

"In the Supreme Court of Errors of Connecticut the final disposition of causes is likewise determined by the justices in consultation, before they are assigned for the purpose of writing the opinions. The record in each case is examined by the judges separately. It is printed, and each judge has a copy. The presiding judge has authority to assign the cases to his associates for the writing of opinions; but, in practice, cases are assigned in order, commencing with the youngest judge in cases where all of the judges are of the same opinion. If the rule brings the case to a dissenting judge, the next judge in the majority takes it. This is the general rule, but sometimes it is departed from, if a judge objects to give an opinion in a particular case. * * * *

"In the Supreme Court of Alabama the consultation usually takes place after the assignment of the cause, and after the judge to whom the cause is assigned has prepared an opinion. The record is generally examined only by the judge to whom it is assigned. He reports to his associates the facts contained therein, so far as material to the questions to be decided. If this statement is not satisfactory, or if there is a difference of opinion, each judge, for himself, examines the record. * * * *

"In the Supreme Court of Florida the final disposition of causes is made in consultation by all the judges before they are assigned to particular judges for the writing of the opinion, except in cases free from doubt, or those involving new questions. In such cases, a designated judge examines and writes out his conclusions, after which each judge examines for himself before assenting. Every record is severally examined by each judge, so far as necessary to understand the questions presented in the assignment of errors. The judge who is desig nated to deliver the opinion first examines and makes a statement of the case, which is commonly accepted by the others, in ordinary or not difficult cases. The presiding judge usually assigns the cases to the judges for the writing of opinions, after conference, and upon first impressions; though this is a matter of usage only. * * * *

"In the Supreme Court of Louisiana the disposition of causes is made after consultation, and after the judge to whom the case has been assigned has reported the facts of the case and the points of law at issue. If a majority of the judges concur with him, he writes the opinion; if not, the case is assigned by the chief justice to another justice. Usually, the report is examined by only one of the judges, who reports the facts of the case to his associates in consultation. The presiding judge assigns the cause to the judges for examination and report."

THE HOUSE OF LORDS.

The Boston *Advertiser* directs attention to an incident of the Bradlaugh case before the House of Lords, which we have not seen referred to elsewhere, namely, the fact that a lay peer, Lord Denman, voted with one law lord to affirm the judgment. The *Advertiser* says:—"To act as the Supreme Court of appeal in almost all matters is as proper a function of the House of Lords as the trial of impeachments is in the United States Senate, and for the origin of the former power it is necessary to go back to the days when lawyers were scarce, and when many judges had little or no training in the law, when judicial functions were not separated from legislative, and when the general court was not an inappropriate name by which to call the Legislature. In those times every peer entitled to sit in the House of Lords, whether spiritual or temporal, of whatever age, character, or profession, was entitled to vote upon all questions or law, and exercised his right if his own interest or party spirit called him. Gradually, however, if the matter involved was one of pure law and had no connection with politics, and if public interest was not excited, the custom arose that no lord should vote except those who were peculiarly qualified, as, for instance, peers who were or had been judges. The custom grew in the eighteenth century, although in a half dozen cases or more the lay lords interfered, in matters of election, of ecclesiastical law, the questions involving the descent of a peerage, and in some other cases. Finally, in 1806, in a case involving the right to the guardianship of a child, to use the words of a nobleman then living: 'The House of Lords made a very discreditable appearance, attending in great numbers at the solicitation or command of the Prince of Wales.' From this time forward the scandal ceased, until in 1844 Daniel O'Connell having been convicted of conspiracy, appealed to the House of Lords from the Court of Queen's Bench in Ireland. The government of Sir Robert Peel was anxious for his conviction, and the tory majority in the House of Lords was large, but five or six of the law lords were whigs, and, although one was absent and one wished to affirm the judgment appealed from, there was still a majority in favor of O'Connell. Accordingly, when the Lord Chancellor, as Speaker of the House, asked those peers who were in favor of reversing the judgment to say "content," three whig law lords answered, but when he asked those peers who opposed to say "not content," several lay lords responded. The Chancellor did not declare the vote, but in a moment put the question again, with the same result. Then Lord Wharncliffe, the president of the council, speaking on the advice of the Duke of Wellington, urged the lay lords to withhold their votes in order that the character of the House of Lords as a court of appeal might be maintained. After a short discussion, in which it was admitted on all hands that there was nothing but their own sense of fitness of things to restrain lay lords from voting, they followed Lord Wharncliffe's suggestion and withdrew.

"In 1876, by the Judicature Act, for the

first time a distinction was established between law lords and lay lords, and it was provided that at each appeal three lords of appeal should be present, and the qualifications of a lord of appeal were fixed by declaring that he must hold, or have held, high judicial office. Before this time, if there were not three law lords present, the number was made up by lay lords, who paid no attention to what was going on, but simply were counted to make up the necessary quorum, which in the House of Lords, was three members. From 1844 until the judgment in the Bradlaugh case above referred to, no lay lord had attempted to vote, and it was thought that by implication the matter was settled in the judicature act. However, when the Bradlaugh case came from the court of appeal to the house of lords, Lord Denman voted with one law lord to affirm the judgment, while three law lords voted for reversal. It is a curious coincidence that Lord Denman, who was bred a lawyer, and is brother to a judge, is the son of one of the three law lords who voted to reverse the judgment in O'Connell's case, and of one who, at the time, strongly deprecated the intrusion of the lay lords."

NOTES OF CASES.

SUPERIOR COURT.

(In Chambers.)

MONTREAL, August 24, 1883.

Before TORRANCE, J.

LAVOIE v. GABOURY, and LEBLANC, *mis en cause.*

Controverted Elections Act, P.Q.—Procedure—Deposit.

Under the Quebec Controverted Elections Act, the filing of an answer on the sixth day after service of the petition is within the delays.

A person put into the cause for alleged corrupt practices is not entitled to exact a deposit.

This was the merits of preliminary objections made by Leblanc to the answer filed by Gaboury to the petition of Lavoie, who contested the election of Gaboury as member for Laval in the Legislative Assembly of Quebec. Leblanc had been put into the cause by Gaboury for alleged corrupt practices. The first of the objections was that the answer had not been filed within the delays—namely, five days after the service of the petition—38 Victoria, cap. 8, sec. 42. Secondly, that Gaboury had not accompanied his petition by the usual deposit of $1,000 to answer the costs of Leblanc. Thirdly, that the election petition of Gaboury had not only reference to the election of June, 1883, but also to the election of October, 1882, and that these elections were not one and the same as alleged by Gaboury. Fourthly, that the election of October having been annulled by the judgment of the Court of Review on the 25th May, 1883, it was *res judicata.* Fifthly, that Gaboury did not allege in his answer that Leblanc was a candidate or elector. Lastly, that Gaboury did not allege that he was elector or candidate at said elections.

PER CURIAM. The Court agrees with the judgment rendered by Mr. Justice Loranger on the 7th August, that the filing of the answer on the sixth day after service of petition of Lavoie, namely, on the 27th of July, was sufficient; also, that the defendant, by section 55, would be allowed to allege fraud and corruption without the obligation of furnishing the security or deposit in question. As to the elections of October and June, they need not be separated as to the alleged corrupt practices of Leblanc, and there is no *res judicata* by the judgment of May last. As to the allegation that Leblanc was a candidate and elector, it sufficiently appeared by the petition and answer that he was a candidate, and so also that Gaboury was elector and candidate. Section 55 has been complied with. The preliminary objections are overruled.

Boisvert and *A. Lacoste, Q.C.*, for Leblanc.
Charbonneau, for Gaboury.

CIRCUIT COURT.

L'ASSOMPTION, June 19, 1883.

Before MATHIEU, J.

WILHELMY v. BRISEBOIS.

Church constable a person fulfilling a public function—Tutelle.

A constable duly appointed to maintain order in a church during divine service is a person fulfilling a public duty, and entitled to notice of suit for damages under C. C. P. 22.

The parent has no right to sue for damages suffered by a minor child, unless duly appointed tutor to such child.

The plaintiff, mother of Ferrier Mathieu, a minor, brought an action for $200 damages, against the defendant, a constable duly appointed to maintain order during public worship in the parish church of Lachenaie.

The complaint was that the constable had maliciously and improperly interfered with the plaintiff's son, by ordering him to kneel during portions of the service, and had put him to shame in the presence of the congregation. The plaintiff sued as natural tutrix for the damages caused to her son.

The defence was first, absence of notice under C. C. P. 22, the defendant being a constable duly appointed to preserve order in the church; and secondly, that the plaintiff had no right of action as natural tutrix.

The COURT maintained the defence,

"Considérant que le défendeur remplissait des devoirs publics, et que conformément à l'art. 22 du Code de Procédure Civile, il avait droit à un avis d'un mois, lequel avis ne lui a pas été donné;

"Considérant que la demanderesse ne réclame que des dommages soufferts par son dit fils;

"Considérant qu'elle n'a pas qualité comme *tutrice naturelle* et qu'elle ne pouvait agir que comme tutrice dûment nommée en justice, ce qu'elle n'a pas fait;

"Considérant de plus que le défendeur a agi dans les limites de ses attributions,et que le dit Mathieu contrevenait à l'ordre, en ne se tenant pas comme il le devait dans la dite église;" etc. Action dismissed.

C. Lebeuf for plaintiff.

Prévost & Turgeon for defendant.

COURT OF QUEEN'S BENCH.

MONTREAL, January 20, 1883.

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

LA FONDERIE DE JOLIETTE (plff. below) Appellant,

& LA CIE. D'ASSURANCE DE STADACONA CONTRE LE FEU ET SUR LA VIE (deft. below), Respondent.

Insurance (Fire)—Waiver of condition requiring notice of other insurance.

By the condition of a policy of fire insurance, the insured was required, on pain of forfeiture, to notify the company of any other insurance effected on the property. The company, after the fire, and after knowledge that other insurance had been effected, supplied forms for making claim, and joined in an arbitration to settle the amount of damage, and otherwise treated the contract as binding on the company. Held, that this was a waiver of all objection based on the condition requiring notice of other insurance.

The action was based on a policy of fire insurance for $2,000, and the case was dismissed in the Court below, on the ground that the plaintiff had violated one of the conditions of the policy, which required notice to the company of any other insurance on the property existing at the time, or which might be effected thereafter. The Court held that before the fire occurred the appellant had effected two other insurances on the same buildings, one in the North British and Mercantile Insurance Company, and the other in the Citizens' Insurance and Investment Company, and that the respondent had not received notice of such other insurance, as required by the condition of the policy.

Pagnuelo, Q.C., for appellant, submitted that the judgment contained an error in stating that the insurance in the Citizens' Company was subsequent to the policy sued on. As a matter of fact it was antecedent, and was mentioned in the policy. The condition relied upon by the opposite party simply required notice of other insurance, and notice in writing was not necessary. The company respondent had received notice of the insurance in the North British Company. The Stadacona Company in 1876 and in the beginning of 1877 had suffered considerable losses, the last of which was by the fire in St. John in June, 1877. Immediately after that fire the directors of the Stadacona decided to liquidate, and the secretary on the 28th June, telegraphed to all the agents to the following effect:—"No new business and no renewals to be taken. Notify policy holders to insure elsewhere, and the unearned premium will be returned hereafter," etc. The appellant, on being notified of the contents of this despatch, resolved, on the 3rd of July, to effect another insurance in the North British Company for the same amount. This was done with the knowledge of the Stadacona's agent, Mr. McConville. On the 5th of July, the agent was notified from the head office not to return any cash in acknowledgment of unearned premium. Other telegrams and circulars succeeded this, and finally, on the

20th July, a circular was issued to this effect: "The Company intend to return (after losses are paid) the unearned premium due on the policies surrendered and cancelled only up to the date of July 10, desiring generally to hold existing contracts until expiry, being in a position now to do this." The appellant did not intend to cancel its contract with the insurance company, but only to have an additional security, and the insurance company had never returned any unearned premium, so that the contract had not been cancelled. Their agent had knowledge of the insurance with the North British, and this was sufficient notice. Further, the fire occurred in the morning of the day on which the Stadacona policy expired at noon. The agent at Joliette notified the head office of the loss, and the inspector was sent to the spot and participated in an arbitration to settle the amount of the damage. The company were again informed that the North British and the Citizens had the same risk. It was submitted that the appellant had acted in an open and straightforward manner throughout the business, and that the insurance company had received sufficient notice to meet the condition of the policy. The respondent really profited by the additional insurance, inasmuch as it reduced the appellant's claim from $2,000 to $1,400.

Charbonneau, for the respondent, contended that the fact of the additional insurance should have been endorsed on the policy. This was required by the fourth condition of the policy. The pretended knowledge of respondent's agent as to the additional insurance was not a compliance with the terms of the policy, and could not be deemed sufficient notice. If it proved anything, it would be that the policy with the respondent was cancelled, and that would be fatal to the appellant's case. It was further contended that there had been no waiver of the condition.

RAMSAY, J., was of opinion to reverse on both grounds. The company, respondent, by its own act, discharged the appellant from the necessity of giving notice. On the ground of waiver, however, the Court was unanimously to reverse.

The *considérant* on the question of waiver is as follows:—

"Considering that on the occurrence of said fire the respondents were duly notified thereof by the appellants, and of the existence of the said two other insurances with the said Citizens' Insurance Company and said North British and Mercantile Insurance Company, respectively, and said appellants made and furnished their claim upon respondents in due course, and with due diligence, for which purpose the appellants furnished claim paper, the forms used for their own office, and requested the appellants in making claim to deduct the proportion for which the other two companies would be responsible, and did also by a submission to the arbitration of persons named by themselves and the appellants submit the estimation of the damage caused by fire, and joined in having the same estimated and ascertained, and by such means and otherwise acknowledged the existence and validity of their said policy as a valid and binding contract, and waived any and all objections which they might have otherwise urged, founded on the want of notice of the insurance effected under the other two policies, especially that of North British and Mercantile Insurance Company, and became and were liable to make good to the appellants the proportion of said loss falling to be paid by them in the proportion of an existing insurance by them to the extent of $2,000, which proportion the appellants consented to reduce to the sum of $1,400."

Judgment reversed.

Pagnuelo & St. Jean for Appellant.

Trudel, Charbonneau, Trudel & Lamothe for Respondent.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, July 11, 1883.

Before LORD WATSON, SIR BARNES PEACOCK, SIR ROBERT P. COLLIER, SIR ARTHUR HOBHOUSE.

MACDONALD, Appellant, and WHITFIELD, Respondent.

Promissory Note—Successive Endorsers—Relative Liability.

Where several persons mutually agree to give their endorsements on a bill or note, as co-sureties for the holder who wishes to discount it, they are entitled and liable to equal contribution inter se, irrespective of the order of their endorsements.

The appellant and respondent made their several endorsements upon certain promissory notes, along with other directors of the St. John's

Stone China Ware Company, as co-sureties for the said company to the Merchants Bank, by which the notes were discounted for the Company.

The question in the present case was as to the rights and liabilities of the parties *inter se*. The respondent's pretension was that in determining the rights and liabilities of the endorsers, *inter se*, regard should be had, not to the contract in pursuance of which they became endorsers, but to the order of their endorsements, as evidencing the terms of the contract.

The Judicial Committee held that this doctrine was at variance with the principles of English law (the case being governed by the law of England in force on the 30th May, 1849: C. C. 2340 and 2346). The following portion of their lordships' observations explains the question decided:—"In the present case the appellant, although his endorsement was first written, was a stranger to the notes in the same sense as the respondent, and it is not matter of dispute that the endorsements of both were given for one and the same purpose, viz., in order to induce the Bank to discount two of the notes, and pay the proceeds to the promissor, the St. John's Stone China Ware Company, and also to give the company credit in account current to the amount of the third note. It was argued, however, for the respondent that in the absence of some special contract or agreement between them, *dehors* the notes themselves, strangers giving their endorsements successively must be held to have undertaken the same liabilities *inter se* which are incumbent on successive holders and endorsers of a note for value. The appellant and respondent must, therefore, it was said, be assumed to stand towards each other in the relation of prior and subsequent endorsers for value, inasmuch as it had not been proved, *habili modo*, that they had specially agreed that their endorsements were to have the effect of making them co-sureties for the promissor. On the other hand, it was contended for the appellant that all the Directors who endorsed the notes in question must now be treated as co-sureties, seeing that their endorsements were made, without reference to the order of their signatures, in pursuance of a mutual agreement to give their joint guarantee to the Bank that the notes would be duly retired by the Company.

"Their Lordships see no reason to doubt that the liabilities, *inter se*, of the successive endorsers of a bill or promissory note must, in the absence of all evidence to the contrary, be determined according to the ordinary principles of the law merchant. He who is proved or admitted to have made a prior endorsement, must, according to these principles, indemnify subsequent endorsers. But it is a well-established rule of law that the whole facts and circumstances attendant upon the making, issue, and transference of a bill or note, may be legitimately referred to for the purpose of ascertaining the true relation to each other of the parties who put their signatures upon it, either as makers or as endorsers; and that reasonable inferences, derived from these facts and circumstances, are admitted to the effect of qualifying, altering, or even inverting the relative liabilities which the law-merchant would otherwise assign to them. It is in accordance with that rule that the drawer of a bill is made liable in relief to the acceptor, when the facts and circumstances connected with the making and issue of the bill sustain the inference that it was accepted solely for the accommodation of the drawer. Even where the liability of the party, according to the law-merchant, is not altered or affected by reference to such facts and circumstances, he may still obtain relief by showing that the party from whom he claims indemnity agreed to give it him; but, in that case, he sets up an independent and collateral guarantee, which he can only prove by means of a writing which will satisfy the Statute of Frauds.

"The appellant has not attempted to establish an independent collateral agrement by the respondent, to contribute equally with him and the other endorsers, in the event of the Company's failure to make payment of the notes in question to the Bank. He relies upon the facts proved with respect to the making and issue of these three promissory notes as sufficient in themselves to create the legal inference that all the directors of the company, including the respondent, put their signatures upon the notes, in August, 1875, in pursuance of a mutual agreement to be co-sureties for the company. And, in the opinion of their Lordships, that is the proper legal inference to be derived from the circumstances of the present case." The case of *Reynolds* v. *Wheeler*, 10 C. B. (N.) 561, was referred to as being in point.

Judgment of Queen's Bench, Montreal (26 L. C. J. 69) reversed.

BILLS OF COSTS.

To the Editor of the Legal News.

SIR,—Among the numerous reforms which are possible in our Quebec law practice it appears strange to me that perhaps the least difficult to effect has been overlooked. I refer to the inconvenience of having the whole bill of costs in a case attributed by the public to the advocate's profits. Would it be too much to suggest a simple order from the Prothonotary that the items of such bills be distributed under the headings "PAID FOR LAW STAMPS," "PAID TO BAILIFF," "PAID TO WITNESSES," "ATTORNEY'S FEES?" The English system is something of this kind, and one or two Montreal offices have their bills made on the same plan. L.

Montreal, August 24, 1883.

THE ENGLISH BANKRUPTCY BILL.

The London *Times* of Aug. 15th gives the following summary of the new law :—

"The measure will come into operation on the 1st of January next; and it is worth while taking notice of the chief changes which it will make. It starts from the principle that bankruptcy should not be made so easy and convenient a process as it is under the Act of 1869. It proposes to treat a man who cannot meet his debts, and who seeks to be discharged from them, very much in the same way in which an officer in the mercantile marine holding a certificate is treated if he lose his ship. There is to be in all cases an examination of the bankrupt, and, what is of still more consequence, the examination is to be of a public character. In many other ways, too, will the path of the debtor be made rougher than it is; but in saying that there is to be a public examination conducted in court, we have indicated one of the chief, if not the chief, of its features. Liquidations by arrangement, as now known, which are about five times as numerous as bnnkruptcies, will cease to exist; and though creditors may accept a composition or a scheme of arrangement, the approval of the court will be requisite to its validity, and if the terms of the scheme be not reasonable or calculated to benefit the general body of creditors, the court will have full discretion to refuse its approval. Another marked feature of the bill is the creation of a totally new officer, the official receiver, who is to be appointed by the board of trade, and whose duty it will be to investigate the conduct of the debtor, to report to the court and the board of trade, and to take part, if necessary, in the public examination of a debtor. This official will also act as *interim* receiver of the debtor's estate pending the appointment of a trustee. A leading object of the measure is to put an end to the waste which has so long gone on with respect to bankrupts' estates; and a large part of the bill is directed to prevent frauds by trustees or the accumulation in their hands of sums properly belonging to creditors. If we were to describe briefly the spirit of the measure, we should say that it aimed at subjecting the debtor to a rigorous examination and the trustee to close supervision. The bill contains novel principles; but it is also a return to the much condemned system of officialism. It is, no doubt, a sincere attempt to grapple with great evils; and if, like so many other bankruptcy measures, it fails to satisfy expectation, general despair of doing much good by legislation will be the probable and even the reasonable result.

GENERAL NOTES.

The London *Times* has the following notice of the decision of the Court in the case of Canon Bernard:—"The Correctional Court of Tournai has acquitted Canon Bernard, who was prosecuted for having absconded to America with £200,000 belonging to a fund claimed by two bishops disputing the same see. We have published full reports of this curious trial, and it was evident from the first that the reverend defendant had done nothing to deserve punishment as a criminal. Monseigneur Dumont, Bishop of Tournai, having, in consequence of eccentric conduct, been deprived of his spiritualities by the Pope, chose to consider that this sentence was illegal, and committed his episcopal treasury to Canon Bernard, with orders to carry it beyond the reach of Monseigneur du Rousseaux, the new bishop. The canon bethought him of America as the country where he and the money would be safest, but before starting on his voyage he took care to consult an eminent lawyer, M. de Landtsheere, who was Minister of Justice in the last Catholic Administration. An Englishman who obtained a legal opinion from an ex-Lord Chancellor as to his discretionary powers over trust moneys would probably hold that in following such counsel's advice he was secure from criminal action; but the Belgian government, on behalf of Bishop du Rousseaux, applied for Canon Bernard's extradition, and that unfortunate clergyman had to give up his treasure, and was shut up in prison for thirteen months before being brought to trial."