The Legal News.

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RAILWAY IN STREET.

In the present issue we report the case of *The Montreal City Passenger Railway Co.* and *Parker*, in which it was held, that where a railway in a street of a city is properly constructed and operated, the company are not liable for damages caused by the wheel of a vehicle coming into collision with the rail. A similar principle was laid down by the Supreme Court of Illinois in a recent case—*Chicago & Eastern Illinois Railroad Co.* v. *Loeb* (March 26, 1884), noted in the *Chicago Legal News*. The ruling of the Court was that a railroad track laid upon a street of a city by authority of law, properly constructed, and operated in a skilful and careful manner, is not in law a nuisance, which is abatable. A railroad, or the operation of it, is not to be and should not be abated. It is built for the accommodation of the public: this is the object which justifies the exercise of the power of eminent domain; and the public welfare demands that there should not be a discontinuance of the operation of a railroad.

EXECUTION OF CRIMINALS.

We think, says the London *Spectator*, it to be demonstrable that so long as the sentence of death is retained—that is, so long as the nation retains its present creed, and feels for society more than for the individual—three conditions as to the method of inflicting it should be resolutely maintained. The mode of execution adopted should be sudden, it should visibly shatter the corpse as little as possible, and it should be held by opinion to be itself disgraceful, and no method except hanging fulfils all those conditions. Sudden death, could, of course, be inflicted in a hundred ways, many of them more rapid than the noose. Shooting, if the heart is pierced, or the brain, is probably as rapid as any. The guillotine is swifter than the hangman, despite some doubts as to the instantaneous loss of the victim's consciousness, and it would be easily possible to employ agencies more rapid than either. There are poisons too rapid in their action for pain, and one of them could be administered, we believe, during sleep. Electricians can prove, we are told, that the electric fluid moves more rapidly than sensation does, and hold it therefore probable that an electric shock sufficient to kill instantly would never be felt by the criminal at all, death preceding sensation, a view borne out, so far as such views can be, by the usual testimony of those who have received and survived a stroke of lightning. Any one of these methods, therefore, would be as satisfactory, so far as the suddenness and the absence of any approach to torture is concerned, as hanging; but the first two diminish that respect for the body which the whole history of brutal assaults shows it so necessary to maintain, and which is, we think, the true objection to that ghastly but painless mode of execution, blowing from a cannon; and the third is liable to make an objection of its own, that it is not wise to make death for crime much more painless than natural death usually is. We should not make it painful, but we should not artificially reduce its terrors. The awe with which the punishment is regarded would be gravely diminished by the use of painless poison, such as Athenians used, while a new doubt would be begotten among the ignorant as to the reality of its infliction. They would begin talking of strong sleeping draughts, and of the drugs which could produce apparent death—that is, catalepsy—without actually killing. It is most important that no colour should be given to such stories, and important, too, not to degrade science by making it an accomplice in the executioner's task, as it would be if the electric battery were employed. Men ought not to lose the sense that there is something rough and brutal about capital punishment, that it is essentially a last appeal to force in its most direct and savage form, when every other means appear from experience to have failed. We greatly doubt, moreover, whether the multitude would believe in the painlessness of death by electricity, and whether the lightning stroke would not evoke that shudder of sympathy with the condemned which so utterly "demoralizes the guillotine," and which the idea of torture, in

this at all events, never fails to elicit in England. There would be too much the air of a scientific experiment in every execution, and a single instance of failure would, till the rapid increase of murder recalled the peeple to themselves, be fatal to the punishment of death.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, May 27, 1884.

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

THE MONTREAL CITY PASSENGER RAILWAY CO. (deft. below), Appellant, and PARKER (plff. below), Respondent.

Montreal City Passenger Railway Company—Obstruction authorized by law—Liability for accident.

Where an accident occurred on the track of the Montreal City Passenger Railway Company, and it was proved that the rail was laid as required by the charter of the Company, and that the roadway at the time of the accident was in good order: Held, that the plaintiff could not recover for an accident caused by the wheel of his vehicle catching on the raised part of the rail.

DORION, C. J., (*dissentiens*) said the case appeared to him to be entirely a question of evidence, and after hearing the case twice argued he was unable to concur in the judgment of the majority of the Court.

RAMSAY, J. A very important question arises in this case, and it is the nature of the appellant's liability. It cannot be questioned, I think, that a tramway, in a street used for other vehicles, must be a source of danger; but it does not follow from that, that every accident caused by this increased peril must be put to the company's charge. They have certain powers conferred by law, and if they only exercise these powers in a lawful way, those who come in contact with them do so at their peril. We have therefore to inquire whether the construction of the railway was in conformity with the law, and whether it was in good order. It seems to me that both of these questions must be answered in favor of the company, appellant. The terms of the Act of incorporation authorized the use of a flat rail, of the Philadelphia pattern, modified according to the by-law of the municipal corporation, and that was the form of rail adopted. It is also established that the raised part of the rail, which all respondent's witnesses evidently considered as the immediate cause of the accident, was that used in Philadelphia and sanctioned by the corporation there, and is a necessity to keep the railway car on the track. There was some attempt to prove that the road beside the track was not in good order; but it is quite clear the accident took place on the rail, and not between the road and the rail. It seems to me clear that the hind wheel of the waggon struck the raised part of the rail, and instead of passing over, slipped into the wheel track, and, being caught as in a vice, was twisted off.

Again, the testimony of those who said the road was in bad condition is not very convincing, and is satisfactorily contradicted. It was attempted to make some show of proof that the company, sensible of its wrong-doing, had hurriedly repaired its line. The little evidence in support of this breaks down from want of precision. The inspector of the road says it is not true, but that the road was repaired a few days before and a few days after as usual, and he tells us that it is repaired constantly in this way. The majority of the Court is to reverse with costs.

MONK, J., remarked that his first impression was that the case did not admit of much difficulty, and, after a very careful reading of the evidence, he came to the conclusion that the action was completely unfounded. The track of this railway might be an obstruction and inconvenience, but it was an obstruction permitted by the law. It was established that the rails were laid according to the mode of placing them in Philadelphia. There was no pretension, in fact, that the mode of laying the rails was different from that prescribed by the law. Then, again, it was proved that the road was in perfectly good order. People had been crossing the road at this place over twenty years; it was the same rail that was first laid, and no accident had ever happened. The waggon on which the plaintiff was sitting must have been going too fast. It was im-

possible to suppose that he could have been precipitated twenty feet if the horse was going at a walk.

The judgment is as follows:—

"Considering that on the 25th day of June, 1881, the appellants were not in default or in the wrong as regards the quality or pattern of the iron rails they had used in the construction of their railway at the south-western corner of the Place d'Armes, where the said railway makes a curve in departing from the line of Notre Dame Street, and turns in the direction of the St. James street at right angles from Notre Dame Street, but that said rails, as well as that part of the roadway which the appellants were bound to maintain, were lawful and sufficient;

"And considering that it was not by any fault, omission or neglect on the part of the appellants, that on the said 25th of June, 1881, the respondent was thrown out of the waggon in which he was being driven while crossing the track of the said railway at the said curve, whereby he sustained the injuries for which he seeks to recover damages in this cause;

"And considering that the driver of the said waggon, while so crossing the said track at the time and place aforesaid, failed to exercise the necessary caution and prudence, to which he was bound on the occasion in question, and might by the exercise of reasonable caution and prudence have avoided the accident by which the respondent was so injured;

"Considering that there is error in the judgment rendered in this cause by the Superior Court at Montreal on the 28th June, 1882, the Court, etc., doth reverse, etc., the said judgment, and proceeding to render the judgment which ought to have been rendered, doth dismiss the action of the respondent with costs," etc.

Judgment reversed.*

Abbott, Tait & Abbotts for appellants.

Lacoste, Q.C., counsel.

Lanctot for the respondent.

DeLorimier, Q.C., and *Geoffrion*, counsel.

* In the case of the same Company, appellant, and The Montreal Brewing Company, respondent (an action for damages to the vehicle), a similar judgment was rendered.

SUPERIOR COURT.

MONTREAL, May 31, 1884.

Before TORRANCE, J.

SURPRENANT v. GOBEILLE.

Libel—Privileged Communication.

A report made by a foreman in the course of his duty, and without malice, respecting men in his gang, which caused the men to be discharged, is a privileged communication.

This was an action of damages by a man dismissed from the service of the Canadian Pacific Railway Company, on the report of the foreman over him. The plaintiff complained that the report was false and malicious.

The report bore date the 2nd August, 1883, in these words: "I have four men in my gang that I do not want any longer; if you want them anywhere please let me know and I will send them to you—or give me permission to discharge them. They are: F. Suprenant, one of the regular section men: him it is for trying to make trouble with the men while on duty, and the others E. Darbin, L. Darbin, and F. Gravel, for backing him up." In consequence of this report, the plaintiff was discharged.

PER CURIAM. The facts show that the defendant made his report in the course of his duty, and without malice; and, moreover, with reason. The report was a privileged communication. *Lawless* v. *Anglo-Egyptian Cotton Co.*; A.D. 1869, 4 L. R. Queen's Bench, 262; *Dewe* v. *Waterbury*, 6 Supreme Court R. 143, A.D. 1881.

Plea maintained and action dismissed.

H. Lanctot for plaintiff.

H. Abbott for defendant.

PRIVY COUNCIL.

LONDON, April 7, 1884.

Before LORD BLACKBURN, SIR BARNES PEACOCK, SIR ROBERT COLLIER, SIR RICHARD COUCH, SIR ARTHUR HOBHOUSE.

CALDWELL, appellant, and MCLAREN, respondent.

Stream floatable in part—C. S. U. C., cap. 48—Right of using improvements.

The intention of the legislature in enacting C. S. U. C., cap. 48, sec. 15, (12 Vict. cap. 87, sec. 5), was to give to owners of higher

lands the right of floating timber down all streams which were naturally floatable for some portions of their course, though at certain points obstructions existed which were only overcome by improvements effected by the owner of the land on either side at his own cost.

Judgment of Supreme Court of Canada (5 *L. N.* 393) *reversed.*

PER CURIAM. In this case the now respondent as plaintiff, filed in the Court of Chancery, Ontario, on the 4th May, 1880, a bill of complaint, and appellants, as defendants, filed an answer on the 11th August, 1880. Issues of fact were raised, and evidence was heard at great length before Vice-Chancellor Proudfoot, who, on the 16th December, 1880, pronounced this judgment:

"1. This Court doth declare that those portions of the three streams referred to in the plaintiff's bill of complaint, where they pass through the lands of the plaintiff, described in the said bill, when in a state of nature were not navigable or floatable for saw-logs and other timber rafts and crafts down the same, and doth order and decree the same accordingly;

"2. And this Court doth further declare that the plaintiff is entitled to the user of those portions of the said streams where they pass and flow through the lands of the plaintiff in the said bill of complaint described, and to the improvements thereon, freed from the interruption, molestation, or interference of the defendants or either of them, or their or either of their servants, workmen, or agents, and doth further declare that the defendants have no right to the user of such parts of the said streams for the purpose of driving timber and saw-logs, and doth order and decree the same accordingly.

"3. And this Court doth further order and decree that a writ of injunction be awarded to the plaintiff, perpetually restraining the defendants, their servants, workmen and agents from interfering with the plaintiff's user of the said streams where they pass through the lands of the plaintiff, described in the said bill, and of the improvements erected on the said streams, and restraining the defendants from using such parts of the said streams and the said improvements for the purpose of driving their timber and saw-logs."

This decree was brought by appeal before the Court of Appeal of Ontario, and, on the 8th July, 1881,—

"It was ordered and adjudged by the said Court that the said appeal should be, and and the same was allowed without costs; and that the bill of complaint of the said Peter McLaren, in the Court below, be, and the same is hereby dismissed without costs except in so far as the costs of the appellants (the defendants in the Court below) have been increased by reason of the motion for an interlocutory injunction, and except their costs of appeal to this Court from the order granting such interlocutory injunction, and as to such excess and costs of appeal, the same are to be paid by the respondent to the appellants forthwith, after taxation thereof."

This order was brought by appeal before the Supreme Court of Canada, and, on the 28th November, 1882, it was ordered by that Court,—

"That the said appeal should be, and the same was allowed, that the said order of the Court of Appeal for Ontario should be and the same was reversed, and that the decree of the Court of Chancery of Ontario, dated the 16th day of December, 1880, should be and the same was affirmed.

"And this Court did further order and adjudge that the said respondents should pay to the said appellant the costs incurred by the said appellant, as well in the said Court of Appeal for Ontario as in this Court."

It is from this last order that the present appeal is brought.

There are some things not now in controversy, which it is better to state before examining the allegations in the bill and answer.

The waters which drain from a considerable tract in Upper Canada collect so as to form a river called the Mississippi, which flows down to and into the River Ottawa. There is no controversy as to the Mississippi below a point in the township of Dalhousie called High Falls.

The lie of the country above that point is shown by a map (Exhibit G) prepared by the plaintiff below (now respondent), and

adopted and used on the argument here by the appellants (defendants below).

The waters which flow over High Falls have their origin in a district of considerable dimensions, now divided into several townships. The upper part of this district does not appear to be very steep, though on some of the creeks in it there appear to be rapids. The creeks, at places widening into lakes, finally converge into Cross Lake, in the township of Palmerston. Thence the waters flow in what must be a considerable body of water down a steep and rocky country; and this continues to be the character of the country for some miles. The body of water flowing down this passes over a succession of rapids and waterfalls. The waterfall which is lowest down is High Falls; below that there is no controversy that the Mississippi is floatable.

All this country was till within the last forty or fifty years in a state of nature, and belonged to the Crown. It was covered with timber, and the waters flowed as the force of gravity directed them.

And now it is convenient to examine the allegations in the bill and answer.

The bill of complaint of the plaintiff was filed on the 4th May, 1880, in the Court of Chancery, Ontario. It states that the plaintiff is a timber dealer, having his principal saw-mill at Carleton Place, a village on the Mississippi, a considerable distance down below High Falls. The defendants also are timber dealers, having their principal saw-mill also at Carleton Place.

Both the plaintiff and the defendant have taken from the Crown growing timber on the lands which form the upper townships, the waters from which flow over High Falls.

The bill states that the plaintiff is owner in fee simple of several lots of land. He derives his title from grants by the Crown, some to himself and some to persons from whom he claims by mesne conveyances.

The dates of those grants are all given in the bill; the earliest grant in point of date is one of the 3rd of August, 1853, to one Skead, of lands at High Falls, and the latest in date is one of 18th September, 1879, to the plaintiff himself, of lands on one of the creeks above Cross Lake. It is not unimportant to remark that all the grants under which the plaintiff claims are subsequent in date to the Act of 1849.

The bill then contains these statements:—

"8. The plaintiff is also the owner of large tracts of timber land in the aforesaid townships and along the banks and in the vicinity of the said streams, and he has for many years past been using, and is now using, and expects for many years to come and until the timber on the said land so owned by the plaintiff has become exhausted, to continue to use the said streams for the purpose of driving or floating down his timber and logs to his mill at Carleton Place aforesaid."

"9. The said streams were not navigable streams nor floatable for logs and timber during the time the said lands were vested in the Crown, not until after the time when the improvements hereinafter referred to were made on the said streams, and when they were in their natural and unimproved state the said streams would not, even during the freshets, permit of saw logs or timber being floated down the same, but on the contrary, were quite useless for that purpose.

"The plaintiff is entitled, both as riparian proprietor and as owner in fee simple of the bed of the said streams, where they pass and flow through the said lots, respectively, to the absolute, exclusive, and uninterrupted user of the said streams for all purposes not forbidden by law, and amongst other purposes to the absolute and exclusive right to the user of the same for the purpose of floating or driving saw logs and timber down the same.

"11. The plaintiff has for many years been engaged in the business of lumbering in the said county of Lanark, and at other places throughout this Province, and more particularly in the timber region along the banks and in the vicinity of the said streams; and in order to get to his mill at Carleton Place aforesaid, and to market the timber and saw logs cut in that region, the plaintiff and various other persons and firms, the whole of whose rights and interests therein and thereto have been acquired by purchase by the plaintiff, have expended a large amount of money, to wit, not less than one hundred and fifty thousand dollars, not only where the said streams run and flow through the lots

above described, but at various other parts thereof, over a length of about fifteen miles on the said 'Buckshot Creek,' and a length of about fifty miles on the said 'Louse Creek,' and main branch of the 'Mississippi,' in improving the said streams, by deepening the same by clearing out therefrom stumps, trees, and *débris* of all kinds, by erecting dams, slides, and other erections and improvements wherever necessary on the said streams, and occasioned by the existence of rapids, falls, and shallows in the course thereof; and by reason of such expenditure the said streams have become navigable for saw logs and timber which, with the aid of such dams, slides, and other erections, may now be floated down the said streams during the time of freshets, which occur chiefly in the spring of the year.

"12. On the various parts of the said streams which run and flow through the said lands hereinbefore described, the plaintiff and those through whom he claims the said lands have expended a large amount of money in making certain specific and very valuable improvements, that is to say:—"

(The description of the improvement at High Falls may serve as a sample):—

"On the said parcel of land, being the front half of lot number fourteen in the first concession of the township of Sherbrooke North, the plaintiff, and those through whom he claims the said parcel of land at a place called 'High Falls,' a portion of the said Mississippi River, which runs through the said lot, having erected a dam across the said Mississippi, where there is a fall of about seventy feet from an island in the centre of the said stream to the south shore thereof, and also a dam between the said island and the north shore thereof, and the said plaintiff or those through whom he claims, that is to say, the said Skead and Gilmour, or one of them, has formed an artificial stream, consisting of a cutting through rock and earth, and a slide connecting the lake or pond above the said High Falls, on an extension of the said Mississippi River, with the lake or pond below the said falls, which said cutting also passes through the afore-mentioned lot in the township of Dalhousie, the effect of the building of the said dams at the entrance of the 'High Falls' being to raise the level of the waters in the said pond or lake above the same, and to form a stream in the said cutting or artificial stream as aforesaid made through the said lot fourteen and the said lot in Dalhousie, and thus rendering the same capable of floating saw logs and timber down the same.

"31. The defendants being engaged in their business as hereinbefore alleged, have recently got out of the woods in the said township of Abinger a large quantity of saw logs, to wit, about 9,000 saw logs, the whole of which is now lying in or being driven by the defendants down the said Buckshot Creek, and they commenced to enter the said improvements on Buckshot Creek on the twenty-seventh day of April, one thousand eight hundred and eighty, and they have taken them over the improvements hereinbefore particularly referred to, and made as aforesaid on lot one in the third concession of Abinger aforesaid, and they are now driving them down the said Buckshot Creek with the intention of taking, and they threaten and intend to take them over the other herein-before described improvements made as aforesaid on the said Buckshot Creek, and down through the main branch of the said Mississippi, and will do so unless restrained by the order and injunction of this Honourable Court.

"32. The defendants are also taking a quantity of saw logs, about ten thousand in number, down the said Louse Creek, and through the said lands belonging to the plaintiff in the township of Denbigh, and thence down the said stream, and to do this the defendants threaten and intend to avail themselves, and unless restrained by this Honourable Court they will avail themselves, of the said improvements made by the plaintiff and those under whom he claims, and, in so floating and running the said timber and saw logs down the three said streams, the defendants are interfering with and obstructing the plaintiff and his employees in floating and running down the plaintiff's timber and saw logs, to the great damage and injury of the plaintiff, and to the damage and injury of the said improvements.

"33. The defendants, in so floating and

running their timber and saw logs down the said streams, are wrongfully and forcibly, and without right or colour of right making use of the improvements made by the plaintiff and those under whom he claims, and to which, for the reason aforesaid, the plaintiff is entitled to the exclusive and uninterrupted user.

"37. The plaintiff further shows that the defendants have made use of the said streams and the improvements thereon without any authority or license from the plaintiff, and well knowing, as the facts are, that the plaintiff was owner of such improvements, and that owing to the said improvements, all of which have been made by the said plaintiff or those through whom he claims, the said streams have become useful for the purpose of floating down saw logs and timber, and that before the said improvements were made, and when the streams were in a state of nature, they would not permit of timber and saw logs being floated down the same even during freshets, yet the defendants have never paid to the plaintiff any compensation for the user of the said streams and improvements, and the plaintiff submits that the defendants are liable to pay him compensation therefor, and that this Honourable Court should direct an account to be taken of the amount of compensation which the defendants should pay, and that the defendants should be ordered to pay the same to plaintiff when so ascertained."

The following are the more material parts of defendants' answer:—

"We are the owners of certain timber limits situated in the townships of Abinger and Denbigh, in the county of Addington, for the purchase of which we paid a very large sum of money.

"The said limits were originally the property of the Crown, and were sold by the Crown Lands Department to one Skead, and we claim title thereto through the said purchaser from the Department.

"Our object in purchasing the said limits was to obtain a supply of timber and saw logs for our mills at Carleton Place, and we would not have purchased and paid the price we did for them for any other purpose or object.

"Timber and saw-logs, cut and manufactured upon the said limits, can only be brought to our saw-mills by means of the Mississippi River, and Buckshot and Louse Creeks, mentioned in the Plaintiff's bill, form the only outlets by which the said timber and saw logs from our said limits can be carried to the said Mississippi River.

"We deny the allegations contained in the 9th and 10th paragraphs of the said bill, and, on the contrary, we say that we are informed and believe, and charge the fact to be, that the said Mississippi River and Buckshot and Louse Creeks are all streams which are navigable or floatable for timber and saw logs within the meaning of the statutes in that behalf, and we claim the benefit of the said statutes.

"We deny that the alleged improvements upon the same streams, claimed by the plaintiff, confer upon him the rights he claims against us by his said bill, but we have nevertheless been always ready and willing, and before the commencement of the suit we offered the plaintiff, to pay him any proper sum for the use of any of said improvements, or any loss or damage that he might fairly claim to be put to by reason of the passage of our said timber and logs over the said improvements, and we offered to submit the question of the amount we should pay to arbitration, but the plaintiff would not accede to any of our offers."

Strong, J., began his judgment by saying:

"The finding of the learned Judge before whom this case was tried, that those parts of the river Mississippi and of Louse and Buckshot Creeks, at which the Appellant has constructed his improvements, were not originally and in their natural state capable of being used, even in times of freshets, for the transportation of saw logs or timber, was not on the argument of this appeal demonstrated to be erroneous, and a careful perusal of the evidence has led me to the conclusion that an attempt to impugn that finding would have been hopeless, even if we could have entirely disregarded the rule so often laid down in this Court, that the finding of the Judge before whom the witnesses were examined is, in the case of contradictory evidence, entitled to the strongest possible

presumption in its favour. We must, therefore, assume the facts to be as they are stated in the first declaration with which the decree under appeal is prefaced, namely,—

"That those portions of the three streams referred to in the Plaintiff's bill of complaint, where they pass through the lands of the Plaintiff, when in a state of nature were not navigable or floatable for saw logs and other timber, rafts and crafts down the same.

"The Appellant's title to the lands upon which he has made the improvements in question, including the beds of the respective streams, was not seriously disputed, and has been established by the production of his title deeds. The question for this Court to determine is, therefore, purely one of law."

To this their Lordships agree. The Respondent cannot now contend that timber could not be practically floated down those portions of the streams whilst in a state of nature, though not so well or so profitably as after the improvements were made; but the Vice-Chancellor cannot be understood to find that it was impossible to float any timber at all, over High Falls for instance. In an affidavit used by the Plaintiff for the purpose of obtaining an interim injunction, Mr. T. Skead says:—

"I purchased High Falls, in the thirteenth paragraph in the bill referred to, from the Plaintiff's father, and built the dam and slides there; and about the year of our Lord 1849, I took John Allan Snow, a surveyor, with me and surveyed the whole line of the river from High Falls to Cross Lake, and he and I then drew a plan of the improvements which we thought necessary to make the river navigable and floatable for timber and saw logs, which said improvement was substantially carried out by Messrs. Gilmour & Co., who purchased from me the lands and limits bordering on this portion of the said Mississippi.

"Before the improvements at High Falls, a Mr. Playfair, during the highest freshets, used to run a few hundred logs over the falls, but they were so injured and damaged in their transit thereover, that he told me he would have to give it up. I had not made the slide hereinbefore referred to."

The finding of the Vice-Chancellor must be understood as meaning only that in a commercial sense it could not be done; the timber being so difficult to guide over the falls and so liable to be injured that no one can profitably do it, and consequently no one would do it. And it must be taken, as admitted, that at many places above High Falls and for considerable distances, timber could be floated along the streams. Obviously this must have been the case wherever the streams expanded into lakes.

[Concluded in our next issue.]

GENERAL NOTES.

A parochial clergyman writes to the *Times* on the "Working Classes and Divorces." He says that the cheapest divorce case costs £30 to £40, and urges that the cost should be reduced, so that respectable workingmen may enjoy the luxury of a divorce.

The *Solicitors' Journal* says that Benjamin's great characteristic as an advocate 'was his uncommon combination of legal knowledge and accuracy with adroit and persuasive rhetoric.' Another of his characteristics was his manner of his charging fees. At first, he said, 'I charge a retainer, then a reminder, then a refresher, and, lastly, a finisher.'

The late Mr. R. A. R. Hubert, prothonotary of the Superior Court, Montreal, died very suddenly early in the morning of the 17th June. The deceased was at the office as usual until after 5 p.m. on the 16th, and retired about midnight, but soon after was taken ill, and died within an hour. Mr. Hubert was born in 1811, and practised as an advocate for many years. He succeeded the late Mr. Coffin as prothonotary in 1867. He was a courteous gentleman, and enjoyed universal respect during his career at the bar and as an official of the Superior Court.

He was a young lawyer and was delivering his maiden speech. Like most young lawyers, he was florid, rhetorical, scattering and windy. For four weary hours he talked at the court and the jury, until everybody felt like lynching him. When he got through, his opponent, a grizzled old professional, arose, looked sweetly at the judge, and said: "Your Honor, I will follow the example of my young friend who has just finished, and submit the case without argument." Then he sat down and the silence was large and oppressive.—*Central Law Journal.*

A Hereford solicitor was charged at the City Police Court with stealing an orange, value one penny, from the basket of a hawker, who was supposed to be blind. The fact was admitted by the defendant, who, however, explained that he was a customer of the prosecutor's, and disbelieving in his supposed blindness, he took the orange out of the man's basket to test him, as he went about the city with a seemingly perfect knowledge of what he was doing. He intended returning the orange, but the man had disappeared. The magistrates accepted the explanation, and the defendant was discharged, but compensated the prosecutor by giving him half-a-crown.—*Law Journal* (London).