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With reference to what appeared to be an extraordinary system of publishing officially notes of Supreme Court decisions in a Toronto journal only, on which we made some remarks at pp. 129 and 137, the reporter of the Supreme Court writes to us, assuming the entire responsibility for the blunder, or omission to communicate the notes to the *Legal News*. He says: "Had you written to me "about it, I would have had my attention "drawn to the fact that by an Order in "Council granting me that sum ($100 per "annum), I was obliged to furnish your "Journal with notes as well as the Canada "Law Journal." It strikes us as rather peculiar that the reporter in question should have drawn his salary for six or seven years without becoming aware of the nature of the duties for which he was paid.

What constitutes a navigable stream was a question decided by the Supreme Court of Alabama in *Lewis* v. *Coffee County*. The Court held that a stream "of sufficient capacity in its natural state to float the product of the mines, the forests, or the tillage of country through which it flows, to market," is a navigable water. Though it may not always be technically navigable it is subject to the public right of *user*. To constitute a navigable stream it is not requisite that there should be sufficient water for the common uses of trade and commerce during all seasons of the year. It must, however, as the results of natural causes, be capable of valuable floatage periodically during the year, and so continue long enough at each period to make it susceptible of beneficial use to the public. It must be of such character as to be of actual, practical utility to the public as a channel of trade or commerce. A stream of which the only evidence of navigability was that it "was a stream upon which logs could be floated only at high water, or during a freshet, by the public generally, to Pensacola, Florida, where it was generally marketed," could not be adjudged a navigable stream.

FUNCTIONS OF ADJUDGED CASES.

The annexed correspondence between Judge John F. Dillon and Mr. Justice Miller of the U.S. Supreme Court, is of interest:—

New York, Nov. 13, 1885.

My Dear Judge: I am to deliver next month an Address before the State Bar Association of South Carolina. In a casual conversation, I once heard you make some observations concerning the functions of adjudged cases, which struck me very forcibly. They probably expressed your own course or habit as a Judge in considering the force and effect of "authorities." Some cases, or class of cases, you regarded as absolutely binding, without reference to the original ground of decision; others as simply persuasive, and this only, so far as they rested on sound reasons, the validity or soundness of which reasons any Court asked to adopt or apply them might and even should look into for itself.

If you have time to drop me a note giving me, ever so briefly, your views as to the true office and use of adjudged cases in our law, I would be much obliged.

Very sincerely yours,

John F. Dillon.

Mr. Justice Miller,

Washington, D. C.

Washington, Nov. 16, 1885.

Hon. John F. Dillon:

My Dear Judge—I am in receipt of yours of the 13th instant. The subject you suggest is one which necessarily demands the careful consideration of any Judge of a Court of last resort. The value of authorities, and especially of judicial decisions, in enabling him to make up his own judgment in cases before him is often a question of no little anxiety.

The answer must have large reference to the kind of cases in which they are offered for his examination.

There is a large class of cases, perhaps

the largest, which are to be decided by principles that are not disputed. That is to say, that the propositions advanced by the counsel on opposing sides are such as will be generally conceded, and need no support from judicial decisions. In these cases, which, in my experience, are the most numerous, the work of the judge is to determine from the case before him, that is, from the pleadings and the evidence, whether it falls within the principles offered by the Plaintiff or Defendant for its solution, or within some modification of these principles which counsel of neither party has adopted. The decision of this question demands the highest exercise of the reasoning faculties of a mind well stored in those general rules of law which lie at its foundation as a science, and the aid given in such cases by the decisions of other Courts is not much. The scientific arrangement of the facts of the case as seen in the pleadings and evidence, by a well trained judicial mind, must in this class be always the main reliance for a sound administration of the law.

There is another class of cases, the decision of which turns upon a construction of constitutions and statutes.

In these the decisions of the highest Courts of the government which adopted the constitution or enacted the statutes should be conclusive in most cases. In the construction of the Constitution of the United States, or an Act of Congress, the decisions of the Supreme Court of the United States ought, until reversed by that Court, to be followed almost without question. That Court has given expression to the rule in regard to the construction of the State constitution and statutes by the highest Courts of the States enacting them, in the adoption of the principle that even in the case of co-ordinate and concurrent jurisdiction it will follow those Courts in the construction of the statutes and constitutions of their respective States.

A third class of cases are those which, arising under the general rules of the common law, or in Equity, and in which the abstract reasons for one rule, or for another opposed to it, are nearly balanced, where it is more important than the rule should be established and followed with uniformity, than that one or the other rule should prevail.

In this class, if there are differences in the cases decided, the question should be determined by the weight of authority. It is in this class of questions that adjudged cases are most useful, and in which the examination of them by counsel are of great aid to the Court, and are likely to reward the labor of those who make the examination thorough. Perhaps to this class should be added those in which the decisions of the Courts have become "rules of property," governing the rights of parties to real or personal property.

As regards the relative weight to be given to the different Courts whose decisions are relied on, it is more difficult to speak. I shall say nothing of the value of the decisions of the English Courts in questions purely of common law or in Equity. Not because I underrate them, but because every one understands their value, especially in equity and admiralty cases.

Leaving these, and the questions arising under State statutes, the value of a decision is estimated by the character of the Court, or of the Judge who delivered the opinion, or by both. These vary much in the Courts of the United States. Without being invidious, or undertaking to name other Courts of high standing, there are many things in the history and character of the Supreme Judicial Court of Massachusetts which entitle its reported decisions for the last hundred years to great consideration.

But a decision often has a merit apart from the standing of the Court in which it is made, owing to the high character of the Judges of the Court, or of the Judge who delivered the opinion.

Opinions delivered by such Judges as MARSHALL, TANEY, KENT and SHAW have a value apart from the Court in which they were delivered. Even the dissenting opinions of these men, and their *obiter dicta*, have weight in the minds of lawyers who have a just estimate of their character, which they cannot give to many Courts of last resort of acknowledged ability.

After all, the convincing power of the opin-

ion or decision in a reported case must depend very largely on the force of the reasoning by which it is supported, and of this every lawyer and every Court must of necessity be his own judge.

Very sincerely yours,

SAMUEL F. MILLER.

*SUPERIOR COURT—MONTREAL.**

Usufruit—Cautionnement—Procédure—Motion.

JUGÉ:—Que lorsque le demandeur dans son action demande entr'autres choses à ce que le défendeur soit condamné à donner un cautionnement qu'il jouira de son usufruit en bon père de famille, et que le défendeur déclare dans ses plaidoieries qu'il est prêt à se soumettre à cette demande, ce cautionnement néanmoins ne pourra être exigé par le demandeur pendant l'action, au moyen d'une motion, mais devra être adjugé par le jugement final.—*Lajeunesse es qual.* v. *David es qual.*, Taschereau, J., 16 avril 1886.

Corporation of Sherbrooke—39 Vict. (Q.) ch. 5, s. 32—Changing level of sidewalk—Damages.

HELD:—That the plaintiff was not entitled to damages by reason of the raising of the level of the sidewalk in front of her building, in the city of Sherbrooke, no grade having been previously established by the Corporation for the street in question, and, further, no damage having been suffered by the plaintiff in consequence of the change.—*Boudreau* v. *The Corporation of Sherbrooke*, Brooks, J., confirmed in Review, March 31, 1886.

Jurisdiction in health matters—C. S. C. ch. 38—Injunction—Right of action.

HELD:—1. That a municipality, which has no right of ownership in buildings situate within its limits, nor any control thereof, is not entitled to obtain an injunction to prevent the use of such buildings for a particular purpose which is not shown to be in contravention of any bylaw of the municipality or dangerous to the inhabitants thereof.

2. The legislature of Quebec has jurisdiction in all matters affecting the public health and the establishment of hospitals and the enforcement of such regulations as may become necessary by the presence of an epidemic, the subjects of quarantine and the establishment and maintenance of marine hospitals alone being assigned to the Parliament of Canada.

3. In any case an action will not lie against the City of Montreal for acts done by the central and local boards of health established under the authority of the provincial legislature.—*La Municipalité du Village St. Louis du Mile End* v. *La Cité de Montréal*, Taschereau, J., confirmed in Review, Nov. 4, 1885.

* To appear in Montreal Law Reports, 2 S. C.

COURT OF REVIEW.

QUEBEC, April 30, 1886.

Before CASAULT, J., CARON, J., ANDREWS, J.

MÉTHOT et vir v. DU TREMBLAY.

Prescription—Interruption.

In this case, the defendant had been the tutor of one of the plaintiffs, who was the sole legal representative of a deceased person. Among other assets of the estate of that deceased person, during such tutorship, the defendant had possession of a promissory note made by himself, and, therefore due by him to that minor.

HELD:—*That, under the circumstances, the prescription of five years, decreed by Art. 2260, Civil Code, had not run during such minority, because such prescription had been "interrupted" for the reason, stated in article 2232 of the Code, namely, that it had been impossible for her, during minority, to adopt any means, had she even known the existence of the note, to prevent prescription from occurring.*

The judgment is as follows:—

"La Cour, etc.

"Considérant que les demandeurs ont fait la preuve des allégations essentielles de leur demande;

"Considérant que lorsque les dits demandeurs ont institué leur présente action, jugement avait été rendu par la Cour Supérieure, dans la cause No. 89, des dossiers de la dite Cour, dans ce district, mentionné en la première exception du défendeur,—que le dit jugement a réservé aux demandeurs leur

recours pour le recouvrement du billet promissoire dont le montant est réclamé par la présente action;

"Considérant que le dit jugement, dans la dite cause No. 89, a été confirmé par la Cour de Révision, siégeant à Québec;

"Considérant que le dit défendeur, ainsi qu'il est allégué en la déclaration des dits défendeurs, a été le tuteur de la demanderesse, Marie Anne Louise Blanche Méthot, pendant près de deux ans, postérieurement à la date et à l'échéance du dit billet, et que la prescription n'a pu courir, à son profit, à l'encontre de la dite demanderesse, sa pupille;

* * * * * * * * *

"Condamne le dit défendeur à payer aux demandeurs la somme de $261.50, montant, en capital et intérêt sur icelui billet jusqu'au 23 mai dernier, avec intérêt du 24 mai dernier et les dépens."

J. E. Méthot for plaintiff.

E. Gérin for defendant.

(J. O'F.)

COURT OF REVIEW.

QUEBEC, April 30, 1886.

STUART, C.J., CASAULT, ANDREWS, JJ.

PACAUD v. BRISSON et vir.

Hypothec—Evidence—Waiver.

HELD:—*In a hypothecary action, based on a judgment, enregistered with notice to the registrar, and against a married woman, as being separated, as to property, from her husband and against her husband assisting her, she, assisted by her husband, having declared, in the deed of acquisition of the immovable then subject to that legal hypothec, that they were so separated as to property, the proof of the proper notice having been given to the registrar consisting of the fact that, in his certificate, on the authentic copy of the judgment, the registrar states that the immovable in question is charged with the hypothec resulting from the judgment; and no objection having been taken in either court, either as to the insufficiency of the proof of the notice having been so given, or of the proof of such separation as to property:*

1. *That, in accordance with a well settled jurisprudence in all courts of appeal, this Court will hold such objections to have been waived;*
2. *That, as to the proof of such notice to the registrar having been given, article 738 C. C. P. is primâ facie evidence of that fact;*
3. *That the defendants, not having, in their pleadings, expressly denied the existence of such separation as to property, they must be held, under article 144 C. C. P., to have admitted the existence of that separation as to property.*

The following is the text of the judgment in review confirming the judgment of the court below:—

"Considering that, on the 22nd April, 1884, the plaintiff obtained judgment, in the Circuit Court for the district of Arthabaska, against Adolphe Lafond and another, for the sum of $77.70, with interest thereon and costs;—and, on the same day, caused the said judgment to be duly enregistered against the immovable hereinafter described, then owned by the said Adolphe Lafond;

"Considering that the plaintiff thereby acquired a hypothec, upon the said immovable, for the amount of the said judgment in principal, interest and costs, but not for the costs of the *saisie-arrêt;*

"Considering that the said debt and the costs of the said judgment, exclusive of those on the *saisie-arrêt*, amount to $103.10 *only*, the said immovable (judgment granting the usual hypothecary conclusions);

"And it is ordered that each party do pay his own costs in review." (Casault, J., *diss.*)

REPORTER'S NOTE.—The judgment of the court below was reformed in review, by excluding therefrom the costs of the *saisie-arrêt*. For that reason, perceived by one of the judges in review, the parties were ordered, each one to pay his own costs.

Pacaud & Cannon, for plaintiff.

Laurier & Lavergne, for defendants.

(J. O'F.)

COUR DE CASSATION (CH. CIVILE.)

5 mai 1886.

Présidence de M. LAROMBIÈRE.

AUDIN v. BRIGAND ET PATRAUD.

Serment Décisoire—Fait non décisif—Non admissibilité.

Une condition essentielle pour que le serment décisoire puisse être ordonné, c'est qu'il soit

formulé de manière à terminer nécessairement le litige, d'une manière définitive et absolue, dans un sens ou dans l'autre, suivant qu'il sera ou non prêté par la partie, à laquelle il est déféré.

Il ne peut être déféré sur un fait, servant de base à une exception opposée à la demande, qu'autant que l'admission de cette exception doit entraîner le rejet absolu de ladite demande, et qu'à l'inverse le rejet de l'exception doit, d'après la formule de la délation, entraîner immédiatement l'adjudication des conclusions du demandeur.

Les époux Audin sont, ou du moins, se prétendent, propriétaires du domaine de la Roche, arrondissement de Gueret (Creuse). Ils prétendent avoir, le 24 décembre 1882, vendu, par l'intermédiaire d'un sieur Goguyer, diverses parcelles, dépendant de ce domaine, aux sieurs Brigand et Patraud, qu'ils ont assignés devant le tribunal civil de Guéret pour voir dire qu'ils seront tenus de passer acte authentique de ladite vente, sinon que le jugement à intervenir en tiendra lieu. Brigand et Patraud ont dénié la vente alléguée du 24 décembre 1882, mais avant tout, et sans renoncer, d'ailleurs, à contredire les prétentions des demandeurs au fond, ils ont soutenu que ceux-ci devaient être déclarés non-recevables en leur action, comme ayant cessé, antérieurement au 24 décembre 1882, d'être propriétaires des immeubles litigieux, qui avaient été compris dans une vente par eux consentie du domaine de la Roche au sieur Goguyer lui-même, leur prétendu mandataire, et à un sieur Touzet. Les époux Audin ont nié l'existence de cette vente antérieure, sur l'existence de laquelle Brigand et Patraud se sont contentés, pour toute preuve, de déférer le serment aux demandeurs. Par jugement en date du 23 janvier 1884, (Gaz. Pal. 84. 1. 907) le tribunal civil de Gueret a refusé de donner acte de la délation de ce serment, qu'il a considéré comme portant sur un fait, dores et déjà démenti par tous les documents de la cause, et, en tous cas, irrelevant et non décisif. Mais sur appel de Brigand et Patraud, la Cour de Limoges, par arrêt en date du 5 août 1884, a infirmé le jugement, et donné acte aux appelants du serment par déféré.

Les époux Audin se sont pourvus en cassation contre cet arrêt, à l'encontre duquel ils ont relevé le grief suivant:

"Violation des art. 1357 et suiv., 1582 et suiv., 1599 C. civ., des art. 1 et 3 de la loi du 23 mars 1855, en ce que l'arrêt attaqué a déféré un serment, qui n'était nullement de nature à trancher le litige, parce que, d'une part, même en supposant le serment prêté sur l'exception dirimante soulevée par les défendeurs, aucune question du litige n'était résolue, et parce que, d'autre part, en admettant que le serment eût été prêté sur ladite exception dans les termes spécifiés par l'arrêt, la propriété de l'immeuble n'en avait pas moins été valablement transmise aux défendeurs par le prétendu acquéreur antérieur de l'immeuble, agissant comme mandataire des demandeurs en cassation; d'où il résultait que les obligations des défendeurs envers lesdits demandeurs étant indépendantes de la solution de la question, qui faisait l'objet du serment, ledit serment ne pouvait pas avoir le caractère litisdécisoire."

La Chambre civile a accueilli ce grief, et prononcé, dans les termes suivants, la cassation de l'arrêt déféré:

La Cour:

Statuant sur l'unique moyen de cassation:

Vu l'art. 1357 C. civ.;

Attendu que, d'après les termes formels de cet article, le serment décisoire est celui qu'une partie défère à l'autre pour en faire dépendre le jugement de la cause;

Attendu que cette dernière condition est essentielle; que le serment doit être formulé de manière à terminer le litige, dans un sens ou dans l'autre, d'une manière définitive et absolue; que, sans doute, si le litige se compose de plusieurs chefs distincts et indépendants, le serment peut être déféré sur l'un des chefs, à la condition qu'il termine définitivement la contestation sur ce chef; que, de même, le serment peut être déféré sur un fait servant de base à une exception opposée à la demande, pourvu que l'admission de cette exception entraîne le rejet absolu de ladite demande, et qu'à l'inverse le rejet de l'exception doive, d'après la formule du serment, entraîner immédiatement l'adjudication des conclusions du demandeur; qu'autrement l'on ne pourrait dire que la partie

qui défère le serment en fasse dépendre le jugement de la cause, puisque le refus ou la prestation du serment laisserait encore la cause à juger;

Attendu, en fait, que les demandeurs en cassation ayant actionné Brigand et Patraud afin de les obliger à passer acte authentique d'une vente que les demandeurs prétendaient avoir conclue avec eux le 24 décembre 1882, les acquéreurs prétendus, sans reconnaître l'existence de ladite vente et sans renoncer à la contredire au fond, ont soutenu que, dans tous les cas, leurs adversaires étaient sans qualité pour exercer l'action dont il s'agit; qu'à l'appui de cette exception, ils ont déclaré déférer aux époux Audin le serment décisoire sur la question de savoir si, antérieurement au 24 décembre 1882, ils n'avaient pas vendu à MM. Goguyer et Touret le domaine de la Roche, dont font partie les immeubles qu'ils prétendent avoir vendus aux défendeurs par l'intermédiaire de M. Goguyer;

Attendu que cette formule de serment n'implique nullement que Brigand et Patraud se soumissent par avance à une condamnation sur le fond, pour le cas où les époux Audin pourront poursuivre leur action; d'où il suit qu'en déférant le serment décisoire aux époux Audin, suivant une formule qui ne mettait pas nécessairement fin à l'unique litige qui divisât les parties, l'arrêt attaqué a violé l'art. 1857 C. civ.;

Casse.

NOTE.—V. observ. contra et les autorités citées en note sous Cass. 29 avril 1882 (Gaz. Pal. 85. 1.692). *Adde*: Agen 17 février 1830, Ch. civ.) Cet arrêt pose formellement en principe, comme l'arrêt recueilli de la civile, que le serment ne doit point être ordonné, s'il ne porte que sur l'un des moyens ou exceptions opposés à la demande, de telle sorte que, qu'il soit accepté et prêté, le litige n'en doit pas moins subsister sur les autres moyens ou exceptions.—*Gaz. du Palais.*

CROWN CASES RESERVED.

HIGH COURT OF JUSTICE.

LONDON, June 24, 1886.

REGINA *v.* STROUIGER.

Criminal Law—Pleading—Corrupt practices, under Corrupt and Illegal Practices Prevention Act, 1883 — Description of Offence in Indictment.

Case reserved at the spring assizes at Ipswich by POLLOCK, B., upon an indictment charging that, at an election for members of Parliament for the borough of Ipswich, defendant was 'guilty of corrupt practices against the form of the statutes in that case made and provided.' The jury found the prisoner guilty of corrupt practices by offering money for votes.

After verdict, it was objected for the prisoner that the indictment was bad, because it did not sufficiently describe the nature of the offence with which the prisoner was charged.

Pollock, B., held that the indictment was good after verdict, but respited judgment.

The conviction was affirmed by the majority of the Court, LORD COLERIDGE, C.J., and MATHEW, J., holding that the indictment was bad, but that the defect was cured by verdict; and FIELD, J., being of opinion that the indictment was good, but that, if not, the defect was cured by verdict. DENMAN, J., and DAY, J., dissented, holding that the indictment was bad and was not cured by verdict.

June 24, 1886.

REGINA *v.* SHURMER.

Criminal Law — Evidence — Deposition of Dying Person — Notice of Intention to take Deposition — 'Full opportunity' of Cross-examining Deceased—30 & 31 Vict. c. 35, s. 6.

This was a case reserved by HAWKINS, J., at the spring assizes at Swansea. The prisoner was tried and convicted of rape upon a girl, who subsequently died. At the trial the prosecution tendered as evidence against the prisoner a statement on oath of the deceased girl, purporting to be taken in accordance with the provisions of 30 & 31 Vict. c. 35, s. 6. Objection was made to it by the prisoner's counsel on two grounds: (1) That there was no evidence 'that reasonable notice of the intention to take such statement' had been served upon the prisoner; (2) that there was no proof that the prisoner (although he was present when the statement was made) had full opportu-

nity of cross-examining the deceased girl who made it. Hawkins, J., admitted the evidence, but reserved the point. The learned judge stated that if such notice as is mentioned in section 6 of the above Act is essential to the admissibility of the statement, and that if verbal notice is sufficient, then it must be taken to have been proved to his satisfaction that reasonable notice of the intention to take such statement was served on the prisoner before the statement was taken. He also stated that if there was any evidence upon which he could legally find that the prisoner had full opportunity of cross-examining the deceased girl, he was to be taken so to have found.

The Court quashed the conviction; LORD COLERIDGE, C.J., DENMAN, J., FIELD, J., and MATHEW, J. (DAY, J., *dissentiente*), being of opinion that it was a condition precedent to the admissibility of the evidence that written notice of intention to take the statement should have been served on the prisoner. On the second point their lordships were unanimous in favour of the prosecution.

THE CASE OF THE PREHISTORIC SHIP.

If a tenant in digging upon his land comes upon a prehistoric ship embedded in it, what and whose is it? Is it his, or his landlord's? Is he to boast not only of the discovery, but of the possession: or is he, like the hapless finder of "treasure trove," forced to deliver it up to some one else? Such was the question decided yesterday by Mr. Justice Chitty, the Judge who is so fortunate as to have before him all the odd, out-of-the-way cases, the cases unprovided for by rule or precedent. The matter at issue was the prehistoric ship which, as was described in our columns at the time, was discovered last April in a field at Brigg in Lincolnshire; and the suit of *Wyes* v. *The Brigg Gas Company* was brought to determine whether the landlord or the persons who made the discovery were the owners of the extraordinary vessel. It cannot be said that the case is of direct interest to large numbers of people, for prehistoric ships are not dug up every day; but in itself it was a problem that puzzled and interested the lawyers, and Mr. Justice Chitty was excusable in taking time to consider his judgment. He doubted, as well he might, under what legal category the strange "find" was to be classed; but there is no doubt at all as to the interest and the extraordinary character of the vessel, archæologically speaking. As our correspondent, Mr. Stevenson, described it at the time, the boat is cut out of a solid block of oak, and is 48 feet long, 4ft. 4in. wide, and 2ft. 9in. deep. "The tree," he wrote "is the finest stick of oak I have ever "seen, and there is no tree growing in Eng- "land to-day that is its equal." It is so straight and of such large size that it must have grown in some forest where the soil was highly favourable; while to choose such a tree and to be able to work it into the shape of a vessel shows that the primitive Britons who formed it were very capable and ambitious workmen. The head is rounded off; The sides are sloped or bevelled; there are marks where some kind of a raised deck has been fitted in; and the floor is perfectly flat and level, and has evidently been shaped by men handy in the use of the axe or adze. It is very natural that so curious a relic should not be surrendered without an appeal to the law by either the finders or the owners of the land.

But when the lawyers got the matter in hand, it became difficult to see how the vessel was to be described and classified. Was it a mineral? for if so, the defendants' lease barred them from appropriating it. Was it a chattel? or did it come under the old legal maxim, *quicquid plantatur solo solo cedit?* In any of these three cases the landlord could claim it; but the defendants were naïvely anxious to have the ship regarded as "among "the substances which the lessee was under- "obligations to excavate and get rid of." The defendants had the right of excavating to a depth of fifteen feet, and on the site so excavated they were to build their gasworks. It happened by the most extraordinary piece of luck that this unique vessel was found, buried four or five feet deep in the alluvial soil, on the very spot which they were to excavate; and they would of course desire that so curious a discovery should come to them,

to be dealt with according to their good pleasure, and to their profit, just as they would deal with the clay. But then arose the questions which we have stated. Mr. Romer, the plaintiff's counsel, would rather have liked to prove the ship to be a mineral; for why should a ship not fossilized differ essentially from the same fossilized? But if it was not a mineral, then either of the other alternatives would suit him equally well; as Mr. Justice Chitty agreed, in giving judgment in his favour. The Judge demurred to the idea of the boat being a mineral; it might not differ scientifically very much from the wood which has become coal by long burial, but there was no need to proclaim its identity with coal. In fact, the simplest and truest way of describing the boat was as a chattel; and as such it would come under the well-known principle which says, if a man finds money in the secret drawer of a bureau that he has purchased, the money, though the seller had not known of its existence, belongs to the seller. "Obviously the right of the "original owner," said the Judge with admirable gravity, "cannot be established; it has "for centuries been lost or barred." We shall never know even the name of the potentate whose men paddled him in state down the Humber in this compact vessel, this masterpiece of primæval engineering, this "Great "Harry of the ancient Britons," as Mr. Stevenson called it. But we know that for the present it belongs to the owner of the soil, and that the Brigg Gas Company must be content with the barren honour of having dug it up.

What is to be the future lot of the vessel was not a question for the Court to decide; but we trust that Mr. Elwes, who has thought it worth while to go to law about the title to the vessel, will take all rational measures for preserving it. Such a block of oak is not very easy to move; and it may be that we shall have to content ourselves with the plan originally proposed—the plan of keeping it in a covered shed in the field where it was found. If, however, the situation allows it to be placed on a raft and floated down the Humber, there is no reason why so extraordinary a relic of a remote British past (as we assume it to be) should not be taken to Hull, or even to London, where thousands might see it. An ancient British boat, excavated in Robinson Crusoe fashion from the trunk of an oak tree, is not quite as historically important as Cleopatra's Needle, and we do not claim for it the same adventures and the same honours. But it is important enough to be preserved with the greatest care, and to be housed, if possible, where students and scholars can see it without the necessity of a long journey to a remote Lincolnshire town. If this, however, is pronounced impossible, we trust that the newly-established owner will take the best scientific advice, and will at once adopt measures for securing his curious possession from the decay which, after its long burial, would be likely to invade it.—*London Times, July 7.*

GENERAL NOTES.

The *Kansas City Times*, in an article on Chief Justice Horton, of Kansas, says: "Every judge in a free popular government, moulded upon the American model, should be a politician. If any man in all the realm, be he priest or layman, statesman or commoner, needs a soul—a heart that throbs with the generous aspirations and impulses of the people—it is the high judicial officer. Of this spirit Chief Justice Horton is largely possessed. His heart lies near the people. His decisions, wherein are involved questions of popular rights, and a recognition of the claims of the people against corporations or parties, are all inspired with the American idea that this is a government of the people, by the people for the people." Upon this the *Albany Law Journal* says: "We are seriously afraid that somebody is trying to persuade his honour to 'run for office.' If he will take our advice, he will not do it. Let him not listen to the voice of the journalistic tempter, but let him stay where and what he is—the learned, able, and independent chief justice of a great and growing State."

Senator Hoar, in his very interesting paper before the American Antiquarian Society, on "The Obligations of New England to the County of Kent," says (p. 16) that "there were but fourteen printed volumes of the decisions of the English courts before 1645, and that the whole of the statutes before the accession of James I would not equal in bulk the laws of a single session at the present day." This statement is hardly exact, for there had been published, prior to 1645, the Year Books, 10 vols. (first editions, 1561-1619), Plowden, 2 vols. (1571), Brooke's New Cases (1578), Bellewe (1585), Dyer, (1585), Keilwey (1602), Coke, 11 parts (1602-1615), Hobart (1641); in all, 28 volumes of reports. The public statutes to the accession of James I fill two valumes, or 1,260 large pages, of the quarto edition of the English Statutes; and six volumes, or about 3,000 pages, of the octavo edition. The public statutes for the parliamentary sessions of 1884 comprise only 250 pages; for 1883 (an unusually large volume), 450 pages. —*Soule's Legal Bibliography.*