THE

LEGAL NEWS.

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CURRENT TOPICS AND CASES.

The "confessions of a chief justice," which will be found in the present issue, are an interesting leaf from the past, but we cannot recommend our younger readers to follow Mr. Scott's resolutions without some reserve. The day is past, indeed, when students are disposed to rise at four, for preparation for the day's tasks. Early rising was more characteristic of the last century than of the present, and except in the case of those blessed with an unusually vigorous constitution the result would probably be injurious rather than beneficial. In maturer years a man may put greater constraint upon himself without hurt, especially if the strain be followed by judicious relaxation. Mr. Scott, it will be observed, proposed at first to follow this regimen for five years only, and then to retire from practice. He fails to record how far he observed the rules set down for his daily government, but he does not appear to have retired. His diary indicates an ambitious and restless disposition, and ambition probably tempted him to continue in the arena, and made him resolve later upon that "perpetual state of rivalry" with his brother judges, mentioned in the concluding portion of the diary.

The March appeal term at Montreal was as successful as that held during the month of January, in breaking down the list. Twenty-eight cases were heard or otherwise disposed of, leaving only 49 appeals pending. Cases were heard in ordinary course in which the judgment appealed from had been rendered quite recently. In fact, the list was disposed of up to the point where the appeals taken since January last commenced. Practically it may be said that there are now no arrears in this court, that is to say, parties ready to proceed have had the opportunity to be heard. Of course, a certain number of cases will usually be continued from one term to another owing to the absence or illness of counsel, or because, the evidence being voluminous, considerable time is needed to have it copied and printed. Then, too, counsel have to prepare their argument and have it printed. In most of the cases heard in March the factums were only produced a day or two before the hearing, and the court had repeatedly to urge counsel to be prepared to go on when their cases were reached on the list. The actual order in which the cases were heard shows the indulgence accorded to counsel in this respect. Thus on March 15, the fourth, fifth and eleventh cases were heard; March 16, the twelfth and thirteenth cases; March 17, the twenty-first, forty-seventh and twenty-third cases; and so on. In a circular recently issued by the attorney general the statement is repeated that business in this court is two years in arrear. This mistake was corrected in our issue of January 15 (p. 19), and the facts stated above show that the statement has still less foundation now. If any appeals from judgments rendered in 1893 have not yet been heard it is because counsel were either unable to get the papers ready in time, or, for some reason or other, preferred to postpone the hearing.

The English bench has suffered serious losses within a few months. The death of Mr. Justice Stephen has

been followed by that of Lord Hannen, a very able and distinguished judge, and about the same time the cable despatches convey the intelligence of the death of Lord Justice Bowen, an equally distinguished and brilliant member of the bench. Sir James Stephen and Lord Hannen had retired some time before their decease. Lord Justice Bowen, it is stated, will be replaced by Sir Charles Russell, the attorney general in the present administration.

Mr. Justice Stephen on the bench displayed those powers of mind and body which distinguished him throughout his career. In the style of his judgments and his writings he resembled somewhat the late Mr. Justice Ramsay, of this province, and in intense application to duty surpassed both that judge and the late Mr. Justice Aylwin, remarkable as were the achievements of those eminent members of our bench. The *Law Journal* says, "he has been known to begin work on circuit at five o'clock on one morning and continue trying cases in a crowded court until three in the next"—a proceeding, of course, extremely uncomfortable to the subordinate officials and others in attendance.

The House of Lords, on the 2nd of March, rendered a judgment interesting to travellers. In the case of *Richardson et al.* v. *Rowntree*, their lordships held, affirming the decision of the Court of Appeal, that the holder of a passenger ticket was not bound, simply by delivery of the ticket, by the conditions inscribed thereon, the passenger knowing that there was printed matter on the ticket, but not having read it. The Lord Chancellor (Lord Herschell), Lords Watson, Ashbourne and Morris took part in the decision. This is in harmony with the decisions of our courts in analogous cases.

In *Fraser* v. *Ryan*, Superior Court, Montreal, March 8, 1894, an interesting question of procedure was decided by Mr. Justice Archibald. The Code of Procedure (art. 55) says no summons can be served after seven o'clock in the afternoon. The plaintiff in this case, however, applied to a judge and got authority to make the service after seven P.M. Had the judge authority to make such an order? Mr. Justice Archibald held that he had not, and treated the order and the service as a nullity.

There has been a good deal of litigation of late between railway companies and the owners of cattle killed on their lines. Our Court of Appeal, on the 29th of March, rendered a judgment, in *Canadian Pacific Railway Co. & Cross*, which goes a long way to simplify and settle the question, if the decision be not overruled by the Supreme Court or Privy Council; but as the amount involved in these cases is usually small, it is hardly probable that the point will be carried further. The Court of Appeal holds that there is no responsibility on the part of the company as to animals straying, when they are killed on the track by passing trains. The following extracts from the observations made by Mr. Justice Hall, in the course of an elaborate judgment, will show the scope of the decision:—

"The respondent's cattle were loose and unattended in the highway in violation not only of the special provision of the statute, but of the municipal law of this province (Agricultural Abuses Act; Consol. Stat. L. C., ch. 26, sect. 5, and Municipal Code, Art. 447). If their owner could have proved that they escaped from his enclosure without fault on his part, or by reason of *force majeure*, he might have been exempted from payment of a fine for their trespass on the highway, but they certainly were trespassers in the view of the law, and could have been impounded as such. Therefore they were not properly in the place from which they got upon the railway, and in my opinion, therefore, the railway company was not legally liable for the damage caused by their being killed upon its track. This principle is in conformity not only with the decisions which were rendered under the earlier railway act, which I have cited, but with those subsequently rendered in Ontario, and by Mr. Justice

Brooks and Mr. Justice Ouimet in this province. The only conflicting decision, apart from the one now under consideration, is that rendered by this court in the case of *Pontiac and Pacific Junction Ry. Co., & Brady*, from the effect of which, as a precedent, we are relieved by the subsequent legislation on the subject. It is a physical and often a financial impossibility for railway companies to complete their fences and cattle guards at a given moment along several hundred miles of track, often through unsettled sections of country. They understand clearly that by delay they incur the risk imposed upon them by the statute, as interpreted by the common law, and they have a right to assume that that risk is limited to accidents to cattle, etc., which have a right to be in adjacent enclosures and connecting highways, and in my opinion the freedom from liability toward trespassing cattle is not varied by the primary negligence or lack of negligence of their owners in allowing such cattle to escape from their enclosures. Once astray upon the highway or in a neighbour's enclosure they are trespassers in the eye of the law, toward the public and equally so toward the railway companies.

"Some judges who have been ready to adopt this principle, in so far as adjoining fields and fences are concerned, have been inclined to make a distinction as to cattle-guards. I can understand some reasons why such a distinction might be made, but the statute has not made it. Throughout all the changes in the Railway Act, the rule for the maintenance of fences and cattle-guards is identical, and I can see no legal justification, therefore, for making a distinction in the interpretation of the liability for not constructing them, or the contributory negligence of those who suffer from their absence."

Since our last issue the bar of Montreal has lost two of its members. Mr. E. T. Day, of the firm of Day & Day, was a gentleman little known in the active work of the courts. Never very robust, he naturally preferred the quieter duties of the solicitor branch of the profession. Among his friends and associates he was much esteemed for his amiable qualities and honorable disposition, and his venerable father who, at an age approaching ninety years, survives him, will have the sincere sympathy of his *confrères* in his bereavement. The other death we have to record is that of Mr. A. W. Smith, the youngest member of the firm of Maclaren, Leet, Smith & Smith, whose illness was extremely brief. Mr. Smith was a young lawyer whose attainments and standing gave excellent promise.

The Toronto *Mail* estimates that the average income of lawyers in that city is $600 per annum. As a good many lawyers are known to make more than $600 a year, it follows that many must make less or nothing at all. Those who clamor for making admission to the profession more easy should note a fact like that stated above. The profession is not prosperous anywhere just now. In England there are complaints of diminished earnings, and in France, judging from the following extract taken from the London *Daily Telegraph*, the condition of things is no better :—

"Many barristers complain continually that the profession is not what it once was in the matter of fees; that the few clients who love litigation are not so liberal in their disbursements as they ought to be. Hard as their lot may seem, it is preferable to that of their brethren in Paris, judging by the result of an investigation which a French contemporary has been making into the fees legally claimable by barristers there. From the taxed bill in a *cause célèbre* recently heard in the Palais de Justice, it appears that the fee allowed to the leading counsel of the successful litigant in a case which lasted two or three days was five francs, or the princely sum of 4*s*. 2*d*. The advocate was also an ex-Minister, which did not make any difference in the fee, and after he had made his brilliant oration he found himself compelled to fight a duel because of some *ex parte* statement contained in it—all for the legal fee of 4*s* 2*d*., duly taxed. Of course, the barrister did not content himself with the honorarium allowed by the law, but apparently the rest of the sum with which his services were rewarded came out of his client's own pocket."

MAGISTRATES' CASES.

Cruelty to animals—The Check Rein.

In the Recorder's Court, Montreal, April 13, the Society for the Prevention of Cruelty to Animals, prosecuted Mr. James Lowry, for alleged cruelty to a horse by the use of the overdraw check rein.

Mr. L. T. Marechal and Mr. Peers Davidson appeared for the prosecuting society, and Mr. St. Jean and Mr. McCormick, Q. C., were for the defendant.

In opening the case Mr Davidson observed that the proceedings were taken under the Criminal Code, sec. 512, sub-sec. (*a*), and

then went on to say that on the 24th ult. a citizen walking along St. James street, when opposite the Temple building, noticed a horse evidently in great pain standing by the side of the roadway, and secured with an iron weight. The cause of the pain which the animal exhibited was a very severe check-rein. Other persons besides the citizen alluded to gathered round the animal, and after watching it for some five or ten minutes one of them relieved it by loosening the check-rein. The defence would, no doubt, contend that the principle of the check-rein was a right one. Upon that point he wished it distinctly understood that the prosecution confined itself entirely to the circumstances of the present case, in which torture and pain were caused to the animal.

Mr. McCormick said the whole question was whether or not in this particular case the animal suffered pain. The society had no right to interfere with the public in the use of any means by which an animal would be rendered more serviceable. The contention of the defence would be that the check-rein was adopted by people in order to render an animal more serviceable, and that sec. 512 of the Criminal Code did not interfere with the use of such means.

The first witness called was Mr. Hutchinson, advocate, who deposed that on or about the 24th ult. he was walking along St. James street when he saw a horse, opposite the Temple building, checked up very high. The animal was throwing its head about, and it was apparent to any one that the horse was in great pain. Col. Whitehead, who was present, spoke to witness, asking if nothing could be done to put a stop to that kind of thing, and after a little conversation the result was that the present case had been brought. It was perfectly clear that in the case in question the use of the check-rein was a cruelty. Witness unfastened the overdraw check-rein and the horse became quiet. When the owner of the animal appeared he was spoken to, and he replied that no one could drive the horse without using the check-rein. Witness offered to drive the horse without it, but Mr. Lowry told him that he did not know what he was talking about, got into the vehicle and drove off.

Cross-examined—He had used an overdraw check-rein some four years ago, because when the horse was left standing it would start to nibble the grass; the rein, however, was always left quite loose, and the animal was not checked up in any way. The

man who will use a curb bit in case of necessity, and use it humanely, was not inflicting so much pain on an animal as was suffered by the horse in question, and for the reason that a horse soon began to know the curb bit and slowed up when it commenced to pain it; the head was not kept in a painful position the whole time. He had heard of a horse's jaw being broken by the use of the curb bit; he had not heard of a like occurrence with the overdraw check-rein From witness' experience in driving he believed that a carriage horse drove better without the overdraw check-rein; but he had been told by those having experience with trotting horses that they went better when the overdraw check-rein was used.

Re-examined—Even if, as Mr. Lowry said, it was necessary to use the overdraw check-rein when driving the horse in question, there was no reason for the animal being checked up when it was standing in the street.

Mr. W. M. Ramsay, manager of the Standard Life Assurance company, also deposed to having seen the animal on the 24th ult., when it was standing outside the Temple building. The animal was in pain, and he had no doubt that it was caused by the use of the overdraw check-rein, which was perfectly tight.

Dr. Duncan McEachran testified that he had studied the overdraw check-rein since its introduction. It was used by horsemen in some instances to control animals that were difficult to control. Some horses would get their heads close into the neck, and in that position they were sometimes apt to bolt; in such cases the use of the overdraw check-rein was justifiable. It was the abuse of the check-rein which the Society for the Prevention of Cruelty to Animals wished to prevent. Witness had been frequently shocked by seeing horses with their noses forced up into the air, and the muscles of the head in a constrained position, so that the muscles of the neck became cramped, and the animal suffered torture. The abuse of the check-rein was most reprehensible, and should be denounced by every means. Although the overdraw check-rein might be useful in some cases, it was not useful in one case in a hundred. In all cases where a horse's head was held up so that it could not be got into a natural position the use of the check-rein was cruel. Overchecking was injurious to the muscles of the neck and the muscles of the back; in fact, the whole animal was in a constrained position and could not balance itself properly on its forefeet. It was a matter of sur-

prise to witness that men of intelligence would torture horses by using the check-rein. Even if it was necessary to use a check-rein on a particular animal when driving it, its use would not be justifiable when the animal was left standing by the side of the road. From the evidence already given witness had no hesitation in saying that the animal in question was suffering pain when seen by Mr. Hutchinson and Mr. Ramsay. The checking to which the animal was said to have been subjected would be both useless and cruel.

Cross-examined:—He knew that the check-rein was used on valuable horses like Maud S., but its use was, like many another thing, due to the fact that owners would submit to the fads and fancies of trainers. Even if some veterinarians of high standing favored the use of the check-rein, he did not think that the profession as a whole approved of it. He did not think that he had ever had to treat a horse that was suffering from anything which could be directly traced to the use of the overdraw check-rein, but many derangements were brought on in horses the cause of which it was sometimes difficult to trace.

Col. Whitehead corroborated the evidence of Mr. Hutchinson and Mr. Ramsay, after which Dr. Daubigny deposed that the abuse of the check-rein was cruel. With some animals the use of the check-rein was necessary. When properly used it was not cruel.

This was the case for the prosecution, and witnesses for the defence were called.

Mr. Lowry, the defendant, said that the horse was not suffering on the day in question from the use of the check-rein. The tightness of the check-rein which had been spoken of was due to the fact that the blanket which he had thrown over the horse was pulling upon it. Without the check-rein witness would not attempt to drive the animal, which was a very hard puller. He had tried the curb-bit, but the horse would not drive at all with it. When racing the horse he checked it up during the heats, and at the finish of each heat he loosened the check.

Mr. Geo. Clemmie knew the horse in question, and said that he had never seen the defendant check it up in such a way as to suffer pain. The animal was a very hard puller, and it was necessary to use the check-rein with it. The horse carried its head very high when driving, so that, although the check-rein

might appear tight when the animal was standing, it was not at all tight when the horse was in motion.

Dr. W. B. McGoun, who had had a large experience with valuable horses, approved of the overdraw check-rein; in fact, he had had some horses which he could not control without it. When driving a horse he almost always used the overdraw check-rein.

Mr. James C. King had many times seen the horse in question when it had the overdraw check-rein on, and he had never seen it suffering pain.

Mr. J. Barsalou, whose experience with horses was a large one, approved of the use of the overdraw check-rein, which kept a horse in better style, and an animal did not suffer from it.

Dr. Bruneau deposed that the check-rein was less brutal than the bit, and its use was sometimes necessary. With the horse in question the use of the check-rein, so long as the strap was loose, would not be cruel, as the animal was one which naturally carried its head high.

Other evidence of a minor character having been given, the case was closed.

On the 14th instant the Recorder dismissed the case. He said that it had been proved the check was necessary to manage the horse, and that moreover it was quite lawful to use a check to render an animal handsomer and thus give more value to the property of the owner. Mr. Lowry being a sportsman, added the Recorder, has an interest that his horse should show well, and thus being a better price. No doubt the check causes a certain amount of annoyance until the horse gets accustomed to it, but the annoyance is not caused unnecessarily, and the section of the Criminal code upon which this action is brought does not apply to the case in any way.

THE LATE LORD HANNEN.

After a long and painful illness, borne with the fortitude which distinguished him throughout his life, Lord Hannen passed away at his residence at Lancaster Gate on the afternoon of the 26th ult. His health had been in an unsatisfactory condition for many years. While he was president of the Probate, Divorce, and Admiralty Division, he suffered from a painful malady,

which compelled him to undergo an operation. But such was his industry and strength of will that his ill-health did not prevent him from performing his judicial duties with a regularity which few judges have equalled, or from undertaking at the instance of the Government responsibilities of an extra-judicial nature of the highest importance. It was while he was in Paris, as one of the British arbitrators in the Behring Sea inquiry, that the fatal illness first began. For a time the proceedings of the commission were adjourned on account of his indisposition; and, although he enabled the inquiry to be resumed at the earliest possible moment, and played a leading part in bringing about the result of the investigation, his health gradually grew weaker, until he felt compelled to resign the office of Lord of Appeal. Not long before his death his condition appeared to improve, and hopes were again entertained of his recovery, but they were quickly followed by a relapse, from which he never recovered For a judge Lord Hannen died at a comparatively early age. several occupants of the Bench being more advanced in years. He was born in 1821, his father being a London merchant, who lived at Kingswood, in Surrey. He was educated at St. Paul's School, and completed his studies at the University of Heidelberg, where he acquired his love of German literature and philosophy. His success in the legal world was due entirely to his own exertions, for his rise at the Bar—to which he was called at the Middle Temple in 1848—was not the result of family influence. For a time he encountered the vicissitudes of the briefless barrister, and occupied his leisure in writing for the press. It was his solid learning as a commercial lawyer which obtained for him a leading position as a junior on the Home Circuit in Westminster Hall. His style of speech was not adapted to what are known as sensational cases, though in the course of his career he appeared in the *Shrewsbury Peerage Case*, and was one of the prosecuting counsel in the trial of the Fenian prisoners at Manchester. As an advocate, all that he aimed at was lucidity, and this quality his speeches preserved in a remarkable manner. While on the bench he cultivated with success a more ornate style of speech. His judgments and summings-up were frequently models of pure and graceful English, and were notable for the number of apt illustrations they contained, and in the felicity of his phrases could be recognised the scholar as well as the judge. For five years Mr. Hannen was junior counsel to the Treasury.

He was raised to the Bench in 1868, exactly twenty years after his first appearance in wig and gown. He did not go straight to the Court with which his name is chiefly associated. For four years he sat in the Queen's Bench, where he distinguished himself by the versatillity of his learning and the independence of his judgment. It was in 1872 that he became judge of the Probate and Divorce Court. Three years later he was appointed President of the Probate, Divorce, and Admiralty Division. During the sixteen years he held this office he proved himself to be almost the ideal judge for such a tribunal. His knowledge of the law relating to the various sections of the division, his firm grasp of facts, his keen sense of the value of evidence, his painstaking industry and absolute impartiality, his courtesy and dignity—these qualities obtained for him the full confidence of the public and the high esteem of the profession. Perhaps no tribunal is more difficult to preside over than the Divorce Court. The character of many of the cases is such that the dignity of the Court is not always easy to maintain; but not once did Sir Jas. Hannen allow it to suffer in his hands. Any attempt at levity on the part of counsel or of witness immediately caused him to assume a severity of countenance which effectually nipped the flippant effort in the bud. It will, however, be his extra-judicial labours which will keep his memory alive longest. The laborious task he began in 1888, as President of the Parnell Commission, and which he performed in a manner in every way worthy of the 'great occasion,' will give his name an enduring place in the records of our time. Throughout the one hundred and twenty-nine days covered by the enquiry the judgment and bearing of Sir James Hannen were never disputed by the keenest partisan, while the industry and care with which he penned the greater part of the report received a universal tribute of praise. Not less valuable was the service he rendered the country on the Behring Sea Fisheries Commission, the satisfactory settlement of the difficult questions being largely due to his skill in tactics and charming manner. It is a somewhat remarkable coincidence that on the day on which Lord Hannen died Sir Charles Russell moved the first reading of the Behring Sea Bill in the House of Commons, and that within a few hours of his decease Major Le Caron, who played so prominent a part as a witness in the Parnell inquiry, died. He was appointed a Lord of Appeal in 1891, and retired in the Long Vacation of last year. His experience

and learning eminently fitted him to sit in the Final Court of Appeal, and one or two of the judgments he delivered displayed his great powers of keen reasoning and lucid exposition, but his opportunities were not numerous enough to enable him to show the full extent of his attainments. A man of simple pleasures, Lord Hannen was fonder of rural than of social life. Most of his holidays were spent at a charming retreat, where he was extremely popular among the humblest of his neighbours. Some thirty years ago Lord Hannen was regarded as an advanced Liberal. He stood for Shoreham in 1865, but his only effort to obtain a seat in the House of Commons was not successful, and probably the result was a fortunate one, because three years later he was raised to the Bench by Lord Beaconsfield, who might not have chosen him had he been sitting in the House of Commons as the representative of a Liberal constituency. Lord Hannen was married in 1847, the year before that in which he was called to the Bar. Lady Hannen died twenty-two years ago.

On Tuesday, April 3, the first day of the Easter Sittings, reference was made by the Lord Chief Justice of England, the President (Sir Francis Jeune) of the Probate, Divorce, and Admiralty Division, and by Mr. Justice Barnes, to the death of the late Lord Hannen.

The Lord Chief Justice said that if there had been a greater English judge during the seventy-three years of his life than Lord Hannen it had not been his good fortune to see him. That he was a man of great ability, of remarkable learning, of intellect, strong, capacious, and penetrating power; that he was a man of inflexible integrity and stainless honour—this the whole country knew. But the whole country did not know, perhaps, that it was left with those who were blessed with his friendship to discover his warm heart, his steadfast kindness, his generous judgment, his rare consideration for the feelings of others, and his perhaps very moderate estimate of his own powers. Without going beyond the limits of good taste, he (the Lord Chief Justice) might raise for one moment the veil of sacred friendship, and say that he had known Lord Hannen for fifty years, ever since they were students at the Middle Temple together, and that in his case at least respect deepened into reverence and regard into love.

Sir Francis Jeune, before a very full Bar, said he felt that he could not commence the work of these sittings without paying a tribute to the memory and honour of the great judge who had recently died. For nineteen years Lord Hannen was associated with the legal business which was now intrusted to this division. During that time Lord Hannen gave many judgments, which had become landmarks in the law, and which were couched in that accurate and dignified language of which he was a complete master. But, speaking in the presence of those who knew him, he ventured to say that his fame was even more secure, at all events by reason of his careful, independent, and decorous administration of justice day by day. Nor were his public services confined to these Courts. When Parliament constituted a tribunal, unprecedented in character, investing it with much of the powers of the common law, and asked for judgment on the conduct of many members of the House of Commons, he believed it was the choice of the country, no less than that of Parliament, which summoned him to preside over that tribunal. Almost at the close of his career the highest authorities appealed to him, and not in vain—appealed to his indefatigable industry, which even failing health could not impair, to his mature wisdom, and to his charm of manner—to aid in the solution of a serious question of international law, to exemplify and to nurture the principle of international arbitration, and to protect the amity of the two great races of the English-speaking world.

Mr. Justice Barnes said he need scarcely say he was thoroughly in accord with all that had fallen from the lips of the President as to the character and merits of the great judge who had just passed away from them.

THE CONFESSIONS OF A LORD CHIEF JUSTICE.

John Scott was Attorney-General for Ireland, and from 1784 till his death, in 1798, Lord Chief Justice of the Court of King's Bench in Ireland. He was created successively Baron Earlscourt, Viscount Earlscourt, and the Earl of Clonmell, and died possessed of property of the value of £200,000. Shortly before his death he gave peremptory orders that all his papers should be destroyed, and superintended himself the consignment of the documents to the flames. Through some strange fatality his diary escaped the general destruction, and is still extant. It was printed for private circulation among the members of Lord Clonmell's family, and short extracts from its pages have been given to the public

in a work by Mr. V. J. Fitzpatrick, entitled "Ireland before the Union," published in Dublin more than a quarter of a century ago, and now long out of print.

In his diary, Lord Clonmell reveals his true inwardness with the startling candor of a Marie Baskirtcheff. Here are a few extracts which lawyers of a later generation will read with keen interest:—

"GOOD RESOLUTIONS. Thursday, June 2, 1774.

I am I believe, thirty-five years old this month, just nine years at the Bar, near five years in Parliament, about four years King's Counsel. To-morrow, being Friday, Trinity terms sits. I therefore resolve to enter upon my profession as upon a five years' campaign, at war with every difficulty, and determined to conquer them. If I continue a bachelor until I am forty years old, and can realize two thousand pounds per annum, I will give up business as a lawyer, and confine it merely to the duties of any office I may fill. I will exert my interest to the utmost in law and constitutional learning for these five years, so far as temperance, diligence, perseverance, and watchfulness can operate, and then hey for a holiday."

"*Horrors of being unprepared in Court.*—The pains of the damned are not equal to the horrors of going to court unprepared, and the fact of losing your reputation and going down in it. Whilst, therefore, you have an atom of business undone, give up every object, pursuit, pleasure, avocation, diversion; banish everything from your mind but business—the business of your profession. Quarter of an hour to breakfast, one hour only to dinner when alone, two to exercise, four to bed, quarter to rest in a chair after fatigue, wine.

"*Prudence.*—Have an eternal guard upon what goes into your mouth and what comes out of it, and always wait a little before you answer, and answer all unpleasant questions by asking another question, and never before you can begin with a smile.

"*Cunning.*—Lord Bacon says a proper mixture of the lion and the fox is essential to a man of the world. I think the proper mixture is a fox's head, with a lion's heart to carry the scheme into execution.

"*Mechanical Habits.*—As often as you put your fingers across and join your thumbs at the points, which you must do a thousand times a day, call the right thumb courage, and the four fingers of the right hand sagacity, and spirit, activity and address; the left thumb prudence, the four left fingers, assiduity, flattery, temper and manner, thus you will always have these qualities in your mind and before your eyes to stimulate you."

"It is absolutely impossible to go on in my profession without perpetual horrors, injury, and disgrace, but by adhering inviolably to the following rules: Have no fire to go to before breakfast, which should be no meal; guard yourself at dinner from eating half what you wish, and drink at dinner as little as

possible, and after it water with your wine; go to bed at twelve and rise at four, and whilst you have existence in business employ from four to eight, from twelve to four, and from eight to twelve at business, which gives you eight hours for exercise, idle pursuits, and the world."

"*Discipline of an Attorney-General.*—He should rise at four in the morning; he should read without fire, standing, if possible, until eight; he should exercise, bathe, and dress at nine; he should see all persons until eleven; he should apply every minute until three in court business; to four he should set down the report of the day; he should not drink wine at dinner, and eat but a few things, and not much; he should not drink wine after seven, and from eight to twelve he should apply to business."

When Chief Justice, Lord Clonmell had his eye to the Lord Chancellorship, which was then held by Lord Lifford, who retained the Seals continuously for twenty-two years. "A race for the Seals," writes Lord Clonmell, "can be won but by superlative enthusiasm, watchfulness, temperance, diligence, and rapid acting." Lord Clonmell says that "Oliver Cromwell is the character best worth your imitation." There are several allusions to the Protector in the diary.

"20th June, 1785. To imitate Cromwell you should see what is useful and hurtful in everybody and in everything. Lay hold of one and avoid the other, and never complain, censure or find fault but to answer a purpose. Men and things are what God made them, and finding fault only shows ignorance and weakness."

The Chief Justiceship was not a bed of roses for Lord Clonmell, who thus speaks of his three puisne judges: "A perpetual state of rivalry with all the judges, especially with those of my own court, must be my constant object." Then there comes his judgment of the judges of his own court: Downes is crowing over me; he is cunning and vain, and bears me ill. Diligence is necessary: Hewitt is dying. Boyd is drunken, idle and mad. Diligence will give me health, fame and consequence."

Surely *laudatores temporis acti* will not find in Lord Clonmell's diary much foundation for their faith.—*Law Times.*

BAR PICTURE.—At a meeting of the Council of the Bar of Montreal, held on the 28th of February, it was resolved: That H. C. Saint Pierre, Q. C., C. B. Carter, Q. C., and Ed. Guerin, Esq., be named a committee to consult with Messrs. W. Notman & Son, regarding the group picture of the officers and members of the Bar of Montreal, which they propose taking. Members who have not yet availed themselves of the Messrs. Notman's invitation are requested to call at their earliest convenience. Mr. Arthur Delisle, of the Advocate's Library, will give any information desired. He asks us to mention that the judges are also included in the picture.