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CURRENT TOPICS AND CASES.

Among the proposals of the Council of Judges in England, respecting the administration of justice, one seems to go very far indeed. It is suggested that no pleading shall be allowed without order. Mr. Justice Cave, in an elaborate review of the proposals, criticizes this bold innovation, holding that it is impossible to abolish pleadings, and that in some form or other the judge at the trial must have before him in writing the issues he has to try, and whether they should be arrived at by pleadings out of Court, or by oral pleadings before the Master, taken down by him, and transmitted to the Court, is only a question of costs. His lordship thinks that pleading out of Court as at present, with a salutary use of the existing order which gives power to one party by notice to call upon the other to admit any document or fact, is the simplest and most economical mode.

The report of the Commissioner of the London Metropolitan Police for 1891, contains some noticeable facts. In the first place, we find that an army exceeding fifteen thousand men is employed for the protection of person and property. The authorized strength of the force at the end of the year was 31 superintendents, 787 inspectors, 1,637 sergeants, and 12,583 constables, making a total of 15,038. Four superintendents, 57 inspectors, 204 ser-

geants, and 1,475 constables were employed on special duties for various Government departments (19 at the Houses of Parliament, 62 in royal parks and grounds, 23 at the National Gallery, 75 at the South Kensington Museum, and 27 at the British Museum) and by public companies and private individuals. About 60 per cent. of the number available for duty in the streets is required for night duty—from 10 p.m. to 6 a.m. The Metropolitan Police District extends over a radius of fifteen miles from Charing Cross, exclusive of the City of London and its liberties. It embraces an area of about 688 square miles.

Two decisions of the Court of Appeal, rendered at Montreal, June 8, 1892, settle an important question as to the responsibility of carriers for the loss of goods after arrival at destination. The cases have a considerable resemblance, and the same principle was applied to each. In one, *Canada Shipping Co. & Davison*, a contract of carriage was entered into at Liverpool, under which the appellant, a steamship company, was bound to carry the respondent's baggage to Montreal, to use due care in its safe-keeping, and to deliver it to him in due course on the steamer's arrival in Montreal. When the steamship carrying the baggage arrived in the port of Montreal, the respondent's baggage was taken from the vessel and placed in the company's shed on the wharf, but the respondent could not carry it away until it had been examined and passed by the Customs Officers, and until such examination, it remained in the company's shed and under its custody. One of the respondent's trunks disappeared before the examination, the loss being discovered within four and twenty hours after the arrival of the vessel. The Court was not unanimous. The majority (Lacoste, C. J., Hall and Wurtele, JJ.,) affirming the decision of Pagnuelo, J., M. L. R., 6 S. C. 388, held that on the arrival of a vessel in port, passengers are entitled to a reasonable delay before they can be called upon to receive and remove their baggage, and until such delay has

expired the carrier is responsible for its safe-keeping *under the contract of carriage*, and not as a mere voluntary depositary. It was also held that the term of four and twenty hours is within a reasonable delay. It followed that the passenger has the right under such circumstances to establish the value of the lost baggage by his own oath, and to recover the same, in the absence of proof by the carrier that the loss arose from an uncontrollable event. A minor point involved in the case was whether the passenger's oath makes proof of the value of articles in a lost trunk, belonging to his wife who accompanied him, and who was separate as to property. This point was specially raised on the part of the carrier, and though not noticed in the opinion of the Court, must be taken as decided in the affirmative inasmuch as the judgment was confirmed purely and simply. The second case, *Canadian Pacific Railway Co. & Pellant et vir*, was also an appeal from a decision of Pagnuelo, J., reported in M. L. R., 7 S. C. 131, where the observations of the learned judge will be found. In this case the passenger travelled by train. On reaching her destination, it was not convenient for her to remove her luggage immediately. When she went to claim it on the following day part of it was not forthcoming. It was held by the majority of the Court (Baby, Hall and Wurtele, JJ.) that she was within a reasonable delay, and was entitled to establish the value of the lost articles by her own oath. The dissentient judges in each case were Justices Bossé and Blanchet, the two decisions taken together showing that the six judges presently constituting the Court stand four to two on the question.

SUPREME COURT OF CANADA.

June 28, 1892.

Quebec.]

DOMINION SALVAGE & WRECKING CO. v. ATTORNEY GENERAL.

Public Company—Act of Incorporation—Forfeiture of—44 Vic. c. 61 (D.)—Attorney General of Canada—Information—R. S. C. c. 21, s. 4—Scire facias—Form of proceedings—Arts. 997 et seq. C. C. P.—Subscription to capital stock—Condition Precedent.

The appellant company by its act of incorporation (44 Vic. c. 61 (D.) was authorized to carry on business provided $100,000 of its capital stock were subscribed for, and thirty per cent. paid thereon within six months after the passing of the act, and the Attorney General of Canada having been informed that only $60,500 had been *bona fide* subscribed prior to the commencing of the operations of the company, the balance having been subscribed for by one G. in trust, who subsequently surrendered a portion of it to the company, and that the thirty per cent. had not been truly and in fact paid thereon, sought at the instance of a relator, by proceedings in the Superior Court for Lower Canada, to have the company's charter set aside and declared forfeited.

Held, affirming the judgment of the Court below,

1. That this being a Dominion Statutory charter proceedings to set it aside were properly taken by the Attorney General of Canada.

2. That such proceedings taken by the Attorney General of Canada under arts. 997 *et seq.*, if in the form authorized by those articles, are sufficient and valid though erroneously designated in the pleadings as a *scire facias*.

3. That the *bona fide* subscription of $100,000 within six months from the date of the passing of the act of incorporation, and the payment of the 30 per cent. thereon, were conditions precedent to the legal organization of the company, with power to carry on business, and as these conditions had not been *bona fide* and in fact complied with within such six months, the Attorney General of Canada was entitled to have the Company's charter declared forfeited. Gwynne, J., dissenting.

Appeal dismissed with costs.

Robinson, Q.C., Macmaster, Q.C., and *Goldstein*, for appellants.
Blake, Q.C., and *Lajoie*, for respondent.

Quebec.] June 28, 1892.

RODIER v. LAPIERRE.

Appeal—Monthly Allowance of $200—*Amount in Controversy—Annual Rent—R. S. C. ch.* 139, *sec.* 29 (*b*)—*Jurisdiction.*

B. R. under a will and an act of the Legislature of the Province of Quebec, (54 Vic. ch. 96) claimed from A. L. as administratrix of the estate of Hon. C. S. Rodier, the sum of $200, being for an instalment of the monthly allowance which A. L. was authorized to pay to each of the testator's children out of the revenues of his estate. The action was dismissed by the Court of Queen's Bench for Lower Canada, and on appeal to the Supreme Court,

Held, that the amount in controversy being only $200, and there being no "such future rights" where the rights in future of B. R. might be bound within the meaning of those words in sec. 29 (b) of the Supreme "Exchequer Courts Act," the case was not appealable.

Annual rents in sub-sec. (b) of sec. 29 of R. S. C. ch. 139, mean "ground rents," *rentes foncières*, and not an annuity or any other like charges or obligations.

Appeal quashed with costs.

Lash, Q.C., & DeMartigny, for appellant.
Geoffrion, Q.C., & Beaudoin, Q.C., for respondent.

Quebec.] June 28, 1892.

DUBOIS v. CORPORATION DE STE. ROSE.

Appeal—Road Repair—Municipal By-Law—Validity of—Rights in future—Supreme and Exchequer Courts Act, sec. 29 (*b*).

In an action brought by respondents for the recovery of the sum of $262.14 paid out by them for macadam work on a piece of road fronting the appellant's lands, the work of macadamizing the said road and keeping it in repair being imposed by a by-law of the Municipal Council of the respondents, the appellants pleaded the nullity of the by-law. On appeal to the Supreme Court of Canada from the judgment of the Court of Queen's Bench for Lower Canada (appeal side) dismissing the appellant's plea,

Held, that the appellant's rights in future as to the obligation

to repair the road not being "future rights" within the meaning of sec. 29 (b), the case was not appealable. *County of Verchères v. Village of Varennes* (19 Can. S. C. R. 365) followed, and *Reburn v. Ste. Anne* (15 Can. S. C. R. 92) overruled. Gwynne, J., dissenting.

Appeal quashed with costs.

Bastien & Fortin, for appellants.
Ouimet & Emard, for respondents.

Nova Scotia.] June 28, 1892.

SYDNEY & LOUISBURG RAILWAY CO. v. SWORD.

Dower—Defective title—Grant by Provincial Government of Dominion Lands—Estoppel—Local Act.

S. brought an action to recover dower out of lands conveyed to defendant company through another company from her husband. Defendants pleaded that the lands were part of the navigable waters of Sydney harbor, and were granted to plaintiff's husband by the Government of Nova Scotia contrary to the provisions of the B. N. A. Act, which vested such property in the Dominion Government. Plaintiff replied that defendants having obtained title through her husband, were estopped from denying that his title was valid. Defendants also relied on an act of the legislature of Nova Scotia passed in 1884, which enacted that the purchase and conveyance to the defendant company from their immediate grantors were absolutely ratified and confirmed, reserving to any person or persons the right to compensation only for any interest in or lien on the case.

Held, affirming the decision of the Supreme Court of Nova Scotia, Strong and Gwynne, JJ., dissenting, that the defendant company was estopped from saying that no title passed to plaintiff's husband by the grant from the Government of Nova Scotia or from questioning his title thereunder.

Held, further, that the act of 1884 did not affect plaintiff's claim. The statute was not pleaded, but if it was not necessary to plead it, it could not operate to vest in defendants property belonging to the Dominion Government, which the property in question did.

Held, per Patterson, J., that though a paramount title might have been set up against both parties, it could not be asserted by the defendants.

Held, also, by the majority of the Court, that the grant to plaintiff's husband was in fee simple, and he had such seizin that dower would attach.

Appeal dismissed with costs.

W. B. Ritchie, for appellants.
Drysdale, for respondents.

Ontario.] June 28, 1892.

WILLIAMS v. TOWNSHIP OF RALEIGH.

Municipal Corporation—Exercise of Municipal Powers—Municipal Act (R. S. O. 1887) c. 184, ss. 483, 569, 583, 586—Drainage of flooded lands—Lands injuriously affected—Remedy—Arbitration—Mandamus—Notice.

Certain lands in the Township of Raleigh were drained by what were called The Raleigh Plains drain and Government Drain No. 1. The rate-payers petitioned for further drainage under the Mun. Act (R. S. O. 1887, c. 184), and a surveyor was directed, under sec. 569 of the act, to examine the locality, make plans and report if and how the drainage could be effected. In pursuance of his report the municipality caused a number of drains to be constructed leading into the Raleigh drain and Government Drain No. 1, with the result that the additional volume of water proved too great for the capacity of the latter, which overflowed and flooded the adjoining lands of C., who brought an action for the damage thereby occasioned. The matter was referred to a County Court judge who reported the facts in favor of C., and against the contentions of the municipality, and estimated the damages at $850. Ferguson, J., affirmed this finding and also ordered a mandamus to issue under sec. 583 of the act. The Court of Appeal reversed this decision, holding that the only remedy for the damage to C.'s land was by arbitration under the statute, and that he was not entitled to a mandamus.

Held, reversing the judgment of the Court of Appeal, that the right infringed by the municipality being a common law right and not one created by the statute, S. was not deprived of his right of action by sec. 483 of the act, which provides for the determination by arbitration of a claim for compensation for lands injuriously affected by the exercise of municipal powers.

Held, further, that the Municipal Council had a discretion to

exercise in regard to the adoption, rejection or modification of the report of a surveyor appointed under sec. 569 to examine the locality and make plans, etc., and if the report is adopted the Council is liable for the consequences following from any defect therein.

Held also, that the Council, by the manner in which the drainage work was executed, was guilty of a breach of the duty imposed on it by sec. 583 of the act, to preserve, maintain and keep in repair such work after its construction.

The work having been constructed under sec. 583 of the act, C. was not entitled to a mandamus to compel the municipality to make necessary repairs to preserve and maintain the same, the notice required by that section not having been given. If the work had been done under sec. 586 notice would not have been necessary.

Per Strong and Gwynne, JJ.—C. was not entitled to the statutory mandamus, but it could be granted under the Ont. Jud. Act (R. S. O. 1887, c. 44).

Held, also, that though sec. 583 makes notice a necessary preliminary to the liability of the municipality to pecuniary damage suffered by a person whose land is injuriously affected by neglect or refusal to repair, the want of such notice did not divest C. of his right of action nor affect the damages awarded to him.

Appeal allowed with costs and judgment of Ferguson, J., restored, except as to mandamus.

Christopher Robinson, Q.C., & Douglas, Q.C., for appellants.

Wilson, Q.C., for respondents.

British Columbia.] June 28, 1892.

CAMERON v. HARPER.

Executor—Action against—Legacy—Trust—Claim on assets—Charge on realty.

T. H. and his brother were partners in business, and the latter having died, T. H. became by will his executor and residuary legatee. A legacy was left by the will to E. H., part of which was paid and judgment recovered against the executor for the balance. T. H. having encumbered both his own share of the property and that devised to him, one of his creditors, and a mortgagee of the property, obtained judgment against him and procured the appointment of receivers of his estate. E. H. then

brought an action to have it declared that his judgment for the balance of his legacy was a charge upon the monies in the receivers' hands in priority to the personal creditors of T. H.

Held, affirming the judgment of the Court below, that it having been established that the monies held by the receivers were assets of the testator, or the proceeds thereof, E. H. was entitled to priority of payment though his judgment was registered after those of the other creditors.

Held, also, that the legacy of E. H. was a charge upon the realty of the testator, the residuary devise being of "the balance and remainder of the property and of any estate" of the testator, and the words "property" and "estate" being sufficient to pass realty. This charge upon realty operated against the mortgagees who were shown to have had notice of the will.

Christopher Robinson, Q.C., for the appellants.
S. H. Blake, Q.C., for the respondents.

Nova Scotia.] June 28, 1892.

CUNNINGHAM v. COLLINS.

Mortgage—Foreclosure suit—Parties—Lessee of mortgagor—Protection of rights of—Practice.

In an action for foreclosure and realization of mortgages, the original defendants were the administrator, heirs at law and certain devisees of the mortgagor, subsequent incumbrancers, namely judgment creditors of some of the heirs, and the lessee of a part of the mortgaged property by lease from some of the heirs, not being joined. None of the defendants appeared, and an order was made foreclosing the equity of redemption, and directing the lands to be sold unless the amount due on the mortgage was paid before the day fixed for the sale. The sale was to be advertised in a newspaper and by hand-bills, copies of said hand-bills to be mailed to each of the subsequent incumbrancers. By a subsequent order the property was to be sold in two separate lots, the Queen Hotel property, which was that under lease, to be sold first. By a further subsequent order made on the day fixed for the sale, on application of Mrs. S., the lessee of the Queen Hotel, it was ordered that upon payment into Court by S. & K. of $37,019,

proceedings by plaintiffs should be stayed until further order, and plaintiffs should assign to S. & K. the mortgages and lands free from incumbrance and also the suit and all the benefit of the proceedings therein, plaintiffs to be paid their claim out of money so paid into Court. This order was complied with.

On December 26, 1889, defendants moved to rescind the last mentioned order. The motion was refused and the order amended by a direction that Mary I. Sheraton, the lessee of the Queen Hotel, should be made a defendant to the action, and that S. & K. should be joined as plaintiffs and the stay of proceedings removed. The lessee, Mrs. Sheraton, then filed a statement of defence setting out a lease of the hotel property from three of the mortgagor's heirs to her for five years, subject to renewal for a further term of five years, and that she had entered into possession and made large repairs and improvements.

On January 4th, 1890, another order was made amending the order of sale by directing that the Queen Hotel property be sold subject to the rights of Mrs. Sheraton under the lease and subject to said lease.

From these orders of 26th December, 1889, and 4th January, 1890, defendants appealed to the Supreme Court of Nova Scotia sitting in banc, which Court affirmed the former order but set aside the latter. Both parties appealed to the Supreme Court of Canada.

Held, affirming the decision of the Court below, that the order of 26th December, 1889, was a proper order. It stayed the proceedings at the instance of a person having a substantial interest in the equity of redemption of part of the mortgage lands, and if the proposed sale had been under a writ of *fi-fa*, an injunction might have been granted to restrain it; and it only stayed them on payment into Court of the redemption money. As to the direction in the order for assignment of the mortgages and property by the plaintiffs, the defendants have no *locus standi* to object, and as to the addition of parties, defendants could not be prejudiced thereby. The order also removed the stay of proceedings, but the present appellants cannot take exception to that part of it, and the rights of subsequent incumbrancers who are not before the Court cannot be prejudiced by what was done in their absence.

Held, further, reversing the decision of the Court below, that the order of the 4th of January, 1890, was a proper order. Whatever rights the lessee had acquired under the lease she had

acquired as a purchaser for valuable consideration of the equity of redemption *pro tanto*, and the Court should endeavor to preserve those rights.

Appeal dismissed as to order of 26th December, 1889, and allowed as to order of 4th January, 1890.

Ross, Q.C., for appellant.
W. B. Ritchie, for respondent.

CREMATION—BURIAL SERVICE.

At a sitting of the Consistory Court of London, held in St. Paul's Cathedral on July 29, Dr. Tristram, Q.C., Chancellor of the Diocese of London, gave judgment in this case, which was an application for a faculty to authorise the removal of the remains of Lieutenant-Colonel Dixon from Kensal Green Cemetery to the Woking Crematorium, with a view to their being there cremated and the ashes subsequently deposited in an urn and returned to their present place of burial.—The Chancellor of London, in giving judgment, said: In this case the Court is asked to grant a faculty to enable the remains of Lieutenant-Colonel Dixon, late of 18 Seymour street, Portman Square, to be removed from the consecrated cemetery at Kensal Green to the Woking Crematorium, with a view to their being there cremated, and to the ashes of the remains being afterwards deposited in an urn and returned to their present place of burial.—Colonel Dixon died as far back as the month of April, 1874, leaving a widow but no children. He left a will which contains no directions as to the mode or place of his burial, and the executors of the will are dead. The petitioner for the faculty is his widow. She states in her affidavits that she is in feeble health, and that she has given directions that upon her death her remains are to be cremated at Woking and afterwards deposited in an urn and placed in the mausoleum in which the remains of her husband now rest, and that she is desirous that his remains should be similarly dealt with. She states, also, that in conversations which she had with him he expressed approval of the disposal of the dead by cremation, and that he gave her leave to dispose of his remains as she should think proper, either by burial or cremation, and that when his remains were deposited in the cemetery she intended that they should be subsequently cremated as well as her own. There are only two

cases in the reports which bear directly on the subject of cremation. The one is that of *Regina* v. *Price*, 53 Law J. Rep. M. C. 51; L. R. 12 Q. B. Div. 247, in which Mr. Justice Stephen held that it was not a misdemeanor to burn a dead body unless it were done so as to amount to a public nuisance or with a view to prevent a coroner's inquest being held upon it. The other is that of *Williams* v. *Williams*, 51 Law J. Rep. Chanc. 385; L. R. 20 Chanc. Div. 659. Having referred to the circumstances of that case the chancellor said: The law as laid down by Mr. Justice Fry and in other cases, is that, as there can be no property by the law of this country in a dead body, a person cannot dispose of his body by will, and that after death the custody and possession of the body belongs to the executors until it is buried, and when it is buried in consecrated ground it remains under the protection of the Ecclesiastical Court of the diocese, and cannot be removed from the grave or vault or mausoleum in which it has been placed except under a faculty granted by an Ecclesiastical Court, and then only to another grave or vault in consecrated ground. Mr. Dibdin, in moving for the faculty, submitted that, although there was no precedent for the application, it might be granted to gratify the wishes of the widow in like manner as the Court would grant a faculty for the removal of remains from one part to another part of the churchyard, or from one churchyard to another churchyard, in deference to the wishes of members of the family, unless the deceased has left contrary directions in his will. Where the deceased has left no testamentary or clear directions as to the place of his burial, the practice of the Court is to grant a faculty to proper parties on reasonable grounds shown, and subject to proper precautions, to remove the remains to another grave or vault in the same or in another churchyard; but where the deceased has himself expressed a wish to be buried in that or in any other churchyard, the invariable practice of the Court is by a faculty to give effect to such wish. Thus, in referring to the register of the Court, I observe that in June, 1775, Sir William Wynne, on the application of the executors of Elizabeth Raiss, whose remains had been interred by them in August, 1774, in a brick grave in the churchyard of Staines, decreed a faculty for their removal to a brick grave in the churchyard of St. Mary, Lambeth, on the ground that since the burial the executors had learnt that whilst living she had declared that she wished to be interred in the church or churchyard of the last named parish. Again, in *Smith* v. *Roberts*

(not reported, which was heard in this Court in November, 1877, the question of the amount of weight to be given to the expressed wishes of the deceased on an application for a faculty for the removal of her remains to New Zealand was argued before me at considerable length and fully considered. In that case Miss Annie Villeneuve Smith had come over to this country from New Zealand in November, 1876, with her father and mother, and died in the following April in London. During her last illness she extracted repeated promises from her mother that in case it terminated fatally she would take care that she was buried in a particular spot in the churchyard of St. Barnabas, Warrington, New Zealand, the church of which had been erected by donations from and by subscriptions collected by her family. Her remains had been temporarily deposited at the time of her funeral in the catacombs of Kensal Green, marked 'For removal,' with a view to their reinterment in the churchyard at Warrington. Her mother applied for a faculty for their removal for this purpose. Her application was opposed at the instance of the representative in this country of her father (who was then on his way out to New Zealand), on the ground that the daughter, though of age, had died a spinster and intestate, and that her father was therefore her personal representative; that he had paid for her funeral expenses, and contemplated erecting a family mausoleum in England, to which he would wish to remove the remains of his daughter. The mother answered that she had offered to pay the expenses of the funeral out of her own separate income, but that her husband insisted upon defraying them himself; that she was prepared to recoup him for the expenses he had incurred and to defray herself the cost of the removal and reinterment in New Zealand. At the close of the argument I expressed a strong opinion that it was the duty of the Court in such a case to give effect to the wishes of the deceased; but, being reluctant, in the father's absence, to give a decree against him, I directed a copy of the evidence, with an intimation of my opinion thereon, to be transmitted to him, and postponed giving judgment until he had been communicated with. In the result the father withdrew his opposition, and on November 4, 1878, I ordered the faculty to issue. There are objections which appear to the Court to be fatal to the present application. In the first place, Mrs. Dixon does not by her evidence show that what she now asks the Court to assist her in doing is what her husband wished to be done. He gave her the option of disposing of his remains in one of two

ways—either by burial or cremation. She elected to dispose of them by burial, and eighteen years afterwards she asks the Court to assist her to exercise the second alternative—namely, that of cremating them. But the exercise of the second alternative is in excess of the power intended to be conferred on her by her husband, who might, from sentiment or otherwise, reasonably have objected to his remains being thus dealt with. In the next place by ecclesiastical as well as by common law, the body of every person dying in this country, with certain exceptions, is entitled to Christian burial (see Lord Stowell, *Gilbert* v. *Buzzard*, 2 Hagg. Con. Rep. 343; *Regina* v. *Stewart*, 12 A. & E. 773). Can an executor, to gratify his own fancy without the deceased's sanction, cremate the body of his testator and so deprive it of being buried in the state and condition contemplated by this rule of law? In the opinion of the Court he would not be warranted in so acting, and if this be so the Court would not be justified in giving him the aid of its process to enable him so to act unless it were satisfied that it would be thereby assisting him in giving effect to the wishes of the deceased. But the Court, upon the evidence before it, is not satisfied that the granting of this application would accord with the intentions of Colonel Dixon. Lastly, one result of being buried in consecrated ground is that the site is under the exclusive control of the Ecclesiastical Courts, and no body there buried can be moved from its place of interment without the sanction of a faculty, to be granted upon the application of the executors or members of the family for reasons approved of by the Court, or upon the application of other parties upon the ground of necessity or of proved public convenience, and then only for reinterment in other consecrated ground. The Court is of opinion that it would not be justified in making a departure from this rule, which has now existed for centuries, for the purpose of enabling a body to be removed after burial for cremation. When burial in consecrated ground and cremation are both desired, cremation should precede and not follow burial. The burial service does not contemplate cremation. But where a body has been consumed in a fire it has been customary to collect the ashes and to bury them in a churchyard, accompanied with the use of the Office for the Burial of the Dead, and there does not appear to the Court to be any legal objection to the same course being followed where there has been a previous cremation in pursuance of directions left by the deceased. With every desire to accede to the wishes of Mrs. Dixon, the Court is bound to refuse to grant the faculty prayed.

WORK OF THE CIVIL COURTS.

"Barrister" writes to the *Gazette* as follows:—

In a few weeks our civil courts will resume their work and, in all probability, unless some reforms are instituted, we shall have a renewal of the complaints that these labors are inefficiently and carelessly performed, and a repetition of the efforts of Bench and Bar each to saddle the other with the blame for the wretched and slip-shod way in which business is carried on.

It seems to me that, with a little give and take, with a disposition on both sides to accommodate, much might be done to expedite litigation.

The institution of the Summary court was an excellent move, and with judges sitting in it who understand that its main idea should be celerity, not only in trying, but in adjudging, cases on its calendar, it does its work well.

Suggestion first—Let only such judges as are in the habit of rendering speedy decisions be assigned to this court by the Chief Justice. Judges who have to deliberate can sit in the Merits division, the cases in which may fairly be presumed, by the mere fact of being on that list, not to be so urgent as those on the Summary roll.

Suggestion second—The Practice Court is a useful waster of the lawyer's time. Let this court sit every day—two judges being assigned to it; the chamber judge to relieve either practice judge, should he find himself burdened with more cases than he can expeditiously dispose of.

Suggestion third—In the Enquête and Merits court, both Bench and Bar should be more punctual. The court should sit from 10.30 till 1, and from 2 till 4. The time of the court should not, on trial days, be taken up by judgments. When a judge finds that he has more cases under advisement than he can conveniently consider and adjudge, let him apply to the Chief Justice for relief. We have lots of judges, and if their work is properly distributed and each labors to clear the calendar, much can be accomplished.

Suggestion four—This one to the Bar. When a case is inscribed, the assumption should be that it is intended to be tried and concluded. If not, then remove it at once or notify the clerk well in advance so that some other case may be put on the list in its place.

Suggestion five—To the Prothonotary. Have the lists prepared at the earliest possible moment; have the records ready, say two days in advance.

I believe, after an experience of some years, here and elsewhere, that if attention is paid to the above simple hints, the reproach from which we now suffer may be easily effaced.

GENERAL NOTES.

FOREIGN MARRIAGES.—The much-needed Foreign Marriage Act, 1892, (55 & 56 Vict. c. 23), 'to consolidate enactments relating to the marriage of British subjects outside the United Kingdom' has reduced the law of this subject to a fairly intelligible code. The two Consular Marriage Acts of 1849 and 1868, the Marriage Act, 1890, and the Foreign Marriage Act, 1891, are all wholly repealed, and, except as repealed before, re-enacted, the new statute containing twenty-seven sections. It is to be regretted, however, that the powers given to the Privy Council to make 'marriage regulations' have not been curtailed. Section 21 of the new Act repeats section 9 of the Act of 1890, and sections 5 and 10 of the Act of 1891, enacting, amongst other things, that the marriage regulations may 'modify in special cases or classes of cases the requirements of this Act as to residence and notice, so far as such modifications appear to Her Majesty to be consistent with the observance of due precautions against clandestine marriages,' and also may 'make such provisions as seem necessary or proper for carrying into effect this Act or any marriage regulations.' It is difficult to say what marriage regulations would not be within the scope of this very extensive provision. Section 26, we may add, specially provides that any Order in Council in force under any Act repealed by the new Act shall continue in force as if made in pursuance of the new Act, which has the effect of 'saving' the important 'Foreign Marriages Order in Council, 1890,' made on November 22, published in the *London Gazette* of November 25 of that year.—*Law Journal* (London).

THE CANADIAN CRIMINAL CODE.—Lord Stanley of Preston, as Governor-General of Canada, recently congratulated the Parliament of that colony on having passed a Criminal Code Bill. This bill, as presented to the colonial Legislature, contained no less than 1,005 clauses. Amongst them are three very important ones dealing with the right of an accused person to give evidence on his own behalf. Fifteen offences, none of them very serious, are selected, and with regard to these it is provided that the evidence of the accused is to be admissible, and a like provision is made with regard to charges of more serious offences, with respect to which the only case made out is one of common assault; but, with these exceptions, the rule of the English common law (which successive law officers have so very frequently and vainly tried to alter on this side of the Atlantic) is re-enacted, to the effect that no person charged in any criminal proceeding is to be rendered competent or compellable to give evidence for or against himself. This contrasts strangely with the course taken by the Victorian Parliament, on which we recently commented, of entirely abrogating the common law rule as to all offences whatever, with certain restrictions as to procedure.—*Ib.*