THE

LEGAL NEWS.

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CURRENT TOPICS AND CASES.

In the interest of the administration of justice it is to be lamented that in cases where nearly all the witnesses are of the same nationality as the accused, counsel cannot or do not act in concert in an endeavor to secure a jury speaking the language of the prisoner. Mixed juries are objectionable on several grounds. In the first place there is the obvious objection that the trials usually take nearly double the time that would be consumed if no translation of evidence and no duplication of the addresses of counsel and of the judge's charge were necessary. Take the Demers case, for instance, in which after a trial lasting a whole month the jury have disagreed. This case would probably have been concluded within sixteen or seventeen days if the jury had been composed of persons speaking the same language. In the next place, we have a strong impression that the jury never follow or appreciate the evidence so well if it has to be translated; and this is especially true if the translation is a poor one, or if the interpreter becomes over-fatigued, as is apt to occur in the course of a long trial. Still more important is it that during a trial in which the evidence is long and complicated the jury should be able to communicate freely with one another, without the cumbersome medium

of an interpreter. A curious example of the embarrassments which may arise from the inability of the jury to converse with one another occurred two years ago to the learned judge who presided at the Demers trial. His honor was trying a case at Ste. Scholastique, and the evidence was so clear that he expected the jury would find a verdict without leaving their seats—a result which would have enabled him to take the train of that afternoon. But the jury expressed a wish to retire, and some time later when an officer was sent to ascertain whether they were ready to come into court, he returned with a negative reply. Another long wait ensued without any intimation from the jury. Meantime it was evident from the noise proceeding from the jury room that a discussion of the liveliest description was in progress. The clamour increased, until finally the judge sent an officer for the purpose of finding out the cause of the excessive vociferation. The messenger returned in a few minutes with the explanation. It appeared that six of the jury spoke English and did not understand a word of French, and the other six spoke French and did not understand a word of English. The two sections had raised their voices in a vain attempt to make themselves mutually understood. An interpreter was then sworn in and dispatched to the jury room. He quickly discovered that the jurors were all agreed, that they had been all agreed from the first, but they had been unable to discover the fact!

A meeting of the bar of Montreal was held on the 28th September on the subject of the examinations, and at this meeting, which was attended by over one hundred and fifty members, it appeared that the practically unanimous feeling was against the proposition of the majority report noticed in our last issue, to the effect that a degree in law from a university should be accepted as sufficient evidence of legal attainments for admission to

the practice of the profession. The meeting was too large, and those present were too impatient to reach the conclusion, to admit of a very full discussion of the reasons urged in the report in behalf of the recommendation. But it is evident that the great majority hold firmly to the opinion that the bar must not part with the absolute and complete control of the examinations. Even those members of the bar who are connected with the universities do not appear to differ seriously from this view. The elaborate report of the committee was, therefore, not so fully considered as it might have been. Perhaps a conference between delegates from the several sections and authorized representatives of the universities might develop some other feasible proposition; but in view of the feeling manifested so strongly at the Montreal meeting we are not over sanguine of such a result.

The expense of the present system of examinations has frequently been put forward as a strong objection to it. It was stated at the Montreal meeting by the *ex-bâtonnier*, Mr. Dunlop, that funds which should be applied to the purchase of books for the library are absorbed by the cost of the examinations,—Montreal as usual having to bear the principal burthen. This state of things should not exist. Pending any other settlement it would seem but fair to make the examinations self-sustaining by an adequate increase of the fees to applicants. Seeing that the legal profession is already so thronged there is no occasion to attract applicants by a scale of fees which makes the examinations a tax upon the general funds.

The appointment of Mr. Désiré Girouard, Q.C., to be a puisne judge of the Supreme Court of Canada, in the place of Mr. Justice Fournier resigned, was made on the 28th ult. Mr. Girouard comes somewhat late to the bench, being now in his sixtieth year, but this is the second vacancy which has occurred in the Quebec membership

of the Supreme Court since it was constituted. He has had opportunities of accepting subordinate positions on the bench, but has preferred to bide his time. He thus brings to the discharge of his judicial functions the maturity of judgment and experience gained during the long period of thirty-five years devoted to active practice and parliamentary affairs. By this appointment the Montreal division of the province for the first time has a representative on the Supreme bench; yet more than four-fifths of the Province of Quebec cases carried to the Supreme Court have proceeded from this city, and in fact a considerable part of the entire business of the court has consisted of appeals from the city of Montreal. The new judge will thus be a gain to the profession in this district, and it may be added that both by ripe judgment and experience and the habit of thorough research and study he is well qualified to fill the position with distinction to himself and satisfaction to the bar.

SUPREME COURT OF CANADA.

OTTAWA, 9 Oct. 1894.

CITY OF QUEBEC v. THE QUEEN.

Exchequer.]

Constitutional law—Dominion government—Liability to action for tort—Injury to property on public work—Non-feasance—39 Vic., c. 27 (D)—R. S. C., c. 40, s. 6—50 & 51 Vic., c. 16 (D).

By 50 and 51 Vic., c. 16 (D) the Exchequer Court is given jurisdiction to hear and determine, *inter alia*: (c) Every claim against the Crown arising out of any death or injury to the person or to property on any public work, resulting from the negligence of any officer or servant of the Crown while acting within the scope of his duties or employment;

(d) Every claim against the Crown arising under any law of Canada.

In 1877 the Dominion Government became possessed of the property in the city of Quebec on which the citadel is situated. Many years before that a drain had been constructed through

this property by the Imperial authorities, the existence of which was not known to the officers of the Dominion Government, and it was not discovered at an examination of the premises in 1880 by the City Engineer of Quebec and others. Before 1877 this drain had become choked up, and the water escaping gradually loosened the earth until in 1889, a large portion of rock fell from the cliff into a street of the city below, causing great damage, for which compensation was claimed from the Government.

Held, affirming the decision of the Exchequer Court, that as the injury to the property of the city did not occur *upon* a public work, subsec. (c) of the above act did not make the Crown liable, and moreover there was no evidence that the injury was caused by the negligence of any officer or servant of the Crown while acting within the scope of his duties or employment.

Held, per Strong, C. J., and Fournier, J., that while subsec. (c) of the act did not apply to the case, the city was entitled to relief under subsec. (d); that the words "any claim against the Crown" in that subsection, without the additional words would include a claim for a tort; that the added words, "arising under any law of Canada," do not necessarily mean any prior existing law or statute law of the Dominion, but might be interpreted as meaning the general law of any province of Canada; that this case should be decided according to the law of Quebec regulating the rights and duties of proprietors of land situated on different levels; and that under such law, the Crown, as proprietor of land on the higher level, was bound to keep the drain thereon in good repair and was not relieved from liability for damage caused by neglect to do so by the ignorance of its officers of the existence of the drain.

Appeal dismissed with costs.

Pelletier, Q.C., & Quinn, Q.C., for the appellant.

Hogg, Q.C., for the respondent.

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6 May, 1895.

DIONNE v. THE QUEEN.

Quebec.]

Pension—Commutation—Transfer or cession—R. S. P. Q., Arts. 690, 693.

D, a retired employee of the Government of Quebec, surrendered his pension for a lump sum to the Government, and his

wife brought an action to have it revived and the surrender cancelled. By Art. 690 of R. S. P. Q. "the pension or half pension is neither transferable nor subject to seizure," and by Art. 683 the widow of D. would have been entitled to an allowance equal to one half of his pension.

Held, reversing the decision of the Court of Review, Strong, C. J., and Sedgewick, J., dissenting, that D, after his retirement was not a permanent official of the Government of Quebec and the transaction was not, therefore, a resignation by him of office and a return by the Government, under Art. 688, of the amount contributed by him to the pension fund; that the policy of Art. 690 is to make the right of a retired official to his pension inalienable even to the Government; that D's wife had a vested interest jointly with him during his life in the pension and could maintain proceedings to conserve it; and therefore that the surrender of the pension should be cancelled.

Appeal allowed with costs.

Burroughs for the appellants,
Cannon, Q.C., for the respondent.

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6 May, 1895.

N. A. GLASS CO. v. BARSALOU.

Quebec.]

Contract—Construction of—Agreement to discontinue business—Determination of agreement.

B, a manufacturer of glassware, entered into a contract with two companies in the same trade, by which in consideration of certain quarterly payments, he agreed to discontinue his business for five years. The contract provided that if at any time during the five years any furnace should be started by other parties for the manufacture of glassware, either of the said companies could, if it wished, by written notice to B, terminate the agreement "as on the first day on which glass has been made by the said furnace," and the payments to B. should then cease unless he could show "that said furnace or furnaces at the time said notice was given could not have a production of more than $100 per day."

Held, affirming the decision of the Court of Review, that under this agreement B. was only required to show that any furnace

so started did not have an actual output worth more than $100 per day on an average for a reasonable period, and that the words "could not have a production of more than one hundred dollars per day" did not mean mere capacity to produce that quantity whether it was actually produced or not.

Appeal dismissed with costs.

Martin, Q.C., (Ontario Bar) *& Martin* for appellant.
Béique, Q.C., & Geoffrion, Q.C., for respondent.

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11 March, 1895.

THE QUEEN v. FILION.

Exchequer.]

Crown—Negligence of servants or officers—Common employment—Law of Quebec—50 & 51 Vic., c. 16, s. 16 (c).

A petition of right was brought by F. to recover damages for the death of his son caused by the negligence of servants of the Crown while engaged in repairing the Lachine Canal.

Held, affirming the decision of the Exchequer Court, Taschereau, J., dissenting, that the Crown was liable under 50 & 51 Vic., c. 16, s. 16 (c); and that it was no answer to the petition to say that the injury was caused by a fellow servant of the deceased, the case being governed by the law of the Province of Quebec, in which the doctrine of common employment has no place.

Appeal dismissed with costs.

Monk, Q.C., & Coderre, for appellant.
Hogg, Q.C., for respondent.

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6 May, 1895.

VILLAGE OF POINTE CLAIRE v. POINTE CLAIRE TURNPIKE ROAD CO.

Quebec.]

Statute—Construction of—Retroactive effect of—Municipal corporation—Turnpike Road Company—Erection of toll gates—Consent of corporation.

A turnpike road company had been in existence for a number of years in the village of Pointe Claire, and had erected toll gates

and collected tolls therefor, when an act was passed by the Quebec legislature, 52 Vic., c. 43, forbidding any such company to place a toll or other gate within the limits of a town or village without the consent of the corporation. Sec. 2 of said act provided that "this act shall have no retroactive effect," which section was repealed in the next session by 54 Vic., c. 36. After 52 Vic., c. 43 was passed, the company shifted one of its toll gates to a point beyond the limits of the village, which limits were subsequently extended so as to bring said gate within them. The corporation took proceedings against the company, contending that the repeal of sec. 2 of 53 Vic., c. 43, made that act retroactive, and that the shifting of the toll gate without the consent of the corporation was a violation of said act.

Held, affirming the decision of the Court of Queen's Bench, that as a statute is never retroactive unless made so in express terms, sec. 2 had no effect, and its repeal could not make it retroactive; that the shifting of the toll gate was not a violation of the act, which only applied to the erection of new gates; and that the extension of the limits of the village could not affect the possessory rights of the company.

Appeal dismissed with costs.

Geoffrion, Q.C., & Charbonneau for appellant.

St. Pierre, Q.C., for respondent.

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6 May, 1895.

TOWN OF TRENTON v. DYER et al.

Ontario.]

Statute—Directory or imperative requirement—Municipal corporation—Collection of taxes—Delivery of roll to collector—55 *Vic., c.* 48 (*O*).

By s. 119 of The Ontario Assessment Act (55 V., c. 48), provision is made for the preparation in every year by the clerk of each municipality of a "collector's roll" containing a statement of all assessments to be made for municipal purposes in the year, and s. 120 provides for a similar roll with respect to taxes payable to the treasurer of the province. At the end of s. 120 is the following: "The clerk shall deliver the roll, certified under his hand, to the collector on or before the first day of October."

Held, affirming the decision of the Court of Appeal (21 Ont. App. R. 379), that the provision as to delivery of the roll to the collector was imperative, and its non-delivery was a sufficient answer to a suit against the collector for failure to collect the taxes.

Held, also, that such delivery was necessary in the case of the roll for municipal taxes provided for in the previous sections as well as in that for provincial taxes.

Appeal dismissed with costs.

Marsh, Q.C., & Delaney for appellant.

Abbott for respondent Dyer.

Clute, Q.C., & O'Rourke, for other respondents.

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6 May, 1895.

DOMINION OF CANADA v. PROVINCES OF ONTARIO AND QUEBEC.

In re ARBITRATION RESPECTING PROVINCIAL ACCOUNTS.

Construction of statute—B. N. A. Act, ss. 112, 114, 115, 116, 118—36 *Vic., c.* 30 (D)—47 *Vic., c.* 4 (D)—*Provincial subsidies—Half-yearly payments—Deduction of interest.*

By s. 111 of the B. N. A. Act, Canada is made liable for the debt of each province existing at the Union. By s. 112, Ontario and Quebec are jointly liable to Canada for any excess of the debt of the Province of Canada at the Union over $62,500,000, and chargeable with 5 per cent interest thereon. Secs. 114 and 115 make a like provision for the debts of Nova Scotia and New Brunswick, exceeding eight and seven millions respectively, and by s. 116, if the debts of those provinces should be less than said amounts, they are entitled to receive, by half-yearly payments in advance, interest at the rate of 5 per cent on the difference. Sec. 118 after providing for annual payments of fixed sums to the several provinces for support of their governments and an additional sum per head of the population, enacts that "such grants shall be in settlement of all future demands on Canada and shall be paid half-yearly in advance to each province, but the government of Canada shall deduct from such grants, as against any province, all sums chargeable as interest on the public debt of that province in excess of the several amounts stipulated in this act." The debt of the Province of Canada at the Union exceeded the sum mentioned in s. 112, and on appeal from the award of

arbitrators appointed to adjust the accounts between the Dominion and the Provinces of Ontario and Quebec,

Held, affirming said award, that the subsidy to the provinces under s. 118 was payable from the 1st of July, 1867, but interest on the excess of debt should not be deducted until 1st January, 1868; that unless expressly provided interest is never to be paid before it accrues due; and that there is no express provision in the B. N. A. Act that interest shall be deducted in advance on the excess of debt under sec. 118.

By 36 Vic., c. 30 (D), passed in 1873, it was declared that the debt of the Province of Canada at the Union was then ascertained to be $73,006,088.84 and that the subsidies should thereafter be paid according to such amount. By 47 Vic., c. 4, in 1884, it was provided that the accounts between the Dominion and the provinces should be calculated as if the last mentioned acts had directed that such increase should be allowed from the coming into force of the B. N. A. Act, and it also provided that the total amount of the half-yearly payments which would have been made on account of such increase from July 1st, 1867, to Jan. 1st, 1873, with interest at 5 per cent from the day on which it would have been so paid to July 1st, 1884, should be deemed capital owing to the respective provinces bearing interest at 5 per cent, and payable after July 1st, 1884, as part of the yearly subsidies.

Held, affirming the said award, Gwynne, J., dissenting, that the last mentioned acts did not authorise the Dominion to deduct in advance from the subsidies payable to the provinces half-yearly, but leaves such deduction as it was under the B. N. A. Act.

Ritchie, Q.C., & Hogg, Q.C., for appellant.

Irving, Q.C., & Moss, Q.C., for respondent, Province of Ontario.

Girouard, Q.C., & Hall, Q.C., for respondent, Province of Quebec.

DEFENCE AGAINST BURGLARS.

People are urging some authoritative declaration as to the right of every citizen to shoot his own burglar, or as one man puts it, 'as to the law in this country as to the right of self-defence against Messrs. Sikes & Co.' Mr. Justice Grantham not long since gave a ruling on the subject, but the opinion of that single judge is not regarded by the public as a sufficient authority for not hesitating to shoot. Stephen's 'Digest,' Art. 220 (5th edit.

p. 158), thus lays down the law: 'The intentional infliction of death or bodily harm is not a crime when it is done by any person in order to prevent the commission of treason, murder, burglary, rape, robbery, arson, piracy, or any other felony in which the traitor, felon, or pirate so acts as to give the person who kills or wounds him reasonable ground to believe that he intends to accomplish his purpose by open force'; or in order to arrest a traitor, felon, or pirate; . . . 'provided in each of the said cases that the object for which death or harm is inflicted cannot be otherwise accomplished.' For these propositions no modern authority is given, but they are well established since the time of Coke and Hale (see Archbold, 21st edit. p. 728), and do not rest on the right of self-defence, but on the public rights and duties of all citizens with respect to the prevention of crimes involving violence and to the apprehension of criminals, which are recognised as early as the Statute of Hue and Cry, now incorporated in the Sheriff Act, 1887. It is quite true that if attacked by a burglar with a lethal or dangerous weapon, the attacked person would be entitled to resist even to the effusion of blood or homicide, and would not be bound to retreat, but this is in addition to the public right already stated. The difficulty in each case is in the appreciation by the jury of the facts which led up to the homicide.—*Law Journal* (*London*).

THE TRIAL OF LUNATICS.

Some discussion has been raised by Dr. Forbes Winslow as to the procedure on the trial of supposed lunatics, but it is not easy to see any good reason for altering the present practice. It is not desirable, save in extreme cases, to relegate a man accused of murder to an asylum without trial. And three alternative cases may arise. A man may kill another under an impulse which the law would regard as insane, but the maniacal symptoms may have ceased temporarily or permanently at the date fixed for trial. In such a case there can be no option except to try the man for the crime. The only question of fact would then be whether it was possible, in the opinion of doctors, for such a man ever to recover sufficiently to be fit to plead—*i.e.* whether what may be called moral insanity must also affect intellectual capacity. The second case would be where the man killed another while sane, and subsequently became insane, say, because of an injury suffered

after the killing. In such a case the usual course would be to try the capacity of the man to plead on arraignment, inasmuch as if insane he could not make a proper defence. The third case is where the man's insanity existed at the date of the killing and on arraignment. Here, too, a trial would be superfluous. All these matters are complicated by the long-standing dispute between doctors and lawyers on the criteria of insanity and the probabilities of its being continuous and not recurrent, and upon the desire of the doctors to have their expert views accepted without criticism wherever expressed.—*Ib.*

THE NEW PUBLIC RECORD OFFICE.

A correspondent of the *Law Journal* sends the following interesting note on the subject of the extension of the Public Record Office, recently erected in Chancery Lane, London :—

Of the many noble and magnificent buildings which have been erected during the present reign, the Public Record Office is certainly one. In it are stored and preserved most of the invaluable records and papers relating to the events and history of this country past and present, and in it will be stored the public records of the future, so that when in due time the history of our times shall be written, abundant materials for the purpose will be found carefully stored away in the Public Record Office. A building for such a purpose as this must of necessity from time to time require enlarging and extending for the reception and preservation of the country's treasures. Such a time is the present. Thousands of persons, whose business or pleasure may have impelled them frequently to pass through Chancery Lane, must have been struck with admiration when, some time ago, they beheld the splendid foundations being laid, upon which they now see upreared the massive and imposing structure forming the new wing of the Public Record Office. The Lord Justice Sir William Baliol Brett, the present Master of the Rolls, is keeper of the Public Records, as his title 'Master of the Rolls' implies. This title is very ancient. The first Master of the Rolls was Adam de Osgodby, in the 23rd Edward I.

The site on which the Public Record Office stands is full of interest. The following extract is from a book entitled 'The History of the Chancery relating to the Judicial Power of that Court and the Rights of the Masters,' published in 1726 :—

'When H. III. had founded a house for the reception of convert Jews; to keep them separate from the rest of their nation it was put under the direction and care of an officer, called the Keeper of the House of Converts (now the Rolls), which office I doubt not was usually granted to one of the Chancery clerks then living in the king's palace; for I find it granted to two successively for life, both of them also clerks of the rolls. And in anno 15 Ed. III. that office was annexed by charter to the keepership of the rolls; and in the fifty-first of that reign the charter for some defect in it was confirmed by Parliament, and provision was made after the decease of William de Burstall, clerk of the rolls, or the next avoidance of the office, that the chancellor or keeper should for the future institute thereunto. This rendered it more considerable, and after it was endowed with this House of the gift and patronage of the king the nomination of the clerks by degrees has been solely granted by the Crown, exclusive of the chancellor. He was anciently called "Gardein de Rolls, Clericus et Custos Rotulor." in later times "Clericus Parvæ Bagæ and Custos Rotulor. et Domus Conversor," and in no statute "master," until the eleventh of Hen. VII, c. 18, and yet in c. 25 of the same year he is called "clerk," and as such still takes his oath of office.

"In the fifty-first year of his reign Edward III. annexed the Domus Conversorum Judærum to the office of the Master of the Rolls, which then became known as the Rolls House.

'In 1717 the old house was pulled down and the present one was commenced in September following, and built by Sir Joseph Jekyll, M.R., George I. giving him 5,000*l* towards it.

'Sir John Copley (afterwards Lord Lyndhurst) was the first Master of the Rolls who did not live in the Rolls House.'

The Rolls House built by Sir Joseph Jekyll, M.R., is at present standing, but will shortly, I believe, be pulled down.

The new wing has displaced the Rolls Court, but not its memories. Who can forget the many eminent lawyers who practised in that Court, who afterwards adorned the Bench as judges, some of whom have passed away; but who being dead yet speak in their judgments, and in the many legal reforms mainly effected by their means, or given effect to by their judicial decisions?

It is a remarkable coincidence that the last judge of first instance who as Master of the Rolls sat at the Rolls Court, and

who as *Custos rotulorum* occupied the Rolls House, which stands on the site of that founded by Henry III., was a Jew.

This new building will shortly be formally opened for public business, and I venture to think that such a building—with such a history, maintained for such a purpose, and containing such priceless treasures—should have a suitable opening: an opening worthy of the building and of the work performed therein. It is one of the noble memorials of the Queen's long and beneficent reign; it will contain the records of Her Majesty's kingdom; and, if it should please Her Most Gracious Majesty either to open it in person or that the Prince of Wales should open it on Her Majesty's behalf, I believe it would afford very great pleasure to all Her Majesty's loyal subjects who take an interest in the records of their country.

If such an opening were to take place, doubtless some new honours would be conferred, to set a mark upon the occasion, a record of which would be kept in and add one more to the many treasures of the Public Record Office.

NEGLIGENCE AND ELECTRIC LOCOMOTION.

In this era of electrical and cable cars the decision recently given in the case of *Thatcher* v. *The Central Traction Company* is of more than passing importance. It was held in that case that it does not constitute negligence *per se* for a man to drive along the left-hand track of a street railway which occupies a public street. The Court says: 'If the gripman recklessly ran on at a high rate of speed, when the probable consequence was a collision, that was negligence for which defendant is answerable. As is held in *Ehrisman* v. *The Railway Company*, 150 Pa. 180: "It is not negligence *per se* for a citizen to be anywhere upon such tracks (railways on streets). So long as the right of a common user of the tracks exists in the public, it is the duty of passenger railway companies to exercise such watchful care as will prevent accidents or injuries to persons who, without negligence on their own part, may not at the moment be able to get out of the way of a passing car." Or, as is said in *Gilmore* v. *The Railroad Company*, 153 Pa. 31: "Street railway companies have an exclusive right to the highways upon which they are permitted to run their cars, or even to the use of their own tracks." In both these cases the Court is speaking of the relative rights of the

public and the railway companies on the streets of cities and boroughs where the grant is of the right to occupy the surface in common with the public. The construction of the track and the form of the rail are with a view to a user in common. The right of the waggon, in certain particulars, is subordinate to that of the railway. The street car has, because of the convenience and exigencies of that greater public which patronizes it, the right of way. Whether going in the same direction ahead of the car, or in an opposite one to meet it, the driver of the waggon must yield the track promptly on sight or notice of the approaching car. But he is not a trespasser because upon the track. He only becomes one if, after notice, he negligently remains there.'—*Michigan Law Journal.*

THE LATE MR. JUSTICE STRONG.

The Hon. William Strong, a justice of the Supreme Court of the United States, on the retired list, died on the 19th of August, at Lake Minnewaska, New York, at the age of eighty-seven. He was born in Connecticut, May 6, 1808. He graduated from Yale College at the age of twenty, a circumstance showing what Chancellor Kent once remarked, how limited the curriculum of that now great university was in the beginning of this century. He was admitted to the bar at Philadelphia in 1832, and began the practice of law at Reading, Pa. He was elected to Congress in 1847, and served two terms, after which he declined a renomination and returned to the practice of his profession. In 1857 he was elected a judge of the Supreme Court of Pennsylvania, his term of office being fifteen years. He resigned the office in 1868 and resumed his practice at the bar. In 1870, when (as alleged) the Supreme Court of the United States was "doctored" by President Grant for the purpose of reversing its decision declaring the Legal Tender Act unconstitutional, Mr. Justice Strong was appointed to succeed Mr. Justice Grier, who resigned the office. Concurrent with this appointment was that of Mr. Justice Bradley, appointed from New Jersey. On Jan. 6, 1872, Mr. Justice Strong announced the decision of the court, affirming the constitutionality of the Legal Tender Act, and Mr. Justice Bradley concurred in a long opinion. Mr. Justice Strong delivered several other opinions upon constitutional questions growing out of the Civil War and the legislation of Congress following it. He was a member of the Electoral Commission

created under an Act of Congress in 1887, in view of the contest as to the election of President of the United States. The Commission seated Mr. Hayes, although Mr. Tilden had a majority of more than a quarter of a million of the popular vote. Of course, under our scheme of electing the President the popular vote counted for nothing. The case turned upon certain contests relating to Florida, Louisiana and (we believe) Oregon. It has generally been regarded as a partisan decision, and as evidence of the truth, illustrated by repeated instances, that on party questions judges will generally decide according to their party predilections. Mr. Justice Strong resigned the great office to which he had been appointed, in the year 1880, at the age of seventy-two, and undoubtedly prolonged his life by many years by casting off those onerous labors.—*American Law Review.*

GENERAL NOTES.

THE COMMERCIAL COURT.—The *Times*, in a recent article, points out that the success of the Commercial Court seems assured, for in the very short period in which it has existed—a small fraction of the legal year—399 summonses of various kinds had been heard, and most of them were the equivalents of several summonses in an action travelling by the ordinary judicial high road. Of the 399 applications, 150 resulted in orders to transfer to the commercial list, forty in refusals. The other 209 consisted of applications for directions, &c., in which the judge at an early stage got seisin of the matters in dispute, stated how things were to be put in train for trial, and took care that there was no futile nonsensical skirmishing before the decisive battle was fought. One hundred and thirty-one causes had been appointed for trial, an amount which, in view of the very short time in which the Court has been at work, and the fact that the total number of defended actions, big and little, tried in London and Middlesex by all judges does not much exceed 1,200 to 1,400 a year, is considerable. Ninety-seven causes, some of them of great magnitude and of moment to many others than the plaintiff and defendant, had been tried, and twenty-six had been settled, for the most part through the intervention of the judge. It would be interesting to compare with these figures the entire business of the London Chamber of Arbitration, which was to supersede in commercial cases the ordinary tribunals of the country.