THE

LEGAL NEWS.

VOL. XX. OCTOBER 15, 1897. No. 20.

CURRENT TOPICS AND CASES.

In *The Queen* v. *St. Louis*, on the 14th instant, Mr. Justice Wurtele, sitting on the Crown Side of the Court of Queen's Bench, decided some novel and interesting questions. An information was laid by Mr. Sherwood, Commissioner of the Dominion Police, before one of the judges of sessions, charging one St. Louis with having received various sums of money from Her Majesty the Queen by false pretences. In the information Sherwood took the quality of Commissioner of the Dominion Police, and added to this designation the words "and acting as such on behalf of Her Majesty the Queen." The magistrate found the evidence insufficient and discharged the accused. Thereupon, at the instance of Sherwood, an indictment was preferred against St. Louis in the Queen's Bench, Crown Side, under the provisions of Art. 595 of the Criminal Code. The Grand Jury threw out the bill. The first question was whether Mr. Sherwood was personally liable for the costs of the accused. The Court held that as Commissioner of the Dominion Police he had no legal capacity to act for and represent the Queen, and therefore he merely acted as a private individual in binding himself to prefer an indictment. The Attorney General of Canada, it was declared, in the absence of any express provision of law, is alone authorized to represent the Queen in all matters which concern the government of Canada. It followed that Mr. Sherwood must

be personally condemned to pay the costs. The next question was whether he could be condemned to pay the costs and disbursements of the accused as between attorney and client. This point the Court ruled in favor of the Commissioner, holding that he was only liable for such costs as in a civil suit would be taxable against the losing party. The last point was as to the basis on which the taxation should be made, there being no tariff applicable to criminal cases. It was decided by Mr. Justice Wurtele that in the absence of a tariff the costs must be taxed in the discretion of the judge.

Mr. Justice Curran has been presiding in the Court of Queen's Bench at Sherbrooke. The calendar was heavy and many of the prisoners were tried for serious offences. The *Waterloo Advertiser* says the learned judge "won golden opinions from the bar and the public for the able manner in which he conducted the business of the Court."

The *Green Bag*, for October, contains a portrait of Acting Chief Justice Sir Melbourne M. Tait, with a biographical notice from the pen of Mr. R. D. McGibbon, Q.C. The reproduction of the photograph does not seem to be as successful as some pictures which have appeared in the *Green Bag*, of other Canadian judges. It can hardly be said to do justice to the subject. The biographical notice is reproduced in our present issue.

The retirement of Lord Esher, Master of the Rolls, is to lawyers one of the most interesting and notable events of the year. Lord Esher's judicial career extends over one half of the Victorian reign, and few indeed of those now on the Bench or prominent at the bar were known to fame when he took his seat for the first time. The *London Law Journal*, referring to the report of Lord Esher's retirement, said :—"The profession has long taken a pride in the enduring qualities of Lord Esher's mental and physical powers, and it will hope, despite his eighty-two years, that he may long enjoy the leisure he has earned

so well. During the thirty years he has occupied a seat on the Bench he has been distinguished by a real knowledge of the law, a wide acquaintance with the world, a striking independence of judgment, and a great dislike of mere technicalities and shams." The same journal, noticing the statement (since confirmed) that Lord Justice Lindley was to be Master of the Rolls, observed:—"His claim to the position lies in the distinguished service he has rendered in the Court of Appeal, where he has occupied a seat for sixteen years. Since the retirement of Lord Justice Cotton in 1890, Lord Justice Lindley has presided over the second section of the Court, and the manner in which he has discharged this duty is ample evidence of his fitness for the higher post. Few occupants of the Bench have brought to the performance of judicial duties so large a combination of admirable qualities. With him a deep knowledge of legal principles is allied to a firm and ready grasp of facts."

SUPREME COURT OF CANADA.

OTTAWA, 12 Oct. 1897.

Quebec.]

DUROCHER v. DUROCHER.

Judgment—Petition to set aside—Requête civile—Jurisdiction.

Judgment on the appeal of *Durocher* v. *Durocher* was pronounced by the Supreme Court of Canada on May 1st, 1897, dismissing the appeal with costs. In the following October term the appellant presented a *requête civile*, asking that the judgment be set aside and the proceedings opened up, on the ground that since the judgment a deed had been discovered which had been fraudulently concealed by the respondent and the judgment dismissing the appeal was therefore obtained by fraud.

Held, that the Court had no jurisdiction to grant the application; that it has power to annul errors in its own judgments, but not to interfere in a case of this kind.

Petition refused with costs.

Belcourt, for the petition.

Geoffrion, Q.C., contra.

19 Oct., 1897.

Exchequer Court.]

BRADLEY v. THE QUEEN.

Crown—Action against by civil servant—Official reporters—Extra salary or remuneration—R. S. C., c. 17.

By sec. 51 of the Civil Service Act (R. S. C., c. 17), no "extra salary or remuneration" can be paid to a member of the civil service unless the sum thereof has been placed in the estimates and authorized by vote of Parliament or Order-in-Council. In an action by an official stenographer of the House of Commons to recover the price of services performed for the Crown, outside the scope of his official services,

Held, affirming the judgment of the Exchequer Court, but for different reasons, that he was entitled to recover; that the Civil Service Act applies to the official stenographers; and that the words "extra salary or remuneration" in the Act refer only to the salary or remuneration paid to a member of the civil service for performance of his official duties, but do not prohibit payment for other services.

Appeal dismissed with costs.

Newcombe, Q.C., D.M.J., for the appellant.

Hogg, Q.C., for the respondent.

---

22 Oct., 1897.

Ontario.]

THE CITY OF TORONTO v. THE TORONTO RAILWAY CO.

Appeal—Assessment cases—Court for—Persons presiding—Appointment of—52 V., c. 37, s. 2 (D.)—55 V., c. 48; 58 V., c. 47 (O.)

By the Supreme Court Amendment Act of 1889 (52 V., c. 37, s. 2), an appeal lies to the court from the judgment of any court of last resort created under provincial legislation to adjudicate concerning the assessment of property for provincial or municipal purposes, in cases where the person or persons presiding over such court is or are appointed by provincial or municipal authority.

By 55 Vic., c. 48 (O.), an appeal lies in a matter of assessment from the Court of Revision to the County Court judge, and by 58 Vic., c. 47 (O.), two County Court judges from adjoining counties may be associated with the judge of the district in which the property assessed lies, for the hearing of such appeal.

On appeal to the Supreme Court from the decision of the County Court judges under the said legislation of Ontario,

Held, King, J., dissenting, that the persons presiding over the court appealed from were appointed by federal authority, and the case was not within the amendment of 1889. The Court, therefore, had no jurisdiction to hear the appeal.

Appeal quashed with costs.

Laidlaw, Q.C., for the appellant.

Robinson, Q.C., for the respondent.

Ontario.] 29 Oct., 1897.

O'DONOHOE v. BOURNE.

Appeal—Judgment by default—Application to be let in to defend—Discretion—R. S. C., c. 135, s. 27—Final judgment.

In an action in the High Court of Justice of Ontario by B. against O., judgment was entered for want of a plea. O. applied to a Master in Chambers to have the judgment set aside, and to be allowed to file his appearance and defend the action. This application was refused by the Master, and his refusal was affirmed on appeal to a Judge in Chambers, and on further appeals to the Divisional Court and Court of Appeal. From the decision of the Court of Appeal, O. sought to appeal to the Supreme Court of Canada. On motion to quash his appeal,

Held, that it was discretionary with the Master to grant or refuse the application to open up the proceedings in the action, and under sec. 27 of the Supreme and Exchequer Courts Act (R. S. C., c. 135), no appeal could be taken to the Supreme Court from the decision on such application.

Quære: Was the judgment appealed from a "final judgment" within the meaning of sec. 24 (*a*) of the Act?

Appeal quashed with costs.

Latchford, for the motion.

O'Donohoe, in person, *contra*.

British Columbia.] 22 Oct., 1897.

THE UNION COLLIERY CO. v. THE ATTORNEY-GENERAL OF BRITISH COLUMBIA.

Appeal—Reference to provincial court for opinion—54 V., c. 5 (B.C.)

By the Act of the British Columbia Legislature, 54 Vic., c. 5, the Lieutenant-Governor-in-Council may refer to the Supreme

Court of the Province, or to a Divisional Court thereof, or to the full court, any matter which he thinks fit so to refer, the opinion of the court to be deemed a judgment of the court, and an appeal to lie therefrom as in the case of a judgment in an action.

Held, that no appeal lies to the Supreme Court of Canada from the opinion of the British Columbia Court on such a reference. If it was the intention of the Act to create such an appeal, it was beyond the powers of the legislature of the province.

Appeal quashed without costs.

Robinson, Q.C., for the motion.

Hogg, Q.C., contra.

RECENT UNITED STATES DECISIONS.

Abortion.

Voluntary submission to treatment for the purpose of an abortion is held, in *Goldnamer* v. *O'Brien* (Ky.) 36 L.R.A 715, to preclude any right of action against other persons for inducing and aiding the attempt. This is based on the general rule that the suit of a wrongdoer will be rejected when seeking redress for another's participation in the wrong.

Bank.

A cashier's check drawn by a banker upon himself "to the order of" another person is held, in *Henry* v. *Allen* (N.Y.) 36 L.R.A. 658, to constitute a negotiable instrument giving the rights of a bona fide holder to one who received it from an agent by mail in return for checks and drafts mailed to the agent for deposit.

Payments to a depositor during a run on a bank and after the cashier has persuaded some persons not to withdraw their deposits but when the bank has assets sufficient so that its officers expect to continue the business and pay all debts, are held, in *Stone* v. *Jenison*, (Mich.) 36 L.R.A. 675, to be lawfully made and not to constitute an illegal preference to that depositor, although the run continues until the bank is forced to suspend.

A claim that a bank was bound to apply to the payment of a note which it held a deposit of the first indorser was denied in *First Nat. Bank* v. *Peltz* (Pa.) 36 L.R.A. 832, where the note was made for his accommodation so that he, and not the apparent maker, was, as between themselves, primarily liable upon it.

Bicycle.

A license tax on a bicycle used for pleasure is held, in *Davis* v. *Petrinovich* (Ala.) 36 L.R.A. 615, to be unauthorized by a charter provision for a "vehicle license" to be imposed on vehicles used in the "transportation of goods and merchandise."

Bills and Notes.

Presentment to all the makers of a note is held, in *Benedict* v. *Schmieg* (Wash.) 36 L.R.A. 703, to be necessary in order to hold an indorser, whether the note is joint in form or joint and several. The previous authorities on presentment to joint makers to hold indorsers of a note are compiled in the annotation to the case.

Carrier.

The right of a carrier receiving blasting powder for transportation to insist upon such limitation of common-law liability as it sees fit is sustained, in *Cleveland Powder Works* v. *Atlantic & Pac. R. Co.* (Cal.) 36 L.R.A. 648, on the ground that a common carrier is not obliged to receive and transport such dangerous articles. Annotation to the case reviews the other authorities on the limitation of carrier's liability and duty in case of dangerous articles.

For baggage left on a depot platform by a passenger who arrived at the place after 11 o'clock at night, when there were no conveyances running by which he could take it away, the carrier was held, in *Kansas City Ft. S. & M. R. Co.* v. *McGahey*, (Ark.) 36 L.R.A. 781, to be liable only as a warehouseman, and not as a common carrier, if the baggage was burned during the night. The authorities as to the liability of carriers for baggage at destination of the passenger are reviewed in the annotation to the case.

The regulation of a carrier for collecting fares or tickets on a suburban train, which prohibits passengers from going past the conductor into the part of the train where he has completed his collection of fares unless they satisfy him that they have already paid fare, is held, in *Faber* v. *Chicago Great Western R. Co.* (Minn.) 36 L.R.A. 789, to be a reasonable one which the conductor was justified in enforcing, even as against a passenger who had no previous notice of it.

A reasonable charge for the detention of a carrier's cars beyond a reasonable time for loading or unloading is sustained in *Kentucky Wagon Mfg. Co.* v. *Ohio & M. R. Co.* (Ky.) 36 L.R.A. 850, and it was held that such charges may be imposed and enforced by a car service association.

Constitutional Law.

A statute requiring the destruction of peach trees attacked by the yellows, is held, in *State* v. *Main* (Conn.) 36 L.R.A. 623, to be within the discretion of the legislature as an exercise of the police power. The case also holds that the constitutionality of a statute is for the court to determine, and that it is the duty of the jury to accept the court's determination thereof even in a criminal case.

The power of a notary public to commit a witness for contempt in refusing to be sworn or give a deposition is denied in *Re Huron*, (Kan.) 36 L.R.A. 822, and a statute purporting to confer such power upon a notary is held void. The other authorities on notary's power to punish for contempt are compiled in the annotation to the case.

Contract.

The rule that death terminates an executory contract when the peculiar skill or taste of the party who dies is essential to the completion of the contract is held in *Cox* v. *Martin* (Miss.) 36 L.R.A. 800, to be inapplicable to the case of a deed of trust covering crops to be grown and some other personal property, although it was necessary for the other party to make advances and complete the crop.

County.

A sale and conveyance of an academy by a county to a presbytery is held, in *Jefferson County* v. *Grafton*, (Miss.) 36 L.R.A. 798, to be void unless made under legislative authority.

Damages.

The measure of damages for failing to deliver a building to a tenant as agreed is held, in *Jonas* v. *Noel* (Tenn.) 36 L R.A. 862, to be the difference between the rent provided for and the value or rental value, rather than the market value of the property, where the building was to be erected for the tenant and was of such unprecedented size that no one but the tenant would be likely to make it serviceable in his business.

Municipal Powers.

The right to lay a private sewer in the streets of a city is held in *Stevens* v. *Muskegon* (Mich.) 36 L.R.A. 777, to be one which the city could grant by contract, and when a sewer had been constructed in accordance therewith, it was held that a vested right was obtained to its use.

Evidence.

An order for the production in court for analysis by experts and physicians of a specimen of the urine of the plaintiff who has testified that he is suffering from albumen and sugar in the urine as the result of an injury, is held proper, in *Cleveland C. C. & St. L. R. Co.* v. *Huddleston*, (Ind.) 36 L.R.A. 681; especially when he has voluntarily produced a specimen for his own counsel which has been analyzed by physicians selected by them and proof thereof offered in court.

As the law presumes sanity, it is held, in *State* v. *Scott* (La.) 36 L.R.A. 721, that an accused person who urges his insanity as a defence has the burden of proving it. The great number of cases on the presumption and burden of proof as to sanity are compiled in the annotation to the case.

Responsibility.

Escape of gas from a cracked elbow in a pipe which a gas company puts in, after repeated attempts to repair it and the assurance of its employee that it is all right, is held, in *Richmond Gas Co.* v. *Baker* (Ind.) 36 L.R.A. 683, to render the gas company liable for the resulting damages, where the persons were lulled by such assurances into a feeling of security, although able to smell the gas.

Non-navigable Stream.

The right of the owner of the soil to cut and remove ice from a non-navigable stream is sustained in *Gehlen* v. *Knorr* (Iowa) 36 L.R.A. 697, even to any extent, for his own use, whether for storage or sale, if it does not thereby appreciably diminish the amount of water that can be used by the lower proprietor, and the construction of a dam to collect and retain the water for this purpose to a reasonable extent is upheld.

Telephone Company.

The right of a telephone company to require a telegraph company to place a telephone instrument in its office for use in receiving and transmitting messages on the ground that it has allowed another telephone company to have an instrument there for that purpose is denied, in *People, ex rel. Cairo Teleph. Co.* v. v. *Western Union Teleg. Co.* (Ill.) 36 L.R.A. 637, on the ground that the telegraph company cannot be compelled to receive oral messages, and that by waiving its rights in that respect in favor of one company it is not compelled to do so in favor of another.

Lease.

A landlord is not exonerated from responsibility for the safe condition of an elevator in a building a portion of which is leased, where he retains the general control over the elevator and its approaches and expressly covenants that he will keep them in good condition, although the tenant and other tenants have the right to use it in common with the landlord. *Olson* v. *Schultz*, (Minn.) 36 L.R.A. 790.

Master and Servant.

The manner of delivering messages to railroad employees is held, in *Card* v. *Eddy*, (Mo.) 36 L.R.A. 806, not to constitute a part of the master's duty so as to make him liable for injuries to an employee by negligence of another who delivered the message entrusted to him by attaching it to a weight and throwing it from a moving train.

Negligence.

A state inspector of illuminating oil who brands it to indicate that he has approved it and that it bears the statutory test, when in fact it does not, is held, in *Hatcher* v. *Dunn* (Iowa) 36 L.R.A. 689, not to be liable for damages caused by the explosion of the oil if he used due care, and used instruments furnished and approved by the proper authorities, and especially if the explosion was due to a defective lamp rather than to the inferior grade of the oil.

Street Railway.

An ordinance requiring proper and suitable fenders on the front of electric cars to prevent accident, and making it unlawful to operate them in the streets without such fenders, is held, in *State ex rel. Cape May, D. B. & S. P. R. Co.* v. *Cape May* (N.J.) 36 L.R.A. 653, to be a valid exercise of the power to regulate the use of the streets. In another case of the same name on page 656, an ordinance regulating the speed of such cars is sustained, while a third case of the same name, on page 657, sustains an ordinance requiring such cars to come to a full stop before crossing intersecting streets.

The right of a street railway to run over a bridge built over a railroad at a highway crossing is sustained in *Pennsylvania R. Co.* v. *Greensburg J. & P. St. R. Co.* (Pa.) 36 L.R.A. 839. It is held that the railroad company is not an abutting owner that can contest such use of the bridge.

Jurisdiction.

Concurrent jurisdiction in the courts of different states for the garnishment of a foreign corporation which is doing business in each state by agents is held, in *Lancashire Ins. Co.* v. *Corbetts* (Ill.) 36 L.R.A. 640, to exist, and it is held that the jurisdiction is not determined by the situs of the debt, but by the liability of the garnishee to be sued at the place.

Insolvency.

Moneys collected by the trustees of an insolvent as the proceeds of sales made by him as commission merchant and which are capable of identification are held, in *Drovers' & M. Nat. Bank* v. *Roller* (Md.) 36 L R.A. 767, to belong to the consignor, but general assets in the hands of the trustee are not chargeable with a lien in his favor.

Public Moneys.

A deposit of public moneys by a state treasurer in a legally constituted depository for public funds in compliance with the law is held, in *Bartley* v. *Meserve* (Neb.) 36 L.R.A. 746, to be in substance and legal effect a loan of the moneys so deposited, and he can deliver the funds to his successor without withdrawing the money and giving physical possession thereof.

SIR MELBOURNE TAIT.

The Province of Quebec, or Lower Canada, as it is still affectionately called by its people, has, in addition to a number of other interesting peculiarities, a system of jurisprudence and judicature which is comparatively unique.

Its civil law is practically the Code Napoléon, with certain changes, supposed to have been improvements; its commercial law is in effect similar to that of England; its constitutional law and criminal law and practice are distinctively English.

The use of both the French and English languages in the courts is a curious, if at times cumbersome, feature; and the familiar jest of Mark Twain, when visiting Montreal some years ago, may be repeated. He was being entertained at dinner, and in his speech (Canadians have a wonderful avidity for making and listening to speeches) said that he had that day heard a lawsuit concerning six cords of wood tried in two languages, and, no doubt if the litigation had been about one hundred cords, there

would not have been enough languages at the Tower of Babel to enable the suit to be tried.

However, every visitor to Montreal or Quebec hears about the dual language, and probably learns at the same time, from some illiterate cabman, that the French spoken in the Province is a rude *patois* and not the pure lingo of the boulevards; the fact being that Canadian French is pure Norman of the 16th century and, as spoken by the educated classes, as good as any dialect of modern France.

One peculiarity, and a regrettable one, of her position as a civil law province, is that she is isolated from the rest of the legal world, and the decisions of her tribunals and the careers and names of her jurists are unknown beyond the banks of the St. Lawrence.

And yet, from the day when in 1763 Great Britain, after administering, for a brief period, English law in the English language to the French Canadian *habitant*, restored the use of the French law, practically the *Coutume de Paris* (codified in 1867), to the present time, Lower Canada has had a long line of able and learned English and French judges. Stuart, a giant in intellect, Sewell, Lafontaine, Duval, Dorion, Johnson, Cross, Badgley, Panet, Rolland, Ramsay, Taschereau, Mondelet Sanborn, Monk, Loranger, Meredith, Tessier and Fournier have, in their time, done judicial work, and pronounced judgments, of the highest value; but their names probably were never heard of by the American bar. To the proverbially ephemeral character of legal fame, therefore, an added obscurity is afforded in the case of the Quebec judges.

The Superior Court of the Province is the high court of original civil jurisdiction; all cases of over one hundred dollars are instituted before it. It consists of thirty judges, ten of whom sit in Montreal, four in Quebec, the remainder being scattered over the Province in districts and being summoned occasionally to sit in the cities for the purpose of assisting their brethren. The court has an appellate jurisdiction as well, and three judges sit at Quebec and Montreal every month. A chief justice and an acting or assistant chief justice are appointed by the Governor General in Council, one residing in Quebec, the other in Montreal.

On the death of the late Chief Justice Sir Francis Johnson, a man of great ability, and an accomplished French and English scholar, a wit, a *bon vivant*, and the hero of all the Canadian Joe

Millers, Mr. Justice Tait, the subject of this sketch, was selected to succeed him; but, in accordance with practice, the then Acting Chief Justice, Sir L. N. Casault of Quebec, was promoted to be Chief Justice, and Mr. Justice Tait was made Acting Chief Justice of the court at Montreal.

Sir Melbourne Tait was born in 1842, at Melbourne, a picturesque village on the St. Francis River in the Eastern Townships of the Province. His father was a leading merchant of the place, warden of the county and a Justice of the Peace, and was also a captain in the Canadian militia.

The future chief justice was educated at St. Francis College, Richmond, P.Q., and in 1859 began the study of law in Montreal, entering the law faculty of McGill University, where he graduated B.C.L. in 1862. He was admitted to the bar of the Province of Quebec in the following year and, after practicing law for a short time in his native place, he entered into partnership, in Montreal, with the late Sir John Abbott, Q.C., M.P., then, and for many years, one of the leaders of the Canadian bar, and afterwards Prime Minister of Canada.

The firm of Abbott, Tait & Wotherspoon had probably the largest practice in the Province, and were standing counsel for a large number of corporations, including the Canadian Pacific Railway Company and several leading banks. Mr. Abbott becoming engaged in railway enterprises and subsequently in political affairs, the management of the firm devolved largely on Mr. Tait and Mr. Wotherspoon. Mr. Tait conducted most of the court business of the firm, and the law reports of the Province show that he was the leading counsel in many of the heaviest commercial cases tried in Canada. For a number of years he was treasurer of the Montreal bar. In 1882 he was appointed Queen's Counsel, and in 1887 he was appointed a judge of the Superior Court, being made Acting Chief Justice for the Montreal division in 1894. Sir Melbourne Tait is a D.C.L. of McGill University, Montreal, and of Bishop's College, Lennoxville.

Since his appointment to the bench, he has been an assiduous and painstaking judge, and, especially since his nomination as acting chief justice, he has manifested a striking executive ability and the power of organizing his associates successfully. He is a prodigious worker, and has the faculty of inspiring others with a like zeal.

It would be foreign to the scope of this sketch to refer at any length to the cases decided by Judge Tait, but it may be stated

that he has been fortunate enough to see a very considerable number of his most important decisions confirmed either by the Supreme Court of Canada, or by the Judicial Committee of the Privy Council. To those interested in the subject, reference might be made to the Shefford Election case, 10 L.N. 403; Vipond v. Findlay, M.L.R., 7 S.C. 242; Sise v. Pullman Palace Car Company, Quebec Reports, 1 S.C. p. 9; Canada Paint Company v. William Johnson & Sons (Ltd.), Quebec Reports, 4 S.C. 293; Lambe v. Fortier, Quebec Reports, 5 S.C. 47; Canada Revue v. Fabre, Quebec Reports, 8 S.C. 195; Rendell v. Black Diamond Steamship Co., Quebec Reports, 10 S.C. 257; Beach v. Corporation of Stanstead, Quebec Reports, 8 S.C. 178; Montreal Water & Power Company v. City of Montreal, Quebec Reports, 10 S.C. 209, and many others.

Ths decisions of Sir Melbourne Tait are perspicuous, direct and to the point. He does not indulge in any sententious verbiage nor burden his judgments with jejune platitudes or unnecessary philosophical reflections, and his remarks are delivered in excellent judicial manner. He may possess, but never exercises, a somewhat favorite judicial art or artifice of shirking a difficult point and basing a decision on some minor question, not touched upon by counsel. His demeanor to the bar is excessively courteous and urbane, without in any manner lacking the dignity and repose which befit a magistrate.

In his social life, the learned Judge is a great favorite. When at the bar, he was a member of a well-known Dramatic Society —the Social and Dramatic Club of Montreal—and has performed leading parts in its productions with *éclat*. He is a member of the St. James Club of Montreal, and a churchwarden of Christ Church Cathedral. He is also a governor of Bishop's College.

His Knighthood by the Queen, on the occasion of her Diamond Jubilee, was an extremely popular appointment, and the judge received many felicitations on his honor, and was on September the 10th presented with a congratulatory address by the Bar of Montreal. Lady Tait is an American, a native of Rhode Island. Sir Melbourne has an interesting family, his eldest son, Mr. Thomas Tait, being Eastern manager of the Canadian Pacific Railway Company.

In the prime of life, possessed of a vigorous and robust constitution, fond of his work and competent to do it, respected and implicitly trusted by the profession and the public, Sir Melbourne Tait's lot is indeed an enviable one. But his freedom

from the vanity and petulance which sometimes mar the judicial character, and withal, the unaffected modesty of his nature, render it impossible for his successes to excite the lower forms of envy or to evoke other feelings than the belief that he thoroughly deserves his good fortune and the hope that he may long be spared to perform the important duties he is so admirably qualified to discharge.—*R. D. McGibbon, Q.C., in "The Green Bag," October.*

A SUCCESSFUL FEMALE LAWYER—MRS. CLARA FOLTZ.

The *New York Times Illustrated Magazine*, speaking of Mrs. Foltz and her work, says:—

On an upper floor of a large building, overlooking busy and crowded Nassau street, New York, is the office of Mrs. Clara Foltz, one of the most prominent women lawyers in this country. On the walls hang certificates showing her right to practice in all the courts in California, the United States Supreme Court, and the courts of the State of New York.

After sixteen years of successful practice as a lawyer in California, Mrs. Foltz came to New York, and a little over a year ago was admitted to the New York bar, Gen. Benjamin F. Tracy, ex-Secretary of the Navy, acting as her sponsor. Since coming here she has been engaged in a number of leading cases, and has been uniformly successful. Her preference is for criminal cases, and she derives a handsome income from her practice, while many other women lawyers have a hard struggle to support themselves.

In fact, she could retire from business if she chose, but her ambition spurs her on to accomplish certain ends that she has in view. She wishes to build and endow a law college for women in her native State of California, and it is whispered would not be averse to a position on the judge's bench. Such lofty ambitions as these require many years before they can be fulfilled.

The career of Clara Foltz is a lesson for every woman. She was married when she was only fifteen years old, and was left a widow while she was still young, with five children to support. She bravely declined offers of aid from her relatives and declared her intention to study law. This, however, was easier said than done at that time in California. The new Constitution of the

State prohibited the admission of women to the bar, and the principal law college, Hastings, refused to admit her as a student.

Mrs. Foltz drew up an amendment to the Code, allowing women to practice law, and also brought suit against the trustees of the college for refusing her admission. She was successful in both instances, and in a short time she was a member of the bar. In one of her first cases she won $75,000 damages for a woman client.

In a few years she had built up a good practice without neglecting her home duties. She established the Santiago *Daily Bee*, and took a great interest in politics, proving a valuable speaker for the Republican party.

Mrs. Foltz had always been a Republican, having followed in her father's footsteps, but during an exciting political campaign she took occasion to change her views. She was making speeches for the Republican mayoralty candidate in San Francisco, and one day dropped in at the State headquarters. The State Secretary made a slurring remark about women in politics, and Mrs. Foltz declared that she would leave the party for which she had been working so ardently. Since that time she has joined forces with the Democrats, although she sometimes sides with the People's party.

In California Mrs. Foltz was known as the modern Portia, the latter being one of her favorite heroines. She founded the Portia Law Club, and it still flourishes successfully in the Golden State.

Mrs Foltz comes of a distinguished family. Her father was a prominent lawyer who left the bar to become a minister. Her brother, Samuel Shortridge, is a well-known corporation lawyer; another brother, Charles M. Shortridge, is editor and proprietor of the St. Francisco *Call*, and a third brother, John R., is mayor of Gainesville, Texas. She was herself the candidate of the People's party for city and county attorney in 1880.

One secret of Mrs. Foltz's success is her surprising energy. Her office hours are from 10 a.m. to 7.30 p.m., and a considerable portion of her time is given to the study of intricate cases. Yet with all this she does not neglect her social duties, and she has a large circle of friends. In appearance she is a tall, stately blonde, with a fine voice and a dignified manner. She pays considerable attention to her dress, which is always in the latest fashion. She has travelled extensively and been through a shipwreck and various other experiences, of which she talks entertainingly.

She is an ardent woman suffragist, but never forces her opinions on any one. She is glad to follow in the footsteps of Susan B. Anthony, whom she calls "the magnificent woman who struck the first blow for woman's rights at Rochester forty-eight years ago." She also says:—"I have proved that women possess that quality which men have arrogated to themselves alone—logic; but I have endeavored to do it in such a way as not to offend men's sensibilities."