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DIARY FOR FEBRUARY.

3. Sun.....*4th Sunday after Epiphany.*
4. Mon. ...Hiliary sittings of Com. Law Divisions, H. C. J. begins.
6. Wed. ...Hagarty, C. J., C. P., sworn in, 1856.
9. Sat .....Queen Victoria married, 1840.
10. Sun.....*Septuagesima Sunday.*
11. Mon. ...Lord Sydenham Gov.-Gen. of Canada, 1840. R. E. Caron, Lieut.-Gov. Quebec, 1824.

TORONTO, FEB. 1, 1884.

IN the case of *McLachlan* v. *Usborne*, in which Ferguson, J., gave judgment on January 28th, a point was decided of much practical importance to trustees, viz., that the provisions of 40 Vict. c. 8, s. 30, relating to the appointment of new trustees, though it probably would not make valid an otherwise invalid appointment of trustees made prior to its passing, yet it does apply to the appointment of new trustees made by a retiring trustee, who is such under an instrument of prior date to the Act. We believe many appointments of trustees have been made throughout the country, and property has been dealt with in the faith that such is the proper application of 40 Vict. c. 8, s. 30. And the plaintiff in the present case, who acted on a contrary supposition, and paid off a mortgage to one M. as trustee, after M. had assumed to appoint two new trustees in her place under 40 Vict. c. 8, s. 30, refusing to recognize these new trustees as validly appointed, because M. was a trustee under an instrument of prior date to the statute, finds his mistake to his cost, inasmuch as he cannot obtain from the new trustees a discharge of the mortgage, which is held not satisfied as against them.

DRUGGISTS.

A DRUGGIST, the Supreme Court of Louisiana says, means "one who sells drugs without compounding or preparing them: and so is a more limited term than apothecary." (*State* v. *Holmes*, 28 La. Ann. 765.)

A commission merchant, dealing principally in alcohol, is not a druggist, within the meaning of the Massachusetts' act, regulating the sale of alcohol by druggists. (*Mills* v. *Perkins*, 120 Mass. 41); and although whiskey may be sold by druggists in comparatively small quantities as medicine, and doubtless a great many people so take it, still it was held that fifty barrels of whiskey remaining in a bonded warehouse at the time of his death would not pass under the will of a wholesale and retail druggist bequeathing his stock of medical drugs, etc. The court considered fifty barrels of whiskey wholly disproportionate to the ordinary stock of medicine and drugs kept on hand by the testator—too much sack for the bread. (*Klock* v. *Burger*, 56 Md. 575.) One may be an apothecary or druggist although he does not actually compound his medicines. (*Haniline* v. *Commonwealth*, 13 Bush. 350.)

In the early days in England the grocers, or poticaries, who formed one of the trade guilds of London, united with their ordinary business the sale of such ointments, simples and medicinal compounds as were then in use. In the days of Henry VIII. the medical department of the grocers' trade being greatly increased shops were established for the exclusive sale of drugs and medicinal, and all kinds of chemical preparations. We have a graphic description of one of these apothecaries about the

days of "good Queen Bess," in the words of the prince of English dramatists:

I do remember an apothecary,
And hereabouts he dwells, which late I noticed
In tatter'd weeds, with overwhelming brows,
Culling of simples: meagre were his looks,
Sharp misery had worn him to the bones,
And in his needy shop a tortoise hung,
An alligator stuff'd, and other skins
Of ill-shaped fishes: and about his shelves
A beggarly account of empty boxes,
Green earthen pots, bladders and musty seeds,
Remnants of pack thread and old cakes of roses
Were thinly scattered to make up a shew.
ROMEO AND JULIET, Act V., sc. 1.

Until 1868 any person whatever might open what is called a chemist's shop in England, and deal in drugs and provisions. In that year, however, the Pharmacy Act was passed, which prohibits any person engaging in the business of, or assuming the title of chemist and druggist, or dispensing chemicals or drugs, unless he be registered under that Act. And to be registered one must pass an examination in Latin, English, arithmetic, prescriptions, practical dispensing, pharmacy, materia medica, botany and chemistry.

Under the Ontario Act (R.S.O., c. 145), there is a College of Pharmacy, managed by a Pharmaceutical Council, who grant certificates of competency to practice as as pharmaceutical chemists, prescribe the subjects on which candidates are to be examined, and arrange for the registration of chemists. No one, save those registered or their employés, is authorized to compound prescriptions of legally authorized medical practitioners. The Act, however, does not apply to medical practitioners. But, save as aforesaid, no one can retail, dispense, or compound poisons, or sell certain articles named, nor assume or use the title of "Chemist and Druggist," or "Chemist," or "Druggist," or "Pharmacist or Apothecary," or "Dispensing Chemist or Druggist," unless he has complied with the Act.

The code Napoleon recognizes two classes of vendors of drugs and medicines, Apothecaries and Druggists. The former, who are assumed to be pharmaceutically educated, are alone allowed to sell compounded medicine, the latter who are classed with grocers are only permitted to sell drugs of a simple character in bulk and at wholesale. (Code of Med. Pol. 332, 33.) In the United States, wherever statistics do not otherwise direct, apothecaries and druggists are not upon the Common Law footing of provision vendors, and may sell in any quantities articles in which they deal.

A druggist is held to a strict accountability in law for any mistake he may make in compounding medicine or selling his drugs. By the Statute law of England it is declared to be the duty of every person using or exercising the art or mystery of an apothecary to prepare with exactness, and to dispense such medicines as may be directed for the sick by any physician. (55 Geo. III., c. 194, 85.) And by the same Act, for the further protection, security, and benefit of George the Third's subjects it was declared, that if any one using the art or mystery of an apothecary should deliberately or negligently, unfaithfully, fraudulently or unduly make, mix, prepare or sell any medicines, as directed by any prescription signed by any licensed physician, such apothecary, in conviction before a Justice of the Peace, unless good cause shown to the contrary, forfeit for the first offence £5, for second, £10, and for third he shall forfeit his certificate. But apart from any statute, whenever a druggist or apothecary (using the words in their general sense) sells a medicine, he impliedly warrants the good quality of the drugs sold; and besides that, he warrants that it is the article that is required and that it is compounded in every prescription dispensed by him *secundum artem*. Like the provision dealer, the pharmaceu-

tist is bound to know that the goods he sells are sound, *i.e.*, competent to perform the mission required of them, and being so presumed to know he warrants their good qualities by the very act of selling them for such. The rule, "Let the buyer beware," does not apply.

In some way Fleet and Simple got cantharides mixed with some snake root and Peruvian bark. Unfortunately Hollenbeck, requiring some of this latter mixture, bought this that these druggists had, took it as a medicine, and in consequence suffered great pain, and had his health permanently impaired. He sued for damages, and recovered a verdict for $1,140. The defendants asked for a new trial, but the court refused it saying, "Purchasers have to trust to a druggist. It is upon his skill and prudence they must rely. It is his duty to know the properties of his drugs, to be able to distinguish them from one another. It is his duty so to qualify himself, or to employ those who are so qualified to attend to the business of compounding and vending medicines and drugs as that one drug may not be sold for another; and so that when a prescription is presented to be made up the proper medicine and none other be used in mixing and compounding it. The legal maxim should be reversed, instead of *caveat emptor* it should be *caveat vendor*, *i.e.*, let him be certain that he does not sell to a purchaser or send to a patient one thing for another, as arsenic for calomel, cantharides for, or mixed with snake root and Peruvian bark, or even one innocent drug calculated to produce a certain effect in place of another sent for and designed to produce a different effect. If he does these things he cannot escape civil responsibility upon the alleged pretext that it was an accidental or an innocent mistake. We are asked by the defendants' attorneys in their argument, with some emphasis, if druggists are, in legal estimation, to be regarded as insurers. The answer is, we see no good reason why a vendor of drugs should in his business be entitled to a relaxation of the rule which applies to vendors of provisions, which is, that the vendor undertakes and insures that the article is wholesome. (13 B. Monr. 219.)

It is the duty of the druggist to know whether his drugs are sound or not, and it is no answer to his want of knowledge to say that the buyer had opportunities for inspection, and could judge for himself of the quality of the goods. (Chitty on Contracts, p. 393.)

If a druggist miscompounds a medicine, or intentionally deviates from the formula he commits a tortious act, and if any injury arises to another through his ignorance or neglect he is liable. Even if a physician writes a prescription wrongly it is expected that the druggist should know enough to detect the error, and whether he does so or not he still compounds it at his peril. For one man's negligence or omission of duty is no palliation of another's, and under the doctrine of joint liability the apothecary or druggist who compounds, knowingly or not, a noxious prescription, commits a joint tort with the physician who writes it. (*Howe* v. *Young*, 16 Ind. 312; 2 Hilliard on Torts, p. 297, sec. A.) And in an action against a druggist for injury through negligence of his clerk in selling sulphate of zinc for Epsom salts, it is no defence to say that the subsequent medical treatment was negligent. (*Brown* v. *Marshall*, 47 Mich. 576.)

A wholesale druggist is liable in the same way as a retail when he supplies substances notoriously dangerous to health or life, and he impliedly warrants the articles to be as represented by their conventional designation, and if they are not so he is liable for all damages that may ensue from his misrepresentation. (*Rae*

Bracken v. *Fondar*, 12 John. 468; *Jones* v. *Murray*, 3 Monr. 85; *Marshall* v. *Peck*, 1 Dana, 609.)

If a druggist affixes to a medicine, or drug, a label bearing his name and stating it to have been prepared by him he makes the warrant only more notorious and by so doing (inasmuch as it is an invitation to the public to confide in his representation) is ever after estopped from denying responsibility for any injury which may have arisen out of defects in its quality, or errors in its composition. So long as the label is attached it is an affirmation of the good quality of the article and its correct composition, to every one who relies upon it when buying. But as some articles deteriorate in time, what is said in relation to the liability of the vendor applied only to the articles at the time they leave his hands. He only warrants their good qualities then, but no longer, and his representation affirms that much, and is sincere. (Ordronaux, 183-184.) The subject of labels was carefully considered in *Thomas* v. *Winchester*, 2 Selden 397, N. Y., when Ruggles C. J. gave judgment. Mary Ann Thomas was ordered a dose of extract of dandelion, her husband brought what he believed was dandelion from Dr. Foord, druggist and physician; but it was extract of belladonna. The jar was labelled "½ lb. dandelion, prepared by A. Gilbert, No. 108 John St., N. Y," Foord bought it as dandelion from James S. Aspinwall, druggist, who bought it from defendant, a druggist, 108 John St. Defendant manufactured some drugs and purchased others, but labelled all in the same way. Gilbert was an assistant who had originally owned the business. The extract in the jar had been purchased for another dealer. The two extracts are alike in colour, consistency, smell and taste. Gilbert's labels were paid for by defendant and used in his business with his knowledge and consent. A non-suit was moved for on the ground that defendant being a remote vendor and there being no privity or connection between him and the plaintiff, the action could not be sustained. Gilbert, the defendant's agent would have been punishable for manslaughter if Mrs. Thomas had died in consequence of taking the falsely labelled medicine. Every one who by his culpable negligence causes the death of another, although without intent to kill, is guilty of manslaughter. (2 R. s. 662, 319.) This rule applies not only where the death of one is occasioned by the neglectful act of another, but where it is caused by the neglectful omission of a duty by that other (2 Car. & Kir., 368). Although the defendant W. may not be answerable criminally for the neglect of his agent, there can be no doubt as to his liability in a civil action, in which the action of the agent is to be regarded as the act of the principal. The defendant's neglect put human life in imminent danger. Can it be said that there was no duty on the part of the defendant to avoid the creation of that danger by the exercise of greater caution? or that the exercise of that caution was a duty only to his immediate vendee, whose life was not endangered? (He being a dealer and not a customer.) The defendant's duty arose out of the nature of his business, and the danger to others incident to its mismanagement. Nothing but mischief like that which actually happened could have been expected from sending the poison falsely labelled into the market, and the defendant is justly responsible for the probable consequences of the act. The duty of exercising caution in this respect did not arise out of the defendant's contract of sale to Aspinwall. The wrong done by the defendant was in putting the poison unlabelled into the hands of Aspinwall as an article of merchandise to be sold, and afterwards used as the extract of dande-

lion by some person then unknown. The defendant's contracts of sale to Aspinwall does not excuse the wrong done the plaintiffs. It was part of the means by which the wrong was effected. The plaintiff's injury and their remedy would have stood on the same principal if the defendant given the belladonna to Dr. Foord without price, or if he had put it in his shop without his knowledge under circumstances that would have led to its sale on the faith of the labels."

Ordronaux says (sec. 186). It cannot be denied that had Mrs. Thomas died Foord would, equally with Gilbert, have been guilty of manslaughter, since whether he intended it or no he was doing an unlawful act in dispensing a poison for a salutary medicine. While then it may be proper enough to rely upon labels and warranties of others, in dealing with ordinary substances, still when it comes to articles of a character dangerous to health or life the law will preserve knowledge of their quality in those professionally dealing in them, and exact a degree of skill and care commensurate with the risks incurred. Here it is *caveat venditor*, instead of *caveat emptor*.

In England (in *R.* v. *Noakes*, 4 F. F. 920) a chemist and druggist was indicted for manslaughter, but was acquitted. The deceased had been in the constant habit of getting aconite and occasionally henbane from Noakes; on this occasion he sent two bottles of his own, one marked, "Henbane, 30 drops at a time." The druggist by mistake put the aconite into the henbane bottle, the dose of thirty drops was taken and the customer was no more. Erle C. J. told the jury that although there might be evidence of negligence sufficient for a civil action still that they could not convict unless there was such a degree of complete negligence as the law meant by the word "felonious," and that in this case he did not think there was sufficient to warrant that. But Tessymond, a chemist's apprentice, was found guilty of manslaughter for causing the death of an infant by negligently giving to a customer who asked for paregoric, to give to the infant (a child of nine weeks old), a bottle with a paregoric label, but containing laudanum, and recommending a dose of ten drops (1 Lewin c. c. 169).

One Jones recovered against a chemist and druggist of the name of Fay, £100 for damages, because he, Fay, gave, him blue pills for the painless colic, such physic being improper, (4 F. & F., 525). A man on the advice of a friend went to a drug store for ten cents worth of "black-draught," a comparatively harmless drug, of which he intended to take a small glassful as a dose for diarrhœa. There was evidence given by the clerk who sold the mixture, that at the shop he asked for "black-drops," the defendant, the proprietor told him that that was poison, that the dose was from ten to twelve drops, and advised him to take another mixture, he refused, and the clerk, (by the defendant's direction), gave him two drachms of "black-drops" in a bottle, with a label bearing those two words written upon it, but nothing to indicate the dose, or that it was poison. The man took the bottle home, drank almost all its contents, and died the next morning from the effects of so doing. In an action brought by the representative of the deceased to recover damages for negligent killing by the defendant, it was held that the courts should have submitted to the jury the question as to whether the defendant was not guilty of negligence in failing to place upon the bottle a label shewing that its contents were poisonous and that it erred in non-suiting the plaintiff. Afterwards in giving the judgment of the Court of Appeals, Finch, J., said, "on such a state of facts (as sworn to by the clerk) a verdict against the defendant

would not be justified. Although no label marked 'poison' was put upon the phial, and granting that by such omission the defendant was guilty of misdemeanour and liable to the penalty of the criminal law (under the statute of the State), still that fact does not make him answerable to the customer injured, or to his representative in case of his death, for either a negligent or wrongful act, when towards that customer he was guilty of neither since he fairly and fully warned him of all and more than could have been made known by the authorized label. . . . If the warning was in truth given, if the deceased was cautioned that the medicine sold was a strong poison, and but ten or twelve drops must be taken, he had all the knowledge and all the warning that the label could have given, and could not disregard it, and then charge the consequences of his own negligent reckless act upon the seller of the poison. But if no such warning was given, its omission was negligence, for the results of which the vendor was liable both at common law and by force of the statute." But the court considered that the clerk being himself the one who had been negligent stood in a position to provoke suspicion, arouse doubt and justify watchful and rigid criticism, and that this joined with the conduct of the deceased developed a question of fact rather than of law, and that the court below was right in saying that the case should have been submitted to the jury. (*Wohlfart* v. *Beckert*, 27 Hun. in Ct. of Appeals, Central L. J., July 20, 1883.)

Under the Ontario Pharmacy Act no one can sell certain poisons named without having the word "Poison," and the name of the article distinctly labelled upon the package; and if the sale is by retail, the name of the proprietor of the establishment where it is sold, and the address must also be on the label. (R. S. O., c. 145, sec. 27.)

In Georgia it was held, that where a druggist in good faith recommended the prescription of another person to the owner of a sick horse, who thereupon ordered him to put it up, and paid for it, the owner had no cause of action because the medicine had injured his horse, as the stuff was properly prepared according to the prescription. (*Ray* v. *Burbank*, 6 Ga. 505.)

In England chemists and druggists are liable to the heavy penalty of £500 if they sell to brewers or dealers in beer anything to be used as a substitute for malt; they are also liable for adulterating or selling any adulterated medicine, and on a second offence of this kind the name of the offender, his abode, and his crime may be published in the newspapers at his expense. (56 Geo. III. c. 58, s. 3; 31 and 32 Vict. c. 121, s. 24; 23 and 24 Vict. c. 84, 30.)

NOTES OF CANADIAN CASES.

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CHANCERY DIVISION.

Proudfoot, J.] [January 9.

PETERBOROUGH REAL ESTATE INVESTMENT CO. v. IRETON.

Damages—Judgment recovered—Measure of damages—Evidence.

Appeal from Master's Report—Measure of damages.

The Plaintiff's company brought their action on a mortgage against I., the assignee of the Equity of redemption, and claimed damages for making a distress at the request of I., on F. the tenant of the premises, F. having recovered a judgment for $461.60 against the Co. in respect of such distress. At the hearing, the fact of I. having made such request was found against him and it was referred to the Master at Peterborough to take the usual mortgage

accounts, and to ascertain what damages the Co. had "properly suffered" by reason of such distress. It appeared that in F.'s action I. had offered the Co.'s solicitor to procure witnesses and assist in the defence, but his offer was not accepted. In the Master's office these witnesses were examined and showed that their evidence would have materially affected the verdict, but the Master held that the verdict obtained was *conclusive evidence* of the measure of damages against I.

Held, that in a general indemnity the judgment was, at the most, only *primâ facie evidence*, that the ruling of the Master was erroneous, and that the case must go back to him to revise his report.

Hudspeth, Q.C., for appeal.

Moss, Q.C., contra.

Proudfoot, J.] [January 9.

COOK v. NOBLE.

Will—Construction—Executory devise.

J. C. by his will directed his trustees to divide his real estate equally between his sons then living, when his eldest son should attain the age of twenty-five years, when the share coming to his eldest son was to be conveyed to him, and they were to give him $2000 *to stock the same*. In case any of his sons should die before attaining the age of twenty-five years, *without issue*, then the share of the party so dying should be divided equally among the survivors.

J. J. C., the eldest son, died under the age of twenty-five, leaving a widow and infant daughter, having made a will making no devise of real estate, but giving his wife his life insurance, then standing in favour of the C. P. L. & S. Co., and directed that so much of his $2000 as was necessary be used to redeem the insurance from the Co. and the balance he gave to his wife.

Held, that the devise to the eldest son was a devise in fee simple subject to an executory limitation and subject to his dying *under twenty-five and without issue*, and as issue was left in this case, the infant was entitled to the land, subject to her mother's dower.

Held also, that the $2000 was an absolute bequest, with a direction as to its application, and that the legatee was entitled to the money regardless of the particular mode of its application.

H. Cameron, Q.C., and *McPhillips*, for the plaintiff.

Cassels, Q.C., for the executors.

Hoskin, Q.C., for the infants defendant.

Proudfoot, J.] [January 9.

THE CANADA ATLANTIC RAILWAY COMPANY v. THE CORPORATION OF THE CITY OF OTTAWA, ET AL.

Municipal Corporation—By-law granting Bonus to Railway—36 Vic. c. 48, O., secs. 248, sub-s. 1, secs. 271-274.

On Sept. 5th, 1873, the City Council of Ottawa passed a resolution, authorizing the by-law committee to introduce at the next regular meeting of the council a by-law for granting a bonus of $100,000 of debentures to aid in the construction of a certain railway, now represented by the plaintiffs in this action.

A by-law was accordingly introduced on September 22nd, 1873, read a first time, considered in committee of the whole, reported with an amendment, and the clerk was directed to advertise, pursuant to the statute, 36 Vic. c. 48, O. 1, and the votes of the electors was to take place on October 16th, 1873.

On Sept. 24th, 1873, the by-law was advertised, and on Oct. 16th, 1873, it was voted on by the electors, and carried. On Oct. 20th, 1873, the returns of the election were presented to the council, and the by-law was read a second and third time and carried.

Since, however, under 36 Vic. c. 48, s. 231, sub-s. 3, the by-law could only be taken into consideration by the council after one month from the first publication in the newspaper, at a meeting of the council, on Nov. 5th, 1873, after the necessary time had elapsed, a motion to read the by-law a second and third time was proposed and lost.

The by-law was by its terms to take effect on December 13th, 1873.

On April 7th, 1874, a motion was again made and carried at a meeting of the City Council that the by-law passed by the ratepayers, hav-

ing been passed by the council previous to the time required by law, the same should be now read a second and third time. In the minutes of the council the by-law referred to was mentioned as having been read a first time on October 20th, 1873, whereas the by-law in question was read a first time on Sept. 22nd, 1873. Moreover the by-law thus voted on by the council was said to come into operation and take effect on Dec. 30th, 1873, whereas, the one voted on by the electors was to take effect on Dec. 13th, 1873.

The work on the railway to which the bonus was to be given, began in August, 1872. In 1874 the contractors became insolvent, and from January, 1874, to February, 1881, no work was done, on which last date a new contract was made by the plaintiffs, under which the road was completed in September, 1882, and in Nov., 1882, a demand was made on the defendants, the City of Ottawa, for the debentures, and refused.

The proceedings for granting the bonus were taken under 36 Vict. c. 48, s. 471-474.

The plaintiffs now brought this action to enforce the by-law, and the delivery to them of the debentures.

Held, that the by-law was bad and not in conformity with the statutory provisions, for (1) it was claimed to have been passed on April 7th, 1874, while it purported to take effect on Dec. 30th, 1873, thus not complying with the requirements of sec. 248, sub-s. 1, that the by-law, if not for creating a debt for the purchase of public works, shall name a day in the financial year in which the same is passed, when the by-law shall take effect. (2) The by-law submitted to the electors was to come into force on December 13th, and if it was assumed that the council of 1874 intended to pass that by-law, and made the debentures payable on Dec. 29th, 1893, that was more than twenty years from the day of the by-law taking effect, whereas the statute, sec. 474, requires that the whole of the debt and the obligations to be issued therefor, shall be made payable in twenty years at furthest from the day in which the by-law takes effect. (3) *Quære*, also, whether sec. 236 of the statute does not require the by-law to be passed by the council submitting the same.

Held, also, that the fact that the by-law had not been moved against within a year was immaterial when, as in this case, the invalidity was apparent on the face.

McCarthy, Q.C., *O'Gara*, Q.C., and *Gormully* for the plaintiffs.

J. Bethune, Q.C., and *McTavish*, for the defendants.

Proudfoot J.] [January 12.

WALLACE v. ORANGEVILLE.

Injunction—By-law to take vote—Conduct of Plaintiff—Joinder of parties.

On a motion for an interim injunction to restrain the defendants from paying over the sum of $1,200 to one A. as the price of a site for a post office, it appeared that the Dominion Government had a sum of money in their estimates for the erection of a post office, on condition that the defendants would provide a site, that a by-law had been submitted to the ratepayers to decide by vote which of two sites (one belonging to A. and the other to the town) was to be selected, and that the plaintiff had taken an active interest in favour of the one belonging to the town. The defendants contended that plaintiff was thus incapacitated from making this application, as he knew the object of the by-law, and that A. and the members of the council should be made parties. The plaintiff denied that he was aware that the payment of the $1,200 was any part of the by-law, and asserted that the only point to be settled by the vote was the site, and that he thought the Government was to pay for it. The by-law made no mention of the payment of any sum.

Held, that the plaintiff was not precluded from making this application, and that *for the purposes of the motion* neither A. nor the members of the council were necessary parties, although they might not, if joined, have been considered improper parties. Interim injunction granted.

Meyers for plaintiff.

McCarthy, Q.C., and *Walsh* for defendants.

Boyd, C.] [January 14.

OMNIUM SECURITIES COMPANY v. RICHARDSON.

Specific performance—Absence of common intention—Parol evidence.

Action for specific performance of an alleged contract for the sale of lands. On June 28th, 1883, the defendant wrote to the plaintiffs, who were mortgagees of the land in question with power of sale: "I have considered the matter of our conversation when you were with me, and have come to the conclusion to offer you $800 for the property, and then, I doubt, if I am doing justice to myself, because as long as I do not get a customer, the interest and taxes would soon eat up any apparent profit I may see in it." The plaintiffs, in a letter of July 2nd, 1883, replied: "We have your favour of the 28th ult., offering $800 for the property (describing it). Although the price is much less than the amount due us on foot of our mortgage, we have concluded to accept your offer."

The plaintiffs alleged the contract was to purchase for $800, payable forthwith. The defendant denied any such agreement to purchase. The evidence showed that at the prior conversation referred to in the letter of June 28th, the defendant was seeking to buy on five or seven years' credit, and the reference to "interest and taxes" in that letter confirmed the defendant's contention that this was what he contemplated.

Held, that as the acceptance by the plaintiffs was as of a cash offer, but this was not contemplated by the defendant, who did not intend to make any such offer, the contract could not be specifically enforced, the parties differing in their understanding of it.

A letter containing an offer written "without prejudice" means: "I make you an offer; if you do not accept it, this letter is not to be used against me." But when the offer is accepted the privilege is removed.

Nesbitt, for the plaintiff.

Ross, for the defendant.

Proudfoot, J.] [January 17.

MOOREHOUSE v. BOSTWICK.

Dissolution of partnership—Assignment of interest by one partner to continuing partner—Priority of separate and partnership creditors.

W. J. M. dissolved partnership with L. A. M., and assigned all his interest in the business to him, taking a covenant that he would pay off the creditors of the firm. L. A. M. subsequently became insolvent, and made an assignment of all his estate and effects to the defendant in trust for creditors. L. A. M. never made himself separately or exclusively liable to the creditors of the partnership. Defendant, as such assignee, being about to distribute the estate ratably between both partnership and separate creditors, the plaintiff, a separate creditor, on behalf of himself and the other separate creditors, brought this action to compel the defendant to give priority to the separate creditors, and on a motion for injunction, which was, by consent of counsel, turned into a motion for judgment, it was

Held, that the assignment by W. J. M. to L. A. M. of his interest in the business, without the consent of the partnership creditors, or without their agreeing to look to L. A. M. for payment, or his making himself separately liable to pay them, made such business his separate estate, and that his separate creditors are entitled to priority over the partnership creditors; and that only the surplus after payment of the separate creditors goes towards paying the partnership creditors.

Moss, Q.C., for plaintiff.

J. H. Macdonald, for defendant.

Boyd, C.] [January 19.

THE BANK OF TORONTO v. THE COBOURG, PETERBOROUGH AND MARMORA R. W. CO.

Railway debentures—Negotiable instruments—38 Vict. c. 47, O.

By 38 Vic. c. 47, O., the defendants' railway was authorized to issue $300,000 of preferential debentures, to be a first charge on all the property of the railway, the holders of which debentures, it was enacted, might, in default

of payment thereof, obtain a foreclosure or sale of the railway by suit in Chancery.

On Feb. 5th, 1875, the directors accordingly passed a by-law enacting that such debentures should be issued in sums of $1,000, which should be under the seal of the company, and should "be negotiated from time to time as the proceeds thereof shall be required for the purposes of the company by the managing director."

On Feb. 1st, 1876, the railway being in debt to the plaintiffs, delivered to them several of these debentures, as security for such debt.

The debentures were in the following form:

Debenture No.

The Cobourg, etc., R. W. Company owes the Bank of Toronto, or order, the sum of $1,000, payable in ten years from Jan. 1st, 1875, at the Bank of Toronto, in Toronto, with interest at eight per cent. per annum, payable half-yearly, on presentation of the proper coupons hereto attached.

The payment of these debentures being in default, the plaintiffs brought this action for an account of what was due thereunder and payment thereof, or, in default, a sale by the Court of the property of the company.

Held, that the debentures were valid, and judgment must go as asked.

Looking at the debentures, they were strictly, on the face of them, negotiable instruments. The fact that they were sealed did not detract from their character, being rather that of promissory notes than of mortgages. Though the Act, 38 Vic. c. 47, O., makes the debentures a charge on all the property, real and personal, of the company, with a right of foreclosure and sale, this is something superinduced upon the security by virtue of the statute.

It would be an entirely retrograde movement to apply to debentures such as these the strict rules of the Common Law relating to deeds, rather than the rules of the law merchant applicable to negotiable securities. But, even if this were not so, the fact that the name, "Bank of Toronto," was not filled in until about the time of delivery to the plaintiffs, did not make the debentures void; and *Hibblewhite* v. *McMorrin*, 6 M. and W. 200, is distinguishable. There the instrument was delivered in an imperfect form, and was therefore void; here the instrument when handed to the bank was complete in all its parts.

If the law as to deeds applied, it would be that class of cases where deeds have been held good, notwithstanding an alteration or subsequent addition, because, at the time of execution, there was something which could not be ascertained, and was therefore to be filled up afterwards: *Bank of Montreal* v. *Buller*, 9 Gr. 89. Here, however, there was really no execution, which imports *delivery*, prior to the time when the name was filled up.

The company then, issuing debentures in blank, and handing them to the managing director, who was also secretary and treasurer, to be dealt with by him at his discretion, he was empowered to complete the instruments by the insertion of the obligee's name.

Held, also, that inasmuch as it appeared that these debentures were delivered with a view to facilitate the company's operations in getting out and disposing of ore, the main branch of the company's business, this was "for the purposes of the company's business," and so within the meaning of the aforesaid Act and by-law.

C. Robinson, Q.C., *S. H. Blake*, Q.C., *D. McCarthy*, Q.C., *C. Moss*, Q.C., *Reeve* and *Blackstock*, for the plaintiffs.

J. Bethune, Q.C., and *Marsh*, for the defendants.

Boyd, C.] [January 19.

BEATTY v. THE NORTH-WEST TRANSPORTATION COMPANY (LIMITED).

Company—Purchase by company effected by preponderating vote of vendor—Rescission of contract—Directors—Trustee and cestui que trust.

The Board of Directors of a steamship company passed a by-law authorizing the purchase for the company of a certain steamship owned by one of the directorate, and, at a subsequent meeting of the shareholders, this by-law was confirmed, such result being attained by the votes of the director, who owned the steamer, and who was the largest shareholder. Without his, the vendor's, votes, the majority of the votes recorded at the meeting would have

rejected the purchase. The evidence showed an entire absence of fraud, or unfair dealing:

Held, nevertheless, on action brought by a dissentient shareholder, the purchase of the steamship must be rescinded, for the vendor's threefold character of director, shareholder and vendor necessarily involved a conflict between duty and interest, and the rule of the Court is not to permit a man so circumstanced to hold or exercise the balance of power in the conduct of a company's affairs, to the possible prejudice of any of the shareholders.

That the directors of a company are in a fiduciary capacity is plain beyond doubt, and

Semble, that in a case such as this, ratification is required by every individual of the class constituting the cestui que trustent. At all events, when a minority is sought to be bound, the vote must be by a disinterested majority.

Apart from all statutory regulations, the general law applicable to sales of a director's property to a company of which he is a director appears to be this: if the contract is agreed upon by a vote of the directors in which the vendor joins, the transaction will be altogether invalid until the matter has been brought before a general meeting of the shareholders and approved.

J. Bethune, Q.C., and *Marsh*, for the plaintiff.

Robinson, Q.C., and *J. H. Macdonald*, for the defendants.

Boyd, C.] [January 19.

CARNEGIE v. FEDERAL BANK.

Stock Broker—Pledge of Stock—Unauthorized sale by Pledge.

The plaintiff pledged with the defendants certain shares of bank stock as security for a loan under an agreement in writing, which provided amongst other things, that he was to keep up a cash margin of not less than 10 per cent. above the market price, and authorized the bank, in the event of default, "to sell or dispose of the said security without notice, and to apply the proceeds in liquidation of the said advance."

The plaintiff claimed that before default was made the defendants wrongfully sold his stock without his knowledge or consent, and that he was entitled to credit for the amount realized and to a return of interest paid and damages for being compelled to give additional security.

The defendants claimed that, although the stock was transferred backwards and forwards by way of a loan, it was never sold until default made.

Held, that if the stock was sold before default made, such sale was *tortious*, and following *Ex p. Dennison* 3 Ves. 552 a *loan* of the stock was a *sale*, and that plaintiff might elect either to claim damages or affirm the sale and claim the proceeds and profits made by the bank, one element of the measure of damages being the highest point of the stock market between the conversion and the default.

Held also, that if default was made the defendants were entitled to sell the stock without notice, but only for the purpose of liquidating the advance, and that credit must be given for the proceeds at the time of the sale.

A reference ordered to take an account.

Moss, Q.C., and *J. R. Roaf*, for plaintiff.

Cattanach and *Symons*, for defendants.

LAW STUDENTS' DEPARTMENT.

EXAMINATION QUESTIONS.

CALL TO THE BAR.

(*Equity.*)

1. An executor receives money which is supposed to be due from a debtor to the estate, and pays it out to the creditors of the estate. It afterwards turns out that the debt which it was supposed was due to the estate had previously been paid. The supposed debtor brings action against the executor to recover the money, and the executor brings a similar action against the creditor. What are the rights of the parties? Give reasons for answer.

2. Distinguish between the nature of the equitable relief, if any, which will be granted in a case where by accident there is a failure to execute a naked power, and in a case where by accident there is a failure to execute a power coupled with a trust, and illustrate each case by an example,

3. An employer seeks and obtains from the father of one of his clerks a bond guaranteeing the honesty of that clerk. Default is subsequently made in

the condition of the bond, and action is brought to recover the damages sustained. The father defends the action upon the ground that at the time when the bond was given the employer was aware that the clerk had been guilty of former acts of dishonesty in his employment, and did not disclose that fact, of which the father was not aware, and upon the further ground that the employer has not first sought to recover from the clerk. Give your opinion as to the validity of the defences and state reasons.

4. A marriage settlement is made pursuant to ante-nuptial contract, whereby the property of both husband and wife is settled. The husband brings action to rescind the settlement on the ground that the wife fraudulently misrepresented the nature and the value of her property, and thereby induced him to become a party to the settlement. Has he good ground of action? Explain fully.

5. What was the rule in equity as to the right of a vendor to fix a reserved price, or to employ a person to bid for him, at an auction sale, and how has this rule been modified as to real estate by statutory provision?

6. A. enters into a bond to B. conditional to pay the latter $1,000. A. afterwards comes into equity to set aside the bond on the ground that the only consideration given for the bond was the promise of B. that he would smuggle a certain cargo for A., so as to escape the customs duties, and that he had failed in the undertaking. B. defended, on the ground that such failure was caused by the personal interference and gross negligence of A., and demurs for want of equity. What are the rights of the parties? Explain fully.

7. What is the rule in equity as to the right of a trustee for sale, to purchase the trust estate from his *cestui que trust*, or from himself as representing that *cestui que trust*?

8. What steps must a simple contract creditor take in order to give him a status to maintain an action on his sole account, to set aside a fraudulent conveyance made by his debtor?

9. What is the effect of the Statute 27 Eliz. ch. 4, relating to voluntary conveyances, and in what way has the effect of that statute been modified by the legislation of this Province?

10. Blackacre is worth $5,000 and Whiteacre is worth $10,000. The owner mortgages both of them for $10,000, and then sells Blackacre to A., subject to the mortgage, and Whiteacre to B., subject to the mortgage. The mortgagee, under a power of sale in his mortgage, sells Whiteacre for just sufficient to pay off his mortgage. What remedy has B? Give reasons.

Real Property and Wills.

1. When can trustees invest the trust funds in the purchase of real estate? What is the general rule as to the kind of title that they should require when so purchasing?

2. What is the law governing the conduct of a purchaser as to (*a*) disclosure of advantages; (*b*) misleading the vendor; (*c*) concealing facts which increase the vendor's interest in the property?

3. What is the difference between *showing* title and *making* title? Explain fully,

4. What law governs the administration of the personalty, and the construction of the will respecting it, of a person dying out of Ontario? What law governs in a like case as to realty?

5. A testator directed land and personalty to be converted into money, and that his debts and legacies should be paid thereout, and the residue he gave to certain legatees. Some of these legatees having died in the testator's lifetime, their legacies lapsed. How are the lapsed shares to be disposed of? Why?

6. Explain descent *per stirpes* and *per capita*, and give instances of each.

7. A. dies intestate, seised of Whiteacre, and leaving a widow and one son (B). The son (B.) dies intestate, seised of Whiteacre, and leaving a widow and one son (C). The grandson (C.) dies intestate, seised of the same land, leaving a widow and children. The three widows being alive, how is dower to be allotted?

8. Land is devised to A. and B. upon certain trusts which they do not desire to be burdened with. What course should they adopt? Explain fully.

9. If a mortgagee buys, at a sale by the sheriff, under an execution, the equity of redemption in the mortgaged lands, what is the result, and what are the rights of the mortgagor thereafter?

10. What is a base fee within the meaning of the Act respecting estates tail?

Harris on Criminal Law.—Broom's Common Law, Books 3 and 4.—Blackstone, Vol. I.

1. Explain the nature and effect of the different presumptions as to the criminal capacity of infants of different ages.

2. What constitutes *misprison of Felony*? Explain by example,

3. Give three instances of a man killing another by fighting; one in which the killing is *murder*; another in which it is *manslaughter*; and another in which it is *excusable homicide*.

4. State accurately the rule of the criminal law in reference to the evidence of an accomplice.

5. What is the difference between a challenge to the array and a challenge to the polls, on a criminal trial?

6. What is the rule as to charging a prisoner with distinct felonies on different counts of the same indictments, and what exceptions are there to the rule?

7. What is the measure of damages to be recovered under Lord Campbell's Act, for the benefit of members of the family of a person killed by the negligence of another? What should be taken into consideration by the jury in assessing them?

8, If A. buys a horse from B., informing him that it is for his daughter to ride, and relying on B.'s representation that the horse is quiet and safe to ride, which is contrary to the fact, in consequence of which the daughter is thrown and injured, will she have an action against B.?

9. Explain the meaning of the following classes of statutes: *declaratory*, *remedial*, *enlarging*, and *restraining*.

10. What children are considered as natural born subjects of Great Britain, although born in a foreign country?

FLOTSAM AND JETSAM.

STATEMENTS BY PRISONERS AND THEIR COUNSEL.

The following letter has appeared in the *Times*:—

SIR,—There seems to be a considerable, though, perhaps, not an unnatural, misapprehension as to the nature and effect of the recent resolution adopted upon the above subject at a meeting of the judges.

So far as I am aware, this resolution is not, nor is it considered to be, binding upon any non-assenting person. It does not profess to be the enactment of a rule of practice, nor a "decision" upon any point of practice or procedure, much less upon any question of substantive law. It is nothing more than a private and purely informal expression of opinion elicited from a certain number of the circuit-going judges as to what the practice had theretofore been, according to their experience. It was not even a declaration of opinion by the judicial body as such, as I shall show in a moment. I was a member of the bench at the time, but I was not present at the meeting, from what cause I have no recollection. I never received any notice of any one's intention to propose such a resolution, nor have I ever to this day received any notice of such a resolution having been adopted, and I was in entire ignorance of its existence until the fact came to light in the course of the recent discussion that followed the O'Donnell trial. In the meantime, the question had several times arisen before myself; and under the impression that I was acting according to the accepted practice, as it had been laid down by Lord Chief Justice Cockburn, I allowed the prisoner, by the mouth of his counsel, to state his version of the facts to the jury without proof. And, in addition to this, I never refused liberty to a prisoner to make a further statement himself if he desired it.

The truth is, that there is not the slightest foundation for the statement which I have seen published—that the judges have attempted or desired to settle and determine in secret conclave and without public discussion or argument, even so little as a question of practice and procedure; and perhaps the statement scarcely deserves serious contradiction.

For my own part, I own that there seems to be a great practical objection to allowing a prisoner to state through counsel facts that he does not propose to support by evidence. If a prisoner, in his defence, desires to state facts which he is not in a position to support by evidence, he ought to be allowed free scope to do so. He is not permitted by law to give evidence, and it would be most unjust, and even inhuman to restrict him in giving his explanation. But if this explanation, woven, perhaps, skilfully and ingeniously, is presented through the mouth of counsel, this evil consequence immediately follows—that the Court and jury are without any sufficient guarantee that the full, unqualified statement of the prisoner is placed before them, because a cautious and skilful counsel might naturally be expected, as indeed it would be his duty, in framing the defence, to omit whatever might appear to him to amount to damaging admissions or silly and contradictory reasoning. This weak point tends to destroy the moral effect of unproved statements made through the mouth of counsel, a result which, in the case of a really innocent person, may be deplorable. A remarkable instance of this occurred before myself quite recently. In a simple and apparently clear case against the prisoner, the counsel for the defence gave, without offering any proof, an extraordinary explanation of the affair with which the prisoner had furnished him; he did so in a most able and justly-reasoned speech; but it was evident to every one that the explanation thus presented appeared to the jury more plausable and ingenious than probable. The summing up to the jury was concluded, when the prisoner appealed to me to

know whether he could say something. I told him, certainly—that if he had anything to tell us that had not already been stated, he was at liberty to mention it to the jury now. He then, in a very simple and artless way, told his story, which was evidently the basis of his instructions to counsel; but there was this important difference—that he frankly admitted an important and apparently damaging fact that had been conclusively established by the prosecution, but strenuously disputed by his counsel. But he told the whole story in such an artless fashion, and with slightly altered circumstances, that he threw an entirely new and unexpected light over the whole affair, and evidently deeply impressed the jury as well as others, Certain of the witnesses were recalled at the instance of the jury, and interrogated respecting the new aspect of the question, with the result that the prisoner, who before his statement stood in decided peril of conviction, was immediately acquitted.

The recent discussion upon this subject seems to have brought to light the fact that it certainly has not been the general practice, when a prisoner has been defended by counsel, for him to be allowed to state without proof, through the mouth of counsel, any facts he may think fit to instruct his counsel to state and the latter may consider it prudent to repeat.

It seems to me almost impossible to dispute that it is and ought to be the right of the prisoner, even when he is defended by counsel, to offer without proof any explanatory statement of his own; and for my own part nothing short of an Act of Parliament will ever induce me to deprive a prisoner of this right whenever he demands it, whether before or after his counsel's speech, or after the summing-up of the judge or even the deliberations of the jury.

I am, your obedient servant,

Beddeglert, Dec. 27. WATKIN WILLIAMS.

The following reply appeared in the same journal:—

Sir,—In his letter to you Mr. Justice Williams says a prisoner "is not permitted by law to give evidence, and it would be most unjust and even inhuman to restrict him in giving his explanation," With submission to his lordship, there seems some confusion here. If "explanation" means explanation of the facts already in evidence with no addition to them, nobody has ever doubted the right of a prisoner to give such explanation. If "explanation" includes placing additional facts before a jury, as thus, "I explain my knocking down the prosecutor by saying he first knocked me down," then it would be as well to call the thing by its right name. What his lordship really means is this. The prisoner ought to be allowed to state things he cannot prove. What is this but to give evidence, which, however, his lordship expressly says the prisoner himself is not "permitted by law to do." What the prisoner says, his explanation as his lordship calls it, is to influence the jury, or it is not. In the latter case it is idle. If it is to influence it is by the alleged existence of new facts. The result is, the jury will have before them evidence on oath, and which has, or might have been, cross-examined too, and evidence not on oath, and without the wholesome check of cross-examination. His lordship says that nothing but an Act of Parliament will induce him to deprive a prisoner of the right when he demands it. Nothing but an Act of Parliament ought to induce a judge to deprive a man of a right which would otherwise exist. But does this right exist? I say No, and there is no precedent or authority for it, no better reason for it than this—that because a man is not permitted to give evidence with the ordinary securities for its truth, he must be permitted to give it with no security. There is a fine high tone in his lordship's letter; but I would humbly suggest he should take the opinion of the Court of Criminal Appeal as to whether he is right.

Your obedient servant, B.

HAMILTON LAW ASSOCIATION.

THE Annual meeting of the Hamilton Law Association was held on the 28th instant. This Association is now a large and influential body consisting of some sixty members, including those who have joined during the past year. The Library was reported to contain some 1,300 volumes. The following officers were re-elected: Messrs. A. Irving, Q.C., President; Thos. Robertson, Q.C., Vice-President; A. Bruce, Treasurer; R. R. Waddell, Secretary. The following gentlemen were elected Trustees: Messrs. F. MacKelcan, Q.C., E. Martin, Q.C., G. M. Barton, J. W. Jones and J. V. Teetzel,

Law Society of Upper Canada.

OSGOODE HALL.

MICHAELMAS TERM, 47 Vict., 1883.

During this term the following gentlemen were entered on the books of the Society as Students-at-Law, namely:—

Graduates—Thomas Francis Lyall, William George Hector McAllister, Charles Joseph McCabe, John Shaw Skinner, Walter Stephen Harrington, Francis Norman Raines.

Matriculants—Donald Reginald Anderson, Edward Peel McNeil, Charles Elliott, Isaac Benson Lucas, William Francis Bannerman, Frederick Bernard Featherstonhaugh, David Stevenson Wallbridge, Frederick Clarence Jarvis, Ira Standish, William Patrick McMahon.

Juniors—Ashman Bridgman, Hugh Crawford Rose, Colin McIntosh, Walter A. Thrasher, David Alexander Dunlop, Francis Brown Denton, Magloire Raoul Routhier, Heber Stuart Warren Livingston, John Alexander Chisholm, Paul Jarvis, Marcus Herbert Simpson, Thomas Scullard, John Harper.

The following gentlemen were called to the Bar, namely:—

George Kappele, honour man and gold medalist; Cornelius Arthur Masten, Robert Alexander Porteous, James Arthur Mulligan, John Soper McKay, William John Taylor, Thomas Chapple, Charles Macdonald, Rufus Adams Coleman, Chaucy Giles Jarvis, Fernando Elwood Titus, Archibald James Reid, Alexander Mackenzie, William Henry Barry, Edwin Bell, William John Wallace, John Johnstone Anderson Weir, James Garbutt, Ferguson James Dunbar.

BOOKS AND SUBJECTS FOR EXAMINATIONS.

Articled Clerks.

1884 and 1885.
- Arithmetic.
- Euclid, Bb. I., II., and III.
- English Grammar and Composition.
- English History—Queen Anne to George III.
- Modern Geography—North America and Europe.
- Elements of Book-Keeping.

In 1884 and 1885, Articled Clerks will be examined in the portions of Ovid or Virgil, at their option, which are appointed for Students-at-Law in the same years.

Students-at-Law.

1884.
- Cicero, Cato Major.
- Virgil, Æneid, B. V., vv. 1-361.
- Ovid, Fasti, B. I., vv. 1-300.
- Xenophon, Anabasis, B. II.
- Homer, Iliad, B. IV.

1885.
- Xenophon, Anabasis. B. V.
- Homer, Iliad, B. IV.
- Cicero, Cato Major.
- Virgil, Æneid, B. I., vv. 1-304.
- Ovid, Fasti, B. I., vv. 1-300.

Paper on Latin Grammar, on which special stress will be laid.

Translation from English into Latin Prose.

MATHEMATICS.

Arithmetic; Algebra, to end of Quadratic Equations: Euclid, Bb, I., II. and III.

ENGLISH.

A Paper on English Grammar.

Composition.

Critical Analysis of a Selected Poem:—

1884—Elegy in a Country Churchyard. The Traveller.

1885—Lady of the Lake, with special reference to Canto V. The Task, B. V.

HISTORY AND GEOGRAPHY.

English History from William III. to George III. inclusive. Roman History, from the commencement of the Second Punic War to the death of Augustus. Greek History, from the Persian to the Peloponnesian Wars, both inclusive. Ancient Geography, Greece, Italy and Asia Minor. Modern Geography, North America and Europe.

Optional subjects instead of Greek:

FRENCH.

A paper on Grammar,

Translation from English into French prose.

1884—Souvestre, Un Philosophe sous le toits.

1885—Emile de Bonnechose, Lazare Hoche.

or NATURAL PHILOSOPHY.

Books—Arnott's elements of Physics, and Somervilles Physical Geography.

FIRST INTERMEDIATE.

Williams on Real Property, Leith's Edition; Smith's Manual of Common Law; Smith's Manual of Equity; Anson on Contracts; the Act respecting the Court of Chancery; the Canadian Statutes relating to Bills of Exchange and Promisory Notes; and Cap. 117, Revised Statutes of Ontario and amending Acts.

Three scholarships can be competed for in connection with this intermediate.

SECOND INTERMEDIATE.

Leith's Blackstone, 2nd edition; Greenwood on Conveyancing, chaps. on Agreements, Sales, Purchases, Leases, Mortgages and Wills; Snell's Equity; Broom's Common Law; Williams on Personal Property; O'Sullivan's Manual of Gov-

ernment in Canada; the Ontario Judicature Act, Revised Statutes of Ontario, chaps. 95, 107, 136.

Three scholarships can be competed for in connection with this intermediate.

FOR CERTIFICATE OF FITNESS.

Taylor on Titles; Taylor's Equity Jurisprudence; Hawkins on Wills; Smith's Mercantile Law; Benjamin on Sales; Smith on Contracts; the Statute Law and Pleading and Practice of the Courts.

FOR CALL.

Blackstone, vol. 1, containing the introductions and rights of Persons; Pollock on Contracts, Story's Equity Jurisprudence; Theobald on Wills; Harris' Principles of Criminal Law; Broom's Common Law, Books III. and IV.; Dart on Vendors and Purchasers; Best on Evidence; Byles on Bills, the Statute Law and Pleadings and Practice of the Courts.

Candidates for the final examinations are subject to re-examination on the subjects of Intermediate Examinations. All other requisites for obtaining Certificates of Fitness and for Call are continued.

CURRICULUM.

1. A graduate in the Faculty of Arts, in any university in Her Majesty's dominions impowered to grant such degrees, shall be entitled to admission on the books of the society as a Student-at-Law, upon conforming with clause four of this curriculum, and presenting (in person) to Convocation his diploma or proper certificate of his having received his degree, without further examination by the Society.

2. A student of any university in the Province of Ontario, who shall present (in person) a certificate of having passed, within four years of his application, an examination in the subjects prescribed in this curriculum for the Student-at-Law Examination, shall be entitled to admission on the books of the Socity as a Student-at-Law, or passed as an Articled Clerk (as the case may be) on conforming with clause four of this curriculum, without any further examination by the Society.

3. Every other candidate for admission to the Society as a Student-at-Law, or to be passed as an Articled Clerk, must pass a satisfactory examination in the subjects and books prescribed for such examination, and conform with clause four of this curriculum.

4. Every candidate for admission as a Student-at-Law, or Articled Clerk, shall file with the secretary, six weeks before the term in which he intends to come up, a notice (on prescribed form), signed by a Bencher, and pay $1 fee; and, on or before the day of presentation or examination, file with the secretary a petition and a presentation signed by a Barrister (forms prescribed) and pay prescribed fee.

5 The Law Society Terms are as follows:

Hiliary Term, first Monday in February, lasting two weeks.

Easter Term, third Monday in May, lasting three weeks.

Trinity Term, first Monday in September, lasting two weeks.

Michaelmas Term, third Monday in November, lasting three weeks.

6. The primary examinations for Students-at-Law and Articled Clerks will begin on the third Tuesday before Hiliary, Easter, Trinity and Michaelmas Terms.

7. Graduates and matriculants of universities will present their diplomas and certificates on the third Thursday before each term at 11 a.m.

8 The First Intermediate examination will begin on the second Thursday before each term at 9 a.m. Oral on the Wednesday at 2 p.m.

9. The Second Intermediate Examination will begin on the second Thursday before each Term at 9 a.m. Oral on the Friday at 2 p.m.

10. The Solicitors' examination will begin on the Tuesday next before each term at 9 a.m. Oral on the Thursday at 2:30 p.m.

11. The Barristers' examination will begin on the Wednesday next before each Term at 9 a.m. Oral on the Thursday at 2:30 p.m.

12. Articles and assignments must be filed with either the Registrar of the Queen's Bench or Common Pleas Divisions within three months from date of execution, otherwise term of service will date from date of filing.

13. Full term of five years, or, in the case of graduates of three years, under articles must be served before certificates of fitness can be granted.

14. Service under articles is effectual only after the Primary examination has been passed.

15. A Student-at-Law is required to pass the First Intermediate examination in his third year, and the Second Intermediate in his fourth year, unless a graduate, in which case the First shall be in his second year, and his Second in the first six months of his third year. One year must elapse between First and Second Intermediates. See further, R.S.O., ch. 140, sec. 6, sub-secs. 2 and 3.

16. In computation of time entitling Students or Articled Clerks to pass examinations to be called to the Bar or receive certificates of fitness, examinations passed before or during Term shall be construed as passed at the actual date of the examination, or as of the first day of Term, whichever shall be most favourable to the Student or Clerk, and all students entered on the books of the Society during any Term shall be deemed to have been so entered on the first day of the Term.

17. Candidates for call to the Bar must give notice, signed by a Bencher, during the preceding Term.

18. Candidates for call or certificate of fitness are required to file with the secretary their papers and pay their fees on or before the third Saturday before Term. Any candidate failing to do so will be required to put in a special petition, and pay an additional fee of $2.

FEES.

Notice Fee	$ 1 00
Student's Admission Fee	50 00
Articled Clerk's Fees	40 00
Solicitor's Examination Fee	60 00
Barrister's " "	100 00
Intermediate Fee	1 00
Fee in special cases additional to the above	200 00
Fee for Petitions	2 00
Fee for Diplomas	2 00
Fee for Certificate of Admission	1 00
Fee for other Certificates	1 00