

# YALE LAW JOURNAL

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WE have had sent us a copy of a pamphlet entitled "The Fair Case in California," and which is announced as "written for the YALE LAW JOURNAL." It is but fair to the YALE LAW JOURNAL to say that the above mentioned article never appeared in any of its numbers.

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THE sudden death of Lord Herschell has caused a great and painful surprise not only in this country, but throughout the English speaking world. The Ex-Chancellor may be said to have died in harness, for he has during many months been doing arduous and anxious work as the head of the Anglo-American Commission, which has lately adjourned without coming to any agreement. That he labored earnestly to bring about a settlement is certain, and, perhaps, in this particular he was not always acceptable to the Canadians, whose interests rather than those of England were immediately at stake. But in both Canada and the United States the announcement of his death has been received with general sorrow.

Lord Herschell has had a prominent part in many notable decisions, and some of his judgments in the Privy Council and in the House of Lords form an exposition of the law for all time. Among the many important decisions in which, as Ex-Chancellor, he took part, may be mentioned *Trevor v. Whitworth*, in 1887, in which it was decided that a company could not purchase its own shares; and *Bunch v. Great Western Railroad*, which involved

the railway company in liability for the negligence of one of its porters. *Derry v. Peck*, was another momentous appeal in which he took a leading part, and in which it was held that actual fraud and not merely the careless acceptance of statements without verification, must be established in an action at deceit.

Lord Herschell's death, which would be a very grave loss at any time, must be particularly felt now, for it was to him, as Chairman of the Anglo-American Commission, that the country looked with most hope of a solution of the difficulties when that Commission resume work in August.

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THE Commission over which the late Baron Herschell presided, was created by negotiations between Great Britain and the United States in May last. The British members, except for Herschell, were all Canadian Ministers. The Commission sat from August 23 to October 10, in the City of Quebec. It then adjourned to Washington, resumed its work in November, and though nothing is officially known, is said to have resulted in failure. The program of subjects for its consideration, will show how serious and how complicated are the differences which it has tried to settle.

(1.) The sealing regulations. The Paris Award provided for the revision of these at intervals of five years, the first of such periods expiring in 1898.

(2.) Fishery questions, or the never ending effort to balance free fishing in Canadian waters against the duty free importation of Canadian fish.

(3.) The Alaska boundary; never laid down in the South because it was next to impossible to carry out the treaty description; not yet run to the North, because until the Klondike rush came, there was no need for more than a partial determination of the astronomical lines.

(4 and 5.) Certain transit of merchandise questions, from one country across the other's territory or into it.

(6.) The application of the alien labor laws.

(7.) Mining rights of the citizens of one country in the other.

(8.) Commercial reciprocity.

(9.) A revision of the agreement of 1817, by which neither power could maintain on the Lakes, including Champlain, a larger naval force than four ships of 100 tons each.

(10.) The better marking of portions of the frontier.

(11.) The transportation of criminals by officers of one country through the territory of the other.

(12.) Reciprocity of wrecking and salvage rights.

The rock upon which the Commission is thought to have been wrecked is commercial reciprocity, few of the interests affected being able to look at the welfare of the two countries as a whole and apart from their own business desires. It would seem a doubtful policy to give hearings to special industries in international negotiations of such importance. At least, the consumer as well as the producer should be listened to respectfully. It is to be hoped that these negotiations may be resumed and carried to a happy issue, lest we make plain on what an insecure foundation the entente with England stands.

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THE library of the Law School has received from Mr. T. L. Bayne, Yale '87, of New Orleans, in the name of the Class of Eighty-seven, a copy of the famous Spanish Code, "Las Siete Partidas, of Alfonso the Wise, King of Leon and Castile." The code is in three volumes, published at Madrid in 1807. On behalf of the Law School, we wish to express our sincere thanks to Mr. Bayne for his valuable gift.