CASE AND COMMENT

NIPISSING CENTRAL RAILWAY CASE.—A great deal of interest has been taken by the public throughout the Dominion in the case of *Nipissing Central Railway Co.* v. *Province of Quebec,* which involves the right of the said railway company to acquire and use Crown lands in the Province of Quebec for the purpose of extending its Larder Lake Branch into the Rouyn Mining District in that Province which is now attracting much attention by reason of its mineral resources. The case has a constitutional significance by reason of the Province calling in question the competence of the Parliament of Canada to enact the provisions of sec. 189 of The Railway Act, 1919 (9-10 Geo. V. Cap. 68).

The matter came before the Supreme Court of Canada, upon a reference by the Governor-General in Council, under the provisions of sec. 60 of The Supreme Court Act. The reference was as follows:—

"1. Is it within the competence of Parliament to enact the provisions of sec. 189 of the Railway Act, 1919 (Can.) c. 68, with regard to provincial Crown lands? 2. If the answer to Q. 1 be in the affirmative, is said sec. 189, as it now stands, applicable to provincial Crown lands? 3. Is it obligatory upon the Governor in Council to give his consent under the provisions of s-s. 2 of said section upon any proper application therefor, or has he discretion to grant or refuse such consent as he may see fit?"

The report of the case we have had access to is that found in [1926] 1 D.L.R. 161. It there appears, although it is not formally so stated, that Mr. Justice Newcombe delivered the judgment of the Court, for all the other judges who heard the case concurred with him and did not write. The first question submitted to the Court, Newcombe, J., after making a very complete survey of prior legislation *in pari materia,* answered in the affirmative. The following excerpts are taken from that part of his reasons which immediately relate thereto:—

"Argument seems unnecessary to show that s. 189 is intended to apply to provincial Crown lands, or that it is, in relation to those lands, within the enacting authority of Parliament, if the previous corresponding enactments to which I have referred, and from which

it is mediately or immediately derived, had that application, and were competently sanctioned.

" . . . . The legislative authority of Parliament to give effect to s. 189, in its application to provincial Crown lands, might, however, present some difficulties were it not already affirmed by ultimate authority; but, in view of the judgment of the Judicial Committee of the Privy Council in the *Vancouver* case, *Attorney-General for B. C.* v. *C. P. R.*[1], neither the meaning of the section, nor the power to enact it, is questionable in this Court.

" . . . . It follows, I think, from the judgment of their Lordships that, in relation to railways, the authority given to Parliament by s. 91 of the B. N. A. Act, 1867, necessarily involves the power to take provincial lands for railway purposes.

" . . . . I think that this Court ought to follow the decision of their Lordships. It was given nearly 20 years ago, and it has ever since been acted upon in practice. The provision which it upholds has, in the interval, been enacted and re-enacted by Parliament without any material change affecting the questions with which we are now concerned, and has thus become as firmly established in the legislation of the country as any statutory enactment, emanating from a Legislature of limited powers, can possibly be."

The second question is also answered in the affirmative by Newcombe, J. As to the third question, the learned Judge said:—

"The company is constituted and its powers are conferred by Parliament, which, as a condition to the taking of Crown lands, has required the consent of the Governor in Council, who thus, as the donee of Parliament, is entrusted with the power of consent, to be exercised as an incident of the good government of the country; there is a duty to consider and to exercise sound discretion, but it is a duty involving political rather than legal responsibility, and in respect to the execution of which the Governor in Council is not answerable to the Judicial Tribunals."

It was contended by counsel for the Province that sec. 189 of The Railway Act, 1919, was *ultra vires* because it did not provide for adequate compensation where Crown lands are taken. For this proposition the recent case of *Montreal Corporation v. Montreal Harbour Commissioners*[2] was relied on. This contention was dealt with by Newcombe, J., as follows:—

"In the first place, it may be said that s. 189, at least, does not fail in provision for indemnity more than did the legislation which

[1] [1906] A.C. 204.
[2] (1925) 42 T.L.R. 98.

was under review in the *Vancouver* case; and, to the extent to which s-s. 4 is intended to provide for compensation, that provision is additional to anything contained in the statutes which were considered in the latter case. We are not asked expressly to determine the effect of this subsection; but, whatever its interpretation may be, it must certainly be upheld along with the preceding subsections which accompany it. Then, if, as is suggested, the section does not provide for indemnity to the Provinces for their Crown lands, the use of which may be taken under its provisions, it could therefore be considered *ultra vires* only if the powers conferred upon Parliament by s-s. 91 and 92(10) of the B. N. A. Act with relation to railways are to be interpreted as subject to an implied condition or proviso to the effect that such lands are not to be taken or used thereunder without compensation; but there is not a word in the decision in the *Harbour Commissioners* case to suggest that their Lordships were disposed to interpret the Dominion railway powers, which are expressed in the most general terms, as subject to any implied restriction, and such an implication would be inconsistent with the conclusion in the *Vancouver* case, of which their Lordships have not intimated any disapproval." C. M.

* * *

AUTOMOBILES—REGISTRATION—ESTOPPEL.—The recent judgment of the Appellate Division of the Prince Edward Island Supreme Court in the case of *Montgomery* v. *Diamond*,[1] is one which is likely to attract considerable attention, but the headnote of which appears to go further than is intended by the learned Chief Justice, who wrote the judgment of the Court. The headnote reads: "Registration of a motor car in another's name will estop the true owner from setting up his title against a judgment creditor of the registered owner," but inasmuch as the judgment is mainly based upon the decision of the House of Lords in *Farquharson* v. *King & Co.*,[2] one can hardly believe that it was intended to have the sweeping effect indicated by this headnote.

In the case in question, the owner of a motor car had registered it in the name of his brother, who was a man of straw, but who was in the habit of driving the car for taxicab purposes. A second and better car was purchased, the first car being given as part payment, and the license number was transferred from the first car to the second without change of registration, the second car being similarly driven by the brother, who was not the owner. He was party to a

[1] (1925) 4 D.L.R. 736.
[2] [1902] A.C. 325.

collision with another car, the owner of which, wishing to sue for the resultant damage to his car, looked up the name of the registered owner and sued the brother, instead of the real owner, obtaining judgment in due course. He then caused to be seized under execution, the very car which had occasioned the damage, and the true owner asserted his claim, succeeding in an interpleader issue before the County Judge. On appeal, he is held disentitled to assert his claim by the application of the doctrine of estoppel, he himself having chosen, by means of the registration made by him, to invite the public to deal with his brother as the owner of that particular car.

As Lord Halsbury said, in the well-known case of *Quinn* v. *Leathem*,[3] every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. One is reminded of this very apt expression by reading this particular headnote, and it seems wise to recommend any one who has the point in mind to read with great care the reasons of Lord Halsbury in the *Farquharson* case before attempting to cite this decision of the Prince Edward Island Court in support of the proposition contained in its headnote as reported. Even upon the very plain facts, and the undoubted equities which arise out of them, this decision may be open to argument as to its complete accuracy as an exposition of the law. G. F. H.

* * *

THE NORTH HURON ELECTION CASE.—Owing to the widespread interest in this case, it has been suggested that we publish in full the judgment of Mr. Justice Wright, of the Supreme Court of Ontario, in ordering the Judge of the County Court of the County of Huron to proceed with a recount of the votes cast in the North Huron Election.

The attention of our readers is directed to the fact that an appeal from this judgment was taken to the Second Divisional Court (Latchford, C.J., Riddell, Middleton and Masten, JJ.A.), which was dismissed with costs (December 18th, 1925), the Court holding that the order of Wright, J., in directing the Judge of the County Court to proceed with the recount, was made by him as *persona designata* under sec. 71 of The Dominion Elections Act, and that the Court had no jurisdiction to entertain the appeal.[1]

[3] [1901] A.C. 495.

[1] See 29 O.W.N. 277.

WRIGHT, J. (December 10th, 1925.):—

This is an application by John Warwick King, one of the candidates for the riding of North Huron at the recent Dominion elections held on October 29th last, under section 71 of the Dominion Elections Act, for an order requiring and directing the Judge of the County Court of the County of Huron to comply with the requirements of that Act in connection with the recount of votes cast at said election.

An ex parte application was made to me on Thursday, November 26th, 1925, under section 71, for a preliminary order or appointment to consider the matters complained of. On the said date I made an order appointing the 1st day of December, 1925, for the hearing of said application.

The application was supported by the affidavits of the said John Warwick King and Russell Bisset, Oliver Hemmingway and James Franklin Collins, the three latter being electors whose ballots were affected by the action of the County Court Judge.

Upon the return of the motion Mr. Denison, K.C., counsel for George W. Spotton, the other candidate at the said election, took several preliminary objections to the proceedings, but on the hearing of the motion I over-ruled all the objections taken except one with which I shall now deal.

It was contended on behalf of George W. Spotton that as a return and report had been made to the Chief Electoral Officer under subsection 4 of section 72, the application before me should not be proceeded with as, in order to give an order made by me any effect, it would amount to unseating the candidate who had been returned and gazetted.

I do not think this objection is well founded. When the application was made to me under section 71, it was, in my opinion, well supported by the affidavits filed in support thereof and the applicant had complied with all the requirements of that section to entitle him to the order then made. Under these circumstances I think jurisdiction was clearly conferred upon me to make the preliminary order and appointment and to take all subsequent proceedings in connection with the hearing of the application.

There is no provision in the Act which requires or directs that such application shall be stayed or dismissed if a return and report prescribed by subsection 4 of section 72 is made, and in the absence of any express provision to the contrary, I deem it to be the duty of the Judge of the Supreme Court who is hearing such an application to proceed with the application if made within the time prescribed by section 71 and on sufficient material. If the return has any such effect as contended for by Mr. Denison, then such effect must be given to it by some other forum.

I am also of the opinion that subsection 4 of section 72 has not the effect contended for. In my view it provides for just such a state of facts and circumstances as exists in the present case. It reads as follows:—"In the event of the Returning Officer making a return and report to the Chief Electoral Officer not complying with the immediately preceding provisions or making a return and report pending an application before a Judge or Court for an order commanding the Judge to comply with the foregoing provisions for a recount or final addition, the Chief Electoral Officer shall, on presentation of an order of a Judge or Court having jurisdiction in respect of such appli-

cation, return the said report and return together with all election papers to the Returning Officer."

Something may turn upon the meaning of the term 'pending an application,' but I think this expression clearly means 'while awaiting an application.'[2]

Construing the Statute in this manner, it gives full effect to the intention of the Act, which was to give the applicant a certain time, namely, eight days after the order of the County Court Judge, to make the application and a further period of eight days within which to have such application considered.

Upon the argument there was some discussion as to the exact time when the corrected return was received by the Chief Electoral Officer. From correspondence with that official produced by Mr. Denison it would appear to have been received about 11 a.m. on November 26th, the very day on which the application was first made to me. Mr. Denison asked for permission to verify the exact hour at which the return was received, but I do not consider this material.

The order of November 26th is in its nature a Judicial Act and would therefore relate back to the earliest moment of that date, thus being prior in point of time to the receipt of the return by the Chief Electoral Officer. See *Buskey* v. *Canadian Pacific R. W. Co.*[3]

In point of fact the Chief Electoral Officer complied with the provisions of subsection 4 and returned the said report and return with all election papers to the Returning Officer and, in my view, he acted properly and strictly in accordance with the Act. As already stated, this objection cannot prevail.

Proceeding now to a consideration of the application or motion, it will be noted that the applicant complains that on the recount which was held before His Honour E. N. Lewis, Judge of the County Court of the County of Huron, on the 10th, 12th and 16th days of November, the said Judge by his decision or ruling, which was rendered on the 19th and 20th days of November, 1925, omitted, neglected or refused to comply with the provisions of the Dominion Elections Act in respect of the recount or final addition of the votes cast thereat.

The particular matters complained of are that the said Judge omitted, neglected or refused to count any of the ballots cast at polling subdivisions Nos. 2 and 6 in the Township of Grey and polling subdivision No. 7, in the Township of Ashfield in the said electoral district of North Huron, and to remove the counterfoils from such ballots.

As appears from the affidavits filed and in the certificate of the County Court Judge at such polling subdivisions the Deputy Returning Officers' statements showed as follows, namely:—

Poll No. 2, Grey	For King	88
	For Spotton	24
Poll No. 6, Grey	For King	90
	For Spotton	39
Poll No. 7, Ashfield	For King	82
	For Spotton	19
		342

[2] See Webster's Dictionary, Murray's Dictionary, also *Regina* v. *Verral*, 16 P.R. 444.

[3] 11 O.L.R. 1.

It is stated in the material filed and in the learned Judge's reasons for judgment that all these ballots had their counterfoils attached, but is nowhere stated that there were any numbers or other marks of any kind on the said ballots or counterfoils except the marks placed thereon by the voter.

Upon the argument it was stated by counsel for the applicant that in at least one of these polling subdivisions there were no numbers on either the counterfoils or ballots. The ballots were produced in Court in sealed envelopes but I doubted my right or power to open these or to inspect them, and preferred to rely upon the affidavits which were properly filed and the report or judgment of the County Court Judge.

I think the proper principle to be followed in dealing with this application is that enunciated by the learned Chief Justice of the Common Pleas in *Re Wentworth Election, Seeley* v. *Smith*,[4] where he states as follows:—

'On principle it appears to me most unjust that an elector who has complied with every requirement of the law as to the matter in which he shall evidence his will as to the choice of a Member of Parliament, should be subjected to have his vote destroyed by the wrongful or improper act of an election officer in dealing with his ballot paper, and the Court is bound, I think, if possible, to avoid construing such a provision so as to lead to that result.'

If the only objections to the counting of these ballots were that the counterfoils were attached to them, the decisions are practically unanimous to the effect that the ballots should be counted. *In re Digby*,[5] *In re North Simcoe*,[6] *In re London Election*,[7] *In re East Dewdney*.[8]

These cases hold that even before the recent amendments to the Dominion Elections Act ballots upon which the counterfoils were left should be counted.

These decisions, however, do not deal with the effect of numbers placed either on the counterfoil or on the ballot by the Deputy Returning Officers.

I shall now proceed to deal with the crucial question on the motion, namely, whether there was omission, neglect, or default on the part of the County Court Judge within the meaning of subsection 1 of section 71 of the Dominion Elections Act.

It will be noted that this section provides as follows:—'In case of any omission, neglect or refusal of the Judge to comply with the foregoing provisions in respect of the recount or final addition or to proceed therewith, any party aggrieved may within eight days thereafter make application, etc.'

The statement of what occurred on the recount will be found in the affidavit of John Walker King, the applicant, and in the report or reasons for judgment of the learned County Court Judge where, in referring to the ballots cast in the three polling subdivisions referred to, he says:—"I found that all the ballots had their counterfoils attached. At once without looking at same or allowing same to be looked at except sufficiently to assure myself and counsel for the candidates what they were, I sealed up same and referred same for further consideration." After citing authorities, he makes his ruling as follows:—

[4] 9 O.L.R. 201, at p. 204.
[5] (1887) 23 C.L.J. 171.
[6] 41 C.L.J. 29.
[7] 41 C.L.J. 39.
[8] (1925) 3 D.L.R. 770.

"I accordingly do not count the ballots for the said three polls and I leave same sealed up as above stated."

The question for me to determine is was this action on the part of the County Court Judge an omission, neglect or refusal, within the meaning of section 71, to comply with the foregoing provisions in respect of the recount or final addition, and it is therefore necessary to consider what the foregoing provisions in respect of the recount or final addition are.

In passing it might be well to refer to section 66 of the Act, which defines the duties of the Deputy Returning Officer in connection with the counting and reporting the vote. Subsection 2 specifies the duties of the Returning Officer as to the rejection of ballot papers and provides as follows:—

'2. In counting the vote the Deputy Returning Officer shall reject all ballot papers (a) which have not been supplied by him; or (b) by which votes have been given for more candidates than are to be elected; or (c) upon which there is any writing or mark by which the voter could be identified other than the numbering of the Deputy Returning Officer in the cases hereinbefore referred to, but no ballot paper shall be rejected on account of any writing, number, or mark placed thereon by any Deputy Returning Officer.'

The last clause of subsection (c) was added in the amendment of 1908 by 7 and 8 Edw. VII., cap. 26, sec. 21. This amendment was evidently made in consequence of the decision in the *Wentworth Election Case* already referred to. In that case it was held that in the circumstances the marks or numbers placed on the ballots by the Deputy Returning Officer had the effect of voiding the election, but in view of the amendment and the present provisions of the Statute that decision could not now apply.

The powers and duties of the Judge of the County Court on a recount are set forth in section 70 of the Dominion Elections Act. The particular subsection that deals with the matters arising on this application is subsection 4, which states: 4. "In the case of a recount the Judge shall recount the votes according to the directions in this Act set forth for Deputy Returning Officers at the close of the poll and shall verify or correct the ballot paper account and statement of the number of votes given for each candidate, etc."

This section expressly directs the Judge on the recount to observe the provisions of subsection 2 of section 66 already referred to and prohibits him from rejecting any ballot paper on account of any writing, number or mark placed thereon by any Deputy Returning Officer, as provided for in subsection 2 (c) of section 66 already cited.

The duties of a Deputy Returning Officer as to dealing with counterfoils when the voter returns his ballot to him and also his duty when counterfoils are found attached to the ballot papers in the ballot box are found in subsection 3 of section 62. The latter part of that subsection provides as follows:—

'Provided that where the Deputy Returning Officer has inadvertently omitted to remove the counterfoil from the ballot paper before placing such ballot paper in the ballot box, he may, exercising care, however, that the number of such counterfoil be not seen by any person present and without himself examining such number, remove and destroy such counterfoil on the counting of the ballots and the Judge who may conduct any recount proceedings shall have the like power, inadvertence on the part of the Deputy Returning Officer being for the purposes of the recount presumed. The

ballots, if otherwise in proper form, shall be counted as if the counterfoil had been at the proper time removed therefrom.'

Here is an express direction not only to the Deputy Returning Officer but also to the Judge conducting the recount as to how the ballots with counterfoils attached shall be dealt with, first, on the count of the Deputy Returning Officer and again by the County Court Judge on the recount.

On the hearing of the application a great deal of argument was directed to the meaning of the expression 'inadvertently omitted.' For the respondent on the application it was contended that where, as in the present instance, all the counterfoils were left on the ballots, it could not be said it was an inadvertent omission. The weight of authority, in fact practically all the authorities, are to the effect that 'inadvertently' is a wide enough term to include ignorance of the law, carelessness, negligence or inattention.[9] The dictionaries give various meanings for the word, including inattention, carelessness or negligence, and for the purposes of this decision I should hold that the term 'inadvertently' includes ignorance of the law, inattention, neglect or carelessness on the part of the Deputy Returning Officer.

It will be observed that when on opening the ballot box the Deputy Returning Officer finds the counterfoils he *may*, exercising care, etc., remove and destroy such counterfoil. It was contended by counsel for the respondent that it was only discretionary with the Returning Officer to remove these counterfoils, but as it was a public duty he had to perform, the principle of the decisions in *Julius* v. *Bishop of Oxford*,[10] *Eyre* v. *Lester*,[11] and *The Queen* v. *Tithe Commissioners for England and Wales*,[12] would apply. In these cases it was held that where a public right or duty is involved the word 'may' is to be read as 'shall,' and the duty is deemed to be an imperative one.[13] Thus it was the imperative duty of the Deputy Returning Officer to remove the counterfoils and the same section declares that the Judge who may conduct any recount proceedings shall have the like power and having the power, under the circumstances it was his duty to exercise it.

Where the Deputy Returning Officer failed to remove the counterfoils, inadvertence on his part shall, for the purpose of the recount, be presumed. This is the express declaration of the Statute; and, as no other evidence was or could be adduced before the Judge, this is a conclusive and irrebuttable presumption.[14]

In my view it is quite immaterial whether or not the counterfoils were removed by the Deputy Returning Officer or even the Judge conducting the recount, as subsection 3 already cited distinctly provides that 'The ballots if otherwise in proper form shall be counted as if the counterfoil had been at the proper time removed therefrom.'

[9] See *Nicholls* v. *Fearby*, (1923) 1 K.B. 481, particularly at page 498; *Re Jackson*, (1899) 1 Ch. 348; *The Stepney Case, Rushmor* v. *Isaacson*, 4 O'M. & H. 178; *Ex parte Walker*, 22 Q.B.D. 384; *Ex parte Lenanton, Ex parte Pierce*, 53 J.P. 263.

[10] (1879) 5 A.C. 244.

[11] (1892) 1 Q.B. 136.

[12] 14 Q.B. 459 at p. 474.

[13] See Craies Statute Law, 4th ed., page 252; Maxwell on the Interpretation of Statutes, 6th ed., 424 and 438, and cases there cited.

[14] See *Cole* v. *Porteous*, 19 A.R. 111; Halsbury, volume 27, paragraphs 235 and 262.

It is not, in my view, a condition precedent to the counting of the ballots that the counterfoils should be removed, but, as already stated, I am of the opinion that it was the plain and positive duty of the County Court Judge to remove the counterfoils.

It also was clearly his duty to count these ballots if otherwise in proper form. The proper form is a matter in which he is to exercise his judgment, but as to the counting, that is a clear and distinct provision of the Act and should have been observed.

Holding these views, I find that there was omission, neglect or refusal on the part of the learned County Court Judge to comply with the provisions of the Dominion Elections Act in respect of the recounting of the votes and consequently of the final addition.

It was contended by the counsel for the respondent on the motion that section 71 does not confer upon a Judge of the Supreme Court a right to review or sit in appeal from the decision of the County Court Judge who conducted the recount. Probably that is the correct interpretation or construction to be placed upon that section, but the language of the Statute is clear and explicit to the effect that where the Judge holding the recount omits, neglects or refuses to comply with the provisions of the Act relief may be had on an application such as this, and the Judge directed to comply with the provisions of the Act.

While not professing to give a right of appeal from the decision of the Judge holding the recount, the Statute clearly points out the manner in which such recount is to be conducted and the directions to be observed in the counting of the ballots. In the event of an omission, neglect or refusal on the part of the Judge holding the recount to comply with such provisions, the Statute provides the remedy by means of such an application as the present.

The law would indeed be impotent if in a case like the present where 342 voters were deprived of their franchise, no relief could be had. Where the voters have done everything in their power to register their votes by way of ballot in the proper form, every reasonable construction should be placed on the Statute to give effect to the expressed will of the voters. To do otherwise would amount to a declaration that however perfectly the ballot might be marked, the Deputy Returning Officers, either wilfully or carelessly and negligently, might destroy the ballot and prevent the vote being counted.

The Statute is remedial and ought to be given a liberal construction so as to provide the remedy and correct the injustice aimed at.

The judgment of Sir Montague E. Smith in *Giovanni Dapueto* v. *James Wyllie & Co.*,[15] is particularly applicable in construing the provisions of the Act now under consideration.

In delivering the judgment of the Judicial Committee he states at page 492: 'The statute being remedial of a grievance, by amplifying the jurisdiction of the English Court of Admiralty, ought, according to the general rule applicable to such statutes, to be construed liberally, so as to afford the utmost relief which the fair meaning of its language will allow.'

See also judgment of Brett, J., in *Gover's case*,[16] where he states: 'If the

[15] (1874), L.R. 5 P.C. 482
[16] (1875), 1 Ch. D. 182, at p. 198.

enactment be manifestly intended to be remedial it must be so construed as to give the most complete remedy which the phraseology will permit.'

Also the judgment of Lord Blackburn in *Bradlaugh* v. *Clarke*,[17] where at page 373 he states: 'When a law is doubtful or ambiguous, it is to be interpreted so as to fulfil the intention of the Legislature and to attain the object for which it was passed.'

The order will therefore go requiring and directing the learned County Court Judge as follows:—

1. To proceed with and complete the recount so far as necessary to carry out the directions of the order.

2. To detach the counterfoils from the ballots in question.

3. To count the said ballots if otherwise in proper form as if the counterfoil had been at the proper time removed therefrom.

4. To correct and complete the final addition so as to give effect to the recount when conducted according to the directions contained in this judgment.

As the respondent appeared on the motion and contended that he should have the benefit of the decision of the County Court Judge, there is no reason why he should not pay the costs of this application, and I, therefore, order that the respondent, George W. Spotton, pay the costs of and incidental to this application.

[17] 8 A.C. 364.

NISI PRIUS (The Lawyer's Wooing).

It is a learned old Q.C.
On Portia's steps he stands,
And first of all he rings the bell
And then he wrings his hands.
In dread suspense he waits until
The door is opened wide,
He mops the moisture from his brow
And then he steps inside.
And now before her doth he stand,
Nor speaks but to his purpose:
"My heart is bound in passion's chains,
Oh, grant it Habeas Corpus!
Need I de novo all relate?
I loved you a priori
And, when again I view your charms,
I love a fortiori..
And now, my own, no more ado,
Your answer well I guess;
Come, let us, love, adjourn this Court
With Yes, *O-yes, O-yes!*"

Fair Portia smiled, "Alas," she said,
"How fortune seems to try us;
But don't you see, your Court must be
A Court of Nisi Prius.
For, not long since, there came to me
A young-eyed lover and I
Knew right at once he came, my heart
With animo furandi.
Before the forum of my soul
He pled his case so strongly,
That in futuro I am his
And, pardon me, not wrongly.
With Love, as Equity, the rule
(A trite but useful tenet)
Is: Vigilantibus non dor-
Mientibus subvenit.
And now, forgive me, learned friend,
We best had part, sir; i.e.,
We'd better close this useless Court—
Adjourn it, sine die."

Sad, sad indeed, alas! how sad
His after annals are;
He tried to drown his bitter grief
By practice at the bar;
And should you chance to question him,
He'd shake his whitening hair
And tell you (privately) he thought
The fair'un most unfair.

Resurrected (with some changes) from *Varsity*, Toronto, 1888.