

places the oracle of Apollo at Delphi on the "island" of Delphos!

If Inverness is to be rejected, as is assumed by both the works of reference above mentioned, then the evidence is entirely in favour of Glamis Castle, as I hope no son of Forfarshire will care to deny.

R. W. SHANNON.

Regina, June 18, 1923.

IN LIGHTER VEIN.

LAW AND FICTION.

* * * The trial in "Pickwick" is, of course, a caricature, but that at the Old Bailey in the "Tale of Two Cities," is accurate. George Eliot made "Felix Holt" turn on a rare but good point of law, and a few years ago, when "Perlycross" appeared, Mr. Blackmore was specially praised for his legal accuracy. On the other hand, in "Wuthering Heights," by Emily Bronte there is a deal of bad law.

Mr. Justice Gazalee, as is well known, is the original of Dickens' Mr. Justice Stareleigh (Gase—Gaze—Stare) who presided at the trial of "Bardell v. Pickwick." Apropos of this *cause célèbre* Dickens' students may like to know that there is a reported case in 1827, namely *Brooke v. Pickwick* (4 Bingham, 218), where the defendant was a well-known coach proprietor of Bath, Mr. Pickwick, from whom Dickens avowedly took the name of his immortal papers. The action was to recover damages for the loss of a trunk and one of the judges was Gazalee, J. Here we have two of the chief figures in the great scene meeting in actual life in the same capacities as in the better known book. In Mr. Stanley Weyman's novel "Chippinge" which turns upon the great Reform Bill of 1832, Sir Charles Wetherell, Attorney-General, plays a great part. In the riots in 1831, at Bristol, of which he was Recorder, he barely escaped with his life by night. He was not remarkable for personal propriety, and when some one asked how he escaped, the answer was, "disguised in a clean shirt." There are two other modern novels which from a legal as well as literary point of view are well worth perusal. One is "The Witness for the Defence," by A. E. W. Mason, and the other bears the curious title of "The Honest Lawyer," by Miss C. V. McFadden, and turns on the old law regarding Wills, and the odd crime of injuring a bridge

which was punishable with death. They are both absorbing stories. Sir Francis Newbolt, K.C., describes "Orley Farm," by Anthony Trollope, as "the most venomous and pointed attack ever made on the legal profession."

The story turns on the forgery of a will. The Judge's charge, he says, amounted to this: "Whoever here is charged with whatever it is, did not do it."

Lady Mason, who was accused of the forgery, does not appear to have been in the dock during the trial, as the Judge when the verdict of "Not Guilty" was brought in, said: "If the prisoner is in Court, she may go."

SPORTING ASPECT OF THE BENCH.

Wigmore, in his work on Evidence (1905 ed., par. 784) says: The sporting theory of the common law, in which litigation was a game of skill, to be conducted according to specific rules and to be decided by the combined efforts of skill, strength and luck, tended to place the judge primarily in the position of the umpire of a game, whose duty it was to interfere only so far as needed to decide whether the rules of the game had been violated. This tendency never dominated (as far as the Judge's functions were concerned) in the orthodox English practice; the Judge there has never ceased to perform an active and virile part as a director of the proceedings and as an administrator of justice. Nevertheless in the United States the degenerate tendency has steadily been towards the domination of the function of umpire presiding over contestants in a game; not only has public opinion pressed towards this end, but the judiciary as a whole has often not resisted, but rather abdicated."

* * * Lord Herschell interrupted Counsel in *Allen v. Flood* so much that Lord Morris was heard to ejaculate, "I understand now what it means 'to molest a man in his business.'"

* * * Lord Shaw of Dunfermline tells an interesting incident about the decision of the House of Lords in the "Wee Free" Church case. He says that when first argued the Judges stood 3 to 3. But before judgment was delivered Lord Shand died, and new Judges heard the re-argument, reversing the judgment by a majority.