

## The Legal News.

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Mr. Fitzpatrick, the member for Quebec county, has introduced a bill in the legislative assembly, which will test opinion on the question of admitting the parties to a suit to give evidence on their own behalf. The proposed amendment of the law aims at the replacement of Art. 1232 of the Civil Code by the following:—

"1232. Any party to a suit may give testimony on his own behalf.

A witness is not rendered incompetent by reason of his being a party, of relationship, or of being interested in the suit; but his credibility may be affected thereby."

The law at present reads:—"Testimony given by a party in a suit cannot avail in his favor. A witness is not rendered incompetent by reason of relationship or of being interested in the suit; but his credibility may be affected thereby." The proposed amendment would also affect Art. 251 of the Code of Procedure, which reads as follows:—"Any party to a suit may be subpoenaed, examined, cross-examined, and treated as any other witness; but his evidence cannot avail himself; the adverse party may however declare, before he closes his proof, that he does not intend to avail himself of his testimony, and in such case it is deemed not to have been given." This article it is proposed to replace by the following:—

"251. Any party to a suit may give testimony on his own behalf and in such case be examined, cross-examined, and treated as any other witness.

He may also be subpoenaed and treated as a witness by the opposite party, and, in such latter case, his answers may be used as a commencement of proof in writing."

Canada, usually notably free from serious crime, as a flourishing and progressive community ought to be, has lately had five criminals under sentence of death for murder at one time. In two instances, however, the convict was only transiently within the borders of the Dominion. In one of them, the *Birchall* case, the penalty of the law has been inflicted, and a blow has been dealt at the

dastardly practice of inveigling English youths to this country to defraud, and perchance to murder them. The Minister of Justice is to be commended for his firmness in this case, for a good many persons, including some who ought to know better, signed the petition for commutation. Something may be said for the abolition of the death penalty altogether, but the impropriety of capital punishment is urged unseasonably when it is put forward as a plea for the commutation of the sentence of a scoundrel specially destitute of conscience, and for whom penitence has no meaning.

Some of the simplest, and apparently the plainest expressions, often give rise to difficulties of interpretation. Take, for instance, the word "from." This was passed upon judicially in a recent case, *South Staffordshire Tramways Co. v. Sickness and Accident Assurance Association*, in which the question was as to the duration of an accident policy for a year "from" a certain date. The assured had paid the defendants the premium "for twelve calendar months from the 24th day of November, 1887." An accident occurred on the 24th day of November, 1888. Was this within the year? The English Queen's Bench division, Oct. 29th, 1890, (Justices Day and Lawrence) held that the policy covered Nov. 24th, 1888. As the *Law Journal* puts it, "from" is *prima facie* an exclusive term, so that if in a contract any right is to continue under it for a certain period "from" a given day, that day is to be excluded, but the term is not so unambiguously exclusive as not to be susceptible of an inclusive construction if there be anything in the context to show that an inclusive meaning was intended by the parties. Such is the effect of *Pugh v. The Duke of Leeds*, 2 Cowp. 714, and *Wilkinson v. Gaston*, 9 Q. B. 137, in both of which cases "from" was construed as inclusive. In the recent case, however, the Court held that there was nothing in the context to avoid the operation of the ordinary rule.

Some time ago, Mr. Justice Stephen expressed the opinion that eloquence had left the bar. This enunciation has been challenged by Chief Justice Coleridge. Address-