

# The Legal News.

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## THE INSOLVENT LAW.

In the course of the repeated discussions which have taken place in Parliament and elsewhere as to the expediency of abolishing the Insolvent Act, it has usually been claimed by the friends of the Act that the country could not get on at the present time without a law of this nature. It has been urged that business in these days has assumed such a form that bankruptcy legislation is an absolute necessity. The United States is a far more populous country than Canada; its business is much greater and more extended; and in progressiveness it is usually held to be exceeded by no other State. Yet the resolution has there been taken to dispense, entirely with a bankrupt law. The vote for abolition has been carried by considerable majorities of the Legislature; the President has not withheld his sanction; and on the 1st September the United States will be freed at one stroke from the entire bankruptcy machinery.

This is an experiment which will be watched with interest on our side of the line. The causes which have made our neighbours weary of the law have been operating to a very large extent in Canada. We have seen as well as they the demoralising effect of providing an easy relief from obligations which the debtor would in many cases have been well able to discharge, but for the collapse occasioned by reckless trading and speculation or extravagant expenditure. We have seen old-fashioned thrift and prudence becoming rare qualities; stability of business disappearing; universal uncertainty prevailing; and traders shaping their course, long before the final collapse, to the end that they may be enriched by their resort to the friendly shelter of the bankrupt law. A rottenness has eaten into the heart of the system, as disgusting here as it has proved to be in the United States, and business would breathe more freely if the tainted mass could be swept from sight, even were the abolition to be but temporary.

## REPORTS AND NOTES OF CASES.

### COURT OF QUEEN'S BENCH.

Montreal, June 14, 1878.

PRESENT:—Chief Justice DORION, and Justices MONK, RAMSAY, TESSIER and CROSS.

PREVOST et al., Appellants; and GAUTHIER, Respondent.

#### Master and Servant—Travelling Agent.

The engagement of a clerk on a salary as travelling agent, to be engaged particularly in purchasing in the European markets, held, not to prevent his employers from using his time otherwise, so long as the occupation was not derogatory to his position in society.

RAMSAY, J., said this was an action by a clerk for salary claimed after his dismissal from service. The appellants, who were merchants, engaged Gauthier as travelling agent, and it was stipulated that he was to be employed particularly in purchasing in the European markets. He was also to perform other services in the warehouse of the appellants. After a certain time Gauthier refused to travel in the Lower Provinces, on the ground that it did not come under the terms of his engagement. The Court here was of opinion that Gauthier was not correct in this pretension. His bargain was as a general traveller, and he was bound to go wherever he was told. He was paid for his time and his employers were entitled to use it as they pleased, so long as they did not ask him to do anything that would injure his position in society. The judgment, which had maintained Gauthier's action, must be reversed.

*Lacoste & Globensky* for appellant.

*Jetté, Beique & Choquet* for respondent.

RYAN et vir, appellants, and LAVIOLETTE, Respondent.

#### Malicious Prosecution—Reasonable and Probable Cause.

Where a woman, not with intention to steal, but apparently to annoy a neighbor, appropriated a quantity of ice delivered to the latter, who prosecuted her for larceny, held, that she was not entitled to damages for malicious prosecution.

RAMSAY, J., said the case arose as follows:—One day Mrs. Crowley, the appellant, appropriated to herself about 130 pounds of ice that was intended for Laviolette. The latter caused her to be arrested, but she was discharged by the magistrate. She now brought an action of damages against Laviolette, who