

"(b) The Clerk shall at every sittings of the Court produce to the Judge, all the process and papers in every cause necessary to be entered on 'the Judge's list,' so as to enable the Judge, upon inspection, to ascertain that the Court fees have been all duly paid by proper stamps, and that such stamps have been legally cancelled; and otherwise to enable the Judge to carry out and effectuate the spirit and intention of the said 36th Section of the Act, and of the Act respecting stamps on law proceedings (27 & 28 Vic. cap. 5) in connection therewith.

"(c) As soon as the trial or hearing in each case is concluded, the Clerk shall affix to the back of the summons the proper stamps for hearing and order, and shall then, or at the close of the Court, submit such stamps, duly cancelled, to the Judge for his inspection.

"(d) Any Clerk wilfully neglecting any of the provisions of the Act respecting the collection of the Court fees by stamps, or his duty under this rule, shall be subjected to the loss of his office.

"(e) In construing this Rule, the second general rule shall apply as if incorporated herewith.

"Dated 23rd September, 1869."

#### ELECTIVE JUDICIARY.

The State of New York was, we believe, the first to open the judicial office to the choice of the people by annual election. It is now proposed by a new constitution, which is shortly to be submitted to the direct vote of the people, to provide for the establishment of a Court of Appeal, to consist of seven judges holding their office for fourteen years. This would be a great improvement, but it is further proposed, after 1873, to vest the appointments of these judges in the Governor of the State, to be held during good behaviour. The better class of the profession and order-loving citizens are anxiously looking forward to a return to the old English system, by which alone, as is remarked in a leading American law periodical, "the bench can permanently retain its independence or its respectability." The evils resulting from the present system and the corruptions of the judiciary of New York were some time ago exposed in the most scorching way by the *American Law Review*, in language which seemed to despair of any improvement. When, however, a nation, boastful and bigoted though it be, begins to acknowledge that it has made mistakes, there is still, it may be hoped, a chance of improvement.

#### MAGISTRATES, MUNICIPAL, INSOLVENCY, & SCHOOL LAW.

##### NOTES OF NEW DECISIONS AND LEADING CASES.

**INJUNCTION.**—1. The breaking up of the streets of a town for the purpose of laying gas-pipes without lawful authority, will be enjoined in equity. (*Sheffield Gas Consumers' Co.*, 3 DeG. M. & G. 304, not followed.)—*Attorney-General v. Cambridge Consumers' Gas Co.*, Law Rep. 6 Eq. 282.

2. The breaking up of the streets of a town without lawful authority, for the purpose of laying pipes by an unincorporated gas company, is not such a nuisance as will be enjoined in equity on an information at the relation of a rival gas company (reversing the decree of *MALINS*, V.C.)—*Attorney-General v. Cambridge Consumers' Gas Co.*, Law Rep. 4 Ch. 71.

3. Where a plaintiff has proved his right to an injunction against a nuisance, it is not for the court to inquire how the defendant can best remove it. The plaintiff is entitled to an injunction at once unless the removal of the nuisance is physically impossible. But when the difficulty of removing the injury is great, the court will suspend the operation of the injunction for a time, with liberty to the defendant to apply for an extension of time.—*Attorney-General v. Colney Hatch Lunatic Asylum*, Law Rep. 4 Ch. 146.

**MURDER—EVIDENCE—CREDIBILITY OF WITNESSES, &c.**—On a trial for murder, the Crown having made out a *prima facie* case by circumstantial evidence, the prisoner's daughter, a girl of 14, was called on his behalf, and swore that she herself had killed the deceased without the prisoner's knowledge, and under circumstances detailed, which would probably reduce her guilt to manslaughter.

*Held*, that the learned judge was not bound to tell the jury that they must believe this witness in the absence of testimony to show her unworthy of credit, but that he was right in leaving the credibility of her story to them; and if from her manner he derived the impression that she was under some undue influence, it was not improper to call their attention to it in his charge.

As to certain threats alleged to have been uttered by the prisoner—*Held*, that they were clearly admissible, and if undue prominence was given to them in the charge, the attention of the learned judge should have been called to it by the prisoner's counsel.