

The Legal News.

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APPEAL BUSINESS.

The March Term in Montreal opened with 106 inscriptions. Of these 28 cases were argued. One appeal was dismissed, the appellant not filing any factum; two other appeals were struck, the cases having been settled by the parties; making a total of 31 cases removed from the list. Judgment was rendered in four cases heard during the March Term, the decision of the Court below being in each case confirmed. Judgment was also rendered in sixteen cases standing over from the January Term; in eight cases the judgment was reversed, reformed or modified, and in the other eight cases the decision of the Court below was confirmed. Two reserved cases were also decided, the conviction in each case being maintained.

CONTRACT FOR SERVICE.

In the case of *Everson v. Powers*, before the New York Court of Appeals, the question was as to the rule of damages for wrongful dismissal of an employee. The action was brought before the expiration of the term. The Court of Appeals held that where a person employed for a definite time, at a gross sum, is unlawfully discharged before the expiration of his term, he may recover as damages, the difference between the contract price and the amount received by him with what he was enabled to earn during the term after his discharge. Judge Tracy said: "Where the cause of action is commenced during the term, but the trial occurs after the expiration of the term of service, we can see no reason why the plaintiff may not be permitted to recover the same damages that he would have been entitled to recover had the action been commenced after the expiration of the term."

IMPROPER USE OF TELEPHONE.

In *Pugh v. Telephone Co.*, before the District Court of Cincinnati, the question was whether Pugh had forfeited his right to use the telephone by "damning" the company over the

wire. The rule prohibited the use of "improper or vulgar language." The court said in substance that it was hardly necessary, by its understanding of the rules of society, to go into an examination as to whether the word "damn" is profane or vulgar. Judge Barr of the United States District Court of Kentucky had already held that the word "damn," while not "obscene," was to be classed as "coarse, unbecoming, and profane," and in view of all the circumstances in the present case under which the word was used, it was patent to a majority of the court that it was used with a vile, low and insulting spirit, and if not profane, was manifestly improper. The rule prohibiting the use of "improper or vulgar" language was certainly a reasonable rule. "The telephone reaches into many family circles. It must be remembered that it is possible, from the peculiar arrangement of the instrument, to have a communication that is intended for one individual reach another. All communications, therefore, should be in proper language. Moreover, in many cases the operators in the exchanges are many of them refined ladies, and even beyond this, all operators are to be protected from insult. Besides, the inventors have a right to be protected, and have their instrument placed in a respectable light before the world, otherwise it might go out of use." One judge dissented on the narrow view that "damn" is not profane. The *Albany Law Journal* remarks that in considering the defendant's right to cut off the plaintiff for "damning" over the wire, the Court, as may well be supposed, could not find any case exactly in point. "The nearest approach is *Pendegrast v. Compton*, 8 C. & P. 462, an action of damages, by a captain in the army, for breach of contract by a ship captain to carry the plaintiff and his wife as cuddy passengers on a voyage from Madras to England. The defendant undertook to justify by showing that 'the conduct of the plaintiff was vulgar, offensive, indecorous and unbecoming,' and constituted good cause of exclusion from the cuddy. The Court said: 'There is some evidence that he was in the habit of reaching across other passengers, and of taking potatoes and broiled bones with his fingers. It would be difficult to say, if it rested here, in what degree want of polish would, in point of law, warrant a captain