

## The Legal News.

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### THE UNITED STATES SUPREME COURT.

There are two very remarkable facts in reference to this Court; first, that it has achieved so much; and, secondly, that its utter failure to keep pace with the work has not sooner compelled the adoption of some scheme of relief. In this Province it is considered a hardship that in ordinary cases a year must elapse before an appeal will be called in its turn on the roll; but a case usually stands three years on the docket of the U. S. Supreme Court before it is reached. Yet, as we have said, the work actually accomplished is marvellous. For the first twenty years after the organization of the Court in 1790-1, the average number of causes pending annually was less than one hundred. But during the past twenty years the average number of causes on the docket, at the beginning of each term, has increased from less than three hundred and fifty to nearly twelve hundred, while the number annually disposed of has increased from an average of less than one hundred and fifty to nearly three hundred and sixty. In 1880-1, the term opened with a docket of 1,202 cases, of which 365 were disposed of during the year, leaving 837 cases untouched. The Court has therefore attained a speed of one case per day, Sundays and holidays included—a pace which it can hardly be expected will be exceeded without detriment to the usefulness of the tribunal. The measures of relief proposed are conflicting. On one side it is desired to have the Court sit in divisions at Washington, while others urge the establishment of intermediate appellate courts in various portions of the country.

### IMPLIED WARRANTY.

An interesting question, on which the Lords Justices of the English Court of Appeal were divided, is discussed in *Robertson v. Amazon Tug & Lighterage Co.*, which will be found in the present issue. The plaintiff agreed to take a named steam tug for a particular service, and it turned out that the boilers were out of order,

and that she was not fit for the service, but this was not known to either party at the time of the contract. The question was whether there was an implied warranty by the owners of the tug that the vessel was reasonably fit for the service for which it was to be used. Lord Justice Bramwell was for affirming the judgment of Chief Justice Coleridge, that there was such a warranty; but Lords Justices Brett and Cotton concurred in reversing the judgment, holding that when there is a specific thing there is no implied contract that it shall be reasonably fit for the purpose for which it is hired or is to be used. It will be observed that Lord Justice Bramwell referred to French as well as United States authorities in support of his view. The decision of the majority, however, would seem to be consonant with our law, for it was admitted that the defects were obvious to any one who had looked at the boilers, and the plaintiff had an opportunity of inspecting the vessel.—See Art. 1523, C. C.

### NOTES OF CASES.

#### SUPERIOR COURT.

MONTREAL, JUNE 22, 1882.

Before TORRANCE, J.

Ex parte JAMES B. WALKER, petitioner for certiorari; & THE CITY OF MONTREAL, prosecutor.

*Power to license and regulate—Junk store.*

*A power to license and regulate junk stores does not include a power to tax them for revenue.*

PER CURIAM. This is a motion to quash a conviction made by the Recorder on the 30th December, 1881. On the 28th June, 1876, by-law No. 99 was passed by the City Council enacting that (sec. 2) "From and after the first August next no person shall carry on the business of a junk dealer in this city, unless such person shall have obtained from the City Treasurer a license to that effect, for which such person shall pay the sum of fifty dollars."

The petitioner was charged by the city in 1881, business duty on rental \$1,200 at 7½ per cent, \$90, and special rate for junk dealer, \$50. The special rate as junk dealer was not paid, and he was accordingly convicted of the offence of carrying on the business of a junk dealer without license, and fined accordingly. The conviction is alleged by petitioner to be bad, "be-