

The Legal News.

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LAWYERS IN THE LEGISLATURE.

The *Irish Law Times*, with reference to the prejudice against lawyers as members of the Legislature, has the following remarks:—

We read in a writ of summons, in the fifth year of Henry IV, "the King willed that neither you, nor any other sheriff (*vice-comes*) of the Kingdom, or any apprentice, nor other man following the law should be chosen." "This prohibition," says Coke, "was inserted in virtue of an ordinance of the Lords, made in the forty-sixth year of Edward III; and by reason of its insertion, this parliament was fruitless, and never a good law made thereat, and therefore called *Indoctum parliamentum*, or lack-learning parliament. Since this time," he adds, "lawyers (for the great and good service of the commonwealth) have been eligible." And yet, to this day, there survives an old-fashioned and most unreasonable prejudice against the election of lawyers as parliamentary representatives, which, apart from either politics or polemics, would justify us in bespeaking fair play for any candidate who happened to be connected with the legal profession. With politics and polemics we have nothing to do; but it is only right that, when a member of the legal profession seeks the suffrages of a constituency, we should deprecate a prejudice detrimental to the interests of the profession generally, while calculated to impede "the great and good service of the commonwealth," which is now more than ever in the power and directly within the province of legal members of the Legislature to effect. It is a time of changes, many and momentous in matters needing the most watchful supervision of lawyers—not that the legal profession alone is vitally affected, but that every subject in the land is vitally affected in his person or property by measures which have been already projected for good or for evil, and which for good or for evil will largely depend on the legal skill that is brought to bear on their provisions. It is a time when, whether the government be conservative or liberal, change

is the order of the day, and when the lawyer, whether he be conservative or liberal, is best able to render "great and good service to the commonwealth." And instead of rejecting a lawyer merely because he is a lawyer, it should be considered, that for this very reason, he can do service great and good. Again, none so much as he comes into such public and hostile contact with all classes and ranks of society; it is his pursuit to expose dishonesty and crime; the witness dreads him—the suitor recoils from him. But neither should the prejudice hence arising affect the choice of a parliamentary representative; rather it should be deemed that, by reason of his very familiarity with the legal aspects of vice and folly, his is the voice to guide, and his the pen to prescribe the legislation that vice and folly has rendered necessary. Tested, he should be in many ways; but when he is to be judged of as a lawyer merely, apart from politics or polemics, the truest test is the estimate of his fitness formed by his own profession.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, January 31, 1879.

MC EACHERN V. THE CITY OF MONTREAL.

FRASER V. THE CITY OF MONTREAL.

Calling out the Militia—Grounds for the requisition—Liability of City for the cost.

JOHNSON, J. These are two cases by commanding officers of volunteers against the city, to recover the pay due to their men, and the cost of transport of some of them, on the occasion of their having been called out on the 12th of July last. The pleadings and evidence are alike in both cases. The statutes to be looked at are the 36th Vic. c. 36, and the amendment (40 Vic., c. 40). The power in case of actual riot, to obtain the services of the active militia in aid of the civil power, was given by the 27th section of the Act of 1868 (the 31st Vic., c. 40). That was amended by the 1st section of the Act of 1873 (36 Vic., c. 46), which is as follows:—"The active militia, or any corps thereof, shall be liable to be called out for active service, with their arms and ammunition, in aid of the civil power in any case in which