LEGAL.

Mr. Thos. Mowbray, of Toronto, one of the unsuccessful competitors in the competition instituted by the Dominion Government for designs for statues of Queen Victoria and the late Hon. Alexander Mackenzie, has entered an action for damages against the Minister of Public Works on the ground that the model which he sent to Ottawa, was seriously damaged as the result of being carelessly and improperly packed by the Government officials.

Brennan vs. Harding & Leathorne.—In this action tried before a jury at London, Ont., on April 12th last, B. was employed by a firm of contractors, and while working in a ditch, at a distance of about ten feet below the surface, was injured by a cave-in. He claimed that the accident was caused by lack of proper "shoring," and that he was injured for life, andisued the contractors for $5,000 damages. The contractors asserted that every precaution had been taken, and that the accident was occasioned by what could not have been foreseen. During cross examination B. admitted that the contractors had treated him well—that they had paid $140 for doctor's bills and hospital charges, and had insisted upon his returning to the hospital after he had left it. B. also admitted that he had gone out of the hospital when the doctor had advised him not to do so, and that he had taken a few drinks, which the doctor told him had delayed his recovery. The jury gave a verdict in favor of the contractors, and the action was dismissed.

Harris vs. Martin.—In this case argued recently before Chief Justice Falconbridge, in the Divisional Court at Toronto, judgment was given on appeal by plaintiff from judgment of County Court of Perth dismissing action for injunction to compel removal by defendant of a gable on his house, overhanging plaintiff's land, and to restrain defendant from permitting water, ice and snow to flow off the roof thereof upon plaintiff's land. The plaintiff and defendant were purchasers of adjoining properties from a common grantor, the plaintiff having purchased in 1891, and the defendant in 1893. The judge below found that the plaintiff's purchase covered all the land up to the wall of the house occupied by the defendant, including the land under the overhanging gable, and that the law, as laid down in Wheeldon vs. Burrows, 12 Ch. D. 31, preventing any implication arising in favor of a reservation by plaintiff's grantor of any easement in derogation of the grant, was subject to exception in the case of easements of necessity, and that the easements of maintaining the gable and allowing the water, ice and snow to be deposited from the roof upon plaintiff's land, were easements of necessity within this exception. Held, that under the circumstances such as here existed, the rights of the grantee are to be found in the terms of his conveyance, subject to an exception in cases of necessity, of so urgent a nature that it would not be possible to conceive the intention of the parties to the contract to be complete without admitting the implication. Assuming, as the judge of the County Court found, and as the plaintiff does not now dispute, that Cornelia Armstrong conveyed to him all that part of lot 17 lying to the east of the brick wall, and there is no necessity compelling the court to imply an intention on her part to reserve to herself the right, inconsistent as it is with the terms of the grant, to maintain a roof overhanging the land conveyed, or a right to cast water and snow upon it. The overhanging roof is not an essential or vital part even of the small building of which it forms part, and it may be removed and other means adopted of disposing of the rain and snowfall without any great difficulty—certainly without so much difficulty as the court would have in assuming a grant from the plaintiff of the rights claimed by the defendant. Judgment below varied by dismissing the claim of the plaintiff as to the portion of lot 17 lying to the west of the line of the east face of the brick wall of the defendant's house, produced in both directions, and by restraining the defendant from trespassing upon the land of the plaintiff being all that portion of lot 17, lying to the east of the said line by maintaining any structure overhanging it, or by shedding snow or water upon it, or otherwise. Plaintiff to have against the defendant the costs of the action, excepting in so far as the costs of the issue with regard to the two and a half feet are concerned, which costs are to be taxed to the defendant; the plaintiff also to have the costs of the appeal.