

to law. The judge is required to decide whether he deems the evidence adduced before him sufficient to justify the apprehension and commitment for trial of the person accused if the crime had been committed in Canada. If he finds in the affirmative he should so state it in his commitment, and certify the fact to the proper executive authority. His functions do not extend to determining whether the accused should be extradited; that rests with the Governor General after the evidence has been reported to him. If the judge fails to state in the commitment that he deems the evidence sufficient, the commitment will be held defective and insufficient.

Where a person charged with a crime is committed in pursuance of a special authority, the commitment must be special and must exactly pursue that authority. If the commitment does not on its face show that the case of the accused falls within the terms of the extradition treaty and the statutes authorizing the proceedings in extradition, or fails to contain the proper statutory conclusions, no sufficient cause of detention will have been shown, and he will be liberated on *habeas corpus*. (Q. B.), *Ex parte Zink*, 6 Q. L. R. 260.

Prescription.—A charge, partly for manual work done and partly for moveable effects sold and delivered, (as, for example, for the care and feeding of animals by a farmer, including the supply of the fodder consumed,) is prescribed by five years.—*Leclerc v. Proulx* (C. R.), 6 Q. L. R. 269.

Attachment—Affidavit.—In an affidavit for attachment it is not necessary to state the time when or the place where the debt was contracted. (*Hurtubise v. Bourret*, 23 L. C. J. 131, followed.)

2. The allegations in an affidavit for attachment under C. C. P. 834, as to the grounds of deponent's belief that defendant is immediately about to secrete his property, &c., may be stated according to form 45, although that form is given in connection with Art. 842.—*L'Heureux v. Martineau*, (S. C.)—6 Q. L. R. 275.

Procedure—Registrar's Certificate—Contestation.—Under the existing law, by which a hypothecary creditor is not required to file an opposition *a fin de conserver*, he is not obliged to contest the registrar's certificate at the same time that he contests the report of distribution. *Carrier v. Boucher* (C. R.) 6 Q. L. R. 282.

RECENT CRIMINAL DECISIONS.

Manslaughter—Negligence.—A. was a member of a rifle corps. On May 29 he attended the rifle practice. After the practice it was his duty to take his rifle back to the armory. He did not do so, and the drill instructor missed six cartridges from the magazine when he went there about half an hour after the practice was over. A., with B. and C., then fixed a temporary target in an apple tree in a garden, and fired with the rifle from a distance of 400 yards. One of the shots killed a boy who was in the apple-tree. The jury found A., B., and C. guilty of manslaughter. There was no evidence which of the prisoners fired the shot which caused death, and the question reserved was whether there was any evidence upon which either or all of the prisoners could be convicted of manslaughter. *Held*, that the conviction was right; because the prisoners all joined in a dangerous act, (without taking proper precautions) whereby a person was killed.—*Regina v. Salmon*, crown case reserved, Dec. 4, 1880. (43 L.T. Rep. N.S. 573.)

Indictment—Burglary and Larceny.—An indictment for burglary and the larceny of certain articles "of the goods and chattels of A and B," is not sustained if the articles, all in the possession of A., belonged some to A. and some to B.—*State v. Ellison*, Supreme Court, New Hampshire. (To appear in 58 N.H.)

Assaults upon children.—A person charged with assaulting a child of seven years of age, may allege the consent of the child as a defence.—*Regina v. Roadley*, Crown Case Reserved. (49 L.J., M.C. 88.)

GENERAL NOTES.

The *Irish Law Times* is the authority for the following amusing anecdote of a conscientious witness and how his objection was overcome by a quick-witted judge:—

"While the jury were being sworn in what is known as the Kilbury Eviction case, at Waterford, on the 16th December, one of them entered the jury-box with his hat on, and on being asked to remove it, addressing his Lordship, said, 'I have a conscientious objection against taking off my hat.'

"Mr. Justice Barry, 'Then some other gentleman will take it off for you.'

"Whereupon another juror immediately removed the hat."