

The Legal News.

VOL. XII. FEBRUARY 23, 1889. No. 8.

Mr. Wigmore's article upon the jurisprudence of Louisiana presents in a very clear light the history of the law in that State, and will be especially interesting to the bar of this Province which has a code based upon the same model, and where the decisions of the Louisiana Courts are so often cited.

We have received the first issue (January, 1889) of *The Green Bag*, "a useless but entertaining magazine for lawyers," published by Mr. C. C. Soule, Boston, and edited by Mr. H. W. Fuller. If the epithet "useless" were strictly applicable to the contents we should have some doubt as to the stability of our new contemporary, for a mere comic journal devoted to the law would probably be more tedious than the average comic paper. But the opening number of *The Green Bag* is better than its title might lead the reader to anticipate. There is a notice of Chief Justice Fuller, with a very handsome portrait; an article on the *Whitechapel Tragedies*; a poem by Mr. Irving Browne, who is always amusing when he bursts into rhyme; a descriptive article on the Harvard Law School, with beautifully executed illustrations; the *cause célèbre* of Papavoine; and other matter. The mechanical execution of the number is in the style of an art journal, and leaves nothing to be desired. The idea is to supply the profession with "a bright, entertaining magazine, designed rather to interest and amuse than to instruct." The present number promises well, and we have no doubt that *The Green Bag* will become a favorite visitor.

SUPERIOR COURT.

SHERBROOKE, 1888.

Coram BROOKS, J.

HILL V. THE GRAND TRUNK RAILWAY CO.

Railway—R.S., ch. 109, s. 47—Raising bridge—Right of Proprietor injured to indemnity.

Held:—That a railway company which, under

the provisions of 44 Vic., cap. 24, s. 3, (now Revised Statutes of Canada, cap. 109, s. 47,) extended to defendant by 46 Vict. cap. 24, without obtaining the consent of the municipality or the owner, raised a municipal bridge passing over their railway and also the approaches thereto, is liable to the adjoining proprietor, for the damage sustained by him by reason of the increased height of the highway as it approaches the bridge.

PER CURIAM.—The plaintiff alleges that he is the owner of a quarter of an acre of land in Richmond, and brick dwelling house, bounded in front by the Queen's highway, and on one side by defendants, having acquired this property in 1876. The defendants, in July or August, 1883, raised the bridge crossing defendants' track and the highway approaching it in front of plaintiff's house, to plaintiff's damage of \$1,700. That defendants caused an increased quantity of snow to accumulate on plaintiff's property, increased the difficulty of ingress and egress, injured the house in appearance, and rendered it damp and unhealthy.

The defendants plead, 1st. That the highway is under the control of the municipal authorities of the Town of Richmond, and the plaintiff's action, if any, should have been against Richmond.

2nd. That the work was done under 44 Vict., ch. 24, (1881), now Revised Statutes of Canada, ch. 109, s. 47, extended to defendants by 46 Victoria, ch. 24, and this was done with the consent and knowledge of the municipality of Richmond, the approaches raised to correspond with the bridge, and the defendants not responsible.

3rd. General issue.

As to the first question, that the action should have been brought against the municipality, I think it is untenable. In the *Les-sard & Lambert* cases, 10 R.L., pp. 359 and 441, Queen's Bench, Appeal side, the actions against the corporation were dismissed on the ground stated in the judgment, that the works were done by the Railroad Company, and that the Corporation had no control. That is not the present case. See Revised Statutes, Canada, cap. 109, sec. 47, sub-sec. 2, which declares that the Railroad Company shall