

McLeod, J.]

KANE v. KERRIGAN.

[Sept. 24.

*Criminal law—Abusive language—Breach of the peace—Place of offence—25 Vict., c. 17, s. 9 (N.B.).*

By the above Act a penalty may be imposed "upon any person who shall by insulting or abusive language or behaviour, taunting epithets or threatening gestures, attempt to provoke another person to commit a breach of the peace in any public street, thoroughfare, alley, road, or by-road, or in any building, or whereby a breach of the peace may be occasioned." Defendant having been convicted under a by-law framed under the Act, for having used abusive language in a field fronting on a highway,

*Held*, that the offence must occur in a place named in the Act.

*Mullin*, for appellant. *Skinner*, Q.C., and *Ashe*, for respondent.

McLeod, J.]

FRIGEAU v. COLLET.

[Oct. 10.

*Pleading—Signature of counsel—60 Vict. c. 24, s. 97.*

Where plea was signed by attorney and not by counsel, and plaintiff relying upon the English practice treated the plea as a nullity and signed judgment, the judgment was set aside, and leave given to amend the plea, the defect being held to be an irregularity at most, and the English practice distinguishable.

*Carter*, for plaintiff. *Davis*, for defendant.

Barker, J.] CITY OF FREDERICTON v. MUNICIPALITY OF YORK. [Oct. 18.

*Market place—Erection of scales—Crown grant—Abridgement of grant by statute—Construction of statute.*

By crown grant, dated in 1817, the defendants' predecessors in title, were granted a block of land fronting on a public street "for a public market place." From that date until 1874 weigh scales were in use in front of the market building for weighing hay, straw and bulky articles, and were used in connection with the market. In 1874 the scales were voluntarily removed. In 1857, by 20 Vict., c. 17, s. 3, it was enacted that the land described in the grant "shall forever hereafter be under the sole control of the county council of the County of York, and their successors, and shall be used as a . . . street and square for the said . . . market house, and for no other purpose whatever. By s. 4 nothing in the Act "shall in anyway affect public rights." In 1898 the defendants began the erection of weigh scales in front of the market, and on land included by the grant, which erection it was now sought to restrain by injunction.

*Held*, that by 20 Vict., c. 17, the land in front of the market was not made a public street with the effect of making the proposed erection a nuisance as an encumbrance thereon, and that the right under the grant to erect the scales as part of the equipment of the market was not abridged by the Act.

*W. Van Wart*, Q.C., for plaintiff. *Black* and *Bliss*, for defendants.