

statute under which it is pleaded, but also those which are available at common law. (*Ross v. Clifton*, 11 A. & E. 631; *Williams v. Jones*, 11 A. & E. 645; *Eagleton v. Gutteridge*, 11 M. & W. 465.)

Large powers to adjourn the hearing, to permit either party in a Division Court suit to serve any notice necessary to enable him to enter more fully on his defence, are given by section 86, and there may be cases when it would be proper to enable a defendant, who had omitted to do so, to give notice of (or plead) the general issue under section 194, but in such case, and as one of the terms, the judge ought to require the defendant to state specifically the special matter or matters he purposes giving in evidence.

The privilege of giving any special matter in evidence, under the general issue, has been strongly impugned as a violation of the first principles of justice, and the expediency of granting it, to paid officers at least, admits of much question. When, therefore, a matter comes as an appeal to the judge's discretion, he ought to take care that the plaintiff has full knowledge of the particular defence that is to be set up against his claim, when it comes on to be tried.

MAGISTRATES, MUNICIPAL & COMMON SCHOOL LAW.

NOTES OF NEW DECISIONS AND LEADING CASES.

[Under this head will be placed notes giving in substance new decisions relating to the law as it affects Justices of the Peace, Coroners, County, Town and Township Municipalities, School Trustees, Municipal Officers and Constables, with occasional reference to established cases of general importance, and which may be called leading cases on the branch of the law to which they refer.]

VAGRANT ACT—GAMING.—The English act on this subject designates as a rogue and vagabond a person "who plays or bets in any street, road or highway, or other open or public place, at or with any table or instrument of gaming at any game or pretended game of chance." The current coin of the realm was held not to be "an instrument of gaming" within the statute, and therefore that "pitch and toss" was not gaming: (*Watson v. Martin*, 11 L. T. Rep. N.S. 372.)

DEMANDING MONEY BY THREATS.—A policeman, late at night, met prosecutor, who had just parted from a prostitute, and told him that he must go with him to jail, for he was under a penalty of £1 for talking to a prostitute in the street; but if he would give him 5s. he might go about his business. The prosecutor gave him 4s. 6d., but whilst he was searching for the other 6d, the inspector came. It was held to be no answer to the charge, that all the money had not been obtained. The offence was a larceny; and also that it was a menace within the meaning of the act: (*Reg. v. Robertson*, 11 L. T. Rep. N.S. 387.)

SALE OF INTOXICATING LIQUORS — BY-LAW.—A by-law prohibiting the sale of intoxicating liquors on Sunday to all persons, without excepting travellers and boarders, is invalid. But a by-law prohibiting the sale of intoxicating liquors to idiots and insane persons is good: (*In re Ross v. Mun. of York and Peel*, 14 U. C. C. P. 171.)

MUNICIPAL LAW—CONTRACT.—"ORDINARY EXPENDITURE."—The plaintiff entered into a contract under seal with a city corporation to construct a main drain and macadamise a street. Having done the work he sued for it. There was no by-law authorising the contract. *Held*, that this was not a matter of "ordinary expenditure," and that the plaintiff could not recover; and also that the fact of the plaintiff being allowed to go on without any intimation that no by-law was passed could make no difference: (*Cross v. Corporation of Ottawa*, 23 U. C. Q. B. 288.)

COMMON SCHOOLS—MANDAMUS TO LEVY RATE — ESTIMATE.—The school trustees of a town passed a resolution to apply to the corporation "for an appropriation of \$3000 for the erection of school premises at, &c." This resolution was laid before the corporation, and a by-law was passed accordingly. This by-law was subsequently repealed on being found to be defective. This resolution of the trustees was not considered by the court a sufficient estimate; that preparing an estimate meant something more than resolving to make an application for a large sum of money for erecting school premises; and that there should be something to shew that proper enquiries and calculations had been made, and that the sum asked for was necessary and sufficient for the purpose required. But it was held that the objections to the estimate were cured by the corporation having passed a by-law in pursuance of it. As the by-law was invalid, and the estimate insufficient, the court would not grant a mandamus to enforce either.