

OVERHOLDING TENANTS.—THE LOWER CANADA LAW JOURNAL.

person in whose custody such official or public document," &c., shall be receivable in evidence of any particular in any court of justice, or before any legal tribunal, &c.; and section 60 of Con. Stat. C. ch. 102 enacts, that after examinations taken before magistrates have been completed, and before the first day of the court to which the prisoner is committed to be tried, &c., the prisoner *may demand from the officer or person having custody of the same* copies of the depositions on which he has been committed, &c., on payment of a reasonable sum for the same, not exceeding five cents for each folio.

Under one or both of these enactments the judge might well receive certified copies of the depositions from the County attorney, if express authority were needed for receiving that species of evidence of depositions taken in the charge upon which a prisoner applies to be admitted to bail.

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It might naturally be supposed by those taking a cursory glance at the statutes of 1864, that these disagreeable people had, after all that has been said about them, been effectually provided for by the legislature. It was perhaps thought that giving jurisdiction in the premises to the county judges, was all that could possibly be necessary. This, of course, was a high compliment to them, for which, as for many other favours of the same kind, they are doubtless very grateful.

It will be seen by comparing the late act (27 & 28 Vic., cap. 30.) with the 63rd sec. of the Ejectment Act, (Con. Stat. U. C., cap. 27, sec. 63, taken from 4 Will. IV., cap. 1, sec. 53) that the first and second sections of the act first referred to are copied, almost word for word, from section 63 of the Ejectment Act. Now these sections define the class of tenants that come within the provisions of the act; and therefore the decisions on the earlier statute on this point, apply equally to the later one. But these decisions, which were collected and commented on in an article on this subject in a previous volume,* shewed various defects in the law as it then stood, and which therefore still exist.

These cases shew that the operation of the act is very limited. It does not apply to

tenancies at will, to monthly tenancies, to tenancies from year to year, nor to cases where a term is forfeited by breach of covenant; in fact the act is confined to cases where the tenant holds over after the expiration of a term certain, created by the contract of the parties, and becomes a trespasser and liable to be ejected without notice or demand.

It is a pity that this was not looked to when the last enactment was introduced. We did our duty in the premises by calling attention to the defects in the then existing law. Perhaps the next law-maker that tries his hand on the law of landlord and tenant, will take the hint and be more successful.

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It is proposed, in Montreal, to issue on 1st July next, a legal periodical under the above title, "to take somewhat the same position" there "that the *Upper Canada Law Journal* holds in the Western Province."

We shall be glad to welcome this periodical, and hope for its success. We do so without in the slightest degree reflecting upon the *Lower Canada Reports*, or the *Lower Canada Jurist*, both of which publications are of a high character. But devoted as they are exclusively to reports of decided cases, their ambit is necessarily limited.

It is intended that the *Lower Canada Journal* shall contain original articles on subjects interesting to the profession, important proceedings and decisions of all the courts, civil and criminal, selected matter from English and American periodicals, miscellany of intelligence interesting to the profession, and be a medium of communication between members of the profession.

The publication will be a quarterly one, and the price only \$2. But in order to be of much service to the profession as a medium of communication and miscellany of intelligence, it ought at least to be a monthly. This we presume it will soon become, if the project receive the support it deserves.

We have received a copy of Mr. McMillan's "New Manual of Costs, Forms, and Rules in the Common Law Courts of Upper Canada." It appears to be a most useful little book, containing 142 pages. We shall refer to it again in our next issue.

* 10 U. C. L. J., 1.