

The Legal News.

VOL. IX. MAY 15, 1886. No. 20.

The *St. James Gazette* refers to an interesting case relating to the powers of a presiding officer in a deliberative assembly:—"Three judges of the Supreme Court in Scotland have just decided some points of interest respecting the rights of persons attending public meetings. The sheriff substitute of Orkney had sent to prison for four days a Mr. Armour, a Free Church minister, for the offence of disturbing an election meeting, and refusing to submit to the chairman. It appeared that Mr. Armour had desired to put a question to the candidate, and prefaced it with a speech, which the meeting was willing to hear, but the chairman ruled it to be out of order, and Mr. Armour declined to submit to the ruling. Upon this the meeting grew noisy, and the chairman declared it closed. Mr. Armour appealed against the conviction to the court in Edinburgh, and that learned tribunal transmitted an order by telegraph for his liberation until the case could be argued. After argument it quashed the conviction. All the judges agreed that the facts alleged, even if true, amounted to no crime. In a public meeting they held that the chairman has no power except what the meeting gave him; and one of them, Lord Young, once well known in the House of Commons as Solicitor General for Scotland, cited that assembly as the model of all others, and observed that the speaker had no inherent powers, and only acts in the name of the house. Any person present at a public meeting, if he has the support of the majority, is entitled to speak, although the chairman, or a minority, may object."

It is not a new thing for judges to complain of acts of the provincial legislatures passed without consultation with or reference to the bench, but a personal complaint like the following is rare:—Judge Palmer, of St. John, N. B., before taking his seat on the bench of the Equity court last week, said:—"Since the last sitting of the court, the Pro-

vincial Legislature has passed an act relative to my office without giving me any notice or intention that such would be done. I do not know what are its provisions, but be they what they may, that act is now part of the law of the land—at least so far as it is *intra vires* of the local Legislature, and although I did suppose, from what I had heard, that false statements to my discredit were made in the Legislature, that a bill was being promoted as personal legislation against myself, the clear effect of which was to degrade and insult me; and although I do not know what its provisions are until I get a copy of it, yet if I then find therefrom that my independence as a judge will be restrained or interfered with and that I cannot, with proper self respect, submit to it, I will consider it my duty to abstain from further acting in the office, except to close any business that I began, until I get the decision in the matter."

In a cable report, in the *N. Y. Herald*, of a case (not named), before Mr. Justice Stephen, an interesting discussion took place upon an old maxim. A farmer was prosecuted for having voted at three different places in one borough. He had three qualifications, and if these had been in different boroughs, his right would have been admitted, but he was not entitled to vote three times for one candidate. The defence admitted the voting, but claimed entire absence of guilty intention. Mr. Justice Stephen stopped the examination of witnesses to prove this, saying: "I do not see what all this evidence goes to prove. Supposing he did think he had the right to vote three times. That does not alter the admitted fact." What ensued is thus reported:—

Mr. Williams quoted the maxim that no act is guilty unless accompanied by a guilty mind (*actus non facit reum, nisi mens sit rea*).

Mr. Justice Stephen (vehemently)—That is a maxim I would give a great deal to know the origin of and its meaning in plain English.

Mr. Williams—An act is never guilty unless the intention is guilty.

Mr. Justice Stephen—If the law says every man who reads his Bible shall be hanged, then the intentional reading of the Bible by a man who never heard that act of Parliament would be a capital crime, and it would be a guilty act, because the law was disobeyed. Of course circumstances go a long way in the matter of punishment.