

N.B.]

MOORE v. WOODSTOCK WOOLLEN MILLS CO.

[June 5.]

*Highway—Dedication—User—Evidence.*

In order to establish the existence of a public highway by dedication it must appear that there was not only an intention on the part of the owner to dedicate the land for the purposes of a highway, but also that the public accepted such dedication by user thereof as a public highway.

In a case where the evidence as to the user was conflicting and the jury found that there had been no public user of the way in question, the trial judge disregarded this finding and held that dedication was established by a deed of lease filed in evidence, and this decision was affirmed by the Full Court.

*Held*, that as such decision did not take into account the necessity of establishing public user of the locus it could not stand. Judgment of the Supreme Court of New Brunswick reversed. Appeal allowed with costs.

*Gregory*, Q.C., for the appellants. *Stockton*, Q.C., and *Connell*, Q.C., for the respondent.

Ont.]

IN RE LAZIER.

[June 5.]

*Appeal—Habeas corpus—Extradition—Motion to quash—Necessity for motion.*

L. having been ordered to be extradited to the United States on charges of forgery and other offences obtained a writ of habeas corpus and applied to MEREDITH, C.J., for his discharge, which was refused, (*In re Lazier*, 30 O.R., 419, ante, p. 380). The Court of Appeal having affirmed the judgment of MEREDITH, C.J., the prisoner sought to appeal to the Supreme Court of Canada, and on June 7th, 1899, the May session of the court being about to come to an end, application was made to have Friday, June 10th, or some later day, named for hearing a motion to quash such appeal, notice of motion having been given for the last named day.

*Held*, refusing the application, that there was no necessity for a motion to quash as the matter was coram non judice, sec. 31 of the Supreme and Exchequer Courts Act having expressly taken away the jurisdiction of the court to hear such appeals.

*A. F. May* for the application.

Ont.]

HENDERSON v. CANADA ATLANTIC RAILWAY CO.

[June 5.]

*Railway—Approach to crossing—Warning by ringing bell or whistling—Shunting—Negligence.*

H. while driving along a street in Ottawa came to a railway crossing and had reached the outer rail when an engine and cars engaged in shunting came along on another track nearer the opposite side. H. tried