

The Legal News.

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THE COURT ROOMS IN MONTREAL.

Much inconvenience is experienced by the bar in Montreal from the absence of accommodation in several of the Court rooms for the work which has to be done in them. The business of the city and district of Montreal is probably more than two-thirds of the entire judicial work of the Province, and it yields a large revenue; yet a great deal of it is transacted in apartments which were never intended for Court rooms, and are utterly inadequate for the purpose. The room assigned to the Practice division often does not afford seats for a third of the members of the bar who are in attendance, and the ingress to and egress from the few seats provided are worse than in an ill-arranged school-room. It is impossible that business can be conducted with decorum under these circumstances. The apartment, in fact, usually presents the appearance of an auction room rather than of a Court of justice. We have been urged to give expression to the dissatisfaction caused by the present defective arrangements. We do so with pleasure, and we think that the bar would be justified in insisting on some change that would give relief.

CONTESTATION OF CLAIMS BY INSOLVENTS.

Not often do insolvents feel sufficient interest in their estates to induce them to contest, in their own right, claims which are admitted by the inspectors or the creditors generally. It is easy to suppose such cases, however. Every bankrupt should feel an interest in making his estate go as far as possible in satisfaction of lawful claims, and the admission of a disputed debt to rank upon his estate of course diminishes the common dividend. And this interest in the administration of their estates might in some cases be increased by consideration of the moral obligation resting on insolvents to pay every just claim in full, if at any future period they should be in a position to do so. The

case of *Gervais*, insolvent, and *Heywood*, claimant, noted in the present issue, is an instance of a contestation by an insolvent of a claim upon his estate, and it raised an important question as to the liability of the insolvent to give security for costs before entering upon such a contestation. The letter of Sect. 39 of the Insolvent Act of 1875 does not at first sight seem to include this case, because the insolvent, apparently, is not taking the initiative in any proceeding, but simply acting on the defensive. The Court, however, holds that the prohibition to "institute any proceeding" without giving security must be held to cover the contestation of a claim by the insolvent in his own name, and this decision is, no doubt, in conformity to the spirit of the enactment.

PROCEEDINGS AGAINST INSOLVENT BANKS.

Attention has been directed by the case of *Mechanics Bank & Wylie*, *ante*, p. 315, to the difference which exists, with respect to appeals, between ordinary insolvency cases and those in which the Insolvent Act of 1875 is applied to Banks. In ordinary cases there is no appeal from an interlocutory order or judgment; but Sect. 12 of 39 Vict. c. 31, provides that when Banks are subjected to the operation of the Insolvent Act, there shall be an appeal from all orders, judgments and decisions. The Court of Queen's Bench is disposed to give full effect to this clause, but it has been decided in *Mechanics Bank & Wylie* that the exceptional right of appeal allowed by Sect. 12 must be subject to the ordinary procedure, that is to say, when the judgment is merely interlocutory, an application must first be made to the Queen's Bench for permission to institute an appeal. It may be said, why subject the party to the inconvenience of a special application where the statute declares that there is an appeal? But a special application is also required for leave to appeal from interlocutory judgments in cases where an appeal is given by Art. 1116 C. C. P., and no reason can be assigned why the two classes of cases should not be treated alike. And moreover, it is obvious, as the learned Chief Justice pointed out, that the right of appeal *de plano* from every order or judgment would make it easy for a Bank, if so inclined,