

## The Legal News.

VOL. XI. SEPTEMBER 15, 1888. No. 37.

A cloud of discussion has arisen upon the disallowance of the District Magistrates' Bill of last session, yet the principal point involved seems to be so clear as hardly to admit of any doubt. The provincial legislature may exclusively make laws in relation to the constitution, maintenance and organization of provincial courts. The Governor-General has the appointment of the judges of the superior, district and county courts. The District Magistrates' Act (subject to proclamation by lieutenant-governor-in-council) established a special court of record, and abolished the Circuit Court for the district of Montreal (in which Judges of the Superior Court have hitherto presided). But it went further, and provided for the appointment of the justices composing the new Court by the lieutenant-governor-in-council. In other words it divests the Superior Court of part of its jurisdiction, and the substituted judges are to be appointed by the lieutenant-governor-in-council. If by merely calling judges "magistrates," jurisdiction can be given up to \$100 to persons appointed by the lieutenant-governor-in-council, similarly jurisdiction can be given to any amount to persons appointed in the same way, and the judges of the Superior Court might be left with nothing to do. So, too, the provincial Court of Appeal might be replaced by a new bench styled "magistrates sitting in appeal." The provision of the B. N. A. Act, giving the Governor-General the power to appoint judges, would thus be evaded and destroyed.

But while the exercise of the veto power was necessarily called for by the manner of appointment prescribed in the Act, it would be a matter for regret if the assignment of the Circuit work to special judges, should not be carried out. The judges of the Superior Court, for the most part, desire to be relieved from Circuit Court work. It will in the end effect an economy in the administration of

justice, for the judges appointed to the petty Court need not be paid anything like the salaries assigned to judges of the higher Courts. The only thing required to settle the difficulty is that the bill be re-enacted, leaving the appointment of the judges in the proper hands.

Judge Paxson, of the Supreme Court of Pennsylvania, in a recent address before the Law Academy of Philadelphia, observed: "It is a question of some nicety how far a lawyer may go in defending a man charged with a crime, when he knows that his client is guilty. While I do not say that a lawyer may not defend a criminal with knowledge of his guilt, yet at the same time his duty in such cases is circumscribed within narrow bounds. It should be limited to holding the commonwealth to the proof of its case. A guilty man is entitled to the benefit of the forms and safeguards which the law throws around him, and counsel may properly require that they shall be observed."

The September list in appeal at Montreal, shows 84 cases inscribed. This is an increase of 12 over the May list, but is 5 less than the September list of last year. The long vacation, of course, gives an opportunity to move cases on, and it appears that 28 have been inscribed since the May term.

### COURT OF QUEEN'S BENCH, MONTREAL.\*

*Right to freight—Mortgagee of ship—Privilege for necessary supplies.*

**Held:**—(Reversing the decision of the Superior Court, M. L. R., 3 S. C. 424), 1. That where there are two distinct hirings of a vessel, the voyage under each hiring is a separate transaction, and freight upon the first hiring is earned by the vessel's arrival and readiness to deliver at the port of destination thereunder, although by the second hiring she may be engaged to convey her cargo to another port without unshipping the same at the first port.

2. Freight so earned may be collected by the master of the vessel, he being also princi-

\* To appear in Montreal Law Reports, 4 Q. B.