

The Legal News.

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The *Law Journal* (London) gives the following explanation of the incidents attending Mr. O'Brien's incarceration, which were confused in the cable despatches:—"The course adopted by the Recorder of Cork in first holding that Mr. O'Brien must not leave the building, then that he ought to be permitted to go out, and, thirdly, in explaining that he did not mean to interfere, and allowing Captain Stokes, the divisional magistrate, to take him into custody, is somewhat puzzling, and has naturally given rise to misapprehension. The truth is that the Recorder of Cork, although his sense of his own dignity or that of the Court which he represents cannot be said to be high, acted within the strict letter of his rights. The only duty which he and his Court had performed was that of confirming Mr. O'Brien's conviction by the Court of Summary Jurisdiction. As to Mr. O'Brien's detention or release, like Gallio, he cared for none of these things. The conviction was not the conviction of the recorder, nor of the Cork Quarter Sessions, and Mr. Hamilton had no concern in it, except so far as all the Queen's subjects are concerned in the execution of the law, none the less when they happen to be recorders and are sitting in their own Court. On the other hand, the action of Captain Stokes was not only justifiable, but obligatory. Mr. O'Brien had been convicted of a criminal offence, and sentenced to a term of imprisonment by a Court of competent jurisdiction. No warrant is required to detain a person so situated, and a police officer set to do his duty in a Court of law would be guilty of something like what the law calls an escape if he permitted his departure. Under the English Summary Jurisdiction Acts when a conviction is confirmed on appeal, the law is left to take its course. The Court of Summary Jurisdiction, no doubt, issues a warrant in due course for the protection of the gaoler, but no one ever heard before that between the confirmation and the issuing of

the warrant the convict was entitled to a run for his liberty. Under the Irish Summary Jurisdiction Act the form is for the clerk of the peace, after the decision of the Court of Appeal, to return a certificate of it to the petty sessions, and when the order has been confirmed the justices are to issue a warrant accordingly; but the legal consequences of a conviction are not suspended until this form is gone through. The fact that Mr. O'Brien had signed recognizances binding him 'to prosecute his appeal and not depart the Court without leave,' must have brought this state of the law home to him with great force."

In *Evans v. Von Laer*, the U. S. Circuit Court, Dist. Mass., Sept. 8, 1887, held that Montserrat being the name of an island from which both parties import lime juice, the complainants, in the absence of fraud, were not entitled to the exclusive use of the word "Montserrat" as a designation for lime juice, although their article may have acquired a high reputation for purity and strength, while that of defendant may be of an inferior quality. In the absence of fraud the complainants cannot enjoin the defendant from the use of a geographical name. This was settled in the case of *Canal Co. v. Clark*, 13 Wall. 311, where the Court refused to enjoin the defendant against calling their coal "Lackawanna Coal," and where it was held that no one can apply the name of a district of country to a well-known article of commerce, and obtain thereby such an exclusive right to the application as to prevent others inhabiting the district, or dealing in similar articles coming from the district, from truthfully using the same designation. The fact that such use by another person may cause the public to make a mistake as to the origin or ownership of the product can make no difference, if it is true in its application to the goods of one as to the other. Purchasers may be mistaken, but they are not deceived by false representation, and equity will not enjoin against telling the truth.

The following judicial appointments are gazetted for the Province of Quebec:—Louis Tellier, Esq., Q.C., of St. Hyacinthe, to be a