The Legal News.

VOL. II. JUNE 21, 1879. No. 25.

SERVITUDES.

One of the most interesting cases decided by the Court of Appeal during the present term is that of *Hamilton & Wall*. It was a question of the effect of certain words in a deed of sale,—whether a servitude *non edificandi* was actually constituted thereby. Hamilton sold to one Perrault a lot of land fronting on Donegani Street, in the city of Montreal, and in the deed, which was duly registered, was inserted the following clause: "Il est encore entendu, que "toute bâtisse qu'érigera le dit acquéreur sur le "dit terrain sera en ligne avec celle du dit "vendeur." At the date of this deed there existed on the vendor's adjoining lot a brick dwelling house, built thirty feet back from the line of Donegani Street. Perrault, the following year, sold the lot to Wall, who bound himself to comply with all the prohibitions and restrictions in the deed to Perrault, but subsequently he commenced the erection of a dwelling house twelve and a half feet in front of the line which his *auteur* Perrault had undertaken to observe. Hamilton protested against the erection, and Wall persisting, Hamilton brought an action for the demolition of the building. The Court below considered that the clause cited above was not sufficient to establish a servitude, but this opinion has been reversed in appeal, one Judge differing, and the demolition of Wall's building ordered.

DECISIONS AT QUEBEC.

Several points of interest were decided in appeal at Quebec during the June term, and through the kindness of some members of the Court, we are enabled to present a brief abstract of them. In *Mills & Weare* the Court declined to send back a portion of the record, in order that the principal suit might be proceeded with, while an appeal was pending on the rejection of the *saisie-arrêt* before judgment. In *Rheaume & Panneton*, the original lease contained a prohibition against subletting, subsequently there was a modification of the lease, and in the amended contract the clause containing the prohibition was dropped. This was held to be an abandonment of the restriction. The case of *H. & T.* shows that doctors will not be allowed to proclaim the maladies of patients who are remiss in making payment.

LIABILITY OF BANKS ON STOCK HELD AS COLLATERAL SECURITY.

A question of some importance to Banks was disposed of in the case of *The Railway & Newspaper Advertising Company & The Molsons Bank*. The Bank was sued for calls on some partially paid up stock which had been transferred to it as collateral security. There were several questions raised in the case, but the judgment of the Court below, relieving the Bank from liability, appears to have been confirmed on the ground that Banks are not liable for any calls which may be made on shares in other companies held by them as collateral security. The shares had not been transferred to the Bank on the books of the company plaintiffs, and it was contended that under section 34 of the Canada Joint Stock Companies' Letters Patent Act, 1869, under which the plaintiffs were incorporated, the Bank and the registered owner were jointly and severally liable. The clause is as follows: "No transfer of stock, unless "made by sale under execution, shall be valid "for any purpose whatever, save only as exhib- "iting the rights of the parties thereto towards "each other, and as rendering the transferee "liable, *ad interim*, jointly and severally with the "transferor, to the company and their creditors, "unless the entry thereof has been duly made "in such book or books." But the Court held that the case came under section 44 of the Act: "And no person holding such stock as "collateral security shall be personally subject "to such liability; but the person pledging "such stock shall be considered as holding the "same, and shall be liable as a shareholder "accordingly."

At the beginning of this year, case-law in the United States was rerespented by the immense number of 2,823 volumes of reported decisions.