

The Legal News.

VOL. II. NOVEMBER 15, 1879. No. 46.

CHANGE OF VENUE.

A point of some interest was noted in our last issue, in *Reg. v. Corwin*, p. 364. Under the Act respecting Procedure in Criminal Cases, 32-33 Vict. cap. 29, s. 11, "Whenever it appears to the satisfaction of the Court or Judge hereinafter mentioned, that it is expedient to the ends of justice that the trial of any person charged with felony or misdemeanor should be held in some district, county or place other than that in which the offence is supposed to have been committed, or would otherwise be triable, the Court at which such person is or is liable to be indicted, may at any term or sitting thereof, and any Judge who might hold or sit in such Court, may at any other time order, either before or after the presentation of a bill of indictment, that the trial shall be proceeded with in some other district, county or place within the same Province, to be named by the Court, or Judge in such order."

Under this Statute, an application for change of venue was made on behalf of Corwin, a railroad official, who had been charged with manslaughter on the finding of a Coroner in Three Rivers; but instead of going before the Court or Judge who would try the case in the District of Three Rivers, the petitioner made his application before the Court of Queen's Bench sitting in appeal at Montreal. The Court did not find anything in the Statute or in the circumstances of the case to support such an application. Ramsay, J., said: "We have no reason given us why the Court at Three Rivers should not take cognizance of the matter." Monk, J., was disposed to go even further, for he doubted whether the Court of Queen's Bench sitting as a Civil Court, could take cognizance of such an application. This point, however, remains open, as the judgment went no farther than to say that, even assuming the jurisdiction of the Court to exist, it had not been shown that it was a case for the Court to exercise its discretion. In Mr. Brydges' case, which was referred to, one Judge of the Court, sitting in Chambers, granted an application for change of

venue, but the circumstances were somewhat different. Mr. Brydges, then General Manager of the Grand Trunk Railway, was charged with manslaughter on the finding of a Coroner at Quebec, and he was arrested at Montreal, where he resided. He applied to Mr. Justice Badgley, in Chambers at Montreal, for change of venue, and the learned Judge granted the application. Mr. Justice Badgley, however, had jurisdiction, for he was one of the Judges who might have held the Court at Quebec, at which the defendant might have been indicted, and it was simply a question whether he should exercise his discretion under the Statute.

APPOINTMENT OF QUEEN'S COUNSEL.

The Supreme Court, on the 4th instant, in giving judgment in *Lenoir v. Ritchie*, an appeal from Nova Scotia, held that the Governor-General alone has the right to confer the rank or dignity of Queen's Counsel in Canada. The effect of this decision is to annul the appointments of about one hundred Queen's Counsel in the various Provinces of the Dominion. This, we believe, is in accordance with the opinion entertained by Sir John A. Macdonald after Confederation. Mr. Blake, and other able lawyers, on the other hand, maintained the right of the Lieutenant-Governors to make such appointments. The question is one of difficulty, and the views of the Judges of the Supreme Court seem to differ considerably, but Henry, Taschereau and Gwynne, JJ., constituting a majority of the five Judges who took part in the judgment, concurred in claiming for the Governor-General the right of conferring this honor.

The decision has been received with a degree of satisfaction by the profession throughout Canada. This feeling is, no doubt, to be attributed to the fact that the dignity of Q. C. has been conferred with too great liberality. We do not think that the appointments which have been made by the Provincial Governments are so open to reproach as some have imagined; but when it is considered that Her Majesty has been more abundantly supplied with Counsel in Canada than in all England, it is clear that the dignity has fallen considerably in its value. The excess in the number of appointments was, in fact, almost inseparable from the system. The tendency is to confer the rank of Q. C. as a reward for political service, as a compliment to