

The Legal News.

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In two recent cases in Ontario, *Broddy v. Stuart*, before Armour, J., Dec. 21, 1886, and *Clarkson v. Ontario Bank*, before Ferguson, J., Jan. 19, 1887, the question has been raised whether the local legislature has a right to pass an Act respecting assignments for the benefit of creditors. In the former case, the defendant demurred on the ground that the Act in question, 48 Vic. c. 26 (O.), was *ultra vires* of the Ontario legislature, being legislation concerning bankruptcy and insolvency. Armour, J., in overruling the demurrer, remarked: "How can it be said that this Act deals with insolvency when there is no compulsory liquidation, no enforced taking of a debtor's estate from him for distribution among creditors, no proceedings *in rem*, and no discharge of the debtor?" Ferguson, J., followed this decision in the case of *Clarkson v. Ontario Bank*.

The mode in which a record has been preserved during eight centuries is not without interest. That is the period during which the great survey known as the "Domesday Book" has been handed down from generation to generation. The first place of deposit of this venerable record, according to *Time*, appears to have been the royal treasury at Winchester Cathedral, but from a notice in the "Dialogus de Scaccario," it seems to have afterwards become the inseparable companion of the royal seal. It is not known when it was deposited in the exchequer at Westminster, where it was kept in an iron chest (still preserved), under three locks and keys in the charge of several officials of the Exchequer. In 1696 it was removed to the Chapter House, and from there it was finally taken to its present home in Fetter Lane, where it is in the care of an official specially charged with its custody. The old binding of wood, covered with leather and ornamented with brass, is still kept; but the volumes have been put

into modern bindings of leather with silver fittings, and are carefully preserved under glass. No printed edition of this great work appeared until the year 1783, when it was issued under the direction of the Record Commission in two large volumes. In 1862-65 an edition in fac simile of the survey of each county was published under the direction of Sir Henry James, of the Ordnance Survey.

The Massachusetts Supreme Court, in a late case of *Commonwealth v. Lynes* (7 East. Rep. 862), holds that it is no objection to the competency of a child to testify, that the child was instructed in the nature of an oath after the adjournment of the Court on the previous day, in order to qualify her as witness in the particular case. The practice upon this question has varied. In *R. v. Williams*, 7 Car. & P. 322, it was held that before a child is examined as a witness, the judge must be satisfied that the child feels the binding obligation of an oath from a general course of religious education. This case, observed Gardner, J., in the *Lynes* case, has been criticised and has not generally been followed. In *R. v. Nicholas*, 2 Car. & K. 246, Pollock, C. B., refused to put off the trial in order that a child of six years might receive instruction, but said that in the case of children of nine, ten or twelve, whose religious education had been neglected, a postponement of the trial might be proper. In the English practice it is usual for a judge to examine an infant as to his competency, before going before the grand jury, or before proceeding to trial, and if found incompetent for want of proper instruction, it is in his discretion to put off the trial, in order that the party may in the meantime receive such instruction as may qualify him to take an oath. *Rosc. Crim. Ev.* 114; *2 Russ. Cr.* 590; *1 Stark. Ev.* (2d ed.) 94; *R. v. White*, 1 Leach 430; *2 Bac. Abr.* 577; *R. v. Baylis*, 4 Cox C. C. 23.

Referring to the Sovereign's influence in the constitution, the *Law Journal* says:—"When the 'great Anna,' a sovereign of no very distant date, did 'sometimes counsel take' at Hampton Court and elsewhere, she