

The Legal News.

VOL. X. JULY 9, 1887. No. 28.

We learn that an important work on Municipal Institutions is in course of preparation by Mr. J. L. Archambault, Q.C. The preface to the work will contain a review of the origin and history of municipal law. Mr. Archambault, after attending to some business before the Privy Council, will proceed to Paris during the present vacation, to complete his investigations on certain points before his interesting work is given to the public.

A further incident is reported in connection with the suicide of Judge Reid, noticed in vol. 7, p. 233. Judge Reid, it may be remembered, committed suicide because he had been assaulted by a ruffianly lawyer against whom he had rendered a judgment, and he felt that public opinion in Kentucky was against him because he did not try to take the life of his assailant. It appears that after the judge committed suicide, his assailant was actually prosecuted and convicted, and the sentence was one cent fine, costs, and imprisonment in the county jail for three years. The case went to appeal, and after some years' delay, the Court of Appeals has decided that the conviction and mode of declaring the punishment were valid at the common law and under the Kentucky statutes, which treat the offence only as a misdemeanor, and that the punishment was not excessive. On the latter part the Court say: "Neither the court nor the jurors could have closed their eyes to the cruelty and enormity of the offence committed. None more humiliating or degrading could have been inflicted upon the person of the injured man, and nothing more calculated to render the life of the wrong-doer more insecure. Such an injury strikes at the very existence of society, and the punishment imposed is only commensurate with the injury done. To have taken the life of the assaulting party would have made Reid guilty of a still greater crime, and the submission by him, without

resistance, to the cruel blows, whether from his peculiar mental and physical condition, or his respect and reverence for the law, makes the necessity the greater for vindicating the wrong." However, this declaration of the law availed nothing, for a country justice of the peace thought proper to overrule the Court of Appeals, and ordered the release of the prisoner on a *habeas corpus*, the pretence being that the common law of England, in his opinion, had never been incorporated into the laws of Kentucky.

The Michigan Supreme Court, in *Turner v. Mason*, (April 28, 1887), which was an action by an artist to recover the value of a portrait of children, painted for a father, and which the father had refused to accept, held that it was error to instruct the jury to give as damages what the picture was worth, and what the artist's services were worth, taking into consideration the exhausting studies necessary to acquire skill as an artist, and the time consumed and expenses incurred in acquiring professional knowledge and distinction. The Court said: "It appeared on the trial, and is matter of common knowledge, that the compensation of artists is not generally measured by intrinsic merit, either of themselves or of their pictures. Until he is recognized as a celebrity an artist seldom charges, or has a right to expect, very high prices. The pecuniary value of his work cannot, therefore, as a rule, be tested by what some other artist may think of it as a work of art. An opinion may be pertinent concerning its character as a good painting or a poor one, but where a picture is not meant for sale, and would not be readily marketable, its salable value is no test of what the artist earned in painting it. Plaintiff had set up his business at Muskegon, and had dealt with defendant for other pictures. If no fixed price was agreed on for the one in controversy, defendant, if to pay for it what it would be reasonably worth, could not be supposed to contemplate any price not in fair proportion to what was to be paid for the other pictures, or the usual work of this particular artist. The fashionable painters referred to in the record may or may not be more accomplished than plain-