

## The Legal News.

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### "COUNTRY DAY" IN TOWN.

A day is fixed during the appeal term in Montreal for the hearing of cases from districts other than the district of Montreal. This is an arrangement manifestly necessary to prevent the waste of time which would be occasioned by keeping counsel from the outside districts ten or twelve days in the city, waiting for the chance of their cases being called. Of late, however, "country day" has come to mean the day on which country cases will *not* be heard. For two or three terms past, country day has come and gone, without any of the counsel from the St. Francis and other outside districts getting a chance of being heard. The cause of this untoward event usually is that a lengthy city case has been commenced a few minutes before the adjournment on the previous day. Now it is a very small inconvenience to suspend a city case, because the counsel are on the spot, and it is a matter of indifference to them to argue a case on the Tuesday or the Wednesday; but the Court in their wisdom have decided that the case commenced shall go on, in spite even of the courteous offer of city counsel to waive their supposed privilege and to await the next day, and thus the entire outside bar have been compelled to dance attendance on the chance of being heard on that or the next day. This is neither courteous nor reasonable, and as we often hear of the supposed antagonism between law and common sense, we think the members of our highest provincial tribunal would do well to hesitate before perpetuating an arbitrary ruling which places them at a painful disadvantage when their conduct is regarded from a common sense point of view. During the September term, the inconvenience was still farther aggravated by the fact that after "country day" (Tuesday, Sept. 25), had been occupied by a city case, the best part of Wednesday forenoon (Sept. 26) was consumed in the delivery of judgments.

### SURETISHIP.

The case of *Canada Guarantee Co. & McNichols* (4 L. N. 78) has had an unsatisfactory termination. It is one of those cases which add emphasis to the banal expression as to the "glorious uncertainty of the law." The question was whether a bond given generally by an official assignee for the faithful discharge of his duties as such could be taken advantage of by the creditors of an insolvent estate who have elected to make him administrator of the estate as creditors' assignee. The weight of opinion is overwhelmingly in favor of the negative of this proposition. In Ontario the law seems to have been considered so clear that the point was never taken before the Court of Appeal and the ruling of Chief Justice Hagarty, holding that the terms of the bond could not be extended, was regarded as so conclusive that no appeal was taken from his decision. In Quebec Mr. Justice Jetté rendered judgment in the same sense, and no appeal was taken from the decision. In the case of *Canada Guarantee Co. & McNichols*, the Court below seems to have leaned in the same direction, but in deference to a contrary decision by the senior Judge of the district, the suretiship was held to be extended under the circumstances from the official assignee to the creditors' assignee. That case was taken to appeal, and both the Chief Justice and Mr. Justice Ramsay consider it erroneous and untenable. A bare majority of one hold in favor of extending the responsibility of the surety, and as the amount is too small for an appeal the matter ends here. Unfortunately, there are a number of other suits depending on the decision in this case, and they must abide the unsatisfactory and, we believe, erroneous conclusion just noted. The decision professedly turns merely upon the interpretation of a clause of the Insolvent Act which has been abolished, but the principle sinned against by this judgment lies deeper than any statutory law, and the decision will hardly, we think, command much respect hereafter as a precedent on the law of suretiship. It may be added that in a much more doubtful case (*Consolidated Bank & Merchants Bank*, 6 Legal News, p. 284), the Court of Appeal has recently refused to extend the obligation of a surety.