

## The Legal News.

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In 1883 it was enacted that "every appeal from interlocutory judgments (*sic*) shall be inscribed by the clerk of the Court, and heard by privilege, in a summary manner, without any reasons of appeal or factums." 46 Vic. c. 26, sec. 6. An application was made by the successful party in a case at Quebec (Oct. 8) to tax a *factum* which he had filed. After consultation a majority of the judges, (Dorion, C. J., Monk, Ramsay, Cross, Baby, J.J.) were of opinion that the proper interpretation of the section referred to was that the *factum* was not obligatory, not that it was prohibited, and that any party could still file a *factum*, for which he would be entitled to charge in his taxed bill if successful, but that there should be no delay to file it. The object of the enactment was to shorten the delays in these appeals, not to render their decision more difficult.

In the opinion of Mr. D. Macmaster, Q.C., on the Riel case, reference is made to the adverse authority of Mr. Justice Stephen, in his Digest of Criminal Law. We may add that in Mr. Justice Stephen's "Digest of the Law of Criminal Procedure," (A. D. 1883) p. 2, it is stated that "the criminal law of England extends to high treason, misprision of treason, and concealment of treason committed out of the realm of England by any subject of Her Majesty," and reference is made to the statute 35 Hen. 8, c. 2.—The case is to be heard before the Judicial Committee of the Privy Council on the 26th inst.

The books contain a few cases which may be cited with reference to small-pox. One bears upon the responsibility of physicians in performing vaccination. In *Landon v. Humphrey*, 9 Conn. 209, it was held that the physician, while he does not guarantee the specific value of the vaccine virus, yet guarantees its freshness; so that if he inoculate a patient with virus in an altered state, constituting as it then would mere putrid animal matter, and erysipelas or injury to

any limb necessitating amputation should ensue, he will be held responsible for the suffering, loss of time, and permanent injury to the patient. It is also the duty of a physician to take all possible care to prevent the spread of small-pox or other contagious disease. So, where the paper upon the walls of a room in which there had been small-pox patients had become so soiled and smeared with the small-pox virus as to make its removal necessary, a physician or other attendant may order the paper to be torn down, and it was held in *Seavey v. Treble*, 64 Me. 120, that the landlord cannot maintain an action against the physician for doing this.

In England it is an indictable offence for a physician, or any one else, unlawfully and injuriously to carry along or to expose in a public highway, on which persons are passing, and near to the habitations of others, any person infected with the small-pox, or any contagious disorder; and it is for the accused to show that the object of the carrying or exposure was lawful; *Rex v. Burnett*, 4 M. & S. 272; *Rex v. Sutton*, 4 Burr. 2,116; *Rex v. Vantandillo*, 4 M. & S. 73. These cases are referred to in Rogers, "Law and Medical Men."

Inoculation for the small-pox has been referred to as a thing actually performed in some recent cases. In England, since 1840, it has been an indictable offence to inoculate for the small-pox; 3 & 4 Vic. cap. 29, sec. 8. 30 & 31 Vict. cap. 34, sec. 32. And by 16 Vict. (Can.) cap. 170, s. 1, it was made an indictable offence in Canada: Consol. Stat. Can., cap. 39, sec. 1; and the license of any physician contravening the Act thereby becomes null.

The following paragraph from an English paper shows how even subordinate judges are remunerated in England:—

"At a recent meeting of the corporation of the city of London, it was decided to raise the salary of the assistant judge of the Mayor's Court from £1,600 to £2,000 per annum. Mr. Woodthorpe Brandon, who now occupies the post, has been in office since 1873, having formerly been registrar of the court, in which position he enjoyed an income greater than he hitherto received in his judicial capacity."

The salary as now arranged is just double that of the judges of our Court of Queen's Bench and Superior Court.