

The Legal News.

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OBJECTIONABLE FACTUMS.

The Supreme Court of Louisiana, on the 4th instant, took special notice of a brief filed by counsel in a case of *Levine v. Mitchell*, and made an order expunging the offensive document from the files of the Court. Chief Justice Bermudez, according to the report in the *New Orleans Times-Democrat* of Dec. 5, referred to the brief as being "in tone and substance highly indecorous," and as "an unmitigated attack upon the laws, the jurisprudence, the practice and the judicial system of the State." "It assails and denounces, in the most unacceptable terms," he added, "the application which the highest Court of the country has successively, for a long series of years, made of those laws under that jurisprudence and under that practice." The case in New Orleans is not singular, though the offence in that instance seems to have been unusually aggravated. Similar complaints are not infrequently heard elsewhere. But it must be added that, if this be a grave offence, the members of the bench are themselves not always blameless, for everybody knows that criticism by one Court of the reasons and arguments of another Court, or even by one Judge of the reasons and arguments of another Judge of the same Court, is sometimes more vigorous than deferential.

HOLOGRAPH WILLS.

The Code of California, like our own, provides that a holograph will must be entirely written by the testator (C.C. 1277). Under this provision a question came recently before the Supreme Court, (*In re Estate R. C. Rand*), whether a paper, portions of which were printed on a stationer's blank, was properly admitted to probate as a holograph will. The printed portions were merely such formal words as might be used in wills generally, and it was strenuously urged that even if these were rejected, the portions of the paper which were written by the deceased should be admitted to probate. The Court rejected this pretension, observing: "The legislature has seen fit to prescribe forms

requisite to a holograph will, and these forms are made necessary to be observed. . . . We should thereby (by adopting the pretension above stated), in effect, change the statute, and make it read that such portions of an instrument as are in the handwriting of the deceased constitute a holograph will."

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

QUEBEC, Dec. 7, 1882.

DORION, C. J., MONK, TESSIER, CROSS & BABY, JJ.
POULIOT, Appellant, & CADORETTE, Respondent.

Inducing a non-voter to vote—Evidence required to prove offence.

This was an action under 37 Vic. c. 39, s. 74, by respondent against appellant, accusing him of having induced one Joseph Despres *alias* Joseph Couillard Depres, to vote at an election for a member to serve in Parliament, he the said Joseph Despres not being a voter. Appellant was condemned to pay a fine of \$200 or to be imprisoned six months.

Sir A. A. DORION, C.J., said the offence laid to appellant's charge is a misdemeanour by statute, and therefore he can only be found guilty on evidence that would be sufficient to convict him of a misdemeanour. The evidence must be conclusive. The Court cannot judge by inferences, except those which constitute a legal presumption. In this case we do not find there is evidence of this sort. Two persons of the same name, uncle and nephew, one an old man, the other a young one, were on the roll of cotisation. The name of one only was on the voters' list, and there is no doubt it was intended to be the name of the nephew that was on the voters' list. Dr. Dion told appellant that the uncle was a voter, and asked him to go and get him to vote. Pouliot saw the uncle, who said he was not a voter, and never had voted. Pouliot asked if he would vote if he showed him that his name was on the list. The old man said he would, although he never had voted. Pouliot then got the voters' list, and reading the name asked him if that was his name. The old man said it was, and believing he had a vote, agreed to go to the poll if Pouliot would accompany him. Sometime after, the uncle went with Pouliot to the poll, obtained a ballot-paper and voted. After he went in to vote some