The Legal News.

VOL. XI. AUGUST 4, 1888. No. 31.

The report of a Committee, recently issued, points out the serious injury inflicted on business by congested cause lists. "The paucity of solid commercial actions, which has for some time past noticeably marked the cause list of the Queen's Bench Division, springs, we are satisfied, in a great degree from the absence of those facilities for the speedy and regular trial of such actions to which a great mercantile community would seem to be justly entitled. A solicitor of position and experience has lately written: 'If I dare speak for one side of the profession, let me assert that a much larger number of cases than are now entered for trial would be set down, if we, who have to advise on these matters, were not obliged to point out to clients that any terms out of Court are worthy of acceptance, as against the excitement, anxiety, and loss of time involved in watching the spasmodic progress of the cause list'."

In *Fanshawe* v. *The London & Provincial Dairy Co.*, the plaintiffs, who were the occupiers of certain houses in Halkin Street West, Belgrave Square, claimed an injunction to restrain the defendants from carrying on their trade of dairymen and milkmen at No. 4 in the same street in such a manner as to create a nuisance and to interfere with the comfortable enjoyment of the plaintiffs' residences. The evidence showed that between 11 p.m. and midnight, and again in the early hours of the morning, the defendants' milk churns were loaded and unloaded upon and from vans, a certain amount of noise being thus occasioned. The plaintiffs' witnesses proved that their sleep and rest were thereby interfered with. Mr. Justice Kekewich, in the English Chancery Division, July 18, held that it lay upon the plaintiffs to show that such a nuisance was created as to interfere with their personal comfort, in the sense of the ordinary physical comfort of human beings, according to plain, sober, and simple notions of living. Here the plaintiffs had chosen to reside in a noisy metropolis, and in a street in which the defendants carried on a business necessary to supply the needs of the inhabitants. The defendants used their place of business in a fair and reasonable manner, and a certain amount of noise which would cause inconvenience to sensitive persons, was inevitable in carrying on that business. Judgment was accordingly given for the defendants.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, June 19, 1888.

Present: THE EARL OF SELBORNE, LORD HOBHOUSE, LORD MACNAGHTEN, SIR BARNES PEACOCK, SIR RICHARD COUCH.

ROLLAND (plaintiff,) Appellant, and CASSIDY (defendant), Respondent.

Arbitration—"Amiables compositeurs"—Irregularities in proceeding—Error of judgment.

HELD:—(*affirming the judgment of the Court of Queen's Bench, Montreal**), *that an award will not be set aside, because a mere error of judgment, in a matter not affecting the law or the justice of the case, has been committed by the arbitrators, more especially where they are acting under a deed of submission by which they are expressly appointed amiables compositeurs. And so, where arbitrators were appointed to settle partnership accounts, and a legal opinion, correct in itself, as to the mode of dealing with the accounts, obtained by one of the parties, was communicated to the arbitrators, it was held that the award was not vitiated by such a proceeding.*

THE EARL OF SELBORNE:—Their lordships do not think it necessary in this case to call upon the counsel for the respondents.

The question arises under a reference to arbitration of the accounts of a partnership constituted in the year 1874, for the purpose of certain speculations in lumber, of which either the whole or a considerable part had been previously bought by the co-partners.

The only articles of the partnership material for their lordships to consider are the second and the third. By the second article,

*M.L.R., 2 Q.B. 238.