

without evidence of the noise being unusual or calculated to disturb, is *ultra vires* and invalid, and that as evidence must be given it must also be received on the prisoner's behalf. The evidence does not, so far as it goes, show that the noise is unusual. It is quite the other way. The evidence does not even state that there was a beating of drums; it was playing a drum. Am I judicially to know that beating a drum and playing a drum are the same? The order must go for the prisoner's discharge."

CHEAP PHILANTHROPY.

County Courts, whether in Canada or in England, are somewhat doubtful authority on the law. *Est ubi peccat*. We imagine that one of the slips is in a case noted in the columns of our contemporary the *Law Journal* (London). The person who has the honour of setting the ball of benevolence in motion should undoubtedly have the privilege of paying (and if he does not consider it a privilege, then it should be a legal obligation upon him). The *Law Journal* says: "The well-known humanity of the medical profession is put to a further test by a decision of the County Court judge at Exeter on Wednesday last. On a certain Sunday in May one of the congregation at a church in Exeter was taken suddenly ill. The Mayor, who was present, immediately sent a boy for a doctor. The doctor arrived, and having ministered to the patient's wants, sent in his bill for the modest sum of five shillings to the Mayor. The Mayor declined to pay, but suggested that if the patient did not settle the bill it should be sent in to the watch committee. This seemed to imply that the Mayor's benevolence was in his corporate and not his individual character, and the doctor, declining to take the suggestion, put the Mayor in the County Court. The County Court judge, however, held that 'merely sending for the nearest medical man is no contract.' This view, if sound, will encourage the practice of much cheap and ostentatious benevolence, and on hot Sundays the doctor who lives near the church will probably spend half his time running to and fro to cut the loaves of young ladies who find it convenient to faint during the

sermon. But why should this new maxim of English law apply to the nearest doctor only. 'Work and labour done at the defendant's request,' is a very ancient cause of action which might be supposed to extend to doctors. If a philanthropist finds a person disabled in the street and sends him home in a cab, he must pay the cabman. The good reputation of doctors for self-sacrifice is, however, as little to their worldly advantage as the bad name which may be given to a dog. The 'nearest doctor,' is so convenient and ready an institution, that people are apt to look upon him as a public servant, bound to respond gratuitously to the call of every one in need."

NOTES OF CASES.

PRIVY COUNCIL.

LONDON, July 12, 1884.

THE QUEEN V. DOUTRE.

Action for Professional Services—Locus contractus—Status of advocate—Action against the Crown.

An advocate of the Province of Quebec, being by law and the custom of his profession entitled to recover payment for his professional work, those who engage his services must, in the absence of any stipulation to the contrary, expressed or implied, be held to have employed him upon the usual terms according to which such services are rendered. The contract is not dependent upon the law of the place where the services are to be given, but upon the status of the person employed.

A Quebec advocate has the same right to fees against the Crown as in other cases.

PER CURIAM. On the 1st of October, 1875, the Government of Canada addressed and sent to the respondent, Mr. Joseph Doutre, a letter, signed by Mr. Bernard, the Deputy Minister of Justice, in the following terms:—

"Sir,—The Minister of Justice desires me to state that, the Government being desirous to retain counsel to act for them upon the proceedings in connection with the Fishery Commission to sit at Halifax under the Treaty of Washington, he will be glad to avail himself of your services as one of such counsel, in conjunction with Messrs. Samuel R. Thompson, Q.C., of St. John, New Brunswick,