yet the courts would exercise no jurisdiction to restrain an arbitrator from making his award unless there was something in the conduct of *the parties to the reference* which rendered such interference necessary. The principle being, as laid down by Kerr on injunctions, page 142, that "there is no original jurisdiction of the court in the nature of a writ of prohibition to restrain an arbitrator from proceeding to make an award." Mr. Cameron cited a great many cases in which this position is illustrated and sustained, among others *The King* v. *Burdell et al.*, 5 A. & E. p. 619; *Harcourt* v. *Ramsbottom*, 1 Jacobs & Walk., C. R. 504; *Pope* v. *Lord Duncannon*, 9 T. R. 177; *The Newry & Enniskillen R. Co.*, v. *The Ulster R. Co.*, 8 D. G. McN. & G. 486. In *Pope* v. *Lord Duncanon*, where the plaintiffs had revoked the authority of their arbitrator and notified the defendant, and the arbitrator refused to act, and the other arbitrators had notwithstanding proceeded and made their award, the court refused to restrain the defendant from acting upon the award—the Vice-Chancellor saying; "As in this case there is nothing whatever to show that the power which the plaintiffs had given to the arbitrator was revoked upon any just or reasonable grounds, I am bound to conclude the revocation was a wanton and capricious exercise of authority upon their parts, and consequently the motion must be refused" The resignation of Judge Day and the revocation of his authority by the Quebec government was no act of Ontario or of the arbitrator appointed by the Dominion, and it is therefore difficult to see why the Province of Ontario should be prejudiced by that act; or why the arbitrator appointed by the government of Ontario, or the arbitrator appointed by the Dominion government, should not proceed to discharge their duty. In the case of *The King* v. *Bardell*, 5 A. & E. 619, during the argument, Judge Patterson says: "Is there any instance in which the court has interfered to prevent an arbitrator making an award after revocation? The award may be a nullity when made, but that is a different point." Platt replies "search has been made for precedents, but none have been found. Blackstone's commentaries, vol. 3, edition of 1862, page 117, says: "'A prohibition is a writ issuing properly only out of the Court of Queen's Bench, being a prerogative one; but for the furtherance of justice it may also now be had in some cases out of the Court of Chancery, Common Pleas or Exchequer, directed to the judge and parties of a suit in any inferior court, commanding them to cease from the prosecution thereof, upon a suggestion that either the cause originally, or some collateral matter arising therein, does not belong to that jurisdiction, but to the cognizance of some other court." If old Blackstone is still law, and the Imperial Act, British North America Act, 1867, is still in force—no other court but the Arbitrators' Court can have cognizance of the arbitration.

It is greatly to be regretted that there was no counsel, as in the case of the unanimity question, to argue the other side; but, as has been remarked by my colleague, that is not our fault. If these legal questions are to be raised on every occasion, it was manifestly of the highest importance that Judge Day should have remained at his post. He did not resign—so far as we know—because he differed with his colleagues in concluding that the decisions of the arbitrators need not be unanimous. He assigned no such reason for his resignation, and on that question gave no decision, and so far as his colleagues know, expressed no opinion, although he was present at the argument, and subsequently looked into the authorities with his colleagues. His resignation, as stated at the time, was on other grounds; but whether they have his able assistance or not, the remaining arbitrators must proceed with the work, and decide on all questions as they arise according to the best of their judgment.

The meeting then adjourned till the 17th instant.

On that day the arbitrators proceeded with the reference, no person being present on the part of the Province of Quebec.

ONTARIO REPORTS.

COMMON PLEAS.

Reported by S. J. VanKoughnet, Esq., *Barrister-at-Law, Reporter to the Court.*)

In re Bridget Donelly.

By-law—Conviction for using blasphemous language—No statement of words used—Jurisdiction—Evidence.

A conviction by a magistrate stated that defendant did, on, &c, at, &c., being a public highway, use blasphemous language, contrary to a certain by-law, which was passed almost in the words of C. S. U. C. cap. 54, sec. 282, sub-sec. 4, but there was no statement of the words used. *Held*, bad.

Semble, also, that there was nothing in the evidence set out below, giving the magistrate jurisdiction to act.

[20 U. C. C. P. 165.]

In Michaelmas Term last, *McCarthy* obtained a rule to quash a conviction, a *certiorari* to bring up all papers connected therewith having been previously returned, on the ground that there was no jurisdiction, no offence shown, no statement of the words used, &c. &c.

The conviction set out that Bridget Donelly did on, &c., at ———, being a public highway in the county of Simcoe, use blasphemous language, contrary to a certain by-law of the corporation of the county of Simcoe, passed 18th October, 1860, entitled, &c., and adjudging her to pay one dollar, &c., and costs, to William Atkinson, the complainant, $4 20 for his costs, &c., awarding distress and imprisonment for ten days in default.

The 7th clause of the by-law was as follows: "It shall not be lawful for any person to utter or use any profane oath, or any obscene, indecent, blasphemous or grossly insulting language in any of the streets or public places or highways within this county."

This was passed under sec. 282, sub-sec. 4 of cap. 54, Con. Stat. U. C., almost in the same words.

Harrison, Q. C., shewed cause. He cited *Rex* v. *Liston*, 5 T. R. 338, 341; *Reg.* v. *Justices of Cheshire*, 8 A. & E. 398; *Rex* v. *Justices of Westminster*, 2 A & E. 241; *Hespeler & Shaw*, 16 U.C. Q. B. 104; *Reg.* v. *Bolton*, 1 Q. B. 66; *In re Clark*, 2 Q. B. 619; *Reg.* v. *Justices of Buckinghamshire*, 3 Q. B. 806; *Hopkins* v. *Mayor of Swansea*, 4 M. & W. 621; *King* v. *Speed*, 1 Lord Ray. 683; *Davis* v. *Nest*, 6 C. & P. 167; *Re Perham*, 5 H.