

of the London Proof Line Road have thought proper to impose only one-half of this rate; believing that from such reduced charges, the stockholders will receive ample dividends, while the humblest traveller can easily meet their demands. Another proof of the liberality (if not christianity) of the directors is given, by the fact of their never having collected tolls on the Sabbath day, from any parties whatsoever.—*London (C. W.) Times.*

QUEBEC AND RICHMOND RAILWAY.—A large and influential Meeting was held in Quebec, on the 10th inst. for the purpose of devising means to carry out the above enterprise.

The first resolution was
Moved by P. Patterson, Esq., seconded by F. R. Angers, Esq.

That in the opinion of this meeting, it is absolutely necessary (to avoid remaining in an isolated position, and as it were excluded from all participation in the trade and prosperity of the other portions of North America,) forthwith to obtain a safe and rapid means of communication, at all seasons of the year, with the sea-board, and for the purpose of attaining this end, to direct all our efforts and energy, and all our resources, immediately to commence constructing the contemplated Railroad from Quebec to Richmond, there to connect with the Atlantic and the St. Lawrence Railway.

The second was
Moved by the Hon. W. Walker, seconded by G. Joly, Esquire:

That the construction of the projected Railroad will connect Quebec with that vast system of railroad, stretching like an iron network over a great part of the United States, and which at no distant period will extend from the valley of the Mississippi and the Gulf of Mexico to Halifax, at the Eastern extremity of Nova Scotia, and will secure to the inhabitants of this city an easy and rapid intercourse with the city of Montreal, Western Canada, the neighbouring States and the Lower Provinces; an intercourse which this meeting regards as absolutely essential to the future prosperity of the city and district of Quebec, and affording an assurance that the Railroad will prove a profitable enterprise, equal as an investment, to any similar undertaking on this continent. Other resolutions were adopted with the view of promoting the undertaking.

A NICE LITTLE JOB.—That the *Journal of Education* is an excellent work, no one who has read it will be disposed to deny; that such a work was much wanted, will be as readily admitted. But like all other works it ought to stand on its own merits.—Not satisfied with having it made the medium of all official communications, its astute editor has had the adroitness to secure the insertion of a clause in the New School Act, requiring every School Corporation to subscribe for some *Journal of Education*: as this is the medium of all official instruction or explanation, it would not be difficult to guess which will be the favoured one. Now as there are upwards of 3000 School Corporations in the Province, this clever dodge secures that number of subscribers; and as any printer would be glad to get out the work for \$600 or \$700 a year, there will be left a clear profit of near \$2400 as a reward of ingenuity, which added to the \$2000 salary, will make a nice little thing in these days of retrenchment.—*Pictou Gazette.*

A writer in the *Huron Loyalist* says,—
“What a stupendous verity it is, that Scripture, chiefly through prophecy, reveals two churches—the church of Christ, and the Church of anti-christ.” Surely the correspondent who penned the above, must be ignorant of the meaning of the word Church.

A large party from Montreal visited Boston last week; they were very cordially received by the authorities of Boston.

The Corporation of Hamilton are making the necessary levels preparatory to making proper sewers for the city.

A number of Sheep have been devoured by dogs on Mr. Sawry's farm—the *Gazette* recommends that some immediate and energetic measures be adopted, not only to stop the mischief, but to make the owners of these canine sheep-destroyers pay for the damages committed.

The Corporation of London C. W., have voted £25,000 in aid of the Great Western Railroad.

The same steamer which brought the Protestant Bishop of Montreal to our wharves, brought also the Right Rev. the Count de Charbonnell, the newly ordained R. C. Bishop of Toronto, who was consecrated at Rome in May last. A large number of the clergy of his church, in Montreal, and a considerable number of the laity were on the wharf to receive him, the former pressing forward with much warmth to kiss his episcopal ring. The Rev. gentleman has been known in this city for several years past, as a gentleman of winning manners, and a preacher of the highest order of eloquence. He proceeds to his new Diocese of Toronto, we understand, in the course of a few days; and where we have reason to believe he has for some time been anxiously looked for.—*Gazette.*

We have been requested to publish the following in order to counteract the misstatements that are being made on the subject, by some portion of the public press. The following judgment was delivered by the Court:

In Re. Durand an Attorney
in the case of
MERCER
vs.
MARSHALL.

Having made in Hilary Term last, the order which we found it necessary to make in this cause, in order to indemnify the defendant Marshall for what had been wrongfully and illegally exacted from him, we felt it to be our duty to call upon the Attorney, whose conduct was implicated in the proceeding complained of, to show cause why he should not be struck off the Roll of Attorneys. The rule which was issued to that effect, was answered last Term by the defendant through his counsel, who took certainly the course the most judicious, as well as the most proper that could be taken on behalf of his client; not attempting to justify the act done by him, as one that could be defended upon a deliberate view of it, or could be at all reconciled with a just regard to the law of the land, and with Mr. Durand's duty as an attorney.

Affidavits were also filed in shewing cause, first of Mrs. Mercer, the plaintiff in the action against Marshall, who swears as she had done before, that she had omitted to inform Mr. Durand of all payments that had been made to her on the note given to him to be sued upon, and that he consequently was warranted in believing that more than fifty pounds was still due.

This applies only to the question whether there was anything culpably wrong in Mr. Durand's having brought the action here, rather than in the District

Court—a point which, as the case stood upon the former affidavits, we did not think it necessary to lay stress upon. She describes further what her own conduct to the defendant had been in regard to the debt; and acknowledges exactions of illegal interests, which she ought to know and feel place her in the light of an unreasonable and extortionate creditor; for she admits that after the defendant had paid her £25 on account of a debt of £56, she stipulated with him that he should go on paying her the interest on the whole £56, just as if the £25 had not been paid, because the payment had not been made punctually.

She declares that she never told the defendant that Mr. Durand had not paid her all the money he had received for her; but on the contrary, informed him that he had paid over all.

She declares that Mr. Durand never undertook to advance her for the defendant the balance unpaid on the execution from which it must be inferred he was to receive from the defendant 20 per cent. merely for delaying the execution a few days, and without his undertaking to advance the money in the meantime.

Mrs. Mercer further swears in substance that Mr. Durand's conduct towards the defendant was lenient and indulgent, and saved him from great loss; and that his conduct towards her (the plaintiff) as her attorney, was faithful and just; that if he had allowed the defendant's goods to be sold in execution, it would have been vastly more injurious to him than making the charge which he did for the delay; and that he had a great deal of trouble in the matter in consequence of the defendant's dilatoriness, for which he had no remuneration.

Then Mr. Durand files another affidavit of his own, referring to his former affidavit for all the explanation which he desires to offer; declaring that he meant to commit no injustice in a moral point of view, and thought he was justifiable in making a charge against the defendant for the extension of time, as a equivalent for his own time and trouble in making the arrangement and for the interlocutory costs to which the defendant's attorney had unnecessarily put him in the progress of this cause, and in securing for the plaintiff a fair remuneration for the loss which she would sustain by reason of such extension of time.

He swears further, that in compliance with our order in this cause, he has refunded to the attorney for the defendant £5 16s. as directed; and has paid £7 18s. 5d. for the costs of the application, and has in all respects conformed to the order; and he submits himself under all the circumstances to the equitable decision of the Court.

It stands therefore now, as indeed it did on the answer to the defendant Marshall's complaint, fully ascertained and admitted that, Mr. Durand having been employed as an Attorney of this Court to collect a debt from the defendant Marshall, for the plaintiff Mrs. Mercer—took from the defendant a confession of judgment, and received a payment on account, which he gave to his client, and which still left due on the suit £20 10s., besides costs. That judgment being entered in this Court on the cognovit, and an execution taken out, the Sheriff was about to sell his goods; that he went to Mr. Durand on the 28th July, 1849, to intercede for delay, which he Mr. Durand at first declined to grant, but at length did agree to delay acting on the writ until the 1st of September following, provided that the defendant would pay at the rate of 20 per cent. in addition to the debt and costs due.

That the defendant agreeing to this, Mr. Durand took his written undertaking to that effect, which is before us, and that he exacted the payment and received it according to his understanding of it, which was not merely at the rate of 20 per cent. per annum for the 35 days delay, which was what the defendant would have submitted to as he says; but an absolute 20 per cent. on the amount due in consideration of the 35 days delay.

This Mr. Durand insisted on, and he received £5 16s. for delaying the execution for 35 days, the sum due for debt and costs being £29 2s. 2d.; he charged this too, without in fact, lending anything but the mere granting of the indulgence, and as we observed, when the affidavits in this case were last before us, this illegal and enormous rate of interest was charged upon the Attorney's costs, as well as upon the plaintiff's debt, and was in effect to a certain extent charged upon interest as well as upon principal, the rate charged being more than thirty fold what the law allows, and the defendant not paying what had been thus exacted of him, on the 1st Sept. The Attorney, five days afterwards, took out an execution, and actually included in his endorsement this illegal and extortionate charge, thus making use of the process of the Court, to compel the payment of a sum not only not included in the judgment, but a sum exacted in violation of an act of Parliament.

It is no extenuation of this misconduct that the Attorney, as he alleges, divided the usurious interest with his client. Neither is it an excuse for the misconduct, but an aggravation of it, that the Attorney, as it appears, and as he avows, had it in his mind to indemnify himself by this means, for having been obliged to pay in the earlier stage of the cause, the costs of an irregularity in his proceedings, thus counteracting the award of the law by a meditated violation of the law.

It does not appear to us, that we have properly any discretion as to what it is the duty of the Court to do in such a case, in regard to an Attorney who has so conducted himself. We cannot take upon ourselves the responsibility of giving any apparent sanction to such a proceeding, for it is in direct violation of a positive statute which relates to the office of Attorney.—The 3 Jac 1. ch. 7, which enacts, that if any Attorney or Solicitor shall willingly delay his client's suit, to work his own gain, he shall not only be liable to an action for costs, and treble damages at the suit of the party grieved; but the statute enacts “that he shall be discharged from thenceforth from being an Attorney or Solicitor any more,” and this statute is unrepealed here.

We only follow therefore the positive direction of this statute, in taking a course which in so clear and aggravated a case, we must have felt ourselves legally bound to take if there had been no such statute.

Debtors against whose goods or person execution has been issued, are, for the time, very much in the power of the attorney of their creditors, who, without looking for any gain for themselves, frequently are persuaded exercise that power, so far as he can do it consistently with his duty to his client, humanely and with a benevolent desire to save the defendant from fearful and ruinous sacrifices. But when we consider what advantage might be taken of the necessity of debtors under such circumstances, by those who are willing to seek profit to themselves, from the embarrassment of others, we feel it to be an imperative duty, to do all that is in our power, for deterring attorneys from venturing upon such a course. It is our duty, not merely

on account of the protection which we owe to suitors, but also, in justice to the members of the profession of the law, who otherwise would be left to bear, as a body all the odium which must follow such conduct, if known to be tolerated in any.

It is this motive which more than 200 years ago, led in a great measure to the very enactment which I have referred to; for that statute expressly recites in its preamble that by such practices as the Legislature intended by its provisions to restrain, not only the King's subjects, had grown to be overmuch burthened, but the practice of the just and honest Serjeant and Commissioner at Law greatly slandered—alluding there more particularly to the abuse of attorneys taxing excessive fees, on the pretence of having disbursed them, when they had not in fact paid so much.

There are also in this case the further considerations which it would ill become us to overlook, that the payment of this unwarrantable demand, most unreasonable as it was in itself, and expressly prohibited by the statute against usury, was enforced through the execution by a levy upon the defendant's goods, as if it had formed part of the debt for which the judgment had been rendered—thereby perverting the process of this Court knowingly and deliberately, to the wrong and oppression of the subject, which we cannot but regard as a great contempt of this Court and of the law. And in the next place, it was a gross contempt of this Court, for the attorney deliberately to contrive to indemnify himself for costs, which he had been properly obliged to pay by an order of this Court on the application of the defendant, under compulsion of an execution, an illegal charge avowedly intended to compensate him for the payment of those costs. We cannot say that it may not possibly be true, as Mr. Durand has sworn, that in doing all this he considered that he was doing nothing unjust or wrong—satisfying himself with the single consideration, that if he had allowed the execution to take its course, the position of the defendant would have been worse than that in which he placed himself by his agreement: there is no saying what degree of oppression might not be vindicated by such a mode of reasoning—but at least it is clear, that an attorney who could see in this transaction nothing contrary to his duty as an officer of this Court, cannot have that power of discriminating between right and wrong, which is indispensable to the due discharge of the duties which are by law entrusted to him.

“I certify this to be a true copy of the judgment in this case.”

Sept. 11, 1850.

J. LUKIN ROBINSON,
Reporter Q. B.

We understand that Lord Elgin returned from his Northern tour on Wednesday evening, the 11th instant, by the “People's line of Stages” from Penetanguishene. His Excellency stopped at Barrie on Tuesday night, and on the following morning took the steamer *Beaver*, which proceeded round Lake Simcoe and arrived at Bradford Landing about 4 o'clock in the afternoon. Immediately on His Excellency's arrival at the Landing, he proceeded direct to Toronto, where he arrived at half-past 8 o'clock.

On the following evening (Thursday), His Excellency left for New York, en route for Long Island, to join Lady Elgin, who has been for some time enjoying the delightful sea air of that fashionable place of summer resort. Rumour says His Excellency will not return to Toronto, but proceed direct to England. We wish him a safe and speedy voyage across the Atlantic. Perhaps the *Globe* can inform us when we may expect his successor—and also who is Governor of Canada at the present time?—*Colonist.*

Our Telegraph report of last night announces the arrival of the Governor General in New York, and says, it is understood His Excellency will leave for Canada to-day.—*Globe of Tuesday.*

SECRETARY'S OFFICE, }
Toronto, 13th Sep., 1850.

His Excellency the Governor General has been pleased to remove Henry S. Griffing, Esquire, of Durham, from the Commission of the Peace for the District of St. Francis.

APPOINTMENTS.
Secretary's Office, Toronto, 14th Sep. 1850.
His Excellency the Governor General has been pleased to appoint:
The Honourable Thomas McKay, George B. Lyon, Esq., John Rochester, Esq., the Rev. John Flood, the Rev. David Evans, the Rev. Terence Smith, Joseph Hinton, Esq., Daniel O'Connor, Esq., the Rev. Alexander Spence, the Rev. Jeremiah Ryan, the Rev. Thomas Wardrope, John Scott, Esq., Edward Malloch, Esq., and William R. R. Lyon, Esq., to be a Board of Trustees for Superintending the Grammar Schools in the County of Carleton, in that part of the Province formerly Upper Canada.

ACKNOWLEDGMENTS.
LETTERS received to Wednesday, Sept. 18, 1850:—
M. Jellet, Esq., Cobourg, rem.; G. M., Simcoe, rem. for Mr. R. L., vol. 14; Rev. A. F. Atkinson, attended to; Rev. R. Flood, Delaware, rem. for Mr. S. T., vol. 13. (Aug. 15); Rev. G. A. A., Shannonville, rem. vol. 14; Rev. S. Armour, Cavan, rem. for Mr. R. L., vol. 14.

THE CHURCH.

TORONTO, THURSDAY, SEPT. 19, 1850.

THE ARCHDEACON OF YORK will (D. V.) visit the following parishes and stations in the HOME and SIMCOE DISTRICTS at the times undermentioned. The same course is recommended as at former visitations,—that the business of the meeting should be preceded by Morning or Evening Prayer:—

Tecumseth	Friday	Sept.	20,	10	A. M.
West Gwillimbury	“	“	20,	3	P. M.
St. Alban's	Saturday	“	21,	10	A. M.
Macell's corners Trinity Ch.	“	“	21,	3	P. M.
Newmarket,	“	“	21,	6	P. M.
Georgina (Divine Ser.) Sunday	“	“	22,	6	P. M.
Barrie	Monday	“	23,	6½	P. M.
Penetanguishene, Tuesday	“	“	24,	3½	P. M.
Coldwater	Wednesday	“	25,	3	P. M.
Coldwater-road, Station, Thursday	“	“	26,	11	A. M.
Orillia	“	“	26,	3	P. M.
Uxbridge	Saturday	“	28,	10	A. M.
Fair's, Brock	“	“	28,	3	P. M.
Brock, West Ch.	Sunday	“	29,	11	A. M.
do. East Church	“	“	29,	3	P. M.

CHURCH OF ST. ANN'S MONTREAL.

The circumstances of the lamentable fire at Montreal, in the month of June last, by which the Church of St. Ann, of Griffintown, in that city, was destroyed, having been laid before the Lord Bishop of Toronto, with an appeal to the sympathy of the friends of the Church in his Diocese, his Lordship has authorized us to recommend the case to the favourable consideration of his Clergy, with a request that they would meet this appeal, according to their judgment and convenience, by collections in Churches, or otherwise, as they may think most expedient.

We beg to express our own concurrence in these kind recommendations of the Lord Bishop; and, upon the ground that they are a very poor class of people generally upon whom this great calamity and religious deprivation has fallen, we feel the stronger hope and desire that this appeal should be liberally responded to.

GEO. O. STUART, D. D. and LL.D.,
Archdeacon of Kingston.

A. N. BETHUNE, D.D.,
Archdeacon of York.

September 10, 1850.

INTENTION AND ASSUMPTION.

So then “Francis Mary de Charbonnell, by the Grace of God, and the Holy Apostolic See, Bishop of Toronto,” following up the announcement contained in his Pastoral letter (which we gave in our publication of the 5th) has arrived in this city, “to put an end to the long anxiety of his Beloved Brethren,” and to gladden their hearts with the sight of a Bishop on whom “His Holiness has graciously condescended himself to bestow the Episcopal consecration, and to impose HIS SACRED hands, anointing him with the chrism of salvation,” whereby he informs us the Holy father has acquired a title to the gratitude of the “dearly beloved Brethren.”

But has his “dearly Beloved,” really got a Bishop in Francis Mary de Charbonnell? Has he obtained a valid consecration? Remembering the dangerous doctrine of “intention,” insisted on by his church, we cannot but ask, has the change from a simple Ecclesiastic to a Bishop really taken place? We are told in the doctrines of that Church* that if his Holiness lacked the *intention* to consecrate, or erred in the form, Francis Mary, must be Francis Mary still, and not “Bishop of Toronto.”

But there is another reason why he may not be Bishop of Toronto. The United Church of England and Ireland is happily established in the Provinces, which form an integral part of the British Empire, and may they long continue so. That Established Church has a “Bishop of Toronto,” recognized by law, and though the provisions of the Poman Catholic relief Bill do not apply to the Colonies, its spirit *does*, and no official person from the Postmaster of Toronto up to the Governor General of the Canadas, can at present recognize any one as “The Bishop of Toronto,” save and except our deservedly esteemed Diocesan the Right Reverend John Strachan, D. D.

But by the way may we not ask, why should a foreign Ecclesiastic be intruded on the “Dearly Beloved” of this Province? Was there not among British born subjects one to whom the terms of election “*dignus, dignior, dignissimus*,” might not have applied? But foreign influence has prevailed over British rights—and not only is a foreigner sent by the Holy Apostolic See as Bishop, but Francis Mary de Charbonnell has “followed the paternal advice of his Holiness in seeking out zealous labourers of the Lord to accompany him.”

What? are there no “zealous labourers of the Lord” already in the Province?—or are the Roman Catholic Clergy therein so lukewarm, or so inefficient, that a swarm of foreign Ecclesiastics must follow in the wake of Francis Mary de Charbonnell? If the Roman Catholic Clergy of the Province have a particle of proper spirit or independent feeling, they cannot but feel and resent the double indignity thus put upon them.

But with the foreign Bishop we are promised in the pastoral, a healing plaster in the shape of foreign gold. The liberal provision made in these Provinces by law for the Romish Clergy, and the vast property they have otherwise acquired, is not sufficient for Francis Mary, but, from Rome (we suppose as announced in his pastoral) he proceeded to France “to represent to his brethren in that country, the great necessities of”—Francis Mary? No—of the Church of Rome in Canada, “confident that they would display towards him both charity and generosity.” We cordially hope that he has not been disappointed, and that he has arrived amongst us rich in the superabundant wealth of his French brethren, and that in the use of it he will remember, “he that giveth unto the poor lendeth unto the Lord.”

* “Si ratione mutationis forma sit ambigua vel equivocata ita ut juxta communem loquendi modum recipiat duplicem sensum formae et falsum; tunc ab intentione ministri dependet, an mutatio sit substantialis vel accidentalis, vel enim intendit sensum verum et legitimum et erit tantum accidentalit; alias substantialit;”—“talem omnino esse invalidum.” Denis vol. v. p. 81. n. 12. De intentione, &c.