served the rights of parties in pending cases, and the right to costs was really the only right that was covered by this reservation. Yet the costs are not even divided by the Court of Appeal. The appellant, although he succeeds on the principal question in issue, is condemned to pay all the costs of both Courts. We are not saying there is anything wrong in this. Mr. Justice Ramsay, it is true, differed strongly on this point. But there were circumstances in the case which appeared to the majority of the Court to justify the withholding of costs from McClanaghan. We only refer to it as an illustration—a somewhat remarkable illustration—of the observations made previously in referring to the case of *Montrait & Williams*, as to the freedom with which Courts constantly deal with the question of costs, irrespective of the rights of the attorneys who may have asked distraction. In the case of *Montrait & Williams* (p. 10) the parties had settled their case without the presence of the plaintiff's attorneys, and it was considered a fraud on the latter that the defendant had stipulated for a settlement without costs. In the McClanaghan case, the main question at issue between the parties was settled by a Statute; but though rights in pending suits were guarded, that is to say, the costs of such suits, the Court carries out the statutory settlement, without regard to the attorneys' claim to the costs of the action which is admitted to have been rightly brought.

THE ADMINISTRATION OF JUSTICE.

The following resolution has been published as having been adopted at a recent meeting of *bâtonniers* of the Province, in the city of Quebec:—"That considering the unsatisfactory state of the administration of justice in the Province, and the necessity of making some changes in the system, it is desirable to appoint a commission of three advocates, with power to examine into the judiciary system and the present laws of procedure; to consult the judges of the Queen's Bench and the Superior Court and the different sections of the Bar, and from such enquiry to prepare and recommend such changes in the present system as may be found needful; and resolved, that seeing the great importance of the subjects to be taken into consideration, the Governments of Canada and of this Province should be asked to contribute to the cost of such commission. Resolved also that A. Lacoste, Esq., *Bâtonnier* of the Bar of Montreal, be requested to submit this project to the respective Governments above named, and to obtain their co-operation and assistance."

PRIVILEGED CASES.

A rule was announced by the Court of Review at its sitting on the 31st of January, which is of interest to the profession in the country districts as well as in the city. It was stated that cases which are entitled to be heard by privilege will be called as such, but that if the parties are not then ready to argue them, they will not be called again until they are reached in their regular place on the roll.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, December 17, 1879.

Sir A. A. DORION, C.J., MONK, RAMSAY, TESSIER, CROSS, JJ.

MALO (deft. below), Appellant, and MELANÇON (plff. below), Respondent.

Defective Roof—Recourse against Contractor for cost of new Roof.

The question was as to the responsibility of the appellant for the cost of a new roof to respondent's house. The appellant, a contractor, had erected the house for respondent, but the roof turned out to be defective, and the respondent protested the contractor, who made some repairs, but finally, the respondent put on a new roof himself, for the cost of which he sued appellant, and got judgment for the amount.

The appellant, while admitting his liability to make repairs, complained of the judgment on two grounds, first, that a new roof was not necessary; secondly, that he had not been properly put *en demeure* before the respondent did the work himself. It appeared that when the house was being erected, appellant had desired to make a *toit de pic*, but at the instance of respondent he had put on a French roof.

MONK, J., (*diss.*) thought the judgment should be reversed. The evidence did not support the respondent's case. The new roof was unnecessary, and besides, there had been a change of