

The Legal News.

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Appeals on matters of fact have been discouraged more than ever of late, both in Review and in Appeal. The superior tribunal is of course bound, under our system, to examine the evidence, but the principle has been frequently laid down, that where it is a mere question of appreciation of damage, the appellate court will not disturb the judgment for the sake of adding or taking away a few dollars from the award of the court below; and where the evidence is contradictory or evenly balanced, the opinion of the lower court will prevail, unless manifestly erroneous. So far has this principle been carried that in the case of *Papineau & Taber*, decided by the Court of Appeal, Dec. 30, the Court, while reducing the award of damages from \$100 to \$20, condemned the appellant to all the costs. In another case, *Lafricain v. Legris*, the Court of Review refused to touch a judgment on a matter of fact, on the ground that it was not manifestly erroneous; and reference was made to the ruling of the Courts in Louisiana. It is useless to encumber the regular series of reports with such cases, but as these appeals are constantly coming up, we have reported *Lafricain v. Legris* in the present issue, for the information of the bar.

The Franchise Acts in England have given rise to a multitude of difficulties, and numerous appeals are being made from the rulings of the revising barristers. If our Canadian Act proves to be equally fruitful of perplexities, the revising officers will soon have their hands full. The London *Law Journal*, referring to these difficulties, has the following:—"The ingenious writer of the epilogue to the Westminster Play, detailing the woes of a revising barrister, thus hits off the claimants of the service franchise:—

Ambit idem servus, pincerna, coquusque, popinæ
Tonstrinaeque puer, Martis et acre genus.

Servus, as expressing the servant who does not, like the *famulus*, live in the master's house, may well be allowed the vote. Chremes

as revising barrister, would also allow his vote to the *Martis acre genus*, according to Lord Coleridge's decision. The *puer popinæ*, or Spiers & Pond's waiter, would be denied the vote, although probably the *tonstrinae puer*, or young man at Truefitt's, would obtain it. The *pincerna* is expressly dealt with in the examples in the schedule to the Act, and the *coquus* by implication. We miss a latinisation of Shoolbred's and Maple's young men, the main inheritors of the service franchise, but more than might be thought possible has been done to make classic the *Labyrinthine leges* of the Franchise Acts."

Mr. Travis who, in his Treatise on Constitutional Powers, so forcibly depicted the chaotic condition of the judicial mind in Canada and England, (7 Leg. News, 234), has it seems, been made a stipendiary magistrate in the North-West; at least, we assume that it must be the same individual, for surely this Dominion does not contain within its borders two legal gentlemen named alike and possessing such markedly similar characteristics. As might have been anticipated, something like a blizzard has attended the entrance of this vivacious critic on his new sphere of duty. A writer who characterized the views of the Judicial Committee as "excessively ridiculous," and their "actual, stupid, stolid, ignorance of the matter they are examining" as "positively painful," is just the person to suppress most peremptorily any criticism upon his own decisions. So we are not surprised to see that he has already got an editor lodged in gaol for presuming to criticize the judgments rendered at Calgary by the new dispenser of justice, and he has also pronounced some sharp sentences upon the Mayor and other functionaries.

The origin of the trouble, according to the information received by the *Gazette*, appears to have been the sentences pronounced by the magistrate upon a couple of offenders brought before him. One of these was an alderman of the town, who was accused of assaulting one of the mounted police, who, in plain clothes, entered his premises to search for liquor supposed to be concealed there in violation of the law. He was sentenced to im-