and generous sympathy with every worthy cause, effected a great change for the better, and was a discouragement to mere bohemianism which sometimes threatens to encroach upon the legitimate walks of the profession.

The bill introduced by the Minister of Justice respecting the application to Canada of the criminal law of England, provides that the criminal law of England as it stood on the 1st of July, 1867, in so far as the same may be applicable to Canada, but subject to and as modified by—(*a.*) Any Act of the Parliament of the United Kingdom having the force of law in Canada or any Province thereof; (*b.*) Any Act of the Legislature of any Province now forming part of Canada passed prior to the date at which such Province so became a part of Canada and still having the force of law; and (*c.*) Any Act of the Parliament of Canada,—shall be the portion of the criminal law of England in force in Canada.

SUPREME COURT OF CANADA.

OTTAWA, April, 1888.

Present: Sir W. J. RITCHIE, C.J., and FOURNIER, HENRY, TASCHEREAU & GWYNNE, JJ.

GLENGARRY CONTROVERTED ELECTION CASE.

Election Petition—Ruling by judge at trial—Appealable—Dominion Controverted Elections Act (R. S. C. ch. 9, secs. 32, 33 & 50)—Construction of — Time — Extension of—Jurisdiction.

HELD:—1. That the decision of a judge at the trial of an election petition, overruling an objection taken by respondent as to the jurisdiction of the judge to go on with the trial on the ground that more than six months had elapsed since the date of the presentation of the petition, is appealable to the Supreme Court of Canada under sec. 50 (C.) ch. 9, R. S. C. (Gwynne, J., dissenting).

2. In computing the time within which the trial of an election petition shall be commenced, the time of a session of Parliament shall not be excluded unless the Court or Judge has ordered that the respondent's presence at the trial is necessary. (Gwynne, J., dissenting.

3. The time within which the trial of an election petition must be commenced cannot be enlarged beyond the six months from the presentation of the petition, unless an order has been obtained on application made within said six months.

An order granted on an application made after the expiration of the said six months is an invalid order, and can give no jurisdiction to try the merits of the petition which is then out of Court. (Ritchie, C.J., and Gwynne, J., dissenting.)

Appeal allowed with costs.

Blake, Q.C., and *Cassels, Q.C.*, for appellant.
Macmaster, Q.C., for respondent.

SUPERIOR COURT.

MONTREAL, April 21, 1888.

Before MATHIEU, J.

POUDRETTE v. ONTARIO & QUEBEC RAILWAY COMPANY.

Injunction—Railway actually constructed.

This case arose out of the Ontario & Quebec construction in St. Clet. The plaintiff took a writ of injunction to restrain the company from building across his mill dam in such a way as to injure his water privileges, as by a deed previously passed to the company, one of the considerations of the sale was that in building their line the railway company would not interfere with the water power used by plaintiff to drive his mills.

In asking for an injunction, the plaintiff alleged that the company had built an embankment across the pond, and had caused him a damage for which they were responsible.

The injunction was granted, but the writ was not served, and negotiations were started to arbitrate any damage caused to Poudrette, and Mr. Laurent was named as the company's arbitrator. After some nine months, during which time the railway works were completed, it was found impossible to decide upon a third arbitrator, and the proceedings being broken off, the plaintiff served the injunction which had been granted nearly a year before.

In answer to this writ the company pleaded that the injunction was not tenable, as the