

## The Legal News.

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The *Law Times* (London), referring to the decision of the Judicial Committee in *Davis v. Shepstone*, (*ante*, p. 291) thinks that the ruling of their lordships has gone somewhat too far. The question was, as to the privilege for comments upon acts of men in their public capacity. The *Law Times* says: "If this ruling is thoroughly regarded by the press, there will be little check indeed on the doings of public officials, for no newspaper can safely report any act of official misconduct, unless its editor has such complete evidence as can be relied upon as sufficient to prove the misconduct to the satisfaction of a court of justice. It is obvious that this can rarely be obtained, so that the public servants may, if they think fit, commit all sorts of official misconduct and iniquity with little fear of the press daring to expose them. In the particular case before us, the newspaper seems to have been somewhat reckless in its assertions, and not only reported the alleged facts of misconduct, but actually charged the plaintiff with them, and vouched for the truth of the charges. We have no sympathy with such hasty proceedings; but we think the law, as laid down by the Privy Council, is unsatisfactory. Charges of official misconduct, when made against public men on *prima facie* evidence, and reasonably and moderately stated, ought to be privileged."

The law as to trees whose branches extend over the land of another, came up for consideration in a recent case of *Grandona v. Lovdal* in California. The Supreme Court (July 14, 1886,) held that such trees are not nuisances, except to the extent to which the branches overhang the adjoining land, but to that extent they are nuisances; and the person over whose land they extend may cut them off, or have his action for damages and an abatement of the nuisance against the owner or occupant of the land on which they grow; but he may not cut down the

trees, nor can he cut the branches beyond the extent to which they overhang his soil. Likewise, roots projecting into another's soil are a nuisance which may be abated if actual damage is suffered thereby. *Wood Nuis.*, § 112, citing *Commonwealth v. Blaisdell*, 107 Mass. 234; *Commonwealth v. McDonald*, 16 Serg. & R. 390. This agrees with article 528, of the Civil Code of Lower Canada, which provides that, in default of special regulations, the distance of trees from the line of separation must be determined according to the nature of the trees and their situation, so as not to injure the neighbour. And Art. 529 says that either neighbour may require that any trees which contravene the above regulation be uprooted. And even where the trees are growing at the prescribed distance, the owner may be compelled to cut branches extending over an adjoining property.

*Mielenz v. Quasdorf*, Iowa Supreme Court, April 23, 1886, (28 N. W. Rep. 41) is a curious case upon the law of larceny. The Court held that it is not larceny for one who is the housekeeper and niece of the person with whom she lives, openly to give away outgrown children's clothes belonging to the employer. It is true, the Court further observed, that an employee does not have, by virtue of his employment, any implied authority to give away his employer's property. Possibly the plaintiff, in doing what she did, was guilty of a wrong, and became liable for the value of the articles given away, but it seems very clear that she was not guilty of felonious intent. She doubtless assumed that what she did would be regarded as of no consequence by the defendant, or would be agreeable to his feelings and wishes.

### CIRCUIT COURT.

MONTREAL, Sept. 23, 1886.

Before TORRANCE, J.

BISSON *et al.* v. SYLVESTRE *et al.*

*Procedure*—M. C. 352—*Notice of Security.*

Appeal under the Municipal Act, to set aside the election of school commissioners, held on the 5th July last.