

order putting him in possession. Mr. Andrew F. Mercer and the other defendants who had taken possession of the lands, disputed the title of the Province and demurred to the action, and the demurrer was overruled by the Vice-Chancellor. The decision of the latter was appealed against on several grounds, the one of greatest public interest being the plea that if Mr. Mercer had really died intestate and without heirs, and if his property had on that account really escheated to the Crown, it should revert to the Dominion of Canada and not to the Province of Ontario. This plea was rejected by the Ontario Court of Appeal, which decided unanimously that real property escheating to the Crown should revert to the Province and not to the Dominion. Previous to the date of this judgment the Quebec Court of Queen's Bench had unanimously decided the same point in the same way. (See *Church v. Blake*, 2 Q.L.R. 236.) The judges who decided the Mercer case in appeal were the late C. J. Moss and Justices Burton, Patterson and Morrison.

The Mercer case was carried to the Supreme Court on appeal from the decision of the Ontario Court of Appeal, the very first ground being the one already referred to, that "lands in the Province of Ontario escheat to Her Majesty representing the Dominion in right of her royal prerogative," and that the Dominion Government, and not the Ontario Government, should take possession. In a very elaborate judgment, Chief Justice Ritchie went thoroughly into the whole question of prerogative, holding that the lieutenant-governor of a province, for certain purposes, represents the Queen, and that as the Crown lands were at Confederation assigned to provincial management and control, such of these lands as might afterwards escheat to the Crown should remain under the same management and control. Mr. Justice Strong concurred with the Chief Justice, but as Justices Henry, Fournier, Taschereau and Gwynne took a different view, the judgment of the Ontario Court of Appeal was reversed.

The Ontario Government carried the case on appeal to the Judicial Committee of the Privy Council, and it was argued before that Court on the 7th instant. Judgment has now been given, reversing the decision of the Supreme Court of the Dominion, affirming that of the Ontario Court of Appeal, and declaring by implication

that escheated lands in any province revert to the provincial and not to the Dominion Government. A great deal of interest was taken during the progress of the case in the Canadian Courts by the Government of Quebec, which requested and was allowed the privilege of being represented by counsel during the argument before the Supreme Court. The case will be found in the 5th Sup. Ct. Rep. Canada, pp. 538-712.

NOTES OF CASES.

SUPERIOR COURT.

SWEETSBURGH, July 6, 1883.

Before BUCHANAN, J.

DUGRENIER v. DUGRENIER.

Nullity of contract extorted by threats—Fear and violence—Acquiescence.

An obligation extorted by violence is null, and payments made to and received by the party seeking for the nullity of an obligation by suit on such grounds is not an acquiescence.

The defendant mortgaged certain property to the plaintiff, the amount of which was to be paid in butter tubs in monthly payments. Shortly afterwards defendant sold the property to one J. B. Fregeau with *faculté de réméré*, but making no mention of plaintiff's mortgage. Fregeau discovering this, with the aid of defendant and his son Louis,—to compel plaintiff to give him priority upon the land—threatened to prosecute plaintiff criminally for having forged the name of defendant's son Louis to a promissory note. Yielding to this threat, which was made under circumstances and by the aid of accessories calculated to more effectually intimidate him, the plaintiff signed the discharge and accepted a new obligation from defendant by which the monthly payments of butter tubs were to continue until the claim was extinguished.

Within a few days thereafter plaintiff sued to resiliate the discharge and obligation on the alleged ground of violence, by which his consent thereto had been extorted. By one of the defendant's pleas, and the only one on which he relied, he set up certain amounts in compensation and payment, alleging that the reception