

*Servitude—Destination by proprietor—Extent of servitude—C. C. 545, 551.*

**HELD:**—1. As regards servitudes, the destination made by the proprietor is equivalent to a title, only when it is in writing, and the nature, the extent and the situation of the servitude are specified. C. C. 551.

2. The use and extent of a servitude are determined according to the title which constitutes it; so, where E. acquired four houses "with the servitude of hidden drains underneath the yards," and it appeared that a drain had been constructed to conduct the sewage of the four houses in question as well as of the adjoining corner house, to the street drain, it was held that the deed did not give any right of servitude in the portion of the drain under the yard of the adjoining corner house, this not being mentioned in the deed, and not being included in the description given therein. — *Fisher & Evans, Dorion, C.J., Monk, Ramsay, Cross, Baby, J.J.*, September 25, 1885.

#### THE RIEL CASE.

A special sitting of the Judicial Committee of the Privy Council was held on the 21st of October to hear the argument on the petition for special leave to appeal from the decision of the Court of Queen's Bench for the Province of Manitoba, presented on behalf of Louis Riel, the leader of the late rebellion in Canada. Their Lordships present were the Lord Chancellor (Lord Halsbury), Lord Fitzgerald, Lord Monkswell, Lord Hobhouse, Lord Esher (the Master of the Rolls), and Sir Barnes Peacock.

The petitioner was represented by Mr. Bigham, Q.C., Mr. Jeune, and Mr. Fitzpatrick (of the Canadian Bar); the Attorney-General, Mr. R. S. Wright, and Mr. Danckwerts appeared for the Crown; and Mr. Burbridge, Q.C., the Canadian Deputy Minister of Justice, appeared for the Canadian Government.

It may be remarked that the petition came on to be heard on Tuesday, the 13th ult., but on the application of the petitioner's counsel, their Lordships consented to an adjournment till the 21st, the hearing of the petition to be then peremptorily proceeded with.

Mr. Bigham, Q.C., in opening the petition, stated that Louis Riel had been sentenced to death at Regina, in the Northwest Territories of Canada, and that sentence had been confirmed on appeal by the Court of Queen's Bench for the Province of Manitoba. The petition asked for leave to appeal against that decision, and the substantial ground on which the application was based was—that the stipendiary magistrate and the justice of the peace who condemned the prisoner to death had no jurisdiction to try the petitioner at the original trial. The petitioner had been tried for the crime of treason, and found guilty upon evidence which was not questioned in the court of first instance, and, therefore, it was to be assumed that, if the petitioner were responsible for his actions, as to which there appeared to be some doubt, he was guilty of the crime with which he was charged. The substantial defence in the court of first instance, and insisted upon in the Court of Queen's Bench, was that he was not responsible for his actions; but the Court of Queen's Bench, which undoubtedly had power to hear the appeal, came to the conclusion that the verdict on the question of sanity or insanity was abundantly supported by the evidence. The question which it was desired to have determined in solemn argument was, whether the court of first instance had jurisdiction to try the petitioner in the way they did; and to arrive at what their jurisdiction was, it was necessary to examine the legislation which had taken place on the subject. The learned counsel then proceeded to refer to the various acts of Parliament under which the legislative bodies, both of the Dominion and the various provinces of Canada, had been constituted. By the British North America Act of 1871 the Northwest Territories became a part of the Dominion of Canada, and, acting under the provisions of that statute, the Dominion Parliament had passed the Northwest Territories Act of 1880, under which Act the petitioner had been tried. The question for argument would be whether, under the words of section 4 of the British North America Act of 1871, which gave the Dominion Parliament power to legislate for the due administration and the peace, order and good government