JUGÉ, que le bref étant émané et revêtu de timbres, aucune altération ne peut y être faite, et action renvoyée.—*Lapointe* v. *Dorion*, C. C., Casault, J., 20 janv. 1885.

Election municipale—Faux emprisonnement.

JUGÉ: 1o. Que le président d'une assemblée tenue pour l'élection des conseillers municipaux, en vertu des dispositions du Code Municipal, n'a pas le droit, en vertu de la section 4 de l'article 301, du dit Code, de faire emprisonner par un ordre écrit de sa main les personnes qui troublent l'assemblée par des cris et de menaces de violence au dit président, et que s'il le fait, il est passible de dommages pour faux emprisonnement.

2o. Qu'il ne suffisait pas, dans l'espèce, d'avoir fait préparer sur le champs le mandat d'arrestation contre le demandeur, mais qu'il aurait fallu l'exécuter incontinent.

3o. Que le président de la dite assemblée n'avait le droit de faire emprisonner le demandeur, qu'après conviction sommaire. *Trépanier* v. *Cloutier*, C. S., Stuart, C. J., 1885.

Municipal Taxes—Prescription.

HELD, that the prescription of five years applies to municipal taxes (36 Vict. [Q.] ch. 60, s. 144; C. C. art. 2011.—*Corporation de Lévis* v. *Lagueux*, S. C., Andrews, J.

A LEGAL HERESY.

To the Editor of THE LEGAL NEWS:

Paley, on convictions, (McNamara's Ed. of 1879), p. 78, states:

"*Whenever* the information *is required* by "statute to be in writing, that form must be "preserved; *but*, unless *expressly* directed, it "*is not necessary* that it should *be so*."

The *very reverse* of that statement is a *correct* exposition of what, for centuries past, the law has been, and what it now is as to the necessity of an information; an information has ever been the first step necessary to give jurisdiction to the J. P., as showing the commission of an offence, which he has jurisdiction to try in a summary way. The defendant cannot be tried for any other offence than the one described in the information. It need not be sworn to, unless the statute creating, or referring to, the offence, or the prosecutor, require it to be so, in order to obtain a warrant of arrest.

To that rule, as to every other man-made rule, there is an exception; that exception is, when the statute *expressly* dispenses with an information, as, for instance, whenever power is given to the justices to *convict* ON VIEW.

In support of his statement, Paley, in note *r*, refers to the following cases:

—Per *Parke*, B., *R.* v. *Millard*,—17 Jurist, 400.

—*R.* v. *Shaw*, 34 L. J., M. C. 169.

—*R.* v. *Bedringham*, 5 Q. B., 653.

—*Ex parte Perham*, 29 L. J., M. C., 33.

—*Turner and another* and *The Postmaster General*, 34 L J., M. C., 10.

—*R.* v. *Rawlins*, 8 C. & P., 439.

Let us examine *seriatim* the reports of these cases.

In that case *R.* v. *Millard*, no such decision took place. In the course of the argument, *Baron Parke* interrupted the prisoner's counsel, with this statement, *personal* to himself:

"No magistrate can proceed without an "information; but, unless the statute requires "that the information should *be in writiny*, "*or upon oath*, it need not be so."

In support of his inconsiderate opinion, he cites the case of *Basten* v. *Carew*, 3 B. & C. 649. Let us examine the report of that case, in order to see if it bears out his *ipse dixit*. That was a case, in which the act, 11 Geo. 2, ch. 19, section 16, gave power to two justices, in petty session, to grant to a landlord possession of his property, if the tenant did not pay the overdue rent, within the time prescribed by a notice of the J. P.'s, served on the tenant, and this, on the verbal request, of the landlord. In that case, there was no question of a "precedent" information. The question was, whether or not, before making an order of possession in favor of the landlord, the justices were obliged to inquire *under oath*, whether the rent had been, or had not been, paid. The court decided that it was not necessary to make that inquiry *under oath*, because the statute *did not require* it to be so.

So much for the case of *Basten* v. *Carew*, 3 B. & C. 649, and for Baron Parke's inconsiderate opinion.

In the case of *R.* v. *Millard*, perjury was assigned against him, upon an oath, taken by him, in a prosecution, based on an information *in writing*, but not *under oath*, and wherein the defendant, appearing on a summons, took no objection whatever to the proceedings against him and merely defended himself on the merits of the case. There was in that case a *written* information; and