

succeeding the sitting of the Court at which such sentence of death shall be passed." (s. 5.) Is it intended that no sentence of death shall be carried into execution until the expiration of more than one term, next after the sitting, when such sentence was pronounced? If more than one—how many terms are intended? If one only be intended, why is the word "terms" used? "Terms," strictly speaking, must mean at least *two* terms. There is one term allowed for an appeal to either of the Superior Courts—this is of right. Then *with the allowance* of two judges of that Court, there *may* be an appeal to the Court of Error and Appeal. But suppose the judges decline to allow the appeal—what then? Is it still necessary that more than *one* term should expire before carrying the sentence into execution? May not the word "terms" be an error, and the word "term" intended? There is much to be said for and against this supposition. It is well that "the Judges of the Superior courts of Common Law, or a majority of them and the said Court of Error and Appeal" have "full power and authority from time to time to make such rules and orders as they may consider necessary more effectually to carry out all or any of the provisions of this Act:" (s. 6.) Unless we are greatly mistaken, there are two or three of the provisions which much need rules or orders to carry them out. We have done our duty in directing attention to them.

THE FLOUR TRADE.

In Upper Canada there is a very large class of persons engaged in the buying and selling of flour. For the benefit of such persons, and of such of the profession as may be called upon to advise them, we purpose in this article to notice some recent and important decisions of commercial interest.

The quality of a barrel of flour, like the quality of any other commodity, greatly influences its price—the better the quality the greater the price, and *vice versa*. But when flour in quantities of hundreds or thousands of barrels exchanges hands, it is utterly impossible for the purchaser to examine each particular barrel. For this reason it has become the custom of millers to stamp each barrel as being of a certain quality having reference to the standards established by law. The standards or grades rank thus:—

Very superior....."Extra Superfine."
 Second quality...."Fancy Superfine."
 Third quality....."Superfine."
 Fourth quality....."Superfine, No. 2."
 Fifth quality....."Fine."
 Sixth quality....."Fine Middlings."
 Seventh quality..."Ship Stuff," or "Pollards."
 Farine Entiere.....E. T. N. (19 & 20 Vic. c. 87, s. 23.)

Until recently, there was no expressed opinion of the Courts as to the effect of flour brands. Everybody knows that no brand can make bad flour good, or *vice versa*, and that Inspectors appointed bylaw in Quebec, Montreal, Toronto, and other large cities, daily alter millers' brands. The question, then, naturally arises—Does not a miller who brands flour "Extra Superfine," and sells it as such, warrant to his vendee that such is the quality of the flour? At a trial in the City of Toronto, a member of a firm most extensively engaged in flour-dealing, swore that "he should not value the millers' brand as anything, for that they brand according to their fancy!" His opinion seems to have been that of many others of a similar occupation; but at length turns out to be wholly erroneous. Our Court of Queen's Bench, after the most careful consideration, has decided that "a person manufacturing flour, who marks it of a particular quality, warrants its being of that quality:" (*Chisholm v. Proudfoot*, 15 U. C. R. 203.) We do not think it necessary to detail the facts of this case; for the principle was fairly and prominently recognized. The reason of the decision is beyond all dispute. A man who manufactures flour must be assumed to be acquainted with the different qualities of the article, and when he brands a barrel of a certain quality must be taken to have exercised his judgment and arrived at the conclusion that the barrel so branded deserves to be described as branded. Upon the faith of this brand the purchaser deals and pays his price. If the brand be untrue, the purchaser is deceived. If not intended to be true, wherefore is it used,—unless to deceive? This the law cannot and will not countenance. The fact that Inspectors are appointed whose duty it is, upon request and payment, to examine flour, does not at all affect the legal question. It is assuredly important and in fact necessary for men sending flour abroad to send with it some evidence of its having been officially inspected. This the course