

The Legal News.

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From the observations of "Nemesis," in a recent issue, it might be inferred that responsibility for the delay in getting cases on to trial rests upon the judges. The truth is that the judges have less to do with the matter than the bar,—if we take into account the largeness of the representation of the bar in the provincial legislature. The difficulty proceeds, not from indifference or lack of zeal on the part of the bench, but from the deficiency of court rooms, which hampers the judges in the performance of their duties. There are usually eight judges available for the work of the Superior Court in this city, and that force would probably be found ample, if there were rooms enough to permit several divisions to proceed simultaneously. The evil is of long standing, and it is to be hoped that the recent acquisition by the government of the St. Gabriel Church property, as an adjunct to the Court House, will diminish it, at least, to some extent. The members of the bar in the Quebec legislature might, it seems to us, by vigorous combination, have procured some relief long ago. As it is, unfortunate suitors are heavily taxed, the surplus of fees going into the general revenue, and they have not even the satisfaction of being promptly heard.

What are "necessaries" is a question that affords lawyers in England some amusement. On p. 69 we published a note of a case in which a bill of \$175 was claimed from a husband by a professional shampooer, for shampooing the defendant's wife. In another case, a sum of about \$500 was claimed from a parent for coats and trousers supplied by a tailor to a youth at a public school, who had, moreover, a liberal allowance for his personal expenses. In a later case of *Jones v. Barron*, tried before Mr. Justice Stephen, a tailor contended that a dressing gown was a necessary for a minor. The learned judge did not appear to concur in this view. He said "he

found it quite enough bother to dress himself once every morning, without first dressing in one suit to wear while he dressed in another."

The same judge had an interesting question before him in *Reg. v. Ensor*, in which the indictment was against a solicitor, charging him with having maliciously published a certain libel intending to injure the character of one John Batchelor, deceased. Mr. Justice Stephen directed an acquittal on the ground that to libel the dead is not an offence known to the law. We shall give the reasons of the learned judge in another issue. The ruling has not escaped criticism. The *Law Journal* says: "Every respect will be paid to this decision of a judge who has made the criminal law a special study and whose judgment shows every sign of care and research. At the same time, there are indications that some of his colleagues on the bench do not take the same view, or did not previously to Mr. Justice Stephen's judgment. The judgment of a judge at Nisi Prius must rely for its authority mainly on its reasoning, and the doubt which arises from Mr. Justice Stephen's argument is whether his view of the criminal law of libel, to which he appears to give much the same limits as the civil law of libel, is not too narrow. The general principle upon which the law treats a libel as a criminal offence appears to be because of its tendency to lead to a breach of the peace. Mr. Justice Stephen's argument seems to assume that this necessarily means a breach of the peace at the hands of the person libelled; but in a criminal prosecution the person libelled is not necessarily the prosecutor, and the Crown takes the matter up, not in the interests of the prosecutor, but of all the Queen's subjects. Suppose, for example, a big bully libels a lady. The lady is not likely to resort to a thick stick, but her brother or some other male champion may well be expected to do so. Similarly, the dead cannot break the peace, but their surviving friends are all the more likely to do so, because the libel is of the dead. A criminal libel is thus less like a civil libel than it is like a seditious libel, which actively incites to crime, while a defamatory libel passively gives occasion for it."