

MACMAHON, J.]

[July 28.]

REGINA v. TOLAND.

Constitutional law—Trial and conviction by police magistrate of persons charged with forgery—53 Vict., c. 18, s. 2 (O.)—Ultra vires.

Procedure in criminal matters which by the B.N.A. Act is assigned exclusively to the Parliament of Canada includes the trial and punishment of the offender, and therefore s. 2 of 53 Vict., c. 18 (O.), authorizing police magistrates to try and convict persons charged with forgery is *ultra vires* of the Provincial Legislature.

Tyler for the applicant.

Cartwright, Q.C., contra.

Practice.

BOYD, C.]

[Sept. 28.]

FAREWELL v. FAREWELL.

Will—Mortmain—Impure personalty—Legacy to promote temperance legislation—Validity of bequest.

Action for construction of a will.

Held: (1) That a promissory note collaterally secured by mortgage on land was, at the death of the testator, impure personalty within the authorities.

(2) That upon the language of the will, the testator had directed that the pure personalty was to be so marshalled as to give priority to the bequest in the will of \$8,000 to the Foreign Christian Missionary Society of Cincinnati, Ohio.

(3) That a bequest to trustees of \$2,000 upon trust, to "apply the same in such lawful ways as in their discretion they may deem best in order to promote the adoption by the Parliament of the Dominion of Canada of legislation prohibiting totally the manufacture or sale in the Dominion of intoxicating liquor to be used as a beverage, and in order to give practical aid in the enforcement of such legislation when adopted, and whether by educating and developing a strong public sentiment in its favour, or by other and more direct means, or in such other ways as my trustees shall think best."

Held, that this was a good charitable legacy, being for a lawful public or general purpose, and not contrary to morality or to public policy. The testator merely sought to procure

what he deemed a desirable change in the law by constitutional means.

S. H. Blake, Q.C., for the plaintiffs.

A. H. Marsh, Q.C., Maclaren, Q.C., and Greerson for the defendant.

BOYD, C.]

[Oct. 14.]

IN RE ROBINSON, McDONNELL v. ROBINSON.

Will—Legacy—Interest.

A testatrix by her will directed that a legacy should be paid out of the proceeds of the sale of lands, and that the lands should be sold at any time within two years after her death.

Held, that interest upon the legacy should be allowed from the day when the two years expired; or, if the lands were sooner sold, from the date of sale.

Masten for the plaintiff.

Frank Denton for the defendant.

Flotsam and Jetsam.

ACCORDING to the last census, there are 33,163 lawyers in the United States.

FIRST JURYMAN: "We can't convict the prisoner of bigamy."

SECOND: "Why not?"

FIRST: "His having a wife made his second marriage null and void. Hence he has but one wife, and, as I understand bigamy, it is having two."—*New York Sun.*

RECENTLY a northern recorder who is noted for the length and solemnity of his exhortations was addressing an old Irishwoman who had been convicted, not for the first time, of some trifling offence. His honour had gone on for half an hour or so, when suddenly the prisoner flopped on the floor of the dock. As the warder was trying to get her on her feet again, she made a remark in a very bitter and discontented tone. The recorder, not catching the drift of it, asked the warder in his most impressive manner:

"Warder, what does the prisoner say?"

"She says, your honour," replied the warder, "that she can stand penal servitude, but she's d—d if she can stand this."—*London Truth.*