

## The Legal News.

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In contrast with the three years' arrears before the Supreme Court of the United States, it may be mentioned that there are only eleven appeals before the House of Lords, and only three of these are last year's cases. Of course, this does not imply any reproach to the members of the American Court; on the contrary, the amount of work dispatched by the latter is enormous, but the number of cases which go up to them is overwhelming, and it is questionable whether at the present rate of progress—nearly two cases per working day—the questions which arise can always receive that careful consideration which is expected from an ultimate Court of Appeal.

The May Term of the Appeal Court in Montreal had considerable effect in breaking down the list, more than thirty cases being disposed of notwithstanding the occurrence of two holidays and the loss of a third day owing to the illness of members of the Court. It seems probable that the September list will contain not more than eighty cases, a large majority of which will be heard before Christmas.

It is stated by the special correspondent of the *Gazette* that the question of judicial salaries will not be considered this session, but that next session a measure will be introduced dealing with the subject. Something not unlike this has, we believe, been said before. In connection with the subject of judicial salaries, it may be remarked that the vacancy in the Superior Court caused by the death of Mr. Justice Torrance has been left too long unfilled. While complaints are constantly heard as to the difficulty of getting cases tried, no chair in a court of original jurisdiction should be left empty for a month, much less six months. We have had occasion to remark several times that in this respect a faulty deviation is made from the practice in England.

### SUPERIOR COURT—MONTREAL.\*

*Procedure—Power of attorney and security for costs.*

HELD:—That a non-resident plaintiff, contesting the collocation of a third party in a report of distribution, is obliged to furnish a power of attorney and give security for costs. *Bornais v. Arpin, & Merchants Bank of Canada, Taschereau, J., April 16, 1887.*

### COURT OF QUEEN'S BENCH— MONTREAL.†

*Municipal Corporation—Responsibility—Condition of Streets—Extraordinary Circumstances—Serment Supplétoire.*

HELD:—1. That a municipal corporation is not bound to make extraordinary exertions, out of proportion to the means at its disposal, in order to keep the streets free from snow and ice, but only to such extent as is reasonable, taking into consideration the means at its disposal.

2. Where there is no evidence of the cause of the accident, it is not a proper case for submitting the *serment supplétoire*, and thus permitting the case to be proved entirely by the plaintiff's oath. *Corporation of Sherbrooke & Short, Feb 22, 1887.*

*Novation—Extinction of obligation by granting a term to substituted debtor—C. C. 1169.*

The appellant, being indebted to the respondent, settled by giving his own note (paid at maturity) for part of the debt, and for the balance he gave an order or draft on the St. H. Company, which was accepted. But, instead of exacting immediate payment of the draft (which was payable forthwith), the respondent took from the St. H. Company their two promissory notes payable at one and two months respectively, and before these notes matured the St. H. Company became insolvent.

HELD:—That novation was effected by the acceptance of the new debtor in the room of the old, whom it was intended to discharge, as evidenced by the term granted by the creditor to the substituted debtor without the

\* To appear in Montreal Law Reports, 3 S. C.

† To appear in Montreal Law Reports, 3 Q. B.