The Legal News.

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ACTIONS IN FORMA PAUPERIS.

In the case of *Laramée et al.* v. *Evans*, noted in the present issue, Mr. Justice Jetté decided a question of some importance to the revenue. The defendant, in an action to annul a marriage, is defending herself *in forma pauperis*. The evidence was taken by stenography, and the costs on the depositions of witnesses called for the defence, including a lengthy cross-examination, amounted to over a hundred dollars. The defendant having represented to the Court that it would be out of her power to pay this amount, Mr. Justice Jetté allowed the privilege granted to defendant of pleading *in forma pauperis* to be extended so as to include the fees on the depositions, and an order was made that the evidence should be filed unstamped. It has not been the practice to receive the evidence without payment of fees in these cases, and it is stated that the late Mr. Justice Mondelet, in granting leave to plead *in forma pauperis*, used to except the cost of depositions. On the other hand, of what benefit would it be to allow a party to file pleadings gratuitously, if the expense of the evidence, swollen perhaps chiefly by the cross-examination, bars the way to final hearing?

THE LATE LORD JUSTICE THESIGER.

Lord Justice Thesiger, of the English Court of Appeal, who died on the 20th ult., was one of the youngest judges on the English bench. He was the third surviving son of the late Lord Chelmsford, an ex-Lord Chancellor, who died only two years ago, and a brother of Lord Chelmsford who commanded in the Zulu campaign. Lord Justice Thesiger was educated at Eton and at Christ Church, Oxford, and was called to the bar in 1862. He obtained considerable business before Parliamentary Committees and at *Nisi Prius*, and about three years ago was raised to the bench of the Court of Appeal at the early age of 39. The *Law Journal* remarks that he was one who, being placed in the best situation for success, was quite equal to the situation, and succeeded. "He would not have succeeded had he not possessed great industry and conscientiousness. He was a man of great quickness of parts; but he knew his defects. He acquired by labor what others had by intuition, and was able to equal and sometimes beat them in the race." His death was somewhat sudden, and is attributed by a London correspondent to an injury received while swimming, which aggravated an old complaint in one of his ears. His place in the Appeal Court has been filled by Mr. Justice Lush, a judge of long standing and eminent reputation, but who has already attained the ripe age of 74.

A Syllable Too Much.—In the case of *City Bank* v. *Barrow*, Lord Hatherley speaks of our Civil Code as "this voluminous Code." Perhaps his Lordship meant to say "luminous."

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

Montreal, Nov. 12, 1880.

Sir A. A. Dorion, C.J., Monk, Ramsay, Cross, J J., Baby, A.J.

Shaw (plff. below), Appellant, & McKenzie et al. (defts. below), Respondents.

Capias—Damages—Probable Cause.

A debtor, about to depart for England, refused to make a settlement of an overdue debt with his creditor, who thereupon caused him to be arrested on capias; held, that the arresting party being in good faith, and there being probable cause for the issue of a capias, the creditor was not liable in damages.

The appeal was from a judgment of the Superior Court, Montreal, Johnson, J., Dec. 30, 1878, which will be found reported in 2 Legal News, p. 5.

Ramsay, J. To obviate all misapprehension let me say at once that the Court is not about to lay down any doctrine at variance with the jurisprudence which reached its highest development in the case of *Hurtubise & Bourret* (2 L.N.54). Only one member of the Court, so far as I know, doubts the soundness of that jurisprudence, and though my doubts have not disappeared, I do not contend against a jurisprudence which I consider settled. Although I do not assent, I have ceased to dissent, to the doctrine laid down in that well-known case. But the case