The Legal News.

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THE DOMINION CONTROVERTED ELECTIONS ACT.

The Supreme Court of Canada, on the 28th ultimo, affirmed the judgment of Chief Justice Meredith in *Langlois* v. *Valin*, 5 Q. L. R. 1, in which the learned Chief Justice decided that the Dominion Controverted Elections Act of 1874 is not *ultra vires* in making the Superior Court of Lower Canada a Court for the trial of petitions respecting elections to the House of Commons. That judgment was given after the case of *Bruneau et al.* v. *Massue*, in which the Court of Queen's Bench sitting in appeal unanimously ruled in the same sense. (See 2 Legal News, p. 38; 23 L. C. J. 60). The judgment in *Bruneau* v. *Massue* was rendered on the 18th December last. In January, however, in the case of *Belanger* v. *Caron*, 5 Q. L. R. p. 19, Mr. Justice Stuart, though his attention, apparently, had been called to the case of *Bruneau* v. *Massue*, held that the Dominion Controverted Elections Act of 1874 is *ultra vires*. Mr. Justice Caron, in another case decided about the same time, *Dubuc* v. *Vallée*, 5 Q. L. R. p. 34, agreed with the Court of Appeal and with Chief Justice Meredith.

Under the circumstances the Supreme Court exercises a useful function in settling the jurisprudence on the point, that is to say, if the decision of the federal tribunal be universally accepted as authority, which it may be hoped will be the case. The Supreme Court, we may remark, was unanimous. The judgment of Chief Justice Ritchie will be found in another column.

LEGISLATION OF LAST SESSION.

A question was raised as to the validity of the Acts of the Province of Quebec, assented to by the Lieutenant-Governor on the 11th of September last. These Acts had been assented to during an adjournment of the Legislative Assembly, in the presence of the Legislative Council, but the Assembly was represented by the Speaker and Clerk only. This was contrary to usage, but the step was prompted by the importance of putting the Acts in force without delay. When the Legislative Assembly met on the 28th ult., the then Solicitor-General Mr. Mercier, and Mr. Wurtele both introduced bills to remove the doubt which existed as to the validity of the assent given in the absence of the Legislative Assembly. The difficulty, however, was solved by the present administration advising the Lieutenant-Governor to assent to the Acts again in the presence of both Houses.

FRIVOLOUS APPEALS.

Mr. Justice Johnson, presiding in the Court of Review, in pronouncing the judgment of the Court in a case on the 31st ult., censured rather severely the practice of taking cases to Review where the facts were really so plain as to admit of no doubt. It would also appear that the papers filed in suits are open to objection on the score of neatness and legibility. The learned Judge concluded his judgment as follows: "On the whole, it is impossible to doubt that the unquestionable duty of the Judge below was to rule as he did. Now, with reference to this case, which is unfortunately only a specimen of a numerous class of cases that come before this Court, we feel constrained to say that it ceases to be a matter of surprise that the list in Review should show some 80 cases in a term. Yet all this stuff has to be examined and disposed of by three Judges, who must, each for himself, deal with the unclean and disorderly mess of papers, for the most part in two different languages, and illegible in either, except by an expert, that makes up the average record in the Superior Court for Lower Canada. Judgment confirmed with entire unanimity and considerable disgust."

RIGHTS OF FIRST REGISTERED MORTGAGEE OF A VESSEL.

In the case of *Ross* v. *Smith, & Cantin*, opposant, noted in the present issue, Mr. Justice Jetté has reviewed the decisions of our Courts with reference to the rights of duly registered mortgagees of ships under the Merchant Shipping Act, and arrived at the same conclusion as Mr. Justice Sicotte in the case of *Kempt* v. *Smith, & Cantin*, opposant (2 Legal News, p. 190). The law is held to be that a judgment creditor has no right

to seize or bring to sale a vessel on which there is a duly recorded mortgage, without getting the consent of the mortgagee, or an order of a competent Court. Apparently, the nature of the debt for which the vessel is seized, whether it be for work done, or for supplies or equipment furnished, does not affect the question of the right to seize and sell.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, Oct. 31, 1879.

ROSS et al. v. SMITH, and CANTIN, opposant.

Vessel — Seizure by judgment creditor without consent of first registered mortgagee—Mortgage executed in presence of one witness.

In January, 1875, the plaintiffs, alleging that that they were the *derniers équipeurs* of the steamer "Cantin," caused it to be seized before judgment, as in the possession of defendant, for a sum of $198.98. On the 25th January, 1876, judgment was rendered against the defendant for this sum by default, and on the 26th February, 1876, the vessel was advertised for sale under a writ of execution in satisfaction of this judgment.

The opposant intervened, and alleged that in May, 1875, the defendant mortgaged the ship to him for $10,000, which defendant was to pay on the 15th June, 1876, the opposant agreeing not to exercise before that date the mortgagee's right of sale under the Merchant Shipping Act of 1854. The opposant further alleged the registration of the mortgage, and said that the vessel could not now be seized and sold without his consent. He concluded, therefore, by praying that the seizure be set aside.

The plaintiffs contested the opposition, saying that at the time of the seizure, the defendant was proprietor and in possession of the vessel, and that the only right which the opposant had was, not to prevent the sale, but to ask that the sale be made subject to his mortgage. The plaintiffs further urged that the opposant had himself caused the vessel to be seized as in defendant's possession, since the plaintiffs' seizure; that at the time of the plaintiffs' seizure nothing was due to opposant, the term accorded for the repayment of the $10,000 not having expired; and lastly, that plaintiffs' claim should take precedence of that of opposant, being for repairs and necessaries for the ship.

The last allegation was held by the Court not to be proved, but the other facts were either admitted, or appeared by the documents produced.

JETTÉ, J., in rendering judgment, disposed first of a question raised at the argument only, —that the opposant's mortgage was null, the document not being passed before a notary, or made in duplicate in the presence of *two* witnesses, as C.C. 2380 requires, but was signed in the presence of a single witness. The answer to this was that Art. 2380 had been repealed by 36 Vict. (Canada) ch. 128, passed in 1873. Not only Art. 2380, but all the articles from 2356 to 2382 inclusively (27 in all) have been repealed by the Act of 1873, except such parts of 2356, 2359, 2361, 2362, 2373 and 2374, as are not inconsistent with the Act in question. At the same time chapters 41 and 42 of the Consolidated Statutes of Canada, on which the above mentioned articles of the Code were founded, were also entirely repealed. The result was to revive the provisions of the Merchant Shipping Act of 1854 as modified by our Act of 1873. Now, according to the form given in the Imperial Act of 1854, which is not changed by the Canadian Act of 1873, one witness is sufficient. The mortgage of opposant was given after the repeal of Art. 2380 C.C., and therefore the pretention of the plaintiffs on this point was unfounded.

The second question was as to the right of the mortgagee, Cantin, to oppose the seizure. In the case of *Kelly & Hamilton*, 16 L. C. J. 320, it was decided by the Court of Appeal in 1872, that a registered mortgagee, who is also holder of the certificate of ownership, can revendicate the vessel in the hands of an *adjudicataire* thereof by judicial sale, even when the mortgagors have at all times prior to the delivery to the *adjudicataire* been in actual possession. This judgment was rendered by Duval, Caron, Drummond, Badgley and Monk, JJ., but by a majority of one only, Drummond and Monk, JJ., being in the minority.

In April, 1878, in *Daoust* v. *Macdonald, & Norris*, opposant, 1 Legal News, p. 218, the Court of Review decided that a mortgagee

cannot prevent the seizure and sale of a vessel at the suit of a judgment creditor, but such sale will not purge the mortgage, and conveys to the purchaser only such rights as the mortgagor had, the mortgagee retaining his rights against the purchaser. This was a reversal of Judge Mackay's judgment, and Judge Torrance dissented in Review, so that the judges were two against two. In May, 1879, Judge Sicotte, in the case of *Kempt* v. *Smith, & Cantin*, opposant, contrary to the decision in Review in *Norris* v. *Macdonald*, maintained the right of the registered hypothecary creditor to oppose the sale of a vessel mortgaged to him. See 2 Legal News, page 190.

The decision in *Daoust* v. *Macdonald*, though not expressly opposed to that of the Court of Appeal in Kelly and Hamilton, was in conflict with that of the Queen's Bench in England, in the case of *Dickenson* v. *Kitchen, & Darling*, 8th Ellis & Blackburn, p. 788, on which the judgment in *Kelly & Hamilton* was principally founded. It was interesting to observe that the grounds relied on by the Court of Review in *Daoust* v. *Macdonald*, and by the plaintiffs in this case, had been urged in the English case, and yet the pretension was unanimously rejected by the four Judges of the Queen's Bench. The case of *Dickenson & Kitchen* was better authority now than in 1872, the repeal of the articles of the Code having taken place since that date, and his honor might say, with Judge Badgley, "under these circumstances the judicial propriety is unquestionable of resorting to the English authorities and precedents as explanatory of the Provincial law." In fact, the Provincial law in this matter was not different from the Imperial law, and section 66 of the Imperial Act was law here. The opinion of the English Court of Queen's Bench, therefore, afforded the most authoritative interpretation of the law. His Honor cited the opinion of Lord Campbell in the case referred to: "To hold that any other creditor may seize and sell a mortgaged ship as against the mortgagee is inconsistent with the later part of that section (70).....There is nothing in the Act to enable a creditor of the mortgagor to seize and sell a mortgaged ship; and the exercise of such a right by him is inconsistent with the right expressly retained in favor of the mortgagee." And Coleridge, J., said: "By sect. 70, it is implied that the mortgagee of a ship, by reason of his mortgage is to be deemed the owner to an extent which is inconsistent with the alleged right of another creditor to seize and sell the ship." The text of the Federal Act of 1873, was express:—"Every recorded mortgagee shall have power absolutely to dispose of the ship, in respect of which he is recorded as such, and to give effectual receipts for the purchase money; but if there are more persons than one recorded as mortgagees of the same ship, no second or subsequent mortgagee shall, except under the order of some Court capable of taking cognizance of such matters, sell such ship without the concurrence of every prior mortgagee." It could not be supposed that the law intended to give an ordinary creditor, without privilege or mortgage, a right denied to a privileged creditor. The opposition would, therefore, be maintained, and the seizure set aside.

D. R. McCord for opposant.

T. P. Butler for plaintiff contesting.

CIRCUIT COURT.

WATERLOO, Dist. of Bedford, Oct. 1, 1879.

EASTERN TOWNSHIPS MUTUAL FIRE INS. CO. v. BIENVENU.

Cause of action—Mutual Insurance Co.—Premium Note.

The plaintiffs, having their head office in Waterloo, district of Bedford, brought an action against the defendant for $80.34, assessments on premium note given for insurance in the company. The defendant was described as of Verchères, in the district of Montreal, and service was made on him there; and it was admitted that the premium note and application for insurance were signed there.

The defendant filed a declinatory exception, on the ground that he should have been sued in the district of Montreal, where he had been served, and where the cause of action arose.

It was admitted that the head office of the Company was at Waterloo, and the plaintiffs produced notice of assessments and certificates, showing that calls were payable at the head office.

The plaintiffs relied on C.S.L.C. cap. 68, relating to Mutual Insurance Companies. The defendant, by signing the application, became a member, and as such was bound by the regu-

lations made by the directors, and as the assessment was made payable at the head office, the company had a right of action there.

DUNKIN, J. This is a matter purely personal, and 34 C.C.P. is decisive of the question raised. This court is not that of the defendant's domicile, nor yet that of the place where the demand was served upon him personally. Is it, then, that of the place where the right of action originated? Were he suing the company, it might well be said that his right of action against them originated here, where they have their domicile, and their business head-quarters. But they are suing him; and he is right when he objects that all he ever did to give them cause of suit against him, he did outside of this jurisdiction,—that as against him their right of action originated, not here, but there.

Exception maintained.

C. A. Nutting for plaintiff.

J. P. Noyes, Q.C., for defendant.

COURT OF QUEEN'S BENCH.

MONTREAL, Sept. 20, 1879.

SIR A. A. DORION, C.J., MONK, RAMSAY, TESSIER and CROSS, JJ.

[Appeal Side.]

Ex parte CORWIN, petitioner.

Change of venue—Where application should be made.

RAMSAY, J. An application is made by the defendant, who is charged with manslaughter on the finding of the Coroner of the District of Three Rivers, for change of venue. The question we are going to decide is not on the merits; in fact, we have not examined the affidavits. We say that the application ought not to be made here. We are not prepared to say that we are not as competent as a single judge in chambers; still it has never been the practice to make such an application on this side of the Court. Again, we have no reason given us why the Court at Three Rivers should not take cognizance of the matter. We do not think, therefore, it would be a proper exercise of our discretion to entertain the application, and it is rejected; but we wish it to be understood that we are not deciding anything as to the merits.

The case of Mr. Brydges has been referred to, but that was entirely different. Mr. Brydges was arrested in Montreal, on a Sunday morning, on a charge of a constructive felony. An application was made before Mr. Justice Badgley in chambers to change the venue, and in the exercise of his discretion he granted the application. When the case came before me, the question was whether Mr. Justice Badgley had properly exercised his discretion, and I said I had no authority to decide that.

MONK, J. I have grave doubts whether we have jurisdiction, sitting as a Civil Court, to take up this matter. It is true that writs of error are submitted to us, and applications for *habeas corpus*, but that power is expressly given by Statute.

F. X. Archambault, Q.C., for the Crown.

E. C. Monk, for defendant.

SUPREME COURT OF CANADA.

OTTAWA, Oct. 28, 1879.

RITCHIE, C. J., TASCHEREAU, FOURNIER, HENRY, GWYNNE, JJ.

VALIN, Appellant, and LANGLOIS et al., Respdts.

Dominion Controverted Elections Act, 1874—Right of Dominion Parliament to make Judges of Superior Courts in the Provinces Judges of Dominion Election Courts.

RITCHIE, C. J. This is an appeal from the judgment of Chief Justice Meredith dismissing preliminary objections of appellant, and declaring the "Dominion Controverted Elections Act, 1874," to be not *ultra vires* of the Dominion Parliament, and the correctness of this determination is the only question now in controversy. This, if not the most important, is one of the most important questions that can come before this Court, inasmuch as it involves in an eminent degree the respective legislative rights and powers of the Dominion Parliament and the Local Legislatures, and its logical conclusion and effect must extend far beyond the question now at issue. In view of the great diversity of judicial opinion that has characterised the decisions of the Provincial tribunals in some Provinces, and of the judges in all, while it would seem to justify the wisdom of the Dominion Parliament in providing for the establishment of a Court of Appeal such as this, where such diversities shall be considered, and

an authoritative declaration of law be enunciated, so it enhances the responsibility of those called on in the midst of such a conflict of opinion to declare authoritatively the principles by which both Federal and Local legislation are governed.

Previous to Confederation, the Governor or Lieutenant-Governor, Council, and Assembly, in the respective Provinces of Canada, Nova Scotia, and New Brunswick, formed the legislative body of the Provinces, subordinate, indeed, to the Parliament of the Mother Country, and subject to its control, but, with this restriction, having the same power to make laws binding within the Province that the Imperial Parliament has in the Mother Country, and the propriety and necessity of such enactments were within the competency of the Legislature alone to determine. As the House of Commons in England exercised sole jurisdiction over all matters connected with controverted elections except so far as they may have restrained themselves by statutory restrictions, the several Houses of Assembly always claimed and exercised in like manner exclusive right to deal with and be sole judges of election matters, unless restrained in like manner, and this claim or the exercise of it I have never heard disputed. On the contrary, it is expressly recognized as existing in the Legislative Assemblies by the Privy Council in *Theberge* v. *Landry*, L. R. 2 App. Cas. 102.

When the Provinces of Canada, Nova Scotia, and New Brunswick sought "to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom," it became absolutely necessary that there should be a distribution of legislative powers, and so we find the exclusive powers of Provincial Legislatures very specially limited and defined, while legislative authority is given to the Parliament of Canada to make laws for the peace, order, and good government of Canada in relation to all matters not coming within the classes of subjects by the Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms, it is declared that notwithstanding anything in the Act the exclusive legislative authority of the Dominion of Canada shall extend to all matters coming within the classes of subjects next thereinafter enumerated.

It will be observed that in the classes of subjects thus enumerated, either with respect to the powers of the Provincial Legislatures or those of the Parliament of Canada, there is not the slightest allusion, direct or indirect, to the rights and privileges of Parliament or of the Local Legislatures, or to the election of members of Parliament or of the Houses of Assembly, or the trial of controverted elections or proceedings incident thereto. The reason of this is very easily found in the statute, and is simply that before these specific powers of legislation were conferred on the Parliament and on the Local Legislatures, all matters connected with the constitution of Parliament and the Provincial constitution, had been duly provided for, separate and distinct from the distribution of Legislative powers, and of course overriding powers so distributed; for until Parliament and the Local Legislatures were duly constituted no legislative powers, if conferred, could be exercised. Thus we find that immediately after declaring that there shall be one Parliament for Canada consisting of Queen, Senate, and House of Commons, the Imperial Act provides for the privileges of those Houses in these terms:—

"The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate, and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof."

After declaring what the constitution of the House of Commons shall be, and defining the electoral districts of the four Provinces, it makes provision for the continuance of existing election laws until the Parliament of Canada otherwise provides, in these words:—

"Until the Parliament of Canada otherwise provides, all laws in force in the several Provinces at the Union relative to the following matters or any of them, namely, the qualifications and disqualifications of persons to be elected or to sit or vote as members of the

House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections and proceedings incident thereto, the vacating of seats by members, and the execution of new writs in the case of seats vacated otherwise than by dissolution, shall respectively apply to the elections of members to serve in the House of Commons for the same several Provinces."—B. N. A. Act, sec. 41.

By the 31 Vic., cap. 23, it is enacted that:—

"The Senate and the House of Commons respectively, and the members thereof respectively, shall hold, enjoy, and exercise such and the like privileges, immunities, and powers as at the time of the passing of the British North America Act, 1867, were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof, so far as the same are consistent with, and not repugnant to, the said Act. Such privileges, &c., shall be deemed part of the general and public law of Canada, and it shall not be necessary to plead the same, but the same shall in all Courts in Canada, and by and before all judges, be taken notice of judicially."

In England, as is well known, before 1770 controverted elections were tried and determined by the whole House of Commons, or, for a time, by special Committees and by Commitees of Privileges and Elections. This was succeeded by the Grenville Act, the principle of which was to select committees for the trial of election petitions by lot. This Act in 1773 was made perpetual, but not without the expression of very strong opinions against the limitations imposed by it upon the privileges of Parliament (17 Parlt. Hist., 1071; L. C. Campbell's Chan., vol. 6, page 98). In 1839 an Act was passed—Sir Robert Peel's Act—establishing a new system upon different principles, and it was not till 1868, after Confederation, that the jurisdiction of the House of Commons in the trial of controverted elections was transferred by statute to courts of law.

Very much the same course of procedure up to and after the time of Confederation prevailed in some, if not all, the Provinces, but in 1873 the Dominion Parliament passed an Act to make better provision respecting election petitions and matters relating to controverted elections of members of the House of Commons, and established Election Courts, the judges of which were to be judges of the Supreme or Superior Courts of the Provinces, provided the Lieutenant-Governors of the Provinces respectively should, by order made by and with the advice and consent of the Executive Council thereof, have authorized and required such judges to perform the duties thereby assigned to them—the intervention of the Legislature not being required or apparently deemed necessary. This Act was repealed by 37 Vic., cap. 10, "An Act to make better provision for the trial of controverted elections of members of the House of Commons, and respecting matters connected therewith." This last Act, it is now contended, is *ultra vires*. The constitutionality of the Act of 1873, though questioned, as I understand, by one judge in Quebec, is, I believe, admitted by all those who now think the Act of 1874 to have been *ultra vires* of the Dominion Parliament.

In determining this question of *ultra vires* too little consideration has, I think, been given to the Constitution of the Dominion, by which the legislative power of the Local Assemblies is limited and confined to subjects specifically assigned to them, while all other legislative powers, including what are specially assigned to the Dominion Parliament, are conferred on that Parliament, differing in this respect entirely from the Constitution of the United States of America, under which the State Legislatures retained all the powers of legislation which were not expressly taken away from them. This distinction, in my opinion, renders inapplicable those American authorities which appear to have so much weight with some learned judges who have discussed the question, and as a consequence too much importance has, I humbly think, been attached to section 101, which provides for the establishment of any additional Court for the better administration of the laws of Canada, and to sub-sections 13 and 14 of section 92, which vests in the Provincial Legislatures exclusive powers as to property and civil rights in the Provinces, and "the administration of justice

in the Provinces, including the constitution, maintenance, and organization of the Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts." The establishment of additional Courts for the better administration of the laws of Canada was primarily, I think, intended to apply, when deemed necessary and expedient, rather to the general laws of the Dominion than to matters connected with the privileges, immunities, and powers of the Senate and House of Commons, though of course these might, if so provided, come within the jurisdiction of such tribunals. The "property and civil rights" referred to was not all property and not all civil rights, but the terms "property and civil rights" must necessarily be read in a restricted and limited sense, because many matters involving property and civil rights are expressly reserved to the Dominion Parliament, of which the first two items in the enumeration of classes of subjects to which the exclusive legislation of the Parliament of Canada extends are illustrations, viz.: (1) "the Public Debt and Property, and (2) the regulation of trade and commerce," to say nothing of "beacons, buoys, lighthouses, &c.," "navigation and shipping," "bills of exchange and promissory notes," and many others directly affecting property and civil rights. Neither this nor the right to organize Provincial Courts by the Provincial Legislatures was intended in any way to interfere with or give to such Provincial Legislatures any right to restrict or limit the powers in other parts of the statute conferred on the Dominion Parliament. The right to direct procedure in civil matters in those Courts had reference to procedure in matters over which the Provincial Legislature had power to give those Courts jurisdiction, and did not in any way interfere with or restrict the right and power of the Dominion Parliament to direct the mode of procedure to be adopted in cases over which it has jurisdiction, and where it was exclusively authorized and empowered to deal with the subject matter, or to take from existing Courts the duty of administering the laws of the land. The power of the Local Legislatures was to be subject to the general and special legislative powers of the Dominion Parliament; but while the legislative rights of the Local Legislatures are in this sense subordinate to the right of the Dominion Parliament, I think such latter right must be exercised, so far as may be consistent with the rights of the Local Legislatures, and therefore the Dominion Parliament would only have the right to interfere with property or civil rights in so far as such interference may be necessary for the free power of legislating generally and effectually in relation to matters confided to the Parliament of Canada.

[To be continued in next issue.]

STATUTES OF QUEBEC, 1879.

(ASSEMBLY BILL NO. 110.

[Mr. Gagnon, M.P.P.

An Act to amend the Act of this Province 39 Vict., Chap. 33, intituled: "An Act to amend and consolidate the various acts respecting the Notarial Profession in this Province."

Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

1. Section 5 of the Act 40 Vict., Chap. 24 is amended by adding the following words at the end: "and all such registrars so excepted, shall not be disqualified from exercising their profession as notaries, although named afterwards and since the passing of this Act."

2. Section 43 of the same act* is amended by striking out the following words in the second and third lines: "a statement of the receipts and expenditure of the board and."

3. Section 74 is amended by replacing all the words after "practise," in the fifth line, by the following: "or who has transmitted his *greffe*, in changing districts, as he was heretofore obliged to do."

4. Section 77 of the same act is amended by adding thereto the following paragraph:

"Every purchaser of the *greffe* of another notary shall be bound to prepare and file in the hands of the secretaries of the boards of notaries, within one month from the date of such purchase, a declaration that he has become the legal possessor of such *greffe*, under a penalty of a fine of fifty dollars and of a like penalty of

* This refers to 39 Vict. c. 33. The first section of the bill was altered, and a reference to 40 Vict. c. 24 inserted, instead of to 39 Vict. c. 33, as it originally stood; but by an oversight the following sections were not altered accordingly. The same error occurs in every section down to Sect. 10 included. ED.

fifty dollars for every other month that he shall delay filing such declaration, which fines shall be recoverable from the said purchaser to the advantage and in the manner prescribed by section 181 of the said act."

5. Section 81 of the said act is replaced by the following .

"81. There exists for the Province of Quebec, a board of notaries known by the name of "The Board of Notaries." It is a corporation and, as such, enjoys all the privileges conferred upon such bodies by law; it may acquire and possess and enjoy real and personal estate, provided the same do not exceed the sum of fifty thousand dollars."

6. Section 103 of the same act is amended by replacing the words: "Every three years" in the second line, by the following: "at the first meeting following each general election," and by adding thereto the following paragraph:

"All the officers nevertheless remain in office until the election of their respective successors."

7. Section 153 of the same act is amended by striking out the words "augmented or" in the ninth line thereof.

8. Section 157 is replaced by the following:

"157. A statement of receipts and expenditure is, each year, submitted to the Board by the treasurer, at the meeting of the month of October and a printed copy of the same is transmitted to each notary inscribed upon the table as a practising notary, under the pains and penalties hereinafter provided."

9. Section 164 of the same act is amended by replacing the word "fifteen" in the second line of the last paragraph, by the word "seven."

10. Section 183 of the same act is repealed.

11. Section 2 of the act of this Province 40 Vict., Chap. 24 is repealed.

12. Upon a notice given by the Treasurer to the Board of Notaries, or to its syndic, that a notary owes one or more years of arrears of contributions to the funds of the said Board, the syndic shall be bound to send notice by means of a letter sent by post to the address of such notary so in arrear that he, the syndic, will proceed at the next meeting of the Board of notaries, to demand the suspension of such notary so in arrear, for more than *five* years, from his office as notary, and at such meeting or at any other subsequent one, the board of notaries, without any formality, may pronounce such suspension which shall be for such and as long a period of time as the notary in default shall not have discharged by payment to the treasurer. all his arrears together with the costs incurred and to be incurred in obtaining such suspension, the said costs to be taxed and determined by the said board when it passes judgment.

1. Notice of such judgment suspending the notary in default shall be given in the manner provided by sub-section 8 of section 140 of the aforesaid act (39 Vict., chap. 33.)

2. After payment of the arrears and costs due by the notary who has been suspended, in the hands of the treasurer of the Board, the latter without delay, shall publish in the "Quebec Official Gazette," during one month, a notice of the removal of such suspension, and in the costs to be paid by such notary shall be included the cost of publishing his suspension and the removal thereof.

3. A public notice of the suspension of such notary, signed by the President and countersigned by one of the secretaries of the Board of Notaries shall be read and posted up on two consecutive Sundays by a bailiff of the Superior Court or by the Secretary-Treasurer of the council of the municipality at the Church door of the parish or township in which the notary so suspended from his functions, resides.

13. Section 3 of the act of this Province, 40 Vict., chap. 24, is repealed from and after the 1st of May next: this repeal shall not affect deeds passed up to that date.

14. The present act shall form part of the acts of this Province, 39 Vict., chap. 33, and 40 Vict., chap. 24, and shall come into force on the day of its sanction.

THE LATE BARON CLEASBY. — Sir Anthony Cleasby, late one of the barons of the Exchequer Division, died October 6th, at his residence Pennoyre, near Brecon. He was the son of the late Mr. Stephen Cleasby. He was born in 1805, was educated at Eton and at Trinity College, Cambridge, and was called to the bar of the Inner Temple in 1831. He was made Q.C. in 1861, and seven years later was appointed a Baron of the Exchequer. He unsuccessfully contested East Survey in the conservative interest in 1852 and 1859, and in 1868 he opposed Mr. Beresford Hope for Cambridge University, but was again defeated. He retired from the bench early in the present year, and was succeeded by Sir James Fitzjames Stephen.