The Legal News.

VOL. X. FEBRUARY 5, 1887. No. 6.

In the case of William Rauscher, the Supreme Court of the United States, on the 6th December last, affirmed the principle, that a person delivered up under the Extradition Treaty on a demand charging him with a specific offence mentioned in it, can only be tried, by the country to which he is delivered, for that specific offence, and he is exempt from trial for any other offence, until he has had an opportunity to return to the country of his asylum at the time of his extradition. Chief Justice Waite dissented.

Serjeant Ballantine, who died January 9, is best known to us as counsel for the Claimant in his great suit for the Tichborne baronetcy and estates in 1871. In 1875 Mr. Ballantine received a brief to defend a native prince in India, Mulhar Rao, the Gaekwar of Baroda, charged with an attempt to poison Col. Phayre, the British resident. On that occasion he received a retainer of five thousand guineas, which is one of the largest retainers ever handed to counsel. Mr. Ballantine's special gift was cross-examination. He was far from being a profound lawyer, but was unequalled in his own line. He earned large fees, but spent lavishly, and died poor.

The Earl of Iddesleigh, who died suddenly Jan. 12, was called to the bar in 1847. In the same year he was appointed Legal Secretary to the Board of Trade. In his youth he was private secretary to Mr. Gladstone. But after his succession to the family baronetcy as Sir Stafford Northcote, he held high offices under several Governments. In August 1886, he was Foreign Secretary in Lord Salisbury's administration, an office which he had resigned a few days only before his death.

The judgment in *Chavigny de la Chevrotière* v. *The City of Montreal*, which will be found in the present issue, does not present the literary finish to which we have been accustomed in the productions of the Judicial Committee. It bears internal evidence of hasty dictation and lack of revision, not only typographical but grammatical errors being apparent. However, to compensate for this, their lordships, by an *obiter dictum*, gently "boom" our fair city, remarking that "Mon-"treal in 1847 was a very different place "from the Montreal of 1803, growing and "extending every day, *and still growing and "becoming one of the most beautiful cities in the "world.*"

PUBLICATIONS.

Rapport de la Commission de Refonte des Statuts Généraux de la Province de Québec.

The eighth report of the Commissioners contains the fourth and last part of the Draft of Consolidation. The first portion of the report comprises laws which have some analogy with the dispositions of the Codes, but are not of a general and permanent character. The second portion comprises the amendments to the Codes. There are also lists of the Statutes in the C.S.C., the C.S.L.C., and the Acts passed since 1859 by Canada and the Province of Quebec.

Legal Sketches, by Alfred B. Major, Solicitor.—Montreal, A. Periard.

This is a reproduction of papers which have appeared in various legal journals. Mr. Major states in the Preface that his "only "object has been to amuse an occasional "leisure hour." In this, we think, he has been fairly successful, for the sketches are readable and entertaining. We may refer, as examples, to two of them which have appeared in this journal—"At Assizes," 8 L. N. 373, and "A Writ of Elegit," 8 L. N. 318.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, Nov. 16, 1886.

Before LORD FITZGERALD, LORD HOBHOUSE, SIR BARNES PEACOCK, SIR RICHARD COUCH.

CHAVIGNY DE LA CHEVROTIÈRE v. LA CITÉ DE MONTRÉAL.

Public place—User by the public—Acquiescence or abandonment—23 Vict. ch. 72, s. 10.

HELD:—1. *Where an old market place had been converted by the city of Montreal into a public square, which the public had enjoyed without interruption from 1847 down to 1876, that there was, independently of any statutory provision, an ample case of user on the one side, and dedication or abandonment on the other, which would constitute the square in question a public place, over which the public at large had rights to which the law would give effect.*

2. *That the square in question having been enjoyed by the public as a public way during more than ten years before registration under 23 Vict. ch. 72, and more than ten years after such registration, it became a public highway under the terms of that statute.*

The appeal was from a judgment of the Court of Queen's Bench, Montreal, Sept. 19, 1883, dismissing an action claiming the rescission of a deed of donation of a piece of land in the city of Montreal, known as Jacques Cartier Square. See 6 Legal News, 348, for report of the judgment appealed from.

PER CURIAM:—The action from which this appeal arises was commenced in the Superior Court of the province of Quebec, Lower Canada. The demandant, who is also the appellant, claimed to be proprietor of about seven-eighths of that part of the city of Montreal which from 1803 to January 1847 had been a public market, and from January 1847 to the present time has been an open public place in the city, known as the Place Jacques Cartier. The demandant claimed against the respondents, the city of Montreal, a right to resume possession of that piece of land as in the original ownership of the grantors. His money claim against the city amounted to 180,866 dollars. Further, he claimed that the original deed of grant of 29th December 1803 should be brought in and declared null and void. The claim is said to have arisen under that deed so often referred to in the course of the case.

It was said to have been a purely voluntary gift, but their Lordships think, if it were necessary to express an opinion on it, it might be doubtful whether it was voluntary, and whether its true character was not a grant to the magistrates of the city of Montreal for valuable consideration.

The place in question was originally the property of the Seminary of Montreal, and the Seminary, being about to dispose of it, entered into a treaty with Périnault and Durocher. The property appears to have been made over to Périnault and Durocher to make the most they could of it, but under a condition that they were to pay to the Seminary a sum of about 3,000 guineas. They proceeded accordingly to divide it for building purposes; but reserved a portion, and they entered into treaty with the concessionaires, who stipulated that there should be not only the Rue de la Fabrique (which did not then exist as a street, but was *projetée* only,) and also that the open space lying between the Rue de la Fabrique and the Rue St. Charles should be converted into a public market. Périnault and Durocher, being unable to comply with that condition without the aid of some public body, applied to the magistrates at Montreal, as they could create a public market, and it was necessary to seek their aid, and out of this sprang the grant of the 29th December 1803.

The result of that deed seems to be, that it created a public right as well as a private servitude,—that is, when that deed had been carried out by converting the open space, which is now the subject in question, into a public market place, with a right in the public to resort to it as a public market place,—it became subject to that public right, at the same time, possibly, being subject to a private servitude to the parties who had become concessionaires of the building plots. Their Lordships do not find it necessary to express any opinion upon the general construction, or upon the effect of the condition contained in the grant of 1803. They assume, but for the purposes only of the judgment which is about to be delivered, that the demandant's contention may be right, that when there was a breach of that condition, the donors or their representatives would be entitled to re-enter and to resume possession as of their former estate.

Several questions of very considerable importance and difficulty have been raised

before this Committee. One was suggested by one of their Lordships—whether the condition was apportionable, and, if not apportionable, whether the demandants could sue, not being the owners of nor interested in the whole of the property which is the subject-matter of the condition. On that question also, their Lordships do not find it necessary, in their present judgment, to express any opinion.

There were also questions whether the condition of re-entry was void in its inception, whether it was a condition of re-entry properly, or was merely inserted in the deed of gift *in terrorem*, and merely *comminatoire*.

There was also a question of prescription and other questions in the case upon which their Lordships do not propose to express any opinion, as the appeal may be disposed of on another and satisfactory ground.

The magistrates of Montreal having got possession of the land under that deed of 1803, and converted it into a public market, we come next to the Ordinance of 4 Vict., by which the magistrates ceased to be the managing body of the city of Montreal, and were replaced by a quasi-corporate body. That leads to the 8 Vict. c. 59. The magistrates in Montreal had accepted this deed of 1803, which, whether it was for valuable consideration, or a simple voluntary deed, was a deed of grant for ever. The words are "*maintenant et à toujours*"—but subject to the condition, whatever the effect of it was. Therefore, at the time of the incorporation of the city, the magistrates were, as trustees for the public, in ownership of this land in perpetuity, subject to the condition, with this market upon it; and over this public market place, not inhabitants of the city alone, but the public at large had acquired considerable rights.

That being the position of affairs, there came the Canadian statute of 8 Vict. c. 59; that statute is not a general Act dealing with all corporations, but with Montreal alone. It is to give greater potency and effect to the incorporation of the city of Montreal and to enlarge the powers of the corporate body. It gives them very extensive powers over the city, and amongst other things it says, in the 50th section, that they shall have power of "changing the site of any market or " market place within the said city, or to " establish any new market or market place, " or to abolish any market or market place " now in existence, or hereafter to be in " existence in the said city, or to appropri- " ate the site thereof, or any part of such site " for any other public purpose whatever, " any law, statute, or usage to the contrary " notwithstanding; saving to any party " aggrieved by any act of the said council " respecting any such market or market " place any remedy such party may by law " have against the corporation of the said " city for any damage by such party, sus- " tained by reason of such act" of the corporation.

Now it was contended that, acting under that statute and converting this market place to another public purpose, was no breach of the condition, and that the effect of the statute was to discharge the condition and leave it open to the corporation, acting for the public interests, to appropriate the site of that market place to any other public purpose, but subject to a claim for compensation by the demandant here and the parties he represents, if they had title, and had been injured by the act of the corporation. Now upon this very important question as to the effect of this statute, their Lordships do not think that it is necessary at present to express any opinion.

Proceeding under the powers that they had so obtained in December 1847, the first by-law was made. In that, the corporation indicate their intention to abolish this market and apply the site to another public purpose, and their Lordships can have no doubt, that in taking that step, the corporation were moved only by considerations of public good. They found it necessary, probably, to supply the growing city with a larger market place, for Montreal in 1847 was a very different place from the Montreal of 1803, growing and extending every day, and still growing and becoming one of the most beautiful cities in the world. They very likely thought that a larger market place was necessary, but that they ought to retain the space occupied by the market as an open space for the public good and the public health, and hence they

converted it into the Place Jacques Cartier.

In January 1847 the act of conversion was made complete, and there was also a subsequent by-law by which they directed that the new place should be henceforward called the Place Jacques Cartier.

Their Lordships assume also, for the purposes of the case, that, upon the happening of these events, whatever rights if any the demandant or those he represents had under the condition in the grant of 1803 came into existence in January 1847, that is, that they were then entitled, if at all entitled, to put their claims in force and to institute a proceeding against the corporation to take advantage of the condition annexed to the gift of 1803, and to resume possession of this plot of ground or to get compensation for the act of the corporation. But they did not do so, and things went on as before from 1847 to 1852. The effect of the transaction of January 1847 was, to convert, by the act of the corporation, the old market place into a public square which the citizens of Montreal and the public had a right to use.

Things continued in that condition down to 1852, when Perrin instituted his action. That action may be described with substantial accuracy as similar to the present. It made the same case. The present demandant is the assignee of Perrin's interest. Perrin's action the corporation defended. They put in exceptions similar, save in one respect, to those now before their Lordships. It was allowed to sleep for some six years. The case was then set down for hearing before the proper court in Canada, and was dismissed, either for want of prosecution, or on the merits. Perrin never instituted any other proceeding. He appears to have lain dormant for 19 years, and in 1876, for a nominal sum, to have assigned this large claim over to the present demandant. In all that interval, the public had been using this public place and it was not using it privately, it was not *clam*, but it was openly and as of right, without any interruption by the parties or any of them who are now represented to have had the property in the place. Mr. Fullarton relied very much on this action of Perrin's and a petition that came in from some outside parties. Who they were we do not know; but it was a petition which was not acted upon, and it is open to the suggestion that it was the existence of that petition that suggested the action of François Perrin. However, Perrin never took a step further, and it appears to their Lordships that the absence of any contestation of the right of the public to use this place as a public highway is clear evidence of acquiescence in the public right, or rather of abandonment of the claim, if any, that François Perrin had.

Their Lordships desire to point out that, independently of the statutes, there is evidence of a long-continued user by the public and an abandonment of right by those who could have disputed the user by the public, sufficient to sustain at common law the public right. There seems to be no difference between the law of Lower Canada and the law of England and of Scotland in that respect. The public had enjoyed the right from 1847 down to the commencement of the present action. They had enjoyed it openly, claimed it, not privately, but adversely, and as of right, and in the meantime, there had not been a single step on the part of the present claimant, or those from whom he derives title, to dispute that right, but, on the contrary, there was the amplest evidence of acquiescence in the public enjoyment. There has been made out, independently of any statutory provision, an ample case of user on the one side and dedication or abandonment on the other which would constitute the place in question a public place over which, not the citizens of Canada or Montreal alone, but the public at large, had rights, which the law would give effect to, independently of the provisions of any statute.

The 18 Vict. c. 100, Lower Canada, does not apply to Montreal, but deserves attention. Montreal is excepted from the operation of that Act, but it applies to every part of Lower Canada save Montreal and some other excepted places, and it contains this provision, that "every road declared a public "highway by any procès verbal, by-law or "order of any grand voyer, warden, com-"missioner or municipal council legally "made and in force when this Act shall

"commence shall be held to be a road with-
"in the meaning of this Act until it be
"otherwise ordered by competent authority."
That was the Act adverted to by Chief Justice Dorion. He intended to refer to the 23 Vict. c. 72, which applies to Montreal alone. It deals with the property of Montreal. It deals with the powers of the corporation and extends them beyond the Act of the 8 Vict. In sub-section 6 of section 10 of that Act (23 Vict. c. 72) there is this special provision:—"The said council" (that is the council of Montreal) "shall also have
"power to cause such of the streets, lanes,
"alleys, highways, and public squares in
"the said city, or any part or parts thereof,
"as shall not have been heretofore recorded
"or sufficiently described, or shall have been
"opened for public use during 10 years but
"not recorded, to be ascertained, described,
"and entered of record in a book to be kept
"for that purpose by the city surveyor of
"the said city, and the same, when so enter-
"ed of record, shall be public highways or
"grounds; and the record thereof shall in all
"cases be held and taken as evidence for
"their being such public highways and
"grounds."

Proceeding under this Act, the corporation did in 1865 register the Place Jacques Cartier as a public place of the city. Their Lordships have no doubt that the registration was valid, and has been amply proved. If any objection had been taken at the trial before the Canadian Judge, it would have been the easiest thing possible to produce the original book, but a certified copy of the entry of registration was admitted in its place.

The Place Jacques Cartier had been from 1847 up to 1865 (more than 10 years before registration) enjoyed by the public as a public way, and it was enjoyed as a public way more than 10 years after the registration and before the present action was commenced; and it seems to their Lordships that the case comes within the express language of that statute, and their Lordships have no doubt that, when the local Legislature passed this Act, they knew the state of things in the city, intended to provide for it, and did provide for it in strong and emphatic language, saying, that when a street or road should have been opened for public use during 10 years and placed upon the register, it should be a public highway.

Their Lordships are of opinion that, even if the common law question did not arise, still, there having been antecedent to this registration, and posterior to the registration, the statutable time during which the place should be used as a public street to give operation to the statute, the statute then applies, and upon that registration, the Place "Jacques Cartier" became a public highway. There is a distinction between the Canadian law and the law of this country as to public highways. The Canadian law agrees rather with the law of Scotland, which is founded on the civil law, namely, that when a street or road becomes a public highway, the soil of the road is vested in the Crown, if there is no other public trustee, or, if there is a corporate body that fills the position of trustee, then in that corporate body in trust for that public use. It was admitted in the argument for the appellant that such was the law of Lower Canada.

Their Lordships being of that opinion, which is in accordance with the principles deduced from *Guy* v. *Corporation of Montreal* (3 L. N. 402), and with the principles on which the Court of Queen's Bench for Lower Canada appears to have decided this case, will therefore humbly advise Her Majesty that the judgment of the Court of Queen's Bench for Lower Canada, which is also the judgment of the Superior Court, should be affirmed, and that the present appeal should be dismissed with costs.

Lacoste, Q.C., for the appellants.
R. Roy, Q.C., for the respondent.

SUPERIOR COURT.

SHERBROOKE, May 31, 1886.

Before BROOKS, J.

JOHNS esqual. v. PATTON.

Action by tutor—Acceptance of succession.

HELD:—*That where a tutor to minors sues in their behalf for a debt due their late father, alleging that they have accepted the succession, and the fact of such acceptance is*

put in issue by defendant, the plaintiff cannot succeed, if it appears that they had not legally accepted, i.e. with the previous authorization of a family council.

PER CURIAM :—

This is a suit for $250, amount of an obligation given by defendant to the late Jas. W. Wiggett, brought by the widow as tutrix to her minor children, alleging the death of Wiggett, the renunciation of plaintiff personally of the community, and the acceptance by minors of the succession of their late father, James W. Wiggett, represented by her. That on the 8th June 1885, said plaintiff renounced to the community of property existing between her and said late James W. Wiggett, and said minors are the lawful heirs and legal representatives of their said late father, and entitled to claim from defendant the amount sued for. That the survivors (one having died) have accepted the succession of the late James W. Wiggett, and are entitled to recover.

The defendants filed three pleas :—

1st. An assignment in insolvency before his decease by said James W. Wiggett as member of the firm of Wiggett Bros. & Co. to one Sam. Farwell.

2nd. A special denial of plaintiff's authority to sue; that the minors had never accepted the succession and could give no discharge.

3rd. General issue.

The first question that arises is, can plaintiff sue for minors who have not accepted the succession ?

The legal representatives may accept or renounce. If they accept they may enforce claims, and this is what they allege they have done. Our law has been changed by the code to make it conform to the French Code, art. 461, in this particular. See Projet, Code civil, vol. 1, p. 217.

"According to the old law the tutor might by himself accept or repudiate the succession fallen to the minor, but the latter could always be relieved. But the commissioners have preferred the new rule introduced by the Art. 461 of C. N., which says that the tutor shall not do any such act without being authorized thereto by the family council, and that acceptance can only be made under benefit of inventory, consequently an article has been prepared and is submitted as an amendment to the law in force, which requires for the validity of acceptance or repudiation by the tutor, previous authorization by the judge and the advice of the family council." See change suggested by amendment. 301 C. C. P. is suggested in the place of the old law which was: "The tutor may accept or renounce the succession which falls to the minor, but the minor may be released from such acceptance or renunciation." C. C. 301 is now almost identical with C. N. 461. See Marcadé et Pont vol. 2, p. 264. See *Rolland* et al. v. *Michaud*, Q. B. 1876, Rev. Leg. vol. 9, p. 19, *et seq.*

Let us reverse the case and say that in a certain case minors are sued, would it not be a good defence to show that they had not accepted? Defendant has an interest that the proper representatives should give him a discharge. Would he have it if given by plaintiff? I think not.

Sirey & Gilbert, vol. p. 239, note 7.

"Du reste les successions échues à des mineurs ne peuvent être acceptées dans leurs intérêts que sous bénéfice d'inventaire et avec l'autorisation du conseil de famille. Il s'ensuit que la possession par eux prise ou par leur tuteur des biens de la succession sans cette autorisation ne peut avoir l'effet de les rendre héritiers purs et simples."

Plaintiff's action dismissed with costs.

Hall, White & Cate, for plaintiff.

Bélanger & Genest, for defendants.

---

*COURT OF QUEEN'S BENCH—MONTREAL.**

Prohibition—Powers of Provincial Legislature—Brewer's License—Quebec License Act, 41 Vic., ch. 3.

The appellants caused a writ of prohibition to be issued out of the Superior Court, enjoining the Court of Special Sessions of the Peace from further proceeding with a summons and complaint issued by M. C. Desnoyers, police magistrate, against the appellant Ryan, upon the complaint of res-

* To appear in Montreal Law Reports, 2 Q. B.

pondent, inspector of licenses, charging Ryan with having sold intoxicating liquors without a license.

Ryan was a drayman employed to deliver and sell beer by Molson & Bros., the other appellants, who were duly licensed as brewers under the Dominion Inland Revenue Act, 1880, 43 Vic. ch. 19.

HELD:—1. That a writ of prohibition lies to bring up before the Superior Court a defect of jurisdiction of the justices of the Peace, which is only apparent on proof being made of the allegations of the plea containing matter showing such want of jurisdiction, *e.g.*, that the party prosecuted is the mere agent of a person not open to prosecution.

2. (Confirming the judgment of Loranger, J.) That the power of the Dominion Parliament to legislate as to the regulation of trade and commerce does not prevent the local legislature from passing an Act obliging a brewer to take out a local license permitting him to sell beer or ale manufactured by him, whether he sells such beer at his brewery, or elsewhere by a person paid by a commission on the sales; and therefore the Quebec License Act, 41 Vic. ch. 3, is constitutional. *Molson et al.*, appellants, and *Lambe*, respondent, Monk & Cross, JJ., *diss.*, Nov. 27, 1886.

Habeas Corpus—C. C. P. 1052—Process in civil matters.

A person, imprisoned under a writ of *contrainte par corps* for failing to produce effects of which he had been appointed guardian, petitioned for a writ of *habeas corpus*, on the ground that the warrant under which he was committed, contained no enumeration of the effects he was required to produce.

HELD:—That the petitioner being imprisoned under process in a civil matter, the Court had no authority to grant a writ of *habeas corpus*. C. C. P. 1052. *Ex parte Ward*, Nov. 22, 1886.

Bank in liquidation—Cheques paid after suspension—Recourse of liquidators.

The respondent, having funds to his credit in a bank which had suspended payment, drew cheques on the bank for various sums. These cheques were accepted by the bank on the same day, and the respondent then, for valuable consideration, disposed of them to various parties who were paid the respective amounts by the bank, by credits or otherwise.

HELD:—That the bank had no action against the respondent to recover the amount of the cheques so paid, their recourse, if any, being against the parties to whom they had paid the money.—*Exchange Bank of Canada*, appellant, and *Hall*, respondent, Ramsay, J., *diss.*, Nov. 22, 1886.

Charter party—Voyage direct from Havana to Montreal—Deviation—Right to touch at Sydney for coal.

The charter party described the voyage in writing as being from Havana, Cuba, "to Montreal direct *via* the river St. Lawrence." A printed clause declared that the steamship should "have liberty to tow and be towed, and to assist vessels in all situations, *also to call at any port or ports for coals or other supplies.*"

HELD:—(Reversing the judgment of the Court below):—That the fact that the steamship called at the port of Sydney, C. B., for coal in the course of the voyage, was not a deviation therefrom other than permitted by the charter party, and that the increased premium of insurance paid by the charterers in consequence of the vessel calling at Sydney could not be deducted from the freight.—*Peters*, appellant, and *The Canada Sugar Refining Co.*, respondents, Nov. 20, 1886.

GARÇON OU FILLE?

Il y a cinq ans naissait à Gaillon un enfant, qu'une prudente réserve nous commande de ne désigner que par le nom ambigu de Claude.

Les parents de Claude furent cependant troublés dans leur joie paternelle, par un doute affreux. Claude était-il un rejeton ou une rejetonne? La sage-femme, dans sa sagesse, n'osait se prononcer. On s'en référa donc à l'autorité du docteur Hurel, de Gaillon, aujourd'hui décédé. Le docteur Hurel,

après avoir examiné "l'objet" eut un petit rire fat, et laissa dédaigneusement échapper ce simple mot; "garçon."

Pourtant la mère de Claude eût désiré une fille, et, puis qu'il y avait des doutes, elle habilla Claude en fille; et comme telle, voulut, cette année, la faire entrer à l'école des filles de Gaillon.

Le maire consulta ses registres; et sur-le-champ, appela dans son cabinet, le père de Claude. Claude étant inscrit sur les registres municipaux, garçon, ne pouvait être admis à l'école des filles. "Ça m'est égal, répondit le père, c'est une fille.. Il me semble que je dois le savoir, nom d'un chien!.. " Intimidé par ces paroles violentes, M. le maire proposa une nouvelle consultation; et le successeur du Dr. Hurel, M. le Dr. Cabarrou, fut mandé chez M. le maire, où Claude, son père et sa mère se trouvaient déjà réunis. M. Cabarrou, après avoir examiné 'l'objet,' eut un petit rire fat, et laissa dédaigneusement échapper ce simple mot: "fille!"

"Que faire en une telle occurrence?" se demanda, toute la nuit qui suivit, M. le maire de Gaillon. Dès le lendemain matin, il s'enferma dans son cabinet, et à 6 heures du soir il avait achevé la lettre qu'il adressait à M. le Procureur de la République. "Le sexe de l'enfant inscrit comme garçon ne s'est pas développé, écrivait-il, au contraire."

Le Procureur, effrayé par ce mystérieux "au contraire," ordonna aussitôt au médecin attaché au Parquet de s'enquérir du sexe de Claude. Le médecin attaché au Parquet n'eût aucune hesitation: "Garçon!" s'écria-t-il, après avoir jeté un vague coup d'œil sur l'enfant. Mais il comptait sans le docteur Boularon, de Touniers, aux lumières duquel les parents de Claude eurent recours, dès qu'ils connurent l'opinion du médecin attaché au Parquet, "Fille!" dit simplement et d'un ton ferme le Dr. Boularan de Touniers, après avoir inspecté sommairement le jeune sphinx de Gaillon; et il ajoute: "Ah! ces médecins attachés au parquet!"

Désormais la justice seule pouvait dénouer les nœuds de pareilles contradictions. Le tribunal de Touniers, en presence de l'accord (deux à deux) des médecins précédemment consultés, a rendu un jugement aux termes duquel MM. les docteurs Petel, Faurin et Cornus devront "trancher la question, si toutefois c'est possible."

Console-toi, ô jeune Claude, si Petel, Faurin et Cornus, déclarent, comme c'est probable, qu'à l'inverse des Auvergnats, tu es à la fois homme et femme. Console-toi et rappelle-toi que les Grecs, ces divins artistes, avaient fait de l'Hermaphrodite le symbole de la double et parfaite beauté!—*Gazette du Palais.*

GENERAL NOTES.

Il serait fastidieux d'insister sur la férocité des mœurs rurales, car chaque jour il nous en vient de nouveaux et de plus frappants exemples. Lundi comparaitront devant la Cour d'assises de l'Ardèche les nommés Jean Faure, Rosine Faure et Philippe Plancher, accusés d'avoir assassiné, pour le dévaliser, leur frère et beau-frère Claude Faure et de l'avoir ensuite fait bouillir dans une marmite et donné à dévorer aux porcs.—*Gaz. du Palais.*

EXTRADITION WITH GUATEMALA.—An Order in Council was published in the London *Gazette* of December 3, directing, in accordance with a treaty recently concluded and ratified between England and the Republic of Guatemala for the mutual extradition of fugitive criminals, that the Extradition Acts, 1870 and 1873, shall apply to Guatemala after December 13 next. It is further ordered that the operation of the Acts shall be suspended within the Dominion of Canada so far as relates to Guatemala and the treaty referred to, so long as the provisions of the Canadian Extradition Acts of 1877 and 1882 continue in force.—*Law Journal*, (London).

Une femme Rousselle était poursuivie aujourd'hui devant la dixième chambre de police correctionnelle, présidée par M. Barthelon, sous l'inculpation d'outrages aux agents. L'outrage consistait, selon l'inculpation, en ces paroles: "Vous me faites l'effet d'une pillule!" Les effets des pillules pouvant varier à l'infini, le tribunal a décidé qu'il n'y avait pas là un outrage suffisamment caractérisé et a renvoyé la femme Rousselle des fins de la poursuite.—*Gaz. du Palais.*

Any idea that the Postmaster-General was entitled by law to force the Cunard Company to carry mail-bags on board the Umbria on the ground that they are common carriers seems unfounded. A common carrier by land, holding himself out to carry goods from place to place, is bound to carry the goods of anyone offering them who is able and willing to pay for the carriage, and if the carrier has room for them. Ships going from England to foreign ports may be common carriers in the sense that they, like carriers by land, are liable for loss without proof of negligence; but they are not common carriers in the sense that it is compulsory on them to carry. In other words, some of the liabilities of common carriers have by analogy been imposed by the law on shipowners, but in no case to the extent of holding them liable to carry whether they will or not.—*Law Journal* (London).