The Legal News.

Vol. VII. NOVEMBER 8, 1884. No. 45.

LEGAL BUSINESS.

Several of our contemporaries, both in the United States and in England, have referred lately to a falling off in the volume of legal business. So far as England is concerned the decline, if it exists at all, has not affected the cause lists, for the *Law Journal*, of Oct. 25, says:—"The Cause Lists for the forthcoming sittings show an increase as compared with those of Michaelmas, 1883, in all business except divorce, which shows a slight decrease. The Court of Appeal has 422 entries, as against 399 last year, and 248 the year before. The Chancery Division has 842 entries, as against 809 last year, and 778 the year before. The Middlesex Nisi Prius causes are 1,118, as against 886 last year, and 600 the year before. Of these, 586 are for trial without juries, as against 146 last year. The Divisional Court business shows 247 entries, as against 214 last year. The Divorce List has 206 entries, as against 214 last year, and 170 the year before." And yet the *Law Times* of June 21 said: "The number of barristers who earn a decent living appears every year to diminish, and at the present moment it may be safely said that the dearth of new business is unprecedented. On the other hand, the number of 'distressed members' increases."

COLONIAL DEPENDENCE.

The symbols of royalty, in the eyes of our esteemed neighbour, the *American Law Review*, are as red rags to a bull. Every reminder that the British empire holds sway over a portion of this continent elicits a fresh outburst of mingled amazement, indignation and contempt. We accept, of course, the warmth displayed by our contemporary as a flattering indication of his friendly interest in our welfare, and we shall not even be guilty of the impertinence of suggesting, that as independence and annexation to the United States are not live questions here, are not espoused by any political party amongst us, the columns of a law journal are occupied to little purpose in recommending them. The curious feature of the *Review's* article is that what are assumed to be Canadian grievances, are about the last things of which Canadians are disposed to complain. "It will be a cold day in England "when any of the British colonies gives to "England a Lord Chancellor, or even a "Colonel of Dragoons." A colony did give to England not long ago a very prominent minister, and Canadians are not unknown in the Imperial military service. But the fact is that Canadian ambition does not tend very strongly in that direction. Canadians are probably much prouder of having given a champion oarsman to the old country and to the world than they would be of giving a general to the British army. But if they wished to become Colonels of Dragoons we don't know what obstacle lies in the way.

The *Review* repeats a misstatement to which we think we referred some time ago; that the "best places in Canada" are "filled by "Englishmen foisted upon the Canadians by "Imperial influence." This is a misapprehension. The Canadians appoint their own judges, their own bishops, their representatives in Parliament. Ministers only hold office by the will of the majority elected by the people. The professional classes are exclusively Canadians. Where, then, are the best places that are monopolized by Englishmen? The office of Governor-General, it is true, is filled by Imperial appointment, but so long as England has men like Lord Dufferin, Lord Lorne and Lord Lansdowne to send us, we think that will hardly be counted a grievance. Our contemporary proceeds to make what, we fear, must be regarded as a rash promise. "If Canada were "free, she would in course of time, and by a "natural movement, become a member of "the American confederation. The Cana- "dian provinces would add four States to "the American Union; the highest offices "within the gift of the republic would be "opened to Canadians; *Americans would de- "light to honor themselves by making such a "statesman as Sir John A. Macdonald their "President;* and the conservative influence "of Canada in American politics would be

"very salutary." But does intellectual supremacy win the Presidency? The history of the United States during the last thirty or forty years would hardly establish such a proposition, and if our neighbours do not honor their own best men with the highest place, what ground is there for assuming that they would accord such a distinction even to "one of the ablest of living statesmen," as Sir John is courteously and we think deservedly termed?

THE TICHBORNE CLAIMANT.

The great impostor who occupied so much of the attention of the courts and of the public ten or twelve years ago, has been released on a ticket-of-leave, there being three years and four months of his sentence not yet expired. What a ticket-of-leave implies, is not generally known here, and we avail ourselves of the following summary of the conditions from the *Law Journal*:—

"His license to be at large on ticket-of-leave is on the terms that he produce it when called upon, that he abstain from any violation of the law, that he do not associate with notoriously bad characters, nor 'lead an idle and dissolute life without visible means of obtaining an honest livelihood.' He must, on his release, personally notify his residence at the police office of the district in which he is, and any change of residence which he may make within the district from time to time. If he goes from one police district to another, he must personally notify his residence to the police of the district which he is leaving and the district to which he goes, and he must, once in every month, report himself at a police office. If he fail to make the necessary notification within forty-eight hours, or fail to report himself regularly, he is liable on conviction to forfeit his license, or to be imprisoned for one year with hard labor. If he break any of the somewhat vague conditions of his license, he is liable to be sent to prison with hard labor for three months, and if he be convicted of any indictable offence, his license is forfeited. Finally, a whip-hand is kept over the convict, by the license being in force only 'unless it shall please her Majesty sooner to revoke it,' so that the convict may be sent back to serve his term whenever the Home Secretary in his discretion may think proper."

NEW PUBLICATIONS.

NATURALIZATION AND NATIONALITY IN CANADA; Expatriation and Repatriation of British Subjects; Aliens, their disabilities and their privileges in Canada. The Naturalization Act, Canada, 1881; with notes, forms, and table of fees to be taken by commissioners, justices of the peace, notaries public, stipendiary and police magistrates, clerks of courts, registrars and other officials; with appendix containing treaty, etc.; also naturalization laws of the United States, with forms, etc. By Alfred Howell, of Osgoode Hall, Barrister-at-law. Author of "Surrogate Courts Practice." Carswell & Co., Publishers, Toronto and Edinburgh.

Within the compass of a slim octavo of 132 pages, Mr. Howell has brought together a considerable amount of information, to assist those who may be called upon to advise persons contemplating naturalization or desirous of obtaining the benefit of other provisions of the Naturalization Act. The census of 1881 showed the population of foreign nationalities resident in the Dominion to be 124,369, and the accessions since that date to the vast territory recently opened in the Northwest are very large, so that the subject is of growing importance to the profession. In the earlier portion of his work the author treats of the old rule of perpetual allegiance in the United Kingdom, Canada and the United States. The authorities and cases are collated with care, and the essay will be found generally interesting. The book is issued at a low price (cloth, $1.50, half calf $2), and will doubtless have a large circulation.

REPORT OF THE COMMISSIONERS ON THE CONSOLIDATION OF THE STATUTES OF CANADA.—Printed by order of Parliament, 1884.

The present Report comprises a draft of 62 chapters, forming a large proportion of the work to be done under the Commission. To each chapter a table is appended, showing what Acts are proposed to be consolidated, the portion consolidated, the portion which it is proposed to repeal, the portion to be consolidated elsewhere, &c. When changes of any extent have been found necessary, a note in

smaller type has been inserted, indicating the nature of the change. The Commissioners state, with reference to the consolidation of the Criminal law, that their attention was directed to the draft Criminal Code prepared in England in 1878, by the Royal Commission appointed to consider the law relating to indictable offences. In considering the English draft Code and comparing it with the provisions of the present criminal law of Canada, it was thought advisable to prepare, for the consideration of Parliament, a bill to constitute a Code of indictable offences for Canada, in the preparation of which, advantage could be taken of the labors of the English Commission. This draft Code is printed with the present Report.

The result of the labors of the Commission has for some time been impatiently expected by the profession, and it may be hoped that the present instalment will soon be followed by the remainder of the draft of consolidation.

De Conjecturis Ultimarum Voluntatum, by W. P. Emerton. James Thornton, Publisher, Oxford.

This was a Theme composed as an exercise for the degree of D.C.L. It is written in the Latin of the Pandects, but the author has kindly added a concise translation in the margin, together with copious notes at the foot of the page. Some great English names appear in a disguise which forcibly reminds us of the American version of certain French Canadian names. Thus (p. 18) Mansfield is referred to as DeAgrohominis, and Blackstone as Gulielmus de Nigro Lapide. The treatise has doubtless proved a useful exercise to the writer, and by its vivacity may contribute to the diversion as well as profit of the reader.

NOTES OF CASES.

COUR SUPÉRIEURE.

Montréal, 30 mai 1884.

Coram Loranger, J.

La Banque Jacques-Cartier v. Pinsonneault et al.*

Conseil de famille—Tuteur—Ratification.

La cour a jugé, 1. Que la composition d'un conseil de famille en partie par des amis, lorsqu'il y a suffisamment de parents, et la nomination d'un tuteur étranger, ne sont pas des causes de nullité absolue, mais seulement relative, et ne peuvent être invoquées utilement que lorsque la chose a été faite frauduleusement et au préjudice des droits des mineurs.

2. Que des mineurs devenus majeurs ne peuvent se plaindre de l'administration de leur tuteur lorsque depuis leur majorité ils ont accepté son compte, lui ont donné une décharge, et ont fait actes d'héritiers.

Lacoste, Globensky, Bisaillon & Brosseau pour la demanderesse.

Judah & Branchaud pour les défenderesses.

* To appear in the Montreal Law Reports, 1 S. C.

COUR SUPÉRIEURE.

Montréal, Oct. 27, 1884.

Coram Jetté, J.

La Banque d'Hochelaga v. Masson, et Fair es qual., intervenant. *

Délai—Motion—Reprise d'instance—Procédures par un liquidateur d'une compagnie insolvable—45 Vict. (1882) *ch. 23, sect. 33.*

Jugé, 1o. Qu'un avis de motion signifié le 11 du mois pour le 12 est insuffisant; mais si la motion est continuée à un jour ultérieur, le but de la loi, qui est de donner un délai raisonnable, est atteint, et la motion devient régulière.

2o. Qu'une reprise d'instance peut se faire par motion aussi bien que par requête.

3o. Que nonobstant la prohibition contenue dans la section 33, du ch. 23 de la 45 Vict. (1882 fédéral), le liquidateur d'une compagnie insolvable peut faire des procédures valides en son nom personnel aussi bien que comme "liquidateur de la compagnie."

Béique, McGoun & Emard pour la demanderesse.

Duhamel & Rainville pour le défendeur.

Macmaster, Hutchinson & Weir pour le requérant.

COUR SUPÉRIEURE.

[En chambre.]

Montréal, 18 Oct. 1884.

Coram Mathieu, J.

Décary v. l'Hon. J. A. Mousseau, et Louis B. d'Aoust, intervenant. *

* To appear in the Montreal Law Reports, 1 S. C

Acte des élections contestées de Québec, 1875, *et ses amendements—Intervention—Jurisdiction.*

Jugé, Que lorsque l'instruction d'une pétition d'élection est terminée et que l'inscription pour audition devant la Cour Supérieure, siégeant en Révision, a été faite et produite, une intervention de la part d'un électeur, demandant à être reçu partie dans la cause à la place du pétitionnaire, ne pourra être reçue par la Cour Supérieure présidée par un seul juge, ou par un juge de cette cour, vu que la cause ne se trouve plus alors devant cette cour, mais se trouve devant la Cour Supérieure siégeant en Révision.

J. A. Descarries pour le demandeur.

Lacoste, Globensky, Bisaillon & Brosseau pour le défendeur.

Mercier, Beausoleil & Martineau pour le requérant.

COUR SUPÉRIEURE.

[En Chambre.]

MONTRÉAL, 2 avril 1884.

Coram MATHIEU, J.

MASSICOTTE v. BERGER et al. *

Assignation en matière d'élection municipale contestée dans la cité de Montréal.

Jugé, Que d'après la charte de la cité de Montréal (37 Vict. ch. 51, sect. 25), il n'est pas nécessaire, dans le cas de contestation d'une élection municipale, que le bref d'assignation soit signé par le juge, ou que le défendeur soit assigné à comparaître devant le juge.

A. N. St. Jean pour le requérant.

Mercier, Beausoleil & Martineau pour le défendeur.

COUR SUPERIEURE.

MONTRÉAL, 25 Octobre 1884.

Coram LORANGER, J.

MASSICOTTE v. BERGER et al.*

Election municipale pour la cité de Montréal—Nomination—Quo warranto.

Jugé, Que dans les élections municipales pour la cité de Montréal, la loi ne déterminant aucun délai pour la mise en nomination des échevins à partir du moment où l'assemblée est ouvert, le temps d'agir est laissé à la prudence du président et à la diligence des candidats.

A. N. St. Jean pour le requérant.

Mercier, Beausoleil & Martineau pour le défendeur.

SUPERIOR COURT.

MONTREAL, Sept. 9, 1884.

Before LORANGER, J.

Ex parte DORAN es qual., Petitioner for mandamus, and MCNALLY et al., Defendants.*

Minor—Building Society.

Held, that a minor may hold shares in the capital stock of a Building Society incorporated under the provisions of chapter 69 of the Consolidated Statutes of Lower Canada, and that such shares are liable to confiscation for violation of the by-laws regulating the payment of calls.

2. That the confiscation of shares, under the conditions authorized by the by-laws of the Society, is an act of administration within the powers of the board of direction, and it is not necessary that it be authorized by the Society itself.

The demurrer to the *requête libellée* of the petitioner asking that the minor be reinstated by the liquidators as a shareholder was maintained.

Judah & Branchaud for the petitioner.

Doherty & Doherty for the defendant.

SUPERIOR COURT.

QUEBEC, July 12, 1884.

Coram CARON, J.

In re JOHN C. ENO, Petitioner for *Habeas Corpus.*

Extradition Act of 1877 — *Forgery* — *False Entries—Foreign Indictment as proof.*

The petitioner had been arrested in Quebec on the 10th June, 1884, on a warrant of arrest under the Extradition Act of 1877, for an alleged forgery, and applied to be liberated on the ground that he was not guilty of any offence for which his extradition might be demanded.

The proof established that the accused had signed as President of the Second National Bank of New York eight cheques for amounts

* To appear in the Montreal Law Reports, 1 S. C.

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varying from $95,000 to $200,000, and bearing various dates from 25th September, 1883, to 13th May, 1884. None of these cheques were given for the legitimate business of the bank, but were for the benefit of the accused, who made false entries in the books of the bank and issued "slips" and "tickets" for the bank's employees in order to conceal his defalcations. Moreover, the bank was to the knowledge of Eno in an insolvent condition when these cheques were given, and in the evening of the 13th of May, 1884, Eno's resignation as president was handed to the directors, the last of the cheques in question having been drawn by him on that day and paid before three o'clock by the bank.

In addition to this evidence the prosecution produced true copies of five indictments of the grand jury of the city and district of New York, returning true bills for forgeries in the first, second and third degrees under the laws of New York.

It was pretended by the prosecution that these indictments were admissible as evidence as "statements on oath" under the Extradition Act of 1877, sec. 9, and the opinions of Wilson, C. J., in *Regina* v. *Brown* (31 U. C. C. P. 500), of Dorion, C. J., *in re Worms* (22 L. C. J. 109), and of Cross, J., in *Ex parte Phelan* (6 L. N. 262), were cited in support of this pretension. On the other hand the defence cited the opinions of Galt and Osler, JJ., in *Regina* v. *Brown* (*sup. cit.*) and of Ramsay, J., *In re Rosenbaum* (18 L. C. J. 200).

CARON, J., held that these indictments could not be accepted as *prima facie* evidence of the commission of an extraditable offence; and that the acts proved in the present case did not constitute a forgery.

Habeas Corpus maintained.

Davidson, Q.C., and *Fitzpatrick*, for the prosecution.

Hon. Geo. Irvine, Q.C., Dunbar, Q.C., and *Jules Tessier*, for the petitioner.

COUR DE CIRCUIT.

MONTRÉAL, 3 Mai 1884.

Coram JETTÉ, J.

MONARQUE v. CLARKE.

Acte des locateurs et locataires—Jurisdiction—Bail—Résiliation—Meubles.

JUGÉ.—*Qu'une action pour faire annuler un bail de meubles ne peut pas être intentée en vertu de l'article* 887 *du Code de Procédure Civile* (*acte des locateurs et locataires*), *qui ne doit s'appliquer qu'aux immeubles.*

Le demandeur avait loué pour $320 de meubles au défendeur; cette somme était payable mensuellement. Il demandait par son action, le paiement du loyer des mois échus et la rescision du bail, vû que le défendeur avait laissé s'écouler plusieurs mois sans payer. C'était une action intentée sous l'autorité de l'acte des locateurs et locataires.

Le défendeur, sans entrer dans le mérite de la cause, plaida par exception déclinatoire, alléguant que le tribunal, constitué pour siéger en vertu de l'acte des locateurs et locataires, n'avait pas jurisdiction en matière de bail de meubles, mais seulement dans les causes concernant les baux d'immeubles. A l'appui de cette prétention il cita deux cas semblables dans lesquels on avait procédé par voie de saisie-revendication. Ces deux causes sont rapportées au 5 L. C. J. p. 333, et au 4 Q. L. R. 323; de plus, il cita une autre cause où la même question avait été décidée en 1871; cette dernière est rapportée au 15 L. C. J. p. 247.

Son Honneur le juge JETTÉ maintint les prétentions du défendeur et renvoya l'action du demandeur avec dépens, sauf à ce dernier à se pourvoir devant un autre tribunal.

A. Leblanc pour le demandeur.

Calixte Lebeuf pour le défendeur.

(J. J. B.)

COUR DE CIRCUIT.

MONTRÉAL, 9 Juin 1884.

Coram PAPINEAU, J.

MAURICE v. DESROSIERS et LESSARD, Tiers-saisi.*

Dommages pour libelle—Saisie-arrêt.

Jugé : Qu'une somme accordée comme réparation civile d'une injure personnelle, est, de sa nature, insaisissable.

Le demandeur, créancier du défendeur, en vertu d'un jugement, fit signifier une saisie-arrêt entre les mains du tiers-saisi. Celui-ci déclara que par jugement du 30 mai 1884, la cour supérieure du district de Montréal, le condamna à payer au défendeur en cette

* Briefly noticed on p. 264.

cause, à titre de dommages-intérêts, la somme de $50, mais que le même jour, il avait reçu signification d'un acte de transport du montant de ce jugement.

Le défendeur contesta au mérite cette saisie-arrêt sur le principe que la créance saisie, résultant d'un jugement pour libelle, était, de sa nature, insaisissable et ne pouvait être traitée comme une créance ordinaire.

S'il en était autrement, ajouta le défendeur, il ne serait jamais possible d'obtenir une véritable réparation et de punir les calomniateurs. Pour qu'il y ait réparation dans le véritable sens du mot, il faut que le coupable ne soit pas libre de payer à un autre qu'à la partie lésée. Sans cela, la réparation serait illusoire et le but de la loi ne serait pas atteint.

De son côté, le demandeur soutenait que la créance en question était saisissable et devait être traitée comme une créance ordinaire. Il ajouta qu'il en serait peut-être autrement si la réparation avait été accordée pour blessures corporelles, car en ce cas elle aurait pu être considérée comme tenant lieu d'aliments et n'être pas saisissable, mais il ne pouvait en être ainsi dans le cas actuel, puisqu'il s'agissait d'une somme accordée pour dommages résultant d'un libelle.

PER CURIAM. Le défendeur conteste la saisie-arrêt prise en cette cause, prétendant que la créance saisie lui est due en vertu d'un jugement prononcé le 30 mai 1884, par l'honorable juge L. O. Loranger, contre le tiers-saisi, en réparation d'un libelle publié par le tiers-saisi, et que cette créance est insaisissable en loi.

Les autorités sont partagées sur cette question; les auteurs français postérieurs au code Napoléon, considèrent assez généralement les sommes accordées en réparation civile d'injures, verbales ou écrites, comme saisissables et sujettes à compensation.

Dans notre pays, il y a des jugements déclarant ces sommes sujettes à la compensation et à la saisie. D'autres, et je crois que c'est le plus grand nombre, ont déclaré qu'elles ne sont ni saisissables ni sujettes à compensation.

On trouve la même variété de décisions dans l'ancienne jurisprudence française.

Une des raisons déterminantes, à mon avis, est que dans notre législation et dans notre jurisprudence, les actions en réparation civile, ont conservé le caractère répressif et pénal qu'on leur a souvent reconnu dans l'ancienne jurisprudence française. En effet, il arrive assez généralement que les demandeurs en réparation d'injures ne font pas preuve de dommages *actuellement éprouvés et appréciés en argent.* Cependant, lorsque l'injure a été certainement de nature à causer du tort à la réputation ou à l'honneur d'un demandeur, nos tribunaux ont invariablement condamné le défendeur à payer des sommes d'argent qu'on est convenue d'appeler *dommages exemplaires.*

Bien plus, notre code civil, art. 2272, No. 4, permet la contrainte par corps contre "toute "personne sous le coup d'un jugement de "cour accordant des dommages-intérêts pour "*injures personnelles*, dans le cas où la con-"trainte peut être accordée."

Par *injures personnelles*, on n'entend pas seulement les injures *corporelles* qui diminuent ou enlèvent complètement à une personne les moyens qu'elle a d'acquérir du bien. Les injures verbales ou écrites, s'attaquant à l'honneur et à la réputation d'un homme, lui sont tout aussi personnelles que celles faites à son corps; elles lui sont généralement plus pénibles que celles-ci et le privent bien souvent des moyens de gagner sa vie.

Une créance adjugée, dans de pareilles circonstances, par un tribunal, n'a pas le caractère ordinaire; elle participe de la nature d'une créance alimentaire souvent et pénale, toujours : elle ne doit donc pas être saisissable.

Le jugement obtenu par le défendeur contre le tiers-saisi, et dont il vient d'être question, est certainement d'un caractère répressif et pénal; il n'y est fait aucune mention de dommages actuellement éprouvés. La saisie-arrêt est par conséquent annulée, avec dépens contre le demandeur.

Saisie-arrêt annulée.*

Théo. Bertrand, pour le demandeur.
Edmond Lareau, pour le défendeur.
(J.G.D.)

* Dans le sens du présent jugement : Chef v. Léonard & Décary et al. tiers-saisis, Smith, J., 6 L.C.J. 305; Guyot, Rép. vol. 15, Vo. Réparation Civile, pp. 211 et 212, col. 2; Bourjon, vol. 2, p. 562, No. 41; ancien Denizart, Vo. Dommages, Nos. 17 et 18, et Vo. Réparation Civile, de No. 3 à No. 16; Pigeau, Procédure Civile, vol. 1, p. 423, dernier al. et p. 650, No. 2. (J.G.D.)

COURT OF APPEAL (ENGLAND).

June 12, 13, 1884.

Before BRETT, M.R., BOWEN, L.J., FRY, L.J.

THE BOARD OF WORKS FOR THE WANDSWORTH DISTRICT v. THE UNITED TELEPHONE COMPANY (LIMITED).

Metropolis Local Management Act, 1855 (18 & 19 *Vict. c.* 120), *s.* 96—*Street vested in Local Authority—Property of in Street—Right of to Prevent Wires being Carried over Houses and across Street.*

Appeal from the judgment of STEPHEN, J., at the trial without a jury.

The question raised in the action was, whether the plaintiffs, in whom a street was vested under the Metropolis Management Act, 1855, (18 & 19 Vict. c. 120), s. 96, were entitled to an injunction to prevent the defendants from carrying wires diagonally across the street at the level of the chimneys, the owners of the houses not objecting, and there being neither nuisance nor appreciable danger.

STEPHEN, J., gave judgment for the plaintiffs.

The defendants appealed.

Their LORDSHIPS allowed the appeal, holding that the principle laid down in *Coverdale* v. *Charlton* (48 Law J. Rep. Q. B. 128) applied; that only such a property in the street, both with regard to depth below and height above, was vested in the plaintiffs as was necessary for the ordinary user of the street as a street; and that no interference with that property had been established in this case, inasmuch as no nuisance had been created, nor was there any appreciable danger.

A JUDICIAL REMINISCENCE.

In 18— (the year is now forgotten) a shocking crime was committed in the county of Jefferson, near the Bullitt county line, being the murder of an entire family, named Joyce, and the burning of their dwelling. The family was an humble one, but highly esteemed. Of course the community was profoundly excited. A negro man living in the neighbourhood was suspected of the crime, and arrested. A confession of guilt was extracted from him. Admitting his own guilt, he implicated three other negroes as participators in the deed, and all four were jointly indicted.

On the motion of the Attorney for the State, who represented that the party confessing was a necessary witness for the Commonwealth, a *nolle prosequi* was ordered as to him, in order to use his testimony. On the trial, he was introduced and sworn as a witness. I deemed it my duty to charge him that he was no longer in any danger of prosecution for the crime preferred against him and others; urged him to tell the whole truth uninfluenced by any confession he may have made, to retract all that was false, and took much trouble to assure him that he would be protected by the court. He was the main witness for the prosecution. He adhered to the statement he had previously made, and directly implicated the three other negroes. He further developed the fact that his confession was extorted from him by threats and the severest infliction of bodily pain.

The defence of the three who were tried consisted mainly of satisfactory, if not conclusive, evidence of an *alibi*. The jury empannelled was composed of highly respectable citizens, of more than ordinary intelligence. In the progress of the trial I felt called upon to charge the jury that the testimony of an accomplice, unless sustained by corroborating testimony, was at best entitled to but little weight, and, having been extorted in the manner detailed, was entitled to no weight whatever. This instruction was given *ex mero motu*, and in the most emphatic manner of which I was capable. It was quite apparent that the populace was deeply excited, and that the spirit of the mob was ready to burst forth. The court-room was densely packed with an infuriated people.

The case was argued at length with a spirit, on behalf of the Commonwealth, not calculated to allay the feverish and lawless temper of the crowd, and, on the part of the defence, which showed but too clearly a slavish fear of an outraged public sentiment. Seeing distinctly the portending storm, I quietly instructed the sheriff and his deputies, and also the jailer, to remove the prisoners, one at a time, as quietly as possible to the jail.

My direction was obeyed, and in such a manner as that its execution was unobserved. This order was given and executed before the argument of the case was concluded. The jury, soon after the case was submitted, as was expected, returned a verdict of "not guilty."

The fury of the mob was now fully developed. Their victims were not to be found in the Court-room, but were locked up in jail. A tumultuous rush was made to that building with a savage yell for blood. The jailer was forced by violence to surrender the keys. This occurred late in the evening and not long before dark. After nightfall, the wretched victims were taken from the jail. The man, who was really guilty, having confessed his crime and committed perjury against the others, managed to cut his throat, and the others were hung from the trees in the Court-house yard, where they remained suspended until the next morning.

When I returned to my office the next morning, the mob had not yet dispersed, but thronged the streets and Court-house yard. During the previous night, they had been guilty of the vilest excesses. The jury had been driven from their homes. My dwelling was visited with the avowed purpose of driving me, also, from home. To avoid these consequences, I was kindly urged to leave the city. This advice I refused to take. On the contrary, I felt it to be my duty to remain at home and bid defiance to the mob. The members of the bar advised that it was not prudent to hold Court in the face of the mob. This advice did not accord with my own views, and was respectfully declined. At the appointed hour, I repaired to the Court-house, walking through a dense crowd of infuriated men, and took my seat on the Bench. I directed the sheriff to open Court, and then the clerk to read the orders. During this time, there was breathless silence in the Court-room. I began the call of the docket for the day. The crisis was passed. The crowd soon dispersed. In a short time it was gone.

I have thus given a simple narrative of one of the most trying incidents of my public life.

WILLIAM F. BULLOCK.

THE LAW OF MUSHROOMS.

Those happy persons, in front of whose windows a grassy meadow smiles on these dewy mornings, and who find the pursuit of mushrooms for breakfast a delightful excuse for early rising, if only they are earlier than the poachers, will be much interested in a decision of the magisterial bench at Rugby. The accused had taken mushrooms from a field, in which salt had been sown for the purpose of encouraging their growth, and he admitted his moral guilt by confessing the fact. The question, however, arose whether he was legally guilty. The common law did not allow a man to be convicted of larceny for taking things savouring of the realty, and things of which it may be said, if of anything, that 'the earth hath bubbles' were especially within that description. The Criminal Law Consolidation Act, however, makes it a summary offence to 'destroy or damage with intent to steal any plant growing in any garden, orchard, pleasure-ground, nursery-ground, hot-house, greenhouse or conservatory,' and also to 'destroy or damage with intent to steal any cultivated root or plant used for the food of man or beast, and growing in any land.' The case clearly did not come within the first offence, because the mushrooms were growing in a field and not in a garden; but the question was whether mushrooms growing in the field and cultivated to the extent of salt being thrown down for their benefit are 'cultivated plants' within the meaning of the section. The magistrates decided that they were not, and it would be hard to say that they are wrong. Mushrooms are clearly not 'cultivated plants' as a class, and merely throwing a little salt or a little manure on a field will not alter their character in the eye of the criminal law. If this were so, it might be criminal to pick blackberries because the owner took care of the bramble-bushes in clipping the hedge. The mode of cultivating mushrooms from spat is well known, and makes them apparent to the eye as cultivated plants, and in this form alone would mushrooms in the fields seem to come within the statute. The case, which is reserved for the opinion of the High Court, may, however, throw some light on the nature and properties of a somewhat mysterious growth. —*Law Journal (London.)*

CANADA GAZETTE NOTICES.

The votes of the electors of Compton County on the Canada Temperance Act are to be taken on the 26th of November next.

The regulations for the examination of candidates for the Civil Service of India, to be held in 1885, have been filed in the department of the Secretary of State of Canada, and also in the departments of the secretaries of the different provinces.

The Canadian Pacific Railway Company is about to ask for a Superannuation Act for the benefit of their employees.

The Quebec Bank, the Maritime Bank, (St. John, N. B.), La Banque Jacques Cartier and the Central Bank of Canada announce semi-annual dividends of three per cent., and the Bank of Ottawa three and a half per cent.