The Legal News.

Vol. IV. JULY 23, 1881. No. 30.

EMPLOYER AND EMPLOYEE.

Quebec gives us a case, *Ouimet* v. *Verville*, unique of its order under the law of master and servant. The secretary-treasurer of the school commissioners of a rural parish, St. Jean des Chaillons, received from the local government of Quebec, for the use of his commissioners, a cheque for $163.51. Banking facilities do not abound in the country parts of this Province, and Monsieur Verville, the secretary-treasurer, tried in vain to get the cheque cashed in the parish. He could find no one able or willing to give current coin or notes for the Provincial sign manual. What was to be done? The poor school mistresses had not been paid their dues for a long time back, and were in sore need of their miserable pittance. In this perplexity Mr. Verville betook himself to the chairman of the school commissioners, a dignity which may be assumed to be synonymous with all that is solid and respectable. The chairman proved to be the very person to solve the difficulty. He was not in funds himself, but he was about to visit the capital on the following day, for a little relaxation, and he undertook to get the cheque cashed. So Mr. Verville cheerfully handed over the slip of paper to his superior officer, and went away without a thought of coming calamity. The chairman next day embarked for Quebec, duly reached his destination, and, on the good rule of attending to business before pleasure, went to the office of the Bank of Montreal and got the cheque cashed. It appeared that there was a trifle of $23.51 due to himself by the Board, and having first prudently separated this sum from the rest, he put the balance, $140, in a particular pocket, to be handed to the secretary on his return home, and then gave himself up to enjoyment. What followed on that ill-omened day is not accurately known, probably never will be. The chairman, according to the statement of counsel, owned to having imbibed "four or five, five or six glasses of liquor," and later on, went to a crowded public meeting to divert himself by listening to the speeches. After enjoying this favorite rustic entertainment for an indefinite period, and probably being not the least lusty in his applause of the orators of the evening, our chairman resorted to a tavern to refresh himself with a glass of beer, and there made the discovery that the $140 of school money had disappeared from its place of deposit—his own funds do not appear to have been touched.

Consternation no doubt pervaded St. Jean, and especially its poor school-mistresses. The ratepayers assembled and wrathfully demanded the dismissal, not of the chairman, but of the unfortunate secretary. The commissioners dismissed him accordingly. But this was not punishment enough. The Superintendent of Public Education, acting for the school commissioners, sought to hold unhappy Monsieur Verville responsible for the loss. This seems to be an improvement on the appeal from Philip drunk to Philip sober. It was equivalent to the chairman sober holding his subordinate responsible for the conduct of the chairman unbending himself. Well might the learned judge before whom the case was tried exclaim, "Such a pretension appears to me one of revolting injustice." Law and justice are happily found to be on the same side, and the employee has been freed from responsibility for a loss which was was brought about by no fault or negligence on his part, but which resulted from the act of the chairman of his employers. The case having been taken to appeal, the decision of the lower court in favor of the secretary-treasurer has been affirmed.

CICERO.

Anthony Trollope, though not always profound, is never dull. The following is a passage from his recent life of Cicero:—"What a man he would have been for London life! How he would have enjoyed his club, picking up the news of the day from all lips, while. he seemed to give it to all ears! How popular he would have been at the Carlton, and how men would have listened to him while every great or little crisis was discussed! How supreme he would have sat on the treasury bench, or how unanswerable, how fatal, how joyous, when attacking the government from the opposite seats! How crowded would have been his rack with invita-

tions to dinner! How delighted would have been the middle-aged countesses of the time to hold with him mild intellectual flirtations; and the girls of the period, how proud to get his autograph, how much prouder to have touched the lips of the great orator with theirs! How the pages of the magazines would have run over with little essays from his pen! 'Have you seen our Cicero's essay on agriculture? That lucky fellow, editor —— got him to do it last month!' 'Of course you have read Cicero's article on the soul. The bishops don't know which way to turn.' 'So the political article in the *Quarterly* is Cicero's?' 'Of course you know the art-criticism in the *Times* this year is Tully's doing?' But that would probably be a bounce. And then what letters he would write! With the penny post instead of travelling messengers at his command, and pen instead of wax and sticks, he would have answered all questions and solved all difficulties. He would have so abounded with intellectual fertility that men would not have known whether most to admire his powers of expression or to deprecate his want of reticence."

BENCH AND BAR IN NEWFOUNDLAND

The narratives of travellers, when strictly tested, are not often found to be literally accurate. The inducement to divert their readers is so great that travellers' tales resemble much the accounts of current events, transmitted over the wires by correspondents, who seem to labor under an absolute disability to keep within the region of fact. The bench and bar of Newfoundland have lately suffered from the romancing pen of a travelling peer, Lord Dunraven, who favored the Island with a brief visit; was kindly treated, and requites the hospitality extended to him by striving to make his entertainers ridiculous. The lord is ably answered by a Newfoundland corrrespondent:—

"After a slight account of our cod and seal fisheries, Lord Dunraven goes on to give a humorous description of a voyage he made northward, in company with one of our judges and a number of barristers who were on circuit. I may explain that, as the extent of our roads is yet limited, a coasting steamer is chartered to convey the judges, lawyers and officers of court to the different localities where, according to statute, a court is held twice a year. As Lord Dunraven had a difficulty in getting a passage to the hunting-grounds which he wished to visit, by the regular steamer, the judge then going on circuit in that direction kindly consented to take him as a passenger, and not only so, but to oblige him, he started a day and a half before the regular time, and at no small inconvenience to himself and the members of the legal profession who were on board, he conveyed Lord Dunraven directly to his destination. I need hardly say that the utmost attention and hospitality was shown his Lordship while on board. It was not very gracious, therefore, on the part of Lord Dunraven, in return for his kindness, to write of the voyage as follows:—'As far as I could see, there was very little work for the court to do. We would stop occcasionally, apparently at any nice likely-looking spot for a malefactor, and send on shore to see if there was any demand for our commodity, namely justice. Generally we were informed that the inhabitants did not require any justice at present, but that perhaps if we would call again another time a little later, we might be more fortunate; and then we would give three hideous steam whistles by way of a parting benediction, and plough our way through the yielding billows to some other settlement, where, if we were lucky, the court would divest itself of oil skin coats and sou'westers and go ashore to dispose of the case or cases to be tried.' Now this is entirely a fancy sketch, as I am in a position to affirm most positively, having the authority of the judge who was on board, and some of the barristers for what I write. I am far from suggesting that Lord Dunraven has stated knowingly and designedly the things which never took place; but it is evident he has written the sketch from memory after an interval of more than four years, and that he has unconsciously mixed up with his account reminiscences of what he has heard or seen elsewhere, perhaps in the Western States of America, and localised some of those experiences here by a strange confusion of memory. Perhaps we have here an illustration of what physiologists call 'unconscious cerebration.' It is, however, a fact that the steamer, on the occasion referred to, conveyed Lord Dufferin and the others from St. John's direct to his destination, Hall's Bay, without *calling at any intermediate port*, so that the inquiries for malefactors, and the trying of

cases on the way, did not occur. Indeed, such ludicrous incidents were impossible. When a judge goes on circuit there are certain towns and settlements where, at the time appointed, he invariably opens the court, whether there are cases to be tried or not, just as is done in England. I may add that judicial proceedings are conducted here with every regard to propriety and decorum; and that the bench and the bar of Newfoundland, in regard to ability, legal attainments and that dignified and gentlemanly demeanour which we expect in men belonging to one of the learned professions, will compare favorably with the bench and the bar of any other British colony.

"In regard to this voyage, however, his Lordship's memory has played him a still more fantastic trick than in the foregoing instance. He tells us that the party amused themselves with 'reading dime novels,' and 'playing cards in the stifling saloon below.' 'There was something rather comical in the whole proceeding.' 'To see eminent counsel staggering about the slippery deck in long boots and Guernsey frocks, and the highest functionary of the law playing profane games of cards in his shirt sleeves, condescending to exchange remarks concerning the weather with grimy stokers and tarry-breeched seamen, produced a feeling of somewhat irreverent amusement.' Here again his Lordship's reminiscences of Newfoundland have got 'tangled,' and some funny stories heard elsewhere are, no doubt, unconsciously related as having happened here. I have the highest authority for stating that on the passage not a single game of cards was played by anyone. There would have been no harm in such a thing, but the voyage proved to be a very rough one, and amusements of this kind were not attempted. The judge, to whom he attributed such vulgar conduct, is a highly esteemed gentleman, of great ability, and, in private life, quite incapable of any such indecorum as his Lordship has been pleased to credit him with. That the barristers were dressed in 'Guernsey frocks' is also ludicrously untrue. In fact the only amusing incident on the passage was supplied by his Lordship himself, who had a habit at table of taking the potatoes from the dish with his fingers—a practice which created what he calls 'a feeling of somewhat irreverent amusement' when witnessed in a peer of the realm, whom ordinary mortals look upon with wonder, not unmixed with awe. Still the legal gentlemen were too polite to publish an account of this little peculiarity on the part of the peer. With them he has not been equally courteous. He describes the steamer as a "harbour tug," so as to convey the meanest impression of the whole affair. The Hercules is a small coasting steamer of about 130 tons, fitted up to carry passengers, and on this occasion her saloon and cabins accommodated twenty passengers. His Lordship afterward chartered her to carry him from St. John's to Halifax. To call her a "harbour tug" is misleading. Now we sometimes find vulgar "penny-a-liners" abusing hospitality, and where they have been kindly and courteously received, revealing what occurred in the confidence of familiar intercourse, and turning their hosts into ridicule for the amusement of their readers, but we did not expect to find an accomplished writer and a gentleman of high position like Lord Dunraven stooping to like conduct."

THE RIGHT OF ASYLUM.

Having regard to the recent outrages of Nihilism, and to the manner in which they have notoriously received active sympathy from Russia and other residents in several Continental States, it is natural that the question of the extradition of political offenders should engage a considerable amount of public attention. The German Parliament has already expressed its approbation of international treaties for the prosecution and extradition of persons guilty of attacks upon the Chiefs of States; and a proposal to the same effect was recently made in the Austrian Reichstag. Russia, again, has taken the obvious step of suggesting a conference to deliberate on practical protective measures. In these circumstances it is not surprising that a report should have arisen that representations had been made to our own Government respecting the right of asylum for political offenders in this country. Such representations would be by no means novel, for nothing, perhaps, has on previous occasions of similar character given rise to more bitter feelings in the minds of other nations than the liberty which our laws afford to foreign refugees. That Lord Granville was able, in reply to a question in the House of Lords, to pronounce this report unfounded, is probably

due to the fact that the sentiments of this country on the matter are now too well known to encourage any such representations.

From time immemorial, it may be said, England has granted to persons of every rank, condition or party, exiled from their own country on account of their political conduct or opinions, an inviolable asylum, subject to their good behavior while resident here, and to their obedience to our municipal laws. Many instances might be mentioned in which this principle has been asserted, but it will be sufficient to recall one or two of the most important.

When, in the year 1802, Napoleon demanded that our Government should expel certain individuals whose political conduct and views were offensive to the French authorities, Lord Hawkesbury replied in the following terms: "His Majesty expects that all foreigners who may reside within his dominions should not only hold a conduct conformable to the laws of the country, but should abstain from all acts which may be hostile to the government of any country with which His Majesty may be at peace. As long, however, as they conduct themselves according to these principles, His Majesty would feel it inconsistent with his dignity, with his honor, and with the common laws of hospitality, to deprive them of that protection which individuals resident in his dominions can only forfeit by their own misconduct."

Another notable assertion of the same liberal doctrine occurred in 1852, when, in answer to the urgent demands of various Continental States that certain conspiracies alleged to be organized by political refugees in England, should be promptly suppressed by our Government, Lord Granville, then foreign secretary, replied in a circular issued to the principal Powers, that "By the existing laws of Great Britain all foreigners have the unrestricted right of entrance and residence in this country; and while they remain in it are, equally with British subjects, under the protection of the law; nor can they be punished except for an offence against the law, and under the sentence of the ordinary tribunals of justice, after a public trial, and on a conviction founded on evidence given in open court. No foreigners, as such, can be sent out of this country by the Executive Government, except persons removed by virtue of treaties with other States, confirmed by act of Parliament, for the mutual surrender of criminal offenders. British subjects, however, or the subjects of any other State, residing in this country, and therefore owing obedience to its laws, may, on conviction of being concerned in levying war against the Government of any State at amity with Great Britain, be punished by fine and imprisonment." "While, however," the despatch continued, "Her Majesty's Government cannot consent, at the request of foreign governments, to propose a change in the laws of England, they would not only regret, but would highly condemn any attempt on the part of foreign refugees in England to excite insurrection against the governments of their respective countries. Such conduct would be considered by Her Majesty's Government as a flagrant breach of the hospitality which those persons enjoy."

So bold a refusal of their demands produced a great irritation among the Powers to whom the circular was addressed, and the laws of this country were at the time subjected to severe criticism; but here at least the despatch was accepted by the lawyers and statesmen as a sound exposition of the national doctrine.

In the following year the subject underwent a memorable discussion in the House of Lords, and Lord Lyndhurst, in introducing the debate, used language very similar to that already quoted. "Foreigners," he said, "residing in this country, as long as they reside here under the protection of this country, are considered in the light of British subjects, and are punishable by the criminal law precisely in the same manner, to the same extent, and under the same conditions, as natural born subjects of Her Majesty. In cases of this kind, persons coming here as foreign refugees from a foreign state, in consequence of political acts which they have committed, are bound by every principle of gratitude to conduct themselves with propriety. This circumstance tends greatly to aggravate their offence, and no one can doubt that they are liable to severe punishment."

The principles enunciated in these cases have since been fully maintained, and were in 1871 again laid down in answer to a remonstrance of the Spanish Government. Of foreign dictation or interference in the matter of domestic legislation the people of this country have ever shown themselves peculiarly impatient, as was

demonstrated by the well known events of 1858, when a supposed concession to French compulsion proved sufficient to overthrow a ministry. We need not, therefore, go far to seek the reasons which have induced our government to decline the conference now proposed by Russia. Seeing that its avowed object is to restrict the liberty and facilitate the apprehension of foreign fugitives, the decision of our ministers is wise and will commend itself to the nation.

But while we are thus tenacious of the freedom accorded by our laws to exiles, it behooves us not to forget our duty to other governments. It can hardly be denied that on some occasions we have been singularly careless in the encouragement of revolution, and even in cases where restrictive laws have been enforceable, we have been slow to sanction their being carried out. Let it be remembered at the present time that, so long as these liberal views prevail, it is—in the words of Lord Granville—"the more incumbent upon us to exert all legal powers to prevent acts prejudicial to foreign and friendly governments, more especially with regard to murders, whether such murders or attempts to murder are directed against private individuals, or against sovereigns and chiefs of state."—*Law Times* (London).

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, March 31, 1881.

TORRANCE, RAINVILLE, JETTE, JJ.

[From S.C., Iberville.

FAIRVEW v. WHEELER, and WHEELER et al., interveners.

Lease—Conditional sale.

Where a piano was sold conditionally upon the price being paid by the purchaser, held that the proprietorship was in the vendor so long as the price was not paid to him.

TORRANCE, J. The question here is as to the proprietorship of a piano claimed by the plaintiff from the defendant as simply leased by her to him. The interveners, his son and daughter, claim it under a title derived from the defendant. The defendant held the piano under a lease from the plaintiff, which promised to sell him the piano conditionally upon his paying the price, namely, $425. The Court at St. Johns, Iberville, held that the proprietorship of the plaintiff was proved and that the intervention of the son and daughter, claimants, should fail. I hold here that the law and equity of the case are entirely in favour of the judgment, which should be confirmed.*

Judgment confirmed.

P. Lanctot, for plaintiff.

Lacoste, Globensky & Bisaillon, for interveners.

SUPERIOR COURT.

MONTREAL, March 31, 1881.

Before TORRANCE, J.

MARTIN v. THE DOMINION OIL CLOTH CO.

Injunction—Trade Mark—Adulteration of goods.

This was an action for an injunction and an account, and also in damages. The complaint set out an agreement of date 22nd February, 1877, by which the plaintiff undertook to furnish to defendants his dry brilliant body green, and also consented that his trade mark should be used by defendants for five years on the labels for said green after it was ground by the company in pure refined linseed oil, which the company undertook to do, and plaintiff further bound himself to furnish the company with said dry green in any other shade than the one before mentioned that might be desirable and procurable from the manufacturers in Europe. And the company bound themselves to grind the brilliant body green always pure in the best refined linseed oil in the usual consistency of blind green, to wit: green used for window blinds, and to furnish it to plaintiff at the rate of 15½ cents per pound, put up in cases of 40 tins from one to five pounds weight, and to allow plaintiff the difference in cost when he ordered the same in larger quantities, and agreed to fill plaintiff's orders promptly, and to credit plaintiff with one per cent. on each pound of green sold by them to other parties, and to make and furnish plaintiff with a monthly statement of such sales, and to account for and pay the amount found to be due to plaintiff from said sales. Plaintiff complained that the

* Authorities of plaintiff:—Thomas & Aylen, 16 L.C. J. 309; *Webster & Clarke* (in Review, from Iberville; *Renaud & Robillard, & Ratelle*, opposant, C.C.M.; (Rainville, J.); Larombière, Art. 1184, No. 70; 25 Demolombe, n. 543.

company failed to furnish plaintiff with monthly statements and to pay to the latter the amount coming to him; that the company greatly adulterated the dry green furnished by plaintiff with divers inferior materials which took away the brilliancy of the green and impaired its coloring power, and more especially had used in such adulteration sulphate of barytes and other inferior materials, and sold and delivered large quantities of said inferior green, and did put upon the same the trade mark of plaintiff; that by so doing the rights of plaintiff had been greatly interfered with, and he had suffered great loss. The conclusion of plaintiff was that the company be enjoined to cease using said trade mark upon any of said green so manufactured by the company; that the company be condemned to furnish to plaintiff a true account of all the sales made monthly by the company of said green, and to pay over to plaintiff the sum which might be found to be due to plaintiff, and that the company be condemned to pay to plaintiff damages, namely, $5,000.

The company pleaded that ever since entering into said agreement they had ground pure and in the best refined linseed oil in the usual consistency of a blind green, the dry green furnished by plaintiff, and had fulfilled every part of said agreement on them binding, but that plaintiff had altogether failed to fulfil his part of the agreement, and instead of furnishing dry green as by said agreement he was bound to do, he directed the employees of the company to mix together certain ingredients by him named in certain proportions by him indicated, in view of producing the said dry green or an article similar thereto, which said directions of plaintiff had been minutely followed. That the company had never used the trade mark of plaintiff upon, or for the purpose of designating any other green than that furnished to the company by plaintiff, or that produced as aforesaid by the admixture of different ingredients under the direction of plaintiff. That moreover the company, on the 12th December, 1879, accounted to plaintiff for one cent per pound upon all the said green sold by the company to other parties, the amount of said account being for 7224 pounds of said green, to wit: the sum of $72.24 which was placed to the credit of plaintiff who was indebted to the company in a greater sum, to wit: in the sum of $110.52, balance due by plaintiff to defendant upon an account for the price and value of goods, wares and merchandizes by the company to plaintiff sold, and delivered at different times previous to the date of the institution of the action; that since the rendering of this account the company had not sold any of the said green; that in and by their protest the company notified the plaintiff that they had a certain quantity of said green still on hand, bearing the trade mark of plaintiff, and were ready to deliver the same to him on being reimbursed the cost price thereof, and the company prayed that the sum of $72.24 be declared compensated by the said sum of $110.52, and plaintiff's action dismissed.

PER CURIAM. On the issues raised between the parties, many witnesses have been examined, and I have no difficulty in finding that the dry green furnished by plaintiff was greatly adulterated. Mr. Woods, the manager of the company, says this was done by the express direction of the plaintiff. I have an insuperable difficulty in believing this, because it was destructive of the plaintiff's business, and plaintiff received from the company an inferior article of little value and was nevertheless charged the same price as if it were the pure article intended by the contract.

I call attention to the following evidence of the witness Woods on the adulteration of the dry green:—

"Q. Did you hear Dr. Girdwood and Mr. Logie and Mr. McArthur say that the one was worth about 18 cents and the other only from 4 to 6 cents per pound?

"A. I believe I did.

"Q. Did you consider yourself entitled to charge the fifteen and a-half cents mentioned in the contract for the brilliant body green for this adulterated green?

"A. We did, but we offered to make good to Mr. Martin any difference in quality on account of having done so.

"Q. Was it the quantity or the value which was reduced?

"A. The value.

"Q. But you continued to charge the fifteen and a-half cents mentioned in the contract?

"A. Yes."

Again at p. 12.

"Q. Do you consider that that was a proper brilliant body green for the market?

"A. I considered that it was nothing of my affair. That Mr. Martin had told me to mix sulphate of Barytes with it and that I did so.

"Q. You made it worth from 5 to 6 cents per pound, while it was worth from 15 to 16 cents per pound before?

"A. I don't admit that it was only worth that price."

And so on.

I cannot help here remarking on the peculiarly emphatic expressions used by this witness in answer to questions which were put to him. Once he is asked, "Are you positive, &c.?" Ans. "I swear it absolutely. I swear that he told me to put barytes in to make the colour. My instructions to my foreman then were to put barytes in. *Under my solemn oath* I state that Mr. Martin represented that brilliant body green to be pure without barytes in it whatever."

Again at p. 7. "Will you swear that the "colour or tint," &c.

"Answer. On my solemn oath I swear, &c.,&c."

Again at the following page, the reverse of page 7:—

"Question. Did you understand that there "was nothing but the pure green to be used?

"Answer. I do, upon my solemn oath."

Again at pp. 12, 13:

"Q. Of that lot in which the special instructions were given, did you furnish the sample of it as produced to Mr. Martin or to Mr. Baillie?

"A. Before changing it?

"Q. No, after changing it?

"A. When I received it I mixed it according to the written instructions. Mr. Martin came down and I believe that I showed him the result. I believe that he saw that the shade was very dark, and I said that I could not get the shade. I said that it would have to be lightened and that barytes was the thing to lighten it and he said, put barytes in. *I swear that on my solemn oath.*"

It is no uncommon thing for a counsel to remind a witness that he is under oath, in putting him a question, but it is a most unusual thing for a witness who is under oath, to endeavor to add emphasis to his statements, to invite attention to his affirmations—by vain repetitions—by swearing anew in so many words—upon my solemn oath—I swear absolutely—that such are the facts. It is a significant circumstance that the credit of this witness is attacked by several witnesses, and on the other hand, his veracity is testified to by persons who say they know nothing against his credit and that they would believe him on the whole. I find on the evidence of record and given in open court, that the injunction asked for by plaintiff should be granted him and that general damages should be awarded. On the other hand the account offered by the company is accepted and the balance of $38 credited to them, and will go in deduction of the general damages.

The action does not claim special damages, but the recourse of plaintiff, if any he have, is reserved for such damages.

A. & W. Robertson for plaintiff.

Béique & McGoun for defendants.

RECENT DECISIONS AT QUEBEC.

Principal and agent—Liability of employee—Cheque.—The respondent, secretary-treasurer of the school commissioners for the parish of St. Jean des Chaillons, having received a government cheque for school purposes, and not being able to get it cashed in the parish, handed it to the chairman of the commissioners to be cashed at Quebec. The latter obtained the money, the greater part of which was shortly after stolen from his person. *Held,* that there had been neither negligence nor fault on the part of the secretary-treasurer, and that he was not responsible for the loss.—*Ouimet* v. *Verville,* (Q. B.) 7 Q. L. R. 34.

Chose jugée—Ayant cause.—L'acquéreur n'est l'ayant cause du vendeur que pour ce qui a précédé la vente. Le jugement, qui, après la vente, établit le montant dû par le vendeur pour balance du prix de son acquisition du même immeuble, ne peut pas être opposé à l'acquéreur, et ne fait pas preuve contre lui du montant pour lequel l'immeuble par lui acquis est hypothéqué. Le tiers détenteur peut opposer à une poursuite hypothécaire contre lui les paiements faits par son vendeur.—*Dubuc* v. *Kidston et al.,* 7 Q. L. R. 43.

Trial—Verdict—Presence of prisoner at argument on writ of error.—Where a prisoner has been indicted for burglary *(vol avec effraction)*, a verdict for receiving stolen goods *(recel)* cannot be rendered, and in such case the verdict

may be quashed on writ of error. A plaintiff in error in jail undergoing sentence must be brought into Court by *habeas corpus* at the hearing of the case.—*St Laurent* v. *Reg.*, 7 Q. L. R. 47.

Municipality—Procès-verbal.—Where a portion of a municipality has been detached in order to form a separate municipality, the rate-payers within the detached portion are no longer bound by any *procès-verbal* under which they were previously obliged to maintain any part of a road within the portion from which they have been detached (M. C. Arts. 5 and 90).—*Deschesnes* v. *La Corporation de Ste Marie*, 7 Q. L. R. 50.

Procedure — Exhibits — Instrument recited in pleading.—A plaintiff failing to file with his declaration the exhibits alleged in support of his demand may do so afterwards, and so long as the position of the parties remains unchanged, without leave of the court, provided notice be given to the opposite party. 2. If the exhibits that ought to have been filed with any pleading subsequent to the declaration are not so filed they cannot afterwards be filed, without the consent of the opposite party or leave of the court. 3. If an instrument recited in a pleading was lost or destroyed before the date of such pleading, such destruction or loss ought to be alleged.—*Bussière* v. *Gaboury*. Opinion by Meredith, C. J., 7 Q. L. R. 51. But McCord, J., in *Filion* v. *Corriveau*, 7 Q. L. R. 66, allowed an exhibit referred to in the declaration to be filed at *enquête*, without previous notice to the opposite party: "considérant que les articles 99, 103 et 106 C. P. C. n'ont rapport qu' à la procédure qui précède la contestation en cause, et que leur intention n'est que de permettre au défendeur de prendre communication des pièces du demandeur avant de produire ses défenses; considérant qu'en produisant ses défenses et son articulation de faits avant que le demandeur ait produit la sentence arbitrale, l'intervenante, défenderesse, a montré qu'elle n'avait pas besoin de la production de la dite sentence pour pouvoir plaider à l'action, et a renoncé à l'avis prescrit, en sa faveur par l'art. 106, et se trouve du reste sans intérêt à exiger le dit avis."

Municipal taxes.—The Crown is assessable for municipal taxes on property occupied by it as tenant.—*Corporation of Quebec* v. *Leaycraft, & Attorney-General*, intvg., 7 Q. L. R. 56.

Sheriff's sale—Deposit.—When an order, under C. C. P. 678, is made requiring bidders at a sheriff's sale to make a deposit, such order ought to be published as one of the conditions of the sale. A failure to publish such condition may be taken advantage of by the defendant by a petition *en nullité de décret.*—*Robitaille* v. *Drolet*, 7 Q. L. R. 67.

RECENT ENGLISH DECISIONS.

Forgery—Adoption—Neglect to give notice by one whose name is forged.—F. forged the name of the appellant to a bill of exchange, and discounted it with the respondent's bank. Upon the bill becoming due, the bank communicated with the appellant, but he allowed a fortnight to elapse before he informed them that his signature was a forgery. The position of the bank was not in any way altered for the worse during the interval. *Held* (reversing the judgment of the court below), that the appellant was not liable on the bill. Freeman v. Cook, 2 Ex. 654, approved. Urquhart v. Bank of Scotland, 9 Scot. Law Rep. 508, distinguished. House of Lords, Feb. 11, 1881. *McKenzie* v. *British Linen Co.* Opinion by Lord Chanc. Selborne and Lords Blackburn and Watson. 44 L. T. Rep. (N. S.) 431.

Marriage—Evidence of, from cohabitation.—When the question is whether a certain marriage has or has not taken place, and the fact of cohabitation is established, together with reputation of marriage, a presumption is created in favor of the marriage having taken place, which can only be rebutted by strong and weighty evidence to the contrary. Broadalbane Case, L. R., 1 H. of L. Sc. 199; Piers v. Piers, L. R., 2 H. of L. Cas. 331; De Thoren v. Attorney-Gen., L. R., 1 App. Cas. 686. Ch. Div., April 9, 1881. *Fox* v. *Bearblock*. Opinion by Fry, J. (44 L. T. Rep. [N. S.] 508.)

GENERAL NOTES.

From an article in the *N. Y. Herald*, which has been shown to us, it appears that the judges of the Supreme Court of New York State receive $17,500 each, of the Superior and Common Pleas Courts $15,000, and of the Marine Court $10,000. The Surrogate, the Recorder and the City Judge are paid $12,000 each.