THE

LEGAL NEWS.

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CURRENT TOPICS.

The new Roentgen method of procuring shadow pictures of objects through substances formerly considered opaque, and which are opaque to ordinary vision, will not only be of the highest utility in surgery, but is likely to play an important part in the law courts. Cases of physical injury, in which the evidence was usually so conflicting as to perplex the jury, will now very often be rendered perfectly simple, and the estimate of damages will naturally be a closer approach to what is just. In a recent case in England, an actress sued for injuries sustained by falling through a dilapidated stairway in the theatre. The plaintiff's case was weak as to the extent of the injuries, and the jury would probably have compromised by awarding a moderate sum, but the plaintiff's pretensions received the strongest support from Roentgen ray pictures which clearly showed that the bones of the foot had been seriously displaced, and the jury agreed upon a verdict of $5,000. What improvements may be made in the process it is difficult to foresee, but it is quite certain that improvements will be effected, as was the case in the matter of electric light. Probably in many cases arising from railway accidents, the mysteries of

injuries to the skull and spine will be elucidated. Hands and feet have already been perfectly depicted by the Roentgen process. Possibly the condition of important internal organs may also come within easy observation. Even the objection, so long debated in United States courts, to the physical examination of the plaintiff in certain cases may disappear, as Roentgen pictures may be taken while the individual is decently clothed.

The death of Mr. Leopold Laflamme removes the last of three brothers, all members of the Montreal bar, and one of whom, the late Mr. R. Laflamme, Q. C., attained the highest distinction. The deceased, Mr. Leopold Laflamme, was for a number of years the valued assistant of his brother. He was, moreover, a sound lawyer, well versed in the principles of the law. For some time his health has been failing, and he was forced to relinquish active work. His death will be sincerely regretted by a large circle of personal friends.

Sir Henry James, now Lord James of Hereford, is the latest accession to the Judicial Committee of the Privy Council. It will also be open to his lordship to take part in the judicial work of the House of Lords, under the provisions of the Appellate Jurisdiction Acts of 1876 and 1887. The appointment of Lord James to the Judicial Committee was made under the Imperial Act of 1833, which created the Judicial Committee, and which provided that in addition to certain judicial personages "it shall be lawful for His Majesty from time to time, as and when he shall think fit, by his sign manual to appoint any other two persons, being Privy Councillors, to be members of the said Committee." Lord James in 1886 was offered the Lord Chancellorship by Mr. Gladstone, but declined the offer because he could not accept Mr. Gladstone's policy on the Irish question.

Lord Russell of Killowen, the Lord Chief Justice of England, it is intimated, has accepted an invitation from the American Bar Association to attend its annual meeting, to be held at Saratoga Springs, on August 19, 20 and 21, of the present year. The association, which has been in existence for eighteen years, is composed of members of the Bar associations of nearly all the States and territorries, its objects being "to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold the honour of the profession of the law, and encourage cordial intercourse among the members of the American Bar." Lord Russell will be accompanied by Sir Frank Lockwood, Q.C., M.P., and Mr. Montague Crackanthorpe, Q.C.

NEW PUBLICATION.

A TREATISE ON THE RAILWAY LAW OF CANADA: By Harry Abbott, Esq., Q.C., of the Montreal Bar.—Publisher, C. Theoret, 11 & 13 St. James Street, Montreal.

This work, which is dedicated by the author to his former law partner, now the Acting Chief Justice of the Superior Court in Montreal, is probably the most valuable contribution to text books on branches of the law which has yet appeared in this province. Of mere compilations from the reports we have had enough and more than enough. Here we have a serious attempt to treat a branch of the law from a comprehensive point of view, the doctrine being examined, and the decisions bearing thereon being cited in illustration. The subjects embraced are briefly as follows: Constitutional law; The Law of Corporations; Railway securities; Eminent domain; Contracts; Common carriers; Negligence; Damages; and Master and Servant. To the foregoing are added the text of Dominion and Provincial railway acts, and forms of proceedings in expropriation. An exploration of the whole field of railway law as it exists in the United States and England is not attempted, and very properly, as we have in Canada special statutory provisions which govern the subject; but reference has been made to leading decisions of

the United States Courts which have a special bearing on questions not authoritatively determined by our courts, and also to the English jurisprudence where the cases were decided under statutes similar to our own. The Canadian cases, of course, receive special attention. About fifteen hundred decisions in all are cited.

As to the manner in which the work has been executed it is hardly necessary to say much. Mr. Abbott has so long been occupied as a counsel with the most important cases before our courts that the work could not have fallen into better hands. We are convinced that this book will prove of the greatest service to the bench as well as to the bar, and we trust that so promising a beginning having been made, the work will be kept up, and that many future editions may appear of the Railway Law of Canada.

It must be added that the book has been issued from the house of Mr. C. Theoret, in a form which does credit to the publisher.

SUPREME COURT OF CANADA.

OTTAWA, 24 March, 1896.

Quebec.]

O'NEILL v. ATTORNEY GENERAL OF CANADA.

The Criminal Code, sec. 575—*Persona designata—Officers de facto and de jure—"Chief Constable"—Appointment of deputy—Common gaming house—Confiscation of gaming instruments, moneys, &c.—Evidence—The Canada Evidence Act*, 1893, *secs.* 2, 3, 20 & 21—*Judgment in rem—Res judicata.*

The High Constable of the district of Montreal (which includes the city of Montreal, as well as a large territory adjacent thereto) was appointed under a Commission from the Crown in the year 1866, and has ever since then continued to hold that office. In 1885 he appointed a deputy, who thereupon took the oath of office, the attesting magistrate adding in the record of the oath the words "jusqu'au 1er mai, 1886." The deputy was never re-sworn, but has continued to act as such ever since then, and on the 14th October, 1893, in execution of a warrant issued by a Police Magistrate under the 575th section of the Criminal Code, and addressed to him by name as "Deputy High Constable of the City of Montreal," he seized certain moneys and instruments

in a common gaming house within the limits of the City of Montreal. The section referred to empowers "the Chief Constable or deputy Chief Constable of any City or Town, or other officer authorized to act in his absence," to make the reports and seizures provided for therein.

Held, Girouard, J., dissenting, that an officer whose functions and duties are of a character sufficient to bring him within the designation of the officer named in the section is competent to execute warrants and make seizures under it, although his office may not bear the exact title given in the code.

That the High Constable of the District of Montreal has power to appoint a deputy to perform acts of a ministerial nature under the provisions of section 575 of the Criminal Code.

That a seizure under the 575th section of the Criminal Code by a person exercising *de facto* the duties of Deputy High Constable, is sufficient upon which to ground a confiscation under that section.

That notwithstanding the omission to be re-sworn, the executing officer in this case was not only *de facto*, but strictly *de jure* the deputy chief constable for the District of Montreal, and an officer in all respects competent to act under section 575 of the Criminal Code, and even if he had merely filled the office *de facto* the proceedings taken by him could not be vitiated by reason of his failure to be re-sworn.

In an action to revendicate the moneys so seized, the rules of evidence in civil matters prevailing in the province would apply, and the plaintiff could not invoke "The Canada Evidence Act, 1893" so as to be a competent witness in his own behalf in the Province of Quebec.

Held, per Sir Henry Strong, C.J., that a judgment declaring the forfeiture of moneys seized under the provisions of section 575 of the Criminal Code, could not be collaterally impeached in an action of revendication brought against the high constable and the clerk of the peace for the specific recovery of the moneys confiscated.

Appeal dismissed with costs.

Guerin for the appellant.
Hall, Q.C., for the respondent.

Nova Scotia.] 18 February, 1896.

SLEETH v. HURLBERT.

Canada Temperance Act—Search warrant—Seizure of goods under —Replevin—Judgment quashing warrant—Justification under warrant after—Estoppel.

A search warrant was issued under the Canada Temperance Act to search for liquors on the premises of H., a hotel keeper in Yarmouth. The goods having been found were seized, and on subsequent proceedings before a magistrate they were ordered to be destroyed, which was done, although H. had caused a writ of replevin to be issued. The proceedings before the magistrate were then removed into the Supreme Court of Nova Scotia by certiorari (*The Queen* v. *Hurlbert*, 27 N. S. Rep. 62), and the search warrant was quashed for not having stated that the premises of H. were within the jurisdiction of the magistrate. In the replevin suit the Nova Scotia Court held that the warrant having been quashed, H. was entitled to recover the value of the goods destroyed.

Held, reversing the judgment of the Supreme Court of Nova Scotia (27 N. S. Rep. 375) Taschereau, J., dissenting, that the warrant having followed the form prescribed in the Act, and having been issued by competent authority, the officer executing the order of the magistrate could justify under it notwithstanding it had been quashed.

Held, also, that the officer having been no party to the proceedings in which the warrant was quashed, and the judgment therein not being a judgment *in rem* but *inter partes* only, he was not estopped thereby from setting up the warrant as a justification.

Appeal allowed with costs.

Orde for the appellant.

Roscoe for the respondent.

Nova Scotia.] 24 March, 1896.

KIRK v. CHISHOLM.

Assignment for benefit of creditors—Preferences—R.S.N.S. 5 *ser. c.* 92, *s.s.* 4, 5, 10—*Chattel mortgage—Statute of Elizabeth.*

Though an assignment contains preferences in favour of certain creditors, yet if it includes, subject to such preferences,

a trust in favour of all the assignor's creditors it is "an assignment for the general benefit of creditors," under sec. 10 of the N. S. Bills of Sale Act (R.S.N.S. 5 ser. c. 92), and does not require an affidavit of *bona fides*. *Drukee* v. *Flint* (19 N.S. Rep. 487) approved and followed. *Archibald* v. *Hubley* (18 Can. S. C. R. 116) distinguished.

A provision in an assignment for the security and indemnity of makers and endorsers of paper for accommodation of the debtor not due does not make it a chattel mortgage under sec. 5 of the act, the property not being redeemable and the assignor retaining no interest in it.

An assignment is void under the statute of Elizabeth as tending to hinder or delay creditors if it gives a first preference to a firm of which the assignee is a member and provides for allowance of interest on the claim of said firm until paid, and the assignor is permitted to continue in the same possession and control of the business as he had previously had.

A provision that "the assignee shall only be liable for such moneys as shall come into his hands as such assignee unless there be gross negligence or fraud on his part" will also avoid the assignment under the statute of Elizabeth.

Authority to the assignee not only to prefer parties to accommodation paper, but also to pay all "costs, charges and expenses to arise in consequence" of such paper is a badge of fraud.

Appeal dismissed with costs.

Mellish for the appellant.
Gregory for the respondent.

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27 February, 1896.

Prince Edward Island.]

GORMAN v. DIXON.

Principal and surety—Giving time to principal—Reservation of rights against surety.

G., as surety for his brother, indorsed a promissory note which was dishonored. The Bank holding the note accepted a part payment and a new note for the balance indorsed by D., and retained the old note. D. had to retire the paper he indorsed, and brought an action against G. on the old note. On the trial the manager of the bank testified that it was arranged when the new security was given that he was to retain the old note until it was paid. A verdict was given in favour of D.

Held, affirming the judgment of the Supreme Court of Prince Edward Island, Gwynne, J., dissenting, that taking the new note was giving time to the principal by which the surety would have been discharged, but that the evidence of the manager showed that when time was given to the principal debtor to pay, the remedy against G. as his surety was reserved and D. was entitled to hold his verdict.

Appeal dismissed with costs.

Stewart, Q.C., for appellant.

Peters, Q.C., Atty. Gen. P. E. I., for respondent.

HOUSE OF LORDS.

LONDON, 26 March, 1896.

REDDAWAY and F. REDDAWAY & Co. (LIM.), appellants v. G. BANHAM and G. BANHAM & Co. (LIM.), respondents. (31 L. J.)

Trade name—Name accurate description of goods—Right to use name after appropriation by another—Injunction.

A person is not entitled to call his goods by a name, even though that name be an accurate and true description, when the name has been associated with the goods of another, and the effect of such user of the name would be to mislead purchasers into the belief that they were purchasing that other person's goods. Injunction granted in the terms of *Johnston* v. *Orr Ewing*, 51 Law J. Rep. Chanc. 797; L. R. 7 App. Cas. 219.

Their Lordships (Lord Halsbury, L.C., Lord Herschell, Lord Macnaghten, and Lord Shand) reversed the decision of the Court of Appeal (64 Law J. Rep. Q. B. 321; L. R. (1895) 1 Q. B. 286), the respondents to pay the costs of the appellant both in this House and below.

QUEEN'S BENCH DIVISION.

LONDON, 10 February, 1896.

HANKS, appellant v. BRIDGMAN, respondent. (31 L. J.)

Tramway—By-law—Reasonableness—Construction—'Deliver up his ticket . . . or pay the fare'—Passenger inadvertently destroying ticket without intent to defraud.

Case stated by metropolitan police magistrate.

An information was laid by the appellant, under the Tramways

Act, 1870, against the respondent for that he, being a passenger on a car of the North Metropolitan Tramways Company, did not deliver up his ticket when requested so to do by a duly authorised servant of the company, or pay the fare legally demandable for the distance travelled.

The tenth of the company's by-laws, made under the Tramways Act, 1870, and duly allowed by the Board of Trade, is: "Each passenger shall show his ticket (if any), when required so to do, to the conductor or any duly authorised servant of the company, and shall also, when required so to do, either deliver up his ticket or pay the fare legally demandable for the distance travelled over by such passenger." By by-law 23, anyone committing a breach of the by-laws is liable to a penalty.

The respondent, while travelling as a passenger on one of the company's cars, was asked by an inspector of the company to show his ticket, but did not, alleging that he had paid the fare and thrown away the ticket. The inspector then asked the respondent to pay the fare legally demandable for the distance travelled by him, but he declined to do so.

The magistrate found that the respondent had paid his fare and received a ticket, and had torn up the ticket through inadvertence without any intention to defraud the company, and dismissed the information, holding that the by-law applied only to such a state of facts as arose in *Heep* v. *Day*, 51 J. P. 213, where the default in complying with the request was wilful.

The question for the opinion of the Court was whether the magistrate was right in so holding.

The Court (Lindley, L.J., and Kay, L.J.) held that the by-law must be upheld, and that the case must be remitted to the magistrate to convict the respondent.

COMPANY LIQUIDATION AND THE CRIMINAL LAW.

The new Companies Bill recently introduced into the House of Lords requires that the balance-sheet of a company shall be filed annually at Somerset House. This was not recommended by the majority of the select committee. The next step will probably be to strengthen the criminal law relating to offences against companies. The Inspector-General of Liquidation says:—

The bearing of the criminal law on the question of balance-

sheets which are deliberately calculated to mislead creditors, as well as on that of false statements as to a company's capital, and other frauds in connection with the formation of companies, would also appear to require some consideration. The provisions of the criminal law in regard to companies are to be found partly in the Larceny Act and partly in the Companies Acts, and are partly drawn from the common law. But whether owing to defects in the law itself, or in the system of inquiring into the facts and enforcing the law, a consideration of the practices disclosed in connection with the companies wound up compulsorily, and of the small number of cases in which successful prosecutions have been possible, appears to lead to the inevitable conclusion that there is a large amount of practical fraud in connection both with the formation and management of companies which is not at present reached by the criminal law, and against which, at the same time, no provisions as to civil liabilities are likely to have any material effect. It may be pointed out in this connection that the special provisions of the Larceny Act are only aimed at 'directors, public officers, and managers of companies,' and that they do not affect the actions of promoters or vendors; and although the provisions relating to the obtaining of money by false pretences are no doubt equally applicable to the obtaining of moneys by companies as well as by individuals, the peculiar constitution of a company, and the division of responsibility in regard to its formation and management, appear to render the application of these provisions extremely difficult and uncertain. False statements may be issued by persons connected with the company in entire ignorance of their true character, while the person who instigates and profits by them neither 'makes nor issues' them. Again, as has been already pointed out, statements which are calculated to mislead, and which have in practice the effect of misleading, may be circulated in such a manner as to reach the members of the trading community with a large measure of impunity, because it is impossible to prove that they were issued to particular creditors or to the public generally with the intention to defraud. No doubt the law of conspiracy is very wide, and convictions have frequently been obtained under it in respect of fraudulent acts in connection with companies which could not have been the subject of special indictment. But conspiracy necessarily involves fraudulent intention on the part of two or more persons, and does not cover cases

of fraud of the same character, in which one person only is animated by fraudulent intention, while the other is merely a tool. And these are amongst the most frequent of the cases in which the public are defrauded under the Companies Acts. It should be remembered that the Larceny Act was passed before the Companies Act of 1862, introducing the principle of limited liability, became law, and, therefore, without any knowledge of the abuses which have subsequently sprung up under that Act; and it could hardly be expected to have adequately provided by anticipation for cases of fraud arising under the new practice. It appears, therefore, to be a matter for consideration whether, apart from any remedies of procedure, in relation to the formation and management of companies, it is not desirable to revise that portion of the criminal law which deals with company operations, with the view of consolidating its provisions, and making them clearly intelligible to all the parties interested; extending their operation, where that may be found necessary; and providing for a more effective application of its provisions in the interests of public justice, and more especially in the interests of honest joint-stock enterprise, which greatly suffers from the unchecked prevalence of fraudulent practices. The committee which prepared the draft amendment bill, while refraining from dealing with this subject, express the opinion that while the treating of non-compliance with the requirements of commercial law in matters difficult of interpretation, or the treating of errors of judgment, as criminal, is to be deprecated, 'fraud ought to be punished wherever it is found, and the law should give facilities for its detection and punishment. Culpable negligence, and the wilful disregard of statutory provisions made for the protection of others, may also be properly treated as a subject for criminal law.'

It is too often assumed in discussing this question that practical fraud if proved is necessarily an offence under the criminal law. This assumption does not appear to be altogether correct. The law governing commercial and financial transactions is surrounded by many limitations and exceptions which render it incapable of application in many cases of fraud. Upon this point numerous and strong expressions of opinion have from time to time been made by eminent judges. For example, in delivering judgment in *In re Bellencontre*, which was an application for extradition of a French citizen for alleged frauds committed in France, and in

which some of the differences betwixt English and French law in regard to offences involving commercial frauds were clearly brought out, Mr. Justice Wills made the following observations: 'It does seem an extraordinary thing that a man being intrusted with money by other people for investment should be able to put it into his own pocket fraudulently and dishonestly, and yet commit no crime punishable by English law.' And Mr. Justice Cave, in the same matter, stated that the criminal law, 'instead of being in the form of a code, or even of a well-drawn Consolidation Act, is a thing of shreds and patches,' and that 'it is fenced round with exceptions, which make it somewhat difficult at times to apply it.' Mr. Justice Hawkins' remarks in what is known as the 'Hansard Union' prosecution, in regard to the defective character of the law relating to 'criminal negligence,' are also instructive.

It is not suggested that the criminal law should be extended to cases of mere contravention of statutory provisions not involving a breach of good faith, as appears to be the case under the French law. But it is submitted as worthy of consideration, whether the law might not with advantage be more fully and clearly defined with reference to its special application to joint-stock companies; and whether the principle of the Debtors Act of 1869, which governs the analogous case of private traders, should not be imported into the company law—viz. that certain acts or courses of action which result in defrauding the public should be presumed to be done or undertaken with the intention of defrauding unless a jury is satisfied to the contrary. It has never, so far as I am aware, been suggested that any hardship or injustice has been suffered through the application of this principle under the Debtors Act; while, on the other hand, it has, I believe, led to a great diminution in the frauds perpetrated by individuals, by enabling convictions to be obtained in prosecutions which would otherwise have proved abortive.

EXPELLING PASSENGERS FROM STREET CARS: MISTAKING HEART DISEASE FOR DRUNKENNESS.

In the case of *Briggs* v. *Minneapolis, etc., R. Co.*, a passenger, rightfully on board a street car, was attacked with a fainting spell, produced by disease of the heart, which the driver of the

car mistook for drunkenness. The driver thereupon rudely and roughly removed him from the car and placed him on the sidewalk, where he soon after died. There was nothing to show that it was not heart disease that produced his death, or that the death was in any manner produced or hastened by the wrongful act of the driver. In an action brought to recover damages because of his death, it was held that there could be no recovery; though plainly if he had lived he would have had a right of action for the assault. In another case the street railway company did not escape so easily. The passenger, after having ridden a considerable distance in an orderly manner, was stricken with apoplexy, and the driver supposing him to be drunk, put him off the car, and abandoned him in a helpless condition on the street on a raw and drizzling day, and made no effort to procure any attention for him. It was held that the company was liable for the damages resulting to him from such maltreatment.

LOST PROPERTY.

A novel case of lost property is *Keron* v. *Cashman*, N.J., Court of Chancery, which is reported in a recent number of the *New Jersey Law Journal*.

"One of a party of five boys found and picked up an old stocking in which something was tied up. He threw it away again and one of the others picked it up and began beating the others with it. It was passed from one to another, and finally, while the second boy was beating another with it, it broke open and was found to contain money. None of the boys had attempted to examine it or had suspected that it contained anything valuable. The father of one of the boys took charge of the money and tried to discover the former owner. Afterwards one of the boys claimed the money and the others a division of it. On a bill of interpleader, it was held that the money was not found in a legal sense until the stocking had come into the common possession of all the boys as a plaything, and that it belonged to all of them and must be divided equally between them. Some intention or state of mind with reference to lost property is an essential element to constitute a legal finder, and in this case it is the money and not the stocking to which this state of mind must relate."

The stocking contained $775 in bills. The vice-chancellor observed:—

"As a plaything, the stocking with its contents was in the common possession of all the boys, and inasmuch as the discovery of the money resulted from the use of the stocking as a plaything, and in the course of the play, the money must be considered as being found by all of them in common. Had the stocking been like a pocket-book, an article generally used for containing money, or had the evidence established that Crawford, the boy who first picked up the stocking, retained it or tried to retain it, for the purpose of examining its contents, or that it had been snatched from him by Cashman, another boy, for the purpose of opening or appropriating the contents himself, and preventing Crawford's examining, I think the original possession or retention of the stocking by Crawford, its original finder, for such purpose of examination, might, perhaps, be considered as the legal 'finding' of the money inclosed with other articles in the stocking. But inasmuch as none of the boys treated the stocking when it was found as anything but a plaything or abandoned article, I am of the opinion that the money within the stocking must be treated as lost property, which was not found, in a legal sense, until the stocking was broken open during the play. At that time, and when so found, it was in the possession of all, and all the boys are, therefore, equally finders of the money, and it must be equally divided between them. The case is most peculiar in its circumstances and differs from any of the cases cited by counsel; but the general principles to be applied are stated in the cases cited in 7 Amer. & Eng. Ency. Law, p. 977, and notes. In *Durfee* v. *Jones*, 11 R. I. 588, 23 Am. Rep. 528, the bailee of a safe, while examining it found a sum of lost money inside the casing, and was held entitled to retain it as finder against the owner of the safe, because the owner never had any conscious possession of the money. All of the cases agree that some intention or state of mind with reference to the lost property is an essential element to constitute a legal finder of such property."

RECENT ONTARIO DECISIONS.

Particulars—Slander.

In an action of slander the defendant has a right to the fullest particulars the plaintiff can furnish as to the place where, the time when, and the person to whom the words alleged were

uttered; and also to full particulars of the names of the persons who have ceased business dealings with the plaintiff on account of the slander.

Shifty and uncertain particulars, such as are rendered meaningless and evasive by saying "among others" and "some of the persons," are to be discouraged.

The plaintiff is bound to give definite information, so far as he can, and to stop there; if further information comes to his knowledge, he can obtain leave to amend.

The defendant is entitled to particulars of slanderous statements alleged merely as matters showing express malice or in aggravation of damages.—*Muller* v. *Gerth*, High Court of Justice, 3 March, 1896.

Railways—Mail car—Posting letters on—Moving train—Invitation —Licensee.

A person who posts a letter on a mail car attached to a train about to start, although the car is furnished with a slit for posting letters under instructions from the Post Office Department, is a mere licensee.

The invitation to post, if any, is the invitation of the Post Office Department, and not of the railway company.

Held, that the plaintiff, who, in attempting to post a letter on a moving train, tripped and fell over a peg placed in the ground by the company and was injured, could not recover.—*Spence* v. *Grand Trunk Ry. Co.*, High Court of Justice, 16 March, 1896.

Promissory note—Liability of guarantor—Signature to note—Surety.

Where a promissory note, commencing "I promise to pay" etc., and signed by two persons as makers, was afterwards discounted by the plaintiff for the defendant, the holder thereof, the money being paid to the defendant on his agreeing to become surety for the payment of the note, the defendant signing his name under that of the makers:

Held, that the defendant's liability being that of a surety, he was liable to the plaintiff on the note, his liability not being affected by the manner in which the note was signed.—*Kinnard* v. *Tewsley*, High Court of Justice, 26 February, 1896.

GENERAL NOTES.

THE CASE OF MISS FLAGLER.—It will be remembered about a year ago Miss Flagler, the daughter of a general in the army, shot and killed a colored boy, who was on a fruit tree in her father's garden, in the act of stealing fruit. Miss Flagler was indicted for something, we have forgotten what: but she never would have been brought to trial at all if the colored people of Washington had not, by their protests, stirred the authorities into some pretended activity. Miss Flagler was finally allowed to plead guilty to "involuntary manslaughter," and was sentenced to pay a fine of $500, which her father, no doubt, could easily pay, and to be imprisoned in the jail for *three hours*. She was driven to and from the jail in her father's private carriage, and is reported to have sat in the matron's room in the jail in pleasant company during the one hundred and eighty minutes of her pretended imprisonment. The outcome of this case has been justly characterized by the respectable portion of the lay press as a scandal upon the administration of justice, and as a confirmation of the wide-spread belief that there is one kind of justice for the rich and another for the poor. No one can possibly doubt that if a negro woman had discovered a white boy perched on a limb of one of her apple trees, stealing apples, and had thereupon lifted up a gun and shot him, the negro woman would have suffered the full penalty of the law. The outcome of the case is a shame—a burning shame—and the judge who entertained the plea of guilty of involuntary manslaughter ought to regret it as long as he lives.—*American Law Review.*

PROXIMATE CAUSE OF INJURY.—Here is a curious case reported from Texas. "A passenger, slightly intoxicated, enters the smoking car of a railroad train, and places his baggage, which is in the form of an old tow-sack filled with coffee-grinders, scrap iron, and a jug of alcohol, on the seat beside him, projecting slightly into the aisle. The motion of the train causes the sack to tumble out into the aisle of the car, breaking the jug, and spilling the alcohol on the floor. As this flows along the aisle, another passenger, who is just lighting a cigar, throws a match in the way, and the alcohol burns up to the ceiling of the car; a third passenger, with silk stockings and celluloid cuffs, has his feet, hands, and eyebrows seriously scorched, and sues the railway company for damages. *Held:* that the contents of the sack being unknown to the conductor and the passenger's conduct not sufficiently boisterous to warrant his ejectment, it was not actionable negligence *unless* it was a proximate cause of the injury."