The Legal News.

VOL. VII. JANUARY 12, 1884. No. 2.

JUDICIAL TOPICS IN ENGLAND.

The tour of the Lord Chief Justice in the United States has not only afforded some amusement to the English comic papers, but has caused some alarm to the bar. Says the *Law Times:* "Vested interests, of course, are nothing in these days. At any moment professional or trade security may be threatened. The recent judicial tour in America has not tended to increase the confidence of the bar in the stability of existing institutions. But it was nevertheless scarcely credible that immediately after the reform in our procedure and the erection of Royal Courts, at a vast expense, the head of the law should contemplate entire subversion of the judicature. It is to be hoped that the bar committee will soon be in a position to put the drag on the well-known radical tendencies of prominent members of both bench and bar." This uneasiness seems to have been excited by the reports of some of his lordship's speeches in the United States, and also by the rumor that a scheme of district courts was to be proposed in England. His brother judges even seem to have caught the alarm, and they hold out sturdily against any hint of innovation, for we read that at a meeting of the English Judges, held at the Royal Courts of Justice on Tuesday, December 11th, "the proposal of Lord Chief Justice Coleridge, that the courts should either sit half an hour earlier in the morning or the same time later in the afternoon, was voted down by a large majority."

A MISCHIEVOUS INNOVATION.

Of late years a silly innovation has crept into the Montreal journals: we refer to the publication of a statement of the number of actions taken out by each professional firm during the year. This may please a vanity not at all to be commended, on the part of a few, but it cannot be justified on any sound principle. The number of suits instituted is a poor test of a lawyer's brains or capacity, not to speak of honesty; and it is not surprising to those who are well informed, to see counsel who are admittedly the leaders of the bar placed a long way down in the list, while their students and their students' students to the fifth generation head the roll. If such a publication has any effect, it is decidedly a mischievous one: it is to encourage the institution of frivolous cases, and to create such a state of things as we sometimes witness, when out of twenty suits decided in one day, more than half are dismissed with costs. It is the part of a wise and conscientious counsel to prevent litigation, not to cultivate it. Dr. Johnson—grand old Samuel, who is passing out of the fashion of this generation—once framed a prayer to be used before entering on the study of the law. It is dated September 26, 1765, and as some of our readers may never have seen it, and it expresses in a few well-chosen words the point of this paragraph, we venture to quote from it:—

"Almighty God, the Giver of wisdom, without whose help resolutions are vain, without whose blessing study is ineffectual, enable me, if it be Thy will, to attain such knowledge as may qualify me to DIRECT THE DOUBTFUL, and INSTRUCT THE IGNORANT, to prevent wrongs, and TERMINATE CONTENTIONS, and grant," etc.

EX PARTE PUBLICATIONS.

And while we are flourishing the censor's whip, we may as well add a word concerning another abuse which has existed so long that it can hardly be considered a novelty. We do not think that in any other place in the world the newspapers indulge so freely in *ex parte* statements of legal proceedings. It often happens that before an action is served upon the unfortunate defendant he finds the highly colored statements of the declaration selling on the street. Before he knows what are the precise charges against him, the world at large, with the aid of the telegraph, has a grossly exaggerated version served up to it. This system has been the cause of much mischief in the past—not that the judges who under our system have to try the cases, are affected by such statements

but it adds a new terror to life to know that a grossly exaggerated declaration may be published before the defendant has even had a chance of seeing it, let alone answering it, and persons are coerced into unjust settlements and compromises. Moreover, the very journals which are most eager to print these one-sided statements seldom make any mention of the final decision of the cases so unfairly presented to the public. It is right that what takes place in open court should be impartially reported, for there the defendant is represented by counsel, and has a chance to be heard, but as to these premature statements of suits entered, it is much to be desired that more discretion will soon be exercised by the conductors of public journals.

NOTES OF CASES.

PRIVY COUNCIL.

LONDON, December 1, 1883.

Before Lord FITZGERALD, SIR BARNES PEACOCK, SIR MONTAGUE E. SMITH, SIR ROBERT P. COLLIER, SIR RICHARD COUCH, & SIR ARTHUR HOBHOUSE.

THE COLONIAL BUILDING & INVESTMENT Association (defts. below), appellants, and LORANGER, Atty.-Gen. (petr. below), respondent.

Federal and local jurisdiction—Building and Investment Association—37 Vict., (Can.) c. 103.

1. *The Act incorporating the company appellant, for the purposes set out below, was not ultra vires of the Parliament of Canada.*
2. *Although, by the law of Quebec, corporations cannot acquire or hold lands without the consent of the Crown, and the power to repeal or modify this law belongs exclusively to the Provincial Legislature, yet the powers found in the Act of incorporation are not necessarily inconsistent with the provincial law of mortmain, which does not absolutely prohibit corporations from acquiring or holding lands, but only requires, as a condition of their so doing, that they should have the consent of the Crown.*
3. *The question whether the company had, in fact, violated the law of the Province by acquiring and holding land without having obtained the consent of the Crown, was not in issue in this case.*
4. *The fact that the company had not hitherto extended its operations to the full limits of its corporate authority was no reason for declaring its Act of incorporation illegal, if the Act was originally within the legislative power of the Dominion Parliament.*

The appeal was from a judgment of the Court of Queen's Bench, reported in 5 Legal News, p. 116.

PER CURIAM. This is an appeal from a judgment of the Court of Queen's Bench of the Province of Quebec, reversing a judgment of the Superior Court, which dismissed the petition of the Attorney General of the province, praying that it be declared that the Appellant Company had been illegally incorporated, and that it be ordered to be dissolved, and prohibited from acting as a Corporation, The judgment now appealed from did not grant the prayer of the petition, but gave other relief, in the manner to be hereafter adverted to.

The Colonial Building and Investment Association was incorporated by an Act of the Parliament of Canada (37 Vict., c. 103). The preamble states—

> That the persons therein-after named, 'owners of 'real estate in the city and district of Montreal, and 'elsewhere in the Dominion, have petitioned for an 'Act of Incorporation, to establish an Association to 'be called the Colonial Building and Investment Asso-'ciation, whereby powers may be conferred on the 'said Association for the purpose of buying, leasing, 'or selling landed property, buildings, and appurte-'nances thereof; for the purchase of building mate-'rials, to construct an improved class of villas, home-'steads, cottages, and other buildings and premises, 'and to sell or let the same; and for the purpose of 'establishing a building or subscription fund, to which 'persons may subscribe or pay in money for invest-'ment or for building purposes, and from which pay-'ments may be made for said purposes; and also to 'act as an agency.'

Sec. 1 incorporates the Association.

Sec. 4 enacts that the Association shall have power to acquire and hold, by purchase, lease, or other legal title, any real estate necessary for the carrying out of its undertakings; to construct and maintain houses or other buildings; to let, sell, convey, and dispose of the said property; to acquire and use or dispose of every description of materials for building purposes;

to lend money on security, by mortgage on real estate, or on Dominion or Provincial Government securities, or on the stocks of chartered banks in the Dominion; and to acquire, hold, and dispose of public securities, stocks, bonds, or debentures of any corporate bodies, and other defined securities. The clause provides that the Association shall sell the property so acquired within five years from the date of the purchase thereof.

Sec. 5 enables the Association to act as an agency and trust company.

Sec. 11 provides that the chief office of the Association shall be in the city of Montreal, and that branch offices or agencies may be established in London, England, in New York, in the United States of America, and in any city or town in the Dominion of Canada, for such purposes as the Directors may determine, in accordance with the Act; and that bonds, coupons, dividends, or other payments of the Association may be made payable at any of the said offices or agencies.

The Secretary of the Association, the only witness called in support of the petition, proved that the Association had bought lands, erected houses on such lands, and sold them, and had also built houses on the lands of others, and lent money on real estate. He stated that these operations had hitherto been confined to the province of Quebec, though efforts had been made to extend the business of the Company to other provinces, and to establish agencies in Glasgow and New York, which had failed in consequence of the inability of the Association to raise sufficient capital.

In order to understand the question which ultimately became the principal one to be considered in this Appeal, viz., whether the judgment of the Court of Queen's Bench is properly founded upon the Attorney General's petition, it is necessary to refer to the provisions of the Code of Civil Procedure of Lower Canada on which the proceedings are based, the scope and prayer of the petition, and the nature and form of the judgment appealed from.

The heading of Chapter 10, Section 1, of the Code is, "Of Corporations illegally formed, " or violating or exceeding their powers."

Art. 997 is as follows:—

"In the following cases,—

"(1.) Whenever any association or number of persons acts as a Corporation without being legally incorporated or recognized;

"(2) Whenever any Corporation, public body, or board, violates any of the provisions of the Acts by which it is governed, or becomes liable to a forfeiture of its rights, or does or omits to do acts the doing or omission of which amounts to a surrender of its corporate rights, privileges, and franchises, or exercises any power, franchise, or privilege which does not belong to it, or is not conferred upon it by law, it is the duty of Her Majesty's Attorney General for Lower Canada to prosecute in Her Majesty's name such violations of the law whenever he has good reason to believe that such facts can be established by proof in every case of public general interest, but he is not bound to do so in any other case unless sufficient security is given to indemnify the Government against all costs to be incurred upon such proceeding; and in such case the special information must mention the names of the person who has solicited the Attorney General to take such legal proceedings, and of the person who has become security for costs."

Art. 998 (as amended) reads:—

"The summons for that purpose must be preceded by the presenting to the Superior Court, or to a Judge, of a special information containing conclusions adapted to the nature of the contravention, and supported by an affidavit to the satisfaction of the Court or Judge, and the writ of summons cannot issue upon such information without the authorization of the Court or Judge."

The material allegations of the petition filed by the Attorney General are the following:—

"That the 'Colonial Building and Investment Association' for years past have been and still are acting as a Corporation in the city of Montreal, and elsewhere, in the Province of Quebec exclusively, and as such, ever since the date of its existence hereinafter mentioned, have been buying, leasing, and selling landed property, buildings, and appurtenances thereto, constructing villas, homesteads, cottages, and other buildings, and selling and letting the same, and have also been lending money on security by mortgage or hypothec on real estate in this province, the whole without being legally incorporated or recognized.

"That the operations and business of the said Association have been limited to the Province of Quebec, and being, moreover, of a merely local or private nature in the said province, and having provincial objects affecting property and civil rights in the said province, the said Association could not lawfully be incorporated, except by or under the authority of the Legislature of the Province of Quebec.

"That the said Association was incorporated by the Parliament of Canada, in the year one thousand eight hundred and seventy-four, 37th Victoria, chapter 103, and has ever since been in operation under the said Act of Incorporation which, for reasons above alleged is null and void and of no effect, the said Act of incorporation being *ultra vires*.

"Wherefore your petitioner prays that a writ of summons upon the affidavit hereto annexed be ordered to issue in due course of law, and that the said Defendants be adjudged and declared to have been, and to be illegally formed and incorporated, and that the said illegal Association may be ordered to be dissolved, and be declared dissolved, and finally, that the Defendants be prohibited from acting in future as such Corporation, the whole with costs distraits to the undersigned attorneys."

The petition was verified by affidavit, as required by the Code, and thereupon an order for a writ of summons against the Company was issued by a judge.

The petition also alleges that it was presented at the solicitation of John Fletcher, a shareholder of the Company, who had become security for costs. It appears that Fletcher was in default in payment of his calls, but in the view their Lordships take of the case any further reference to this relator becomes immaterial.

The broad objection taken by the Attorney General in the petition is, that the Association was not legally incorporated, the statute incorporating it being *ultra vires* of the Parliament of the Dominion.

The judgment of the Superior Court, given by Mr. Justice Caron, distinctly overruled this objection. Mr. Justice Tessier is the only Judge of the Court of Queen's Bench who affirmed it. Chief Justice Dorion, in a judgment which received the concurrence of two other Judges, acknowledged that having regard to the observations of this Board in the case of *The Citizens Insurance Company of Canada* v. *Parsons* (L. R., 7 Appeal Cases, 96), it could not be held that the incorporation of the Association was beyond the powers of the Dominion Parliament, and illegal; and the majority of the Court gave judgment upon the assumption, as their Lordships understand the reasons of the Judges, that the Association was lawfully incorporated. The conclusion of the formal judgment of the Court is as follows :—

"That the said Company, Respondents, had and have no right to act as a corporation for or in respect of any of the said operations of buying, leasing, or selling of landed property, buildings, and appurtenances thereof, or the purchase of building materials to construct villas, homesteads, cottages, or other buildings and premises, or the selling or letting of the same, or the establishment of a building or subscription fund for investment or building purposes, or the acting as agents in connection with such operations as the aforesaid, or any like affairs, or any matter of property or civil rights, or any objects of a purely local or provincial nature in any manner or way within the said Province of Quebec, and doth prohibit the said Company Respondents, from acting as a Corporation within the said Province of Quebec for any of the ends or the purposes aforesaid."

Mr. Justice Monk, in a short but clear judgment, dissented from his colleagues, and agreed with Mr. Justice Caron's judgment.

Their Lordships cannot doubt that the majority of the Court was right in refusing to hold that the Association was not lawfully incorporated. Although the observations of this Board in the *Citizens Insurance Company* v. *Parsons*, referred to by the Chief Justice, put a hypothetical case by way of illustration only, and cannot be regarded as a decision on the case there supposed, their Lordships adhere to the view then entertained by them as to the respective powers of the Dominion and Provincial Legislatures in regard to the incorporation of Companies.

It is asserted in the petition, and was argued in the Courts below, and at this bar, that inasmuch as the Association had confined its operations to the Province of Quebec, and its business had been of a local and private nature, it followed that its objects were local and provincial, and consequently that its incorporation belonged exclusively to the Provincial Legislature. But surely the fact that the Association has hitherto thought fit to confine the exercise of its powers to one province cannot affect its status or capacity as a Corporation, if the Act incorporating the Association was originally within the legislative power of the Dominion Parliament. The Company was incorporated with powers to carry on its business, consisting of various kinds, throughout the Dominion. The Parliament of Canada could alone constitute a Corporation with these powers; and the fact that the exercise of them has not been co-extensive with the grant cannot operate to repeal the Act of Incorporation, nor warrant the judgment prayed for, viz., that the Company be declared to be illegally constituted.

It is unnecessary to consider what remedy, if any, could be resorted to if the incorporation had been obtained from Parliament with a fraudulent object, for the only evidence given in the case discloses no ground for suggesting fraud in obtaining the Act.

Their Lordships therefore think that the Courts in Canada were right in holding that it was not competent to them to declare, in accordance with the prayer of the petition,

that the Association was illegally incorporated, and ought to be dissolved.

There remains the question, which was mainly argued at the bar, whether the judgment of the Court of Queen's Bench which, shortly stated, declares that the Association has no right to act as a Corporation in respect of its most important operations within the Province of Quebec, and prohibiting it from so acting within the province, can be sustained.

It was not disputed by the Counsel for the Attorney General that, on the assumption that the Corporation was duly constituted, the prohibition was too wide, and embraced some matters which might be lawfully done in the province, but it was urged that the operations of the Company contravened the provincial law, at the least, in two respects, viz., in dealing in land, and in acting in contravention of the Building Acts of the province.

It may be granted that, by the law of Quebec, Corporations cannot acquire or hold lands without the consent of the Crown. This law was recognized by this Board, and held to apply to foreign Corporations in the case of the *Chaudière Gold Mining Company* v. *Desbarats* (L. R., 5 P. C. 277). It may also be assumed, for the purpose of this appeal, that the power to repeal or modify this law falls within No. 13 of Section 92 of the British North America Act, viz., "Property and Civil Rights within the Province," and belongs exclusively to the Provincial Legislature; so that the Dominion Parliament could not confer powers on the Company to override it. But the powers found in the Act of Incorporation are not necessarily inconsistent with the provincial law of mortmain, which does not absolutely prohibit Corporations from acquiring or holding lands, but only requires, as a condition of their so doing, that they should have the consent of the Crown. If that consent be obtained, a Corporation does not infringe the provincial law of mortmain by acquiring and holding lands. What the Act of Incorporation has done is to create a legal and artificial person with capacity to carry on certain kinds of business, which are defined, within a defined area, viz., throughout the Dominion. Among other things, it has given to the Association power to deal in land and buildings, but the capacity so given only enables it to acquire and hold land in any province consistently with the laws of that province relating to the acquisition and tenure of land. If the Company can so acquire and hold it, the Act of Incorporation gives it capacity to do so.

It is said, however, that the Company has, in fact, violated the law of the province by acquiring and holding land without having obtained the consent of the Crown. It may be so, but this is not the case made by the petition. Proceedings founded on the alleged violation by a Corporation of the mortmain laws would involve an inquiry opening questions (some of which were touched upon in the arguments at the bar) regarding the scope and effect of these laws, the fact of the Crown's consent, the nature and sufficiency of the evidence of it, the consequences of a violation of the laws, and the proper parties to take advantage of it; questions which are certainly not raised by the allegations and conclusions of this petition.

So with respect to the objections founded on the Acts of the Province with regard to building societies. Chief Justice Dorion appears to be of opinion that, inasmuch as the Legislature of the province had passed Acts relating to such societies, and defined and limited their operations, the Dominion Parliament was incompetent to incorporate the present Association, having for one of its objects the erection of buildings throughout the Dominion. Their Lordships, at present, fail to see how the existence of these Provincial Acts, if competently passed for local objects, can interfere with the power of the Dominion Parliament to incorporate the Association in question.

If the Association by its operations has really infringed the Provincial Building Societies Acts, a proper remedy may doubtless be found, adapted to such a violation of the provincial law; but, as their Lordships have just observed, with reference to the supposed contravention of the mortmain Acts, that is not the case made by the petition.

It now becomes material to examine more closely than has hitherto been done the

allegations and conclusions the petition really contains. The first paragraph, after stating that the Corporation carried on its operations in Quebec exclusively, concludes thus: "the "whole without being legally incorporated or "recognized."

The 2nd paragraph avers that the operations of the Company being confined to Quebec, and being of a merely local nature, affecting property and civil rights in the province, "could not lawfully be incorporated "except by the authority of the Legislature "of the province."

The 3rd paragraph alleges that, for these reasons, "the Act of Incorporation is null and "void, the said Act of Incorporation being "*ultra vires.*"

The conclusion and prayer based on these allegations are, that the Association be declared to be illegally incorporated, be declared dissolved, and prohibited from acting in future as a Corporation.

It seems to their Lordships it would be a violation not only of the ordinary rules of procedure, but of fair trial, to decide this appeal upon a new case which, assuming a lawful incorporation, rests on the supposed infringement of the laws of the province by the Company in conducting its operations. This is not the wrong struck at by the petition, but a wrong-doing raising issues of a wholly different character to those to which the allegations and conclusions of the petition are alone directed and adapted. It is to be observed that the inquiries made of the Company's Secretary were of a general nature, and mainly directed to support the allegation in the petition that the Company's operations had been limited to the Province of Quebec. No investigation of the title to any of the lands it held, nor of any particular transaction, was gone into at the hearing.

The 998th article of the Code of Civil Procedure requires that the summons to be issued "must" be preceded by a petition to the Court containing "conclusions adapted to the "nature of the contravention," to be supported by an affidavit; and provides that the summons cannot be issued upon such information without the authority of a Judge. It is quite plain that the conclusions of this petition are not adapted to the case now relied on by the Attorney General; so that neither the general principle regulating procedure nor the special requirements of the Code allow of its being set up on these proceedings.

If the Company is really holding property in Quebec without having complied with the law of that province, or is otherwise violating the provincial law, there may be found proceedings applicable to such violations; though it is not for their Lordships to anticipate them, or to indicate their form.

It should be observed that their Lordships, in the case supposed in their judgment in the appeal of the Citizens Insurance Company, in regard to corporations created by the Dominion Parliament with power to hold land being subject to the law of mortmain existing in any province in which they sought to acquire it, had not in view the special law of any one province, nor the question whether the prohibition was absolute, or only in the absence of the Crown's consent. The object was merely to point out that a Corporation could only exercise its powers subject to the law of the province, whatever it might be, in this respect.

It was argued that the judgment of the Court of Queen's Bench might be sustained by the part of the prayer which asked that the Company "be prohibited from acting in "future as a Corporation within the Province "of Quebec" for certain purposes. But the prohibition is asked as consequential upon the declarations prayed for, and when these are refused, there are not only no declarations, but no allegations in the petition to sustain it. It has been seen that the prohibition contained in the judgment of the Court of Queen's Bench is not an injunction limited to restraining the Company from doing specified acts in violation of particular laws of the province, but is a general prohibition founded on a declaration introduced by the Court, other than those prayed for, that the Company has no right to act as a Corporation in dealing with lands and buildings, and certain other matters within the province. This declaration, with the prohibition founded on it, is obviously too extensive. A prohibition in these wide and sweeping terms would prohibit the Company from acquiring or dealing in lands, though it had

the Crown's consent, and could only be warranted by affirming the invalidity of the Act of Incorporation, which would be opposed to what has been stated in the previous part of this judgment to be their Lordships' view; or at least by affirming that the Company, in exercising its powers in the province, must necessarily violate the provincial law, which, as already shown, is not a necessary consequence.

In the result, their Lordships will humbly advise Her Majesty to reverse the judgment under appeal, and to order that the judgment of the Superior Court be affirmed, and that the present Appellant's costs of the appeal to the Court of Queen's Bench in Canada be paid by the present Respondent. The Appellant must also have the costs of the appeal to Her Majesty.

Judgment reversed.

Henry Mathews, Q.C., W. W. Robertson, Q.C., (of the Quebec bar), and *McLeod Fullarton* for the appellants.

Gibbs, Q. C., Girouard, Q.C., (of the Quebec bar) and *Tudor Boddam* for the respondent.

SUPERIOR COURT.

MONTREAL, October 31, 1883.

Before JOHNSON, J.

MENARD v. PELLETIER.

Obligation with term—Insolvency of lessee—1092 C. C.

Under C. C. 1092, *the mere fact of insolvency causes the debtor to lose the benefit of the stipulated term, independently of the question of diminished security; hence rent not yet exigible by the terms of the lease becomes so by the insolvency of the tenant though the gage be not diminished.*

PER CURIAM.—The action is for rent, with process of *saisie gagerie*, and the amount due at the time of instituting the action was only $40; but a larger sum, $364.50, to become due by the terms of the lease, was asked on the ground of the defendant's notorious insolvency. The defendant, interrogated on *faits et articles*, admitted the whole case; but it was ingeniously suggested by the counsel for the defendant that rent not actually due and exigible by the terms of the lease did not become so by the insolvency of the debtor, on the supposition that the *gage* or security for the rent was not diminished; and this point was raised by a demurrer which was reserved; but I entirely agree with the decision in *Hamilton* v. *Valade* (30 Nov. 1882, Jetté, J.,) and which was confirmed in review, that Art. 1092 C. C. makes the debtor lose the benefit of the stipulated term by the mere fact of insolvency, independently of the question of diminished security for the rent.

Judgment for plaintiff.

Cressé & Cressé for plaintiff.

Duhamel & Rainville for the defendant.

RECENT ENGLISH DECISIONS.

Maritime law—peril of sea—bill of lading—carrier—A collision between two vessels, brought about by negligence of either of them, without the waves or wind or difficulty of navigation contributing to the accident, is not "a peril of the sea" within the terms of that exception in a bill of lading. Ct. of App., March 21, 1883. *Woadley* v. *Michell.* Opinion by Brett, Cotton and Bowen, L. JJ. (L.R., 11 Q. B. D. 47.)

Negligence—of contractor in building causing party-wall to fall—owner's liability.—The appellant and respondent were owners of adjoining houses between which was a party-wall, the property of both. The appellant's house also adjoined B.'s house and between them was a party-wall. The appellant employed a builder to pull down his house and rebuild it on a plan which involved the tying together of the new house and the party-wall between it and the respondent's house, so that if one fell the other would be damaged. In the course of the rebuilding the builder's workmen in fixing a staircase negligently and without the knowledge of the appellant cut into the party-wall between the appellant's house and B.'s house, in consequence of which the appellant's house fell, and the fall dragged over the party-wall between it and the respondent's house and injured the respondent's house. The cutting into the party-wall was not authorized by the contract between the appellant and his builder. *Held*, affirming the decision of the Court of Appeal, that the

law cast a duty upon the appellant to see that reasonable care and skill was exercised in those operations which involved a use of the party-wall belonging to himself and the respondent, exposing it to the risk above mentioned; and that the appellant could not get rid of responsibility by delegating the performance to a third person; and was liable to the respondent for the injury to his house. House of Lords, June 4, 1883. *Hughes* v. *Percival.* Opinions by Lords Blackburn, Watson, and Fitzgerald. (L. R., 7 App. Cas. 443.)

GENERAL NOTES.

The Supreme Court of Georgia has decided that cotton-future notes are absolutely void, because given in a gambling transaction.

The property of the religious orders in France in 1848 was estimated at 43.000,000fr. At the present moment it is set down at 712,536,000fr., or sixteen times more.

In the Circuit Court for the district of Montreal, 9,581 cases were taken out during the past year, as compared with 8,410 in 1882, an increase of 1,171. The number of ejectment cases taken out during the year under the Lessor and Lessee Act was 461, against 364 the previous year, an increase of 97.

During the past year 6,608 miles of track were built by railway companies in the United States, against 11,591 miles in 1882, 9,784 miles in 1881, and 7,174 miles in 1880, but, with the exception of these years, the mileage of 1883 has been previously exceeded only in 1871. The total railway mileage in the United States now foots up to 120,000 miles.

During the first cold term of this month 23° below zero was registered (Jan. 5) at St. Louis, and 27° below at Chicago. At Montreal the lowest temperature during the same cold term was 14° below. It is to be feared that St. Louis will hardly give unlimited satisfaction to the "arctic birds" who migrate from this margin of the frozen zone (see 6 L. N. p. 337) to seek a milder clime.

It sounds like a landmark in history, says the London *Times*, when we are told that there is no more room for interments in Westminster Abbey. Matters must have come to this pass when the dean has had to deny ground to the most distinguished member of that inventive class which the Roman poet admitted into the Pagan Elysium. It is said of the last two interments, those of Darwin and Spottiswoode, that the coffins were only a very few feet below the surface. For a long time there have been ghastly stories of the disturbance necessary to the finding room for a new arrival. This has been the case, indeed, for a century and a half, or more. Chaucer's grave was molested to make way for Dryden's, Ben Jonson's bones fell out one by one into the grave prepared for Sir Robert Wilson, and came in sight again when a grave was dug for John Hunter. Addison lies upon the Duchess of Albemarle, and upon him James Craggs.

A judgment has been given in an interesting case before the Court of Appeal at Turin. Miss Lydia Poet, who has obtained a doctor's degree in law, was refused admittance to the roll of advocates for reasons among which are the following:—"The Italian law has made no disposition expressly consenting to the exercise of the profession of advocate by women, and it has always regarded that profession as exclusively pertaining to men. The admission of women would be extraordinary and contrary to custom, and is, besides, expressly forbidden by an article of common law (article quoted.) It would be an unpleasing sight to see a woman pleading amid the tumult of a public court, and sometimes obliged to treat *ex professo* questions that common decency forbids even men to discuss in the presence of honest women. The sight of the toga worn over the strange and whimsical dress which fashion often imposes upon women would imperil the gravity of the judges. Every time the balance of justice leaned to the side of a prisoner defended by a pretty female advocate the judges would be exposed to suspicion and calumny." The Court of Appeal also held that that was neither the time nor the place to discuss the equality of women and their right to exercise all professions and offices hitherto occupied exclusively by men.

In a lecture in New York on "Fashions in Marriage," Mgr. Capel said:—"I lived for years in France. The French system of contracting marriage ignores entirely the wishes and prejudices of the girl, and regards only the convenience to the parties. From such a system one naturally supposes unhappy unions would emanate, but on the contrary, I must bear witness that for the most part the marriage relation in France is very happy. I saw more happy marriages in France than in any other country. Nowhere is love of children so deep and strong as in France. On the other hand, in England the making of marriage contracts is in general entirely a matter of love. This love idea is carried to a preposterous extent. Nowhere else do we see dukes and marquises marrying their servants, ladies marrying their coachmen, and old women of three score and ten marrying youths scarcely twenty. The system ripens out into divorces, until to-day the courts cannot do the work they are called upon to do."

The thoughtful-looking man, with wrinkles in his forehead, is not exhibiting signs of mental strength, but of weakness. Brain tension exhibits effort, and effort shows that the intellectual machinery is not running smoothly. The man with the strong mind does his brain work easily. "Tension is friction," says the *Lancet*, "and the moment the toil of the brain becomes laborious it should cease. We are, unfortunately, so accustomed to see brain work done with effort that we had come to associate effort with work, and to regard tension as something tolerable, if not natural. As a matter of fact no man should ever knit his brow as he thinks, or in any way evince effort as he works. The best brain work is done easily, with a calm spirit, an equable temper, and in jaunty mood. All else is the toil of a weak or ill-developed brain straining to accomplish a task which is relatively too great for it."