The Legal News.

Vol. IV. MARCH 26, 1881. No. 13.

OUR SUPREME COURT.

Since we wrote on the Supreme Court, on the 5th of March, there has been a debate on Mr. Girouard's bill, and Parliament has adjourned without the measure having obtained the honours of a second reading. What might have been the result of the debate had it not been adjourned, it is impossible to say; but one can hardly imagine that the arguments used on either side could have materially affected the vote. The speakers had evidently, and very properly, determined to avoid the question which was uppermost in every one's mind—the personal composition of the Court. Mr. Brooks alone ventured on the question, but then it was by way of quotation. He read a letter from Mr. Kerr, in which that gentleman frankly expresses the opinion that the Courts in the Province of Quebec "have not the public confidence;" that the Court of Queen's Bench "is not what might be called a strong court;" and that the Supreme Court "is not as strong as it should be." If Mr. Brooks, in the borrowed language of Mr. Kerr, made vocal the opinion of any large portion of the members of the House of Commons, then the Minister of Justice will have his hands pretty full. It may, however, be taken for granted that Mr. Brooks hardly saw the point, or rather want of point, of his quotation. He answers Mr. Girouard in effect: "true, the Supreme Court is a weak and unsatisfactory Court to decide as to the civil law of Lower Canada; but the appeal is from a weak Court." At best this is only the gambler's argument—one throw more of the dice. But if what Mr. Brooks says be true, it is some argument for Mr. Girouard's bill. One weak Court of Appeal is surely more than enough. It is somewhat strange that the speaker put forward to answer Mr. Girouard should have fallen so helplessly into a support of the measure he was ostensibly attempting to demolish. The real word of wisdom of the debate comes to us from Mr. Cameron (Victoria). He thus terminates a temperate speech: "There are interests of a "far more extensive nature at stake than those "limited ones to which my hon. friend has "given expression on the present occasion. If "the Court is not efficient it ought to be made "so, but we ought not to adopt a revolutionary "measure of this nature, which, to my mind, is "tantamount to the total abolition of this "Court."

In order to decide as to the mental calibre of a Court there is but one way, and that is to submit its decisions to the criticism of the technically educated. Popular or general views on such points are almost always erroneous. The one thing necessary to subject the decisions of Courts to complete scientific control is faithful reporting. On the heels of the reporter will follow surely the critic, writer or pleader, and the true doctrine will soon prevail over the false. Unfortunately the importance of reporting has not yet impressed sufficiently the minds either of the Bench or Bar. They do not seem to be fully alive to its vast importance, as a protection against misrepresentation, as a recompense for honest labour, as a guide to the prudent practitioner.

It is beyond the scope of this journal to enter into the merits of the judgments of the Supreme Court. With the L. C. Jurist we have endeavored to give, as completely as possible, the full jurisprudence of the Court of Queen's Bench here. When as much is done at Quebec, and when the official reports of the Supreme Court are kept up to date, then, and not till then, there will be a full record on which to build an enlightened judgment as to whether a Court is weak or strong.

R.

JUDICIAL SALARIES.

The article printed on page 33 of this volume directed attention to the arrangement by which the salaries of the Superior Court judges in Ontario are supplemented from provincial funds. Nothing could show more forcibly the impropriety of this system than the answer which Mr. Mowat made in the Legislative Assembly, when a question was put to him on the subject. It was, in effect, that it is cheaper for the Province of Ontario to supplement the Dominion allowance in this way, than to bear its share of the burden which would be imposed on the country, if the judicial salaries generally were placed on a proper basis, and

the whole charge paid by the Dominion. This pretext is utterly indefensible, and looks like persistence in an extremely bad system. It is, moreover, unfair to the Superior Court judges of the Province of Quebec, more especially those residing in the city of Montreal, where the cost of living is probably higher than in Toronto.

We append, from the *Mail* of Feb. 26, the report of what transpired in the Ontario Legislature :—

Mr. Macmaster rose to the notice of motion given by him for "an address to the Lieutenant-Governor for copies of all correspondence between the Government of Ontario and Government of Canada, in pursuance of a resolution of this House, passed during the session of 1879, with a view to have the allowance of $1,000 a year, paid by the province to the judges of the Superior Courts, assumed by the Dominion." He said that by the constitution of British North America, judges were appointed by the federal Government, and were paid by it. Hence, in his opinion, the $1,000 allowance was beyond the competency of the Legislature. He held that it was altogether inexpedient that the judges should receive anything whatever from the province. It was dangerous in every sense, reliable as the judges were. The province had no more right to fee the judges than the city of Toronto or any other place. It might be argued that the judges did special service for the province, and should have remuneration. It was argued that without this allowance, suitable and able men could not be got to take the bench, the Dominion allowance being insufficient. He was inclined to doubt this, and at all events it was the business of the Dominion Government, and not of Ontario. Therefore, he moved for the correspondence.

Mr. Mowat said that, as he had already said on a previous occasion, he would inform the House that there was no such correspondence. The resolution of 1879 did indeed express a desire for such communication, but it also expressed the opinion that the good faith of the province was pledged to a continuance to the present judges of the allowance. This resolution was carried by a vote of 55 to 25, in the majority being the present leader of the opposition. The speaker believed that what was then the opinion of the House was its opinion now. As to the competency of the Legislature to pass the Act, the Dominion Government had disallowed it the first year it had passed, but had allowed it to remain unimpugned in its reiteration in the next session, thereby tacitly acknowledging that the Legislature was right. Furthermore, even if the province prevailed upon the Dominion to increase the salaries of Ontario judges, the Government would be obliged to raise the salaries of judges throughout the country, and this would entail such additional expense to the country that Ontario's share of it would far exceed the allowance it now paid directly to the judges.

Mr. Meredith said that the Attorney-General was right in stating that the resolution expressed a certain opinion, but he had apparently failed to appreciate that the resolution asked that certain correspondence should take place. To this portion of the resolution no attention had been paid. With reference to the question of the allowance, the speaker held that there were grave reasons to question the expediency of the Act providing for it. He hoped that the Attorney-General would at all events see that the full import of the resolution of 1879 was attended to.

Mr. Macmaster said that there could be no doubt of the illegality of making the allowance. The terms of the Confederation Act distinctly showed this. The argument of the Attorney-General anent expense was begging the question. The Ontario Legislature had no right to supplement the salaries of the judges; the Dominion Government had. It was argued that the judges performed certain services for the province. Why should it not be argued similarly that they could perform services of any kind for anyone, and be paid by anyone, a state of affairs which would speedily upset the whole system of justice. The whole duty of a judge once on the bench was to devote himself to the administration of justice. Any proceeding which tended to trench in the slightest upon the independence of the judges should be done away with at once and for ever. If the correspondence referred to in the resolution for 1879, had not taken place, the sooner it did the better.

Mr. Mowat—It has not taken place.

Mr. Macmaster—Then I withdraw my motion.

ANGLO-AMERICAN COPYRIGHT CONVENTION.

Upon the question of an international copyright, the London *Law Times* has the following:

Her Majesty's Government lately received from the United States Minister here, a draft of a Copyright Convention which has been under the consideration of the United States Government, and on which they desire the views of that of Her Majesty. The Board of Trade have forwarded this draft to Mr. Blanchard Jerrold, as chairman of the English branch of "The International Literary Association," in order that he may call a meeting of English authors and publishers, and take their opinion upon the scheme. The Board of Trade say in their letter that the draft "is not, as they understand, sent in the form of a direct proposal from the United States Government."

The draft convention contains eleven clauses, with all of which it is not necessary for us to deal. Clause 1 gives to English authors the same protection, and for the same number of years, against unauthorized reproduction in America, as they now enjoy in England, and *vice versa* with American authors. A curious proviso says that this protection shall not be

afforded unless the English author has his American edition manufactured in America, so *vice versa* with the English edition of an American book. This proviso does not affect works of art, nor does it prohibit the printing in one country from the stereotypes made in the other. These stipulations "shall also be applicable to the representations of dramatic works and to the performance of musical compositions, of drawing, of painting, of sculpture, of engraving," &c., and other works *ejusdem generis*. There are the usual provisions as to the importation of pirated copies, &c. With regard to registration, the title of English books must in every case be registered in Washington, and that of American books in England before publication, and copies must be deposited in England and the States respectively within three months after publication.

In noticing the provisions of the Anglo-Spanish Convention we pointed out the needlessly burdensome duty imposed by such a registration clause. Again we ask why one registration is not sufficient? Let every American book registered at Washington be protected here forthwith without further registration; and so with English books registered in London. The Board of Trade in their letter suggest the following additions and alterations, which, with all deference, will not, we feel sure, meet with the approval of those most concerned. The first proposed change is salutary enough. It would extend the term of three months to six, within which authors must deposit their books in London or Washington, as the case may be. Then they propose "that the provision requiring the manufacture of books to be in the country of republication be confined to the United States." Further, "that all prints or reprints of books by British authors published with the consent of the author in the United States be freely admitted into the United Kingdom, and into all parts of Her Majesty's dominions." These two proposed alterations we cannot but think unfair to England.

It will be seen that the English printing trade will lose a good deal of work, since English reprints need not be printed in England, while American reprints must be printed in the States; and that, moreover, the Americans are to be allowed to send their reprints over here, while we are prevented from our sending reprints into America by heavy protective duties. Let one of two things be done: either admit English reprints into America, duty free, as American reprints are to be let into England; or let the sale of reprints be confined to the country where they are published.

We trust that Government will receive advice leading them to abandon the proposed changes, with the exception of that extending the time for depositing copies, and that they will substitute a single registration in the country of first publication for the cumbersome method proposed in the draft. It is a hopeful sign that America should have at length consented to enter into any copyright convention at all; and we feel sure that, in whatever shape Government ultimately concludes the Convention, it will be welcomed by English sufferers, whose name is legion.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

QUEBEC, March 1, 1881.

MCLEOD & MASHAM.

Appeal to Privy Council—Sum payable to Her Majesty.

Motion for leave to appeal to the Privy Council, on the ground that there was a part of the sum payable to Her Majesty.

The COURT rejected the motion. There was no issue as to the exigibility of the auctioneer's tax.

DEROME & ROBITAILLE et al.

Appeal—Interlocutory judgment.

Motion for leave to appeal *in forma pauperis* from an interlocutory judgment maintaining a *réponse en droit*. Leave to appeal was granted, but no permission was granted to proceed *in forma pauperis*.

QUEBEC, March 3, 1881.

EX parte BROUSSEAU, petr. for *Habeas Corpus*.

Habeas Corpus—Jurisdiction of Judge of Sessions.

The petitioner contended that he was imprisoned without authority, the Judge of Sessions of the Peace being appointed by the Lieutenant-Governor.

The COURT would not enter upon a question of this sort on *Habeas Corpus*. The Judge of

Sessions was in the open enjoyment of a judicial office, and his quality could not be questioned by every litigant.

Writ refused.

THERIEN & WADLEIGH.

Appeal—Interlocutory judgment.

Motion for leave to appeal from interlocutory judgments on two motions. The first motion was by plaintiff to correct a clerical error by effacing the words "de Circuit" and replacing them by the word "Supérieure." The other motion, also by plaintiff, was to allow plaintiff to serve defendant with a duly certified copy of the writ, the copy served not being certified. Both these motions were accorded on payment of the costs incurred on the *exception à la forme* previously filed by defendant.

The COURT rejected the motion for leave to appeal, with costs.

QUEBEC, March 7, 1881.

KERR & PELTIER.

Procedure—Prohibition—Inscription.

Motion for leave to appeal from interlocutory judgment.

The action began by writ of Prohibition. The parties neglected to observe the delays of procedure of Arts. 1000, 1, 2, 3, & 4, C. C P. The plaintiff then inscribed his case for evidence with a notice of three days. Defendant made default. Plaintiff then inscribed for proof and hearing, with notice of eight days. These inscriptions were both rejected on motion.

RAMSAY, J., dissenting, thought the judgment of the Superior Court was correct; that the law provided for no such procedure as an inscription in these cases; that the parties having allowed the case to get out of its regular course, it was not competent for either party to fix a new day on which to compel his adversary to proceed, and that this could only be done by the authority of the judge.

CROSS, J., also dissenting, regretted the allowance of the appeal; a remedy might be had without it. In such summary matters no inscription for *Enquête* is necessary. The prosecutor has three days to complete his proof (Art. 1003, C.P.C.), and the defendant two more. The Court or Judge (Art. 1005) can extend these delays when necessary. Where both parties have neglected these requirements, it has been the practice for one of them to apply to the Court or Judge to fix a day to proceed. By this means the appellant could have had his remedy; true, he has twice inscribed for *Enquête*, and the inscriptions have been set aside on the prosecutor's motion, which has the semblance of a purpose to obstruct. It might have answered every purpose to have treated the inscriptions as notices requiring the prosecutor to proceed. But if the Court or Judge held another course to be more logical or correct (for which there would seem to be reason), it should have been followed. In the circumstances two things are necessary: First, the presence of a Judge; and second, the presence of the parties or the fact of their being duly notified. With these essentials, the fixing of a time by the Judge is the most ready and convenient way of binding the parties to proceed, and would in fact be the most logical and correct course, in exact conformity with the provisions of the Code, and free from objections, allowing the case to be forced on by the simple demand of either party. It is always a delicate matter for the appellate court to interfere in matters of mere discipline, or in what pertains to the domestic forum, justifiable, perhaps, when serious obstacles of form are interposed, but hardly so in cases of mere choice of the form of remedy. It should be avoided when the ends of justice can be attained without such interference. The appeal would seem to be unnecessary.

The majority of the Court (per DORION, C. J.) held that there was no need of any inscription; that the proceedings were summary, and therefore it was presumed that the parties were present from day to day till the evidence was completed. The Judge should have allowed the plaintiff to proceed.

Leave to appeal granted.

QUEBEC, March 8, 1881.

ST. LAURENT v. THE QUEEN.

Indictment for burglary—Conviction, receiving stolen goods.

The plaintiff in error was indicted for burglary, and by the verdict he was convicted of receiving stolen goods knowing them to be

stolen. He was sentenced to be imprisoned in the penitentiary, and was suffering the punishment. He sued out a Writ of Error, and was brought up on *Habeas Corpus* for the argument.

The COURT set aside the conviction.

JOSEPH & MURPHY.

Appeal—Interlocutory judgment—Insolvent Act of 1869 — *Creditor taking consideration for granting discharge.*

Action (by respondent) for penalty under Section 149 of the Insolvent Act of 1869 by the assignee. The action alleged that appellant took a promise of payment from one Lemesurier, an insolvent, whose assignee respondent was, as a consideration or inducement to consent to the discharge of such insolvent. Defendant pleaded to the form, setting up that the assignee could not now bring such action. This exception to the form was rejected by the Court below. The defendant therefore asked leave to appeal.

The COURT refused leave to appeal, as the point could be better decided on the merits.

SUPERIOR COURT.

MONTREAL, March 10, 1881.

Before TORRANCE, J.

HADLEY v. O'BRIEN, and P. S. O'BRIEN, Opposant.

Procedure—Opposition—Opposant in bad faith.

This was an application by opposant to be allowed to file an opposition to a *venditioni exponas* of real estate. He had filed a first opposition on the 16th day before the day fixed for the sale, and the opposition had been rejected on the ground that it was not accompanied by the deed referred to in the opposition and forming the ground thereof.

The facts, shortly, were that plaintiff obtained judgment against the defendant in 1878 for $12,480, and interest and costs, and took the lands in question in execution on the 25th November. The defendant had given a deed of them to Patrick S. O'Brien, the opposant, on the 19th October, 1880, and the deed was registered on the 9th November.

PER CURIAM. It would be the duty of the Court to come to the aid of the opposant if his demand were *bonâ fide* and had any chance of being maintained. On this, the parties are referred to *Hans dit Chaussée et ux. v. D'Odet dit d'Orsennens*, 15 L. C. Jurist, 193, in review; Con. Stat. L. C., cap. 47, and C. C. 2074. The lands were hypothecated to the plaintiff, and within six weeks before the seizure by the Sheriff the defendant executed a deed to the opposant. The aim is manifest. It is an obstruction of the course of justice, and could only avail to gain time. The Court cannot grant the motion.

Motion dismissed.

R. A. Ramsay for plaintiff.

J. M. Glass for opposant.

SUPERIOR COURT.

MONTREAL, March 10, 1881.

Before TORRANCE, J.

THE BURLAND-DESBARATS LITHOGRAPHIC CO. v. BEMISTER.

Peremption—Error in certificate of Prothonotary.

PER CURIAM. The demand here was for peremption under C. C. P. 454, *et seq.* The motion was supported by the usual certificate from the prothonotary, but the certificate was informal, and as these proceedings were *de rigueur*, they would here fail. The defendant applying was "George Bemister." The certificate was in a case against "George Benister." The variance was small, but it was fatal.

Motion dismissed.

Lonergan, for plaintiff.

Stephens, for defendant.

SUPERIOR COURT.

[In Chambers.]

MONTREAL, March 10, 1881.

Before TORRANCE, J.

DELISLE v. SANCHE, & LEVY, opposant.

Folle Enchère—Application under C.C.P. 690 *must be made in Court.*

The demand here was for a *folle enchère* under C.C P. 690 *et seq.* It was made to a Judge in Chambers. It ought to have been made to the Court. Vide C.S.L C., Cap. 8. S. 18.

Petition dismissed

E. G. Levy, for plaintiff.

COURT OF REVIEW.

MONTREAL, Feb. 23, 1881.

JOHNSON, TORRANCE, JETTÉ, JJ.

[From S.C., Montreal.

McNAMEE et al. v. JONES et al.

Review—Deposit—Several contestations.

Where several contestations have been decided by the judgment inscribed in Review, the inscribing party is bound to make a deposit for each contestant who will be entitled to costs in the event of the judgment being confirmed.

The Court, where the deposit is insufficient, will allow the inscribing party a reasonable delay to increase the deposit to the proper amount.

JOHNSON, J. In this case the defendant moved, the day before yesterday, that the inscription be discharged, on the ground that there were two contestations, and only one deposit.

On that motion we had two things to consider;—1st, whether the further deposit was necessary; and secondly, what was the consequence of its not having been made.

We held on the first point, that as there were two contestations in which each defendant had a right to recover his costs in case he should be successful, each was entitled to have a deposit to look to for that purpose.

As to the second point, we intimated that if it had been asked to increase the deposit, the request would have been granted; and we went further: we said that if the other deposit was made yesterday in office hours, the inscription would stand good, and the effect of the plaintiff's omission in that case, would only be that he would have to pay the costs of the defendant's motion.

We, therefore, reserved our final decision till this morning; and the extra deposit having been in the mean time certified, we reject the defendant's motion to discharge the inscription, and we order that the case be heard in its turn, on its appearing that the deposit is there, and that the costs of the defendant's motion are paid by the plaintiff before hearing.

M. J. F. Quinn, for plaintiffs.

F. X. Archambault, for defendants.

COURT OF REVIEW.

MONTREAL, March 17, 1881.

JOHNSON, RAINVILLE, JETTÉ, JJ.

[From S. C., Montreal.

FAIR es qual. v. CASSILS et al., and CASSILS et al., *mis en cause.*

Rule for Contempt—Service—Delay.

One clear day should be allowed between service and return of a rule for contempt.

The judgment inscribed in review was rendered by the Superior Court, Montreal, TORRANCE, J., Oct. 13, 1880, declaring absolute a rule for contempt against witnesses. (See 3 Legal News, p. 337.)

JOHNSON, J. This is a rule for contempt against witnesses, and it was made absolute, and the parties inscribe that judgment before us.

These gentlemen were in default; they had been duly summoned as witnesses, and did not appear; therefore, up to that time they were in the wrong.

Then the rule was served at 5 p.m. of the 7th, and returned on the 8th, and heard on that day, and judgment was subsequently given making it absolute.

We think we are bound by the practice laid down in review and in appeal, that there should be twenty-four hours' service of a rule of that nature, and we give the parties the benefit of that, and discharge the rule, but, under the circumstances, without costs.

We would also call attention to the form of this rule, which is that the parties should be imprisoned until they shall have given evidence. This is objectionable, as there are no means of taking their evidence in jail, and they would be at the mercy of the party who wished to examine them.

Rule against witnesses discharged, without costs.

R. & L. Laflamme, for plaintiff.

L. N. Benjamin, for defendants.

RECENT CRIMINAL DECISIONS.

Larceny—Idem sonans.—Under a charge of theft of a bank bill a conviction may be had upon proof of theft of a National bank note. *Held*, also, that the bill being described as issued by the "Chatam National Bank," and

the proof showing that it was issued by the "Chatham National Bank," there was no variance. The rule adopted generally seems to be according to the distinction stated by Lord Mansfield, "that where the omission or addition of a letter does not change the word so as to make it another word the variance is not material."—*Roth* v. *State of Texas*, 4 Tex. L. J. 393.

Burglary—Intent of Entry.—R. was indicted for burglary with intent to steal. At the trial he offered to prove that the prosecutrix, whose house he entered, was a lewd woman, and that he had had improper intimacy with her; which evidence the Court below refused to admit. *Held*, error. The Court observed: "According to the common-law definition of a burglar, as given us by Lord Coke (3rd Inst. 63), it is 'he that in the night time breaketh and entereth into a mansion house of another, of intent to kill some reasonable creature, or to commit some *other felony* within the same, whether his felonious intent be executed or not.' This definition has been adopted by Hale, Hawkins and Blackstone. One of the elements essential to constitute the crime, according to this definition, is the felonious intent with which the breaking and entry of the house may have been effected. If not with such intent, then the breaking and entry would be, at the common law, nothing more than a trespass. 4 Bl. Com. 227. It was therefore very material, on the question of intent, to show for what object the prisoner broke and entered the house. If he really entered the house solely for the purpose of having illicit connection with the prosecuting witness, he could not be found guilty of burglary."—*Robinson* v. *State*, 52 Md. 151.

Forgery.—The alteration of an indorsement of money received, made upon the back of a promissory note and not signed, does not constitute forgery, unless it is shown that the indorsement was intended as a receipt for the benefit of the maker of the note; the presumption otherwise being that it was only a memorandum made by the payee for his own convenience.—*State* v. *Davis*, 53 Iowa, 252.

Homicide—Attempt.—S., having a grievance against W., solicited N. to put poison in W.'s spring, so that the latter would be poisoned, and offered him a reward for so doing. N. refused, and handed the package of poison back to S., but afterwards discovered it in his pocket. *Held*, that S. could not be convicted of an attempt to commit murder by poisoning.—*Stahler* v. *Commonwealth*, 2 Crim. L. Mag. 267.

Homicide—Identity.—If the evidence given upon a trial for murder shows that the person killed bore the same name as that a leged in the indictment as the name of the victim, no other proof of identity need be given.—*State* v. *Kilgore*, 70 Mo. 546.

GENERAL NOTES.

Mr. G. C. V. Buchanan, Q.C., has been appointed a Judge of the Superior Court, in the place of the late Judge Dunkin, (District of Bedford.)

The case of *Castro* v. *Regina* has gone through all the Courts, and the House of Lords has affirmed the decision of the Court of Appeal, affirming the right to inflict cumulative sentences, on the several counts of one indictment.

The Law Society was harmoniously constituted on Saturday, the 19th instant, and the constitution received at once the signatures of 62 members of the Montreal bar who were present. Dinners monthly and other meetings weekly are part of the programme. A learned counsel is the authority for the statement that the Political Economy club were dined (but not wined) at one dollar per head, and he anticipated that the bar might be catered for on the same terms. Some *gourmands* may be inclined to consider this a dolorous prospect.

The farewell message of a dying judge was repeated by Sir Henry James in the Court of Appeal, London, on the 1st of November. When the late Justice Thesiger, said the speaker to the members of the Bar, all of whom were standing during his address, was very near his end, 'he claimed the attention of one who stood by him and exacted a promise that a message should be taken from him in that to him supreme moment to those who had been his comrades, and he begged that it should be told to them that he had never forgotten, and even in that moment did not forget, the kindness and consideration which he had received from them, and he hoped and trusted that in return he would not be forgotten by them. That message I now give'

"Cheap Law" is a poor commodity, but cheap justice is worse. We go to the best lawyer for the best counsels; we would go to the best judge for the purest judgment. We may get justice without giving adequate compensation; but as a rule there is enduring virtue in the Scriptural truism: "The labourer is worthy of his hire." Let us see that the "hire" is adequate. Ask any barrister on the Montreal streets, "Is there a Court to-day?" "Yes; there is Court every day." And so it is—barring Sundays, upon which judges are politely excused from "sitting"—by statute. How often our Canadian judges must sigh for the old English system of assizes—and "terms" that are not

perpetual—but allow an occasional respite from the labours of the Judiciary. There are, as far as I can see, no greater drudges than the members of our city Bench.—*Spectator.*

From a recent discussion in the Ontario Legislature I observe that that Province adds a thousand dollars a year to the salaries paid by the Dominion Government. This is an unconstitutional attempt to recognize that the Judges of the Superior Courts are underpaid. It is unconstitutional, because under the British North America Act the Dominion Government alone can appoint and pay the judges. No Provincial Government should undertake to offer pay to the Judiciary. The Provinces have not the power to illegally dispose of money in such way—and the judge who receives it forgets his obedience to the law he has been called upon to administer. An upright judge should be placed beyond dependence of every kind, and it is not in human nature that a judge may not be influenced by the receipt of an annual income from an unauthorised source. Perhaps the salaries paid by the Federal Government are insufficient. If so, let the Dominion look to it that the hard-worked guardians of liberty and civil right are not overlooked. I cannot see why a Dominion Judge in Toronto should receive a thousand dollars a year more than a Dominion Judge in Montreal.—*Spectator.*

A late number of the *Revue Scientifique*, of Paris, gives some interesting statistics of crime in Europe. Portugal has just published an official report showing that the number of convictions for crimes and misdemeanors of all sorts in that country during the year 1878, was 10,472, or .22 for each 100 inhabitants. The convictions for heinous offences against the person, such as parricides, assassinations and infanticides, were in the proportion of 3·22 for every 100,000 inhabitants. The percentage acquitted and condemned of those accused, for the same year, was as follows:—Acquitted:—France, 20.63; Italy, 24.00; Spain, 25.80; Belgium, 27.20; England, 29.40; Portugal, 37.34. Convicted:—France, 79.37; Italy, 76.00; Spain, 74 20; Belgium, 72·80; England, 70.60; Portugal, 62·66. The greatest number of crimes are committed by persons between the ages of twenty and thirty years. The percentage of convicts who knew how to read stood as follows:—Germany, 95; France, 68; England, 66; Belgium, 61; Italy, 31; Portugal, 30; Spain, 27.

A curious incident lately took place at the Manchester Assizes. During the previous week Mr. Justice Field had sentenced Charles Moores to ten years' penal servitude for putting an obstruction on the Oldham, Ashton, and Guide Bridge Railway. His Lordship on the 2nd inst., some days after the sentence, declared in open court that "a neighboring magistrate had communicated with him, and had taken great pains to investigate the real circumstances of the case." His Lordship said he had, on the strength of the evidence so brought before him, come to the conclusion that the offence was an isolated one, and not the outcome of a criminal mind, so he reduced the sentence to five years' penal servitude. Later on in the day the learned judge informed the public that he had, within the last ten minutes, received "quite authentic information," which satisfied him that the whole truth had not been told when the remission was applied for. His Lordship therefore restored the original sentence, leaving the parties to apply to the Home Secretary for any remission. We should like to know who was the magistrate who privately "interviewed" the judge and kept back part of the truth. And we must add, notwithstanding our great respect for Mr. Justice Field, that a private re-hearing of a case by a judge is not likely to be satisfactory to the public. We should have no objection to a public re-hearing, if the judge in any case thought it necessary.—*Law Times.*

OFFICIAL TRAPS.—Upon the question of official encouragement of the commission of crime, the London *Law Times* refers to the observations of a State Supreme Court, as follows:—

"With reference to the case of Thomas Titley, who fell into a trap set for him by the police, which appears not unlikely to be again brought under public notice, some observations of the Supreme Court of Michigan, *Saunders* v. *The People*, 38 Mich. 218, are worthy of reproduction. The Court says: 'Where a person contemplating the commission of an offence approaches an officer of the law, and asks his assistance, it would seem to be the duty of the latter, according to the plainest principles of duty and justice, to decline to render such assistance, and to take such steps as would be likely to prevent the commission of the offence, and tend to the elevation and improvement of the would-be criminal, rather than to his further debasement. Some courts have gone a great way in giving encouragement to detectives in some very questionable methods adopted by them to discover the guilt of criminals; but they have not yet gone so far, and I trust never will, as to lend aid and encouragement to officers who may, under a mistaken sense of duty, encourage and assist parties to commit crime, in order that they may arrest and have them punished for so doing. The mere fact that the person contemplating the commission of a crime is supposed to be an old offender, can be no excuse, much less a justification, for the course adopted and pursued in this case. If such were the fact, then the greater reason would seem to exist why he should not be actively assisted and encouraged in the commission of a new offence which could in no way tend to throw light upon his past iniquities, or aid in punishing him therefor, as the law does not contemplate or allow the conviction and punishment of parties on account of their general bad or criminal conduct, irrespective of their guilt or innocence of the particular offence charged and for which they are being tried. Human nature is frail enough at best, and requires no encouragement in wrong-doing. If we cannot assist another and prevent him from violating the laws of the land, we at least should abstain from any active efforts in the way of leading him into temptation. Desire to commit crime and opportunities for the commission thereof would seem sufficiently general and numerous, and no special efforts would seem necessary in the way of encouragement or assistance in that direction.'"