The Legal News.

Vol. XII. MARCH 23, 1889. No. 12.

Some steps have been taken towards the establishment of a Federal Court of Appeal for Australia. The great expense of an appeal to the Privy Council has had the effect of deterring litigants from carrying their cases to England; and in ten years only fifty-eight appeals have been proceeded with from the colonies of New South Wales, Victoria, South Australia, and Tasmania. It is not proposed, we believe, to appoint permanent judges for the Federal Court of Appeal, as has been done in Canada, but to make up a Court from time to time, constituted of the Supreme Court Judges of the several colonies.

In the Legislative Council, a motion for the six months' hoist of the B.A. Bill was carried in a thin house by five votes. Only thirteen members voted, and the division was 9 to 4. In the Legislative Assembly a similar motion was defeated by 33 to 23. Without any wish to underrate the wisdom of the Council's decision, it may at least be pointed out that the whole question was very fully discussed before the Assembly, and that the bar was largely represented in that discussion by men of weight and prominence. So far, therefore, as the bar examinations are concerned, the divisions above referred to may be regarded as a moral victory for the Universities, and it would be well for the General Council of the Bar to yield the point contended for in behalf of the B.A. degree. In fact, Mr. Marcil, who moved the six months' hoist, is reported to have suggested that an agreement should be arrived at, with the object of reconciling the views of the two parties. Mr. de Boucherville, an ex-Premier, and a gentleman whose opinion should have considerable weight, writes to the managing director of the *Gazette* as follows:—'If I had been at Quebec I would have voted for Mr. Lynch's bill, because, in the first place, I believe that we should recognize the degrees of the universities of the country; and, again, because having a separate system of education for Protestants and Catholics, it is not just that the one should impose their opinions upon the other."

EXCHEQUER COURT OF CANADA.

Ottawa, March 5, 1889.

Before Burbidge, J.

Peterson v. The Queen.

Petition of Right — Waiver by the Crown — Jurisdiction.

The Superintendent General of Indian affairs, on July 30th, 1880, sold to P. certain lots of land being part of the Indian Reserve at Sarnia, for $1,000, the sale being subject to the condition that P. would, within nine months from the date of sale, erect thereon buildings for manufacturing purposes. One-fifth of the purchase money was paid at the date of the sale, and in August, 1881, although the condition to erect buildings had not been performed, W., the Indian Agent at Sarnia, received the balance of the purchase money from P., stating to him, however, that the sale would not be complete until such condition was complied with.

Held, that the acts of officers of the Crown may constitute a waiver by the Crown, and that the receipt of the balance of the purchase money was, under the circumstances, a waiver of the time within which the condition was to be performed, but not of the substance of the condition.

Quaere.—Has the Court jurisdiction to declare that a suppliant is entitled to have letters patent issued to him? *Clarke* v. *The Queen*, (per Sir Wm. J. Ritchie, C.J., in the Exchequer Court), unreported, *The Canada Central Railway Company* v. *The Queen*, 20 Grant, 289, and the *Attorney General of Victoria* v. *Ettershank*, L. R., 6 P.C. 354, referred to.

Petition dismissed without costs.

S. H. Blake, Q.C., and *J. Adams*, for Suppliant.

Wallace Nesbitt, for Crown.

CIRCUIT COURT.

Sherbrooke, March 14, 1889.

Before Brooks, J.

Morin v. Atlantic & North-West Ry. Co.

Railway — Action of damages for cow killed by

defendant's engine—Track unfenced — Art. 1054, C. C.

HELD:—1. 51 *Vic. cap.* 29, *sec.* 194 (*Can.*) *does not so change the provisions of sec.* 13, *cap.* 109, *R. S. C., as to make a Railway Company liable where an animal has strayed on to the land of an adjoining proprietor, and thence upon the track where it is killed, notwithstanding the fact that the line of the railway is unfenced.*

2. *Contractors are not employees or servants within the meaning of Art* 1054, *C. C.*

The plaintiff owns a farm near the village o Magog. The old line of the Waterloo & Magog Railway (acquired by defendants) ran a short distance from this farm, the property of one Drew lying between it and the railway. There was a line fence between plaintiff and Drew. The railway was not fenced. The fence between plaintiff and Drew was taken down by the contractor who was building the new line of railway (the location of which was being changed at the point in question.) The new line ran through plaintiff's property. The contractor was drawing stone through the opening in the fence. The plaintiff's cow escaped from his land through this opening on the Drew's land, and thence upon the railway track where she was killed.

BROOKS, J. The facts of this case are clearly established. The cow strayed from plaintiff's land upon that of Drew. From Drew's land she went on the track which was unfenced, and was there killed. Under the law as it existed previous to the change made by 51 Vic., cap. 29, sec. 194, the jurisprudence of this Province has been to dismiss actions brought under such circumstances. I have so held in this Court. The only question is whether such a change has been made in the law as to make defendants liable. I think not. The plaintiff allowed his cow to stray from the pasture where she belonged, and whilst straying she went on the track, as she was proved to have done on several previous occasions when she was seen by the section man in defendants' employment. Was she "wrongfully" on the track? She certainly was not rightfully there, inasmuch as she was a trespasser on Drew's land, and it was while trespassing and straying that she found her way on to the track. I hold that no such change in the law has been made as will enable a man to recover for the loss of an animal which he has allowed to stray, notwithstanding that the Railway Company have not complied with the law as to fences.

The plaintiff also claims by his declaration that the Company is liable because the opening was made by the contractors whom he styles in his declaration "employees." Contractors are not employees within the meaning Art. 1054 C. C., and Railway Companies are not responsible for the faults of the contractor or his men.

Action dismissed with costs.

Laurence & Morris, for Plaintiff.

Hall, White & Cate, for Defendants.

PATENT CASE.

Before THE DEPUTY COMMISSIONER OF PATENTS.

OTTAWA, Feb. 26, 1889.

THE ROYAL ELECTRIC COMPANY OF CANADA, Petitioners; AND EDISON ELECTRIC LIGHT COMPANY, Respondents.

Patent—Exclusive jurisdiction of Minister of Agriculture—Failure to manufacture in Canada.

HELD:—1. *The Minister of Agriculture, or his deputy, has exclusive jurisdiction as to the question of the validity of a patent under Section* 37 *of the Patent Act, and cannot divest himself of it by relegating it to any other tribunal whatever. (Telephone Manufacturing Co.* v. *Bell Telephone Co.* 9 Leg. News, 27.)

2. *The allegation of inability to manufacture in Canada is not a good defence to an action to annul a patent for not manufacturing in Canada; and where it appeared that all the essential elements and component parts of the invention continued to be imported by the patentee, in a manufactured state, for the purpose of putting them together in Canada, the patent was annulled.*

THE DEPUTY COMMISSIONER (R. POPE):—This is a petition to the Minister of Agriculture, bearing date 1st May, 1888, to have declared null and void, the Patent No. 10654, granted to Thomas Alva Edison, on the 17th November, 1879, "for new and useful "improvements on Electric Lamps, and in "the method of manufacturing the same, the

"title whereof is *Edison Electric Lamp*," on the ground of violation of *The Patent Act*, Consolidated Statutes of Canada, Cap. 61, Section 37, which reads as follows:—"Every patent granted, under this Act, shall be subject and be expressed to be subject to the condition that such patent and all the rights and privileges thereby granted shall cease and determine, and that the patent shall be null and void at the end of two years from the date thereof, unless the patentee or his legal representatives, within that period, commence, and, after such commencement, continuously carry on in Canada the construction or manufacture of the invention patented, in such manner that any person desiring to use it may obtain it, or cause it to be made for him, at a reasonable price, at some manufactory or establishment for making or constructing it in Canada,—and that such patent shall be void if, after the expiration of twelve months from the granting thereof, the patentee or his legal representatives or his assignee for the whole or a part of his interest in the patent imports or causes to be imported into Canada, the invention for which the patent is granted; and if any dispute arises as to whether a patent has or has not become null and void under the provisions of this section, such dispute shall be decided by the Minister or the deputy of the Minister of Agriculture, whose decision in the matter shall be final.

"2. Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the commissioner may, at any time not more than three months before the expiration of that term, grant to the patentee an extension of the term of two years on his proving to the satisfaction of the commissioner that he was, for reasons beyond his control, prevented from complying with the above condition.

"3. The commissioner may grant to the patentee, or to his legal representatives or assignee for the whole or any part of the patent, an extension for a further term not exceeding one year, beyond the twelve months limited by this section, during which he may import or cause to be imported into Canada the invention for which the patent is granted, if the patentee or his legal representatives, or assignee for the whole or any part of the patent, show cause, satisfactory to the commissioner, to warrant the granting of such extension; but no extension shall be granted unless application is made to the commissioner at some time within three months before the expiring of the twelve months aforesaid, or of any extension thereof."

On the 16th November, 1881, an extension of three months' time within which to manufacture was granted to the patentee, on his application to this effect, in which he alleged that "having been engaged in introducing his invention in other countries, he had failed in manufacturing in Canada, within the two years prescribed by law, owing to the large capital which is necessary to establish such manufacture."

By assignment, the respondents became the holders of the patent.

The petition alleged that the patentee and his assignees, had not manufactured the invention within the two years prescribed by law, and that the alleged extension of three months within which to do so, had been obtained by false and wilful misrepresentation; that the patentee and his assignees had imported the invention into Canada, after the twelve months allowed by law, and prayed, for these reasons, that the patent be declared null and void, and the extension above mentioned, set aside and cancelled.

On the application of the petitioners, the Deputy Commissioner issued an order upon the respondents' counsel, to produce at the trial, all the invoices, accounts, letters and other documents, enumerated in a certain paper or "Notice to produce," previously served upon them, at the instance of the petitioners, in order that the same might be used as evidence, if required.

By mutual consent, the trial was fixed for the 13th November, 1888, when the respective counsel, with the witnesses, being present, the case was proceeded with.

The respondents' counsel, in addition to the general denial, by way of preliminary plea, took exception to the jurisdiction of this tribunal, on the ground, that on the 31st March last, and prior to the date of this

petition, the respondents had taken action against the petitioners, in the Superior Court for Lower Canada, at Montreal, praying for damages, and the issue of an injunction, for infringement of the patent now in question; that the petitioners did not answer the action, but on the 18th May, applied for a stay of proceedings in the action, until the decision on this petition could be obtained, and which application the Court had granted.

Counsel for the respondents argued, in effect, that the matters raised in the present petition could be urged as a defence to the action in the Superior Court, under the 33rd Section of *The Patent Act*, which is as follows:—"The defendant in such action "may plead specially as matter of defence, "any fact or default which by this Act, or by "law, renders the patent void; and the court "shall take cognizance of that special plead- "ing and of the facts connected therewith, "and shall decide the case accordingly." That it is specially within the functions of a court of justice to determine the matters in issue herein, the court having power to compel the attendance of witnesses, the production of documents, to punish for contempt and for perjury, powers lacking in the Minister of Agriculture, and the Superior Court for Lower Canada, at Montreal, having been seized of this case, before the presentation of this petition, should not be, and could not be, deprived of its jurisdiction; that it is contrary to the fundamental principles of justice, and to public policy, that the Courts of Justice, in which the fullest investigation could be had, and the right of appeal preserved to both parties, should be ousted of their jurisdiction, and the trial of the issue transferred to a semi-political tribunal, not having the power to compel the attendance of witnesses or the production of papers, or punish for contempt or perjury, and from whose decision there is no appeal; that the jurisdiction of the ordinary courts is concurrent with that of the Minister of Agriculture, and it is a well established principle, that where there is concurrent jurisdiction, the court first seized of the case is allowed to adjudicate therein, and that the second court appealed to will not interfere; that Dr. Taché had ruled in the case of the *Telephone Manufacturing Co. v. The Bell Telephone Co.** that the ordinary courts had not concurrent jurisdiction in this matter, but in this he was in error, and moreover as this point did not arise in that case, there being no litigation before the courts with respect to it, his statement to this effect was mere *obiter dictum;* and his further statement, that the courts had sustained him in this view of the law, is equally erroneous — the decision in the case of *Smith v. Goldie* in the Supreme Court Reports, Vol. 9, p. 46, does not declare the jurisdiction of this tribunal exclusive, but merely conclusive, that is, where application is made to it in the first instance, and not as in the present case, where an ordinary court has already been and is seized of the case; that this is the view also taken by Justice Osler in the case of the *Bell Telephone Co.* v. *The Minister of Agriculture*, 7 Ontario Law Reports, p. 605, in which application was made for a writ of prohibition, to restrain the Minister of Agriculture from proceeding in a case then pending before him, on a petition to declare null and void a patent held by that Company; that Dr. Taché's ruling, therefore, should not be considered binding in the present case, and that this tribunal should not entertain the present application, but refer it to the ordinary courts, constituted for the purpose, and having all the necessary powers to adjudicate upon it.

Counsel for petitioners, *contra*, that the question of jurisdiction had already been decided and pronounced upon, by Dr. Taché, in the case of *Barter* v. *Smith*, † and in the *Bell Telephone Case*, which was even a stronger case than this, for in that case, there was not only a case pending between the parties in the *High Court of Justice in Ontario*, but the defendants had actually pleaded to the action, whereas in the present case, the petitioners had not pleaded to the action, but on petition to that effect, had the proceedings stopped until the decision of this tribunal could be had. Dr. Taché in those cases properly decided, that there was no concurrent jurisdiction, but that this tribunal had exclusive

*9 Leg. News, 2[illegible].
†8 Leg. News, 210.

jurisdiction to decide as to the validity of the patent, in the case of importation or non-manufacture, and that his decision had been sustained and approved by every Court of Justice that had occasion to refer to it — the Supreme Court, in the case of *Smith* v. *Goldie*, and the Ontario Court of Appeal in the same case; the High Court of Justice in Ontario, in the prohibition case of the *Bell Telephone Co.*, 7 Ontario Reports, p. 605, in which the court held that the writ would not lie; and also in the case of the same *Bell Telephone Co.* for a writ of *certiorari* to review the decision of the Minister of Agriculture, and which the court refused to grant, on the ground, that no such writ would lie, and no review could be had, 9 Ontario Law Reports, p. 339; also the case of *Mitchell* v. *The Hancock Inspirator Company*,* tried before Dr. Taché, on reference from the Superior Court for Lower Canada, in which the judge granted a stay of proceedings, till the decision of the Minister of Agriculture could be had on the validity of the patent, under the 37th Section of *The Patent Act;* that all these decisions should be regarded as binding on this tribunal, and as settling the question of its exclusive jurisdiction in the present case.

The Deputy Commissioner stated, that in view of the large number of witnesses present from the United States, and other places distant from Ottawa, who were naturally anxious to return to their homes as soon as possible, he would not delay the proceedings at this stage, but would render his decision on this point, when judgment should be rendered on the merits of the case.

The evidence was then proceeded with, lasting over three days, including an admission of facts by the parties, when the case by agreement, was postponed to the 17th December, for argument of counsel, when the case was ably argued, at great length, by counsel on both sides.

(To be concluded next week).

THE JURISDICTION OF AN ARCHBISHOP.

On February 12, at the Palace of Lambeth, before the Archbishop of Canterbury, with the Bishops of Winchester, Rochester, Oxford, and Salisbury as assessors, the Bishop of Lincoln appeared, and on being asked by the Archbishop whether his lordship had anything to say before the Court was opened, said: My Lord Archbishop,—I appear before your Grace in deference to the citation which I have received, and in accordance with my oath of 'due reverence and obedience' to your Grace and the See of Canterbury; but I appear under protest, desiring, with all respect, to question the jurisdiction which your Grace proposes to exercise. I have been summoned to answer certain charges preferred against me before your Grace or your Grace's Vicar-General; and if it should appear that such is the canonical Court before which one of your Grace's suffragans ought to be tried for such alleged spiritual offences, and wherein such offences can be fully and freely adjudicated upon on their merits, I shall be ready and thankful to answer for myself. But your Grace will pardon me if I submit that, as an accused person, and also in view of the grave issues involved in this case, and of their bearing on the whole Church of England, as well as upon the position of all your Grace's suffragans, I feel obliged, at the outset, to do what in me lies towards securing for myself, and therein for all members of the English Episcopate, that form of ecclesiastical procedure by which your Grace's metropolitical authority can be most fittingly and regularly exercised. There can be no doubt that, in accordance with the practice of the Primitive Church, the most proper method for the trial of a bishop in such cases would be before the Metropolitan with the comprovincial bishops. It may also be held that a trial before the Archbishop as sole judge might impair the rightful position of your Grace's suffragans, both individually and in relation to the province. I would, therefore, humbly pray your Grace to allow me to be heard by counsel on this point, whether your Grace's jurisdiction would not be more properly exercised, with regard to the matters charged against me, by your Grace as Metropolitan with the comprovincial bishops, such matters to be adjudicated upon on their merits by your Grace with the advice and consent of the bishops of the province; and whether, this being the case,

* 9 Leg. News, 50.

I ought not to be dismissed from making any answer to the present citation. Having made this statement, I beg most respectfully to appoint my proctors, and leave all legal matters in their hands and those of my counsel.

The ARCHBISHOP: I desire the registrar to open the Court.

The REGISTRAR: 'In the Court of his Grace the Archbishop of Canterbury—*Read and others* v. *The Bishop of Lincoln.*'

THE ARCHBISHOP: Does the Bishop appear?

Mr. Edgar Francis Jenkins then appeared to the citation in the cause, exhibiting the proxy of the Right Rev. the Lord Bishop of Lincoln under his hand and seal appointing George Henry Brooks and Edgar Francis Jenkins, Procurators-General of the Arches Court of Canterbury, as proctors in the cause, but, nevertheless, under protest to the jurisdiction of the Archbishop of Canterbury and of his Vicar-General in the matter, and prayed to be heard in extension of such protest.—Mr. Wainwright then exhibited the proxies of the four promoters of the suit—Mr. Ernest de Lacy Read, Mr. William Brown, Mr. Felix Thomas Wilson, and Mr. John Marshall, and produced a citation which had been duly served, with the affidavit of service annexed to it.—The Archbishop asked what time would be required to extend the protest.—Thereupon Sir Walter Phillimore, appearing with Mr Jeune, Q.C., and Mr. A. B. Kempe, on behalf of the Bishop of Lincoln, asked a week as a convenient time within which to extend the protest.

Dr. Tristram, Q.C., and Advocate, appearing as one of the coupsel for the promoters of the Archbishop's office in the case, asked that Court days might be appointed during the pendency of the cause for the purpose of enabling the parties to bring in their pleadings and to make such interlocutory applications as might be necessary for expediting the cause. It was always usual in the Ecclesiastical Courts for all pleadings and for applications to be made in Court and not in the registry, and after a perusal of the mode of procedure adopted in the case of *Lucy* v. *The Bishop of St. David's*, he found that in that case the proceedings were the same in form as was used in practice at that time at Doctors' Commons. He apprehended that in this case it would be convenient in the main to follow that practice. He submitted that if a Court day, say once a week or once a fortnight, were appointed during the pendency of the cause, the matters might come before the Vicar-General, and then the counsel could arrange upon what day they would bring their applications before him.—Sir Walter Phillimore asked that the Court should sit once a fortnight.

The Archbishop: I think, perhaps, that would be more convenient for the counsel on both sides. The whole Court will assemble whenever the business to be transacted is other than formal, and when it is formal, the Vicar-General will receive and conduct the necessary formalities as often as may be agreeable to counsel on both sides. Perhaps it will be convenient to counsel to attend at the Royal Courts of Justice, as there is now no Doctors' Commons. The Vicar-General will hold a Court this day week in the Royal Courts of Justice to receive the extended protest, and the full Court will sit on March 12.

The Registrar: The Court is adjourned to the Vicar-General's room, No. 540, in the Royal Courts of Justice, on Tuesday next.

APPEAL REGISTER—MONTREAL.

Friday, March 15.

Bell Telephone Co. & Skinner. Two cases.—Motion in each case for leave to appeal to Privy Council. C.A.V.

Stanton & Canada Atlantic Railway Co.—Motion to reject demand of reasons. Motion rejected with costs. On motion for re-transmission of record to Court below, for final adjudication on costs incurred in the Superior Court. C.A.V.

The Queen v. *Craig.*—Reserved case fixed for 21st.

Joseph & Ascher.—Motion for leave to appeal to Privy Council. Granted.

Kimpton & Kimpton, & Kimpton.—Two cases. Petition for leave to join in appeal. Granted upon payment of costs to respondents.

Leblanc & Beauparlant.—Hearing concluded C.A.V.

Montplaisir & Banque Ville Marie, & Dumesnil.—Part heard.

Saturday, March 16.

Montplaisir & Banque Ville Marie, & Dumesnil.—Hearing continued.

Monday, March 18.

Kimpton & Kimpton, 80 and 81. Two appeals.—Petition to be permitted to join in appeal. Granted, on payment of costs of motion to respondents.

Fraser & McTavish.—Petition of defendants *par reprise d'instance* for leave to appeal from interlocutory judgments. Granted as to judgment of 23rd February, and rejected as to judgment of 19th October.

Montplaisir & La Banque Ville Marie.—Hearing concluded. C.A.V.

Cie. du Grand Tronc & Black et al.—Heard. C.A.V.

Greene et al. & Mappin.—Part heard.

Tuesday, March 19.

Greene et al. & Mappin.—Hearing concluded. C.A.V.

Mainville & Corbeil.—Heard. C.A.V.

Ex parte Herminie Dufour.—Writ of *habeas corpus* ordered to issue.

Wednesday, March 20.

Cassidy & City of Montreal.—Heard. C.A.V.

Ex parte Herminie Dufour.—Conviction quashed.

Montreal Street Railway Co. & Ritchie.—Part heard.

Thursday, March 21.

The Queen v. *Craig.*—Reserved Case heard. C.A.V.

Davis & Kerr (Two appeals).—Heard. C.A.V.

Kerr & Davis.—Heard. C.A.V.

Friday, March 22.

The Queen v. *Craig.*—Conviction maintained.

Vinceletti & Merizzi.—Motion for leave to appeal from interlocutory judgment. C.A.V.

Kimpton & Kimpton.—Motion for substitution. C.A.V.

Casavant & Casavant.—Heard. C.A.V.

Prouty & Stone.—Heard. C.A.V.

Roch & Corporation of St. Valentin.—Heard. C.A.V.

Sangster & Hood.—Heard. C.A.V.

Corporation of Lachute & Burroughs.—Heard. C.A.V.

Saturday, March 23.

Kimpton & Kimpton.—Motion for substitution granted without costs.

Gonzales & Davie.—Motion for leave to appeal from interlocutory judgment. C.A.V.

Montreal Street Railway Co. & Ritchie.—Hearing concluded. C.A.V.

Farwell et al. & Walbridge: Farwell et al. & Ontario Car & Foundry Co.—Part heard.

The Court adjourned to March 26.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, March 16.

Judicial Abandonments.

Napoléon J. Bertrand, Sherbrooke, March 7.

Isaie Frechette (James Aird & Co.), boot and shoe manufacturer, St. Hyacinthe, March 7.

H. Gagnon & Co., dry goods, Quebec, March 13.

P. L. Guillemette, St. Jerome, March 7.

Calixte Lavoie, trader, St. Cyrille, March 14.

David Rea, importer, Montreal, March 7.

Curators Appointed.

Re A. E. Boisseau, dry goods merchant.—H. A. Bedard, Quebec, curator, March 13.

Re T. L. Brown, Inverness.—J. McD. Hains, Montreal, curator, March 13.

Re Georges Duberger.—E. Angers, Malbaie, curator, February 19.

Re F. L. Déry, St. Hilaire.—A. Turcotte, Montreal, curator, March 7.

Re Napoléon Ducharme, hotel-keeper, Salaberry de Valleyfield.—J. A. Lapointe, Beauharnois, curator, March 11.

Re F. F. Ferland.—Kent & Turcotte, Montreal, joint curator, March 13.

Re Joachim Laberge, Chateauguay.—T. Gauthier and H. Parent, Montreal, joint curator, March 12.

Re A. R. Laprairie, Jr.—J. McD. Haines, Montreal, curator, March 13.

Re F. A. L'Allemand.—A. W. Stevenson, Montreal, curator, March 13.

Re Markus Markus.—J. McD. Hains, Montreal, curator, March 13.

Dividends.

Re W. W. Beckett et al.—First and final dividend, payable April 5, A. McKay and J. J. Griffith, Sherbrooke, joint curator.

Re L. J. Beliveau & Co.—Fourth and final dividend, payable March 26, Geo. Bury, Montreal, assignee.

Re Rose Ann O'Cain.—First and final dividend, payable April 2, J. O'Cain, St. John's, curator.

Re Mathieu & Gagnon.—First dividend, payable April 8, Kent & Turcotte, Montreal, joint curator.

Re Zotique Pouliot, L'Islet.—First and final dividend, payable April 1, H. A. Bedard, Quebec, curator.

Re Eugene Roy.—First dividend, payable March 27; H. A. Bedard, Quebec, curator.

Re Alexander Tyo, Dundee.—First and final dividend, payable March 27, J. A. Lapointe, Beauharnois, curator.

Separation as to Property.

Georgianna Bréard *alias* Laroche vs. Charles Lebeau, tanner, Ste. Brigide, March 13.

Odile Martel vs. Joseph Bazinet, manufacturer, Sorel, October 15.

GENERAL NOTES.

PROVERBS.—Nations all over the world are addicted to proverb making, and the legal profession is of course fathered with a goodly share. In a collection of 'Proverbs, Maxims, and Phrases of all Ages,' recently published by Robert Christy, an American lawyer, many of these sayings have been chronicled, and, though they are somewhat sarcastic, we may say of them, as Mr. Christy truly remarks, that 'if the censures are baseless, they are harmless; if well founded, the profession should amend itself.' Two German proverbs may be quoted: 'The nobleman fleeces the peasant, and the lawyer the nobleman.' 'The suit is ended,' said the lawyer, 'neither party has anything left.' The Danish proverb is certainly biting: 'Virtue is in the middle,' said the devil when he seated himself between two lawyers; but the Dutch one is more charitable, 'The better lawyer, the worse Christian.' There are many younger professions than the law, and it will be interesting to watch what class of proverbs gathers round them, for a proverb has been well said to be 'the wit of one man and the wisdom of many.'

DR. DAVID DUDLEY FIELD.—The diploma recently conferred at the University of Bologna on Mr. David Dudley Field, the well-known lawyer and codifier of New York, after reciting that through the special favour of the most great and good God it has come to pass that the learning of mankind, utterly effaced and extinguished in the barbarism of the ages, should here at length, like the Phœnix, burst forth into renewed life from its own ashes, and it has been a custom from the most ancient times that students who, coming from the whole circle of the world to this home of wisdom, should at the completion of their course of study have given proof of learning and ability, should be honored with the laurel and ample prerogatives; and the light which first rose from hence, as it were the morning light of humanity, wherewith was dispersed the darkness of barbarism and ignorance, should now, at the completion of eight great circles of years in the presence of the most illustrious men coming hither from all parts of the world, have shone with greater brilliance than the noonday sun; and in the convention of the body of lawyers of this university, there have been presented brilliant testimonials and proofs of the merit, learning, and special services toward the State of that most illustrious man, David Dudley Field, the body of the university, with one voice and accord have commanded that the same most illustrious man should be honoured with the laurel:—bears witness that that most illustrious man David Dudley Field has on the Ides of June 1888, been created and appointed Doctor of the University of Bologna, and is given at the solemn festival of the university, subscribed by the Rector Magnificus and the President of the Order of Doctors, and marked with the great seal of the University of Bologna.

POPULAR BELIEF IN DEATH WARRANTS.—An opinion is commonly entertained that the Sovereign signs some instrument by virtue of which capital offences are punished with death; hence, these presumed documents are popularly termed "Death Warrants." Such, however, not only is not the case in England, but, so far as our knowledge goes, never has been. The only authority for the execution of a criminal is the verbal sentence of the judge, pronounced in open court, in a prescribed form of words. This the sheriff or his deputy is bound to hear and to execute. After the offenders are tried, the judge (or, at the Old Bailey, the Recorder) signs a list containing the names, offences and punishments of the convicts, and the names of the prisoners acquitted; and a copy is given to the sheriff. The list (commonly called a calendar) is, however, a mere memorandum, and of no binding authority whatever. Lord Hale, in the second volume of his "Pleas of the Crown," records the case of a judge *refusing* to sign any calendar, fearing, he said, it might *grow* into a rule; the sheriff, believing that the calendar was really necessary, neglected to execute a criminal who had been capitally convicted, and he was heavily fined in consequence; the law being distinctly laid down by Lord Hale, and the other judges of the time, that the *verbal* sentence was "the only and sufficient authority." So important, indeed, does the law deem this verbal sentence of death to be, that it is very reluctant to use it in cases where probably it will not be carried into effect; and in such cases the judge is empowered by act of Parliament to abstain from *passing* sentence of death, and to order such sentence to be *recorded* only. At the Old Bailey the custom *formerly* was for the Recorder, at the termination of each session, to wait upon the Sovereign with a list of all the prisoners lying under sentence of death; and, after explaining the several cases, to receive the royal pleasure thereon, and then by a warrant under his (the Recorder's) hand, directed to the sheriffs, to command execution to be done on a day and at a place therein named. This practice continued until the accession of her present Majesty, in the first year of whose reign Mr. Baron Parke (afterwards Lord Wensleydale) tried a man at the Old Bailey for a certain offence still, by the letter of the law, capital. From motives of delicacy it was deemed highly inexpedient to lay the details of the crime before the Queen; and, in order to prevent an infringement of the law by neglecting to do so, a bill was hurried through Parliament, the 1st Victoria, cap. 77, by the first section of which it was enacted that for the future it should not "be necessary that any report should be made to Her Majesty, her heirs and her successors, in the case of any prisoner convicted before the Central Criminal Court, and now or who may hereafter be under sentence of death." Thus the practice at the Old Bailey is now assimilated to that of all the other courts in the kingdom, and the Sovereign is never consulted about any capital offences whatever. See pp. 172-3 of "Things Not Generally Known," by John Timbs, F.S.A. (David Bogue, London, 1856).