The Legal News.

Vol. IV. FEBRUARY 19, 1881. No. 8.

ADMINISTRATION OF JUSTICE.

The bill, to authorize the appointment of a new Judge to the Court of Queen's Bench and to the Superior Court, provoked a discussion which lasted during a whole evening in the Commons. To some of the points which arose in the debate we may refer hereafter. In the meantime we think our readers will be interested in the following letter which was addressed by Mr. Justice Torrance to the Attorney General of Quebec, and which treats of the same subject as was discussed in Parliament:—

MONTREAL, 21st June, 1880.

SIR,—The announcement in the Legislature of Quebec that it is proposed to provide for the nomination of two new Judges for the Superior Courts—one in the Queen's Bench and one in the Superior Court—appears to me to afford a fitting opportunity for a few observations on the administration of justice in the Province of Quebec.

It is a singular fact that of the Judges of the Superior Courts for the Province of Quebec, there are no fewer than ten on the retired list. The sister province of Ontario has three County Judges on the retired list, but none from the Superior Courts. There have been repeated complaints of the administration of justice in Quebec, and it is probable that the Judges of Quebec have not found their position so agreeable as to desire to occupy it longer than is necessary to give them a claim to be placed on the retired list. Why, I may ask, should the Judges of the Superior Court be obliged in Quebec to give half their time to that work which in other Provinces is performed by County Judges? Why should the respected and honored Chief Justice of the Superior Court be required to give his valuable time to dispense justice between servants and laborers and petty trades-people, in Courts which he never entered when he had the reputation of having the largest practice in the Province? In the other Provinces the Judges of the Superior Courts have been relieved from the duty of administering justice in the inferior Courts—Manitoba and Quebec stand alone in this respect.*

Here I should remark that it has sometimes been said that the expense of the administration of justice has been greater in Quebec than it should have been. I hardly think that this reproach is well-founded if it be true that the Dominion, for the year ending June, 1879, paid on this head for Ontario, $198,585.85, and for Quebec, $152,173.39. What is wanted in Quebec is a readjustment of judicial work, so that it shall be distributed fairly and equally in all parts of this Province.

As it is, the distribution has been most unfair. For example: Montreal has had the credit of giving more occupation to the Judges than the whole of the rest of the Province taken together. The Judges there have been incessantly occupied, while there are Districts where the resident Superior Court Judge has not had occupation for a month in a year, perhaps not a week.

It is time that the Judges of our Superior Court should all of them sit on the Bench in turn in the cities of Montreal and Quebec. It is there that the leading men in the profession of the law chiefly congregate, that libraries are to be found, and that the spirit of association and conference, which is so strong in these days, can have its proper development. A numerous and highly educated Bar has an undoubtedly beneficial influence upon the Bench, which has been constructed from the Bar; and the Bar is, on the other hand, influenced by the Bench, if it is as it should be, in sympathy with it. But the country districts are entitled to the same justice which is meted out to the people of the towns, and to this end the same Judges should periodically administer the same law to town and country. I believe the Bar and the Bench are alike agreed that the present system, which banishes to the country some of our best lawyers and Judges, is radically defective; that it is a failure and must be changed.

There is a simple remedy. There need not be any sudden change. The Judges of the

*Ontario has 51 County Judges; Nova Scotia, 7; New Brunswick, 5; Prince Edward Island, 3; British Columbia, 5.

Superior Court might, as vacancies occur, be appointed to reside where they could most conveniently be located for the general interests of the Province.

The Province is divided into twenty Judicial Districts, of which ten are in the Quebec division and ten in the Montreal division. The Superior Court has one Chief Justice. I would propose an additional Chief Justice for the Montreal division. Ontario has four Chief Justices, counting the Chancellor as one. Quebec would be better with three than with two. As to the eighteen country Districts, as vacancies occur among the Judges, District Judges should be appointed with the same powers. Besides the sitting of the Courts held by the District Judges, there might be terms of the Superior Court to be held three times in the year, and I would give the plaintiff the option of inscribing his case for hearing on the merits before the District Judge, or before three Judges of the Superior Court in term. If the judgment be rendered by the District Judge, then the party aggrieved to have the right of inscribing in review as at present or in his own District at his option.

I append a scheme of the practicable operation of this plan, which I am confident would, under the supervision of a Chief Justice, who should be responsible for its working, be an immense improvement upon the present system, and acceptable alike to the Judges, the Bar, and suitors.

For the cities of Montreal and Quebec, I would propose District Judges in the proportion of three for Montreal and two for Quebec: these Judges should relieve the Judges of the Superior Court from the duty of sitting in Insolvency, the Circuit Court and at Enquêtes.

The jurisdiction of the Circuit Court might be raised to $500, from $200. Three of the Superior Judges could always be employed as required on Circuit, and the Bars of the country and city would be much better served than they can now be, by the present judicial strength. My plan has further this advantage, that it will not add to the burdens of the country when fairly in operation. If it were possible to make an immediate change the expense would be $124,500, in place of $126,000.

In conclusion I beg humbly to make the following observations:—

1. If the present system be continued, one additional Judge, in the Superior Court, Montreal, would not give the relief required. Two would be needed.

2. If the opinions of the Judges themselves were taken, I believe that they would not suggest an addition of Superior Court Judges.

3. If the system were reformed in the direction indicated, a Superior Court Judge would always be available to assist the Judges of the Queen's Bench (criminal side), Montreal and Quebec.

4. The creation of a sixth Judge in the Queen's Bench is unnecessary.

5. It is indispensable for the prosperity of the Superior Court that the Judges should have continual opportunities for association and conference. Such opportunities would be given by forcing them to sit in turn at the centres.

6. Economy being imperatively demanded by the Dominion Legislature, the addition of two Superior Court Judges to the number resident in the cities of Montreal and Quebec, seventeen in all, would be a significant contrast to the number required in Ontario, being thirteen in all.

7. The exigencies of the case demand the appointment of a Commission, which should form a system suitable to the wants of the Province. A Bill might be framed upon its suggestions, and submitted to the criticism of Judges, Bar and public, for a year or two. Then only would the people be prepared for a change.

I have the honor to be, Sir,

Your most obedient servant,

F. W. TORRANCE.

To the Attorney General
for the Province of Quebec.

APPENDIX A.

Present System.—Superior Court.

1	Chief Justice		$ 6,000
9	Puisne Justices		45,000
14	do	do	56,000
2	do	do	7,000
			$114,000
3	additional Judges for vacant Districts, say		12,000
			$126,000

Vacant Districts are Terrebonne, Montmagny, Saguenay.

APPENDIX B.

Proposed System—Superior Court.

2 Chief Justices, 1 Montreal, 1 Quebec	$ 12,000
10 Puisne Judges.....	50,000
5 District Judges, $3,000 each; Quebec, 2; Montreal, 3.....	15,000
16 District Judges, $2,500 each, for country Districts, to take place of present country Superior Court Judges when vacancies occur.....	40,000
	$117,000
The above would supply present wants. To complete the system 3 additional District Judges when wanted for vacant Districts, say at $2,500 each.....	7,500
	$124,500

Travelling allowances as in other Provinces.

APPENDIX C.

Montreal (City.)

No change as to terms; with the changes proposed the Judges could give the Bar all the relief required.

Montreal (Country.)

9 Districts, 3 terms (civil) 3 days each, 3 Judges..... .243 days,
9 Districts, 2 terms (criminal) 3 days each, 1 Judge..... .54 days

297 days.

I make no remark as to the Quebec Division.

THE SUPREME COURT.

The bill introduced by the late Mr. Keeler, to repeal the Supreme and Exchequer Court Act, was taken up by Mr. Landry. On the 10th instant, on the motion for second reading, Mr. Mills moved in amendment the six months' hoist, which was carried, after debate, by 88 to 39.

Another bill, to limit the appellate jurisdiction of the Supreme Court, has been brought forward by Mr. Girouard, Q.C. Sect. I is as follows:—

"The Appellate Jurisdiction of the Supreme Court of Canada is abolished in all cases where the matter in dispute relates to property and civil rights in any of the Provinces, and generally as to matters of a merely local or private nature and coming within the exclusive jurisdiction of the Legislature of any of the said Provinces, according to the meaning of the British North America Act of 1867 and Acts amending the same."

Sect. 2 provides that the Act "shall not apply to cases decided by the Exchequer Court of Canada, nor to cases where the matter in dispute affects the constitutionality or validity of any Act or Statute of any of the Provincial Legislatures, which cases shall continue to be subject to appeal to the Supreme Court, as now is or hereafter shall be provided for." And the third and last section enacts that the bill shall not apply to appeals already instituted or pending before the Supreme Court.

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, November 13, 1880.

RAINVILLE, PAPINEAU, LAFRAMBOISE, JJ.

[From S. C., Montreal.

DEVLIN v. BEEMER.

Commission for procuring security for contract—Commission earned notwithstanding invalidity of contract guaranteed.

The judgment inscribed in Review was rendered by the Superior Court, Montreal, Torrance, J., June 30, 1880. See 3 Legal News, p. 232.

PAPINEAU, J., rendered the judgment in Review, reversing the judgment below, for reasons which are set out in the recorded judgment as follows:—

"La cour, etc....

"Considérant que par l'acte intervenu entre les parties en cette cause, le 23 d'avril 1879, et qui fait la bâse de l'action du demandeur, il est établi que ce dernier avait procuré le même jour au demandeur, qui en avait besoin, un cautionnement hypothécaire au moyen d'une certaine obligation et hypothèque consentie par Dame Margaret Amanda McNally, l'épouse du demandeur, en faveur de l'Honorable Joly, et que, à cause et en considération de ce cautionnement, le défendeur s'est obligé de payer au demandeur une commission au taux de 7 pour cent par an sur $11,784, à compter du 15 de décembre 1879, la dite commission payable semi-annuellement jusqu'à la quittance et décharge de la dite obligation, le premier paiement semi-annuel devenant exigible le 15 de décembre 1879, si la dite obligation hypothécaire n'était pas encore quittancée et déchargée à cette dernière date;

"Considérant qu'il est établi par la lettre même du défendeur, en date du 19 de décembre

1879, et par les autres parties de la preuve, que la dite obligation hypothécaire n'était pas encore déchargée à cette date, et même que le défendeur en avait encore besoin pour une période de temps qu'il ne pouvait alors déterminer;

"Considérant que le demandeur, ayant rempli de son côté toute son obligation, qui était de procurer le dit cautionnement hypothécaire, a droit d'exiger du défendeur l'exécution de son obligation, qui était le paiement d'une somme d'argent pour prix du cautionnement actuellement fourni;

"Considérant que la validité ou la nullité du contrat du défendeur avec l'Honorable Joly n'a rien à faire avec la validité du contrat du demandeur qui a procuré au défendeur, au moyen d'une hypothèque considérable dont celui-ci avait le bénéfice, la jouissance de la propriété de l'épouse du demandeur, qui eût été privée elle-même d'en jouir de la même manière si le besoin de l'utiliser de cette manière se fût fait sentir par elle;

"Considérant, d'ailleurs, que la nullité invoquée quant au contrat de l'Honorable Joly avec le défendeur et invoquée par celui-ci, n'était qu'une nullité relative décrétée en faveur du gouvernement qu'il représentait, et que le gouvernement en faveur de qui cette nullité est décrétée, n'a pas jugé à propos de s'en prévaloir, que le contrat a été de fait exécuté, et qu'il n'y a pas lieu d'en prononcer la nullité lorsque la partie intéressée à la faire prononcer, ne l'a pas demandé et ne le demande pas encore;

"Considérant qu'il y a erreur dans le susdit jugement du 30 juin 1880: Cette cour infirme le dit jugement, et procédant à rendre celui qu'eût dû rendre la dite cour supérieure: condamne le dit défendeur à payer au dit demandeur la somme de $412.54, avec intérêt, etc."

Judgment reversed.

Coursol, Girouard, Wurtele & Sexton, for plaintiff.

Carter, Church, Chapleau, Carter & Busteed for defendant.

SUPERIOR COURT.

MONTREAL, Jan. 31, 1881.

Before JOHNSON, J.

CORBEIL et al. v. CHARBONNEAU et vir, and MARTINEAU et al., T. S.

Saisie-arrêt—Seizure of real estate.

JOHNSON, J. This case has been heard on the merits of the petition to quash the *saisie-arrêt*, and also on a motion to amend. The latter, though it hardly seems necessary, may be granted without difficulty.

On the merits of the petition there is not much to be said. The writ issued of course on an affidavit, and a house and lot were seized; and on the return a petition was made to set aside the seizure on the ground that under the writ, real estate could not be seized. That point was decided against the petitioner;* and it is only in so far as the facts go, that the subsequent contestation took place. The evidence fails to show that the affidavit is untrue. The question of law is certainly important, but I decline to enter upon a discussion of it now, after the judgment of Mr. Justice Rainville, to which, without expressing any individual opinion, I agree to conform for practical reasons.

The petition, therefore, on the merits is dismissed with costs.

Dalbec, for plaintiffs.

Loranger & Co., for defendants.

SUPERIOR COURT.

MONTREAL, Jan. 31, 1881.

Before JOHNSON, J.

LAFRANCE v. JACKSON.

Service—Personal Action.

JOHNSON, J. This case comes up on the merits of a declinatory exception. The exception sets up that the contract of hiring alleged between the parties was not made as alleged, *i.e.* in this Province; but in the Province of Ontario, and that the service (which was a personal service in Montreal) does not bring the defendant before the Court so as to give it jurisdiction. The case of *Gosset & Robin* and others (2 Q. L. R. p. 91) was cited for the defendant. That was an action *pro socio* where the service depended on the domicile of the party; and it was pretended that in such a case as that, where the action was not purely personal, as it is here; that the defendants being absentees, and having their principal place of business in Jersey where their property might have been liable to division under the judgment of the Court, could be called in by advertisement because they had property at-

* See 3 Legal News, p. 381.

Gaspé. Such a case as that is of course clearly distinguishable from this. Here the action is purely personal, as required by Art. 34 C. P.; not mixed as it was there, and the terms of the judgment of Chief Justice Dorion leave no doubt as to the grounds on which it rested. A personal action, however, follows the person; and a personal service in Montreal in such a case, gives us, under Art. 34, jurisdiction over it.

Prévost & Préfontaine for plaintiff.

R. A. Ramsay for defendant.

SUPERIOR COURT.

MONTREAL, Jan. 31, 1881.

Before JOHNSON, J.

BOZZO v. MOFFATT at al. & E. Contra.

Pleading—Freight—Plea of compensation by damages, to action for liquidated claim under charter party, not demurrable.

JOHNSON, J. This is an action to recover freight under a charter-party, and the defendant pleads among other things that the cargo was damaged by the plaintiff's fault, and wants to compensate the freight by the damage. This is demurred to by the plaintiff. Then, in the second place, there is another demurrer partial addressed to one passage or paragraph of the same plea, in which the defendants had said that even supposing the charterers had employed a stevedore the master would not be relieved from the obligation of care in stowing. So that there are two points:

1st. Whether in this country and under our procedure a plea of compensation for damage will hold as against a liquidated claim under a contract of charter party.

2nd. Whether the master's negligence is superseded, so to speak, by the charterers having employed a stevedore.

I over-rule the demurrer on the first point. It is merely a matter of form, under our procedure quite unimportant. It may be admitted that the demurrer would lie in England; but, unless the English procedure is to govern here, (which of course I don't admit) I must adhere to our practice of allowing easily liquidated damages to be made ground of compensation. The case of *Gaherty & Torrance* et al. is directly in point, (6 L. C. J. p. 313.) The judgment there in express terms allowed the plea of compensation for damage against the action for the freight.

As to the second point, it is difficult to say (though this hypothetical way of pleading is highly objectionable) that the proposition emitted is not conformable to law. The thing would depend a good deal on the facts intended to be enunciated in this proposition. The employment of the stevedore, unless he really interfered, would amount to very little. This averment under our somewhat loose system may probably let in evidence that the master actively interfered. I cannot anticipate or limit the proof. I give no opinion on such an averment; but I allow proof *avant faire droit.*

Doutre & Co., for plaintiff.

Davidson & Co., for defendants.

SUPERIOR COURT.

MONTREAL, Jan. 31, 1881.

Before JOHNSON, J.

NADON et vir v. CHARRETTE.

Pleading—Demurrer—Compensation.

JOHNSON, J. The plaintiff alleges that the seizure of the cart and horse on the high road was illegal and malicious, and has caused the damage complained of. That is enough to give a right of action if it is true. The *défense en droit* to the declaration is therefore dismissed with costs.

Then the defendant pleaded compensation, and the plaintiff demurs to that. Well, that demurrer is dismissed also. The plaintiff cited a case in the 13 L. C. Reports. That case is misreported. I considered the matter in *Landa* v. *Pouleur*,* and so held there.

Loranger & Co., for plaintiff.

Duhamel & Co., for defendant.

SUPERIOR COURT.

MONTREAL, Jan. 31, 1881.

Before JETTE, J.

DEVINE et al. v. GRIFFIN.

Executor—Administration—Imprudent Investment.

The action was to have the defendant removed from his office of executor.

JETTE, J., gave judgment in favor of the defendant, the reasons being in substance as follows:—

The plaintiffs, three of the testamentary

* (1) See 1 Legal News, p. 614.

heirs of the late Lydia Hoyle, asked for the removal of the defendant from the office of executor of the will of the late Lydia Hoyle, on the ground of incapacity and unfaithfulness in the ulfilment of the duties of his office, and especially invoked in support of their demand a loan by defendant of a sum of $12,938 to James C. Ritchie, his son-in-law, without any security for the repayment of that sum at the time the loan was made, and for which he only received, long after, hypothecary security, said to be for the most part insufficient and illusory, which he had nevertheless released, contrary to the interest of the succession. It was further alleged that the defendant neglected for several years to collect the interest on the loan, and that in acting thus he was guilty of fraud and showed himself to be grossly incapable.

The defendant contested this demand, saying, 1st. That his administration, far from being disadvantageous to the succession, had been extremely profitable, having in particular realized a profit of $5,000 by the well-timed sale of Bank of Montreal stock—a profit which the heirs would have lost if the sale had not then been made. 2nd. That the plaintiffs had already instituted an action *en reddition de compte* against him, which was still pending; that defendant had rendered the account asked for, on the 17th January, 1878, and that since that time the plaintiffs had continually delayed the case; and that the present action could not be brought while the other was pending. 3rd. That at the time of the loan to Ritchie, the latter was reputed to be rich, and was in good business, and the investment was under the circumstances considered satisfactory; that, moreover, it was made in good faith, that the security was then perfectly satisfactory: and that the subsequent discharges were given to facilitate the sale of the hypothecated properties; and secure payment of the claim. 4th. That as to the two plaintiffs of age, Mrs. Ireland and Mr. Devine, they had no interest in bringing the present action on the ground alleged, because by deeds of July, 1878, and of 12th May, 1879, they had settled with defendant for the sum coming to them from the loan to Ritchie; and as to the minor, Annie Emily Devine, her share in the succession was fully secured by the personal guarantee of defendant and other securities taken for the payment of the Ritchie debt; and finally, that defendant had always been ready to pay to said minor her share, and had tendered the same, and offered security for it.

By an additional plea defendant alleged, in answer to the action, that since the demand he had given the minor a hypothec for $10,600 on a property worth more than that.

In fact, though it results from the evidence that the loan to Ritchie could not be considered a satisfactory operation, and that whatever confidence defendant might reasonably have in Ritchie's solvency, the loan was not made according to the conditions required in such cases, nevertheless the defendant does not seem to have acted in bad faith, but has only been guilty of negligence and imprudence. This loan is the only act complained of, and his administration is not attacked otherwise, though it is proved that a total amount of about $50,000 from the succession has passed through his hands, and this loan seems to be all that remains to be adjusted. The defendant has not only always acknowledged his responsibility for the amount of the loan, but he has satisfied the two plaintiffs who are of age as to their share of the amount, and he offers all requisite hypothecary and other security for the minor's share in the succession, and has done what he could to secure the minor's interest, which offer has not been accepted by the tutor. The personal solvency of the defendant has not been questioned, and the sufficiency of the guarantees offered is established. In law, the plaintiffs who are of age, having received their share of the loan, cannot invoke it in support of the present action. The offers made by the defendant as to the minor's part are sufficient security, if they had been accepted by the tutor, and the absence of interest on the part of the other plaintiffs renders their demand untenable, and even invests it with the character of a vexatious proceeding. The Court considers further that the action to account gives the plaintiffs full and ample protection, and that under the circumstances the removal of the defendant from office cannot be ordered.

Action dismissed.

Keller & McCorkill for plaintiffs.

Bethune & Bethune for defendant.

THE LAW OF TELEPHONES.

A new question in what we might term the yet unsettled Law of Telephones, was determined last week in the Circuit Court of this city. The American Union Telegraph Company having been unable to obtain from the Bell Telephone Company the privilege of an instrument in their office, applied to the court for a *mandamus* to compel the company to accede to their request. After argument the court overruled the motion to quash the alternative writ. Thayer, J., who delivered the judgment, held that the principles of law applicable to railroad companies and other common carriers unquestionably applied to telegraph and telephone companies. Having established their lines and adopted a uniform mode of serving the public consistent with their chartered powers, they must treat all persons similarly situated with respect to those lines alike, and without unjust discrimination. It is not for them to select whom they will serve, or impose conditions of service on one class of customers that do not apply equally to all persons occupying the same relative position toward the company. It was conceded by the court that if the respondent had contented itself with erecting its lines and establishing its affairs at certain designated points, and had stationed its own agents at such offices to receive and transmit messages, as is usual with telegraph companies, it could not have been compelled, at the request of any private person or corporation, to place instruments in private offices or residences, and establish private stations for the use of particular individuals or corporations. If it had elected to use its franchise in the manner last indicated, its duty to the public would have compelled it to receive and transmit such messages as were tendered at its own offices to its own agents, without discrimination as to persons or as to the price charged for such service. And it could not have been compelled to assume other obligations or render other service to the public. "But if it erects its main line along a certain street or streets," said the court, "under a power granted in its charter to use public highways for that purpose, and under a charter granting it the power to condemn land for the construction of a telephone line, and if it elects to serve the public by furnishing instruments to residents along such line, for private use, and by making connections between such instruments and its main lines; above all, if it holds itself out to the public as prepared to furnish such instruments and make such connections for all who may apply, than I should say that its duty to the public compels it to treat all residents along such line with absolute impartiality. It cannot grant such facilities or render such service to one citizen or corporation and refuse like privileges to his next door neighbor. The charter of the respondent was not granted for any such purpose, nor does it confer upon the corporation any such power to discriminate among its customers. According to the averments of the petition, the respondent has adopted the mode of transacting business within the city of St. Louis last above indicated. Instead of maintaining offices in charge of its own agents for the reception and transmission of messages at certain designated points, it supplies instruments to residences, offices and hotels contiguous to its main line, and makes all proper connections with such main line at uniform rates, and holds itself out to the world as prepared to supply all persons with such facilities for communication, who reside or occupy offices contiguous to its established lines. Such being the established mode of transacting business adopted by the respondent, according to the averments of the bill, it follows, from the principles above stated, that in refusing to grant to the relator such facilities as it affords to other customers it has violated an imperative public duty imposed upon it by law."—*Central Law Journal, St. Louis.*

RECENT DECISIONS AT QUEBEC.

Wages—Minor.—The father of a minor sued for wages due to the minor. He did not allege that he had been appointed tutor, or that he had put his son in the defendant's service. *Held*, that the action was demurrable, though there was an allegation that the defendant had acknowledged his indebtedness to the plaintiff. *Renaud* v. *Dussault* (C. C. Quebec), 6 Q. L. R. 259.

Extradition.—A warrant of commitment for extradition should in its terms conform to the requirements of sect. 1, 31 Vict. (Can.) c. 94, in directing the person accused to be committed until surrendered on the requisition of the proper authority or duly discharged according

to law. The judge is required to decide whether he deems the evidence adduced before him sufficient to justify the apprehension and commitment for trial of the person accused if the crime had been committed in Canada. If he finds in the affirmative he should so state it in his commitment, and certify the fact to the proper executive authority. His functions do not extend to determining whether the accused should be extradited; that rests with the Governor General after the evidence has been reported to him. If the judge fails to state in the commitment that he deems the evidence sufficient, the commitment will be held defective and insufficient.

Where a person charged with a crime is committed in pursuance of a special authority, the commitment must be special and must exactly pursue that authority. If the commitment does not on its face show that the case of the accused falls within the terms of the extradition treaty and the statutes authorizing the proceedings in extradition, or fails to contain the proper statutory conclusions, no sufficient cause of detention will have been shown, and he will be liberated on *habeas corpus*. (Q. B.), *Ex parte Zink*, 6 Q. L. R. 260.

Prescription.—A charge, partly for manual work done and partly for moveable effects sold and delivered, (as, for example, for the care and feeding of animals by a farmer, including the supply of the fodder consumed,) is prescribed by five years.—*Lefebvre* v. *Proulx* (C. R.), 6 Q. L. R. 269.

Attachment—Affidavit.—In an affidavit for attachment it is not necessary to state the time when or the place where the debt was contracted. (*Hurtubise* v. *Bourret*, 23 L. C. J. 131, followed.)

2. The allegations in an affidavit for attachment under C. C. P. 834, as to the grounds of deponent's belief that defendant is immediately about to secrete his property, &c., may be stated according to form 45, although that form is given in connection with Art. 842.—*L'Heureux* v. *Martineau*, (S. C.)—6 Q. L. R. 275.

Procedure — Registrar's Certificate — Contestation.—Under the existing law, by which a hypothecary creditor is not required to file an opposition *a fin de conserver*, he is not obliged to contest the registrar's certificate at the same time that he contests the report of distribution. *Carrier* v. *Boucher* (C. R.) 6 Q. L. R. 282.

RECENT CRIMINAL DECISIONS.

Manslaughter—Negligence.—A. was a member of a rifle corps. On May 29 he attended the rifle practice. After the practice it was his duty to take his rifle back to the armory. He did not do so, and the drill instructor missed six cartridges from the magazine when he went there about half an hour after the practice was over. A., with B. and C., then fixed a temporary target in an apple tree in a garden, and fired with the rifle from a distance of 400 yards. One of the shots killed a boy who was in the apple-tree. The jury found A., B., and C. guilty of manslaughter. There was no evidence which of the prisoners fired the shot which caused death, and the question reserved was whether there was any evidence upon which either or all of the prisoners could be convicted of manslaughter. *Held*, that the conviction was right; because the prisoners all joined in a dangerous act, (without taking proper precautions) whereby a person was killed.—*Regina* v. *Salmon*, crown case reserved, Dec. 4, 1880. (43 L.T. Rep. N.S. 573.)

Indictment—Burglary and Larceny.—An indictment for burglary and the larceny of certain articles "of the goods and chattels of A and B," is not sustained if the articles, all in the possession of A., belonged some to A. and some to B.—*State* v. *Ellison*, Supreme Court, New Hampshire. (To appear in 58 N.H.)

Assaults upon children.—A person charged with assaulting a child of seven years of age, may allege the consent of the child as a defence.—*Regina* v. *Roadley*, Crown Case Reserved. (49 L.J., M.C. 88.)

GENERAL NOTES.

The *Irish Law Times* is the authority for the following amusing anecdote of a conscientious witness and how his objection was overcome by a quick-witted judge:—

"While the jury were being sworn in what is known as the Kilbury Eviction case, at Waterford, on the 16th December, one of them entered the jury-box with his hat on, and on being asked to remove it, addressing his Lordship, said, 'I have a conscientious objection against taking off my hat.'

"Mr. Justice Barry, 'Then some other gentleman will take it off for you.'

"Whereupon another juror immediately removed the hat."