The Legal News.

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The *Law Journal* (London) gives the following explanation of the incidents attending Mr. O'Brien's incarceration, which were confused in the cable despatches:—"The course adopted by the Recorder of Cork in first holding that Mr. O'Brien must not leave the building, then that he ought to be permitted to go out, and, thirdly, in explaining that he did not mean to interfere, and allowing Captain Stokes, the divisional magistrate, to take him into custody, is somewhat puzzling, and has naturally given rise to misapprehension. The truth is that the Recorder of Cork, although his sense of his own dignity or that of the Court which he represents cannot be said to be high, acted within the strict letter of his rights. The only duty which he and his Court had performed was that of confirming Mr. O'Brien's conviction by the Court of Summary Jurisdiction. As to Mr. O'Brien's detention or release, like Gallio, he cared for none of these things. The conviction was not the conviction of the recorder, nor of the Cork Quarter Sessions, and Mr. Hamilton had no concern in it, except so far as all the Queen's subjects are concerned in the execution of the law, none the less when they happen to be recorders and are sitting in their own Court. On the other hand, the action of Captain Stokes was not only justifiable, but obligatory. Mr. O'Brien had been convicted of a criminal offence, and sentenced to a term of imprisonment by a Court of competent jurisdiction. No warrant is required to detain a person so situated, and a police officer set to do his duty in a Court of law would be guilty of something like what the law calls an escape if he permitted his departure. Under the English Summary Jurisdiction Acts when a conviction is confirmed on appeal, the law is left to take its course. The Court of Summary Jurisdiction, no doubt, issues a warrant in due course for the protection of the gaoler, but no one ever heard before that between the confirmation and the issuing of the warrant the convict was entitled to a run for his liberty. Under the Irish Summary Jurisdiction Act the form is for the clerk of the peace, after the decision of the Court of Appeal, to return a certificate of it to the petty sessions, and when the order has been confirmed the justices are to issue a warrant accordingly; but the legal consequences of a conviction are not suspended until this form is gone through. The fact that Mr. O'Brien had signed recognizances binding him 'to prosecute his appeal and not depart the Court without leave,' must have brought this state of the law home to him with great force."

In *Evans* v. *Von Laer*, the U. S. Circuit Court, Dist. Mass., Sept. 8, 1887, held that Montserrat being the name of an island from which both parties import lime juice, the complainants, in the absence of fraud, were not entitled to the exclusive use of the word "Montserrat" as a designation for lime juice, although their article may have acquired a high reputation for purity and strength, while that of defendant may be of an inferior quality. In the absence of fraud the complainants cannot enjoin the defendant from the use of a geographical name. This was settled in the case of *Canal Co.* v. *Clark*, 13 Wall. 311, where the Court refused to enjoin the defendant against calling their coal "Lackawanna Coal," and where it was held that no one can apply the name of a district of country to a well-known article of commerce, and obtain thereby such an exclusive right to the application as to prevent others inhabiting the district, or dealing in similar articles coming from the district, from truthfully using the same designation. The fact that such use by another person may cause the public to make a mistake as to the origin or ownership of the product can make no difference, if it is true in its application to the goods of one as to the other. Purchasers may be mistaken, but they are not deceived by false representation, and equity will not enjoin against telling the truth.

The following judicial appointments are gazetted for the Province of Quebec:—Louis Tellier, Esq., Q.C., of St. Hyacinthe, to be a

puisné Judge of the Superior Court, *vice* the Hon. L. V. Sicotte, resigned. Alfred Napoléon Charland, Esq., Q.C., of St. John's, to be a puisné Judge of the Superior Court, *vice* the Hon. H. W. Chagnon, resigned.

In the Province of Ontario a number of appointments and changes have been rendered necessary by the death or resignation of late occupants of the Bench. The Hon. John Douglas Armour, one of the Justices of the High Court of Justice, has been appointed President of the Queen's Bench Division, with the title of Chief Justice, *vice* Sir Adam Wilson, resigned. Mr. Justice Thos. Galt has been appointed Chief Justice of the Common Pleas, *vice* Sir Matthew Crooks Cameron, deceased. Wm. C. Falconbridge, Q.C., has been appointed a Justice of the Queen's Bench Division.

In Manitoba, Mr. Justice Taylor has been appointed Chief Justice of the Queen's Bench, *vice* Chief Justice Wallbridge, deceased; and the place of Mr. Justice Taylor has been filled by the appointment of John F. Bain, Esq., of Winnipeg.

At a recent meeting of barristers, solicitors and students in the Inner Temple Hall, a resolution in favor of the amalgamation of the two branches of the profession was carried by a majority of two.

The profession in England are complaining of a falling off in business. At Manchester the cause list consisted of only fourteen cases, two for trial by special jury, six for trial by common jury, and six non-jury cases. "One remarkable feature of the present sittings in the Queen's Bench Division," says the *Law Times*, "has been the almost entire absence of important causes. Eliminate actions for libel and slander, and the lists would be seriously diminished. But non-jury causes present the most singular absence of substance, the proportion of undefended being large, and many cases involving very small issues."

SUPERIOR COURT.

SWEETSBURG, Nov. 14, 1887.

Coram TAIT, J.

HON. HONORÉ MERCIER es qual. v. THE WATERLOO & MAGOG RAILWAY CO.

Injunction — Waterloo & Magog Railway — Change of location—Rights of the Crown— 46 *Vict.* (*Q.*,) *ch.* 97.

HELD:—*That any lien which the Crown might otherwise have had on the defendants' railway, arising out of the payment of subsidy, was waived by authorizing the company to sell their road, and particularly by* 46 *Vict., ch.* 97 (*Q.*,) *authorizing them, without any reserve whatever, to cancel the bonds issued under their act of incorporation and to issue new bonds, and to convey the road to trustees with power, in certain circumstances, to take possession thereof, free and clear from all liability for other debts contracted by the company; and hence the Crown has no interest by injunction to prevent a change of location.*

2. *That if any lien still exists in favor of the Crown, it would follow the road into the hands of the company to whom the defendants propose to sell it.*

3. *That the proposed changes in the line of the railway are not contrary to what was contemplated when the Government subsidy was granted to it, and are authorized by sec.* 7, *s.s.* 17, *of the Provincial Railway Act of* 1869.

PER CURIAM:—

This is a petition by the Attorney-General of this Province, asking that a writ of injunction be issued ordering defendants to suspend "all acts, proceedings and works respecting the change of the present location of their railroad and the change of its grades and alignments, and respecting the removal of the rails and materials of the said railway and the discontinuance of the use of any portions of it for railway purposes."

An interlocutory order was granted, enjoining defendants in the terms of the demand, at the time the petition was presented. Proof was taken and the case argued before me on the 4th instant, and now comes up for final judgment.

The petitioner set up the incorporation of the defendants, and alleged that under certain statutes mentioned, defendants had received from the Crown, by the Provincial Government, subsidies amounting to over $100,000; that defendants cannot change the course and direction of their railway without approval of the Legislature of Quebec; that they are subject to the provisions of subsections 4, 5, 6, 7 and 8 of section 5 of the Provincial Act 32 Vic. cap. 52, which gives the Lieutenant-Governor in Council the right to order a special inspection of the road, and provides that upon refusal to make required reparation after inspection, or upon interposing or allowing any obstruction to such inspection, the entire railway and all its appurtenances and franchises shall, *ipso facto*, become and be vested in the Crown for the public uses of the province. The petitioner then alleged that the Crown had, therefore, a large interest in the railway which might become its property, should defendants refuse to conform to law, and charged that defendants "now intend and are immediately about to change the present location of their railway, its grades and alignments and to remove the rails and materials, and discontinue the use of certain portions for railway purposes; and that in fact it is the intention of defendants to remove entirely its railway and to destroy and remove the road, rails and property in which the Crown has an interest and a lien for the subsidies granted to defendants."

The defendants pleaded, first, a demurrer, upon which an order, *preuve avant faire droit*, was made, and in which they stated in substance that the petitioner was not entitled to the writ because the Crown did not show sufficient interest, or that it had suffered or was liable to suffer irreparable injury, by any act done or being done, or contemplated by defendants.

By other pleas the defendants denied that they intended doing as charged, or that they had violated any provincial law; and they alleged affirmatively that the subsidy was granted upon the representation that the road might, at some future time, become a part of the transcontinental railroad, extending from the Atlantic to the Pacific; that after the subsidy was granted, defendants were given authority by the Quebec Legislature to sell their railway with that object in view, and all they have been contemplating is the sale of it to the Atlantic and Northwest Railway Co., which company, if the sale was carried out, would make such changes only as would be an improvement to the road, and such as are permitted by the Provincial and Dominion railway acts, and are for the public advantage, in accordance with plans and surveys which have been made and filed according to law; that the principal change contemplated, is to the north side of "Little Magog lake" between Magog and Sherbrooke, which change is in the interest of the railway, and was the intended location at the time the provincial subsidy was granted.

Defendants further pleaded that their railway had been declared by the Federal Parliament to be a work for the general advantage of Canada, and that it is now under Federal authority and was authorized by Dominion Act 50 Vic. cap. 69, to change the location thereof, at any points where it might be necessary or desirable to improve its grades and alignments.

The petitioner replied, putting in issue defendants' affirmative allegations and alleging that the Dominion Act referred to was *ultra vires*.

By section 1 of the Injunction Act it is provided that a writ of injunction may issue to prevent a corporation from acting or taking any proceeding beyond its powers, or without having fulfilled the formalities prescribed by law or its act of incorporation, and to prevent any corporation from destroying or removing any property belonging to the Crown or in which the Crown has any right or interest. The interest of the Crown in defendants' railway is based upon the payment of the subsidy and the right of inspection and forfeiture resulting therefrom. It has been proved that the defendants received a subsidy of $4,000 per mile, amounting to $172,000, but I feel it is unnecessary for me to discuss whether or no the Crown has, under the particular statutes cited in the petition, the right of inspection and lien claimed, because I am satisfied that whatever lien or rights may, in ordinary cases, follow the payment of sub-

sidy, the Crown has waived them *quoad* this particular railway, by authorizing the company to sell their railway, with all its property, privileges and franchises, to any other incorporated railway company, and particularly by authorizing defendants, by 46 Vic., cap. 97 (1883), without any reserve whatever, to cancel all bonds issued under their Act of incorporation and to issue new bonds to the amount of £135,000 sterling, and, upon resolution of the majority of stockholders, to transfer and convey to trustees the lands, franchises, road-beds and property of the company, with power to the trustees, upon default of payment of principal or interest, to take possession of the railway and property conveyed by said deed and hold the same, free and clear from all liability for other debts contracted by the company; and control and hold the same for the benefit of all the holders of the bonds. Shortly after the passing of this Act the old bonds were cancelled and new bonds were issued under this authority to the amount authorized, and the property of the defendants was conveyed to trustees to secure the payment thereof. A considerable part of the money was paid after this Act was passed and a trust deed executed. Under these circumstances, I think I am justified in arriving at the conclusion that the Crown abandoned any lien it might otherwise have had arising out of the payment of subsidy, and that it has not the interest in defendants' railway which the petitioner alleges it has. But should I be mistaken in this, it appears to me that if any lien or rights still exist in favor of the Crown, they would follow the road into the hands of the Atlantic & Northwest Company, to whom defendants propose to sell it as mentioned hereafter. I do not think the petitioner is justified in complaining that something is about being done that was not contemplated when Government aid was given to this road, for it appears that when additional subsidy was applied for, before the completion of the road, one of the principal reasons assigned for such application was, that the road might ultimately form part of the "Short Line" system. Mr. Colby, then a director of the company, and subsequently one of the corporators of the Atlantic & Northwest Railway company, wrote a lengthy letter to the then Premier of the Province, in November, 1886, in which he pointed out the desirability of the subsidy being increased as much as possible, so that the road might be constructed up to the standard of other roads which it was then contemplated would form part of such system.

He says, amongst other things, "When the Waterloo and Magog road was classified with the less important roads, it was regarded merely as a local enterprise and was subsidised accordingly. I am sure the Treasurer of that day so considered it. But the times have changed, and it seems to me we should not be heedless of the change. Our contract with the Central Vermont will compel that company to improve the ten miles now built according to the exigencies of traffic. But, for what we have yet to build, is it not better that the Government, by increasing that subsidy, should enable us to construct a better road-bed, and for us to at once modify our arrangement with the Central Vermont, so that it will put on a better superstructure? By this means we may have a road which will be equal in all respects to the International, the Stanstead, Shefford and Chambly, and the other roads which will constitute the same line."

So that when the Lieutenant-Governor-in-Council increased the subsidy to $4,000 per mile as authorized by the Act assented to on the 28th of December, 1876 (40 Vic., cap. 3), it was contemplated and expected that this road would serve as part of the great transcontinental highway from ocean to ocean. I am also forced to the conclusion upon the evidence adduced, that the petitioner is equally weak when he stands upon the ground that he represents the public, and that what defendants propose to do is against the public interest. There is no complaint from any of the municipalities through which the road now passes, in fact the municipality of the village of Waterloo has expressed itself through its council, by a resolution which is of record, strongly approving of the sale of the road to the "Short Line," as better means of communication would be provided. And that village, if any complaint could be made, would have the best ground to make it, as

the main line of the "Short Line" does not pass through the village. The defendants are now practically insolvent, the road, which is run by the Central Vermont Railway company under a lease, is in poor condition and the service defective; while there can be no doubt that if it passes into the hands of the Atlantic & Northwest the road will be improved by changing the location where it may be necessary to reduce gradients and lessen curves, a better road will be made and improved service provided, and the public in every respect benefited by the proposed change.

We may now enquire whether defendants really intend departing from their charter, or propose doing anything which they have not been permitted to do by competent authority.

The preamble of the defendants' Act of incorporation shows that they asked to be authorized to construct a railroad from Waterloo in the general direction of Stukeley, Bolton and Magog, to connect with the Massawippi Valley railway, and they were authorized to construct one from Waterloo, or in the direction desired by the company, from any point between Waterloo and the westerly boundary of the township of Magog, thence to the outlet of Memphremagog lake, thence to the town of Sherbrooke, or to such point as should best secure a favorable connection with the Massawippi Valley railway, and defendants were authorized to construct the different sections of the railway in such order as they saw fit, keeping in view the general direction hereinbefore provided. It is not stated that the road should run through any particular townships. The road was constructed running from Waterloo, through the Township of Stukeley, to Magog, the outlet of Lake Memphremagog, and from there to Sherbrooke, following the south side of Little "Lake Memphremagog." Some changes of the line have taken place, but the general course and direction of the railway has not been altered. Mr. Moore, the secretary-treasurer, says that there was never any resolution passed in regard to changing the present location grades, or alignments, or the course or direction, or to destroy or remove the road or appurtenances, nor was the subject ever discussed or entertained at any meeting of directors or shareholders.

Now, the Quebec Legislature in 1881, anthorized the defendants to sell their railway, and the Atlantic & Northwest Railway company are authorized by their charters and by the Dominion Act of June last, to buy it. A resolution was passed by the defendants' directors in June, 1886, in which they set out that the surveyed line of the Atlantic & Northwest railway, if built, would be parallel to the defendants' railway and seriously interfere with its traffic and largely reduce its present value; that overtures had been made to purchase or lease it upon fair and reasonable terms, and that such arrangements wonld be beneficial both to the defendants and to the public. The Hon. Mr. Smith was appointed with full power to sell or lease the road, and to execute the necessary papers, subject to the approval of the shareholders of the company. The shareholders, in July following, approved of the sale, and the directors were authorized to cause an indenture of sale to be executed conformable to one then produced. This did not go through, and it appears that in April last, an agreement was entered into between the Atlantic & Northwest Railway company and Mr. Ross, who is a holder of a very large amount of the bonds so issued by defendants, by which the former company were to buy the road, and, among other conditions, it was stipulated that the Dominion Government should be got to agree to procure from Parliament authority to use the line and to make any changes that might be necessary.

It was said at the argument that it was the opinion of some of those interested that as this road crossed the Grand Trunk railway at Sherbrooke, it was a work for the general advantage of Canada and subject to the legislative authority of the Dominion under section 121 of the Dominion Railway Act, which declares every road crossing the Grand Trunk railway to be such a work and to be subject to Federal authority, and hence the stipulation just referred to, which resulted in the passing of the Dominion Act in June last, giving authority to defendants or to the Atlantic & Northwest Railway company in case it acquired the defendants' railway, to change the present location of the railway at any point or points where it might be necessary

or desirable in order to improve its grades and alignments, or to render its service more efficient, or its connection more convenient with the main line of that company, and upon such change being effected, to remove the rails and materials upon the portion of the present line so diverted, and to discontinue the use of such portions for railway purposes, and declaring the defendants' railway to be a work for the general advantage of Canada. The defendants' railway crosses the Grand Trunk railway at Sherbrooke by an overhead bridge, but whether this is or is not a crossing within the meaning of the Railway Act does not seem to have much bearing on the case, in view of the Act of June last, by which, as already stated, the Federal Parliament declared the defendants' railway to be a work for the general advantage of Canada. Now, this agreement with Mr. Ross has never been ratified by the defendants, but the evidence establishes, and there can be no doubt, that if the proposed sale is carried out the road will not run entirely over the line as now constructed. There will be a railway connection between the village of Waterloo and a point near a place called Foster, about 3½ miles south-east from Waterloo, and from thence the line will run in the same general direction as the present road to Stukely, crossing it between the two points, the distance apart between Foster and such crossing varying from 3½ miles to nothing. After the crossing the projected road runs almost parallel with the present line at a distance of from 500 to 1,000 feet to Stukely. As the new line between Stukeley and Magog has not really been located, it is impossible to say how much of the present line will be utilized, but where it is not used the variation will be less than a mile. From Magog to Sherbrooke the new road will take the same general direction, but will follow the north side of Little Lake Memphremagog, which appears to have been the original location selected, when the subsidy was granted, being shorter and having an easier grade, but changed in order to run into a mining locality, from which it was expected business would be obtained, but from which none is now expected, as the mines have been abandoned. The projected road, Mr. Lumsden says, will be a much better road as far as curves and grades are concerned, and altogether will be a much improved line. It appears to me that, as to its general course and direction, it will be as much the road contemplated by the charter granted to the defendants as the present line, and will fulfil all public requirements in a much more satisfactory manner than the existing road.

If the Dominion Act of June last is constitutional, there cannot be any doubt of defendants' right to do as they propose, but it is claimed that that act is not constitutional, because the Federal Parliament could not declare a road for the general advantage of Canada under section 92 of the B. N. A. Act, 1867, sub. sec. 10 (*a*), for the mere purpose of putting it out of existence. But this act does not put the road out of existence; it authorizes the acquiring road to change the location where it may be necessary or desirable in order to improve its grades and alignments and render its service more efficient.

Apart, however, from this Dominion Act, the Provincial Railway Act of 1869 (sec. 7, sub-section 17), gives the company power to change the location of the line of railway in any particular for the purpose of lessening a curve, reducing a grade, or otherwise benefiting such line of railway, or for any other purpose of public advantage.

Of course this must be done in the manner pointed out by the Act, but as the defendants have done nothing as yet, except to negotiate for the sale of their road, I am not called upon to decide any question as to their mode of proceeding.

Upon the whole I am of opinion that the petitioner, in his quality of Attorney-General, has not the interest, as representing the Crown, or the public, which he claims to have to enable him to maintain this suit; that neither the Crown nor the public will suffer any injury by what it is proposed to do; that the defendants have not done and do not contemplate doing anything they are not authorized to do by competent authority, and I therefore dismiss the petition with costs.

Mercier & Co., for petitioner.

L. C. Bélanger, Q.C., and *H. D. Duffy*, counsel.

J. P. Noyes, Q.C., for defendants.

Wm. White, Q.C., counsel.

SUPERIOR COURT.

AYLMER (District of Ottawa), Nov. 22, 1887.

Before WURTELE, J.

COLE v. BROCK.

Costs—Opposition to judgment.

HELD:—*That the costs to be reimbursed, and for which a deposit must be made on the filing of an opposition to a judgment rendered on default, do not include any fee to the plaintiff's attorney, but include the prothonotary's fee and the law stamp for taxing such costs.*

PER CURIAM.—Judgment was rendered on default by the prothonotary, and the defendant has made an opposition and has deposited $3.80 to meet the costs incurred after the return of the writ up to the judgment.

The plaintiff contends that the deposit is insufficient to meet such costs, as they should, according to her, include, in addition to the items allowed, a fee of $10 for her attorney, and 90 cents for the fee and law stamp on the taxation of the costs incurred; and she has moved that the defendant be required to deposit an additional sum of $10.90, and that in default of so doing the opposition be rejected.

An opposition to a judgment is held to be and is in reality a defence to the action. (C. C. P., art. 490.) It places the parties in the same position as if a plea had been duly filed and no judgment had been rendered. In order, however, to reinstate the plaintiff, all disbursements uselessly made by him should be reimbursed, and a deposit of a sufficient sum is therefore required.

Do the disbursements include any fee to the plaintiff's attorney on the suppressed proceedings? The tariff provides none and on the contrary provides only one block fee for the management of an action. And I find a passage in Pothier's Treatise on Civil Procedure which shows that the opposition to a judgment, being a defence to the action and not a new issue, does not give rise to any additional fee to the plaintiff's attorney: No. 415. "Les oppositions aux jugements "rendus par défaut . . . ne forment "point de nouvelles instances, et par consé- "quent ne doivent pas donner lieu à de "nouveaux droits de conseil."

The article of the Code of Procedure (C.C.P., art. 486,) which provides for the repayment of the disbursements and requires the deposit of a sufficient sum to meet them, also provides that such costs shall be taxed; and this is a proceeding entailing a disbursement which is occasioned by the defendant's fault and must be borne by him. The deposit should, therefore, cover the fee and stamp for the taxation.

I consequently pronounce the following judgment:—

"The Court after having heard the parties by their counsel upon the motion respecting the alleged insufficiency of the deposit made in this cause with the opposition against the judgment rendered on default by the prothonotary and having examined the record;

"Considering that the costs for which a deposit must be made with an opposition to a judgment under article 486 of the Code of Procedure consist only of the disbursements made after the return of the action, and do not include any fees to the plaintiff's attorney, but should include the prothonotary's fee and the law stamp for the taxation of the costs to be reimbursed;

"Seeing that the plaintiff's attorney claims a fee of $10.00, to which he is not entitled, and that the sum deposited was only $3.80, which was and is insufficient to cover the prothonotary's fee and the law stamp for the taxation of the costs in addition to the other disbursements;

"Doth order the defendant and opposant to deposit an additional sum of ninety cents within three days, costs compensated, reserving to the plaintiff her recourse in case of default on the defendant and opposant's part to complete the deposit."

Motion granted in part.

Henry Aylen, for Plaintiff.

Rochon & Champagne, for Defendant and Opposant.

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*COURT OF QUEEN'S BENCH—MONTREAL.**

City of Montreal—42-43 *Vict.* (Q.), *ch.* 53, *s.* 12—*Assessment roll—When it comes into force—Prescription of action to annul.*

HELD:—That an assessment roll comes into force from the date of its final completion,

and deposit by the commissioners in the office of the city treasurer, and the prescription of three months under 42-43 Victoria, chap. 53, s. 12, runs from that date.—*Joyce & La Cité de Montréal*, Dorion, Ch. J., Tessier, Cross, Baby, Church, JJ., May 26, 1887.

Malicious arrest—Probable Cause.

Appellant, a jeweller, desiring to increase his business, obtained advances from respondent, a wholesale dealer, and gave as security a hypothec on his property, on which he declared there were mortgages, but he only specified one of a certain amount. There was really another. Shortly afterwards, the appellant became insolvent, and the respondent arrested him on the charge of obtaining property on false pretences.

HELD:—That there was probable cause for the arrest, though it appeared that the appellant did not intend fraudulently to conceal the mortgage.—*Grothé & Saunders*, Dorion, Ch. J., Ramsay, Cross, Baby, JJ., January 16, 1886.

Cadastre—Omission to enter constituted rent.

HELD:—That an omission to enter in the *cadastre* a constituted rent to represent the former seigniorial rent, cannot be rectified.—*La Corporation Episcopale Catholique Romaine du Diocèse de St. Hyacinthe & The E. T. Bank*, Dorion, Ch. J., Monk, Ramsay, Cross, Baby, JJ., Sept. 21, 1886.

Appeals on questions of appreciation of evidence —Quantum meruit.

HELD:—That where it is not a matter of contract, and no question of law or principle is involved, and the case resolves itself into a mere question of appreciation of evidence, *e.g.* as to the value of services, the Court of Appeal will not disturb the judgment of the Court below, unless a serious injustice has been done to the appellant.—*The St. Lawrence Steam Navigation Co. & Lemay*, Dorion, Ch.J., Monk, Ramsay, Cross, JJ., Nov. 25, 1885.

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* To appear in Montreal Law Reports, 3 Q. B.

Municipal Law—M. C. 932—County Council—By-law of Local Council—Powers of County Council.

A local council passed a by-law which was amended by the county council on appeal. The local council, without new proceedings or any effort to amend, passed a by-law in similar terms to the former by-law, which was then again taken to the County Council on appeal, when the following resolution was proposed and adopted:—"Attendu que la "question en litige sur le présent appel a été "réglée par ce Conseil, en homologuant le pro-"cès-verbal de Louis Parent en octobre der-"nier; et attendu que le Conseil Municipal "de la paroisse de St. David, au lieu de "mettre à exécution le dit procès-verbal et "de respecter la décision de ce Conseil, a "adopté à sa session du 7 avril dernier, un "règlement mettant à néant la dite décision "de ce Conseil;

"Que l'appel porté devant ce Conseil par "requête de Dolphis Lessard et autres, en "date du 12 avril dernier, soit maintenu; et "que le règlement dont est appel, adopté "par le Conseil Municipal de la paroisse de "St. David, à sa session du 7 avril dernier, "ainsi que tous les procédés, ordres et résolu-"tions du dit Conseil Municipal de la paroisse "de St. David, adoptés à sa dite session du 7 "avril dernier, amendant le dit procès-verbal "de Louis Parent, soient, et ils sont par la "présente résolution, cassés, annulés et mis à "néant à toutes fins que de droit, avec dépens "contre Régis Crépeau, père (and four others), "de la paroisse de St. David, qui ont par re-"quête en date du premier mars dernier solli-"cité du Conseil Municipal de la paroisse de "St. David la passation du dit règlement, "savoir les intimés sur le présent appel."

HELD:—That the county council, in thus setting aside the by-law of the local council, acted within its jurisdiction.—*La Corporation du Comté d'Yamaska & Durocher*, Monk, Ramsay, Tessier, Cross, Baby, JJ., Jan. 21, 1886.

GENERAL NOTES.

GUILLY AND GUITTY.—In *Partain* v. *State*, 2 S.W. Rep. 854, the Texas Court of Appeals laid down that the failure of the jury to cross the 't' in the word 'guilty,' does not vitiate a verdict in a criminal case. 'Guilly' the Court could stand, but 'guitty' was a little too much for them; and now sliding back into the beggarly elements of technicality they hold that a verdict which holds the defendant 'guitty' is no better in law than if it were to find him 'giddy.'—*American Law Review.*