The Legal News.

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FOREIGN ENLISTMENT ACT.

In rendering judgment in the case of the *Atalaya*, the Judge of the Vice-Admiralty Court at Quebec directed attention to what he considers a defect in the operation of the Foreign Enlistment Act. The 23rd Section of the Act of 1870 confers upon the Executive authority power to seize and detain a ship and cargo, and upon a Court of Admiralty power to release them and award compensation in costs and damages in respect of their detention. The learned Judge pointed out the absence of an effectual check against the undue procuring of a warrant of search and detention, and further remarked :—"The 23rd Section provides only that if the Chief Executive authority is *satisfied* as to there being reasonable and probable cause to believe in 'equipping,' he may issue his warrant. A perusal of the depositions of Count Premio Real, the Spanish Consul-General, and his detective, will satisfy any reasonable person that there was such cause to be found in them for believing that the *Atalaya* was laden with arms and munitions, 'equipped' in the sense of the Act; and at the same time it is to be observed that the vessel had commenced her voyage, and had she escaped with them, and the slaughter of Spanish loyal subjects been the consequence, there would have been a reclamation from Spain for an indemnity, the responsibility for which would have rested with the Chief Executive authority. His Excellency the Governor-General, therefore, could not possibly do otherwise than issue his warrant. But if the evidence to satisfy the Chief Executive authority was sufficient, which it undoubtedly was, then it is quite certain that the information upon which the Consul-General of Spain acted was most defective, and that his relying upon the erroneous representations of another has been the detention of the *Atalaya* without reasonable or probable cause. If it can be left to a detective, in the working up of what he may call the case, so to influence the political or commercial agent of a foreign country, as to set in motion against a subject of a friendly nation so dangerous an engine of power as the Foreign Enlistment Act, 1870, there must be some deficiency in the enactment. The official correspondence published in the case of the *Alabama*, between Earl Russell, Secretary of State, and Mr. Adams, Ambassador of the United States, shows the danger of tardy action where a vessel escaped, and this case the danger of haste where one was detained. The difficulty thus presented is one of the most serious nature even where neighboring countries are at peace, but in times of internal commotion such as have existed in this country and the United States, or when they are at war, the danger becomes indefinitely magnified. The coasts of the Dominion on the Atlantic extend from Maine to Cape Breton, their line runs along the Gulf and the great estuary of the St. Lawrence, and its border line passes through the St. Lawrence and the Great Lakes, across a continent to the Pacific Ocean, and if from any point communication by the electric wire can procure the seizure and detention of a ship and cargo owned by a subject or a foreigner, there is no amount of loss to which the Imperial Treasury may not be exposed."

IMPERIAL DISTINCTIONS.

The honor of knighthood has been conferred upon Chief Justice Ritchie, of the Supreme Court of Canada. As this distinction has been lavishly bestowed of late years upon our public men, it is not going far to add to the list of knights the highest judicial officer of the Dominion, and we presume that Sir W. G. Ritchie's successors will usually be accorded the same title. But while we notice with pleasure that Canadian Judges are not overlooked in the distribution of Imperial honors, we could have wished that the present list had included the name of one other, than whom none more worthy. We hope that in connection with the proposed changes in our Superior Court, and the creation of a new Chief Justiceship, the omission will be corrected, and that the honor of knighthood will be conferred on the present Chief Justice, whose brilliant career at the bar and long and honorable service on the bench would render such a distinction peculiarly appropriate. Doubtless no one has occasion to care less for such a mark of recognition, for his record lives in the hearts and memories of a

noble profession, and it is equally certain that the learned President of the Court would be far from seeking an honor which can invest with no brighter halo the name of Meredith. But while we refrain from urging claims universally conceded to be just, to a title which, for aught we know, might be distasteful to the recipient, we can hardly notice the investiture of others with this distinction without pointing out what we must regard as an untoward omission.

JUDICIAL CHANGES.

Sir William Young having resigned the position of Chief Justice of Nova Scotia, the vacancy has been filled by the appointment of the Hon. James McDonald, late Minister of Justice. Mr. McDonald has filled the arduous position of Minister of Justice with credit to himself and to the country, and there is no reason to fear that his judicial career will be less honorable.

Vice-Chancellor Blake, of Ontario, has left the Bench, and returns to the forensic arena. His place is to be occupied by Mr. Thomas Ferguson, Q.C.

PRODUCTION OF TELEGRAMS.

In a recent case in England of *Tomline* v. *Tyler* (44 Law Times, 187), it was held by Justices Lush and Manisty, sitting in an election case, that the post-office authorities, who in England have also the management and control of telegraphic correspondence, may be ordered to produce telegrams. Mr. Justice Lush said that "the Legislature, when they transferred the telegrams to the post-office, intended that the public should be just as well off as they were before, when they could always compel a telegraph company to produce the telegrams, just as they could compel any person to produce a letter." This ruling is in accord with the law in Canada and in the United States on the same subject.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, January 31, 1881.

Before JOHNSON, J.

MCLENNAN v. GRANGE.

Costs on dilatory exception—Security for costs.

The plaintiff describing himself as a resident of the United States, the defendant filed a dilatory exception for security for costs. The plaintiff complied with this demand, but refused to pay the costs on the exception. Thereupon the defendant inscribed it for hearing on the merits.

Mr. *Joseph*, for defendant, contended that the plaintiff ought to pay the costs, as he should have declared on the return day of his action, or at least when he received an appearance for defendant, that he would give the necessary security, and thereby save the latter the trouble and costs of such a demand. That it would be manifestly unjust and unfair to defendant, if plaintiff could free himself from the payment of these costs, inasmuch as the defendant was obliged to make a deposit to guarantee the costs of the other party on his exception; and consequently, if the plaintiff can claim these costs so soon as after adjudication, *a pari ratione*, the defendant should have the same benefit.

Mr. *Cross*, for plaintiff, submitted that the costs should follow the result of the suit, and cited in support *Martin* v. *Foley*, 2 Legal News, p. 182, decided by Mr. Justice Torrance.

The COURT sustained the defendant's views and maintained the exception with costs.

Davidson, Monk & Cross, for plaintiff.

Doutre & Joseph, for defendant.

SUPERIOR COURT.

MONTREAL, May, 1881.

Before MACKAY, J.

FAIR es qual. v. CASSILS et al.

Evidence—Action instituted by assignee—Assignee cannot be a witness for himself.

Hon. *R. Laflamme, Q.C.*, produced as a witness the plaintiff John Fair, who had instituted the action in his quality of assignee.

L. N. Benjamin, for the defence, objected, inasmuch as Mr. Fair was "the plaintiff in the "case, and it is not competent for him to be "examined as a witness in his own case; that "the knowledge that he has obtained in con-"nection with the matters in issue can only "have been obtained by him personally in his "capacity as assignee, being the same capacity "in which he brings the suit."

The question was argued and numerous authorities were cited on both sides, the Hon. Mr. *Laflamme* contending that the plaintiff in

this case was not actually a party to the suit, that the creditors were virtually the plaintiffs, and that the assignee was merely acting as their attorney by a special provision of the law.

His Honour, in deciding on the objection, said that without adopting all the reasons contained in the objection of the defendants, he held that a plaintiff cannot under our law be examined as a witness for the plaintiff, in an action brought by himself. Under our law, he explained, the rule of the Roman law, that a plaintiff could not be examined in his own behalf, was still in force, and to be followed in this case. A plaintiff cannot be a witness for himself in his own case, and nothing had been shewn to support such a proceeding. His Honour quoted the case of *Battersby* v. *The City of Montreal*, in which a similar motion was taken *en délibéré* 14 Oct. 1876, and maintained.

Mr. *Laflamme* said this was an important suit, and as there were still some points he would like to urge he would respectfully move, "that seeing the decision rendered this day, the plaintiff declares his intention to appeal from this judgment, and that the case be suspended until an application be made to the Court of Appeals on 11th June next."

Mr. *Benjamin* objected on the ground that the trial was virtually a jury trial, and such being the case the trial must proceed.

Per Curiam. I think this is a case in which I should grant the motion.

Motion granted.

Laflamme, Q.C., for plaintiff.
L. N. Benjamin, for defendant.

SUPERIOR COURT.

Montreal, May 14, 1881.

Before Torrance, J.

Crowley v. Chretien.

Sale—Lesion—Circumstances amounting to fraud. Where part of the price of immoveables consisted of a number of shares really worthless but to which a fictitious value had been affixed by fraudulent means within the knowledge of the transferor, the sale was set aside at the suit of the purchaser.

This was an action to set aside a deed of sale of land made by Crowley to Chretien on the 21st July, 1880. Part of the consideration was two *hypothèques*, one due to the Royal Institution for $3,400, and the other to the Dundee Trust and Investment Co. for $4,500; and the balance of $8,100 was declared by the deed to have been paid to Crowley by the delivery to him of 81 shares in the capital of a corporation called the Silver Plume Mining Company, of the par value of $100 each share.

The complaint was that Crowley had been induced to accept of the shares by *dol* and fraudulent manœuvres on the part of Chretien.

The plea set up litispendence in an action No. 709 hereafter to be referred to, and it was followed by the general issue.

The plaintiff had answered in law to the plea of litispendence, and the decision on the law hearing had been reserved.

Per Curiam. I may as well here dispose of the law hearing by deciding that the plea of litispendence is not made out. Next, as to the merits of the action. The main issue is the charge of fraud brought against the defendant Chretien by which Crowley was induced, he says, to accept of eighty-one shares in the Silver Plume Mining Company for $8,100. This company represented itself to be a corporation, but this Court has already decided that it was not so, by its judgment of date 15th March, 1881. It obtained a place on the stock exchange with a nominal capital of $1,000,000. It had cost its shareholders $15,000. Crowley says that fraudulent means were made use of to make the stock appear to be worth 72½ cents in the dollar, when in reality it was worthless. It is clear that the bargain was based upon the assumption that the stock had a commercial value, and that the quotations at the Stock Exchange were *bona fide*. Chretien is accused of having obtained Crowley's property, for what was not a real but only a nominal consideration, and to have arrived at this result by fraudulent means. There is no doubt in my mind that there was error as to the price in the mind of Crowley, for he imagined that he was obtaining the stock of a corporation regularly quoted on the Stock Exchange and having a commercial value, when no corporation, no *bona fide* quotation and no commercial value existed. Error and lesion as well as fraud are relied upon by Crowley. It was said against Crowley that Chretien was not responsible for the acts of Parent, unless they were immediately connected with the sale at the date of its execution. But Parent received $10,000 of the stock for his

commission. He must have known what the pretended paid-up capital amounted to. His stock was sold to Mr. Baxter, who is proved to have obtained the publication by the *Gazette* of the annual report of the company, and Parent does not know of any *bona fide* purchaser of stock for more than 10 cents, and he must have known that the quotations at 72½ cents were not sincere. Mr. Dorion sells one day at 51 and next day buys at 52. What does it mean? I would refer here to the evidence of Mr. Kinsella, who speaks with discretion, but says frankly that he advised his clients to have nothing to do with the Silver Plume Mining Co. There is no proof of a single *bona fide* transaction in this stock at the Stock Exchange for these prices, or higher Who bought it at 70 or 72? If the purchaser had been Parent himself the case would present no difficulty, and the relations of Chretien and Parent were such that they may be regarded here as one person. He allows Parent to borrow money on these very lots bought from Crowley. There is a remarkable contrast between the statements of Mr. Parent and Mr. Silverman as to the purport of an interview between them as to the disposal of the stock of the S. P. Mining Company. Mr. Silverman represents that Mr. Parent offered to put at his disposal in August or September several hundred thousands of the shares of the Company to be given in exchange to the dupes of Boston and New York for their gold, silver and precious stones. Silverman says he was offered a heavy percentage for his services as agent. Mr. Parent says Silverman is under a misapprehension. But who is likely to have been mistaken? Parent admits he was very much interested in this litigation. We don't know what Silverman's interest was, but he seemed to think that the day of retribution would come, and that though justice had leaden feet she had iron hands. I have no hesitation in saying that looking at all the circumstances of the case, the lesion, and the creation of the Silver Plume Mining Company, its report, and what I believe to be the simulated transactions in the stock, a very plain case of fraud has been made out, and that the deed of sale of date the 21st of July and the deed of lease of same date should be set aside.

E. Barnard for plaintiff.

J. E. Robidoux for defendant.

SUPERIOR COURT.

MONTREAL, May 14, 1881.

Before TORRANCE, J.

ROWAN et al. v. DUBORD et vir.

Wife séparée de biens—Liability for goods bought for her business by her husband as her attorney.

PER CURIAM. The action was against a married woman, separated as to property by judgment of the Court from her husband, to recover a balance of account for goods sold and delivered. The question is as to whether the sale was to her or to her husband.

The defendants object to the form of the action, but I think the objection to be without foundation. The plaintiffs had a number of dealings with the husband in his own name, but in 1877, his wife took proceedings against him to obtain a judgment of separation as to property. Under this judgment, an execution at the suit of the wife was issued, and the husband signed a return of *nulla bona*. Next, on the 1st April, 1878, she gave him a full power of attorney to dispose of her property and administer her affairs, and on the 6th May, 1878, she signed a declaration that she carried on business alone, under the name of Joseph Richard & Co., as a hotel keeper and vendor of wines and spirituous liquors. The husband made purchases from time to time for the business, but it was only in March, 1879, that the plaintiffs discovered the real position of the husband. They had just delivered wines and liquors to the amount of $364.90, and their clerk proposed to Mme. Richard to remove them, when she said they were in the house and she would be responsible for them.

Manifestly the business was the wife's and not the husband's, and the plaintiffs have properly brought their action against her as the principal and the vendee for whom the husband bought. Pothier, Mandat, No. 88. No satisfactory proof is made as to the item of interest, $22.86, which will be struck out, and judgment go for the balance of the account, $221.19 and costs.

De Bellefeutlle & Bonin for plaintiffs.

Prefontaine & Major for defendant.

SUPERIOR COURT.

MONTREAL, May 14, 1881.

Before TORRANCE, J.

LALONDE dit LATREILLE v. PREVOST and divers creditors, and LALONDE et al., petitioners.

Resale for false bidding—Adjudicataire.

Where the adjudicataire has retained the purchase money, under C. C. P. 688, and has appealed from the judgment of distribution, and put in security, a resale for false bidding cannot be demanded pending the appeal.

This was a demand for resale for false bidding. The petitioners set forth a sale of the land in question on the 11th September, 1878, to Jean-Baptiste Jules Prevost for $1,005, which sum he has not paid; that by a judgment of date 31st October, 1878, Prevost was allowed to retain in his hands the purchase money on giving security under C. C. P. 688, which was done; that on the 15th December, 1879, the judgment of distribution was homologated, and no opposition or appeal was made to or from the said judgment within fifteen days; that on the 27th July, 1880, the judgment of distribution was served upon Prevost, who had not yet deposited the moneys; that on the 20th February, 1881, he was ordered, on petition of Henri St. Pierre and the heirs de Beaujeu, to deposit the money collocated in their favour, but he had not yet deposited the money. That petitioners were all collocated by said judgment. Prayer accordingly.

This petition was presented on the 11th March, 1881, and the *adjudicataire* Prevost answered that the petition was ill-founded, because it was presented in the name of different persons collectively, who had different interests; because the heirs de Beaujeu and St. Pierre had been paid their collocation; because petitioner had appealed from the judgment collocating Latreille and Leroux, and given security for the appeal which was now pending before the Queen's Bench, and Latreille and Leroux were the only ones now interested.

It was admitted that the heirs De Beaujeu and St. Pierre had been paid the amounts of their collocation and were now without interest, and that there was an appeal pending before the Queen's Bench.

PER CURIAM. The judgment of distribution was rendered on the 15th December, 1879, and the writ of appeal was dated the 5th January, 1880, and the security bond in appeal was dated the 8th January, 1880, a few days after the fifteen days subsequent to the judgment of the 15th December, 1879. As to the objection which is preliminary in its nature, that the interests of the petitioners are not identical, I see no difficulty on that score. Petitioners cite C. C. P. 691 and 760, and 36 Vic., cap. 14, sec. 5, sub-sec. 3 (Quebec). This statute meets the case of the money being in the hands of the officer of the Court, or of the Treasurer; but, in the present case, the purchaser gave first security for the payment of the purchase money, and next for the condemnation in appeal. The cases cited of *Metrisse* v. *Brault*, 2 L. C. J. 303; *Coutlée* v. *Rose*, 6 L. C. J. 186; *Brush* v. *Wilson* 6 L.C.R. 39; *Hamilton* v. *Kelly*, 15 L.C.J. 168; and *Ex parte Burroughs*, 2 L. C. R. 9, do not appear to me to apply. I think that the appeal having been taken long before the petition, and security given, the resale *folle enchère* should not be proceeded with. The order is therefore refused.

Scanlan for petitioners.

J. O. Joseph for *adjudicataire*.

SUPERIOR COURT.

MONTREAL, May 14, 1881.

Before TORRANCE, J.

LEROUX v. DESLAURIERS, NORMAN, opposant and petitioner, and DUMOUCHEL, *mis en cause*.

Bailiff—Contempt of Court.

A bailiff who proceeds to sell the goods of defendant notwithstanding the fact that oppositions have been filed and that the prothonotary has made an order to suspend proceedings, is guilty of contempt of court.

This case was before the Court on the merits of a rule for *contrainte par corps* against Narcisse Dumouchel, a bailiff of the Court. It was charged against him that acting as a bailiff in charge of a writ of execution against the goods of the defendant, having received oppositions and an order from the prothonotary of the Court to suspend proceedings and make a return to the Court, he, Dumouchel, did with malice and premeditation, illegally and fraudulently, on the 20th November, 1880, sell a sleigh (*voiture*) of the value of $40, belonging

to petitioner, and did sell two other vehicles (*voitures*) of the value of $200, claimed by Dame Julie Cardinal, the whole forming part of 29 vehicles (*voitures*) seized on defendant. It was further charged against Dumouchel that he had not made a return of his proceedings to the Court as he was bound to do by virtue of said orders. It was ordered that he be declared to be in contempt of this Court and imprisoned in the common gaol of this district for the period fixed by the Court unless he showed cause to the contrary. The answer to the rule alleged that the oppositions had only reference to 28 *voitures* whereas 29 had been seized; that in the *procès verbal* of seizure three sleighs with three seats had been mentioned as to which sleighs no opposition had been received and the sleigh in question claimed by the petitioner had three seats; that it was important for the petitioner to give a description identical with that given in the *procès verbal* so as not to lead the bailiff into error, which petitioner could easily have done, as he produced with his opposition a copy of the *procès verbal;* that he, Dumouchel, acted in good faith, and there being no opposition to the sale of the three sleighs with three seats, he addressed himself to the guardian, who gave him the sleighs described in his *procès verbal;* that he made his return into Court and it was mislaid.

Per Curiam. There are three oppositions produced, claiming 29 *voitures* among other things. As to the return by Dumouchel, it is not proved that he is to blame here, for there is credible evidence that he made his return to the Court, though there is no authentic proof of such return. The difficulty is about three sleighs with three seats, which were so described in the *procès verbal* of seizure. One of these belonged to the opposant, Norman, and his opposition claimed *deux express sleighs et six autres* sleighs seized, in all eight, and one of them was an express sleigh with three seats. The order of the prothonotary was that the bailiff should suspend his proceedings and make return accordingly. The opposant, Dame Julie Cardinal, wife of the defendant, claimed seven *voitures* in some detail, and a similar order was given to make his return and the opposants. Sharpe et al. claimed 14 *voitures*, making the 29 seized, and procured a similar order. It appears, therefore, that the oppositions and orders covered 29 *voitures*, which was the number seized. The petitioner calls attention to the fact that though the bailiff in his answer to the rule says there were 28 and not 29 seized, he should have persisted in selling not one, but three *voitures*, and the three opposants claimed the 29 *voitures* each for his share, and the bailiff mentioned the *voitures en bloc* without a description sufficiently particular to allow them to be recognized, and persisted in selling notwithstanding the protests and remonstrances made, and did not await the decision of the Court as to whether the oppositions covered the seizure. It is in evidence that the bailiff being in perplexity took advice, and as he would not see in the oppositions the precise identical articles seized by him, he was advised and he concluded that he could go on to sell. But the Court has carefully examined the description of the 29 *voitures* in the *procès verbal* of seizure, and must ask the question how it was possible for the opposants, the proprietors of these things, to recognize in the vague general description of the goods, the property they claimed. They might have had one thing in their mind, whereas the description of the bailiff in the *procès verbal* meant something entirely different. In a case of doubt the bailiff should have asked for information, or a specific order, and if he acted on his own responsibility, he acted at his peril. Notwithstanding the respectable advice invoked by the bailiff, and I refer to MM. Paradis and Fortier, Dumouchel was very wrong in what he did, and did rashly what was irreparable. The business of the defendant, a carriage maker, and that of the opposants, Sharpe et al. and Norman, might have satisfied Mr. Dumouchel that there was at any rate a colour of right in the pretensions of these opposants, for the vehicles were used by them in their business, and the defendant might and did have them in deposit for repair or safe keeping. The precise amount of the pecuniary loss may be shown by the statement of the witness Deslauriers, who says that the sleigh of Norman sold for $7 was worth about $20, and the two of his wife were worth respectively $80 to $90 and $15, and sold for $45 and $5. The Court sees in the sales made by the bailiff of the three express sleighs with three seats a persistence in a foolish course after remonstrances and warnings given, and he took his course in defiance of consequences. The Court

is called upon to exercise its judgment and discretion in this matter, and has no doubt as to its obligation, though it does so most reluctantly, to declare the rule absolute with costs, and to order the imprisonment of the bailiff Narcisse Dumouchel for the period and term of seven days, and he is condemned to pay the costs of this rule and contestation, and to be imprisoned further until they are paid.

P. Lanctot for petitioner Norman.

A. Mathieu for Dumouchel.

THE WILLS OF EMINENT LAWYERS.

The will of the late Mr. Baron Cleasby is another instance of the fatality which seems to attend the wills of eminent judges and lawyers. The testator, it appears, had only given the trustees power to retain "securities," which it was considered would not extend to certain investments of the testator. It is certainly most strange how exceedingly unfortunate lawyers have been in their testamentary dispositions. Mr. Serjeant Hill's will was so confused, that but for the respect due to the learned Serjeant, it might not unreasonably have been declared void for uncertainty. The will of Sir Samuel Romilly was badly drawn. The wills of Chief Baron Thomson, Chief Justice Holt, Chief Justice Eyre, Serjeant Maynard, Baron Wood, Mr. Justice Vaughan, Francis Vesey, Jr., Mr. Preston, the eminent conveyancer, and Lord Chancellor Westbury, all became the subject of chancery proceedings. Chief Justice Saunders made a devise which puzzled his executors, who were all excellent lawyers. The will of Bradley, an eminent conveyancer, was set aside for uncertainty. The difficulty which arose from the loss of Lord St. Leonard's will is too recent to have been forgotten. But probably the most glaring mistake was made by a late master in chancery, who directed the proceeds of his estate to be invested in consols *in his own name.* —*Law Times, London.*

RECENT UNITED STATES DECISIONS.

Nuisance—Burial Ground.—A burial ground which does not affect the physical health of the occupants of a dwelling house near which it is located, nor their olfactories by any effluvia from the graves, is not in law a nuisance. The human contents of graves cannot offend the senses in a legal point of view. To become a nuisance the graves or their contents must be such in their effect as naturally to interfere with the ordinary comfort, physically, of human existence, and the inconvenience must be something more than fancy, delicacy, or fastidiousness.—*Monk* v. *Packard*, Supreme Judicial Court, Maine.

Contributory Negligence.—The plaintiff, a boy seven years old, while sitting on the sidewalk playing with the dirt, was run over by the defendant's team. The street was forty feet wide in a remote part of the city, and there was no defined sidewalk in the street, and the whole street was used alike by teams and foot-passengers. *Held*, that it was not contributory negligence in the plaintiff to sit upon the street. —*Murphy* v. *Roche*, Supreme Judicial Court, Massachusetts.

RECENT ENGLISH DECISIONS.

Contract—Sale of Machine for particular purpose —Failure to accomplish—Action for price.—The plaintiffs sued the defendants for the price of one of their patent gas machines, supplied by them to the defendants, saying that it was for the purpose of lighting the house of W., a customer of the defendants, asking them to go down and put it up, and telling them they could get all particulars about the house from their (the defendant's) foreman. The defence was that the machine was not reasonably fit for the purpose. It was proved at the trial that the machine failed to light the house; apparently not sending the gas a sufficient distance. *Held*, that the order was given for an undescribed and unascertained thing, stated to be for a particular purpose, and that the manufacturer could not sue for the price unless it answered the purpose for which it was supplied.—*Wright* v. *Cotton*, Court of Appeal, Feb. 19, 1881.

THE BAR SECRETARYSHIP.

To the Editor of the Legal News:

SIR,—I did not intend to notice anything that might be said further concerning the late election for Secretary, but the extraordinary statement made by your correspondent of last week (whose identity is plainly stamped on his letter), that I am ignorant of the French language, cannot of course be disregarded. Not

that it is of the slightest importance to the public whether I can speak French or not, but because it is of the highest importance to me whether or not I am to be considered as ignorant as is thereby implied.

Your correspondent's regret that I was not "appointed" Secretary, the flimsy hypocrisy of which is revealed by the flourish in which he declares "I am not and never will be Secretary," requires no comment; but when he alleges as a reason that I am ignorant of the French language, he indulges in a reckless and ridiculous falsehood. Though strongly averse to making a parade of what little knowledge I possess, I may perhaps under the circumstances be permitted to say that I can now, and could before I came to the bar, some five or six years ago, read, write and speak the French language, not with the fluency of one familiar with it from infancy, but with a considerable degree of ease and correctness; and since my admission to the bar I have, whenever occasion arose examined and cross-examined witnesses in that language, as many of my *confrères* can testify. I venture to assert, also, that I can do either of those things (read, write or speak the French language) better than your correspondent, notwithstanding the assistance he has received from a French professor within no very remote period. Indeed, it would be no very extravagant assertion to make that I can write in French better than your correspondent can write in English, to judge by the composition of his letter. It is an edifying spectacle to see this Nestor of the bar lecturing his colinguists in bad English on the necessity of learning French. In his zeal he grows almost prophetic.

> "Oh, for that warning voice which he who saw
> The Apocalypse heard cry in heaven aloud."

Young men, take warning. Take warning by me and the awful fate which has overtaken me. Study French, even if you have to call in the services of a French professor, and you may one day come to be Secretary of the bar. I wonder, by the way, if the learned counsel gets a commission for preaching up the necessity of French; or, perhaps, as he and his tutor are both professors, they exchange services. That would be a neat arrangement, and inexpensive, and I commend it to the young men, especially those with an ambition to be Secretary of the bar.

I did intend to reveal the name of your correspondent, but I forbear, feeling assured he will have the good sense to acknowledge his error at the earliest opportunity.

Very truly,

C. H. STEPHENS.

[We think Mr. Stephens is under a wrong impression as to the identity of our correspondent. That, however, is a matter of extremely small importance. We gladly afford him the opportunity of correcting the misstatement as to his knowledge of the French language, and with this the discussion may appropriately be brought to a close. It is only fair to add, that in the hurry of going to press with our last issue, a typographical error in "An Advocate's" communication escaped correction—"an English" should have read "was English." With reference to the question of speaking both languages, our experience of 25 years is this: Young French lawyers are so politely desirous to converse in English with their English *confrères* that the latter are seldom permitted to acquire the fluency in speaking a foreign tongue which comes from practice. Moreover, English diffidence is such that an Englishman, while intimately acquainted with French or German, will seldom speak it except from sheer necessity, though if forced to speak it, he would speak more correctly than many French persons speak English. On the other hand, French Canadians, as soon as they pick up a few words of English, make the most of them, and quickly extend their knowledge of the tongue.—ED.]

GENERAL NOTES.

The German Imperial Appellate Court has held the editor and the publisher of a newspaper guilty of publishing obscene writings, for putting the following advertisement in their paper:—"An unmarried gentleman, 28 years old, desires as a companion on a journey to Italy, which will last three or four months, a lady, not too young, with pretty looks. Offers, with precise statement of conditions, accompanied by photograph, may be sent to A.S.S., 299, care of this office. Strictest discretion assured." The Court considered that it was apparent from this advertisement that sexual relations were the object; and, the purpose being immoral, the offence was established, although the words did not appear to be obscene.