The Legal News.

Vol. VIII. JUNE 13, 1885. No. 24.

Among recent acts of dishonesty by bank officials that of Scott, who stole $160,000 in one day, stands out conspicuously. President Baldwin, of the Fourth National Bank, is reported to have said in reference to this case: "There is no way of preventing such thefts, so far as I know. If a bank officer is dishonest and determines to steal, there are no checks that will hold him. It is a matter to which much thought has been given by bank presidents and directors, and there have been many conferences to discuss the possibility of providing further safeguards. No system of book-keeping or supervision human ingenuity has yet devised will prevent theft. How easy it would be for a dishonest teller to put this little parcel in his pocket! You see, it is only about an inch and a half thick, but it contains a million dollars in gold certificates." It is no slight scandal to our modern system of international arrangements that the exchange or surrender of embezzlers and thieves has not been provided for before this. With the most intimate relations of railway traffic, telegraphy, journalism, etc., we still go on affording a convenient refuge for persons fleeing from the justice which would be dealt out by the proper tribunals of the fugitives. Banks and shareholders are deeply interested in terminating this unsatisfactory state of things, and a united effort should be made to adopt an efficient treaty.

Popular opinion does not seem to stand in the way at present. For instance, we find a journal like the *N. Y. Herald*, which usually indicates the feeling of the masses, publishing the following observations:—"The fact that a bank has no safeguard but honesty against theft by its officers is due to the lack of a proper extradition treaty between the United States and Great Britain. As President Baldwin says, a teller may put a million dollars in his pocket and leave the bank after the close of business without suspicion. He goes to the Grand Central depot, takes the evening train and reaches Montreal the following morning. His flight is not suspected nor the stolen money missed until he is safe in Canada, beyond the reach of our criminal process. In this condition of the law it is true that a bank has no protection but honesty against theft, and the ease and certainty of escape present a temptation that is a severe strain on honesty. But with an extradition treaty providing for the surrender of the criminal there would be an effective safeguard against dishonesty. No bank teller will commit a theft to-day which must be discovered to-morrow if he knows that arrest, conviction and imprisonment as a felon in State Prison are certain to follow quickly upon discovery. If embezzlement, stealing, &c., were extraditable offences, the fugitive would no more escape our criminal law in Montreal than in Chicago. We suggest to bank presidents and directors that they urge upon the State Department at Washington, as the *Herald* has long done, the importance of a new extradition treaty with England."

On the result in the Mignonette case the *Law Times* (London) observes:—"The commutation of the sentences passed on Dudley and Stephens marks one of those illogical compromises which seem to be of the essence of English procedure, whether legal or political. The inconsistency of sentencing a man to death with solemn formality on Monday, and mitigating the sentence to a brief term of the mildest form of imprisonment on Saturday, has naturally provoked a good deal of more or less intelligent criticism, and is certainly a proceeding not altogether calculated to exhibit the law in a dignified light. . . . We are far indeed from desiring that the law should depart from its stern indifference to 'extenuating circumstances;' but when the law has discharged its function by adjudging a prisoner guilty, it might well be relieved from the necessity of passing a sentence which there is no intention to execute. A sentence of death is too solemn a matter to be made the subject of a legal fiction."

A case tried recently at Chester assizes before Mr. Justice Stephen deserves notice, as an instance of reconsideration of a case by a jury after a verdict of guilty had been returned. The facts, as stated by the *London Telegraph*, are that a coal agent named McLean had been put upon trial charged with embezzling sums of money belonging to the Lancashire Coal Company. The prisoner's counsel, in a forcible speech, contended that the accounts had only been muddled. The whole deficiencies discovered amounted to £230. The jury found McLean guilty, and the judge commenced to pass sentence, when the prisoner appealed to his lordship to allow him to make a statement. His explanation was that the deficiency was quite accounted for by the fact that three hundred customers had left Birkenhead owing to bad trade, who had not paid him. Several instances were recalled, and the judge said, whether the proceeding was regular or not, he would undertake the responsibility of asking the jury whether, after the prisoner's statement, they wished to hear him (the judge) with reference thereto, and to reconsider their verdict. The jury having decided in the affirmative, his lordship again addressed them, and the jury reconsidered their verdict with the result that they found the accused not guilty, and he was discharged.

The editor of the *Manitoba Law Journal*, whose name appeared in a recent list of Queen's Counsel, does not seem to set too high a value upon the dignity, for he immediately published an article advocating the abolition of the title. The *Law Journal* (London) also thinks the present system of conferring the honour might be improved. "It is an example of the want of independence of the bar," observes our English contemporary, "that the question of precedence should have been left to the Crown to decide instead of being retained under the control of the bar itself. The Lord Chancellor would probably be glad to be relieved of a troublesome and disagreeable duty, and if the bar were to lay down for itself the circumstances in which any of its members may anticipate his seniority, there is no doubt the courts would fully recognize the arrangement. No regret would be felt at the abolition of the anomalous dignity of Queen's Counsel, which is a comparatively modern institution, originating not in any consideration of merit or convenience, but purely in court favor; and the opportunity might be taken of reviving, in a new form, the ancient order of serjeants, if the Crown should be graciously pleased to place that title at the disposal of the bar."

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*SUPERIOR COURT—MONTREAL.**

Inscription en droit—Exception à la forme—Articulation de faits.

JUGÉ:—1o. Que lorsque le défendeur a plaidé une exception à la forme, puis une défense en droit, le demandeur ne peut inscrire en droit avant que l'exception à la forme ait été jugée.

2o. Que l'on ne peut sur une exception à la forme produire des articulations de faits.—*Lachambre* v. *Normandin.*

Enregistrement—Renouvellement—Hypothèque—Collocation—Rang.

JUGÉ:—1o. Que le renouvellement de l'enregistrement d'un titre, dans les délais prescrits, là où le cadastre devient en force, n'est nécessaire que pour les droits réels consentis sur un immeuble, c'est-à-dire, les hypothèques ou autres charges constituant le *jus ad rem;* et qu'il n'est pas nécessaire pour les droits dans la propriété, *jus in re.*

2o. Que lorsque ce renouvellement est nécessaire, s'il est fait, il valide tous les titres qui découlent du titre enregistré, même ceux antérieurs au renouvellement, lesquels conservent leur rang.—*Surprenant* v. *Surprenant*, et *La Cie. de Prêt et Crédit Foncier.*

Election municipale—Cité de Montréal—Contestation—Délai pour contester—Obligation conditionnelle—Avantages matrimoniaux—Gains de survie—Evaluation municipale—Mise en demeure.

JUGÉ:—1o. Que les échevins, pour la cité de Montréal, ne sont, d'après la charte de cette dernière, réellement élus que lorsque sur le rapport du bureau des réviseurs, le con-

* To appear in full in M. L. R., 1 S. C.

seil de la cité a déclaré qui a obtenu le plus grand nombre de votes, et que, par conséquent, le délai de trente jours pour contester l'élection ne commence à courir que de ce jour.

2o. Que tant que l'avènement qui constitue une condition suspensive n'est pas accompli ou défailli, le sort de l'obligation conventionnelle qui s'y trouve subordonné, n'est pas lui-même fixé définitivement; qu'ainsi, une obligation consentie par contrat de mariage en faveur de la femme comme gain de survie, est une obligation dépendant d'une condition suspensive, et que durant la vie du mari cette obligation ne peut être considérée comme juste dette de ce dernier, quand même cette obligation serait garantie par hypothèque.

3o. Qu'un extrait dûment certifié d'un rôle d'évaluation d'une corporation municipale, fait preuve de son contenu, mais n'exclut pas une preuve contraire d'une valeur plus élevée.

4o. Qu'un échevin de la cité de Montréal ne peut invoquer dans une demande contre lui pour manque de qualification foncière, le défaut de mise en demeure suivant la sect. 19 du ch. 51 du statut de 1874, Québec, qu'en autant qu'il peut justifier d'une nouvelle qualification au temps de la poursuite.—*Moisan* v. *Prévost.*

Autorisation maritale—Exception à la forme—Capacité de la femme mariée—Mari aliéné—Autorisation du juge.

JUGÉ:—1o. Que le défaut d'autorisation de la femme mariée pour ester en justice doit être plaidé par exception à la forme, et que cette informalité est couverte par la comparution du défendeur et son défaut de l'invoquer dans le délai de la loi.

2o. Qu'il faut procéder par exception à la forme, même dans le cas où la demanderesse allègue qu'elle est autorisée, et où le défendeur nie le fait de cette autorisation. Un plaidoyer au fond contenant ces moyens sera rejeté sur motion.

—Examen de la doctrine sur l'autorisation nécessaire à la femme pour ester en justice, et sur l'effet du défaut d'autorisation.—*Thomas* v. *Charbonneau.*

*SUPERIOR COURT, QUEBEC.**

Régistrateur — Tarif.—JUGÉ:—Sur taxation de compte de régistrateur pour certificat fourni au shérif:

1o. Que lorsqu'une propriété immobilière affectée par des hypothèques, a été subséquemment divisée en plusieurs lots et cadastrée sous autant de numéros, et qu'il a suffi, dans le certificat, de mentionner les hypothèques en rapport avec un des numéros et de ne faire, pour les autres numéros, qu'un renvoi à cette mention, le régistrateur n'a droit, sous le tarif, de charger l'honoraire de 60 cents que pour le premier numéro et, pour les autres, il ne peut demander qu'un honoraire de 20 cents chaque.

2o. Que dans le cas de l'hypothèque qui résulte du jugement et de l'avis qui l'accompagne, la mention du jugement et de l'avis ne forme qu'une seule mention et ne donne pas au régistrateur le droit de charger deux honoraires.

3o. Que le régistrateur après avoir chargé 10 cents par année de recherches, en vertu de l'item 18 du tarif, n'a pas le droit, sous l'item 15, de charger 20 cents pour chaque acte compris dans ces recherches. (C. S., McCord, J.)—*La Banque Nationale* v. *Noel.*

Saisie—Gardien—Opposition.—JUGÉ:—Que le gardien à une première saisie de meubles ne peut pas demander la mise à néant d'une seconde saisie des mêmes meubles où un autre gardien a été appointé: il ne peut que demander sa décharge ou sa substitution au second gardien. (En Révision, Casault, McCord, Caron, JJ.)—*Lefebvre et al.* v. *Bacon et vir*, et *Howard*, oppt.

Corporation de Québec—Entretien des rues—Dommages.—JUGÉ:—Que l'acte 29 Vict. ch. 57, s. 33, No. 8, en mettant, du 1er novembre au 1er de mai, l'entretien des rues dans la cité de Québec, à la charge des propriétaires riverains, ne permet que contre ceux-ci le recours des personnes auxquelles leur mauvais état a causé des dommages. (C. S., Casault, J.)—*Gallagher* v. *La Corporation de Québec.*

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Paiement—Répétition.—JUGÉ:—Que le paiement du montant demandé par une action et le jugement subséquemment prononcé pour les frais ne font pas obstacle à une demande en répétition du surplus antérieurement payé, et qui avait dès lors éteint la dette. (C. S., Casault, J.)—*Mulholland* v. *Morrison.*

Capitaine — Consignataire —Surestarie—Privilége.—JUGÉ:—1o. Que le capitaine a l'action pour le recouvrement des frais de surestarie dans le déchargement, contre le consignataire qui n'est pas l'agent reconnu de l'affréteur, et qui reçoit les marchandises sous un connaissement, qui, sans plus spéciales indications, porte l'obligation de les livrer au consignataire sur paiement du fret et de toutes les autres conditions de la charte-partie, lorsque, parmi ces conditions, sont la fixation de jours de planche pour le déchargement, et le prix pour chaque jour additionnel.

2o. Que le capitaine perd son privilége sur les marchandises pour le paiement des frais de surestarie, en permettant à l'allège, qui les a reçues, de laisser les côtés de son vaisseau et d'aller compléter son chargement ailleurs. (C. S., Casault, J.)—*Knudsen* v. *Lightbound et al.*

Procédure—Saisie arrêt simple.—Le demandeur, durant l'instance, ayant fait émaner une saisie-arrêt simple contre le défendeur, et produit à l'appui de cette saisie-arrêt la déclaration usuelle, récitant les faits déjà relatés dans son action et réitérant les conclusions d'icelle, le défendeur produisit une exception alléguant litispendance.

JUGÉ: (Sur motion du demandeur pour renvoi de cette exception) que cette saisie-arrêt ne pouvait être contestée que d'après le mode ordinaire, et que l'émanation de la saisie-arrêt simple n'étant qu'une procédure dans la cause originaire, l'exception devait être renvoyée. (C. S., Caron, J.)—*Lavigne* v. *Hébert.*

Carrier—Damages.—HELD:—1. That where the circumstances justify the presumption that a carrier undertaking to convey goods was aware that they were intended for immediate sale, he may be held liable for the loss of profits on such sale, caused by his failure to deliver them.

2. That damages for loss of custom arising from such non delivery are too remote to be held to have been in the contemplation of the parties, and cannot be recovered. (S. C., McCord, J.)—*Behan* v. *Grand Trunk Railway Co.*

Femme mariée—Responsabilité—JUGÉ:—Que la femme propriétaire d'un terrain sur lequel une maison a été bâtie, par suite d'un contrat fait par son mari, en son propre nom, avec les constructeurs de la maison, est responsable du prix de cette maison, parce qu'elle a consenti à sa construction, et que son mari agissait vraiment comme son mandataire—sans le déclarer;—que dans le cas même où son mari ne pourrait être considéré comme son mandataire, elle serait encore tenue, mais seulement jusqu'à concurrence de la plus-value donnée à sa propriété par la dite construction. (En révision, Stuart, Casault, Routhier, JJ.)—*Bélanger* v. *Paquet et vir.*

Dommages—Lien de droit—Le défendeur, en sa qualité de syndic à la faillite d'un nommé Douville, annonça en vente, par la voie des journaux, le fonds de magasin, les livres de crédits, etc., du failli. Le demandeur, se fiant sur l'annonce, se rendit à St-Alban, pour mettre une enchère sur la vente des crédits. Les crédits, ayant en grande partie été collectés avant le jour de la vente, ne furent pas mis aux enchères. Là-dessus, le demandeur poursuivit le défendeur pour recouvrer de lui le montant des dépenses qu'il avait faites pour se rendre à St-Alban. *Jugé:*—Qu'il n'y avait pas de lien de droit entre les parties. (C. C., Caron, J.)—*Dussault* v. *Bedard.*

Corporation—Damages.—Held, That a municipal corporation using the ruins of burned houses to repair a road, will be responsible for the loss of a horse, caused by his treading on a nail that was amongst such ruins. (S.C., McCord, J.)—*Bernier* v. *Corporation de Québec.*

Sale of real rights—Estate situate in foreign country.—The sale of real rights is governed by the laws of the place where the immoveable is situate. A private writing conveying rights of usufruct in immoveables situate in Quebec, is invalid, though executed in Michigan. Such sale should be passed before a notary, and duly enregistered. (S.C., Stuart, C.J.)—*Bélanger* v. *Mann, & Simard,* intvt.

Removal of Land-marks.—The offence of removing land-marks, mentioned in C.S.C., ch. 77, s. 107, can only be committed in relation to boundaries or land-marks which have been legally placed by a land surveyor with all the formalities required by the statute to mark the boundary between two adjoining lots of land. (Crown side, Q.B., Tessier, J.)—*Regina* v. *Austin.*

Action possessoire.—JUGÉ: Que lorsque la possession de deux propriétés voisines n'est pas déterminée et rendue certaine par des marques visibles et fixes, le seul recours de de leurs possesseurs à titre de propriétaire est en bornage, et que l'action en complainte pour empiétements doit être renvoyée. (En révision, Stuart, Casault, Caron, JJ.)—*Lacroix* v. *Ross.*

Procedure.—Contestation of Bailiff's return of service.—Held, Where an exception to the form had been filed within the prescribed delay, based, amongst other grounds, upon the falsity of the bailiff's return of service, that the defendant might, after the expiration of the delay, move for leave to contest the truth of the return without an improbation. (S.C., McCord, J.) *Allan* v. *Arcand.*

Procedure—Summons—Affidavit—Exhibits—Enquête—Faits et articles.—Held, 1. That in the Circuit Court, the writ addressed to the defendant, and not to the sheriff or bailiff, is nevertheless good as being sanctioned by the form given in the Code of Civil Procedure.

2. That the letters "G.C.C.," following the signature of the clerk of the court, are a sufficient indication of the quality of the officer signing the jurat of the affidavit which precedes the institution of a penal action.

3. That, under articles 103 and 141, C.C.P., the plaintiff is bound to file only such exhibits as his action is founded upon and as are necessary to support it, and that the absence of any other exhibit does not prevent him from proceeding with the case and foreclosing his adversary, if the latter fails to plead.

4. That when a plaintiff who has foreclosed the defendant from pleading, gives him notice of enquête for a certain day, and does not proceed on that day, he cannot proceed on a subsequent day without fresh notice to his adversary.

5. That if a party fails to appear upon a rule for *faits et articles*, the interrogatories cannot be taken *pro confessis*, unless the interrogatories as well as the rule have been served upon him. (In review.)—*Paradis* v. *Poirier.*

Habeas Corpus—Emprisonnement illégal.—JUGÉ: Qu'un président d'une assemblée d'électeurs municipaux n'a pas le droit de condamner à vue à un emprisonnement de dix jours dans la prison commune, une personne qu'il allègue avoir troublé la paix publique pendant telle assemblée; que telle commission à vue, d'une personne, n'est pas autorisée par l'article 301 du Code Municipal, et qu'elle sera cassée et annulée sur requête pour *habeas corpus.* (C. S., McCord, J.)—*Ex parte Trepanier.*

Billet promissoire—Privilége du bailleur de fonds.—JUGÉ: 1. Que le paiement du prix de vente d'un immeuble par un billet promissoire auquel l'acquéreur n'est pas partie, avec réserve, par le vendeur, de son privilége de bailleur de fonds pour le cas où le billet ne sera pas payé à son échéance, ne fait pas du privilége un accessoire du billet, et que la cession de celui-ci ne transfère pas le privilége.

2. Que le privilége de bailleur de fonds ne peut pas être transporté divisément du prix de vente comme sûreté du paiement d'un billet promissoire auquel l'acquéreur n'est pas partie.

3. Que le transport d'une hypothèque ou d'un privilége de bailleur de fonds, pour saisir le cessionnaire, doit être enregistré et copie du transport laissée à celui-ci. (En révision, Casault, Caron, Andrews, JJ.)—*La Banque de Québec* v. *Bergeron.*

APPEAL REGISTER.—MONTREAL.

June 10.

Davidson & O'Halloran.—Judgment confirmed.

Bougie & Symons.—Judgment confirmed; Monk and Tessier, JJ., dissenting.

Molleur & Pinsonnault.—Judgment reformed; Tessier, J., dissenting.

Pinsonnault & Molleur.—Appeal dismissed; Tessier, J., dissenting.

The Court adjourned to September 15.

COUR DE CIRCUIT.

MONTRÉAL, 6 mai 1884.

Coram JOHNSON, J.

EAGER v. LAJEUNESSE.

Maison de jeu—Prêt d'argent destiné au jeu—Droit d'action.

JUGÉ: *Qu'une personne tenant une maison de jeu et qui ayant quelque intérêt au jeu, prête à une de ses pratiques jouant aux cartes pour de l'argent, dans son établissement et sous ses yeux, une somme qu'elle sait être destinée au jeu, n'a pas d'action en justice pour le recouvrement de cette somme.*

Le demandeur réclamait par son action, le remboursement de la somme de $55 par lui prêtée au défendeur.

A l'encontre de cette action, le défendeur a produit la défense suivante:

Qu'il ne doit rien au demandeur.

Que celui-ci tient une maison de jeu dans la cité de Montréal où il permet et tolère qu'on joue aux cartes pour de l'argent.

Que le défendeur jouant un jour aux cartes pour de l'argent chez le demandeur et ayant perdu au jeu une somme considérable, emprunta au demandeur la somme de $55 pour continuer à jouer.

Que le demandeur savait que le défendeur jouait aux cartes chez lui lors dudit prêt; qu'il savait aussi que ladite somme était destinée à permettre au défendeur de continuer à jouer, malgré les pertes qu'il avait déjà faites. Et pour ces raisons, le defendeur concluait au renvoi de l'action.

Il fut prouvé à l'enquête que le demandeur devait être indemnisé par les joueurs, pour leur permettre de jouer aux cartes dans sa maison et qu'il avait même un intérêt pécuniaire dans la partie que jouait alors le défendeur.

Et la cour, s'appuyant sur l'art. 1927 du C. C. renvoya l'action du demandeur avec dépens.

Action renvoyée.

Curran & Grenier, procs. du demandeur.

Robidoux & Fortin, procs. du défendeur.

(J.G.D.)

SUPREME COURT OF CANADA.

Malicious prosecution of civil suit—Damages—Prescription.

On the 7th July, 1868, the Council of the City of Montreal passed a resolution authorising and directing proceedings to be instituted for the purpose of staying all proceedings of the commissioners appointed under 27 and 28 Vict., ch. 66, and of having the Commissioners (of whom the respondent was one) removed as having forfeited their obligations as such Commissioners. A petition was then presented to one of the Judges of the Superior Court of the Province of Quebec by the Corporation of the City of Montreal, setting forth certain charges of venality and corruption against the respondent, and praying for the removal of the respondent from office. By a judgment of the Superior Court, rendered 17th September, 1870, the respondent was exonerated from the charges of improper conduct, but he was removed from office for another cause which on appeal was declared by the Court of Queen's Bench, and subsequently by the Privy Council, to have been insufficient and unfounded. The respondent in May, 1871, instituted an action against the Corporation, setting forth the above facts, and alleging that the proceedings in the courts had been instituted maliciously and without probable cause, and that the effect of the proceedings had been to injure him seriously in his profession. The City of Montreal pleaded, among other defences, that the action was for libel, and was barred by articles 2262 and 2267 C. C.

Held (affirming the judgment of the Court of Queen's Bench, Montreal, 7 Leg. News, 155, Fournier, J., dissenting), that the action of damages was well founded, and that as the proceedings complained of were only terminated upon the delivery of the judgment of the Superior Court, whereby the plaintiff was exonerated from the calumnious charges, prescription did not begin to run before the date of said judgment, and the action was not barred by articles 2262 and 2267 C. C.—*City of Montreal* (deft.) appellant, and *Hall* (plff.) respondent.

COUR DE CASSATION, FRANCE.

PARIS, avril 1885.

MOUNEAU v. DEMOURY.

Responsabilité — Etablissements insalubres — Nuisance—Dommages.

JUGÉ:—*Que le propriétaire d'un établissement insalubre et nuisible est responsable des dommages qu'ils causent aux propriétés voisines, alors même qu'il est régulièrement autorisé de maintenir cet établissement.*

La cour d'appel avait condamné Demoury à raison du préjudice causé à la propriété du sieur Mouneau, par une briquerie voisine, non seulement à des dommages-intérêts, mais encore, pour faire cesser le préjudice constaté, avait prescrit d'autres travaux que ceux déterminés par l'arrêté d'autorisation du Conseil de préfecture de Seine-et-Oise.

Le sieur Demoury se pourvut en cassation. Par application de l'article 1382 du Code Civil, la Cour de cassation, chambre des requêtes, a rejeté le pourvoi du sieur Demoury contre un arrêt de la cour de Paris rendu au profit de Mouneau.

Il est de principe que les établissements insalubres et incommodes, alors même qu'ils sont régulièrement autorisés, n'en sont pas moins responsables des dommages qu'ils causent aux propriétés voisines. Il s'en suit que les tribunaux judiciaires sont compétents soit pour fixer les indemnités dues aux tiers lésés, soit pour prescrire les mesures propres à faire cesser le préjudice, pourvu qu'elles ne soient pas en opposition avec celles prescrites par l'autorité administrative dans un intérêt général. (*Rapport de Mtre Louis Albert.—Journal de Paris.*)

LAWYERS' LIBRARIES.

Charles O'Conor's library was lately sold at auction by the Messrs. Leavitt, of New York. They issued a sumptuous catalogue of one hundred pages. It affords a curious study, and we suppose that it illustrates the growth and decline of the law library of every practicing lawyer who attempts to accumulate a large number of books. There is a period of prosperity in the history of every such practitioner, when money comes in rapidly; when he feels every day an eager love for his profession and a desire to know more and more of its literature. During this period, book-buying goes on in a lavish manner. Then comes a period of satiety, he begins to tire of the mere accumulation of books. In fact he tires of reading books. He has learned by thorough experience, that new books do not necessarily embody new ideas, and that while some new things come along with new books, such books are, for the most part, mere compilations, mere repetitions of old things, the mere ringing of new changes upon old and worn out ideas. He even finds that this is true to some extent with judicial reports. His experienced eye will run over the head notes of a whole volume of reports without detecting one thing that is really new. And then the reflection really takes hold of him, "What is the good of this unending repetition? In what manner is learning increased by this piling of instance upon instance and dictum upon dictum?" Once in a while a grain of of gold is discovered in this mass of drifting sand—a kernel of wheat in the bin of chaff. And he clings to the idea that he will keep up his sets of reports, because these furnish the original evidences of the law; and besides, the money will not be thrown away, because reports in full sets are always valuable property. And so he goes on for a while keeping up his sets of reports, even after their contents have ceased to have much interest for him. Finally he retires from practice. His professional income has ceased, and he finds himself obliged to live upon his investments. At this stage of his career he seriously inquires whether he can afford the strain necessary to keep up his sets of reports, and he is apt to conclude that he cannot. The *dénoûment* often is, that, after he finds himself pressed for the means of living, his whole accumulation of books goes to sale during his lifetime. Although they have become useless to him, he clings to them with an affectionate tenacity; and so they go by piece-meal into the hands of the second-hand dealer to meet particular financial exigencies. If, however, he retires on a good income, as Mr. O'Conor did, he clings to them to the last, and they go to sale in the hands of his executor.

These reflections are singularly verified by this catalogue of Mr. O'Conor's library. It contains very few recent works or recent editions. The Alabama Reports, for instance, end with volume 13. Of the American Reports

there are but 33 volumes. The Arkansas and the California Reports, each end with volume 19; the Connecticut Reports end with volume 32: and so on through the State reports. The same is true of text books. Indeed, Mr O'Conor seems to have desisted from the general policy of book-buying about the year 1866. It is worthy of mention, however, that his appetite for law journals and law reviews lived to the last. He was a subscriber to the *Albany Law Journal*, published in his own State, until his death. He took the *Southern Law Review* during the entire existence of that periodical. He held on to the *American Law Review* until the year 1880, and bound his volumes of it in half calf. The writer of this article, while editing the *Southern Law Review*, had one or two courteous letters from Mr. O'Conor. Something had been said in favor of a stand which he had taken on some important public question, and he wrote to express gratitude for what the editor had said, and said he valued highly the good opinions of his professional brethren. On another occasion we wrote to ask him to send us an article on an important question, partly legal and partly political. His reply was, in substance, that he was past the period of active work, and he told us facetiously, that we might put him in the necrology. He had just passed through a period of illness so severe that nearly every editor in the country had taken down his encyclopedia and written up his biography *de bene esse*. But he lived ten years after that, an honour to his country and to his time.—*The Central Law Journal.*

PHEASANTS AS A NUISANCE.

The decision in *Farrer* v. *Nelson*, noted in this week's Notes of Cases, will serve as an historical record of the ideas of sport obtaining in the nineteenth century. Four hundred and fifty pheasants had been 'turned down' in a coppice, by the owner of the shooting, for the purpose of being butchered by himself and his friends. The crops of the farmer of the adjoining land were considerably injured, and he brought an action in the County Court for the damage done. The County Court judge held that he was entitled to recover, and the Divisional Court have upheld the decision. It is curious that no reported instance of a similar claim is to be found in the books. In Coke's reports it is laid down as decided that if a man makes coney-burrows on his land, to the increase of coneys in so great number that they destroy his neighbour's crops next adjoining, his neighbour cannot have an action on the case against him who made the coney-burrows, because, the report goes on to say, so soon as the coneys come on his neighbour's land he may kill them, for they are *feræ naturæ*. The possibility of animals *feræ naturæ* being caught and brought on land was undoubtedly not present to the mind of a man of Lord Coke's day. The natural increase of rabbits or pheasants may be kept down by ordinary means, but the 'turning down' of pheasants for the amusement of the sportsman of our day may amount to a legal nuisance. Locusts are *feræ naturæ*, but if a man had a fancy for letting them loose in his garden he could not complain if his neighbour made him pay for what they ate on his side of the fence. The question of legal liability appears to be a matter of degree.—*Law Journal* (London).

NEW PUBLICATIONS.

In Memoriam.—George Etienne Cartier. By G. W. Wicksteed, Esq.

This is a reproduction in book-form of an article contributed by Mr. Wicksteed to a daily journal, on the occasion of the unveiling of the statue of the late Sir Geo. E. Cartier. It also contains some verses by a French writer on the same subject, with a metrical translation by Mr. Wicksteed. The little work concludes with the National Anthem composed by the same gentleman, a production which received the commendation of Lord Dufferin.

Fallacy of the Insolvency Laws, and their Baneful Effects. By Thomas Ritchie.

The author of this pamphlet is President of the Belleville Board of Trade. It is a series of letters which are said to have been offered for publication to leading journals, but which were refused insertion. The writer takes strong grounds against insolvency legislation. He says, "Have stringent laws for the punishment of the fraudulent person and the wrong doer, but banish forever all laws which give occasion to, or encourage fraud and oppression."

The Elector's Political Catechism.—Compiled and adapted by Richard J. Wicksteed.

In a pamphlet of 24 pages Mr. Wicksteed seeks to give useful information to electors, the object being to fit them for a more intelligent exercise of the franchise. The form of a catechism is adopted, the authorities upon which the answers are based being referred to at the end of the work. We can hardly assume that candidates will be content to leave the instruction of the elector's mind to Mr. Wicksteed, but we trust that this useful effort will not be without its salutary influence.