The Legal News.

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THE JUDGES OF FRANCE.

A cable despatch from Paris, of date June 13, states that in consequence of the action of the Chamber of Deputies on the previous Saturday in voting the abolition of the irremovability of judges and in favor of the principle of electing judges, M. Humbert, Minister of Justice, tendered his resignation. President Grévy refused to accept it. M. Humbert then asked leave of absence for a month.

The *N. Y. Herald*, in a paragraph referring to this intelligence, gives some information concerning the judiciary of France. It states that hitherto the judicature has been recruited from among the wealthier classes. It was regarded as an honor to be a judge or *procureur* (public prosecutor), and men of property were willing to pay highly for it. No French judge could live on his salary. The highest—that of the President of the Court of Cassation—amounts to $5,000 only, and out of this the President has to pay his clerk or secretary, and he is expected to keep up a costly establishment in order that he may entertain his brother judges, Cabinet Ministers and other eminent people. In country towns a judge of first instance receives $460 a year, a president of a court of first instance $600, and a councillor of a court of appeal $800. The presidents of the twenty-four courts of appeal are paid more liberally, for they get $2,800; but they keep up considerable state, for they have to return the hospitalities of prefects, generals of division, mayors and other officials, besides giving dinners to the Bench and Bar of their jurisdiction. There is no evading this obligation, which is imposed by an etiquette which has almost force of law, insomuch that a man cannot accept the office of president of a court unless he have a good private income. But the councillors of courts of appeal are heavily taxed too. Each in his turn is appointed to preside over the assizes in the large departmental towns, and for doing this he receives a fee of $100, whether the assizes last one day or twenty. The travelling president with his clerk and servants puts up at a hotel; he must hire a carriage and pair to pay his official visits, and unless he would pass for a niggard he must give a series of dinners. At the close of the assizes he holds a grand levée, at which all the officials of the town and all who have anything to do with the assizes, even to the forty jurymen summoned for the occasion, pay their respects to him and eat and drink at his expense.

The present bill proposes to abolish all courts of first instance except in the chief towns of departments; to reduce the number of councillors of courts of appeal, and to enlarge the jurisdiction of the *juges de paix*, who would be raised to about the same status as English county court judges, besides having enlarged powers in criminal causes. There is at present one *juge de paix* in each canton—that is 1,620 in the whole of France—and their salaries vary between $600 and $1,200. They may adjudicate upon petty offences, such as trespass and minor kinds of poaching, which do not entail more than two days' imprisonment or a fine of more than $5; and upon civil cases about sums not exceeding $50. But if they be commissioned to deal with cases of *flagrant délit* involving sentences of three months, and with civil disputes concerning sums of $200—if, in fact, most of the business of the abolished courts of first instance be thrown upon their hands—their labors will be considerably increased and they will have to be paid more suitably. Hitherto the office of *juge de paix* has not been fraught with any great prestige, and some time must elapse before there is enough change in this respect, owing to the enhanced importance of the post, to attract men of position. On the other hand government will not find men of acquirements sufficient to make good *juges de paix* willing to go and live in *chefs-lieux de cantons* which are often mere villages, and to work very hard all the year round, for $600. Even if men were found to accept the posts on such terms, they would form a very unsatisfactory class of officials; for unless they were known to have private incomes they would be sure to be suspected of taking bribes. Until now the *juges de paix* have generally been retired country notaries, who accepted the office because the work was easy, gave them a little authority in their cantons, and led after a time to their being decorated with the Legion of

Honor. In future they will have to be men in the prime of life; and it will hardly be possible to get men of this class for less than $1,200. The saving which may be effected by dismissing about three hundred judges in a hundred courts of first instance will therefore be more than set off by the cost of increasing the salaries of *juges de paix*. Indeed, it is probable that some of the last named magistrates residing in districts where the work is very heavy—as in the Paris arrondissements, which rank with cantons—will get $2,000 to $3,000 a year; and as the old *juges de paix* will be superseded, the first effect of the reform in the judicature will be to place 1,620 decently paid posts at the disposal of the government for distribution among struggling *avocats* belonging to the *bourgeoisie*.

THE BAR OF MANITOBA.

Manitoba, after the fashion of rapidly developing territories, has had a large influx of lawyers from the older sections of the country, especially from Ontario. Those who had possession of the field naturally sought to impose some restrictions upon the new-comers, and an examination was made obligatory. This, it is said, brought about the curious anomaly in some cases of practitioners from Ontario being compelled to appear before their old pupils, for an examination into their fitness for practice. Legislation was asked to smooth the path to practice, but the Manitoba bar contrived that they should still hold the key to the position. A correspondent, who is a member of the Quebec bar, tells us the end of the controversy in the following words:—

"The final act in the legal farce was the most farcical of all. Those who had been loudest in their denunciations of the Law Society, when they found they had outwitted themselves by the working of the new bill, petitioned the benchers to admit them on a nominal examination. This request was favorably received, and the seventy and seven were admitted after an easy oral examination. The swearing in process then commenced. The Chief Justice, with a grim sense of humor, made the candidates stand in a row around the Court-room like school-boys in a class. There were Queen's Counsel learned in the law, jurisconsults of wide Canadian reputation, authors of profound legal treatises, and stern examiners of the Ontario Law Society, standing in line, toeing the mark, with humbler members of the Bar, briefless barristers anticipating a rush of practice, and youthful attorneys looking forward to a large *clientèle*. As soon as the line was formed and the roll called, Bibles were produced, and the candidates formed with military precision into groups of six, each group holding one Bible. The clerk of the Court then read the oath of allegiance, which was sworn to by each kissing the Bible in turn. The barrister's oath was then taken in the like fashion. The attorneys were next called up, and the oath of allegiance and the attorney's oath administered to them also. Those who were admitted both as attorneys and barristers took the oath of allegiance twice, the Chief Justice dryly remarking that it would do them no harm to take the oath every five minutes of the day. The legal corps were then dismissed to the ante-room to sign the barrister's roll, which terminated the proceedings."

NEW TRIAL.

An unusual ground for granting a new trial was lately sustained by the St. Louis Court of Appeals. A prisoner convicted of murder is to have the advantage of a new trial on account of the ignorance, stupidity, and gross blundering of his counsel, Mr. A. A. Bradley. The St. Louis requirements from aspirants to the legal profession must be extremely moderate, or it would not be possible for the Court to say of one who has satisfied them: "In looking over this record we find in the performance of the counsel for the defendant an exhibition of ignorance, stupidity and silliness, that could not be more absurd or fantastical if it came from an idiot or lunatic." This censure might be thought unduly severe, but unfortunately, Mr. Bradley having since rushed into print in the newspapers, all doubt as to his "ignorance, stupidity, and silliness" is at once dissipated, and the reader is fully disposed to concur with the Court in thinking that "the prisoner here in effect went to his trial and doom without counsel."

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, June 15, 1882.

Before MACKAY, J.

BEAUVAIS v. LANTHIER et al.

Louage d'ouvrage—Want of Terme.

PER CURIAM. The plaintiff complained of the non-delivery of a *manteau*. It was alleged that in September, 1880, this *manteau* was delivered to defendants, to be finished on or before the 24th of November; and that there was also a muff to be delivered for $17. The sum of $89 was to be payable by plaintiff on delivery. The sum of $100

is claimed for inconvenience and damages, owing to non-delivery, and the conclusions are that defendants be held to deliver, and in default to pay $150 for value of the *manteau*, and $100 damages.

On the 5th of February, 1882, pleas were filed by the defendants, alleging that it took time to find the necessary materials; that the dyeing took time, and failed several times; that no time was fixed for the delivery of the articles, and that the defendants offered back the *manteau* during the delays, but the plaintiff preferred to let the defendants continue to hold them; that the things had been delivered in time to serve this winter, a few days after service of the writ; that the action was malicious; that defendants were not put *en demeure* before suit; and the plaintiff had another *manteau* of the defendants all the time, and the plaintiff's *manteau*, as delivered to defendants, was not worth over $50.

The plaintiff answered specially that a term (24th of November, 1880,) was fixed for the return of the *manteau* and the muff; that the *manteau* alleged to have been lent to the plaintiff was only a dolman, delivered about or just before, 1st January, 1881; that at the end of 1881 the plaintiff had to hire from Brahadi for the winter of the end of 1881; that defendant's plea is in several respects in bad faith; and that just before suit, there was a new putting *en demeure* of the defendant.

Even the defendant's admissions show that there were enquiries in the fall of 1881, even before—evidently about Ste. Catherine, 1881—and that plaintiff was excited about the delay. At the end of the first year the plaintiff agreed to defer till the following summer the dyeing of the *manteau*, says the witness Belair, so that during the winter of the end of 1880, and first months of 1881, the plaintiff was without grievance, and about Christmas, 1880, or before New Year's Day of 1881, the plaintiff wrote and borrowed a *manteau* from defendant. Then about Ste. Catherine, 1881, says Belair, a visit was made by plaintiff to defendant, and even then there was no promise for a fixed day. The defendant offered back the *manteau* as it was, but the plaintiff left it with defendant.

It is certain that in November, 1881, another enquiry was made, and the defendants answered that it would be delivered as soon as possible. On the 14th January, 1882, the *manteau* was delivered. There was no real putting *en demeure* before suit. On these facts the Court is of opinion that the plaintiff has not proved any right to have damages against the defendant as asked. It is not proved that the *manteau* was delivered to the defendant under promise by him to finish its alterations by the 24th of November, 1880; no term was ever agreed upon; and at the end of 1880, the plaintiff agreed to defer till the following summer the dyeing of the *manteau*. From Ste. Catherine, 1880, to January, 1882, though plaintiff asked for the *manteau*, no day was agreed upon for its delivery. The plaintiff might have notified the defendant and have enforced demand for delivery, but he did nothing of the kind. The action must therefore be dismissed with costs.

The judgment is as follows:—

"Considering that plaintiffs have not proved their allegations material of declaration;

"Considering that plaintiffs have not proved their right to have damages against defendant as asked;

"Considering that they have not proved that the *manteau* referred to was delivered to defendant under promise by defendant to finish its alterations by the 24th of November, 1880;

"Considering that no *terme préfix* was, ever;

"Considering that at end of 1880, plaintiffs agreed to defer till the following summer the works, particularly the dyeing of the *manteau*, fur;

"That from Ste. Catherine, 1881, to January 1882, though plaintiffs asked for their *manteau*, it was not agreed upon for a fixed day afterwards for its delivery, but the *manteau* was left with defendant without particular term fixed for its delivery back to plaintiff;

"Considering that the *manteau* has been returned to plaintiffs;

"Considering that the contract of hiring referred to in plaintiff's declaration was without fixation of *terme*, and that the plaintiffs after the contract of hiring of defendant, never intimated before this suit determination and resolution to rescind the contract, with positive demand back of the *manteau* referred to; that he might have notified of such a resolution, and made such a demand, and even enforced it before this suit, had he pleased; but he did nothing of the kind. Action dismissed.

Longpré & David for plaintiff.

Trudel, Charbonneau, Trudel & Lamothe for defendant.

SUPERIOR COURT.

MONTREAL, June 15, 1882.

Before MACKAY, J.

LEMONIER v. CHARLEBOIS.

Sale—Acceptance—Proof by parole testimony.

PER CURIAM. This is an action of assumpsit, for the price of a barrel of wine. The price was over $50, namely, $110, but the Statute of Frauds as carried into our Code, does not say that the acceptance of the goods must be proved by writing. The defendant denies that he ever bought the wine from the plaintiff. But there was a sale and delivery of the wine. What was the conduct of Charlebois after the delivery? It is true that he sent a person to say that he did not want the wine, but afterwards he dealt with it as owner of it. This is proved to the satisfaction of the Court (as in England it would have to be proved to the satisfaction of a jury) by his offering to sell the wine. In the case of *Blenkinsop* v. *Clayton*, it was held that where a person who has contracted for the purchase of goods offers to resell them after delivery, whether this was an acceptance was a question for the jury. The acceptance need not be in writing, but may be evidenced by acts, &c. Here the defendant thought there could be no proof of the sale, and the Court was at first disposed to think that he must go free; but though there can be no proof by parol of a sale there can be proof of acceptance after delivery, and the defendant is bound. The plaintiff has proved the sale alleged, the delivery to defendant, and his acceptance. It is proved by Lacan that the defendant told him that he had bought the barrel of wine for $110, and offered to sell him the half, and pressed him to buy. Where the buyer has accepted after delivery to him, the seller need show no writing. The plaintiff will, therefore, have judgment.

Barnard, Beauchamp & Creighton for plaintiff.
Vanasse & Mackay for defendant.

SUPERIOR COURT.

MONTREAL, May 31, 1882.

Before JOHNSON, J.

HENDERSON et al. v. MCSHANE.

Charter party—Interpretation of contract.

PER CURIAM. The plaintiffs are shipowners in England, and they bring this action against the defendant to recover the difference between the freight they were able to get for their ship, the "Emblehope," and the freight they would have got if the defendant had kept his contract under a charter party between them; that is to say, the hirer being obliged to pay for the whole ship, he is called upon now to pay for so much as is empty—or for what is called dead freight.

The defendant raised a variety of pleas, most of which are not now insisted upon; but upon the fourth plea, a question more of fact than of law presents itself for decision. By this fourth plea it was said that the charter party stipulated for the arrival of the vessel here in the port of Montreal at the opening of the navigation of that year.

The answer to this plea is that the vessel arrived at the time meant and contemplated by the contracting parties; that there was no fixed or express time; and that her arrival here was calculated with reference to the time of departure of the other vessels that had been chartered, and that were to leave here in succession. This appears a reasonable meaning to put upon this agreement, sufficiently accords with the averment in the declaration, which is not that the vessel was to arrive, as is stated in the plea, at the opening of the navigation, nor yet exactly what is stated in the charter party, which is as follows: "Between the opening of navigation 1879, and thereafter to run regularly and with all despatch between Montreal and London; and to be despatched from Montreal in regular rotation with other steamers under charter to the same charterers, up to the 1st October, 1879." What the parties apparently intended was, that as there was to be a succession of cargoes, the ships should arrive at convenient times. In point of fact, one of them arrived on the 17th May, another on the 18th, and the third—the one chartered in the present case—on the 5th of June. But as regards this particular vessel, there was no agreement that she was to arrive by any particular day, nor even at the opening of navigation. The understanding was with reference to cargoes succeeding one another between the opening of navigation and the last shipment in October; and Mr. Shaw, in his evidence, says the ship arrived about the time she was expected. Therefore upon this point, I am against the defendant, and this is really the whole case; for the points

raised by the other pleas were abandoned, and the evidence of the demand is complete in all other respects.

Abbott, Tait & Abbotts for plaintiff.s

Kerr, Carter & McGibbon for defendant.

SUPERIOR COURT.

MONTREAL, December 10, 1881.

Before MACKAY, J.

Ross et vir v. Ross et vir.

Executor—Administration—Grounds for removal from office.

PER CURIAM. The defendant, Alice Louisa Ross (Mrs. Thayer), is sued as sole surviving executrix of the will of the late John Ross, in an action to have her turned out of the executorship and compelled to render an account of her executorship.

The plaintiff (Mrs. Joseph T. Kerby) is a daughter of John Ross; he died in 1863, leaving a will of date 1861. In 1865 the defendant Alice married Dr. Thayer. The declaration charges that she has, since her marriage, been managing the executorship by attorney—namely, by her husband—to whom, in violation of law and of John Ross' will, she has given a power of attorney. The declaration accuses the defendant of waste, improper charges against the plaintiff, for alleged expenditures and percentages; also it charges that the defendants have contrived bonuses to themselves on leases granted to people, not stating them to the plaintiffs in any way, so that plaintiffs only became aware of it within the six months next before the suit; that the defendants have made improper lease of some of the real estate for mere nominal rent to one Miss Cressy, when a large beneficial rent was procurable, and even offered for it, &c.

The pleas are the general issue—and not guilty; faithful administration by the defendant, with renderings of true accounts with which plaintiffs have from time to time declared satisfaction.

At the *enquête*, Foley says that he is tenant of part of the Ross property on McGill street. He has a lease from Miss Cressy after negotiating for it with Dr. Thayer, acting for Miss Cressy. He never saw Miss Cressy till the lease was being signed. He paid $250 in advance on the rental of $500 a year. While the building was going on nominally for Miss Cressy, and meant for Foley's occupation, Dr. Thayer was superintending half a dozen times a day. Thayer knew that Foley would have given $300 a year for the lot vacant, but he refused. Miss Cressy says she leased the lot because nobody would take it. Starnes swears that he also offered Thayer $250 a year for the vacant lot, but Thayer refused, saying that it was worth $500 a year, yet he leased it to Miss Cressy free of rent for two years, on terms of her spending $600 in building, and then, after two years, paying $150 a year. As to Miss Cressy, there is suggestion by plaintiffs that she was a mere *prête nom* for defendants, or a cat's paw. On the 30th April she gets a lease to transfer it at a profit on the 3rd of May. It is said that she was a servant formerly in the defendant's employ, and has been elevated into a companion in the house, and there is strong proof to that effect, though witnesses swear to never having had knowledge of her having been servant, but only lady companion. I will not say what she was exactly, but must say that such were the domestic and social relations between her and Mrs. Thayer and the Doctor, that the transaction between them about the vacant lot—I mean the lease to Miss Cressy—as it was made, under the condition of things existing just before the lease was granted, does not look fair towards the defendants, and does not look like faithful administration by the defendants, but the very contrary. I cannot agree with the witness, Judge Badgley, that the Cressy lease was favorable to the estate. Starnes says that in December, 1877, for getting a lease from Dr. Thayer, Starnes and Murray paid him $150 in cash and discharged a debt due by him for his board and lodging of nearly $150.

Now, taking up the accounts rendered by Dr. Thayer, the one plaintiff's Exhibit A 3 ought to show those sums had by Dr. Thayer, but it does not. Thayer never mentioned it, and Mrs. Thayer must partake of blame hereabouts for her husband's (her agent's) doings, which she seems to have known about. In December, 1879, a new lease was granted by Dr. Thayer for five years from 1st May, 1880, and Dr. Thayer insisted upon a bonus of $300 upon

this, and got it in 1879. If Dr. Thayer did not mean secretly to appropriate this he would have carried it into the account next following that of December. The plaintiffs' Exhibit 4 is that account rendered in February, 1880, but it mentions nothing of it. Murray also proves this $300 bonus received by Dr. Thayer. Here I would remark that though it is proved that Kerby might have been, or was, willing to grant or lease without any bonus, and for no larger nominal rental than was stated, Thayer is not the less seen in a fraud. As to Starnes, it is said against him that he has been security or a bondsman for Kerby, when Kerby was capiassed once, but I see no reason to disbelieve anything that Starnes has said. The witness Tuckwell swears to another bonus had by Dr. Thayer on granting Hart & Tuckwell a lease in May, 1879. Dr. Thayer first asked $1,000, and finally agreed to one of $500. It was paid on the 10th of May, and should have appeared in the next account rendered by Dr. Thayer, unless he was meaning to suppress it, to the wrong of the plaintiffs. That next account was the one rendered in August, plaintiffs' exhibit A 7, but in it there is no mention of the $500. Never was there credit for any of those $500 to the plaintiffs. Certainly standing as at 1st of August, 1879, this bonus act of Dr. Thayer's does not look like honest administration. The defendant herself says that she is not a business woman, and shows that she has handed over her office to her husband virtually. On page 20 of her deposition she admits, after much shirking, a bonus of a diamond ring had by her from one Decker for a lease, and I would refer to p. 23 of her deposition as to her manner of answering about the Hart & Tuckwell bonus of $500.

I have come to the conclusion that the case for the plaintiff is very strong; the defence fails, for it has weak points, which I have alluded to sufficiently, and is not stronger than its weak side. Never mind if some fair administration appears to have been; there has been so much unfair that the Court sees the *mandataire* here, the female defendant, so much in fault that she must be removed from the executorship, and judgment goes so, and for an account.

Kerr, Carter & McGibbon for plaintiffs.

Ritchie & Ritchie for defendants.

COURT OF REVIEW.

MONTREAL, April 29, 1882.

MACKAY, PAPINEAU, BUCHANAN, JJ.

[From S.C., Montreal.

CHAPMAN v. BENALLACK.

Instigating seizure of moveable effects—Damages.

The plaintiff inscribed upon a judgment of the Superior Court, Montreal, Torrance, J., Dec. 30, 1881;—See 5 Legal News, p. 109, for judgment of the Court below.

MACKAY, J. The plaintiff sued for $1,200 damages, for defendant having instigated one Bolduc to take out two *saisies arrêts* before judgment against plaintiff's goods and chattels for plaintiff's fraudulent secreting of property and meditation of flight. The plea is: "Honest belief by defendant;" justification and reasonable and probable cause for making any statements he may have made to Bolduc, or others, creditors of plaintiff. The action has been dismissed because of plaintiff's conduct being suspicious. The judgment finds that Chapman and Benallack had been partners; that their partnership property had been sold by auction and $900 of the partnership money was taken by Chapman, who went to the States. The judgment finds that plaintiff has not proved want of probable cause for the two seizures, and that the allegations material of the declaration are not proved.

The finding by the judgment of want of probable cause is said to be made where it is not appropriate, as the defendant is not charged as for malicious prosecutions or attachments. That may be. It is also said that the judgment reposes on some illegal testimony going to prove plaintiff's wife's statements about things touching which she is under disability to testify. This may be, yet does not appear clearly. All that is proved is that the wife at her house said to persons calling that her husband was gone. But the judgment does not repose, and need not, upon what the wife said; and though want of probable cause for the seizures needed not be proved by plaintiff, the defendant, if proving probable cause for speaking as he did to Bolduc, leading him to make the seizures, may be held entitled to protection, and to be freed from plaintiff's demand for damages. The plaintiff's going away to the United States with all the money, without paying debts and with-

out any kind of intimation to anybody of intention to leave Montreal, also leaving Benallack diminished in fortune to satisfy all the claims against the partnership, was enough to raise the worst suspicions in Benallack's mind. By his plea he says he verily believed that Chapman would never return and had left with intent to defraud.

We think Benallack was warranted in saying all he did, even if advising Bolduc to seize as Bolduc did. Bolduc swears that he did not seize because of what the defendant said, but because of what Mrs. Chapman had said. There is much to show that Bolduc was really moved by defendant; nevertheless we do not see that plaintiff is entitled to judgment. Judgment confirmed; one *motif* struck out.

L. H. Davidson, for Plaintiff.

Cruickshank & Cruickshank, for Defendant.

COURT OF REVIEW.

MONTREAL, April 29, 1881.

MACKAY, RAINVILLE, BUCHANAN, JJ.

[From C. C., Ottawa.

McGILLIVRAY v. McLAREN et al.

Water power—Dam.—C.S L.C., Cap 51.

The defendant inscribed in Review of a judgment of the Superior Court, District of Ottawa, Bourgeois, J., 16th Dec., 1879.

The action was instituted for the recovery of $3,000 damages, alleged to have been suffered by the plaintiff by reason of the damming up of a creek, tributary of the North River, traversing plaintiff's property, during the years 1871–1873.

The plaintiff alleged that for the purpose of driving the sawlogs to defendant's mill on the River Nation through the branches thereof, he, defendant, had erected a dam on the west branch of the creek above plaintiff's farm, and one dam at a lake in lot No. 17, five miles above said farm and another dam about 3½ miles above the latter dam; also another below the plaintiff's farm in the 5th Range of the township of Lochabar; that the construction of these dams caused the water to overflow the flats on plaintiff's property, depriving him of the use of 90 acres for farming purposes. The plaintiff alleged specially that the creek in question where it falls through his farm, is not a navigable or even a floatable stream, and that the water and the bed of the stream belong to him as his property.

The defendants pleaded denying the allegations of the plaintiff's action, and specially averring that they were proprietors of expensive saw mill on the Nation River, and that to supply the mill with saw-logs it became necessary to erect dams on the creek, economically to float saw-logs, and to clear the channel to allow the descent of the logs to the Nation River. That by law plaintiff could not recover damages until they were established and ascertained under cap. 51, C.S.L.C.; that the plaintiff never called upon defendant to ascertain the damages according to the provisions of the Act. There was a second plea alleging that the creek is a floatable stream.

The Court below condemned the defendants to pay $80 damages, holding that the provisions of the statute referred to could not be invoked by defendants as regards their works.

The defendant submitted that the application of the Statute entitled them to a reversal of the judgment: the plaintiff had no right of action without previously having the damages ascertained according to the Statute. The construction of dams for the floating of timber is a work within the Statute, which enables every proprietor of land to construct dams to enable him to carry his lumber to market.

MACKAY, J. We have nothing before us but a law point, viz: Could plaintiff sue when he did and as he did? Was he bound to go to an *expertise* to substantiate his damages, as per cap. 51 Cons. Stat. L. Ca.: "Act respecting the improvement of water courses." The judge *à quo* has held negatively. He is supported by the Quebec decision of Chief Justice Meredith, confirmed in Review. See vols. 3 and 5, Queb. Law Rep. We confirm. The defendants suffer very little by the judgment *à quo*—too little; but plaintiff has not inscribed. Cap. 51, Cons. Stat. of L.Ca. cannot be worked. The plaintiff notwithstanding it could resort to the Superior Court.

Judgment confirmed.

M. McLeod, and *Robertson & Fleet* for plaintiff.

R. & L. Laflamme for defendants.

THE LEGAL PROFESSION.

Is the legal profession undergoing a change? Time is changing everything else, education, manners, society, travel, domestic life, and why not the professions? Mr. Patterson evidently thinks so, for in his address to the graduates at the commencement exercises of the Rensselaer Polytechnic Institute, at Troy, last week, Mr. Speaker Patterson said: "In my own calling, I cannot avoid the conclusion that a once noble profession is degenerating into a mere trade. The time was, even within my own recollection, when a great lawyer was everywhere a great man, and the great lawyer was the one who by his professional skill, learning and power could sway courts and juries to his will. The great lawyer of this day is the one who by his tact and ingenuity can get control of the most remunerative causes, and extract from them the largest fees. The time was, and not long ago, when the most cultivated and refined would flock to the court-rooms to listen to the display of brilliant oratory that some celebrated case would call forth, and pay tribute to the genius and power of the leaders of the bar. Within a score of years all this is changed, and the members of the profession are changed too. The lesson once learned that legal acquirements find their end in the fees they bring; the oratory that would speak from heart to heart fully extinguished; court and jury besought for a favorable decision because that means a large fee—and am I not right in saying that the profession is degenerating into a mere trade? Cicero, in the great cases in which he was engaged and reports of which have come to us, did not disdain to use every persuasive art to convince the minds of his hearers, and sought his greatness in the success which crowned his efforts. When Daniel Webster argued before that august tribunal, the Supreme Court of the United States, the *Dartmouth College* case, the tears which he forced from the eyes of the judges whose hearts were touched as well as whose minds were persuaded, must have been to him a greater reward than all the monied fee that his clients could pay him. And yet an attempt by the practitioner of this day to reach a similar result by the display of similar talents would meet with jeers and ridicule, while honor and praise would follow the one who had filled his pockets by wrecking a railroad or an insurance company."

GENERAL NOTES.

A PERSEVERING LITIGANT.—For the fourth time Cyrus H. McCormick has obtained a verdict against the Pennsylvania Railroad Company, for the loss of his baggage. In 1862 it was forwarded to Chicago from Philadelphia, without his consent, and was destroyed in the burning of the depot at the former place. The judgments in the previous trials were reversed for error on the trials. The present verdict, which was rendered before Judge Barrett, in Supreme Court, Circuit, on the 12th inst., was for $13,248,55.—*Am. Railroad Jour.*

In *Commonwealth* v. *Louisville & Nashville R. Co.*, Kentucky Court of Appeals, May 27, 1882, 1 Ky. Law Jour. 611, it was held that running railway trains on Sunday is a work of necessity. The Court said: "Railroad companies, as carriers of passengers, furnish at this day almost every accommodation to the traveller that is to be found in the hotels of the country. His meals, as well as sleeping apartments, are often furnished him; and to require the train when on its line of travel to delay its journey that the passenger may go to a hotel to enjoy the Sabbath, where the same labor is required to be performed for him as upon the train, or to require him to remain on the train and there live as he would at the hotel, would certainly not carry out the purpose of the law; and besides, the necessity of reaching his home or place of destination must necessarily exist in so many instances as to make it indispensable that the train should pursue its way. So of the trains transporting goods, merchandise, live stock, fruits, vegetables, etc., that by reason of delay would work great injury to parties interested. A private carriage in which is the owner or his family, driven by one who is employed by the month or year to the church in which the owner worships, or to the house of his friend or relative on the Sabbath, is not in violation of the statute. So in reference to the use of street railroads in towns and cities on the Sabbath-day. Those who have not the means of providing their own horses or carriages travel upon street-cars to their place of worship, or to visit their friends and acquaintances; and such is the apparent necessity in all such cases that no inquiry will be directed as to the business or destination of the traveller, whether on the one car or the other, nor will an inquiry be directed as to the character of the freight being transported. Nor will the person desiring to hire the horse from the livery-stable be compelled to disclose the purpose in view in order to protect the keeper from the penalty of the law. Such employments are necessary, and not within the inhibition of the statute. The common sense as well as the moral sentiment of the country will suggest that the merchant who sells his goods, or the farmer who follows his plow, or the carpenter who labors upon the building, or the saloon keeper who sells his liquors on Sunday, are each and all violating the law by which it is made penal to follow the ordinary avocations of life on Sunday. The ordinary usages and customs of the country teach us that to pursue such employments on the Sabbath is wrong. Every man can realize the distinction between pursuing such avocations and that of transporting the traveller to his home or the pursuit of such employments as must result from the necessary practical wants of trade."