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WE have received the annual report of the County of York Law Association, held on the 28th ult., which, however, must stand over until next issue, as our available space for such matter is filled by the report of the meeting of the Hamilton Law Association, which was held on a previous day.

IN England the judges of the High Court have the power to send cases for trial to the County Courts. It is said that the number of these remitted actions is daily increasing, and now we are told by our namesake there that the County Court cause lists are suffering from a glut which is paralyzing the energies of the judges, and filling counsel, solicitors, and litigants alike with speechless rage. This may have no present interest for us, but we note it for the benefit of those who might be tempted to obviate occasional difficulties in this country by some similar enactment.

A SOLICITOR in a village in Western Canada, in his advertisement in a local paper, makes the following announcement: "Advice free to Y.M.C.A. members." We are glad to think that excellent institution has so many members that it is thought worth while to advertise this generous offer. Apart from any consideration of the old saying, "Nothing for nothing," which we are willing to assume would not apply in this case, and apart also from the questionable etiquette of this advertisement from a

professional point of view, we would suggest that the best way to help the class alluded to would be to take such a real live interest in them as would gain their confidence and respect.

In many things our neighbours across the border are ahead of us, but very largely England and Canada have taken the lead in practical and beneficial reforms in legal procedure. It may surprise some of our readers to know that in many States of the Union, where an execution has been returned *nulla bona*, the plaintiff has to file a creditor's bill before he can reach the hidden away property of the defendant. The *Chicago Legal News* suggests that the law should be changed, by giving the plaintiff a right to examine the defendant as to his property. This practice, of course, is ancient history with us. It has been introduced into a few of the States, and, doubtless, will shortly become law in all of them.

The following is the text of a printed dunning-letter used by a Division Court bailiff in the eastern part of this Province as a means to collect debts due to a company which gave him their small debts for that purpose :

"Bailiff's Office, ———, Ont.

The ——— Co., of this place, has placed in my hands for collection your account. Now, if you do not wish me to make any costs on this, you will remit the small amount you owe the company at once to me. If not, I will enter into your house and seize your goods and chattels and put you to a lot of costs, which you can avoid. Send amount at once to ———, Bailiff, ——th Division Court, ———, Ont."

We have sent this precious document to the judge of the county where this bailiff abuses his official position, so that the judge may report the matter to the proper department of the Ontario Government. The latter has taken to itself the patronage accruing to the appointment of these officers, and must assume the responsibilities of the position as well. There is just one way of dealing with the offender, and we shall watch for the appointment of his successor in a forthcoming number of the *Gazette*. If the judge does not feel that it is his duty to take the matter up, we shall be glad to do so.

THE proceedings of the Law Associations are always of more or less interest. We notice that our brethren of York have brought up one subject which has been in the minds of the profession for a long time, and which was referred to years ago in the pages of this journal. The proposal is for a radical change as to costs. Having now taken definite shape, the subject will come up for full discussion. We shall return to it again.

The resolutions referred to the Committee on Legislation at the last meeting of the York Law Association are as follows: (1) That the present method of adjusting solicitors' costs by long bills of detailed items is antiquated, and tends to bring disrepute upon the profession. That the settlement of costs between party and party by a block system or commission, or by a combination of both, would be in the public interest. That there is no valid reason for any tariff between the solicitor and client. That a solicitor and client should be free to make any bargain as to solicitor's remuneration, subject only to the same rules as any other contract. (2) That it also be a reference to the same committee to consider how far, under the present tariff, costs are an indemnity; and to suggest such amendments thereto as, in their opinion, may be deemed desirable. This resolution to be taken as supplementary to the above, and for the purpose of enabling the committee to consider the whole question of costs.

OVERHANGING TREES.

In a late case of *Lemmon* v. *Webb*, (1894) 3 Ch. 1; 7 R. July 111, the Court of Appeal in England had to consider the law relating to trees overhanging the property of an adjoining proprietor. The principal point in controversy there was whether the person whose land was overhung had a right to cut off the offending branches without notice to the owner of the trees, and the Court of Appeal came to the conclusion that he had; and this decision has since been affirmed by the House of Lords: see 98 L.T. Jour. 107. It may, however, be useful to consider a little more at large the law relating to trees thus encroaching.

Some difference of opinion has prevailed as to the ownership of trees growing over or on the boundary line between two pro-

perties, where the roots extend into both. It seems at one time to have been considered that a tree deriving its nourishment from the soil of both the adjoining owners thereby becomes the property of the two owners as tenants in common; but the discussion which the subject has received in the American courts, and the utter impracticability of working out such a view of the law which that discussion has shown, has practically had the effect of establishing that it is not the law of the American courts, and that it cannot be English law. The result of the cases is that a tree belongs to him on whose property the trunk grows, irrespective of where the roots or branches of it extend; and where the boundary line passes through the trunk, then the proprietors of the adjoining lands are tenants in common of the tree: 2 Roll. R. 255. It was at one time suggested that, in the latter case, each owned in severalty the part of the tree which grew on his own land, but the inconvenience of such a rule is apparent, as one owner might destroy his neighbour's part of the tree by cutting away his own portion of it; unless indeed the maxim, *Sic utere tuo ut alienum non lædas*, could be invoked in such a case.

The ownership of trees in the neighbourhood of boundaries being settled, it follows that the fruit which grows upon them belongs to him who owns the tree. If, therefore, our tree extends its branches over our neighbour's land, and its fruit overhangs his land, that fruit is our property and not his; and if he should pick it off and convert it to his own use, we should have a right of action against him for so doing: *Skinner* v. *Wilder*, 38 Vt. 115; and if he should hinder us, or our servant, from picking it, we should also have an action against him: *Hoffman* v. *Barber*, 46 Barb. 337. In the latter case it appears that the servant of the owner of the tree sought to gather the fruit from the branches which overhung the defendant's land, and that the defendant obstructed her in doing so, and had to pay $1,000 damages for his ignorance of the law. From the report, it would seem that the plaintiff's servant did not enter the defendant's premises, but was endeavouring to pick the fruit from the fence which separated the lots. It is laid down in Viner's Abridg. a Tit. Trees (E), that if trees grow in the hedge and the fruit falls into another's ground, the owner may go in and take it; but it might be argued that that applies only to the case of A.'s fruit

being carried on to B.'s land without any fault of A., as, for instance, by the action of the wind: and would not authorize an entrance upon another's land to pick fruit growing over it, in consequence of the owner of the tree having suffered its branches to extend over his neighbour's land. On the other hand, so long as A.'s branches remain overhanging B.'s land, it may be argued that they do so by the sufferance of B., and A cannot be charged with negligence in permitting him to do so, and that A. is just as much justified in law in going on B.'s land to secure his property which is hanging above it as he is in going to secure that which has fallen upon it. We have not, however, met with any case where that point has been actually determined. The popular notion that fruit belongs to the person whose property it overhangs, even though the tree or vine which bears it belongs to his neighbour, seems to be clearly ill-founded in law.

In the case of *Lemmon* v. *Webb*, it has also been decided that the owner of a tree overhanging or growing into his neighbour's land cannot acquire any easement in respect of such tree over or upon the adjoining land, over or into which its branches or roots extend; and that time cannot bar the right of the owner of the adjoining property to abate the nuisance whenever he sees fit; but if he take the law into his own hands, as he may, it will be well for him to notify his neighbour beforehand of his intention so to do, though it is not absolutely necessary that he should; but, if he do not, the court may mark its sense of his unneighbourly conduct (as it did in *Lemmon* v. *Webb*) by refusing to give him costs, even though his neighbour fails in his action against him for damages for cutting the tree. It is also very necessary for him to be extremely careful, in cutting off the offending branches, not to go beyond the point where they overhang; and, furthermore, he must remember that though he may cut off the overhanging branches, together with the fruit growing on them, yet when they are cut off the branches and fruit are still the property of his neighbour, and if he convert them to his own use he is liable to an action for so doing.

It will also be useful to remember that if we suffer a poisonous tree growing on our land to extend its branches beyond our boundaries, we may be liable for the damage which may result to our neighbour's cattle from eating thereof: *Crowhurst* v. *Amersham Burial Board*, 4 Ex.D. 5; but, in the absence of any inten-

tion to injure our neighbour or his cattle, we cannot be made liable for the injury he or his cattle may sustain by reason of their coming on our land or stretching into it, and thus eating of the noxious tree: *Ponting* v. *Noakes*, (1894) 2 Q.B. 281; 10 R. July 283.

INTERNATIONAL LAW AND ITS EXPONENTS.

We read in the shorthand reporter's notes of the argument of the Ontario Boundary case before the Judicial Committee of the Privy Council, a few years ago, that certain passages from the works of learned commentators on international law were cited by counsel in support of the propositions of that law which the learned counsel was seeking to enforce on the consideration of their lordships; whereupon Lord Chancellor Selborne administered the following decided snub to both commentators on international law and the counsel who quoted from them:

"We really cannot have the laws of the world made by gentlemen, however learned, who have published books within the last twenty or thirty years."

Subsequently, when the counsel proposed to cite a passage from Hall's International Law, the same judicial dignitary stopped him by asking: "Do you think the authority of such works is greater in proportion to their recency?"

And when the same counsel enforced his arguments by an opinion of Mr. Cruise, the author of the Digest of the Law of Real Property, on the validity of the charter of the Hudson's Bay Company, the Lord Chancellor somewhat superciliously observed: "Mr. Cruise was a great English lawyer, whose Digest is a very useful book; but I do not know that, on such a subject as this, his authority is very great."

So, also, when the "opinions of counsel" on the validity of the charter of the Hudson's Bay Company were referred to, Lord Selborne gave expression to the following elementary principles respecting them:

"May I ask, with regard to these several opinions, what was the precise matter which the learned counsel were asked upon? You see, some opinions are to be construed with reference to the cases upon which they are given." And again: "If the minds of counsel are directed solely to the disputes bearing upon the

validity of the charter, and not suggesting counterclaims upon another kind of title, they will give the go-by to what is the question we have to consider entirely; and the fact that it was not brought before them is a thing to be considered." And he closed with the following piece of information: "A case and opinion relate to the matters brought to the attention of counsel, and to the question raised by those matters, and not to other questions quite different."

To students of international law it is scarcely necessary to state that the laws of nations, or, as Lord Selborne termed them, "the laws of the world," are largely made up of treaties, and the usages of nations, and the opinions of statesmen contained in despatches and other state papers, and the commentaries thereon by law writers respecting the several principles and rules of the laws of nations which they enforce, or which may be deduced therefrom.

Very different treatment was given to such commentators, in the judicial opinions of Chief Justices Cockburn and Coleridge, Chief Baron Kelly, Lord Justices Bramwell, Brett and Amphlett, Sir R. Phillimore and Justices Grove, Lush, Denman, Lindley and Field, reported some years before in *Regina* v. *Keyes*, 2 Ex.D. 63, where not only were the opinions of English law writers on international law cited as authoritative statements of that law, but also the opinions of American and European writers as equally authoritative. And the Lord Chancellor might have been effectively answered by the counsel reading to him Lord Coleridge's judgment in the case referred to, where he says: "Strictly speaking, international law is an inexact expression, and is apt to mislead, if its exactness is not kept in mind. . . . The law of nations is that collection of usages which civilized states have agreed to observe in their dealings with one another. What these usages are, whether a particular one has or has not been agreed to, must be a matter of evidence. Treaties and acts of state are but evidence of the agreement of nations, and do not in this country, at least, *per se*, bind the tribunals. Neither, certainly, does a consensus of jurists; but it is evidence of the agreement of nations on international points. Regarding jurists, therefore, in the light of witnesses, it is their competency, rather than their ability, which most concerns us. We find a number of men of education, of many nations, most of them quite unin-

terested in maintaining any particular thesis as to the matter now in question, agreeing generally in the proposition. I can hardly myself conceive of stronger evidence to show the agreement of nations. For myself, I must add that, besides their competency, I have the greatest respect and admiration for the character and abilities of such of these writers as I am personally familiar with."

The above and other judicial opinions in the case referred to furnish a complete vindication of the course adopted by the counsel, and which Lord Selborne discourteously interrupted on the occasion referred to.

CURRENT ENGLISH CASES.

(Continued from p. 18.)

VENDOR AND PURCHASER—VOLUNTARY DEED IN CHAIN OF TITLE—SPECIFIC PERFORMANCE.

Noyes v. *Patterson*, (1894) 3 Ch. 267; 8 R. Dec. 308, was an action by a vendor for specific performance of a contract to purchase land. The defendant claimed the right to repudiate the contract on the ground that one of the deeds in the vendor's chain of title was a voluntary deed voidable under 13 Eliz., c. 5, or 27 Eliz., c. 4. The grantor in the deed was dead. Romer, J., held that the mere fact of there being a voluntary deed in the vendor's chain of title did not necessarily entitle the purchaser to repudiate the contract, and he gave judgment for specific performance with a reference as to title in the usual way, and ordered the defendant to pay the costs.

COMPANY—SHARES—VERBAL WITHDRAWAL OF APPLICATION BEFORE ALLOTMENT—NOTICE TO COMPANY.

In re Brewery Corporation, (1894) 3 Ch. 272; 8 R. Sept. 168, was an application by one Truman to remove his name from the list of contributories of a company in liquidation. He had applied for shares, but before allotment had given verbal notice to a clerk in the registered business office of the company, who was in charge thereof during the absence of the secretary of the company, that he withdrew his application, and asked for the return of his cheque. The payment of the cheque was stopped, and it was subsequently returned by the company to Truman. The directors, notwithstanding his withdrawal of his application,

allotted him the shares, but took no steps to enforce payment of the application or allotment moneys, or the call. Wright, J., held that the notice of withdrawal was sufficient, and that the clerk was authorized to receive the notice for the company, and the name of Truman was accordingly struck off the list.

The Law Reports for December comprise (1894) 2 Q.B., pp. 805-934; (1894) P., pp. 293-352; (1894) 3 Ch., pp. 273-703; and (1894) A.C., pp. 453-686.

RAILWAY—BY-LAWS, VALIDITY OF.

Huffam v. *The North Staffordshire Ry. Co.*, (1894) Q.B. 821; 10 R. Dec. 410, is deserving of notice as showing that where the by-law of a company goes beyond the provisions of a statute in creating an offence, the by-law is invalid. In the present case a statute provided that if any person travels or attempts to travel on a railway without having previously paid his fare, *and with intent to avoid payment thereof*, he should incur a penalty. The defendant railway company had passed a by-law under the provisions of the Railway Clauses Consolidation Act, 1845, which provided that "any passenger using or attempting to use a ticket on any day for which such ticket is not available, or using a ticket which has been already used on a previous journey, is hereby subjected to a penalty not exceeding 40 shillings." The plaintiff had travelled on the defendants' railway on March 15th and had presented a return half of a ticket issued on February 28th, and which was good only for the day of issue; the fare was demanded, which the plaintiff refused to pay, but it was not alleged or suggested that the plaintiff intended to commit any fraud. He was convicted of an offence under the by-law, subject to the opinion of the court as to whether or not the by-law was *ultra vires*. Mathew and Kennedy, JJ., were of opinion that it was, because the Act had made "the intent to avoid payment" a material part of the offence, and the by-law practically ignored that element. The conviction was, therefore, set aside.

LANDLORD AND TENANT—IMPLIED GRANT—DEROGATION FROM GRANT—DAMAGE BY VIBRATION CAUSED BY LESSOR—DAMAGES, MEASURE OF.

Grosvenor Hotel Co. v. *Hamilton*, (1894) 2 Q.B. 836; 9 R. Dec. 334, was an action by lessors against their lessee to recover rent. The defendant counterclaimed for damages caused by

the vibration of an engine of the lessors on adjacent land, whereby the lessee's premises were damaged so as to become useless to him, and he was in consequence obliged to remove his business therefrom and incur expense. There was evidence that the lessee's house was old and unstable at the beginning of the term, and that a house of ordinary stability would not have been injured by the vibration. The case was tried before Grantham, J., who found in favour of the defendant on his counterclaim. The Court of Appeal (Lindley, Lopes, and Davey, L.JJ.) affirmed the decision, holding that the plaintiffs could not lawfully derogate from their grant. The plaintiffs contended that the damages in any case consisted solely in the loss of the term, but the Court of Appeal were agreed that the defendant was entitled to recover any loss he had been put to as a natural consequence of the plaintiffs' wrongful act.

GUARANTEE—INDEMNITY—VERBAL PROMISE TO INDEMNIFY—PROMISE TO ANSWER FOR DEBT OR DEFAULT OR ANOTHER—STATUTE OF FRAUDS (29 CAR. 2, C. 3).

Guild v. *Conrad*, (1894) 2 Q.B. 885; 9 R. Nov. 386, is one of those cases which shows in a very marked way the important difference between a contract of guarantee and a contract to indemnify. This was a case which came, as Lindley, L.J., says, very near the line. The plaintiffs had been accepting bills for a firm in which the defendant's son was a partner, upon a written guarantee of the defendant to be answerable to a specified amount. The bills were not met by the son's firm at maturity, and the plaintiff refused to accept any more, whereupon the defendant saw the plaintiff and verbally promised that if he would accept the bills in question in the present action he would provide the funds to meet them. The plaintiff accordingly accepted the bills which the defendant failed to meet, and the action was brought to compel him to make good his verbal promise. The defendant contended that it was void for not being in writing. The action was tried before Mathew, J., who gave judgment for the plaintiff; and the Court of Appeal (Lindley, Lopes, and Davey, L.JJ.) affirmed the judgment, holding that the promise was to provide the funds to meet the bills in any event, and not a promise to answer for the debt on default of the drawers of the bill, and that, therefore, the case was governed by *Thomas* v.

Cook, 8 B. & C. 728, and *Wildes* v. *Dudlow*, 19 Eq. 198. So far as the Court of Appeal can settle the law, therefore, it is settled that a contract to indemnify is not within the statute.

MAINTENANCE OF ACTION—LIABILITY OF MAINTAINER—LIBEL AGAINST TWO—RIGHT OF ONE TO MAINTAIN ACTION BROUGHT BY THE OTHER—COMMON INTEREST.

Alabaster v. *Harness*, (1894) 2 Q.B. 897, was an action to recover damages against the defendant for having unlawfully maintained an action of libel brought by one Tibbetts against the plaintiff, which failed, and the costs of which the plaintiffs were unable to recover from Tibbetts. The libel in question was one which reflected on the character of the defendant as well as Tibbetts, but the defendant was not a party plaintiff, but carried on the action brought by Tibbetts. The defendant contended that the maintenance of the action brought by Tibbetts was not unlawful, on the ground that he had a common interest with him in bringing and prosecuting it. The defendant was the maker and seller of electric belts for the cure of diseases, and the libel in question had reflected upon the character and integrity of Dr. Tibbetts, who had certified to the value of the belts and apparatus sold by the defendant, and also on the defendant himself; but Hawkins, J., held that this did not give the defendant a common interest in the action of Tibbetts which would justify him in maintaining it, and he gave judgment against him for the plaintiff's costs of defence in that action as between party and party.

ALIMONY—HUSBAND'S INCOME—UNDRAWN PROFITS.

In *Hanbury* v. *Hanbury*, (1894) P. 315; 6 R. May 26, a question was raised as to the proper amount to be allowed by way of permanent alimony. It appeared that the husband was a member of a firm and was entitled to draw therefrom £200 per month in respect of his share of the profits, but could not draw any more without the consent of his partner. His share of the profits had for several years past amounted to £3,300 a year. The President allowed alimony on the basis of £3,300 being the husband's income, but the Court of Appeal (Lindley, Lopes, and Kay, L.JJ.) were of opinion that the alimony should be allowed on the basis of the husband's income being only £2,400.

Proceedings of Law Societies.

LAW SOCIETY OF UPPER CANADA.

Special meeting held October 13th, 1894.

Present: The Treasurer, Sir Thomas Galt, and Messrs. Proudfoot, Martin, Guthrie, Idington, Maclennan, Bruce, Osler, Hoskin, Watson, Mackelcan, Barwick, Moss, Magee, Strathy, Aylesworth, Riddell, Robinson, Shepley, and Lash.

Dr. Hoskin, from the Discipline Committee, reported: On the complaint of Mr. J. H. Kennedy, against Mr. G. Kerr, jr., a solicitor, that the committee are of opinion that the complainant should, if he feels aggrieved, apply to the courts, and that a case has not been made out calling for action by the Law Society. The Report was adopted.

Mr. Osler, from the Special Committee appointed in relation to improvements to the east wing and library extension, reported as follows:

That Mr. Burke has sent in a new sketch plan for the library extension to the west, conditionally approved by the Department of Public Works, the cost being estimated at $6,900. The committee advise that Mr. Burke be instructed to consider the question of a new barristers' room in the west wing required by the Department of Public Works, and to obtain, if possible, the unconditional consent of the Department to the alterations, and that thereupon the work be proceeded with. As to the improvements in the east wing, the committee are not able at present to report to Convocation the plans which should be adopted.

The Report was received, and on the motion for adoption it was moved by Mr. Martin, seconded by Mr. Watson, that the further consideration of the Report be postponed until the second day of next term, and that the architect in the meantime reconsider the plans with a view of decreasing the expenditure, where practicable, and report as to the arrangements for barristers' rooms, and for the cost of heating the extension. Lost.

The Report was then adopted.

Mr. Watson, from the Finance Committee, then reported, recommending that authority should be given to review the terms of the contract with the Government for the supply of the Supreme Court Reports, and, if such revision is satisfactory to a committee to be appointed, that thereupon the Supreme Court Reports should after first January, 1895, be supplied by the Law Society to all members of the profession who pay their annual fees within or during Michaelmas Term.

The Report was taken into consideration and adopted, and it was ordered that Messrs. Osler, Moss, and Watson be appointed a committee to carry out the recommendations contained in the Report.

Mr. N. W. Hoyles, Q.C., was appointed Principal of the Law School.

Mr. McCarthy's motion respecting the call to the Bar of Mr. H. V. H. Cawthra, an English barrister, was ordered to stand until the second day of next term.

Mr. Moss, from the Legal Education Committee, reported on the result of the third year examinations, Easter, 1894.

Ordered, that the following gentlemen be called to the Bar: E. W. Drew, T. W. Evans.

Ordered, that the following gentlemen do receive certificates of fitness : E. W. Drew, T. W. Evans, W. A. Grant, H. M. Ferguson.

Mr. Moss, from the same committee, reported upon the following applicants for admission as students at law : C. Guillet, G. H. P. Macdonald, W. J. Withrow, recommending that the notices given by these gentlemen do remain in the proper places prescribed by the Rules and until the first day of Michaelmas Term, and that they be admitted as students at law as of Trinity Term, provided that no objection be made to appear.

Mr. Moss, from the same committee, reported in the case of Mr. A. L. Lafferty, a candidate at the second year examination, recommending the allowance of his examination.

Ordered accordingly.

It was moved by Mr. Strathy, seconded by Mr. Barwick, that Convocation deeply regrets to learn of the death of its former Treasurer, the Honourable Stephen Richards, and that it be referred to a committee to prepare and have engrossed a resolution to fitly express the feelings of Convocation in reference thereto. Carried, and the following committee was appointed for the purpose : The Treasurer, and Messrs. Moss, Lash, and Shepley.

The letter from Mr. H. M. Mowat to the Treasurer, which had been accompanied by a copy of the tablet erected in England to the memory of Chief Justice Osgoode, was read, and it was moved by Mr. Mackelcan, seconded by Mr. Lash, and resolved : That the thanks of Convocation be given to Mr. Herbert M. Mowat for his thoughtful consideration in obtaining and presenting to the Law Society a copy of the tablet erected at Harrow-on-the-Hill to the memory of the late Chief Justice Osgoode, after whose honoured name the seats of our Courts of Law and of our Society have been appropriately called.

It was ordered that the résumé of the proceedings of Convocation not already published be forthwith published, subject to the approval of the Treasurer.

The letter dated September 26th, 1894, of Mr. M. A. Brown, in relation to the publication of a new Digest, was read. The Secretary was directed to write that if Mr. Brown means to use the headnotes of the Reports or to improve same, and the matter in question is merely a matter of copyright, the Society has no wish to interfere with the undertaking.

A letter from the Examiners of the Law School asking for an increase of salary, or a special allowance for the last year's services, was read. Ordered, that it be referred to the Legal Education Committee to report what would be a reasonable compensation under the circumstances.

Mr. Walter Gow was then called to the Bar and presented with a silver medal. Mr. T. W. Evans was also called to the Bar.

The draft rule as to review of papers of unsuccessful candidates was ordered to stand until the first day of Michaelmas Term.

Convocation rose.

HAMILTON LAW ASSOCIATION.

TRUSTEES' ANNUAL REPORT FOR 1894.

The Trustees beg to submit their fifteenth Annual Report, being that for the year 1894.

The number of members at the date of the last Report was seventy-one. One member has resigned, one left the county, and three have been added during the year. The present membership is seventy-two. The annual fees to the extent of $335 have been paid. The number of bound volumes in the library is 2,771, of which 152 were added during the past year. Sessional papers, gazettes, etc., are not included in the above.

The Trustees have been able during the past year to add many useful and valuable text-books and Reports to the library. The following periodicals are received, namely: *The Law Times* (English), *The Times Law Reports*, *The Law Journal Reports* (English), *The Solicitors' Journal*, *The Albany Law Journal*, THE CANADA LAW JOURNAL, *The Canadian Law Times*, *The Western Law Times*, *The Green Bag*, *The Law Quarterly Review*, and *The Toronto Mail*.

The Treasurer's Report is submitted herewith, giving a detailed statement of receipts and expenditures, in the form required by the Law Society. All the liabilities of the Association have been paid, except a note for $100 and the balance of the loan due to the Law Society, payable in yearly instalments of $100. The amount yet to be paid is $500.

The Hamilton Law Association share in the deep sorrow which has fallen upon the whole Dominion at the sudden death of the Right Honourable Sir John S. D. Thompson, Minister of Justice and Premier of Canada, and who had on the day of his lamented death received the honour of being sworn in as one of Her Majesty's Privy Councillors.

The Association look back with deep interest to the occasion on which, little more than a year ago, Sir John Thompson kindly accepted an invitation of the Association to visit their library, and honoured the members with his presence, addressing them in terms which gave great encouragement to the work of the Association, and giving them at the same time a substantial recognition of his interest in their progress by a donation of valuable law books.

Sir John Thompson has always, since his accession to office, taken a deep interest in the honour and welfare of the legal profession, who, in turn, have felt the highest admiration for his great talents and unsullied integrity. His death will be a great loss to that profession, to the members of which he was an illustrious example, and on which, by his distinguished talents and high character, he has conferred lasting honour. The Association desire to convey to his bereaved widow and family their sincere and heartfelt sympathy in their sad and irreparable loss.

As was anticipated in our last Report, an Act was passed last session extending the jurisdiction of Local Judges. The new Rules, which came into force in January, 1894, have, on the whole, worked well. Sufficient time has not elapsed to test the working of the Rules passed in September last, and since that date, and no doubt further Rules will be required from

time to time. It is a matter of the utmost importance that the profession should have these Rules at the earliest possible time after their being passed. The Association would, therefore, suggest that the Law Society be asked to arrange for the issue (gratis) to every member of the profession of a copy of every new Rule immediately after the passing thereof. The present system of publication is far too slow and unsatisfactory. Many members of the profession do not take either of the law journals, and though the daily papers do contain the Rules, yet they are in that form apt to be lost and not in a convenient shape for use.

The necessity for amendments to the Devolution of Estates Act have been pressed upon the proper authorities, and it is hoped that action may soon be taken thereon so as to enable lands to be sold with the approval of the judge of the Surrogate Court, or Local Master, without the necessity of an application to the official guardian, and, generally, as far as possible, to permit business to be disposed of in the county where probate or administration has been granted.

The Insolvency Act introduced in the Senate at the last session was carefully considered by the Trustees, and certain amendments were suggested, but the bill was withdrawn, after much discussion. It will, probably, be introduced at the next session, with some important changes. The incoming Trustees will doubtless watch the passage of the bill, and make such suggestions as may seem proper.

The Trustees have much pleasure in reporting that, during the year, the Dominion Government authorized the importation of books for law libraries free of duty. The Trustees will continue to press the Government for an allowance for purchase of works on criminal and election law, insolvency, and all other branches of law over which the Dominion Government has jurisdiction.

While gratefully acknowledging the assistance received in the past, it is hoped that the Ontario Government will, during the present year, increase the allowance to each association to $100.

The Librarian keeps the "Current Digest" regularly written up, and makes daily clippings of the notes of cases from the *Mail*. These are kept in a book, which has been found very useful to members of this Association during the year. All the books in the Library have been stamped with the seal of the Association. The thanks of the Association are due to the Hon. A. S. Hardy, for a map of Ontario; to the Attorney-General of Quebec, for the Revised Statutes of Quebec; and to Mr. Edward Martin, Q.C., for Brown's Parliamentary Cases and Supplement.

During the past year this Association lost, by death, the late R. R. Waddell, who had been one of the original Trustees, and had cheerfully given valuable services on many occasions.

Nothing has yet been done to render uniform the fees paid for similar services in the respective offices of the Master and Deputy Clerk of the Crown. It is hoped that another year will not be allowed to pass without this being remedied.

EDWARD MARTIN, *President.* THOMAS HOBSON, *Secretary.*

HAMILTON, Dec. 31st, 1894.

To the Members of the Hamilton Law Association:

The Treasurer begs to submit his annual statement for the year 1894, and exhibits an account of the receipts and expenditure for the year as follows:

RECEIPTS FOR THE YEAR 1894.

1894			
Jan. 4.	By balance on hand as found by statement, 1893, audited and passed this day		$ 118 89
" "	Subscriptions from three members received after account closed		15 00
Feb. 27.	By annual grant from Law Society made up as follows:		
	Grant and Librarian's salary	$502 50	
	Less amount due by this Association to Law Society	100 00	
			402 50
July 10.	Grant from County Council		40 00
" 22.	Loan to Society on notes of Martin and Burton		100 00
Oct. 13.	Government grant from Province of Ontario		66 68
	Students' deposits during the year		40 00
	Entrance subscriptions, less allowance for annual fees		15 00
	Rebate by Gore District Fire Insurance Co		48
	Subscriptions of sixty-five members at $5		325 00
	Subscriptions of four members at $2.50		10 00
Dec. 31.	Interest allowed by Savings Bank on deposits throughout the year		2 62
			$1136 17

EXPENDITURE FOR THE YEAR 1894.

To paid Librarian's salary by several payments during the year	$ 320 00
" " Assessment Gore District Mutual Fire	4 80
" " Assessment Victoria Mutual Insurance Co	6 00
" " Bell Telephone Co. rent for year	40 00
" " The West Publishing Co	8 00
" " The Boston Book Co., two accounts	15 00
" " Cook & Reid printing, four accounts	7 75
" " J. Eastwood & Co., four accounts	61 75
" " The Carswell Co., four accounts	31 80
" " The Albany Law Journal Co	5 00
" " Gratuity to caretaker	5 00
" " The Goodwin Law Book and Publishing Co	50 26
Sterling draft to Clowes, £60	293 99
" " to Streeter & Co., £6 17s	33 65
Mail Printing Co	6 00
Little, Brown & Co., four accounts	11 50
The Western Law Times	5 05
Returned students' deposits (three)	30 00
J. E. Bryant	5 00
Rowsell & Hutchison, three accounts	16 95
Paid Wildy & Son, £15	73 41
Freight	6 15
The Lawyer Co-operation Publishing Co., two accounts	26 50
Petty cash	5 00
Balance on hand in bank	67 61
	$1136 17

W. F. BURTON, *Treasurer.*

DIARY FOR FEBRUARY.

1. Friday.....Sir Edward Coke born, 1552.
3. Sunday.....*4th Sunday after Epiphany.*
4. Monday.....Hilary Term begins. Toronto Assizes, jury (civil) cases. 4th week, Ferguson, J., Q.B. and C.P. Div. Ct. sit.
6. Wednesday....W. H. Draper, 2nd C.J. of C.P., 1856. County Court non-jury sittings in York. Convocation meets.
8. Friday.....Convocation meets.
9. Saturday.....Union of Upper and Lower Canada.
10. Sunday.....*Septuagesima Sunday.* Canada coerced to Great Britain, 1763.
11. Monday.....Toronto Assizes, jury (civil) cases, 5th week, Robertson, J. T. Robertson, J., Chy. Div., 1887.
14. Thursday.....Toronto University burned, 1890.
15. Friday.....Convocation meets.
16. Saturday.....Hilary Term ends.
17. Sunday..... *Sexagesima Sunday.*
18. Monday .....Robert Sedgewick, J. of S.C., 1893.
19. Tuesday.....Supreme Court of Canada sits.
21. Thursday.....Chancery Division Court sits.
24. Sunday.....*Quinquagesima Sunday.*
27. Wednesday....Ash Wednesday. Sir John Colborne, Administrator, 1838.
28. Thursday.....Indian Mutiny began 1857.

Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

COURT OF APPEAL.

[Jan. 7.

IN RE MACLAREN.

Probate—Ancillary probate—Will—Surrogate Court, 51 Vict., c. 9 (O.).

A will executed before two notaries in accordance with the law of the Province of Quebec, not acted upon or proved in any way before any court of that Province, is not within the Act respecting Ancillary Probates and Letters of Administration, 51 Vict., c. 9 (O.).

Judgment of the Surrogate Court of Bruce affirmed. (Decided by OSLER, J.A.)

W. E. Middleton for the appellant.

[Jan. 15.

IN RE BURNHAM.

Water and watercourses—Water privileges—R.S.O., c. 119.

There can be no interference whatever, under the Act respecting Water Privileges, R.S.O., c. 119, with an occupied mill privilege, and the County Court judge has no jurisdiction to authorize works that would not affect the

mode in which the occupied mill privilege has, up to the time of application, been used.

An order made under the Act must state specifically the height of the authorized dam.

Judgment of the County Court of Peterborough reversed.

Cassels, Q.C., and *Edwards* for the appellant.

W. R. Meredith, Q.C., and *Wood* for the respondents.

[Jan. 15.

GARFIELD *v.* CITY OF TORONTO.

Municipal corporations—Sewers—Damages.

Where a sewer, built without any structural effect, is of sufficient capacity to answer all ordinary needs, the corporation is not liable for damages caused, as a result of an extraordinary rainfall, by water backing into the cellar of a person compelled by by-law to use the sewer for drainage purposes.

Judgment of the Queen's Bench Division reversed.

Fullerton, Q.C., for the appellants.

Reeve, Q.C., for the respondents.

[Jan. 15.

BOND *v.* TORONTO RAILWAY COMPANY.

Master and servant—Workmen's Compensation for Injuries Act—Defect in arrangement of plant—Negligence—55 Vict., c. 30, s. 3 (O.).

Having car buffers of different heights, so that in coupling the buffers overlap and afford no protection to the person effecting the coupling, is a "defect in the arrangement of the plant" within the meaning of the Workmen's Compensation for Injuries Act, 55 Vict., c. 30, s. 3 (O.).

Judgment of the Queen's Bench Division affirmed.

J. Bicknell for the appellants.

J. McGregor and *R. G. Smythe* for the respondent.

[Jan. 15.

BEATON *v.* INTELLIGENCER PRINTING COMPANY.

Libel and slander—Pleading—Evidence—Damages—Practice—Consolidated Rules 399 and 573.

Facts intended to be relied on in mitigation of damages in a libel action must be set out in the statement of defence, and unless this is done they cannot be given in evidence.

Consolidated Rule 399 is inconsistent with Consolidated Rule 573, and governs.

The defendant may plead in mitigation of damages that the article complained of was published in good faith in the usual course of business.

Judgment of ROBERTSON, J., reversed.

W. R. Riddell for the appellants.

G. Lynch Staunton for the respondent.

[Jan. 15.

RAY ET AL. *v.* ISBISTER ET AL.

Partnership—Bills of exchange and promissory notes—Endorser—Res judicata — Practice — Judgment against firm — Action thereon against alleged partner.

An action was brought against a firm as makers and an individual as endorser of a note, and was dismissed as against the endorser on the ground that he had endorsed at the request of the holders for their accommodation judgment being granted against the firm;

Held, reversing the judgment of STREET, J., 24 O.R. 497, that the dismissal of this action was an answer to a second action seeking to make the endorser liable as partner by estoppel.

The practice to be followed in proceeding against an alleged partner on a judgment against the firm considered.

Osler, Q.C., for the appellant.

Aylesworth, Q.C., for the respondents.

[Jan. 15.

ARTHUR *v.* GRAND TRUNK R.W. COMPANY.

Water and watercourses—Surface water—Diversion of watercourse—Railways —Arbitration and award—Damages—Continuing damage.

If water precipitated from the clouds in the form of rain or snow forms for itself a visible course or channel, and is of sufficient volume to be serviceable to the persons through or along whose lands it flows, it is a watercourse and for its diversion an action will lie.

Beer v. *Stroud*, 19 O.R. 10, considered.

Where such a watercourse has been diverted by a railway company in constructing their line without filing maps or giving notice the landowner injuriously affected has a right of action and is not limited to an arbitration.

For such diversion the landowner, in the absence of an undertaking by the company to restore the watercourse to its original condition, is entitled to have the damages assessed as for a permanent injury.

Judgment of the Queen's Bench Division, 25 O.R. 37, affirmed.

Osler, Q.C., for the appellants.

Clute, Q.C., and *J. W. Gordon* for the respondent.

[Jan. 15.

IN RE MERSEA AND ROCHESTER.

IN RE GOSFIELD NORTH AND ROCHESTER.

Drainage—Municipal corporations—Drainage Trials Act—54 Vict., c. 51 (O.) —55 Vict., c. 42, ss. 583, 584, 598.

Drainage works in which several minor municipalities were interested were done by the county. Subsequently repairs being necessary, one of the minor municipalities having obtained a report as to the expenditure required passed

a by-law affirming the necessity of repairing the drain, adopting the report, providing for its own share of the costs, and charging the other minor municipalities with portions of the cost.

Held, per HAGARTY, C.J.O., and MACLENNAN, J.A.: That the drainage referee had jurisdiction to entertain an appeal by the minor municipalities against this by-law, and to declare it to be invalid.

Per BURTON and OSLER, JJ.A.: That he had no jurisdiction, and that in any event an appeal to him was unnecessary, the by-law being of no avail as far as the minor municipalities were concerned.

The result the referee's judgment, holding that he had jurisdiction, was affirmed.

M. Wilson, Q.C., and *J. B. Rankin* for the appellants.

A. H. Clarke and *M. Cowan* for the respondents.

[Jan. 15.

THOMPSON *v.* EEDE.

County Court—Jurisdiction—Guaranty—Liquidated amount.

The County Court has no jurisdiction to entertain an action for more than $200 on a guaranty in general terms of payment of the price of goods, there being no liquidation or ascertainment of the amount as between the vendor and the guarantor, the liquidation or ascertainment by the debtor not binding the latter.

Judgment of the County Court of Essex affirmed.

W. R. Riddell and *H. E. Rose* for the appellant.

A. H. Clarke for the respondent.

[Jan. 15.

BARNES *v.* DOMINION GRANGE MUTUAL FIRE INSURANCE ASSOCIATION

Fire insurance—Interim Contract—Notice to terminate—R.S.O., c. 167, s. 114 (19).

Upon an application for insurance for four years, and the giving of his note for the premium, the applicant received an interim receipt, containing the conditions (among others) that the insurance was subject to the approval of the directors, who should have power to cancel the contract within fifty days by letter, and that unless the receipt was followed by a policy within fifty days the contract of insurance should wholly cease and determine. No notice of cancellation was given, and no policy was issued.

Held, per HAGARTY, C.J.O.: That this was a contract of insurance that could be terminated only in accordance with the nineteenth statutory condition.

Per BURTON and OSLER, JJ.A.: That this was a mere incomplete or provisional contract of insurance, which came to an end in fifty days by effluxion of time.

Per MACLENNAN, J.A.: That there was a contract of insurance, and that the provision for determination by effluxion of time was a variation from the

statutory conditions, which was not binding, not being printed in the required mode.

In the result the judgment of the Queen's Bench Division, 25 O.R. 100, in favour of the insured, was affirmed.

Aylesworth, Q.C., for the appellants.

E. R. Cameron for the respondent.

[Jan. 15.

COMMISSIONERS OF QUEEN VICTORIA NIAGARA FALLS PARK *v.* COLT.

Improvements under mistake of title—Compensation—Occupation—Rent—Crown—R.S.O., c. 100, s. 30.

The defendants, being the owners of land adjoining the bank of the Niagara River, built at great expense stairways and elevators, and made paths from the top of the bank to the water's edge of the river to enable visitors to descend to see the view, and large sums were received for the use of these facilities. Expensive repairs to the stairways, elevators, and paths were from time to time necessary, owing to their exposed position, and the defendants knew that they had no title to the bank, which was vested in the Crown;

Held, that works of this kind were not lasting improvements within the meaning of section 32 of R.S.O., c. 100, and that both on this ground and on the ground that the defendants knew they had no title the defendants could not recover compensation.

Semble: The section would not affect the Crown, and the title being in the Crown when the improvements were made the Crown's grantee would take the land free from any lien.

In cases coming within the section the amount by which the value of the land has been enhanced is to be allowed, and the cost or value of the improvements is not the test.

Held, also, that the defendants were not chargeable with the profits made by them, but only with a fair occupation rent for the land.

Judgment of STREET, J., varied.

Osler, Q.C., and *K. H. Cameron* for the appellants.

Moss, Q.C., and *W. Barwick* for the respondents.

[Jan. 15.

TRUMBLE *v.* HORTIN.

Evidence—Discovery of new evidence—New trial—Discretion—Appeal.

Allowing a new trial on the ground of the discovery of new evidence is a matter of legal discretion, and in a case where a Divisional Court ordered a new trial on the ground of the discovery of new evidence, and this new evidence was merely corroborative of the evidence at the trial, the order was set aside.

Judgment of the Common Pleas Division reversed.

E. D. Armour, Q.C., and *A. H. Clarke* for the appellant.

W. R. Riddell and *H. E. Rose* for the respondent.

[Jan. 15.

CLARKSON *v.* MCMASTER.

Bills of sale and chattel mortgages—Possession—Creditors—Assignments and preferences—55 Vict., c. 26, s. 4 (O.).

The "creditors" against whom, by s. 4 of 55 Vict., c. 26 (O.), taking possession under a defective chattel mortgage is declared to be of no avail are creditors having executions in the sheriff's hands at the time possession is taken, or simple contract creditors who, at that time, have commenced proceedings on behalf of themselves and other creditors to set aside the mortgage.

An assignee for the general benefit of creditors stands in no better position, and possession taken before the assignment cures all formal defects.

Judgment of MACMAHON, J., reversed.

Johnston, Q.C., and *W. H. Cutten* for the appellants.

Cassels, Q.C., and *W. S. McBrayne* for the respondents.

[Jan. 15.

IN RE CHRISTIE AND TORONTO JUNCTION.

Municipal corporations—Arbitration and award—Increasing award—Evidence—55 Vict., c. 42, ss. 401-404 (O.).

Held, per HAGARTY, C.J.O., and MACLENNAN, J.A.: In an arbitration within sections 401 and 404 of the Consolidated Municipal Act, 55 Vict., c. 42 (O.), a judge to whom an appeal is taken against the award cannot, merely on his own understanding of the evidence and on a view of the premises, increase the amount awarded.

Per BURTON and OSLER, JJ.A.: The judge can deal with the award on the merits, and can increase or reduce the amount or vary the decision as to costs.

In the result the judgment of ROSE, J., was affirmed.

Aylesworth, Q.C., and *C. Going* for the appellants.

W. R. Riddell, Q.C., and *A. C. Gibson* for the respondent.

[Jan. 15.

LAND SECURITY COMPANY *v.* WILSON.

Principal and surety—Novation—Sale of land.

An agreement for sale and purchase of several lots entered into between the plaintiffs and defendant described the lots by their plan number, and after providing for payment of the purchase money part in cash and part at times fixed therein with a right of prepayment contained the words: "Company will discharge any of said lots on payment of the proportion of the purchase price applicable on each." The defendant sold and assigned his interest in the agreement to a third person, who made sales of lots and parts of lots, conveyances being made to the purchasers by the plaintiffs, who also gave time to the third person for payment of interest;

Held, on the evidence, that there was no novation.

Held, also, that the proportion of the purchase price applicable to each lot was to be ascertained by dividing the balance of purchase money, after deducting the cash payment, by the number of lots.

Held, also, that though the plaintiffs had no right to convey parts of lots the defendant, even if merely a surety, was not wholly released by their doing this, and giving time for payment of interest, but that he was released as to interest in arrear when time was given, and was entitled to credit for the full proportion of purchase money of those lots of which parts had been conveyed.

Judgment of ROBERTSON, J., reversed.

J. K. Kerr, Q.C., and *W. Davidson* for the appellants.

Robinson, Q.C., and *N. W. Rowell* for the respondent.

[Jan. 15.

WOOD *v.* REESOR.

Action—Election of remedies—Inconsistent remedies—Estoppel—Assignments and preferences.

A creditor cannot take the benefit of the consideration for a transfer of goods, and at the same time attack the transfer as fraudulent, and an assignee for the benefit of creditors has no higher right in this respect. Where, therefore, a creditor suing in the name of the assignee obtained judgment for the payment to him as part of the debtor's estate of promissory notes given to the latter for, as was alleged, part of the purchase money of his stock-in-trade, it was held that it was then too late for the creditor to attack the sale as fraudulent.

On the argument of the appeal evidence as to the prior action was admitted, and on this evidence and objection then taken the judgment of FERGUSON, J., was set aside without costs here or below.

Moss, Q.C., and *T. M. Higgins* for the appellants.

Osler, Q.C., and *W. S. McBrayne* for the respondents.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

Div'l Court.] [Dec. 19.

REGINA *v.* CUNERTY.

Justice of the peace—Summary conviction—Sale of intoxicating liquors—Quantity—R.S.O., c. 194, s. 2, s-s. 3—Finding of magistrate—Power to review—Certiorari.

The defendant, the holder of a shop license under the Liquor License Act, R.S.O., c. 194, was convicted by a magistrate for selling liquor in less quantity than three half pints, contrary to s. 2, s-s. 3. The evidence showed a sale of a bottle of ale and a flask of brandy, each containing less than three half pints, the two together containing more than three half pints.

Upon appeal from an order refusing a certiorari;

Held, that it was within the jurisdiction of the magistrate to determine, as a matter of fact, whether the defendant had sold liquor in less quantity than

three half pints, and if a certiorari were granted the court would have no power, upon a motion to quash the conviction, to review the magistrate's decision.

Colonial Bank of Australasia v. *Willan*, L.R. 5 P.C. 417, followed.

J. K. Cartwright, Q.C., for the Crown.

Haverson for the defendant.

Div'l Court.] [Dec. 19, 1894.

HOLLENDER *v.* FFOULKES.

Foreign judgment—Action on—Defence—False affidavit—Fraud—Court of Appeal in England—Decision of—Authority—Practice—Reply—Demurrer—Rules 403 and 1322.

To an action on a foreign judgment the defendants pleaded that the order for such judgment was obtained upon a false affidavit, and that the plaintiffs obtained the judgment by fraudulently concealing from the court the true nature of the transactions between them and the defendant.

Held, a good defence.

Abouloff v. *Oppenheimer*, 10 Q.B.D. 295, and *Vadala* v. *Lawes*, 25 Q.B.D. 310, followed.

Woodruff v. *McLellan*, 14 A.R. 242, not followed.

A colonial court should follow the decisions of the Court of Appeal in England.

Trimble v. *Hill*, 5 App. Cas. 342, followed.

Macdonald v. *McDonald*, 11 O.R. 187, and *McDonald* v. *Elliott*, 12 O.R. 98, not followed.

To the above defence, the plaintiffs, after the coming into force of Rule 1322, replied that the defendant was precluded by law from raising any question as to the validity of the foreign judgment, which might have been raised by way of appeal in the foreign forum.

Held, that this replication was equivalent to a demurrer under the former practice, and was an admission of the truth of the facts stated in the defence, and to such a replication Rule 403 has no application.

McBrayne for the plaintiffs.

Bartram for the defendant.

Div'l Court.] [Dec. 19, 1894.

IN RE CLARK *v.* BARBER.

Prohibition—Division Court—Money payable by instalments with interest—Dividing cause of action—R.S.O., c. 51, s. 77.

Under an agreement for sale of land, the balance of the purchase money was payable by instalments with interest at a named rate half-yearly, and at a time when three of the instalments, amounting to $70, and three years' taxes were overdue an action was commenced in a Division Court for the arrears of interest and two years' taxes, $95.30.

Held, reversing the decision of BOYD, C., 25 O.R. 253, that the plaintiffs could have recovered all the purchase money and interest due when the action

was begun under one court in a superior court, and therefore there was a dividing of their cause of action within the meaning of s. 77 of the Division Courts Act, R.S.O., c. 51.

Re Gordon v. *O'Brien*, 11 P.R. 287, approved and followed.

Public School Trustees of Nottawasaga v. *Cooper*, 15 A.R. 310, distinguished.

R. M. Macdonald for the plaintiffs.

R. B. Beaumont for the defendant.

Div'l Court.] [Dec. 19, 1894.

HAIST *v.* GRAND TRUNK R.W. CO.

Negligence—Railways—Contributory negligence—Settlement before action—Payment—Receipt—Evidence—Accord and satisfaction—Release—Estoppel—Nonsuit.

In an action for damages for negligence, whereby the plaintiff was injured in alighting from a train, the defendants denied negligence and pleaded contributory negligence, and also a payment of $10 to the plaintiff before action and a receipt in writing signed by him therefor, "in lieu of all claims I might have against said company on account of an injury received . . . by reason of my stepping off a train . . . such act being of my own account, and not in consequence of any negligence or otherwise on behalf of such railway company or any of its employees." The plaintiff replied that if he signed the receipt he was induced to do so by fraud and undue influence.

Held, that the issue raised by the document was not a distinct issue, but rather a matter of evidence upon the issues of negligence and contributory negligence, and should have been submitted to the jury, and not separately tried by the judge.

Johnson v. *Grand Trunk R.W. Co.*, 25 O.R. 64, 21 A.R. 408, distinguished.

The document would not support a plea of accord and satisfaction, nor of release, nor did it operate by way of estoppel.

It was cogent evidence of the absence of negligence on the defendants' part and of contributory negligence on the plaintiff's part; but, there being evidence of negligence on the defendants' part, the case could not have been withdrawn from the jury.

Judgment of STREET, J., reversed.

Aylesworth, Q.C., for the plaintiff.

McCarthy, Q.C., for the defendants.

Div'l Court.] [Dec. 19, 1894.

SCHMIDT *v.* TOWN OF BERLIN.

Negligence—Municipal corporations—Public park—Licensee—Knowledge.

A municipal corporation, owner of a public park and building therein, is not liable to a mere licensee for personal injuries sustained owing to want of repair of the building, at all events where knowledge of the want of repair is not shown.

King, Q.C., for the plaintiffs.

W. H. P. Clement for the defendants.

Div'l Court.] [Dec. 26, 1894.

SHANNON SHINGLE MFG. CO. *v.* CITY OF TORONTO.

Equitable assignment—Chose in action—Verbal arrangement—Notice—Priorities.

A contractor who had certain contracts with a city corporation in 1888, by writing, assigned to one who supplied him with funds to perform the work under the contracts all moneys due or coming due thereunder, and lodged the writing with the corporation. The assignor at this time expected to enter into other contracts with the corporation, and subsequently did so; and at this time and prior to it a standing arrangement, not evidenced by any writing, existed between him and the assignee by which the latter was to supply money and material to the former as security, for which the former was to give the latter an order for all moneys coming to him from the corporation upon all his contracts, and this arrangement was to continue until he saw fit to stop it. The corporation had no notice of this arrangement, but they treated the writing as applicable to future contracts and made payments to the assignee with the assent of the assignor, until they received notice of other assigments of portions of the moneys.

Held, that, although the written assignment applied only to the contracts in force at its date, the verbal arrangement was a good equitable assignment of all moneys which became due under future contracts; but, in the absence of notice to the corporation of the verbal arrangement, the other assignees, who gave the corporation notice, were entitled to priority as to moneys due under future contracts at the time they gave such notice.

Dearle v. *Hall*, 3 Russ. 1, 48, followed.

Moss, Q.C., for Robert Carroll.

Coatsworth for T. Tomlinson & Son.

W. H. Garvey for the plaintiffs.

W. R. Smyth for J. J. Booth.

ROSE, J.] [Oct. 5, 15, 1894.

CULLERTON *v.* MILLER.

Water and watercourses—Navigable waters—Ice—Right of free passage over—Action for declaration of right—Damages—Loss of business.

The defendant, being the owner of certain water lots upon a lake front, subject to a reservation in favour of the Crown of free passage over all navigable waters thereon, refused to allow the plaintiff to haul ice out from the lake over such lots, when frozen, to the wharf from which the plaintiff desired to ship the ice for the purposes of his business, unless the plaintiff paid toll, which he refused to do.

Held, that the plaintiff had the right without payment to cross the defendant's lot, whether the water upon it was fluid or frozen; and, having the cause of complaint, and a right of action for his personal loss, he was entitled to come to the court for a declaration of right.

Gooderham v. *City of Toronto*, 21 O.R. 120, 19 A.R. 64, and *City of Toronto* v. *Lorsch*, 24 O.R. 229, followed.

Held, also, that the defendant was liable for such reasonable damages as flowed directly from the wrong done by his refusal; but, as he had acted without malice, and under a *bonâ fide* mistake as to his rights, he was not liable for the plaintiff's loss of business consequent on his failure to ship the ice.

L. V. McBrady for the plaintiff.

William Macdonald for the defendant.

FERGUSON, J.] [Jan. 18.

MERCHANTS' BANK *v.* KEMP.

Examination of judgment debtor—Discretion of special examiner to admit or exclude other persons during examination—Con. Rules, No. 437-505 and 926-931.

Motion to compel the defendant K. (a judgment debtor) to attend, at his own expense, for further examination before W. L. Gwynne, Esquire, a special examiner, under the following circumstances:

The defendant Kemp had for several years past carried on business as a manufacturer of summer drinks, etc., in Toronto under the firm name of "The Kemp Beverage Co.," "Kemp, Peck & Co.," and "Kemp, Jones & Co.," and while carrying on such business incurred a debt of $500 to the plaintiffs, for which judgment had been recovered against him.

Upon an appointment for his examination as a judgment debtor counsel for the plaintiffs was attended by one Jones, who had been Kemp's partner in business, and who attended to instruct the examining counsel as to the accounts of the firms. Kemp, after being sworn, refused to answer any questions unless Jones was ordered to withdraw. The special examiner held that he had discretion to admit or exclude Jones, and upon a statement to him of the facts as above he refused to exclude Jones, whereupon Kemp and his solicitor left the room.

C. R. W. Biggar, Q.C., for the motion.

The note at the foot of page 485 of Holmested and Langton's Judicature Act, under the case of *The Western of Canada O. L. & W. Co.*, 6 Ch. Div. 109, does not fully represent the result of the authorities there cited. The cases referred to, and also *Wright* v. *Wilkin*, 6 W.R. 643, clearly show that a special examiner has a judicial discretion as to the admission or exclusion of persons who desire to be present during an examination before him, and in *Hands* v. *U. C. Furniture Co.*, 12 P.R. 292, the late Master in Chambers (Mr. Dalton) so held.

Waldron, for the judgment debtor, cited *Sivewright* v. *Sivewright*, 8 P.R. 81.

FERGUSON, J.: "I have always understood that the special examiner has the discretion here contended for by the plaintiffs. He may either admit or exclude persons from his room during an examination before him, according to what he considers best calculated, under all the circumstances, to secure the due administration of justice. I recollect a case in my own practice where the counsel for the party under examination was excluded at my request, because his presence interfered with the proper examination of the witness, who was his

client. I think Mr. Gwynne exercised his discretion rightly in the present case. The bank seeks information as to the affairs of this, their judgment debtor; and it may be necessary in the investigation of his books and accounts that a former partner (Jones) should be present to instruct counsel as the facts come out. My only doubt is as to whether the order should not go in the first instance for committal, and the defendant be allowed as an indulgence to attend at his own expense and submit to examination. However, as this is not sought for at present, the order will go as asked. Costs of the application to be paid by the judgment debtor."

Order accordingly.

Chancery Division.

STREET, J.] [Nov. 19, 1894.

OLIVER *v.* LOCKIE.

Waters and watercourses—Easement—Dominant tenement—Servient tenement—Defined channel—R.S.O., c. 3, s. 35.

The rule is that when an owner creates an artificial watercourse, discharging surplus water upon a neighbour's land, he obtains at the expiration of the statutory period a right to continue to discharge it, but the neighbour acquires no right to insist upon the continuance of the flow. The easement arises for the benefit of the dominant tenement. The owner of such a servient tenement is not a "person claiming right thereto" within s. 35 of R.S.O., c. 3. A defined channel is an essential part of a stream.

Ennor v. *Barwell*, 2 Giff. 410, distinguished.

Under the circumstances of this case it was

Held, that the owner of the servient tenement could not interfere with the user by the owner of the dominant tenement of water rising on her land.

A. Monroe Grier for the plaintiff.

DuVernet and *Milliken* for the defendant.

Practice.

Chy. Div'l Court.] [Jan. 10.

JURY *v.* JURY.

Arrest—Ex parte order for—Setting aside—Jurisdiction—Rules 536, 1051—Sheriff.

Rule 536 does not apply to cases of *ex parte* orders for arrest, which are specially provided for by Rule 1051; and a County Court judge has no jurisdiction to set aside his own order for arrest.

Where an order for arrest has been acted on by the sheriff, it should not be disturbed.

W. H. Bartram for the plaintiff.

No one appeared for the defendant.

BOYD, C.] [Dec. 12.

KNARR *v.* BRICKER.

Reference—Report—Drawing—Settling—Notice.

A judicial officer charged with a reference should himself draw his report, and not delegate it to the solicitor for the successful party. Both parties should be given equal facilities to know the result, and be present at the drawing or settling of the report.

J. P. Mabee and *R. T. Harding* for the plaintiff.

E. P. Clement and *W. H. P. Clement* for the defendant.

FERGUSON, J.] [Jan. 14.

HUNTER *v.* GRAND TRUNK R.W. CO.

Discovery—Production of documents—Railway casualty—Reports—Privilege.

Where reports by officers or servants of a railway company as to a casualty, giving rise to an action, are in good faith prepared for the purpose of being communicated to the company's solicitor, with the object of obtaining his advice thereon, and enabling him to defend the action, they are to be regarded as privileged communications and exempt from production for inspection by the opposite party, even if they answer the purpose of giving information to other people as well.

W. R. Smyth for the plaintiff.

D. Armour for the defendants.

FERGUSON, J.] [Jan. 18.

MERCHANTS' BANK OF CANADA *v.* KEMP.

Examination—Special examiner's chambers—Discretion as to admission of persons.

A special examiner has a discretion to admit or exclude from his chambers persons who desire to be present upon an examination.

And where the defendant attended for examination as a judgment debtor, but refused to answer questions unless a former partner of his, who was present to instruct counsel for the judgment creditors, was excluded;

Held, that the examiner rightly exercised his discretion in refusing to exclude; and the defendant was ordered to attend again at his own expense.

C. R. W. Biggar, Q.C., for the plaintiffs.

Waldron for the defendant.

FERGUSON, J.] [Jan. 19.

MACRAE *v.* NEWS PRINTING CO.

Jury notice—R.S.O., c. 44, s. 78 (2)—Filing—Time—Allowance.

Where a jury notice is served in due time, but by inadvertence filed too late to comply with R.S.O., c. 44, s. 78 (2), there is power to make an order allowing it to stand good; and such an order should be made if the case is one proper to be tried by a jury.

E. G. Rykert for the plaintiffs.

G. A. M. Young for the defendants.

MEREDITH, C.J.] [Jan. 23.

THOMPSON *v.* HOWSON.

Pleading—Notice of trial—Christmas vacation—Amendment—Leave—Time—Close of proceedings—Rules 392, 427, 484, 1331.

A party to an action has the right, notwithstanding the insertion in Rule 484, by Rule 1331, of the words "or of the Christmas vacation," to deliver a pleading during such vacation; and a notice of trial given therein is regular.

Where a pleading is amended under an order giving leave to amend, Rule 427 does not apply; and, under Rule 392, when the amendments allowed by the order have been made or the time thereby limited for making them has elapsed, the pleadings are in the same position as to their being closed as they were in when the order was made.

W. E. Middleton for the plaintiff.

J. H. Moss for the defendant.

ELECTION CASES—ONTARIO.

OSLER, J.A.] [Nov. 27, 1894.

IN RE CENTRE SIMCOE.

Ontario elections—Disqualification—Contractor for carrying mails—Withdrawing petition.

This was a motion by the petitioner for leave to withdraw his petition on the grounds set out in the judgment.

Leave granted, and

Held, that a member of the Ontario Legislature is not disqualified from holding his seat by reason of his holding a contract for the conveyance of Her Majesty's mails.

OSLER, J.A.: The affidavits denying collusion, the existence of any corrupt arrangement, etc., are sufficient to satisfy me as to the *bonâ fides* of the application, and all the prescribed formalities as to publication of notice of the application have been complied with. The only legal question raised by the petition is whether the respondent is disqualified to be elected and returned as a member by reason of his holding a contract for four years for the conveyance of Her Majesty's mails between the Grand Trunk Railway and the New Lowell post office.

The contract is in the form of an unilateral agreement signed by the respondent, and he agrees thereby, should the Postmaster-General require it, to enter into "a regular contract" for the services described therein. The agreement or contract is made or to be made with the Postmaster-General pursuant to the 9th and 54th and following sections of the Post Office Act.

Such a contract or agreement, however, does not come within the 8th section of the Act respecting the Legislative Assembly, R.S.O., c. 11, which, except as is thereinafter excepted, disqualifies any person accepting or holding any office, commission, or employment in the service of the Dominion, or of the Government of Ontario, at the nomination of the Crown or of the Lieutenant-Governor, to which a salary, or any fee, allowance, or emolument in lieu of

a salary from the Crown or from the Province, is attached. Subsection (*b*) also disqualifies any one holding any office, commission, or *employment of profit* at the nomination of the Crown, or of the Government, or of any head of a department in the Government of Ontario, whether such profit is or is not payable out of the public funds. "Employment of profit" is thus distinguished from a salaried office, commission, or employment, and, if it includes a contract, it is a contract with reference to Ontario and not to the Dominion.

This is further shown by s. 9, which enacts that no person holding or enjoying or undertaking or executing, directly or indirectly, alone or with any other, by himself or by the interposition of a trustee or third party, any contract or agreement with Her Majesty, or with any public officer or department, with respect to the *public service of Ontario*, shall be eligible as a member of the Legislative Assembly.

This is the section which covers the case of a contract which shall disqualify the candidate, and, as it does not cover a contract with respect to the public service of the Dominion, such a contract as the one in question, for the conveyance of the mails, does not render the respondent ineligible to be elected and returned as a member of the Legislative Assembly.

I think, therefore, there is no reason why I should not permit the petition to be withdrawn. The respondent does not ask for costs, and I make no order in that respect.

An order will also go for payment out of the deposit.

J. Bicknell for the petitioner.

George Ross for the respondent.

OSLER, J.A.] [Nov. 28, 1894.

IN RE SOUTH NORFOLK.

Ontario elections—Disqualification—Postmaster—Withdrawing petition.

This was a motion by the petitioner for leave to withdraw his petition on the grounds set out in the judgment.

Leave granted, and

Held, that a member of the Ontario Legislature is not disqualified from holding his seat by reason of his holding the office of postmaster with no permanent salary for a place which is not a city or town.

OSLER, J.A.: The petition alleges that the respondent is disqualified or rendered ineligible for election to the Legislative Assembly by reason of his holding the office of postmaster for the post office of Lynedoch, county of Norfolk, which is a rural post office, and not a post office of any city or town. The appointment to such an office is made by the Postmaster-General, pursuant to s. 49 of the Post Office Act.

Section 8 of the Act respecting the Legislative Assembly, R.S.O., c. 11, enacts that no person shall be eligible as a member of the Legislative Assembly accepting or holding (*a*) any office, commission, or employment either in the service of the Dominion of Canada, or in the service of the Government of Ontario, *at the nomination of the Crown* or of the Lieutenant-Governor, to which a salary, or any fee, allowance, or emolument in lieu of a salary from the

Crown or from the Province is attached, or (*b*) any office, commission, or employment of profit at the nomination of the Crown, or of the Government, or of any head of a department in the Government of Ontario.

Section 49 of the Post Office Act enacts that the Governor in Council may appoint all postmasters having fixed salaries in cities and towns, and that all other postmasters may be appointed by the Postmaster-General.

The office held by the respondent is not an office in the service of the Dominion *at the nomination of the Crown* or *of the Government* or of any head of a department in the Province of Ontario. His office is held at the nomination or appointment of the head of a department in the Government of the Dominion, viz., the Postmaster-General, as distinguished from the appointment of a postmaster for a city or town, with a fixed salary, who is appointed by the Governor in Council, and who would be ineligible under clause (*a*) of s. 8, s-s. 1. The section does not cover the case of a person holding such an office as the respondent's, and he was, therefore, in my opinion, not ineligible to be elected a member of the Legislative Assembly merely by reason of his holding such office.

In the *West York Provincial Election Case*, Hod.E.C. 156, a question similar to this was raised on the trial of the petition, and the learned trial judge directed a special case to be stated for the opinion of the full Court of the Queen's Bench. Owing to the abandonment of the petition, the case was never argued, and I hesitated a moment as to whether I should, as was done there, direct a special case to be stated before allowing the petition to be withdrawn. There seems, however, so little in the objection that, holding as I do a clear opinion in the respondent's favour, I ought not to put the parties to any further expense, the case being in other respects one in which leave ought to be given to withdraw. It is proved that the application is not a collusive one, and that there is no reasonable ground for supposing that any of the other charges in the petition could be made out.

I therefore give leave to withdraw the petition. The respondent does not ask for costs.

J. Bicknell for the petitioner.

George Ross for the respondent.

MANITOBA.

COURT OF QUEEN'S BENCH.

Full Court.] [Jan. 15

McMAIN *v.* OBEE.

County Courts Act, R.S.M., c. 33—Section 66—Unsettled account exceeding $400—Jurisdiction of County Courts—Prohibition.

Appeal from the judgment of the Chief Justice, noted *ante* vol. 30, p. 693, granting a rule for a prohibition to a County Court, and holding that the claim sued on was for a balance of an unsettled account exceeding $400, and so beyond the jurisdiction of the County Court.

Held, reversing the Chief Justice's decision (KILLAM, J., dissenting), that the County Court judge had jurisdiction, that there was no unsettled account

exceeding $400 to be investigated, and that the judge under the circumstances had power to allow the plaintiff to abandon the excess of 2 per cent. in the rate of interest which he had claimed.

Jordan v. *Marr*, 4 U.C.Q.B. 53; *Vogt* v. *Boyle*, 8 P.R. 249; *Higginbotham* v. *Moore*, 21 U.C.Q.B. 326, followed.

Andrews for the plaintiff.

Clark for the defendant.

Full Court.] [Jan. 15.

RE MUNICIPALITY OF MACDONALD.

Municipal law—Ultra vires—Resolutions of council—Special meetings—Adjournment to meet again at call of reeve.

This was an appeal from the order of the Chief Justice quashing a by-law and two resolutions passed by the council of the municipality at meetings held under the following circumstances:

At the close of the first meeting of the council for the year they adjourned to meet again at the call of the reeve. Subsequent meetings were held throughout the year upon notices issued by the reeve, whenever it was necessary to call a meeting, but these notices did not contain any mention of the subjects or matters which were to be taken into consideration at the meetings, and the resolutions in question were passed at meetings so held.

It was contended by counsel for the municipality that these meetings should be considered as adjournments of the first regular meeting, and not special meetings within the meaning of section 288 of the Municipal Act, R.S.M., c. 100.

Held, (DUBUC, J., dissenting) that the meetings in question were not regular meetings, but were special meetings convened by the head of the council, as provided by section 284, and that as the notices calling the meetings contained no mention of the matters to be taken into consideration the learned Chief Justice was right in quashing the by-law and resolutions in question.

Patterson for the applicant.

Martin for the municipality.

Appointments to Office.

SHERIFFS.

County of Hastings.

George Frederick Hope, of the City of Belleville, in the County of Hastings, to be Sheriff of the County of Hastings, *pro tem.*, in the room of William Hope, deceased.

LOCAL MASTERS.

County of Lambton.

John Alexander MacKenzie, of the Town of Sarnia, in the County of Lambton, Esquire, Junior Judge of the said County of Lambton, to be a Local Master of the Supreme Court of Judicature for Ontario in and for the said County of Lambton.

CORONERS.

County of Perth.

George Robinson Watson, of the Town of Listowel, in the County of Perth, Esquire, M.D., to be an Associate-Coroner within and for the said County of Perth.

POLICE MAGISTRATES.

County of Simcoe.

John Lawrence, of Christian Island, in the County of Simcoe, Esquire, to be Police Magistrate in and for said Christian Island, without salary.

DIVISION COURT CLERKS.

District of Parry Sound.

David McFarlane, of the Town of Parry Sound, in the District of Parry Sound, to be Clerk of the First Division Court of the said District, in the room of R. H. Stewart, deceased.

County of Bruce.

John Kennedy McLean, of the Village of Teeswater, in the County of Bruce, to be Clerk of the Second Division Court of the said county, in the room of H. B. O'Connor, deceased.

County of Essex.

Cornelius Henry Ashdown, of the Town of Sandwich, in the County of Essex, to be Clerk of the First Division Court of the said county, in the room of J. A. Stuart, deceased.

DIVISION COURT BAILIFFS.

District of Muskoka.

Will G. Hill, of the Village of Bracebridge, in the District of Muskoka, to be Bailiff of the First Division Court, in the room of W. J. Hill, deceased.

County of Hastings.

Hiram Weese Harris, of the Village of Stirling, in the County of Hastings, to be a Bailiff of the Fifth Division Court of the said county.

County of York.

William Suggitt, of the Village of Lambton Mills, in the County of York, to be Bailiff of the Seventh and Eighth Division Courts of the said County of York, in the room and stead of James Stewart, deceased.

LOCAL REGISTRARS.

County of Bruce.

William Allan McLean, of the Town of Walkerton, in the County of Bruce, Esquire, to be Local Registrar of the High Court of Justice for the Province of Ontario in and for the said County of Bruce.

District of Parry Sound.

Edward Jordan, of the Village of Rosseau, in the District of Parry Sound, to be Local Registrar of the High Court, Surrogate Registrar, and District Court Clerk for the said District, in the room of Richard Hardinge Stewart, deceased.

SPRING SITTINGS, 1895.

DATE.	WHERE HELD.	JURY OR NON-JURY.	JUDGE.
MARCH.			
Tuesday, 5th	Belleville	Jury	Boyd, C.
" "	St. Thomas	Jury	Meredith, C.J.
" "	Chatham	Non-Jury	Ferguson, J.
" "	Owen Sound	Jury	Robertson, J.
" "	Milton	Both	Falconbridge, J.
" "	Cornwall	Non-Jury	MacMahon, J.
" "	L'Orignal	Both	Street, J.
" "	Walkerton	Non-Jury	Meredith, J.
Thursday, 7th	St. Catharines	Jury	Falconbridge, J.
" "	Ottawa	Jury	Street, J.
Tuesday, 12th	Toronto (1st Week)	Non-Jury	Armour, C.J.
" "	Goderich	Jury	Ferguson, J.
" "	Sandwich	Jury	Rose, J.
" "	Brockville	Non-Jury	Robertson, J.
" "	Brampton	Both	MacMahon, J.
Monday, 18th	Toronto (2nd Week)	Non-Jury	Robertson, J.
" "	Cobourg	Jury	Falconbridge J.
Tuesday, 19th	Orangeville	Both	Boyd, C.
" "	Kingston	Non-Jury	Armour, C.J.
" "	Sarnia	Jury	Meredith, C.J.
" "	Woodstock	Jury	Rose, J.
" "	Peterboro	Jury	Street, J.
" "	Brantford	Non-Jury	Meredith, J.
Monday, 25th	Toronto (3rd Week)	Non-Jury	Meredith, C.J.
" "	Barrie	Non-Jury	Ferguson, J.
Tuesday, 26th	Stratford	Jury	Armour, C.J.
" "	London	Jury	Rose, J.
" "	Pembroke	Both	Meredith, J.
" "	Lindsay	Jury	MacMahon, J.
APRIL.			
Monday, 1st	Toronto (4th Week)	Non-Jury	MacMahon, J.
Tuesday, 2nd	Simcoe	Non-Jury	Boyd, C.
" "	Walkerton	Jury	Meredith, C.J.
" "	Hamilton	Jury	Ferguson, J.
" "	Guelph	Jury	Rose, J.
" "	Perth	Both	Robertson, J.
" "	Owen Sound	Non-Jury	Falconbridge, J.
" "	Whitby	Non-Jury	Street, J.
" "	Cornwall	Jury	Meredith, J.
Monday, 8th	Toronto (5th Week)	Non-Jury	Boyd, C.
Tuesday, 9th	Toronto (Civil), 1st Week	Jury	Ferguson, J.
" "	St. Thomas	Non-Jury	Rose, J.
" "	Ottawa	Non-Jury	MacMahon, J.
" "	Chatham	Jury	Street, J.
Monday, 15th	Toronto (Civil), 2nd Week	Jury	Rose, J.
" "	Toronto (Civil), 6th Week	Non-Jury	Street, J.
Tuesday, 16th	Woodstock	Non-Jury	Boyd, C.
" "	Berlin	Both	Armour, C.J.
" "	Brockville	Jury	Ferguson, J.
" "	Belleville	Non-Jury	Robertson, J.
" "	Sandwich	Non-Jury	MacMahon, J.
" "	Peterboro	Non-Jury	Meredith, J.
" "	Brantford	Jury	Meredith, C.J.

DATE.	WHERE HELD.	JURY OR NON-JURY.	JUDGE.
Friday, 19th	Sarnia	Non-Jury	MacMahon, J.
Monday, 22nd	Toronto (Civil), 3rd Week	Jury	Robertson, J.
Tuesday, 23rd	Welland	Both	Armour, C.J.
" "	Kingston	Jury	Ferguson, J.
" "	Barrie	Jury	Falconbridge, J.
" "	St. Catharines	Non-Jury	Meredith, J.
" "	Cobourg	Non-Jury	Meredith, C.J.
Monday, 29th	Toronto (Civil), 4th Week	Jury	MacMahon, J.
Tuesday, 30th	Toronto (1st Week)	Criminal	Boyd, C.
" "	Picton	Both	Armour, C.J.
" "	Simcoe	Jury	Rose, J.
" "	Cayuga	Both	Robertson, J.
" "	Napanee	Both	Falconbridge, J.
" "	London	Non-Jury	Street, J.
MAY.			
Monday, 6th	Toronto (Civil), 5th Week	Jury	Falconbridge, J.
" "	Toronto (2nd Week)	Criminal	Street, J.
Tuesday, 7th	Guelph	Non-Jury	Boyd, C.
" "	Whitby	Jury	Armour, C.J.
" "	Goderich	Non-Jury	Meredith, C.J.
" "	Hamilton	Non-Jury	Robertson, J.
Monday, 13th	Toronto (3rd Week)	Criminal	Falconbridge, J.
" "	Toronto (Civil), 6th Week	Jury	Meredith, J.
Tuesday, 14th	Stratford	Non-Jury	Boyd, C.
" "	Lindsay	Non-Jury	Rose, J.
JUNE.			
Thursday, 13th	Rat Portage	Both	Boyd, C.
Monday, 17th	Port Arthur	Both	Boyd, C.
Monday, 24th	Sault Ste. Marie	Both	Boyd, C.
JULY.			
Tuesday, 9th	Bracebridge	Both	Robertson, J.
Tuesday, 16th	Parry Sound	Both	Robertson, J.