The Legal News.

Vol. XII. FEBRUARY 16, 1889. No. 7.

A paper issued in England, by the Incorporated Law Society of the United Kingdom, refers to the rigour of the law affecting trustees, which has been mitigated by an Act recently promoted by the Society. "Anxieties and responsibilities must inevitably attend the discharge of the thankless duties of a trustee; but they have been aggravated to an unbearable extent by a long series of judicial decisions which have fenced in the trustee's path with thorns and briars innumerable, and required of him a degree of vigilance and circumspection, passing all the ordinary standards by which the reasonable conduct of human affairs is measured. To remedy the evil as far as possible, it has of late years been customary for skilled draftsmen of wills and settlements to introduce protective clauses, and to those familiar with such instruments it has been both painful and, in a certain sense, almost amusing to see how every decision of the Courts which has added an extra cord to the judicial lash wherewith trustees have been reminded of their duties, has been followed by the insertion of a new clause in subsequent wills and settlements, expressly declaring that the trustees of those instruments may do that precise thing which the Court has declared that their unfortunate brethren not similarly protected had no right to do. But it is manifest that such a mode of pruning judicial severity must at the best be very partial in its practical results, and that the necessity for it indicates a condition of things calling loudly for the interference of Parliament. Recognising this to be so, the Incorporated Law Society, with the able assistance of Lord Herschell in the one House and Mr. Cozens-Hardy in the other, have prevailed on the Legislature to lessen, in some degree at least, the personal responsibilities of trustees who act in good faith and take reasonable measures for protecting the interests committed to their charge. This much-needed change in the law is to be found in the Liabilities of Trustees Act. The Act declares that a trustee may appoint a solicitor or a banker to be his agent for the receipt of trust money in certain cases, and protects him against liability arising out of depreciatory conditions on sales, or out of losses resulting from loans of the trust funds where he has lent not more than two-thirds of the value of the property, and has acted upon a report as to the value of the property made by a person whom he reasonably believes to be an able practical surveyor or valuer, instructed and employed independently of any owner of the property. It also contains provisions limiting the liability of trustees in cases of advances on leasehold property, of improper investments, and of breaches of trust committed at the instance of or with the consent of the beneficiary, and empowering trustees to insure the trust property, and to plead the Statutes of Limitations, except in cases where the trustee has himself benefited by the breach of trust. To any ordinary mind it would appear strange that legislative sanction should be needed to render such acts as those which we have briefly indicated lawful; but, in fact, it is hardly an exaggeration to say that every provision of the Act represents what may be termed a monument to martyrs who have suffered in the cause of trusteeship."

Dr. Geffchen, professor and senator of the University at Hamburg, about whom so many reports have appeared in the cable news amongst others that his mind was affected and that he was not accountable for his actions — refutes this idle talk by appearing as the author of a learned paper on "The Right of Blockade in time of Peace," in the *Journal du Droit International Privé*. A curious incident of this article is that the learned author was unable to revise the proofs, being at the time confined in prison in Berlin. To deny an author in reclusion an opportunity of correcting the proofs of an article on such a subject seems to be part of the needless severity with which Dr. Geffchen was treated.

In our last volume, p. 416, a short note appeared with reference to the exclusion of women from the bar in Belgium. The lady

in question had passed the law examinations in the University of Brussels, and having obtained her diploma, wished to be sworn as a barrister. She presented herself before the Court of Appeal and asked leave to go through the customary ceremony and inscribe her name as a member of the profession. Two barristers appeared on her behalf, but in vain. The Procureur-Général, whose consent, by the Napoleonic law, is necessary, refused to permit the admission of the oath, and the matter was referred to the Court for consideration, which upheld his decision. The reasons given by the Court state that "law and custom alike forbid that a woman should exercise the profession of a barrister; her place in society allots to her duties which are incompatible with the exercise of the profession—a profession for which she has neither strength nor leisure. Since legislation denies a woman the right of instituting any action without the consent of her husband, it cannot be expected that she should be permitted to do for another what she is forbidden to do for herself."

The variation of age in judges of the United Kingdom is considerable. The oldest judge in England is Mr. Justice Manisty, of the Queen's Bench Division, aged 81; the youngest, Mr. Justice Charles, of the Court of Appeal, aged 50. In Scotland, the oldest of the Lords of Session is Lord Glencorse, Lord Justice General, aged 79; the youngest, Lord Wellwood, aged 50. In Ireland, the Hon. J. Fitz Henry Townsend, of the Court of Admiralty, aged 78, is the oldest judge, and Mr. Justice Gibson, of the Queen's Bench Division, aged 44, is the youngest.

CIRCUIT COURT.

RICHMOND, January 19, 1889.

Coram BROOKS, J.

THE NEW ROCKLAND SLATE CO. v. THE CORPORATION OF THE TOWNSHIPS OF MELBOURNE AND BROMPTON GORE.

Arts. 100, 698, 1061, *M. C.—Corporation complaining of over valuation—Remedy.*

HELD:—1. *That, under the provisions of articles* 100 *and* 698 *of the Municipal Code, it was not competent for a corporation to petition to set aside a valuation roll for alleged illegality: that a corporation who claimed over-valuation of their property, and had obtained a partial reduction, cannot petition for the annulment of the roll, but should have proceeded by appeal under Art.* 1061 *of M. C.*

2. *That even supposing the petitioner had a right to ask for the annulment of the roll, the irregularities complained of were not sufficient to justify the annulment of the roll.*

PER CURIAM:—This is a petition to set aside a valuation roll under the provisions of articles 100 and 698, Municipal Code.

The petitioners allege that in June or July, 1887, respondent's council named three valuators, Ths. McLean, Wm. N. Skinner and Geo. D. Sloan, who proceeded to make the roll, employing the secretary-treasurer of the municipality to assist them; that they completed the roll on the 14th July, and it was then deposited in the office of the municipality. That they placed the property of the petitioners, about 350 acres, being lot 23 and part of lot 22, range 4, Melbourne, consisting of a slate quarry, then actually worked, with the buildings at $89,200,—$75,000 for the quarry, and $14,200 for the buildings. That on the 8th August the roll was examined and revised by the municipal council, and the valuation of plaintiffs' property reduced by $25,000, making it $65,200. That the roll as amended came into force August 14th. That the valuators in a spirit of hostility to petitioners, placed an excessive valuation on their property, and the municipal council, misled thereby, only reduced it by $25,000. That as amended and reduced, the value of the petitioners' property (a slate quarry) is wholly disproportionate to other property in the municipality That the actual value of lands in that vicinity does not exceed $5 per acre. That the valuators can only value the land, and not minerals. That other properties in the vicinity, such as the lands of the Hon. H. Aylmer, B. Walton Estate, Williamson, Cromber etc., are only valued at so much per acre; and the valuation complained of is excessive, disproportionate, and illegal.

They then go on to say that the roll is null and void:

1. Because the valuators were not qualified.

2. Because the valuators were not sworn.

3. Because the oath of office was taken before a person not qualified to administer the same.

4. Because they did not act together.

5. Because the roll was not made in accordance with Art. 718 M. C.

6. Because it was not signed by the valuators nor by the secretary-treasurer employed by them.

7. Because it was not attested before a Justice of the Peace.

8. Because the oath was not taken before a person qualified.

9. Because the attestation was incomplete.

10. Because the words, "and based upon the real and annual value of the property," are omitted in the attestation.

11. Because the roll is illegal, null and void.

And they pray that the roll be annulled and set aside.

To this petition, respondents reply *specially* denying the allegations of petitioners.

Now, as to the procedure in this case, it is under articles 100 and 698 M. C. What are the provisions? Art. 100 M. C., says a roll may be set aside for illegality; may be set aside in the same manner as a municipal by-law. What is the manner? Art. 698: "Any municipal elector in his own name "may petition." What is a municipal elector? Art. 291 M. C., gives the definition of municipal elector, and says that every such person may exercise the rights conferred by the Code upon municipal electors. No other can, and I was so impressed with this, that in the case of *Rolfe* v. *The Municipality of Stoke*, 24 L. C. J., p. 213, acting for the parties in interest, the B. A. Land Co., I advised that they could not petition in their own name, but must act in the name of individuals, municipal electors. I see no reason to alter that opinion. Even the word ratepayer in the interpretation clause, s. 19, sub.-sec. 21, is almost made *personal*. On this ground alone I think petitioners must fail. Again, they complain of excessive valuation of their property. The valuation was made. Then the manager applied for a reduction to the municipal council on the day of the revision, August 8, succeeded to the extent of $25,000. If dissatisfied what was the remedy provided by the Code? Art. 1061, sub.-sec. 3, provides for an appeal whether the decision was made by the council on its own motion or on complaint. Petitioners had an appeal. The reason is evident. The roll should not be annulled because one or more properties are over or under valued. The interested parties can complain by appeal, raising simply the question of the valuation of their own properties without affecting the general roll.

I held this in the Circuit Court, Sherbrooke, in the case of *Brault* v. *The Corporation of Marsden*, in 1887, in which judgment it was declared: that individual cases of over or under valuation are not grounds for setting aside a valuation roll, but grounds of appeal under Arts. 734, 735 and 1061, M. C.

Again, coming to the facts as proved: Is this Court to set aside a valuation roll when a property bought many years ago for $30,000, which petitioners' manager valued at $35,000 (see evidence of Capt. Williams), and upon which many thousands of dollars have since been expended, because it is now valued at $65,000? Capt. W. Williams (petitioners' manager) in his evidence, says: "What "idea I mean to convey is that they (petitioners) have expended, have invested there "at the present time $150,000." Afterwards he says: "The company have sunk $150,000, "the amount of their capital, in that quarry." They erected expensive buildings and plant. Can this Court say under the circumstances, that the whole roll is illegal because this property, a going concern, is assessed at $65,000? It certainly cannot.

If I am right as to the first point, the technical objections need not be discussed; but as the same questions arise in this and another case, T. M. Taylor, petitioner, apart from the question of status, and as the matter is important, we may as well consider them now.

As to first objection, no proof is made of the want of qualification of the valuators, and this ground was not insisted on at the argument. As to objection No. 2, the valuators took the oath of office, June 8, 1887, before the secretary-treasurer (see section 6, M. C.), in his office, in the village of Melbourne, Art. 106, M. C. The office may be

in an adjoining town, village or city. The office in this case was in a portion of a territory detached from the township of Melbourne, and was consequently within the territorial jurisdiction of the municipal respondents for all purposes of the Municipal Code. The secretary-treasurer was authorized to administer the oath to the valuators there. As to No. 4, the valuators acted together as proved.

As to objection No. 5, it is to be observed that petitioners' allegation is general. They make no specific complaint of omissions, but simply say, you have not complied with 718 M. C. The roll gives names and surnames, quality and age of owners, the names of occupants of lands when different from owners' description of property, *i. e.* the part of lot and range, the value, the annual value in a large majority of cases. It does not give the property assessable under Art. 710, but no proof is made here that such property existed, and it is the same with regard to the requirements of Art. 712 M. C., except that they have mentioned some, and no proof that they have not given all the number of inhabitants, but have not inserted what is required by Provincial Secretary. Are the omissions fatal? So far as petitioners are interested, all the requirements of Art. 718 for the purposes of taxation, have been complied with.

As to objection 6, the roll was signed by three valuators, but No. 7, it was not sworn before a Justice of the Peace as required by the letter of Art. 725, which was an amendment of 45 Vict., ch. 35, s. 21. I, however, read this now incorporated with the Code in connection with Art. 6, and I think that the oath was sufficient taken before the secretary-treasurer. This says before whom "any oath "required by the provisions of the Code "may be taken," Mayor, warden, secretary-"treasurer or Justice of the peace." Arts. 28 and 6, I think, must be read together, though it might have been wiser to have followed Art. 725 literally.

Objections 9 and 10 are more serious. The amendment in Art. 725 declares that in the attestation, the words "based upon the real and annual value of the property" should be inserted. They have been omitted. Is the omission fatal to the roll, or in the roll itself have we evidence to supply it? The valuators swear that the roll is correct, and in it they have given the real and annual value.

I do not think that this omission which is the most serious objection taken in connection with Art. 14 M. C. and Art. 16 M. C., is so serious that this Court would be justified in annulling the roll, especially as petitioners were made aware of its contents so far as they were affected, and sought and obtained its amendment without raising any question as to its validity. The petition is therefore dismissed with costs.

Trenholme & Taylor, attorneys for petitioner.
P. G. Mackenzie, counsel.
Ives, Brown & French, for respondents.

The petition in the other case of Thomas M. Taylor, Petitioner, and the same Respondents, was also dismissed. This was based solely upon the technical grounds urged in The New Rockland Slate Company's petition. There was a question as to petitioner's status. He was on the roll, but did not prove the other qualification required in Art. 291, such as being a British subject, etc. His qualification as a municipal elector was specially denied, which was not the case in *Allan v. Richmond*, 7 L. C. J., p. 63, when it was only raised by general issue, and at the argument. But for the reasons specially given on the grounds raised in the other case, this petition was also dismissed.

COMMON PLEAS DIVISION, ONTARIO.

TORONTO, Feb. 27, 1888.

MCARTHUR et al. v. THE NORTHERN AND PACIFIC JUNCTION R. W. Co., AND HENDRIE, SYMONS & Co.

Railways—Dominion Railway—R.S.C. ch. 109, *Sec.* 6, *sub-sec.* 12; *sec.* 27—*Line built through lands under Ontario timber license—R.S.O. ch.* 26—*Timber cut within and outside six rod belt—Limitation of action.*

The defendants, a railway company, incorporated under an Act of the Parliament of Canada, built their railway through land in the Province of Ontario, the fee of which was in the Crown, but which was under a timber license issued by the Ontario Government, under R.S.O. ch. 26, *to the plaintiffs. The defendants cut down and removed the timber both within and outside the six rod limit men-*

tioned in sub-sec. 12 of sec. 6 of R.S.C., ch. 109. The timber was all cut more than six months before action brought.

Held,—that under the sub-section above referred to, the timber cut within the six rod limit became the property of the railway, and that the loss of the trees was damage or injury sustained by the plaintiffs by "reason of the railway" under sec. 27 of R.S.C. ch. 109, and the action was therefore barred by that section by reason of its not having been brought within the six months.

This was an action brought by the plaintiffs, who were timber licensees under the Ontario Government, for damages sustained by them by reason of the defendants having built their railway through the land covered by the plaintiffs' license, and having cut down and removed and converted to their own use the timber, to a great distance, on both sides of the railway, both within and outside of the six rod belt, mentioned in R. S.C. ch. 109, sec. 6, sub-sec. 12.

The cause was tried before Street, J., without a jury, at Toronto, at the Winter Assizes of 1888.

The learned Judge reserved his decision, and afterwards delivered the following judgment in which all the material facts are stated.

Osler, Q.C., and *Creedman*, for the plaintiffs.

Walter Cassels, Q.C., and *E. Martin, Q.C.*, for the several defendants.

STREET, J.—The defendants, the Railway Company, are incorporated under an Act of the Dominion Parliament, and their line of railway has been constructed through certain lands in this Province, the fee of which remained in the Crown, but which at the time of the construction of the railway were included in certain timber licenses issued by the Ontario Government, under R.S.O. ch. 26, to the plaintiffs.

The plaintiffs complain that in the autumn of 1884 the defendants entered upon these lands, and built their railway through them, and cut down and removed and converted to their own use the timber upon their line of railway for a great distance on both sides of it, both within and outside of the belt of six rods in width mentioned in sub-sec. 12 of sec. 6 of R.S.C., ch. 109.

It is admitted that none of the trespasses complained of took place at a date later than December, 1885, more than six months before this action was commenced.

The defendants, other than the railway company, are the contractors under them; and it is agreed that any questions which may arise between the defendants themselves are to be dealt with in any reference which may be ordered.

The main question argued before me was as to whether the plaintiffs' rights as to any or all of the trespasses complained of are barred by sec. 27 of R.S.C., ch. 109, which provides that "all actions or suits for indem-"nity for any damage or injury sustained by "reason of the railway company shall be "commenced within six months next after "the time when such supposed damage is "sustained, or, if there is continuation of "damage, within six months next after the "doing or committing of such damage ceases, "and not afterwards."

The rights of the plaintiffs under their license are defined in sec. 2 of R.S.O., ch. 26, which enacts that the "licenses shall de-"scribe the lands upon which the timber "may be cut, and shall confer for the time "being upon the nominee the right to take "and keep exclusive possession of the lands "so described . . . and . . . shall "vest in the licensee thereof all rights of "property in all trees, timber and lumber "cut within the limits of the license during "the time thereof whether . . . cut by "authority of the holder of the license, or by "any other person, with or without his con-"sent; and such licenses shall entitle the "holders thereof to seize in revendication, "or otherwise, such trees, timber or lumber "when the same are found in the possession "of any unauthorized person, and also to in-"stitute any action against any wrongful "possessor or trespasser, and . . . to "recover damages, if any."

So far as regards the timber, if any, cut by the defendants beyond the six rod belt, it is conceded by them that the limitation of time fixed by the 27th section of the Railway Act does not apply, and the plaintiffs are entitled to a reference as to this.

So far as the six rod belt is concerned, the

plaintiffs concede that, subject to the constitutional question as to the right of the Dominion Parliament to limit the right of action to six months, or any other time, the 27th section of the Railway Act would bar their right, if the effect of sub-section 12 of section 6 of that Act be to vest in the railway company the property in the timber cut or removed under that section; but they contend that this is not the true construction of that clause, and that any timber cut under the authority of that clause still continues the property of the owner, and that the damages resulting to them from the conversion of it to their own use by the defendants is not a damage arising "by reason of the railway," and is therefore not covered by the clause restricting their right of action to the period of six months.

The clause of the Act under which the trees have been cut upon the six rod belt is sub-section 12 of section 6; and it provides that "the company may fell or remove any "trees standing in any woods, lands or for-"ests where the railway passes, to the dis-"tance of six rods from either side there-"of."

The point does not seem to have been raised in any of the cases to which I have been referred, and I have not been able to find any authority upon it.

In the somewhat analogous case of the tenant of a wooded farm, which he has rented for agricultural purposes, the timber which he may cut without waste for the purpose of clearing the land clearly belongs to him. *Lewis* v. *Godson*, 15 O.R. 252.

The rule seems a reasonable one. The landlord obtains compensation for his timber in the increased value of his land for agricultural purposes, and the tenant has the timber as the reward for his labour in clearing the land; and disputes are prevented between the landlord and the tenant which might arise as to whether the timber had been cut in such a manner as to be of the greatest advantage to the landlord.

A railway company cutting timber under this sub-section 12, is not bound to clear the land to any greater extent than it deems necessary; and the landowner may, therefore, find himself in the position of a landlord whose land has been merely "slashed" by his tenant; but on the other hand, the railway company is clearly liable to the landowner for the whole damage done under the sub-section; and as no directions are given by the Act as to the manner of cutting or removing the timber, or as to the disposition of it when cut, and as the privileges given to the railway company are such as I do not think could have been given had the intention of the Act been to leave the property in the timber after it had been cut, still in the landowner, I am clearly of opinion that the company had the right to make use of any timber which they cut under the sub-section, and committed no wrongful act in treating it as their own. The loss of the trees in question was, therefore, in my opinion, a damage resulting to the plaintiffs "by reason of the railway," and the action is within the 27th section of the Act.

The plaintiffs' contention with regard to the timber cut upon the right of way itself, is, that being part of the freehold, the company should have proceeded to ascertain the compensation to be paid for the damage done, under the 13th and following sub-sections of the 8th section of R.S.C., ch. 109, and that if they had done so, the 27th section would not have applied; and that they should not be allowed to obtain because they have acted as trespassers, a benefit which they could not have claimed had they proceeded properly under the directions of the Act.

The rights of the plaintiffs under these timber licenses are somewhat peculiar. They have a right to the possession of the land, and they become the owners of the timber upon it immediately upon its being severed; but the fee in the land and the ownership of the timber until severance remained in the Crown.

The plaintiffs were, however, clearly, I think, persons interested in lands which might suffer damage from the exercise of any of the powers granted, and might have compelled the company to proceed to ascertain and pay the compensation for the damage they were doing to his property before they were permitted to continue their works. But the damage having been done, the plaintiffs

have proceeded by action of trespass to recover the damages which they have sustained, and these damages being clearly sustained by "reason of the railway" within the meaning placed upon those words by the cases in which they have been under consideration, I think that the claim as to them is also within the 27th section of the Act. See *Follis* v. *Port Hope, etc. R. W. Co.*, 9 C. P. 50; *Kelly* v. *Ottawa St. R. W. Co.*, 3 O. R. 616; *Booth* v. *McIntyre*, 31 C. P. 183; *Foran* v. *McIntyre*, 45 U. C. R. 288; *Beard* v. *Credit Valley R. W. Co.*, 9 O. R. 616; *Corporation of Brock* v. *Toronto and Nipissing R. W. Co.*, 37 U.C. R. 372; *Re Ontario and Quebec R. W. Co. & Taylor*, 6 O. R. 338; *May* v. *Ontario & Quebec R. W. Co.*, 10 O. R. 70.

Unless that section is of no validity, the plaintiffs' rights are, I think, barred by it, excepting as to timber cut outside both the right of way and the six rod belts.

The plaintiffs contend that because the defendants have not shown any order-in-council of the Ontario Government authorizing them to take possession of the land in question for the purposes of their railway, they are not entitled to set up that any of the damage done to the plaintiffs was done by reason of their railway. No authority was cited for this proposition, and the fact being admitted that the railway had been constructed and was in actual operation under the provisions of an Act of the Dominion Parliament before the action was brought, I am unable to see upon what grounds it is to be refused the protection of the clause for the reason suggested.

As it is contended by the defendants that this 27th section is invalid as being *ultra vires* the Dominion Parliament, and they desire an opportunity of raising and arguing the point, I reserve for the present formal judgment in the case in order to afford to the defendants time to give notice under sec. 6 of 46 Vic. ch. 7 (O), and have the question properly brought up.

The learned Judge, on May 23, 1888, delivered formal judgment, as follows :—

1. "I find and declare that the plaintiffs' right to recover damages for the alleged trespasses, so far as such trespasses, if any, were committed upon or relate to the timber alleged to have been cut upon or removed from the right of way of the defendants, the railway company, and the width of six rods upon each side thereof, is barred by section 27 of R. S. C. ch. 109; and I dismiss so much of the action as relates thereto.

2. I find and declare that the plaintiffs are entitled to recover from the defendants, as damages, the value of the timber, if any cut or removed by them, or any of them, from those portions of the land in the statement of claim mentioned, lying and being more than six rods distant from the right of way of the said railway company"; and his honor directed a reference to ascertain the amount of the damages.

(R. T. H.)

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Feb. 9.

Judicial Abandonments.

Louis Bureau, saddler, Quebec, Feb. 5.

W. R. Crépeault, dry goods, Kamouraska, Feb. 5.

Joseph Prosper Dusablon, bailiff and leather dealer, Three Rivers, Feb. 1.

Patrick Grace, trader, township of Wright, Jan. 31.

Joseph Martineau, trader, Stanfold, Feb. 2.

J. C. E. Montreuil & Co., grocers, Quebec, Feb. 4.

Emmanuel Strickland, trader, Buckingham, Jan. 30.

L. O. Villeneuve, dry goods, Quebec, Feb. 3.

Curators appointed.

Re Campbell & Jackson, Montreal.—J. McD. Hains, Montreal, curator, Feb. 6.

Re Ovila Chartrand, Montreal.—A. W. Stevenson, Montreal, curator, Feb. 6.

Re J. C. Dansereau, Montreal.—Kent & Turcotte, Montreal, joint curator, Feb. 6.

Re Solyme Davignon, *fils*, Iberville.—J. A. Nadeau, Iberville, curator, Jan. 29.

Re André Fontaine.—Bilodeau & Renaud, Montreal, joint curator, Feb. 6.

Re Antoine Gauthier.—C. Desmarteau, Montreal, curator, Feb. 6.

Re C. Z. Langevin, dry goods, St. Sauveur.—H. A. Bedard, Quebec, curator, Feb. 4.

Re Mathieu & Gagnon, Montreal.—Kent & Turcotte, Montreal, joint curator, Feb. 6.

Re B. Maynerd, St. Guillaume.—Kent & Turcotte, Montreal, joint curator, Feb. 7.

Re Zotique Pouliot, L'Islet.—H. A. Bedard, Quebec, curator, Feb. 7.

Re Robitaille et Fils.—C. Desmarteau, Montreal, curator, Feb. 6.

Re Eug. Roy, Quebec.—H. A. Bedard, Quebec, curator, Feb. 6.

Dividends.

Re J. B. Brosseau, La Patrie.—First dividend, payable Feb. 27, Kent & Turcotte, Montreal, joint curator.

Re H. Frenette & Frère, traders, Fraserville.—First and final dividend, payable Feb. 26, H. A. Bedard, Quebec, curator.

Proclamation.

Reward for apprehension of Donald Morrison increased to $3,000.

Appointments.

Peter McFarlane, Huntingdon, appointed coroner for district of Beauharnois, jointly with J. A. Cardinal.

GENERAL NOTES.

FORMS OF OATHS.—The following summary of the forms of oaths in use in foreign legislative assemblies is extracted from the reports received at the British foreign office at the time of the Bradlaugh settlement: Bavaria—I swear * * * So help me God and His Holy Gospel. Denmark—I promise and swear * * * So help me God and His Holy Word. Greece—I swear in the name of the Holy and Consubstantial and Indivisible Trinity. Hesse Darmstadt—I swear * * * So help me God. Saxe-Coburg and Baden—I swear. So help me God. Holland—I swear. So help me God. Portugal—I swear on the holy gospels. Prussia—I swear by God, the Almighty and Omniscient * * * So help me God. Saxony—I swear by Almighty God. Servia—I swear by one God and with all that is according to law most sacred and in this world dearest * * * So help me God in this and that other world. Spain—After swearing on the gospel, the president says: "Then my God repay; but if you fail may he claim it from you." Sweden and Norway—I (president or vice-president only) swear before God and His holy gospel * * * I will be faithful to this oath as sure as God will save my body and soul. Switzerland—In the presence of the Almighty God I swear * * * So help me God. United States—I do solemnly swear * * * So help me God. In Bavaria non-Christians omit the reference to the gospel. In Holland and the United States affirmation is optional. In Prussia and in Switzerland affirmation is permitted to those who object on religious grounds to the oath. In Austria a promise is in every case substituted for an oath. In Belgium and Italy the abjuration is used without any Theistic reference, and in France and Roumania, the German Reichstag and for deputies in Sweden and Norway neither oath nor affirmation is demanded.

CITIES IN ENGLAND.—The *Law Journal* says:—"The announcement has been made that the Queen has been pleased to approve of the boroughs of Birmingham and Dundee being raised to the rank of cities. If this is to be done by the prerogative, under what branch of the prerogative does it come? The Sovereign can by charter make a corporation, but a city is not a corporation. The Sovereign is the fountain of honour, but a city is not an honour, which is a title conferred on an individual, and not in bulk. A city represents a fact past or present, and the Crown can no more create a city than it can a mountain. The only power in the constitution that can make things what they are not is Parliament. A city is a place which has been or is the seat of a bishop. The only place in England, besides Westminster, which bears the name of city and is not the seat of a bishop is Coventry, which formerly shared a bishop with Lichfield, although there other places entitled by their past history to bear it which do not claim it. The erection by statute of a bishopric in any place makes it a city without express enactment, as happened in recent times in the case of Truro. By section 8 of the Municipal Corporations Act, 1882, municipal corporations in the case of a city are to bear the name of "the mayor, aldermen, and citizens of the city." There is no lawful impediment why the people of Birmingham or any other place should not call their town a city, but if the corporation seal has "city" for "borough" without strict legal warrant, bondholders might be in a difficulty."

COURT OF THE ARCHBISHOP OF CANTERBURY.—The Court has in the exercise of its discretion issued a citation to the Bishop of Lincoln, which is returnable in February at Lambeth Palace.

BULLER'S NISI PRIUS PRACTICE.—The authority of Buller's 'Introduction to the law relative to trials at *Nisi Prius*' stands highest of any book of common law practice. Its author was far from being an ordinary plodding pleader. He was only sixteen when he entered the Inner Temple, and read law in the chambers of Ashurts, afterwards his colleague ont he King's Bench. It was next year that he married Susannah Yarde, and two years after he was admitted to practice under the bar as a special pleader. During the seven years of his practice as a pleader he published in 1767 the book by which perhaps he is best known. After his call to the bar in 1772, as appears from Cowper's Reports and the State Trials, he was in most of the important cases of his day in London and on the Western Circuit. At the age of thirty-two he was made a judge, and Lord Mansfield, who was eighty years old, set him in his place of Chief Justice at *Nisi Prius* and in banco over the head of Ashurts, his tutor in the law. He would have been Chief Justice but for Mr. Pitt's preference for Lord Kenyon. He was twenty-two years on the bench, and died at the age of fifty-four. By way of rounding off his career on the bench, he sat the last six years of his life on the bench of the Common Pleas, and took Lord Thurlow's place in the Court of Chancery on occasion. The industry, sagacity, quickness, and intelligence attributed to him by his contemporaries are preserved in his judgments and in his book.—*Law Journal.*

UNAWARES.—The 'injured party,' with his arm in a sling, is under cross-examination by counsel. 'You tell me you cannot lift your arm?' 'Well, perhaps half-an-inch—like this; but it gives me horrible torture; it pains me even to touch it.' 'Poor fellow! just show me how high you find it possible to lift it.' With many sighs and groans he lifted it three-quarters of an inch. 'And before the accident there was nothing the matter with it? 'Nothing whatever. 'How high could you lift it then?' 'Oh, as high as you please—like this; and he raised his arm over his head. This did please the counsel very much, for it extinguished the plaintiff's claim.—*James Payn in the 'Independent.'*