The Legal News.

Vol. VII. APRIL 5, 1884. No. 14.

THE ORR EWING CASE—CONFLICT BETWEEN THE SCOTCH AND ENGLISH COURTS.

A case has occurred in Scotland, which has attracted a great deal of attention, and has brought up an interesting question as to the jurisdiction of the courts in that country. The facts as we find them stated in the judgment of the Court of Session are in substance as follows:—John Orr Ewing, a merchant of Glasgow, died on the 15th of April, 1878, domiciled in Scotland. His settlement was executed according to the forms of Scotch conveyancing. He was the owner of a landed estate in Dumbartonshire, and the great bulk of his moveable property was at his death situated in Scotland, the proportions being £435,314 (or fifteenth-sixteenths) in Scotland, and £25,235 (one-sixteenth) in England. All the trustees are Scotchmen, but two of them are resident in England. The testator had no English creditors, and none of the purposes of the estate required to be performed in England. The trustees proceeded to make up their title to the personal estate by presenting an inventory in the Commissary Court of the county of Dumbarton, including the English as well as the Scottish moveables, and having obtained confirmation from the Commissary, in terms of section 9 of 21 and 22 Vict., c. 56, and had the confirmation stamped with the seal of the Probate Court in England, under section 12 of the same Act, they reduced the personal estate into possession. They were thus duly vested by a decree of the Judge of the Commissary Court of Dumbartonshire, pronounced under express statutory authority, with the whole personal estate of the deceased, and having brought the English assets to Scotland, they proceeded to administer the trust according to the usual practice in that country. Such administration by the laws of Scotland required no further legal proceedings after the title of the trustees had been completed by confirmation as executors.

While the trustees and executors were in the course of administering the estate according to the directions of the testator, an "administration suit" was instituted in the Chancery Division of the High Court of Justice in England, and was afterwards carried on in the name of Mr. Malcolm Hart Orr Ewing, a minor interested in the residue, and orders have been pronounced against the defenders in that suit, the effect of which would be to supersede the trustees in the performance of the duties entrusted to them by the testator, and to put the management and distribution of the estate entirely in the hands of the Chancery Division. The other persons interested in the residue then brought suit in Scotland, and averred that the effect of the orders pronounced by the Chancery Division will be to cause the making up of accounts, which are altogether unnecessary, to transfer the personal estate in the defenders' hands from Scotland to England, together with the writs, evidents, and securities thereof, and so place them beyond the control of the defenders as trustees, and beyond the jurisdiction of the Courts of Scotland, and thereby defeat the diligence and process otherwise competent to the plaintiffs, and tend to lessen, if not destroy, the value of their interests in the estate. They further averred that these proceedings will cause great and unnecessary expense to the estate, and diminish the amount of the residue to which they are entitled. Lastly, they averred that the defenders, in obedience to the orders of the English Court, hold themselves not to be entitled to make any payment out of the estate without the special authority of the English Court, or some official thereof.

On these allegations the plaintiffs or "pursuers" asked that the trust estate be administered in Scotland according to Scotch law, and subject to the jurisdiction and control of the Scotch Courts, and that no part be removed beyond the jurisdiction of the Court. They also asked that a judicial factor (whom we should term a "sequestrator") be appointed, to supersede the action of the trustees until they should be relieved from the difficulties in which they are at present placed by the orders of the English Court.

The Court of Session unanimously main-

tained the action. The Lord President in rendering judgment observed:—

"It is evident that if we pronounce judgment in terms of all or any of these conclusions against the defenders there will arise immediately a conflict of jurisdiction between this Court and the Chancery Division of the High Court of Justice in England. This is a very serious matter, and we must therefore deliberately consider (1) what are the relations of the two Courts, and (2) what are the grounds on which the jurisdiction of each Court to deal with this trust estate is maintained. I. As to the relations of the two Courts, I hold that, in proper questions of jurisdiction such as the present, *the judicatories of Scotland and England are as independent of each other, within their respective territories, as if they were the judicatories of two foreign States.* I am anxious to formulate this rule, which is the necessary result of the Treaty of Union, with as much accuracy and precision as possible, because a loose and illogical statement of so important a constitutional doctrine is both dangerous and misleading. I have been, however, so much accustomed to regard it as an incontrovertible position that I was somewhat surprised to read in the Chancery proceedings which have been laid before us this passage in the judgment of so very learned and able a judge as the late Master of the Rolls: 'I caught during the argument an expression to which I do not assent. Scotland was called a foreign country—a foreign jurisdiction. All that in my opinion is quite erroneous. Ever since the union of the kingdom of Great Britain, Scotland has been an integral part of Great Britain; it is not a foreign country.' I sympathize with the learned judge so far that Scotland and England cannot with strict propriety be spoken of as being in the relation of foreign countries. But as the proposition with which he was dealing was, as he says, only 'caught during the argument,' he was probably misled by inaccuracy of expression; and the proposition itself, if expressed more precisely, might have commanded his serious attention. I do not say it would probably have altered his judgment on the case before him. But it might have enabled him to avoid what follows in the statement of his opinion: 'To talk of Scotland as a foreign country, and to say that the same rules apply, is, I think, a total error. It is not only an integral part of this kingdom, but *the judgment of this Court can be enforced in Scotland* in the same way that the judgment of a Scotch Court can be enforced in England. But there is more than that. In the case of a foreign country there is the difficulty of ascertaining the foreign law, and where questions of foreign law arise, it is certainly very inconvenient to try them by the sworn and unsworn testimony of advocates and experts as to what the law is. It is much more convenient, of course, to obtain the decision of the judges of the country on the law of their own country. Well now, what has the Legislature done? Recognizing that the Legislature has empowered the English Courts, where a question of Scotch law arises in the course of English litigation, to take the opinion of the Scotch Courts, which they are bound to give, and correlatively has empowered the Scotch Courts to take the opinion of the English Courts on a point of English law arising on Scotch litigation, there is therefore no difficulty at all in deciding a point of Scotch law in England, because they decide it not in England, but in Scotland, and so with regard to English law in Scotland, because that would be decided in Scotland; all those difficulties are therefore purely imaginary.' Before adverting further to the reasons which seem to have led the learned judge to the conclusion that in questions of jurisdiction Scotland and England do not stand in the relation of foreign kingdoms, the Lord-President cited one very weighty authority, which is in terms contradictory of this proposition. In the appeal to the House of Lords from this Court regarding the guardianship of the present Marquis of Bute, Lord Campbell, as Chancellor, thus expressed himself:—'I beg to begin by observing that, as to *judicial jurisdiction*, Scotland and England, although politically under the same Crown, and under the supreme sway of one united Legislature, are to be considered as independent foreign countries, unconnected with each other.' The Master of the Rolls seems to have been misled into the opinion he expressed, in op-

position to this high authority, by the supposed operation and effect of recent statutes providing for the enforcement of Scottish judgments in England and of English judgments in Scotland, and also for the more convenient ascertainment of the law of one part of the United Kingdom by a Court in another part. By what is known as 'The Judgments Extension Act,' 31 and 32 Victoria, c. 54, a judgment of a Court of Common Law in England for debt, damages, or expenses (*but not an order or decree of the Court of Chancery*), may be enforced in Scotland by the party holding the judgment producing to a registrar in Scotland a certificate of the judgment, and having it registered. And *e converso*, a judgment by this Court for debt, damages, or expenses, (but not any other kind of order or decree), may, by a corresponding proceeding, be enforced in England. But this gives no jurisdiction to the Scotch Court in the matter of the English judgment, nor jurisdiction to the English Court in the matter of the Scotch judgment; the one remains an English judgment throughout, though endorsed, so to speak, by a Scotch official under the authority of the statute, and the Scotch judgment also remains throughout a Scotch judgment, though endorsed by an English official under the like authority. The 22d and 23d Vict., c. 63, 'to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's dominions when pleaded in the Courts of another part thereof,' provides in effect, that in any suit or proceeding, when the facts are ascertained, a case may be submitted by a Court in Scotland to a Court in England to ascertain the law of England applicable to such facts, or by a Court in England to a Court in Scotland, to ascertain the law of Scotland applicable to such facts. But how the passing of such an Act can affect the jurisdiction of any of the Courts in Scotland or England, or their relation to one another in the matter of jurisdiction, does not at all appear. These very convenient reciprocal provisions for the enforcement of Scotch judgments in England and English judgments in Scotland, and for the more convenient ascertainment by any Court of the law which that Court does not judicially know or administer, are authorized by Acts of the Imperial Legislature of the United Kingdom. But the same reciprocal advantages and conveniences might be brought about in the case of English and French Courts, or of Scottish and Dutch Courts reciprocally, not, indeed, by an Act of the Parliament of the United Kingdom, but by treaty or convention; and it could hardly be contended that the effect of such treaty or convention would be to affect the relation of these Courts to one another in a conflict of jurisdiction."

The judicial factor having been appointed, the agents of the trustees declined to allow him to take possession of the books and documents, and it became necessary to make a new application to the Court of Session "to grant warrant to messengers-at-arms" to take possession of the books, etc. The Court as a matter of course immediately granted the necessary warrant to enable the judicial factor to enter into possession. The trustees had refused in the first instance to let the judicial factor assume possession, in order that they might be able to say to the English Court that they had not voluntarily parted with the assets, and that they were constrained by force. The conflict is thus made one solely between the Courts, the trustees being freed from all responsibility in the matter.

The Scotch journals are somewhat absurdly excited on the subject. "The Orr Ewing case," says the *Scotsman*, is but the flag under which a great and most important battle is being fought—a battle which can only end in victory for Scotland. The encroachments of English Courts have been tolerated too long, and, as a consequence, they have been pressed beyond endurance. The spirit shown in England in regard to the matter is in strict accordance with that which guides the treatment of most Scottish matters. Scotland is dealt with as if she had no rights and no national institutions. Governmental officials will not consent to believe that Scottish affairs are worthy of notice. Scottish demands for attention are disregarded, no matter how well grounded they may be. All this has gone on for long, and has become intolerable. The demand for a Scottish Secretary is, in effect, part of the protest against it, and a most im-

portant part. Scotland, it is seen, needs a representative in the Administration, who shall be able and willing to see that, on the one hand, she has due attention to her requirements, and, on the other, that her rights are not trampled upon. The action of the Court of Session will give a powerful impulse to this demand. That action raises, in legal form, a direct conflict between England and Scotland, and in this way shows that Scotsmen have institutions of their own which they prize, and which cannot be set aside by the will or by the neglect of Englishmen."

THE CINCINNATI RIOTS.

Everybody has been horrified this week at the sacrifice of innocent blood in Cincinnati; yet, upon the whole, we are not sure that this is not one of those outbursts of which the permanent effect is wholesome. If *Messieurs les meurtriers* would only cease killing, capital punishment with all its disgusting concomitants would speedily die out, and just as truly, if justice were speedily and fearlessly executed by the regular machinery, lynch law would soon be a thing of the past. The outbreak in Cincinnati resulted from what appears to be a serious miscarriage of justice. Our contemporary, the *Weekly Law Bulletin* (Cincinnati, O.), March 31st, referred to the case (before the riot), in these terms:

"The result of the Berner murder trial last week in Cincinnati has caused the deepest feeling among all classes. Six times the prisoner had confessed to his participation in the most brutal and cold-blooded butchery, giving all the details of the horrid affair, and only a few days before his trial had offered to plead guilty to murder in the second degree, the prosecutor refusing on behalf of the public, as the evidence was absolute and unquestioned. Yet the jury brought in a verdict of manslaughter only. The finding is condemned in the severest terms everywhere, by the people and by the papers. The changes in the jury law just made by the present legislature come none too early, and, it is to be hoped, will give us better and more competent juries."

The subject is not overlooked by the class who think, and as an evidence of this we may quote from the writer of the article, "Mob or Magistrate," in the *Century* for April. It appears that in 1883 there were about 1,500 murders reported in the United States, and only 93 executions. When we reflect what this means it is not surprising to hear that the lynchings were more numerous than the lawful hangings, there being 118 cases of lynching during the year. Lynch law among other defects is, of course, open to the very evident objection that grievous mistakes may be made. The self-constituted executioners may hang the wrong man. But the remedy is to make the ordinary modes of dealing out justice swift and certain. The writer in the *Century* puts the case strongly but truly when he says:—"The fact that thirteen out of fourteen murderers escape the gallows is the one damning fact that blackens the record of our criminal jurisprudence. No American ought to indulge in any boasting about his native land, while the evidence remains that the laws made for the protection of human life are thus shamelessly trampled under foot. No occupant of the bench, and no member of the bar ought to rest until those montrous abuses which result in the utter defeat of justice are thoroughly corrected." We might be pardoned if we added with some pride, that in Canada, where we follow the English practice of hanging every murderer, and of hanging him promptly, a case of lynching has hardly ever been known.

THE SEDUCTION BILL.

On the 31st ultimo, the Seduction Bill, in its amended form, came before the Senate, when it appeared that a majority of the House were opposed to the measure, and the three months' hoist was carried on division. Mr. Dickey remarked that the bill had been objected to by "the highest judicial authority in Ontario." It is also well known that the disapprobation of the most experienced judges in Quebec is equally emphatic. There was one portion of the bill, however, which seems to be called for, and which, alone, would not have met with any opposition; we refer to the clause with regard to inveigling young women into houses of ill-fame. This is an offence of a serious character, and the Government have promised to introduce a measure next session which shall provide for its punishment.

JUDICIAL BREVITY.

Chief Justice Waite, of the Supreme Court of the United States, sets a laudable example in the matter of short judgments. The *American Law Record* (of Cincinnati, O.) quotes two examples. In one case (infringement of a patent) the opinion of the Chief Justice occupies just six lines of type, and in the other case just five lines, which we will print as an illustration:—

"This judgment is affirmed. One partner cannot recover his share of a debt due to the partnership in an action at law, prosecuted in his own name alone, against the debtor. That is the only question presented by the bill of exceptions in this case. The refusal of the Court below to grant a new trial is not reviewable here. Affirmed."

There are judges not a hundred miles from this Province who would have filled ten to fifteen pages of printed matter in either of these cases. We have already expressed the opinion that the longest judgments are generally the most useless. Every day we see illustrations. The Privy Council disposes of the most complicated cases in a few pages; division and county court judges struggle with the most simple case in a manner which suggests the remark that they are suffering from diarrhœa.... of words!

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, March 29, 1884.

Before TORRANCE, J.

MARTIN v. DANSEREAU.

Compensation—Universal legatee—Doctor's bill.

1. *An indebtedness arising out of alleged joint transactions between the defendant and a deceased person, cannot be pleaded in compensation to an action by the universal legatee of the latter for a prix de vente.*
2. *But (a) monies paid out by defendant for deceased; (b) monies received by the deceased to the use of defendant, and (c) the amount of a bill for professional services rendered by the defendant as medical attendant to the deceased, may be pleaded in compensation to an action of the nature mentioned above.*

This was the merits of an answer in law to a plea of compensation. The action was to recover the sum of $398.89, amount of a price of land. The plea set up an indebtedness by plaintiff as universal legatee of the alleged debtor of $1,022, consisting of: 1st. $111.25 arising out of certain joint transactions between defendant and deceased. 2nd. $206.17, paid out by defendant for deceased. 3rd. $519.60, money received by the deceased to the use of defendant. 4th. $185.25, amount of a bill for professional services rendered by defendant as a medical man to the deceased.

PER CURIAM. The defendant objects to these items in compensation as not liquid or easily liquidated, and as arising out of transactions in partnership between defendant and the deceased. As to the item of $111.25, the Court is with the defendant. There appear here to be items of account between the two which cannot be or can with difficulty be settled in this cause. As to the other items they are rightly offered in compensation. 28 Demolombe, No. 525, mentions this very case of a doctor's bill under C. C. (Nap.) 1291, and cites in support the Cour de Cassation; *vide* T. Gen. vo. Compensation, 5. Médecin.

Apart from these four items, the plea begins by pleading a tender of $31.35 to the plaintiff, with claim of indebtedness by the deceased to defendant of $364.77, without particularizing the cause of indebtedness and without invoking this indebtedness in answer to the demand. The Court regards this alleged tender as an excrescence which should be struck out of the plea, being there irregularly and to no purpose. The judgment strikes it out, as also the item of $111.25, and allows to stand the other three items.

Archambault & St. Louis for plaintiff.

Prefontaine & Co. for defendant.

SUPERIOR COURT.

MONTREAL, March 14, 1884.

Before DOHERTY, J.

WEINROBE v. SOLOMON.

Saisie-arrêt before judgment—Petition to quash.

An affidavit alleging that the defendant "has secreted" his property, or "has absconded," without indicating any time when such secretion or absconding has taken place, is insufficient, and does not comply with article 834, C. C. P.

The affidavit in this case alleged a personal

indebtedness of $140 for money lent in December last; and the second and third paragraphs of the affidavit were as follows:

"That the defendant has secreted and "made away with his property and effects "with intent to defraud the plaintiff in par- "ticular.

"That the defendant has also absconded "from the Province of Quebec and gone to "reside in the United States of America, with "intent to defraud the said plaintiff in par- "ticular."

The defendant's petition set up, among other grounds, that the affidavit was insufficient in law, because the words "has secreted" and "has absconded," without specifying any time, were too indefinite and might mean a secreting and an absconding committed twenty years before the debt sued for was contracted; and, moreover, that these words were not a compliance with the requirements of article 834 C. C. P., which provided for an affidavit establishing that the defendant *is* absconding or *about immeditaely to leave* the province, or *is* secreting or about *immediately* to secrete his property.

DOHERTY, J. The affidavit being insufficient in law, and particularly so in the second and third paragraphs referring to secretion and absconding, the conclusions of the defendant's petition are granted; the attachment is therefore quashed and *main-levée* granted to the defendant of the seizure of goods made thereunder, with costs against the plaintiff.

Macmaster, Hutchinson & Weir for the plaintiff.

James Crankshaw for the defendant.

(J. C.)

SUPERIOR COURT.

MONTREAL, March 14, 1884.

Before DOHERTY, J.

BURNETT v. POMEROY et al.

Saisie-arrêt Conservatoire—Petition to quash.

An affidavit such as is required by the Code for a saisie-arrêt before judgment, is not necessary for a saisie-arrêt conservatoire, which is a common law process, and cannot be attacked by petition to quash.

The plaintiff sued the defendants for $174, his charges, as a carrier, for removing and packing furniture and goods in a house occupied by Mrs. Sylvia Smythe, one of the defendants: the plaintiff, while performing the work, being compelled to give up possession of the goods, by guardians appointed under certain executions issued against Mrs. Smythe and opposed by the other defendant, Pomeroy. On the strength of his lien over the goods the plaintiff accompanied his action with a *saisie-arrêt conservatoire*, which the defendants now attacked by petition to quash, upon the grounds (*inter alia*), that the plaintiff had not complied with the requirements of the articles of the Code of Procedure relating to seizures before judgment, and further that the plaintiff had no lien on the goods, and even if he ever had such a lien he had relinquished it by giving up possession. The plaintiff answered that a petition to quash only applied to the special cases of seizure before judgment provided for by the Code, and that a *saisie-arrêt conservatoire* must be met by ordinary pleading; and cited, among other cases, *Trudel* v. *Trahan et al.*, 7 Revue Légale, p. 177 (1874).

DOHERTY, J. This seizure being a *saisie-arrêt conservatoire*, it is not the subject of nor attackable by a petition to quash: and an affidavit such as is required by the Code in matters of *saisie-arrêt* before judgment not being required to support the common law conservatory process taken in this case, the defendant's petition to quash is dismissed with costs.

James Crankshaw for the plaintiff.

Quinn & Weir for defendants.

(J. C.)

COURT OF REVIEW.

MONTREAL, Jan. 31, 1884.

Before JOHNSON, JETTÉ & LORANGER, JJ.

SANCER v. GIRARD.

Tender as to one branch of demand—Costs.

The inscription was by the defendant on a judgment of the Superior Court, Montreal, Doherty, J., Oct. 13, 1883.

JOHNSON, J. The judgment which the defendant here complains of condemned him to pay the plaintiff $110.48 with interest and costs.

The facts are that in March last the defendant being insolvent, made an assignment to Moisan & White who were to proceed and liquidate the estate; and they employed the plaintiff to examine the books, and report to the creditors who were to meet, and did meet shortly afterwards. Subsequently, the defendant having made an offer of composition, he required the plaintiff to prepare a deed of composition and discharge, and a dividend sheet in conformity with it, which was done, and the defendant resumed his estate. The plaintiff by his action claimed $6 a day for thirty-three and a quarter days' work in making the inventory and statement of assets, and $50 for the deed of discharge and composition and the dividend sheet, and obtaining the signatures of the creditors.

The defendant pleaded that a specific sum of $60 had been agreed upon between the plaintiff and Moisan & White for making the inventory and the statement of affairs; and that for the rest he was entitled to nothing; but he nevertheless offered $26—making altogether $86 less the $17.52 which he acknowledged to have got; but he only made this offer conditionally upon the plaintiff paying the costs incurred by the defendant, which condition the plaintiff rejected by his answer

Looking at the evidence we find the judgment perfectly equitable. It found the sum of $26 tendered sufficient in amount on that head, and gave no more as far as that part of the case was concerned. The defendant interprets this to mean that his offer of $26 has been declared technically to be good and sufficient in law; but that is not the case, for all that the judgment does is to give so much upon the first branch of the case, and so much on the second, so that on the whole the offers are not sufficient; and this disposes substantially of the whole of the case.

Judgment confirmed.

Robidoux, for plaintiff.
Ethier & Co., for defendant.

COURT OF REVIEW.

MONTREAL, January 31, 1884.

Before JOHNSON, JETTE & MATHIEU, JJ.

COUTU v. LEFEBVRE.

Slander—Compensation of damages.

The inscription was by the plaintiff from a judgment of the Superior Court, Montreal, Loranger, J., Dec. 3, 1883, dismissing the action.

JOHNSON, J. This was an action for damages laid at $5,000 for verbal slander by the defendant of and concerning the plaintiff and the plaintiff's wife. The plea denied the slander, and set up in compensation defamatory words used by the plaintiff concerning the defendant. The whole case was put before the learned judge who heard the witnesses at the proof and hearing sittings, and could judge better than we can of the value of their evidence. The learned judge found that what the plaintiff had said of the defendant was just as bad as what the defendant had said of the plaintiff; and he found also that the only witness who spoke about the slanderous words alleged to have been used by the defendant about the plaintiff's wife was not sufficiently reliable to base a judgment for damages upon his testimony.

It is evident that the parties had been at enmity with each other for some time, and one called the other a "canaille," while the other had just recently said of him that he could have sent him to jail if he had chosen.

Then, as to what was said or alleged to have been said by the defendant about the plaintiff's wife, it certainly was defamatory if satisfactorily proved. But can we say that it is satisfactorily proved by this one witness who swears it was said to him alone, and that he repeated it to the plaintiff? At best that would be the act of a mischief-maker, and quite as despicable as the slander itself, if ever it was uttered: but this man is besides very seriously contradicted and impaired by the evidence of Dumesnil. On the whole I should not hesitate to confirm the judgment which, I think, very properly dismissed the action.

Judgment confirmed.

Augé & Co. for plaintiff.
St. Pierre & Co. for defendant.

THE LATE MR. JUSTICE DAY.

At the Convocation of McGill University, held March 29, Mr. Justice Mackay delivered the following address concerning the late Chancellor of the University, Hon. C. D. Day:

Since we last met in Convocation a great loss has fallen upon the University by the death of our late Chancellor, the Honourable Mr. Justice Charles Dewey Day. He was its first Chancellor under the amended statutes of 1864, and for 32 years was president of the Royal Institution for the Advancement of Learning. He continued actively to discharge the duties of those offices until his death, which occurred in England in January last. He had in his lifetime filled several positions of honour in this province; he was solicitor-general, and one of the chiefs practising at the bar of this city when in 1842 he was offered and accepted a seat in the Queen's Bench, which he continued to fulfil the duties of until 1857, when he was appointed (we may truly say by reason of his fitness) one of the commissioners to codify the laws of Lower Canada. As a judge the deceased was remarked for his practical energy, his great talent for despatch of business, and for analysis, his soundness of judgment, and his impartiality. He frequently presided at jury trials, which in his time seem to have been resorted to more frequently then nowadays; his charges to juries, and these are things that sometimes try judges, were remarkably practical, lucid, sound and judicial. In 1864, upon the completion of the codes, which will ever remain a monument of his and his colleagues' industry and learning, Judge Day retired from the bench; but he never ceased to interest himself in the affairs of this University whose growth and progress, from very small beginning, he was witness of and powerfully contributed to. When he took office the students in arts numbered three, in the law faculty four and in medicine fifty-three. In 1883 the students in arts numbered: undergraduates 99, partial and occasional 58—in all 157. The students in law numbered 26, in medicine 204, and the school of applied science was working with students, undergraduates 55, partial and occasional 14—together 69. In 1881, when the financial condition of the University was discouraging, the late chancellor, assisted by our worthy principal, prepared a statement of its affairs, accompanied by an appeal to the public for aid. This he supported by an eloquent speech at a public meeting. The result, as you know, was encouraging, friends of the University seemed to be *raised up*, liberal donations were made to it and it was relieved from its embarrassment. After the first meeting of the governors, after the melancholy news of Judge Day's death reaching us, it was resolved:

"That the governors of McGill College deeply lament the irreparable loss which this University has sustained in the death of their late colleague, the Hon. Charles Dewey Day, for 32 years the president of the Royal Institution for Advancement of Learning and first chancellor under the amended statutes of 1864, and one of the earliest and most valuable members of this board.

"The history of the University is intimately bound up with the long course of his administration, and its progress and prosperity in a great measure are due to his eminent ability and the wise counsels that have at all times been rendered by him to promote its interests and welfare.

"The governors desire to record the high appreciation and esteem they feel for the great worth of his private and public character, the memory of which will be ardently cherished with reverence and affection by those whose privilege it has been to be personally and officially connected with him."

And at the meeting of the corporation of the University, held yesterday, a resolution of like substance was unanimously agreed to. The resolutions referred to free me, in a degree, from saying some other things that I might have said. I am confident that they will be approved by each and every person present in this hall and by all who take interest in the affairs of the University, as a true and just tribute to the memory of an old and faithful servant of it, a worthy man, the blank left by whose decease it will be very difficult to fill up.

RECENT ENGLISH DECISIONS.

Copyright—Author of photograph.—A person who is merely the proprietor of a photographic establishment, and who employs a staff of servants (paying them wages or salaries) for the purpose of taking photographs, and provides the materials for taking and making them, is not the author or joint-author with his servants, of any photograph so taken and made by any one or more of them, within section 1 of the Copyright Act of 1862. Decision of Field, J, affirmed. The author of a photograph is the person who most effectively contributed to the result, that is the person who directed his mind toward and superintended the particular arrangements which have actually resulted in the formation of the picture; and who that person is, is a question of fact in each particular case. Ct. of App., August 2, 1883. *Noltage* v. *Jackson*. Opinion by Brett, M. R., and Cotton and Brown, L. JJ. (49 L. T. Rep. [N. S.] 339).