The Legal News.

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RESERVED CASES.

In the last moments of the December term of the Queen's Bench, Appeal Side, a case came up, which is deserving of notice because we are told that the same difficulty has occurred more than once before. A question had been reserved by a Judge holding a criminal court, but the statement itself, which had been prepared and signed by the learned Judge, showed that there had been no trial and no conviction. Now, the terms of the Statute are clear: "And in order to provide means of deciding any difficult question of law arising at criminal trials—When any person *has been convicted* of any treason, felony or misdemeanor, at any criminal term, &c., the court before which the case has been tried, may in its discretion, reserve any question of law which has arisen on the trial," &c. Where there has been no conviction, therefore, the Statute gives the court no power to reserve a question, and no question reserved otherwise than in conformity to the statute can be taken into consideration by the Court of Queen's Bench, Appeal Side.

DECISIONS BY A DIVIDED COURT.

The *Albany Law Journal*, in reviewing the system followed in the compilation of the "American Reports," says: "No case is embraced unless it is likely to be of authority in its own State. Therefore most cases pronounced by a divided court, or at least where there is a considerable division, are eschewed. All 'one judge' cases are avoided, *i. e.*, those pronounced by a majority of one, as they are never likely to have much weight at home, much less abroad." One cannot help thinking that a rule like this would narrow down very considerably the number of decisions embraced in any future compilation of the judgments of our Appeal Court. The fact is unmistakeable that it is in important cases that dissent most frequently occurs, and if one had time to go over the decisions for ten years back, it would be startling to discover the small proportion of such cases which have been disposed of with entire unanimity. This journal has already recorded its view against the suppression of dissenting opinions in the reports (see vol. 1, pp. 73, 85); but this does not interfere with an expression of regret that Courts of Appeal should be able to arrive at a unanimous conclusion upon so few of the great questions which are debated before them.

CERTIORARI.

The Narbonne case involves a point of much interest, namely, whether it is an indictable offence for a man in Montreal to write a letter addressed to persons doing business in New York, inciting to the commission of a crime in the United States. Narbonne is charged with having, at Montreal, incited two persons named Schlegel and Lee, doing business in New York, to forge Canada postage stamps. On the application for habeas corpus, however, the only point which the court had to decide was whether a certiorari can be issued to bring up the depositions taken before the magistrate, with a view to enable the court to see whether the commitment conforms to the evidence. This application the court refused.

DOMINION CONTROVERTED ELECTIONS ACT.

The Judicial Committee of the Privy Council have refused leave to appeal in the case of *Valin* v. *Langlois*, in which the constitutionality of the Dominion Controverted Elections Act of 1874 was affirmed by the Supreme Court of Canada. (See 2 Legal News, pp. 361, 364, 373, 379). In view of the almost unanimous opinion of the courts of appellate jurisdiction in Canada on the question, the propriety of their lordships' decision can hardly be questioned. The following letter, which has been received from petitioner's London solicitors, shows that the appeal, in fact, would have been useless, as their lordships concur in the decision of the Supreme Court:—

VALIN V. LANGLOIS.

4 Great Winchester Street,
London, E.C. Dec. 15, 1879.

Dear Sir,—The petition for special leave to appeal came on for hearing on Saturday, and

after a long argument by Mr. Benjamin on behalf of the petitioner, their lordships (Lord Selborne being the President) refused to grant leave. The principal, in fact the only ground relied upon by the counsel for the petitioner, was the difference of opinion amongst the judges of the lower courts as to the Election Act of 1874 being constitutional or unconstitutional, and the desirability of having this point decided by Her Majesty in Council so as to put an end to the conflict of opinion. Lord Selborne, in delivering judgment, said that there was nothing before their lordships to lead them to suppose, neither did they think that the judges who refused to act would fail to assent to the unanimous finding of the judges composing the Supreme Court, and that therefore there seemed no especial reason why leave to appeal should be given. His lordship then went on, contrary to our expectation, to consider whether the Act of 1874 did infringe upon the rights of the Provincial Legislature under section 92 of the Act of 1867. After complimenting Mr. Benjamin, and expressing his opinion that even if an appeal had been allowed and the point had been fully argued at the hearing, it was doubtful whether anything more could have been said upon the subject, his lordship said that the committee were of opinion that the Act of 1874 was constitutional and within the powers conferred upon the Dominion Parliament by the Act of 1867. That that Parliament having the power to appoint a new court for election matters, had done so by nominating the different courts specified in the Act, or any of the judges thereof, to constitute that court. In fact, that the distinction between the Act of 1873 (which has not been disputed), and the Act of 1874, was little more than this, viz., that by the former any of the judges of the different courts were formed into the Election Court, and by the latter Act the courts or any of the judges thereof. Moreover, that the care which was taken in prescribing the mode of procedure clearly showed that the court constituted was a new one, for had the Act merely added to the jurisdiction of the old courts all these special rules would have been unnecessary.

(Signed.) Yours truly,

BISCHOFF, BOMPAS, BISCHOFF & Co.

To J. Langlois, Esq., Q.C.

NOTES OF CASES.

MONTREAL, Dec. 17, 1879.

Sir A. A. DORION, C. J., MONK, RAMSAY, TESSIER, CROSS, JJ.

MONTRAIT (deft. below), Applt., and WILLIAMS (plff. below), Respdt.

Attorney—Rights of plaintiff's attorney after plaintiff and defendant have agreed to settle the suit without costs.

The judgment appealed from was rendered by the Superior Court, Montreal, JOHNSON, J. (see 1 Legal News, p. 339, for report of the case in the Court below).

The text of the judgment was as follows :—

"The Court having heard the parties by their counsel upon the defendant's motion filed on the 3rd of December last, (1877,) praying for act of record of the production made by him of an authentic copy of a deed passed before Mtre Jobin, Notary, on the 20th November, 1877, by which plaintiff discontinues, but without costs, her action in this cause, and also for act of record of defendant's consent to said discontinuation of the suit, without the condition imposed by Article 450 of the Code of Civil Procedure, of the payment of costs; having examined the proceedings and deposition of said defendant, and deliberated;

"Considering that it appears from the evidence of the defendant himself that the said deed was procured from his wife under circumstances that show his object and design were to defraud the plaintiff's attorneys, who never received any notice of the arrangement thereby made;

"Doth grant act, purely and simply to said defendant, of said production of deed and of his consent to said discontinuation of action, which said action is hereby declared to be terminated and at an end, but on payment of plaintiff's costs by said defendant, *distraits* to Messrs. Macmaster & Hall, attorneys for said plaintiff."

The appellant (defendant) complained of the condemnation to pay costs. The attention of the Court was also directed to the fact that plaintiff's attorneys had been substituted in the case for others, and were entitled to costs only from the time they came into the record.

Sir A. A. DORION, C. J., rendered the judgment of the Court, confirming that of the Court below. The appeal involved a question of

costs only. The action was by a wife *en séparation de corps et de biens*. After considerable litigation, a notarial agreement was entered into between the parties, by which the case was settled, the plaintiff agreeing to discontinue without costs. The Court below held that the appellant procured the signature of his wife to the deed of settlement in order to defraud her attorneys of their costs, and the action was declared to be terminated and at an end, on payment of these costs. From this judgment the present appeal had been taken. A great many cases had been cited by the respondent, where the plaintiffs' attorneys had continued a case for costs. The view adopted by the Court on this subject was that where a settlement was made by the parties in good faith, the plaintiff's attorneys could not continue the case for their costs. But if there was bad faith, and a settlement was made evidently for the purpose of depriving a lawyer of his costs, the Court might order that the discontinuance should be made on payment of the costs. There could be no doubt in this case, that the stipulation that each party was to pay his own costs, was put into the deed for the purpose of depriving the wife's attorneys of their costs, because the action was well-founded, and the defendant, who was a man of considerable wealth, had agreed to pay his wife an allowance. The judgment would, therefore, be confirmed; first, because the appeal was only on a question of costs; and secondly, because the attorneys of the respondent could not be deprived of their costs by an arrangement like this. A few words, however, would be added to the judgment, so as to give costs to the respondent's attorneys only from the time they were substituted in the cause.

Ramsay, J. The judgment is based on Art. 450 C.C.P. Whatever be its merits that article evidently has no bearing on the question. It is an article simply setting forth that a party may discontinue his action before judgment on payment of costs without the consent of his adversary. The case before us is that of both parties discontinuing the proceedings without costs, by consent. The one is a faculty accorded to the plaintiff on a certain condition, the other is the exercise of a common right. Now the question that is presented to us is this: Can a plaintiff, represented by an attorney who has prayed for distraction of costs, abandon his suit in such a way as to defeat the attorney of a possible recourse he might have against the defendant, and can the Judge condemn one of the parties, on the demand of the attorney, to pay the costs?

The question is one of some difficulty. It is apparent that an understanding of this sort might be come to between the parties purely with the view of defeating the attorney on one side of his costs, as appears to have been intended in this case. On the other hand, it is difficult to see how the Court can adjudicate on an unfinished case as to the party on whom the liability to pay costs should fall, nor do I see that there is any necessity to admit a proceeding so open to objection. By article 205 C.C.P., no one can revoke the powers of his attorney without paying him his fees and disbursements, and and therefore there can be no discontinuance in the suit without the attorney's privity and consent. The case of *Ryan & Ward* was before the code, and when the rule of art. 205 was only a rule of practice. Of course, the general principle, that without fraud the parties may settle without their attorney, is unquestioned. This appears to me a sufficient check for all practical purposes, and I think the judgment below should have gone to the extent of refusing to file the discontinuance without condemning the appellant to costs.

And so it was decided in *Lafaille & Lafaille*, in *Quebec Bank & Paquet*, and in *Castonguè & Perrin*, that the attorney could not continue the case for his costs after discontinuation of the suit. The dissent in *Ryan & Ward* takes exactly the ground which I think the judgment in the Court below should have taken.

By the form of the judgment it seems not to go further than to permit the discontinuance on payment of plaintiff's costs, and this would be in my view a correct judgment. I therefore do not dissent from the dispositive of the judgment, but from the motives.

Monk, J., thought that in these questions of costs it was very difficult to lay down a general rule, and it was still more difficult in cases that had been discontinued, like the present one. The parties had settled, but the Court said, "There is a third party—the attorney—who has demanded distraction from the Court. You may discontinue on paying the costs due to him."

His Honor did not think the Court was laying down an iron rule that would bind it in future. It was a matter in which the Court exercised a discretion, and each case must turn on the particular circumstances.

Judgment confirmed.

Judah & Wurtele for Appellant.

Macmaster, Hall & Greenshields for Respondent.

POISSANT (deft. below), Appellant; and BARRETTE (plff. below), Respondent.

Alimentary allowance—The Court in its discretion may antedate the pension—Registration of tutorship.

The defendant, father of an illegitimate child, was condemned to pay an alimentary pension to support his child, of $5 a month up to the age of 7 years, and of $10 a month from the age of 7 years till the age of 14 years. The child, a daughter, is now 17 years, of weak intellect, and unable to gain her living. The mother, therefore, sued as tutrix of the child for an alimentary pension of $10, to begin 5 months prior to the institution of the action. She obtained her conclusions, and the father now appeals, urging, 1st, that the tutorship of the mother was not registered; 2nd, that he ought to be tutor, and that he is willing to take charge of the child and to place her in an asylum; and 3rd, that in any case he can only be condemned to pay aliments from the institution of the action.

The COURT was against the appellant on all these pretentions. In the first place, it was not pleaded that the tutorship was not registered, and it has frequently been held that where the tutor alleges registration and it is not specially denied it will be held to be admitted. In the second place, it is no answer to the tutor who seeks for aliments for a ward to say, "I should be tutor and I will take care of the child." So long as the tutorship subsists the tutor has a right to bring the action. Besides (remarked Mr. Justice Ramsay) we do not think the father has made out any case which would induce us to deprive the mother of the charge of a female child, who has been under her care for seventeen years, to hand her over to a father who has neglected the charge so long, and who now would place her in an asylum. On the third point there is more to be said. Usually aliments are only allowed from the date of the action; but here the Court below has in its discretion allowed arrears for a very short period for which it is more than probable the mother has contracted liabilities, and we do not think under the circumstances we should be justified in disturbing the judgment. The appeal is dismissed, and the judgment confirmed.

Lacoste & Globensky, for appellant.

Loranger, Loranger & Pelletier, for respondent.

MONTREAL, Dec. 22, 1879.

Sir A. A. DORION, C.J., MONK, RAMSAY, TESSIER, CROSS, JJ.

THE QUEEN v. JOSHUA PERRY.

Indictment for receiving stolen goods—Omission of count for larceny — Evidence of felonious receiving.

Reserved Case.

"In the Court of General Sessions of the Peace. December Term, 1879.

"The Queen v. Joshua Perry. On conviction of feloniously receiving stolen goods.

"The prisoner was indicted and tried for having feloniously received the goods and chattels described in the indictment hereto annexed, then well knowing the same to have been stolen.

"The evidence for the prosecution was to the effect following:

"On or about the 2nd day of November last (1879), all the goods and chattels enumerated in the said indictment were feloniously stolen, taken and carried away from the barn of the said Paul Marcil, erected on one of his farms, situated in the Parish of St. Hubert in the said district of Montreal, but no proof was adduced as to who committed the theft. On the 12th day of November last past, a search warrant having been issued for the recovery of the said goods and chattels, the same was executed at the prisoner's domicile in the said Parish of Longueuil, and then and there, although the prisoner denied all knowledge to that effect, all the said goods and chattels were found in the premises occupied by the said prisoner, some of them in the stable, and some of them concealed in the cellar of prisoner's house. The reins, shaft, pins, and one iron ring (porte-faix) of Marcil's harness were found attached to one of the prisoner's harnesses in prisoner's stable,

another set of harness being in the same stable, an old leather belt belonging to Marcil's harness was found on the rack of prisoner's cart, in front of his house. The same belt had once been used to tackle prisoner's horse to a hay cart load, the belt passing under the belly of the horse, and that load of hay was driven by the prisoner, but it was not proved that the prisoner had harnessed the horse or seen the belt on the horse. The prisoner had several men working for him on his farm, among whom one named Herbert Reith. No direct evidence was adduced to show that the prisoner knew that the said goods and chattels were on his premises, but when Constable Contant first told him that he had a search warrant to search for the said goods and chattels on his premises, prisoner denying he had these articles, immediately made a wink to his servant man Reith. This wink so struck Contant that he was satisfied the goods were there, and immediately gave prisoner in charge to his assistant, and proceeded to make his search.

"Contant went to the stable, where he found some of the articles claimed by Marcil, and coming back to the house was informed by a party on the road, that Marcil's saddle and horse collar had been thrown out of the cellar of prisoner's house, whilst he, Contant, was at the stable. Contant effectually (*sic*) found these articles behind the house, concealed in the wild grass (*herbe* St. Jean).

"The person then and there pointed out to Contant as having thrown out of the cellar the said saddle and horse collar, was the servant man Reith; and Contant says he has no doubt it was Reith who threw out said articles, though he could not name the party who saw it done, and who gave him the information, nor was that party examined as a witness for the Crown. Immediately this saddle and horse collar were seen coming out of the cellar, search was made in the cellar, and Marcil's shovels, pincers and wrench were found concealed between the floor and the top of the foundation wall.

"When these last articles were so found, Contant said to prisoner, that he should have told at once about them, and thereupon the prisoner said: 'I had no business to tell you anything.'

"At the close of the evidence for the prosecution, the prisoner's counsel submitted that there was no case to go to the Jury; but I decided that there was; and the case was left for the consideration of the Jury, who found the prisoner *guilty*.

"On the day fixed for pronouncing of sentence, the prisoner's counsel moved that the said conviction be quashed:

"1st. Because no legal proof had been produced to support the said indictment, and the case should not have been allowed to go to the Jury.

"2nd. Because the mere fact of stolen goods being found in the possession of prisoner does not support the charge of receiving.

"3rd. Because if prisoner were guilty of any crime upon the evidence produced, it was the crime of stealing and not of receiving.

"I was of opinion that there was evidence to support the verdict, and dismissed said motion, but at the request of prisoner's counsel, I granted a reserved case upon the following questions:

"1. Whether upon the facts proven on behalf of the prosecution, the case should have been allowed to go to the Jury.

"2. Did these facts support the indictment as drawn?

"And I postponed the judgment until the said questions are decided, and re-committed the prisoner to gaol."

Montreal, December 17, 1879.

M. C. DESNOYERS,
Judge of Sessions."

RAMSAY, J. This is a case reserved by the Judge of Sessions at Montreal.

The prisoner was indicted for feloniously receiving stolen goods. There was no count for larceny. The evidence of the larceny was to the following effect:

(His Honor read evidence above.)

On the part of the prisoner it was moved, that there was no case to go to the jury. The judge of sessions left the case with the jury, and the prisoner being convicted, he reserved the two following questions for the consideration of this court: 1st. Whether, upon the facts proved on behalf of the prosecution, the case should have been allowed to go to the jury. 2nd. Whether the facts proved support the indictment as drawn.

It was argued at the bar that the finding of stolen articles on the premises of the accused, in a place open to others, and found there in

the absence of the prisoner, was not of itself evidence of a guilty possession by prisoner. We think the prisoner's counsel right in this statement of the law, but we cannot agree with him in thinking that it applies to the case before us. We think there was sufficient evidence of guilty possession to go to the jury, if the indictment had been for larceny.

On the second question, we do not think the evidence supports the conviction for felonious receiving. The judge of Sessions tells us distinctly that, though there was proof that the goods were stolen on or about the 2nd day of November last, "no proof was adduced as to who committed the theft."

The doctrine fully established now seems to be that "there should be some evidence to show that the goods were, in fact, stolen by some other person, and recent possession of the stolen property is not alone sufficient to support such an indictment, as such possession is evidence of stealing and not of receiving."—2 Russell, 247. I quote from the old two-volume ed., 6th Am. fr. 3 Eng. At one time this did not appear so clear, for Patteson, J., (in 1834) left it to the jury, telling them that if they "were of opinion that some other person stole the article, and that the prisoners knew of that fact, and planned together in order to get the property away, they may be convicted of receiving." "I confess," he adds, "it appears to me on the evidence rather dangerous to convict them of receiving." The jury convicted them of stealing, and the verdict was entered up as "not guilty." 2 Russell, *ib.* 6 C. & P. 399. But two years before, at the Gloucester Assizes (1832), Littledale, J., said that to support an indictment for receiving, "it was essential to prove that the property was in the possession of some one else before it came to the prisoner." 2 Russell, 484, (Ed. 5, by Prentice). This question was incidentally examined on a reserved case, *Reg.* v. *Langmead* (L. & C. 427), and there it seems to have been considered that where there was evidence from which it might be inferred that the prisoner could not have stolen the sheep himself, a conviction on the count for receiving was held to be good. As there is some apparent contradiction in the report of this case, it is well to read it, noticing that prisoner's counsel insisted that it was proved that the prisoner did not steal the article. And so generally a person cannot be both a principal in the second degree in the commission of a larceny and also a felonious receiver of the stolen goods. *Reg.* v. *Perkins*, 5 Cox, 554. *Reg.* v. *Coggins*, 12 Cox, 517. But where there is evidence of being principal in the second degree, the jury may find the party guilty of receiving. In other words, if there be evidence from which the jury may infer that the accused was either a principal in the second degree, or a receiver, and the jury find him guilty of receiving, the conviction will be maintained. 2 Russell, by Prentice, p. 475.

If it had not been for the very special statement of the reserved case that "no proof was adduced as to who committed the theft," the result might have been very different, but we cannot go beyond the reserved case.

Sir A. A. DORION, C.J., said that although he did not dissent, yet it was with great reluctance that he concurred, and if he had been sitting alone, he would probably have given the judgment the other way. However, the interpretation was in favor of the prisoner, as it should be.

MONK, J., had also had a good deal of difficulty in coming to the conclusion that the conviction should be quashed. The magistrate said in the reserved case that there was no proof as to who stole the goods, but it appeared that there was some kind of evidence that this was stolen property.

Conviction quashed.

Mousseau for the Crown.
Keller for the prisoner.

EX PARTE NARBONNE, petitioner for habeas corpus and for writ of certiorari.

Certiorari—Jurisdiction of the Court to order a certiorari for the purpose of bringing up depositions taken before a magistrate, to examine their sufficiency.

MONK, J., (*diss.*), said an application had been made in behalf of one Narbonne, committed for trial at the next term of the Criminal Court. He was charged with inciting certain individuals, residing in New York, to the commission of a certain felony, viz., to forge a quantity of Canada Postage Stamps. Being committed on this charge, he applied to this Court for a writ of Habeas Corpus, with a view to his being liberated, and he also presented an application for a writ of certiorari, to bring up the depositions

taken before the magistrate. He represented in his petition that the proof showed that the offence was committed in the United States, and therefore he was not subject to the jurisdiction of the Court here. The ground, therefore, of this application on the part of Narbonne to be liberated, was that the offence alleged to have been committed was not committed in Lower Canada or in the District of Montreal, but as a matter of fact was committed in New York. The petitioner went further, and said that the depositions taken before the magistrate established this fact, and for the purpose of bringing up these depositions, to show that he had been committed for trial on an offence committed in a foreign State, he applied for a certiorari. The only question to be considered now was whether this Court had a right to issue a certiorari with that view. It had been contended on the part of the Crown that this Court had no such right; that once a man had been committed for trial by a magistrate, this Court had no right to issue a certiorari to bring up depositions, together with a writ of habeas corpus, to determine whether the commitment was well founded. The majority of the Court were of opinion that in the particular case before it, a writ of certiorari could not be granted. He was of an entirely different opinion. There was something doubtful in the terms of the commitment, and he considered it not only the right but the duty of the Court to order a certiorari, to see whether the prisoner had been committed for an offence committed in a foreign country. It was a matter of considerable importance, that a man should not be detained five or six months in jail for an offence committed in a foreign State. He could appeal to the practice. Mr. Justice Aylwin had ordered the papers to be brought up in a case, for the purpose of ascertaining whether it was an offence under the Mutiny Act. Hurd, on Habeas Corpus, laid down the general principle, and the same doctrine was to be found in Chitty. It was said it could only be done in extradition cases, but his Honor considered that the same permission should be granted here, and that the proceeding was one which resulted from the necessity of the case.

Ramsay, J. We are asked to grant a writ of *habeas corpus*, for the purpose of setting the prisoner at liberty, he being now detained in gaol on a sufficient warrant. We are asked also to issue a writ of *certiorari* to bring up the preliminary examination, in order that we may look at the depositions, for the purpose of assuring ourselves that the committing magistrate had sufficient evidence before him to commit. It is perfectly evident that if we were to accede to such a request, we should be not only introducing a novel practice, but we should be establishing a precedent of a most inconvenient character. We should be converting this court into a court of appeals from the decisions of justices, under the Act respecting the duties of justices out of session, in relation to persons charged with indictable offences. We have put it to the learned counsel for the petitioner to produce any authority in support of his application, and he appears to have utterly failed to find anything of the sort. The whole proceedings are so familiar that it seems somewhat strange that we should have had to entertain the proposition. They will be found described in 1 Chitty, p. 128. The only cases where I have ever heard of the judges looking, on *habeas corpus*, at the evidence, for the purpose of enlarging a prisoner, are those of extradition. But that is a very special jurisdiction; the commitment is not for trial, but for removal out of the jurisdiction of the court and out of the protection of the laws of England. There is, therefore, room for a distinction, although personally I am of opinion that it was a very unwise one to make. However, the law has now made a kind of provision for this sort of examination, and the result has been as might have been expected—we have had the most incongruous proceedings. We have had one judge of this court reviewing, on *habeas corpus*, the commitment of another, to see whether the latter had jurisdiction, and a judge of the Superior Court performing a similar operation. Perhaps this is not the necessary result of the law as it stands, but it is a good illustration of the danger of courts allowing themselves to be wheedled into novel practices by abstract arguments.

What the law wills is this, that if a justice is convinced that an offence within the limits of his jurisdiction has been committed, he may, by a lawful warrant, hold the accused, either by bail or imprisonment, to stand his trial.

Sir A. A. Dorion, C. J. We do not say that

we have no right to issue a certiorari. We have a right to issue a certiorari to see whether the commitment is conformable to the conviction. What we hold is that we have not a right to issue a certiorari, to see whether a magistrate has committed a man according to the evidence.

Petition rejected.

Mousseau, for the Crown.

F. X. Archambault, for the petitioner.

THE QUEEN v. LALANNE.

Reserved Cases—There must be a conviction before a case can be reserved.

The following Reserved Case was transmitted from the Court of Queen's Bench, District of Iberville, (Chagnon, J., presiding) at which Joseph Lalanne had been indicted for perjury :—

" Un acte d'accusation a été présenté en Octobre de l'année dernière par les avocats de la partie privée, Joseph Tétreault, avec la permission de la Cour, devant les Grands Jurés, à une session de la Cour du Banc de la Reine, tenue à St. Jean, District d'Iberville, à l'époque susdite, accusant le nommé Joseph Lalanne du crime de parjure ; et un True Bill fut rendu par le Grand Jury.

" A la session de la même Cour tenue au même endroit le 11 Octobre courant, une déclaration de *nolle prosequi* de la part du Procureur Général de la Province de Québec, sur cette accusation, fut produite devant la Cour par le substitut du Procureur Général, à l'effet que telle déclaration fut entrée et enregistrée dans les régistres de la Cour, à l'effet d'arrêter les procédés sur le dit acte d'accusation.

" La partie privée, représentée par ses avocats, s'opposa à cette demande, prétendant qu'elle avait le droit de procéder sur cet acte d'accusation, et se déclarant prête à commencer le procès, et à entrer en preuve.

" La Cour, présidée par moi-même, prit la demande du substitut du Procureur Général en délibéré, et le 13 Octobre courant, la dite Cour accorda telle demande, et ordonna l'entrée et l'enregistrement dans les registres de la Cour de telle déclaration de *nolle prosequi*, à l'effet d'arrêter les procédés sur cet acte d'accusation.

" La partie privée me demandant de réserver la question à la décision de la Cour du Banc de la Reine, siégeant comme Cour d'appel et de pourvoi pour erreur, j'y ai accédé, en autant que cette dernière Cour a le pouvoir de prononcer sur cette question, et je la transmets par les présentes à la dite Cour du Banc de la Reine, pour décision."

14 October, 1879. H. W. Chagnon, J. C. S."

Mousseau, for the Crown, did not desire to say anything.

No one appeared on the other side.

The judgment, which sufficiently explains the decision, is as follows :—

" This Court.... doth adjudge and declare that the question reserved by the said Court is not a question of law which arose on the trial of the defendant, and that the defendant has neither been tried nor convicted, that this Court has no jurisdiction in the matter, and that the said question ought not to have been reserved, and the Court doth order that the case reserved by the Court of Queen's Bench sitting on the Crown Side at St. Johns, at the term of October thereof, and referred to this Court as sitting in error in criminal cases, be returned and remitted to the said Court, to the end that such further proceedings be there had, as to law and justice appertain."

Mousseau, for the Crown.

GENERAL NOTES.

SIR TREVOR LAWRENCE, M.P., in declaring recently in favor of a revision of the land laws, stated that some time ago his lawyers' costs in connection with the sale of sixty acres of ground, in lots, amounted to over £500, and that the legal expenses attached to the disposal of a small landed property, for which he was trustee, cam to more than the sum he received from the purchaser.—*Law Times.*

A BANQUET was recently given by the bar to Sir Evelyn Wood, the hero of the Zulu war. One learned and venerable member of the profession, says the *Law Times*, held aloof, declining to celebrate the brave deeds of any man engaged in what, in his opinion, was a most unholy war.

JUDGE ROOKE, in going the Western Circuit, had a large stone thrown at his head; but from the circumstance of his stooping very much, it passed over him. "You see," said he to his friends, "that had I been an upright judge, I might have been killed."