The Legal News.

VOL. VI. FEBRUARY 17, 1883. No. 7.

REVOCATION OF PARDON.

We notice a somewhat peculiar case in relation to the pardoning power, which has come up in Ohio. Gov. Foster recently pardoned a convict who had been sentenced to imprisonment for life for the murder of his brother. The pardon was granted on the certificate of physicians to the effect that the convict was in the last stages of a fatal disease, and would only get home to die. But the truth was that the man had cunningly deceived the doctors. He was carried out of the prison too weak to stand and scarcely able to speak. But he grew rapidly stronger when he was put into a conveyance to be taken home, and he recovered his full strength as soon as he had safely reached his journey's end. Gov. Foster, being informed of the facts, and finding that he had been made the victim of a trick, promptly revoked the pardon and had the man taken back to prison. Now the question has come before the Supreme Court of Ohio, whether the Governor had power to revoke the pardon. The case is a novel one, and has attracted considerable attention on the part of the bar. "An able Ohio lawyer" is said to have expressed the opinion that not only did Governor Foster do right in promptly revoking the pardon got under false pretences, but that there is no legal power anywhere to interfere with this vindication of justice.

COUNSEL FEES.

The question as to the right of action of a counsel for his fees was recently discussed before the Queen's Bench division at Toronto, in the case of *Hodgins* v. *Oille*. This was an action brought by Mr. Thomas Hodgins, Q.C., against certain members of the Reform Association of the county of Lincoln, to recover a large sum of money for professional services rendered as counsel in the Lincoln scrutiny case. The case was tried at Hamilton at the last Fall Assizes before Mr. Justice Patterson and a jury, and a verdict was given for the defendants. Last Michaelmas term, a motion was made to set aside the verdict and for a new trial, but judgment was given, Feb. 6, by the Queen's Bench Division, sustaining the verdict and refusing to interfere. Mr. Justice Armour thought it a very doubtful question whether or not a counsel can sue at all for his fees, the chief difficulty being that it involved the correlative remedy by a client against a counsel for negligence.

ATTORNEY'S RIGHTS.

We notice that a question somewhat similar to one which has caused much embarrassment in our Courts, presented itself lately in Ontario. The point came up in Chambers before Mr. R. G. Dalton, Q.C., in a suit of *Leonard* v. *Leonard*. The action is one for alimony, and before trial the parties interested settled the suit, the wife agreeing to go back and live with her husband. The question then came up, who was to pay the costs of the plaintiff's solicitor. He failed to collect them from either party, and moved in Chambers for an order to compel the defendant, *i.e.*, the husband, to pay the amount. Mr. Dalton held that the request was not unreasonable, and that under the authorities he could make the order. This is said to be the first or one of the first decisions on the point in the Ontario Courts.

BLACKMAILING.

A clergyman of Brantford, named Beattie, has just suffered extreme annoyance and narrowly escaped utter ruin from the artifices of a plausible adventuress. This young woman, for a short time a member of his household in the capacity of companion to his wife (who is said to have been anxious to obtain grounds for a divorce), brought most serious charges against him. Too many are ready to credit such charges without proof, and the reputation of the clergyman was probably blasted in the opinion of thousands of the community, when the antecedents of the girl were exposed through the enterprise of the Toronto press. She had already stood the fire of cross-examination by counsel with the utmost coolness, but the revelations of her past life were so incredibly vile that she at once fled from the country. The *Mail*, referring to this case, and probably having in mind the measure noticed in 5 Legal News, p. 85, says: "Here we

have a salient proof of what would be the result, under more favourable auspices for the adventuress, if seduction were made a criminal offence. A designing woman, who desires to inveigle a man into marriage, or to extort money from him, could at any moment threaten to place him in the dock and send him to prison on her sole and unsupported evidence. Will anyone, in the light of experience, venture to declare such a measure prudent or safe? No one with a heart to feel for the unfortunate victims of passion can do otherwise than loathe the designing seducer of female virtue; but in the endeavour to reach him how many perils would be encountered by those who are innocent, or at the worst by those who are simply *participes criminis* in a common offence against good morals? To talk glibly about a 'permitted crime' comes easily to those who trade cheaply in platitude. In most civilized countries jurists eminent for their talents and irreproachable in their zeal for purity have determinedly set their faces against an innovation they know, from painful experience, to be dangerous in the extreme. If you want to multiply Brantford scandals, and afford to designing women a wide sphere for the exercise of their peculiar talents, you have only to make seduction a criminal offence. The measure would properly be entitled 'an Act to facilitate the useful profession of blackmailing.'"

TRIALS BY REFEREES.

The following are proposed amendments to the Code of Civil Procedure, referred to on page 33. They are based in part upon the rules which have been in force for nearly thirty years in the State of New York. They were presented by Mr. Pignolet to the General Council of the Bar at its last sitting, but too late for their consideration, and they are now published to afford the profession an opportunity of forming an opinion upon them:—

Any of the issues in an action, or the whole action, with all the issues of fact and questions of law involved therein, shall, by order of any Judge of the Superior Court at Chambers or in open Court, be referred for trial to any advocate on the consent of the parties, in writing, if the judge be satisfied that the issues referred are ready for trial as to all the interested parties. And such a Reference by consent shall be taken as a waiver of the right to have such action or issues at any time tried by a jury.

Where all the parties have waived a trial by jury or none are entitled thereto, a Reference to try any of the issues or the whole action, with all issues of fact and questions of law involved therein, may be ordered by the court, or a judge, of his own motion, or on the application of any of the parties, to any advocate of at least ten years' standing at the Bar, not objected to on any reasonable grounds of recusation; in the following cases:—

First. When the trial may require the ascertainment of the correctness of many items of an account, inventory or schedule, or of many items of damage.

Second. When the trial may require the examination of many documents or papers, or where it may be required to ascertain the rights of claimants, on any partition of movable or immovable property, or to appraise a number of pieces of movable or immovable property.

Third. When the trial may require any local inspection, or an investigation by scientists or experts.

A joint Reference of two or more actions may likewise be ordered where the questions involved are alike in their material facts, and depend upon the same questions of law, if any delay or expense may thereby be saved to the parties interested, consistent with the ends of justice.

When the whole action, or any of the issues, is referred for trial, the Referee shall report to the Court in writing, his decision upon the whole action, or all the issues so referred to him, and upon the questions of law involved therein, stating explicitly all the facts found by him that are material to the issues involved, or that form the basis of his decision; and also his conclusions of law upon such facts, and recommend the judgment to be entered thereupon. He shall also report his decision on objections to the admissibility of evidence or to questions to a witness, with the exceptions taken to such decision and to his rulings on questions of law, and shall file with his report all the evidence taken by him. The attorney for either of the parties may, before the close of the Reference, submit in writing to the Referee, a statement of the facts which he deems established by the evidence, and the conclusions of law which he claims result therefrom; and also a statement

of the rulings upon questions of law which he desires the Referee to make, and the Referee shall note in his report his disposition of such proposed findings of fact and questions of law.

On an appeal from a judgment entered on the report of a Referee, or founded thereupon, in order to raise an objection to the report by reason of the neglect or omission of the Referee to pass upon any particular question of fact or of law, he must be specifically requested to do so by the party so objecting, and an exception must be entered in his report of his refusal so to do.

The trial shall be conducted as nearly as circumstances will admit in the same manner and on the like notices, and with the observance of the same rules of evidence and procedure as in the case of a trial by the Court. But all objections made by the admission of any evidence must be made at the time it is offered, and point out explicitly the grounds for its exclusion.

The Referee shall have the same power as the Court to administer oaths or affirmations to witnesses, and may in the name of the Court issue subpœnas for their attendance; and any of the parties may apply to the Court or a judge for such order as may be necessary for the compulsory attendance and examination of witnesses, and for the production of documentary evidence, and for such other order as may be necessary to insure the regular prosecution of the Reference and its expeditious termination.

When the whole action is referred for trial on the filing of the Report of the Referee, any of the parties may apply to the Court or a Judge for the homologation of the Report, and for judgment in conformity therewith, and such report shall be homologated and judgment directed to be entered in conformity therewith, without regard to the correctness of the determination of the questions or issues involved, which can only be reviewed by an appeal from the judgment entered upon the report. If the report appear to be defective by reason of the failure or omission of the referee to discharge his judicial duties, it shall be sent back by the judge for amendment. When such judgment shall be entered it shall stand as, and be deemed a judgment of the Superior Court, and the judgment and report of the referee may then be reviewed and an appeal taken therefrom, as from a judgment of a single judge of the Superior Court. When some of the issues only are referred for trial, the court or judge shall on the coming in of the report, on his own motion or on that of any of the parties, if the report be not defective, adopt the report of the referee without questioning the correctness of his determination of the issues or questions referred to him, and proceed to the determination of the whole case and render judgment therein consistent with such report.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

QUEBEC, February 6, 1883.

DORION, C.J., MONK, RAMSAY, CROSS & BABY, JJ.

BOURGET, Appellant, and BLANCHARD, Respondent.

Appeal from Q. B. to the Supreme Court—Review of order in chambers refusing leave to appeal.

The Court of Queen's Bench, or a judge thereof, has a right to grant or refuse leave to appeal to the Supreme Court from a judgment of the Q. B., and the decision of the one or the other is final.

An appeal to the Supreme Court will not be allowed where the interest of the appellant is less than $2,000.

RAMSAY, J. (dissenting). The appellant applied in chambers to Mr. Justice Tessier to be allowed to put in security in appeal to the Supreme Court. This application was refused on the ground that the case was not appealable, and the application is now renewed before the Court. In the meantime the appellant applied to the Supreme Court for leave to appeal, but that Court refused the application on the ground that they had not jurisdiction; I presume, to order up a record without a security bond.

Two questions arise in this case, the first as to our jurisdiction, after the refusal of Mr. Justice Tessier to grant leave to appeal,—the second as to the nature of the judgment sought to be appealed, and whether the same be appealable or not.

The former of these questions has been argued as though the question was as to whether the Court could grant leave to appeal after it had been refused by a judge in chambers. It seems to me that the question thus nakedly put admits of no difficulty. But the real question is

somewhat wider. Sec. 31 (38 Vic., c. 11) is drawn in the untechnical manner with which we are so familiar. "No appeal shall be allowed until the appellant has given sufficient security to the satisfaction of the Court appealed from or the judge." Nothing more is said as to the allowance, by which I understand to be meant granting leave to appeal, but by the following section we are told that by the perfecting of such security the execution is stayed. That is, we are told that if the judge or Court is satisfied with the sufficiency of the security, its or his duty is to sign the bond. I see nowhere any jurisdiction given to decide as to whether the case is appealable or not. Now the first principle to be considered is, that the appealable character of a proceeding is matter of consideration for the Court to which the appeal lies. It decides as to its jurisdiction and giving the Court, whose judgment is appealed from, right to accord or refuse the appeal is abnormal. Such a power is sometimes expressly given by Statute but it certainly cannot be presumed. I fancy the practice which has undoubtedly prevailed, of looking into the nature of the appeal to the Supreme Court, has taken rise from the practice as to appeals to the Privy Council, and in what appears to me to be an incorrect interpretation of section 17. The proviso there, clearly applies to the limitation of the appeal by the Statute. Sec. 17 confers no powers on this Court. The duty of the Court or judge is to take the bond—a purely ministerial duty—and he has no discretion beyond judging of the sufficiency of the security. Having given a sufficient bond the appellant goes on at his peril. This view makes the decision of the Supreme Court, that they cannot allow an appeal, perfectly reasonable. It is plain that if the Court or a judge here had discretion to adjudicate as to whether a case is appealable or not, then by force of necessity the Supreme Court would be obliged to assume the power (though not expressly given) to examine the cause of our refusal, else we could defeat their jurisdiction; and thus bring about intolerable disorder. I think, therefore, the refusal to take the bond on the ground that the case is not appealable is wrong. The only words of the Statute that seem to war with this interpretation are the last words of sec. 28, "and obtained the allowance of the appeal." But I read these words as referring to what precedes, and as though they were, and "thereby," *i. e.* by the giving the sufficient security.

It now remains to enquire if we can give a remedy. The only difficulty is the lapse of the 30 days, for it is evident that the refusal of one judge to take the bond cannot under sec. 31, preclude the Court from taking the bond, or indeed any other judge of the Court, within the 30 days. I do not however think the lapse of time fatal under the circumstances. The party seeking to appeal used all the diligence possible, and he cannot be made to suffer for what is no fault of his, and this on general principles. He would therefore be helped by the rule *nunc pro tunc*. But apart from this we have the statutory provision of sec. 26, by which on special application, notwithstanding the lapse of time, the Court or judge may allow the appeal on certain conditions. I think, therefore, we can give a remedy. But the second question then comes up, namely, the question as to whether the case before us is appealable or not. If I had an opinion to express I should probably agree with the majority of the Court. It seems to me that *la matière en litige* means the interest of the appellant. But as I have already said, I do not think it is our province to decide that question, and I am therefore of opinion that we should give the appellant leave to produce his security. In this opinion I stand alone.

The Chief Justice, who gave the judgment of the Court, said that the Statute had always been interpreted to mean that the Court or judge could give or refuse leave to appeal, and that he found expressions in several sections of the Act which implied that the Court or judge had this power. Then there was another point, the Statute gave concurrent jurisdiction to the Court or judge, and as there was no right of appeal given from the judge to the Court the decision of the one or other was final. Were it otherwise application could be made to each of the six judges and then to the Court, and also after the appeal had been refused by the Court, application could be made to a judge, who might grant leave to appeal. The third point is that the case is not appealable. The interest of the appellant is a sum less than $2,000.

Application refused.

SUPERIOR COURT.

MONTREAL, Feb. 12, 1883.

Before PAPINEAU, J.

LAMONTAGNE v. STEVENSON.

Quo Warranto—Board of Revisors—37 Vict. (Que.) Ch. 51, S. 31.

The Superior Court has authority to issue a provisional order, on a writ of quo warranto, to prevent an illegal proceeding by a member of an inferior tribunal, such as the Board of Revisors acting under 37 Vict., (Que.) ch. 51, for the revision of the voters' lists.

In order to justify the substitution (under 37 Vict., (Que.) c. 51, s. 33), of another person for one of the originally elected members of the Board of Revisors, the member replaced must be dead or absent. Therefore the appointment of another person in the place of a member who is personally present at the meeting of the City Council at which he replaced, is illegal.

PAPINEAU, J. Le demandeur a pris un bref de *quo warranto* contre le défendeur nommé le 18 de Déc. 1882, pour former partie du bureau des réviseurs des listes électorales en remplacement du réviseur Brown qui avait été nommé à la session mensuelle du conseil de ville de Montréal tenue le 11 de Décembre 1882, mais qui venait de résigner à la séance du 18, et dont la résignation avait été acceptée par le conseil. Le *quo warranto* a été accompagné d'un ordre provisoire ordonnant au défendeur de s'abstenir d'agir jusqu'à nouvel ordre.

Le défendeur demande la révocation de cet ordre provisoire, attendu que les faits sur lesquels il croit que tel ordre a été bâsé sont mal fondés.

Les raisons pour lesquels le bref et l'ordre provisoire ont été demandés sont les suivantes :

1o. Qu'à la séance du conseil de ville du 18 Déc. 1882, le réviseur Brown a été illégalement remplacé par le défendeur en vertu d'une résolution votée par 12 contre 7, pendant que cette résolution étant une reconsidération de la nomination faite le 18, ne pouvait être déterminée que par une majorité absolue des membres du conseil, et que ce remplacement n'a pas été fait dans un cas où la loi permettait de le faire.

2o. Que le bureau des Réviseurs a commencé ses opérations le 5 de février, et qu'il les a continuées le 6 et le 8 de Février.

3o. Que le défendeur persiste à siéger comme membre du bureau de révision frauduleusement et contre les avis donnés par l'aviseur légal de la cité de Montréal.

4o. Que le défendeur, même si sa nomination était légale, ne pourrait pas prendre part à la révision de la liste électorale après le 5 de Février.

Nous n'avons pour le moment qu'à décider si l'ordre provisoire pouvait être donné et s'il doit être révoqué.

Il n'y a pas de doute que dans le cas où un procédé illégal et injuste est sur le point d'être commis ou en voie de se commettre par un tribunal inférieur, la Cour Supérieure a le droit d'interposer son autorité pour l'empêcher.

Le défendeur dans le cas actuel agit comme membre d'un tribunal exerçant des pouvoirs limités à la révision des listes électorales. La Cour Supérieure a donc sur ce tribunal, comme sur tous les autres tribunaux inférieurs, un pouvoir de surveillance.

Ayant ce pouvoir elle doit l'exercer de manière à ce qu'il puisse être utile et non après qu'il serait devenu inutile ; de là son pouvoir d'arrêter par ordre provisoire un acte qui une fois fait ne pourrait pas être annulé par elle assez tôt pour empêcher les conséquences de cet acte.

Le cas présent est un de ceux où la décision finale du bref ne pourrait pas remédier au mal résultant d'une révision de listes par une personne n'ayant pas jurisdiction. Or dans la présente instance le défendeur n'a pas jurisdiction.

La sect. 31 de la 37e Vict., chap. 51, donne pouvoir au conseil de ville à sa dernière assemblée mensuelle, chaque année, de choisir parmi une catégorie particulière d'échevins, cinq membres qui constitueront un bureau de réviseurs.

La section 34 dit, si un réviseur nommé en vertu des dispositions du présent acte refuse ou néglige de remplir un des devoirs qui lui sont imposés il encourera une pénalité de $200.

La section 33 dit : "Survenant le décès ou l'absence pour cause de maladie ou autrement, d'un membre du dit bureau des réviseurs, le conseil nommera un autre réviseur à la place de celui qui sera ainsi décédé ou absent."

Brown n'était ni décédé ni absent à la séance du conseil où il a été remplacé le 18 de Déc. 1882, puis qu'il a lui-même offert sa résignation, et le conseil n'avait pas autorité pour nommer un autre réviseur.

Ce n'est pas le cas de maladie qui autorise le

conseil à remplacer un réviseur, mais le cas de *mort* ou *d'absence*. La preuve constate que l'échevin Brown n'a pas été du tout absent.

La raison qui a fait émaner l'ordre provisoire subsiste encore, puisque le défendeur continue d'exercer des fonctions qu'il n'a aucun pouvoir d'exercer.

La demande de révocation est renvoyée avec dépens.

F. L. Beique, for plaintiff.

Lacoste, Q. C., and *Geoffrion*, counsel.

S. P. Lett, for defendant.

Maclaren, counsel.

SUPERIOR COURT.

MONTREAL, February 28, 1882.

Before JOHNSON, J.

PARHAM v. MARÉCHAL, and Dame A. PAILLEUR, collocated, and PLAINTIFF contesting.

Hypothec—Registration.

The defendant by marriage contract undertook to hypothecate the first land he might acquire, to secure to his wife the amount of dower stipulated in the marriage contract. He acquired land, and a creditor registered a judgment against the property. Subsequently notice was given to the Registrar by the defendant, that he had bought this land with a view to subject it to a hypothec for the amount of the wife's dower. Held, that the notice created no hypothec whatever, and the wife's claim to priority over the judgment creditor's registered claim was rejected.

JOHNSON, J. The plaintiff in the present case contests the report of distribution. He had judgment against the defendant, and executed it; and, upon the proceeds, the defendant's wife, Dame A. Pailleur, was collocated, by the 14th item of the Prothonotary's report, for $361.15 on account of $4,000,—amount of a conventional or prefixed dower stipulated by her contract of marriage of the 23rd December, 1866. The plaintiff contends that the party collocated had no hypothec on the land sold. By the contract of marriage there was no property hypothecated—but mention was made merely of an intention to hypothecate the first land the husband might acquire. On the 27th Nov. 1875, the defendant gave a notice to the Registrar that he had acquired the land of which the proceeds are now being distributed, with a view of having it subjected to the hypothec supposed to have been created by the marriage contract. The prothonotary adopted the pretension thus made, and the question now appears simply this: Has the wife a prior hypothec to the plaintiff—he having registered his judgment long before the notice? In my view she has no hypothec at all. If she has, it must exist either under the marriage contract, or under the notice. The marriage contract mentions no property expressly, and the notice is not in authentic form; therefore, under articles 2040, and 2042 C. C., neither the one nor the other can constitute a hypothec. Contestation maintained with costs.

Taillon & Nantel for Dame A. Pailleur, collocated.

Macmaster & Co. for plaintiff contesting.

COURT OF REVIEW.

MONTREAL, February 28, 1882

TORRANCE, RAINVILLE, PAPINEAU, JJ.

THE CITIZENS INSURANCE CO. v. WARNER, and STEPHENS, opposant, and PLAINTIFF contestant.

License Act—Bar-keeper holding license—Proof of ownership.

Where a license to retail spirituous liquors was granted to a person who merely sold liquors as bar-keeper for another, held, that this was not a violation of the License Act, and that the owner might oppose the seizure of his goods when taken in execution under a judgment against the licensee.

The inscription was by the contestant on a judgment of the Superior Court, Montreal, Mathieu, J.

TORRANCE, J. Opposant claimed as proprietor the goods which had been taken in execution under a judgment against defendant. The latter was bar-keeper at the Ottawa Hotel which was the property of Stephens.

The license to retail spirituous liquors had been granted to Warner, and he sold them for Stephens.

The contestant contended that there was here a violation of the license law, A. D., 1878, and that Stephens could not make proof of his ownership because of this violation. The court below overruled the pretensions of the plaintiff.

We have carefully gone through the clauses relied upon by the plaintiff, S.S. 2, 3, 71, 78, 79

among others, but we fail to see any violation of law by opposant. The License Act said that the license should be given to a man having certain requisites. This had been complied with.

There was another point. There were a few dollars seized in the till, and a portion of them belonged to a cigar dealer and not to Mr. Stephens. But we are not informed how much. This portion plaintiff thinks should remain seized. We have no evidence enabling us to distinguish these moneys. Stephens is responsible for them and should hold them.

Judgment confirmed.

Trenholme & Co. for opposant.
Béique & Co. for plaintiff contesting.

COURT OF REVIEW.

MONTREAL, February 28, 1882.

MACKAY, RAINVILLE, BUCHANAN, JJ.

McLEOD v. MARCIL *alias* MARSEILLE.

Revision on a question of costs.

The Court of Review will reform a judgment of the Court below which condemns the defendant to pay plaintiff's costs of enquête on a demand of plaintiff for damages which was overruled by the Court.

The inscription was by the defendant, on a judgment of the Superior Court, District of Richelieu, Gill, J., Nov. 11, 1881.

MACKAY, J. The plaintiff sued for $305.25, and obtained judgment for $107.63. In the $305 were included $197 for alleged damages caused by defendant to plaintiff.

The defendant admits that the plaintiff did the works for $472.78 as alleged. There is no dispute as to that, nor as to what money payments the defendant made, to wit $365.15, leaving a balance due to plaintiff upon them, "balance sur les travaux" the defendant styles it; but the $197 damages have been disputed by a plea of general denial, and the defendant further sets up against plaintiff's demand, even for the work that he is admitted to have done, a claim for damages of $147.50; in other words for $39.87 beyond what plaintiff could possibly be found entitled to, even had he never asked any sum for damages.

The Court below has given plaintiff judgment for only the $107.63, disregarding his claim for damages, disregarding also the defendant's set off and claim for damages, putting the parties, as regards their several claims for damages, out of court; but it has condemned the defendant to costs, generally or largely; as, in ordinary cases, it is usually expressed, with costs against the defendant.

The defendant appeals to us: 1st, to be freed from the total of the plaintiff's demand, and 2ndly, subsidiarily to be freed at any rate from the costs of the *enquête* upon plaintiff's demand for damages; upon which part of plaintiff's case he has not succeeded. These costs are the costs upon nine depositions. The defendant says that he, who has not lost, has been condemned to pay these costs to the opposite party, who has *not* maintained his action in so far as claiming damages from the defendant.

We do not, generally, entertain appeals upon mere question of costs, yet now and then we have to, as in *Hall* v. *Brigham*,* and so has the Queen's Bench acted. In the present case we think that we may interfere; for the defendant is not, in one aspect, a losing party, and it is easy to distinguish what costs are appropriate to the condemnation of the defendant for the $107.63 balance due to plaintiff *sur ses travaux*, and what costs plaintiff has been at urging his demand for damages, and resisting the defendant's. So we say that the defendant shall not be charged plaintiff's costs of depositions.

The judgment in revision finds the judgment *a quo* not erroneous in substantials, but only in so far as condemning the defendant to pay the total of plaintiff's costs, so that judgment is modified, and the defendant is freed from the costs of depositions of plaintiff's witnesses in the Court below; each party in revision to bear his own costs.

R. J. Cooke for plaintiff.
J. B. Brousseau for defendant.

GENERAL NOTES.

A correspondent writes of the new Law Courts in London: "I had a look over them yesterday, and found it easy to get inside the labyrinth of stairways and corridors with which the place abounds. But the getting out! I seemed to wander miles and miles. I went upstairs and downstairs with the perseverance of the knight in the nursery tale, who sought the lady's chamber. Past doors upon doors, and archways by the million (or thereabouts), did I tramp. Everybody seemed as lost as I was. Bewildered barristers were asking each other, and everybody else, their way to this or that set of chambers."

* 3 Legal News, p. 219.

M. Fallières, le premier ministre français, est âgé de quarante-un ans. C'est un avocat du Lot-et-Garonne. Il est député depuis neuf ans seulement. C'est un orateur distingué. Il appartient au groupe de la gauche républicaine, et est traité de réactionnaire par les radicaux.

Judge Connor, of Cincinnati, has decided that public school-houses cannot be used as places of worship, and he issued a perpetual injunction against the school trustees of Symmes Township, Ohio, restraining them from allowing the school-house to be used for a Sabbath school or for religious services.

Delaware, after mature deliberation, has resolved not to abolish her whipping-post, which some regard as a relic of barbarism. Opinion on the subject of corporal punishment fluctuates considerably, and there are to be found advocates for the use of the rod or lash for every offence, from the disobedience of a school girl to robbery with violence. The Recorder of Dublin recently testified to the deterrent effect of the "cat" for the class of crimes regarded as specially cowardly and brutal. And a grand jury in the city of Dublin have just expressed their opinion that in cases of that description, "the judicious use of the lash is very necessary."

The Albany *Times* says: "The monstrous doctrine of cumulative sentences held by Judge Noah Davis in the Tweed case has been reduced to an absurdity in the Vermont case reported in our telegraphic despatches yesterday from Rutland, where a poor woman, charged with selling liquor without license, has been convicted on several hundred complaints, and by accumulating the terms of imprisonment under each complaint, has been sentenced by the police court, to the house of correction, for fifty years! If the Appellate Court of Vermont ever has this case brought before it, we can not doubt that it will decide as did our Court of Appeals. Such cumulative sentences are shocking to justice, and repugnant to common sense."

A CONSTITUTIONAL QUESTION.—Judgment was yesterday given by the Queen's Bench Division on the constitutional question raised last Michaelmas term as to the validity of the Local Courts Act, R.S.O., cap. 42, which was passed by the Local Legislature to group certain counties together for judicial purposes. Under sections 16 and 17 of that Act, the County Judge of Lambton held sessions of the Division Court in the county of Middlesex, which he was clearly entitled to do under that Act, but it was contended that the sections named were *ultra vires* because in effect they allowed one county judge to act in a county outside of his powers under his commission from the Dominion Government. Chief Justice Hagarty and Mr. Justice Cameron held that as the whole constitution of the Division Courts is within the power of the Local Legislature, and as no provision for the appointment of Division Court judges is anywhere to be found, the Act is not *ultra vires*. Mr. Justice Armour dissented from this view, and held that the sections were *ultra vires*, as in effect they appointed the County Judge of Lambton the County Judge of Middlesex, and delegated to county judges the power of appointing a county judge. The case in which the point was raised was one of *re Wilson & Maguire.—Mail, Feb.* 6.

Respecting private inquiries under the Crimes Act, a correspondent writes: "For a month or two past a private inquiry has daily taken place at Dublin Castle, and prisoners and witnesses have there been subjected to severe and close examination, but the outcome does not appear to have been of material assistance to the authorities. The mode in which the investigation is conducted is certainly of an extraordinary character. A police magistrate specially selected presides, and the Court sits with closed doors. A prisoner is brought in, placed on oath, and then examined, touching the guilt of himself and others. Any question which the judge thinks fit may be put. The man is compelled to answer, but whether his replies denote innocence or guilt he is detained a prisoner during the pleasure of this inquisitional secret tribunal. Should it appear that he answers the interrogatories falsely, he is then indicted and tried for perjury. All he says is carefully noted down by the officers of the Court, and these sworn statements are made the basis for further enquiries and subsequent accusations of other persons. No counsel or solicitor is allowed to appear on behalf of the prisoner-witness. On several occasions the Lord-Lieutenant himself has been present at the investigations, and the prisoners under examination have, in some instances, been questioned by His Excellency personally."

"IT is the part of a good judge to extend his jurisdiction." The history of the Court of Chancery shows that this ancient maxim, notwithstanding the criticisms of Lord Mansfield and Sir R. Atkyns, was in practice thoroughly received in that Court; and a decision of the Court of Appeal, (*Vidler* v. *Collyer*, 47 L. T. Rep. N. S. 283) shows that the changes made in our legal system have not at all impaired the vigor with which the Courts exercise and gradually amplify their jurisdiction. This was the case of an infant who was made a ward of the Court merely for the purpose of invoking its jurisdiction. His father was emigrating to Manitoba, and desired to take his son with him. The son, a lad between seventeen and eighteen years of age, desired to accompany him. Others of the relations, however, thought that the boy's prospects in England were far better than any his father could offer, as he was apprenticed and in the engineering department in the Admiralty, and an uncle offered to maintain him while in the Government employ, until he was able to provide for himself. It is very probable that the Court was perfectly right in supposing that the boy would be more likely to be successful in England than in Manitoba; but we nevertheless think that it is a strong instance of the increase of State jurisdiction, and decline of domestic authority, when we find the Court preventing a father taking his son abroad when the son wishes to accompany him, and is of sufficient age to give an unbiased opinion. We should add that no misconduct on the part of the father had been shown; but he was an undischarged bankrupt. He had entered into a bond on the apprenticeship, and proposed to apply to the Admiralty for a cancellation of the bond. Vice-Chancellor Bacon forbade the father proceeding with any such application, and his decision was upheld, though not without a little doubt, by the Court of Appeal.—*London Law Times.*