The Legal News.

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LORD COLERIDGE'S VISIT.

The Chief Justice, it is understood, has left in the hands of the N. Y. State Bar Association the arrangement of his appointments and acceptances. The Committee of arrangements have already accepted on his behalf the invitation of the Governor of Massachusetts for the 4th and 5th of September, and from Boston the party go directly either to Fredericton or Quebec, that being a point left to be decided by Lord Coleridge's old friend the Lord Bishop of Fredericton. From Quebec they expect to go to Montreal, Ottawa, and Toronto, where the bench and bar have tendered a banquet. The party are expected to reach Toronto somewhere between the 11th and 15th of September. The party accompanying his Lordship to America, consist of his son, as his secretary, with Sir James Hannen and Charles Russell, M. P. for Dundalk, Ireland. They are expected to arrive by White Star S. S. Celtic about 23rd August.

NUISANCE.

The members of the "Salvation Army" have come into conflict with the police in London, Ont., and thus far have fared worse than they did in England (5 L. N. 265). A youth named Ward, a drummer in the Army, was brought before the Police Magistrate, charged with beating a drum on the public street and making an unusual noise, to the disturbance of the people. Several witnesses testified to the drumming, after which counsel addressed the Magistrate. Mr. Macdonald, for the defendant, admitted the beating of the drum; he claimed that it could not be brought under the scope of the by-law, as nearly every band that went through the city had drums and were making a noise, and this beating of drums could not be tortured into a breach of the by-law. Mr. R. M. Meredith for the city, maintained that the noise was an unusual one, and quoted from the statutes to show that the city had authority to prevent this noise as a nuisance. He asked that the army should be required to give sureties not to repeat the offence. His Worship expressed the opinion that the case came within the by-law and that it was an unusual noise. The beating of a drum in a military procession was not unusual, but the beating of drums was an unusual noise to call people to church. He did not propose to impose a heavy fine, and would, therefore, make it in this instance $5 or one week in gaol, hoping the noise would be stopped in future. It clearly came within the meaning of the by-law. He had a great respect for these people in many ways, but he thought this was unusual.

The trial terminated as follows:

Capt. SHIRLEY—"My brother can't pay it; it is for Jesus, and we can't pay."

Chief WILLIAMS—"Oh, that is all right. The fine will be collected by execution after four days, and in default he will go to gaol for a week."

Capt. SHIRLEY—"Thank the Lord." (To the prisoner) "Jim, don't you pay it, if you have to rot in gaol."

At a subsequent date similar proceedings were taken against other members of the Army, and "Capt." Shirley was fined $5 or one day in gaol, and Addie Ann Parson $10 or one week in gaol, for playing flutes, drums and trumpets on the streets contrary to the by-law prohibiting unusual noises.

ESCHEAT.

The Judicial Committee of the Privy Council have given judgment in the *Mercer* case in favour of the Province of Ontario, thus settling the important principle that it is the Provincial and not the Dominion Government which succeeds to the estates of persons dying intestate and without heirs. The case arose out of the death in 1871 of the late Andrew Mercer, who died intestate and without heirs, and left a large amount of real estate. The property was taken possession of by the late Attorney-General Macdonald on behalf of the Province, but every facility was, during an interval of several years, afforded to claimants in Canada and England to make good their allegations of relationship to the deceased. Amongst them was one who claimed to be his son, but who was unable to establish his legitimacy to the satisfaction of the Courts.

In the absence of heirs-at-law the real property left by Mr. Mercer at his death escheated to the Crown, and in 1878 application was made by the Attorney-General of Ontario, representing the Crown, to the Court of Chancery, for an

order putting him in possession. Mr. Andrew F. Mercer and the other defendants who had taken possession of the lands, disputed the title of the Province and demurred to the action, and the demurrer was overruled by the Vice-Chancellor. The decision of the latter was appealed against on several grounds, the one of greatest public interest being the plea that if Mr. Mercer had really died intestate and without heirs, and if his property had on that account really escheated to the Crown, it should revert to the Dominion of Canada and not to the Province of Ontario. This plea was rejected by the Ontario Court of Appeal, which decided unanimously that real property escheating to the Crown should revert to the Province and not to the Dominion. Previous to the date of this judgment the Quebec Court of Queen's Bench had unanimously decided the same point in the same way. (See *Church* v. *Blake*, 2 Q.L.R. 236.) The judges who decided the *Mercer* case in appeal were the late C. J. Moss and Justices Burton, Patterson and Morrison.

The Mercer case was carried to the Supreme Court on appeal from the decision of the Ontario Court of Appeal, the very first ground being the one already referred to, that "lands in the Province of Ontario escheat to Her Majesty representing the Dominion in right of her royal prerogative," and that the Dominion Government, and not the Ontario Government, should take possession. In a very elaborate judgment, Chief Justice Ritchie went thoroughly into the whole question of prerogative, holding that the lieutenant-governor of a province, for certain purposes, represents the Queen, and that as the Crown lands were at Confederation assigned to provincial management and control, such of these lands as might afterwards escheat to the Crown should remain under the same management and control. Mr. Justice Strong concurred with the Chief Justice, but as Justices Henry, Fournier, Taschereau and Gwynne took a different view, the judgment of the Ontario Court of Appeal was reversed.

The Ontario Government carried the case on appeal to the Judicial Committee of the Privy Council, and it was argued before that Court on the 7th instant. Judgment has now been given, reversing the decision of the Supreme Court of the Dominion, affirming that of the Ontario Court of Appeal, and declaring by implication that escheated lands in any province revert to the provincial and not to the Dominion Government. A great deal of interest was taken during the progress of the case in the Canadian Courts by the Government of Quebec, which requested and was allowed the privilege of being represented by counsel during the argument before the Supreme Court. The case will be found in the 5th Sup. Ct. Rep. Canada, pp. 538–712.

NOTES OF CASES.

SUPERIOR COURT.

SWEETSBURGH, July 6, 1883.

Before BUCHANAN, J.

DUGRENIER v. DUGRENIER.

Nullity of contract extorted by threats—Fear and violence—Acquiescence.

An obligation extorted by violence is null, and payments made to and received by the party seeking for the nullity of an obligation by suit on such grounds is not an acquiescence.

The defendant mortgaged certain property to the plaintiff, the amount of which was to be paid in butter tubs in monthly payments. Shortly afterwards defendant sold the property to one J. B. Fregeau with *faculté de réméré*, but making no mention of plaintiff's mortgage. Fregeau discovering this, with the aid of defendant and his son Louis,—to compel plaintiff to give him priority upon the land—threatened to prosecute plaintiff criminally for having forged the name of defendant's son Louis to a promissory note. Yielding to this threat, which was made under circumstances and by the aid of accessories calculated to more effectually intimidate him, the plaintiff signed the discharge and accepted a new obligation from defendant by which the monthly payments of butter tubs were to continue until the claim was extinguished.

Within a few days thereafter plaintiff sued to resiliate the discharge and obligation on the alleged ground of violence, by which his consent thereto had been extorted. By one of the defendant's pleas, and the only one on which he relied, he set up certain amounts in compensation and payment, alleging that the reception

of those amounts by plaintiff was an acquiescence and confirmation of the discharge.

The COURT held that according to the proof the consent of plaintiff was extorted by violence and fear; and as to the question whether "the payments received by plaintiff constituted a legal confirmation of the voidable acts," made the following observations:—"The payments made are established by the plaintiff when examined as a witness by defendant. He is asked, when did defendant make the first payment of tubs on the obligation impugned. 'Answer. In the month of November, 1879.' This was subsequent to the bringing of the suit, and there are payments made afterwards and accepted by plaintiff. I do not examine closely the extent of the proof of the sums set up in compensation, for compensation cannot have the effect of acquiescence which in certain circumstances payment has. An entire payment, of course, would extinguish plaintiff's interest and the suit; but it is not contended in the pleadings that the entire amount is extinguished, for by his plea the defendant says that he is ready and willing to continue his payments, clearly negativing the idea that the plaintiff was without interest in the suit as having been paid. Did the acceptance of those payments cover the nullity in the obligation and confirm it? By Art. 1214 of our Code it is said the act of ratification or confirmation of an obligation which is voidable does not make proof unless it expresses the substance of the obligation, the cause of its being voidable and the intention to cover the nullity. This evidently contemplates written proof, and says nothing as to acts done from which ratification might be implied. The absence of legislation on that point is to be noticed when we consider this article in connection with Art: 1338 of the Code Napoléon and which is referred to by the codifiers in Art. 1214. The article of the Code Napoléon reads as follows: "L'acte de confirmation ou ratification d'une obligation contre laquelle la loi admet l'action en nullité ou en rescision, n'est valable que lorsqu'on y trouve la substance de cette obligation, la mention du motif de l'action en rescision et l'intention de réparer le vice sur lequel cette action est fondée.

A défaut d'acte de confirmation ou ratification il suffit que l'obligation soit exécutée volontairement après l'époque à laquelle l'obligation pouvait être valablement confirmée ou ratifiée." This last paragraph has not been adopted in our Code.

Pothier on Obligations, Vol. 1, No. 21, says: "Que si, depuis que la violence a cessé, il a approuvé le contrat soit expressément soit tacitement en laissant passer le temps de la restitution qui est de dix ans depuis que la violence a cessé, le vice du contrat est purgé." So that under this authority there must be express recognition to be valid.

Story on Contracts at Sec. 404, says, "a contract made under duress may be ratified either by an express confirmation or by acts from which a ratification will be *distinctly* implied,' the word "distinctly" evidently showing that the recognition must, to some extent, be express, and thus agreeing with our law on the subject.

The payments accepted of by plaintiff cannot be said in any sense to mean *expressly* or *distinctly* that the plaintiff ratified the impugned acts and intended to renounce what he was actually carrying on at the time, his action *en nullité*. These acts certainly must have the qualities and character required by Art. 1214 in a written act, and must, as therein is required, be express or lead to the absolute presumption of the intention to cover the nullity. These payments when received were not accompanied by any declaration by plaintiff of such intention, and there is no absolute presumption leading that way, the presumption in fact being that he was only taking what was owing to him. See Laurent, Vol. 18, p. 633. The contract here may have been in part materially executed by the payments, but I see no facts revealing any certain or express intention to cover the nullities, and the reception of the partial payments is not in any manner inconsistent with or destructive of the plaintiff's persistence in his right of resiliation. I have, therefore, come to the conclusion that plaintiff's action should be maintained.

Judgment for plaintiff.

T. Amyrauld, for plaintiff.

Jno. P. Noyes, for defendant.

SUPERIOR COURT.

MONTREAL, July 5, 1883.

Before TORRANCE, J.

THE HOCHELAGA MUTUAL FIRE INSURANCE CO. v. LEFEBVRE.

Mutual Insurance—Liability of members—Compensation.

Persons who become members of a mutual insurance company and pay premiums under 40 Vict. c. 72, sec. 35, are liable as members for assessment for losses.

Arrears of Directors' fees cannot be offered in compensation of an assessment to meet specific losses.

The demand was to recover the sum of $139,-70 as assessments made upon the defendant as member of the company under policies numbered 386, 501, 918.

The defendant pleaded that he was not liable as member, having insured on the cash principle, and not on the principle of mutuality. 2nd. That there had been no losses. 3rd. That policy 354 had been transferred by him to Jeremiah and Patrick Foley with consent of the company on the 15th May, 1877, and policy 501 had been transferred by him to Adolphe Roy with its consent on the 2nd August, 1878, and he could not be liable for losses subsequent to these dates on these policies. 4th. That the company owed him $112.50 for director's fees, and there was compensation for so much.

PER CURIAM. The plaintiffs were incorporated under C.S.L.C. cap. 68, and section 6 says that the insured shall be members. Sec. 24 provides for assessments on members for losses. The Act 40 Vict., c. 72, changes the name of the corporation (sec. 1), but says that it shall not be a new corporation. Sec. 3 provides for the admission of persons insured who shall have the same rights and be subject to the same liabilities as other members. Sec. 35 provides for cash premiums.

There is nothing to limit or terminate the liabilities of persons insured. These are liable as members. Lefebvre was insured when the loss occurred for which the assessment is made, and he must pay his share.

As to the plea of compensation, the counsel for plaintiff contends that the Directors' instructions to the Secretary to compensate *pro tanto* the claims against Directors by their fees for attendance at meetings could not legally apply to a case like the present, where the only sums demanded from the director are assessed for the payment of specific losses, and not a penny assessed for general purposes. To allow compensation here is to make the few sufferers, to pay whom the assessments sued for in this cause were made, pay out of their special assessments, and necessarily in deduction of their claim, the whole of the defendant director's fees, which he is without excuse for not assessing for, while the company was running. I am with the plaintiff in this pretension, and conclude that the pleas should be overruled, and the plaintiff should have judgment for $139.70.

Trenholme & Taylor for plaintiff.

Pagnuelo & St. Jean for defendant.

SUPERIOR COURT.

MONTREAL, June 28, 1883.

Before TORRANCE, J.

MORIN v. BERGER et al.

Patent—Infringement.

This was an action of damages against the defendants for alleged infringement of plaintiff's rights as inventor of a new key for water taps or cocks, to open and shut in their boxes the cocks with double or multiplied openings without possible mistake. Plaintiff obtained on the 2nd October, 1879, letters patent under 35 Vic. Cap. 26, Can., protecting his invention. He complained that the defendants in July, 1879, proposed to buy his invention and borrowed the model and plans, and the written explanations in connection with the same, and used the invention without his consent. The demand was for an injunction against the defendants, forbidding them to use the invention, and for damages. The defendants pleaded that the system of stop cocks and keys used by plaintiff, and described in his so-called invention was not new and had been in use for a great number of years, that it was to be found in the letters patent granted to one Charles R. Dickson, in the United States, on the 22nd February, 1876.

PER CURIAM. First in order, I should dispose of the Dickson patent. Looking carefully at the specification accompanying this patent, I have not any hesitation in saying that it is different from the patent relied upon by the plaintiff. That is my conclusion unhesitat-

ingly on a careful examination of the Dickson patent, and my conclusion is corroborated by the evidence of witnesses for the plaintiff. Then, as to the invention claimed by plaintiff for which he has secured a patent, the chief merit appears to be a cock with a conical-shaped head upon which fitted a conical shaped key. By means of it a cock out of sight underground could be opened or shut at will, so as to distribute or shut off the supply of water furnished to houses on a street. And it is not necessary to enter into the house in order to know whether the water is on or off in the house. None of the other inventions exhibited by the defendants, and relied upon by them to defeat the demand of plaintiff, work in the same way to produce the same result. I am satisfied with the evidence of Mr. Bradley among others on this point. Plaintiff explained his plan to defendants, supplying them with drawings and model. It was communicated to Mr. Beaudry, the engineer employed by defendant, and the apparatus prepared by him for the defendants had the conical peculiarity of plaintiff's invention, and Beaudry examined as a witness says that the conical shape came either out of his own head or from the plaintiff's plans. Plaintiff wrote to defendants that they might use his invention for a sum of $300, but they declined the offer. Nevertheless they used the invention. The evidence of Gidney, Duncan, Smith and Desbarats is clear on this point. The Court therefore holds that the claim for damages is proved, and these are assessed at the sum of $500.

Perras & Co., for plaintiff.

Beique & Co., for defendants.

TEXAS COURT OF APPEALS.

WOOLRIDGE v. STATE.

Verdict—Misspelling.

A verdict in these words, "We, the jury, find the defendant guilty of murder in the 'fist' degree, and assess his punishment at death, is a nullity.

WHITE, P. J. On the night of the 11th August, 1882, Antone Roerich was assassinated at his home in Fayette county. Appellant and one Nathan Stevens were jointly indicted for the murder. On the 25th of November, appellant was alone placed upon trial, and the result was his conviction of murder in the first degree, with the penalty assessed at death. From this judgment of conviction he appeals to this Court. Several supposed errors are complained of as grounds for a reversal of the judgment, the most important of which are: 1. That the Court erred in overruling his application for a continuance. 2. Error in refusing to give in charge to the jury special instructions requested in behalf of the defendant upon the law of circumstantial evidence, and, 3. Nullity of the verdict rendered by the jury. * * * Under all the circumstances shown by the evidence before us, it is neither credibly true, nor probably true, that he was present at the church and conversing with the absent witness when the deed was committed, and so believing we cannot say that the action of the Court in overruling the motion for a new trial, so far as it rested upon this ground, was erroneous.

Nor did the Court err in refusing to give the requested special instruction upon circumstantial evidence in charge to the jury. There could be no more positive and direct testimony than that of the murdered man's wife as to the identity of the defendant, and the fact that he fired the fatal shots which deprived her husband of his life. This was the main fact, and the circumstantial evidence adduced was consistent with and only in corroboration of it. We come now to the consideration of the objections urged to the sufficiency and validity of the verdict. It is in these words, viz.: "We, the jury, find the defendant, Ben. Woldridge, guilty of murder in the *fist* degree, and assess the punishment at death."

Instead of the word "first," the jury have used the word "fist," or in spelling the word "first," have omitted the letter "r." This is the error contended for, *e. g.*, that the jury have not found defendant guilty of murder in the first degree, and that consequently the judgment rendered was not warranted, nor is it supported by the verdict. Defendant presented the insufficiency of this verdict as one of the grounds of his motion for a new trial, which was overruled.

A most serious question is here presented, and no case directly in point has been found in our own, or the decisions of other courts of the country. We must determine it by a fair and proper construction of our statutes relating

to the subject matter by analogies drawn from well-settled principles of the law. It is to be particularly noted that here we have no case of the misspelling of a word. The word used is "fist," is properly spelled "fist," and is a word as well defined and as well known to the English language as any other word in common use. It is further to be noted that this word "fist" is not, and cannot, by any contortion of pronounciation, be made to sound like the word "first," and consequently the well-recognized doctrine of *idem sonans* is not applicable, and must be eliminated from the discussion.

Now, what are the statutory and legal rules with regard to verdicts? * * * As seen it is expressly declared that "the verdict in every criminal case must be general." What is meant by this? Simply that the verdict must find generally that defendant is "guilty" or "not guilty." Every verdict must ascertain and declare one or the other of these general issues—issues general, because involved in all criminal cases. Beyond this general feature of the verdict, in each particular case the evidence may be said to be *quasi* special, to the extent that it declares the special plea of defendant (when interposed) "true" or "untrue," whenever it assesses a punishment, or in a prosecution for an offence consisting of different degrees, where it acquits of the higher, and finds an inferior degree. * * *

So, then, it appears that with regard to misdemeanors and ordinary felonies, there are certain matters which the verdict must also specifically declare, and which, if not declared, cannot be cured by intendment, inference, or necessary deduction. And it will be seen that these matters which are incurable if not found, and incapable of explanation if not certainly and explicitly found, are all those which by law are specifically and exclusively confided to the jury, and to them alone, and in so far as they are thus confided the verdict will be, and must be, treated as special with reference to them.

Now, let us see what differences, if any, exist in the rules above noted and those applicable to murder cases. At the very outset of the investigation we are met with the statute which declares that "if the jury shall find any person guilty of murder, they shall also find by their verdict whether it is of the first or second degree; and if any person shall plead guilty to an indictment for murder, a jury shall be summoned to find of what degree of murder he is guilty, and in either case they shall also find the punishment." Penal Code, art. 607. Language cannot well be stronger or more imperative. "They shall also find by their verdict whether it (the murder) is of the first or second degree." * * * All the authorities in our State (except *Holland* v. *State*, 38 Tex. 474, which has been overruled) hold, as in Buster's case, that in a murder trial the verdict of conviction must specify the degree. Clark's Crim. L. 214, note "Verdict."

In all the other States where the statute requires that the verdict shall find the degree in murder cases (with the exception of New York alone) a similar construction has been adopted to that enunciated in Buster's case, as above quoted. Mr. Bishop says: "The view sustained by most of the authorities, and probably best in accord with the reason of the thing, is that the legislature meant by this provision to make sure of the jury's taking into their special consideration the distinguishing features of the degrees, and passing thereon. Hence, this provision is in the full sense mandatory, and unless they find the degree in a manner patent on the face of the verdict, without help from the particular terms of the indictment, it is void. * * *

When we apply these plain and well settled rules to the verdict before us, what is the inevitable conclusion which forces itself upon us as to its insufficiency measured by analogy with these standards of the law? Have the jury found the defendant guilty of murder in the first degree? To enable us so to hold we must strike from the verdict a word which they have plainly spelled—a word in everyday use in our language—and substitute in its place another and entirely different word, which we only infer they must have intended instead of the one they have used. Can we do this? If so, then we can take the same liberty with any word used. If courts can be allowed to indulge in such reference and intendments in cases involving the life and liberty of the citizen, then why have the inestimable right of trial by jury at all? If the Court can substitute a verdict which the jury have not found, or find one, when they have found none at all, then why have a jury? If the jury are required

to declare the issues found in their verdict, then, unless the issues are found by them the verdict is not theirs. There must be no doubt, to be supplied by mere intendment or inference, when the life of a human being is dependent upon it. This Court will not assume such responsibility whilst the law fixes the determination of the issue alone in the breasts and consciences of the twelve jurymen of the country. We may be satisfied of defendant's guilt in the first degree and we may be satisfied the jury so intended to find, but until they have so expressly found, we cannot give our sanction that human life shall be taken whilst there is any uncertainty with regard to it. The jury have not expressly found it in this case. Their verdict is not only uncertain but unintelligible and senseless. Even *idem sonans* will not aid it. It finds defendant simply guilty without finding the degree, and such a verdict, by all authorities, is held insufficient.

But it may be said the verdict ought to stand, because when the jury brought and returned it into court, it was evidently read "*first degree*" by the clerk, and assented to by the jury as thus read. It seems they have some such rule of receiving and construing and doctoring up written verdicts over in Louisiana, but the reason why they assume such authority in that state is stated in the case of *State* v. *Ross*, 32 La. Ann. 854. In that case it was held that the verdict of the jury is not illegal and null, because written "guilty without capitel parnish," when read aloud and distinctly announced by the clerk as "guilty without capital punishment." Besides the law does not require, even in cases of capital punishment, that the jury should reduce their verdict to writing. Here, as we have seen, the verdict must be in writing, and the Louisiana rule cannot be invoked.

In conclusion, we hold that the verdict in this case is a nullity—the jury have not found the degree of murder of which defendant was guilty. This the law requires they shall do. If defendant is to hang, let him hang according to law! * * * Because the verdict in this case is insufficient, and does not support the verdict rendered, the judgment is remanded for a new trial.

Reversed and remanded.

UNITED STATES DECISIONS.

Burglary—Evidence—Good Character.—On a trial for burglary and larceny the court charged thus: "However good a man's character may have been in the past, if the proof is clear and convincing—that is, convincing of guilt—it would be the duty of the jury to say so. Good character helps where the proof is doubtful or uncertain, or when there is reasonable doubt of the guilt of the party; but when this does not exist it becomes the solemn duty of the jury to say, if they believe it, the word 'guilty.'" An accused party who is of good reputation is entitled to the benefit of it in all cases. People v. Garbutt, 17 Mich. 9; Remsen v. People, 43 N. Y. 6; Stoner v. People, 56 id. 515; State v. Patterson, 45 Vt. 308; Williams v. State, 52 Ala. 41; Harrington v. State, 19 Ohio St. 269; Silvus v. State, 22 id. 90; State v. Henry, 5 Jones (N. C.), 56; Kestler v. State, 54 Ind. 400. But the trial judge gave no instruction to the contrary of this; he merely told the jury that if the evidence was convincing beyond a reasonable doubt, it was their solemn duty to convict notwithstanding the good reputation. This was correct. Michigan Supreme Court, Feb. 27, 1883. *People of Michigan* v. *Mead*. Opinion by Cooley, J.

Larceny—Conversion of horse hired not.—If a person hire a horse with a *bona fide* intention of returning it, a subsequent conversion of the property is not larceny, but may be evidence of an original felonious intent. But a subsequent conversion of the property merely may not be sufficient evidence of such an original intent. In Regina v. Brooks, 8 Car. & P. 295, it is held that the subsequent offer to sell the property was not considered sufficient evidence of the felonious hiring or taking in the first place, unless from the circumstances it appears that the hiring was only a pretext, made use of to obtain the property for the purpose of afterward disposing of it. The law applicable is as well stated in Semple's case, 2 East, P. C. 691, as in any which can be found in the books: "It is now settled that the question of intention is for the consideration of the jury, and if in the present case, the jury should be of opinion that the original taking (of the property) was with the felonious intent to steal it, and the hiring a mere pretence to enable him (the prisoner) to effectuate that design without any intention to

restore it or pay for it, the taking would amount to a felony; but if there was a *bona fide* hiring and a real intention of returning it at that time, the subsequent conversion of it could not be a felony." See also Pear's case and Charles Wood's case, id. The principle is more briefly stated, id. 665: "If it be proved that there was no trespass or felonious intent in taking the goods no subsequent conversion of them can amount to a felony." Wisconsin Supreme Court, April, 4, 1883. *Hill* v. *State of Wisconsin*, Opinion by Orton, J.

SUPREME COURT DECISIONS.

To the Editor of the LEGAL NEWS:

SIR,—Uniformity of jurisprudence was desired and no doubt looked for in the creation of the Supreme Court, primarily of course in so much of the general law as was applicable to all the Provinces.

With regard to the peculiar systems of each separate Province, it could be only hoped for through a careful study by the judges of that Court of the systems prevailing in each Province and a reasonable deference to the opinions of experienced judges in the administration of these systems in the respective Provinces. The experience of the past develops points of weakness in the system adopted for our Supreme Court.

A case comes up for decision from the Province of Ontario involving a most important principle of law applicable to all the Provinces. The judges of the Supreme Court find themselves equally divided in opinion. The original judgment is in consequence confirmed. A similar case comes up from the Province of Quebec, decided in quite the opposite sense, and on the same division of opinion of the judges of the Supreme Court, the original judgment in the last mentioned case is also confirmed. The result is, one jurisprudence for Ontario and the opposite of it for Quebec.

Now this palpable anomaly might be quite the reverse of what it seems if its action was to support the law peculiar to any particular one of the Provinces, as for instance our own Province of Quebec where the civil law system, founded on the Roman law, prevails in contradistinction to the common law of England introduced into other of the Provinces. But let us see what takes place in practice in this last class of cases. A case comes up from Quebec depending for its decision on the law peculiar to that Province. It has perhaps all the judges of that Province who could sit, in its favor, or, it may be, with one exception as has happened lately. The judgment is upset in the Supreme Court by a bare majority out of five, that majority perhaps composed of judges taken from the other Provinces, or perhaps including one judge from Quebec. It can scarcely be expected that confidence can be inspired by such decisions. One precaution the Supreme Court itself might take in such cases which is, never to decide any such without having a full court of six judges, and to see that in the number the two appointed from the Province of Quebec were included. The importance of these points must be acknowledged by all observers.

C.

GENERAL NOTES.

It would seem that the law is already stringent enough against inn-keepers, but in *White* v. *Smith*, 15 Vroom, 105, they are held to be insurers of the persons of their guests against kidnapping! It is there said: "By the common law, an inn-keeper is bound to receive a guest and the goods he brings with him in the ordinary way, and is liable for their value in case they be stolen."—*Albany Law Journal.*

Two recent cases before the Court of Claims, *Von Hoffman* v. *The United States*, and *The Manhattan Savings Institution* v. *The same*, involved an important question. Certain coupon bonds of the United States, known as Five-Twenties, on their face payable July 1, 1885, had been "called" for redemption by the Secretary of the Treasury, in conformity with their terms and statutes in that behalf, and had become redeemable under these calls, when they were stolen from the Savings Institution, and afterwards bought for full value, in entire good faith, with due care and without notice, by Von Hoffman. The sole question was, whether these bonds which, in the absence of a call for redemption, did not mature until 1885, did, by reason of the call, become overdue paper, which Von Hoffman took subject to any defects of title, and to the paramount rights of the true owner. In an opinion of great clearness, Chief Justice Drake distinguishes this class of bonds, redeemable before their face maturity at the maker's pleasure, from ordinary commercial paper, whose date of payment is absolute upon its face, and reaches the conclusion that the bonds in question did, in law, mature on the day when the holders had the right, in pursuance of the Secretary's call, to receive payment; and that whoever bought the bonds thereafter took them as overdue paper, with only such title as the vendor had, and liable to have such title disputed and successfully impeached.—*American Law Review.*