The Legal News.

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The Judicial Committee of the Privy Council heard the appeal of Louis Riel on the 21st. inst., and on the following morning an opinion was read by the Lord Chancellor, holding that the Court of first instance had jurisdiction, and affirming the conviction. The points determined in this case at Winnipeg are summarized as follows by the editor of the *Manitoba Law Journal*, who was of counsel for the prisoner:—

1. A stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, may try any charge of murder or treason in the North-West Territories.
2. The information may be laid before a stipendiary magistrate alone. An associate justice of the peace is necessary for the trial only.
3. Except for the purpose of arrest, it is not necessary that there should be an information at all; nor need the trial be based upon an indictment by a grand jury, or a coroner's inquisition. All that is necessary is a charge, and this need not be under oath.
4. The evidence may be taken in short-hand.
5. Writs of *certiorari* and *habeas corpus* cannot be issued by the Court of Queen's Bench in Manitoba to bring up the papers and prisoner upon an appeal to that Court.
6. The Court of Queen's Bench will hear an appeal in the absence of the prisoner.

The September-October numbers of the Montreal Law Reports, Superior Court series, contain pages 369 to 448. Thirty-three cases are reported. Among these may be mentioned the case of *Elliot* v. *Lord*, extending the privilege of the plaintiff for costs of suit, so as to include all costs in appeal up to the final judgment of the Privy Council. In *Riendeau* v. *Blondin*, an action by a person who had won a bet against the stake-holder was maintained. In *Levesque* v. *Daigneault*, the action of a tenant was maintained, to resiliate the lease and recover damages caused by the use of wall paper which communicated an offensive smell to the goods of the tenant. In *Jones* v. *Laurent*, arbitrators appointed to value a property were compelled by writ of *mandamus* to admit evidence of the annual revenue as a basis of valuation. In *Brazier* v. *Léonard*, it was decided that the person expending money for the feed and care of a horse has a lien on the animal for his disbursements. In *Smardon* v. *Lefebvre*, it was held that a lawyer's letter is not a *mise en demeure* within the meaning of 1152 C. C.

Mr. Justice Taschereau, in the case of *La Municipalité du Village du Mile End* v. *La Cité de Montréal*, decided, on the 14th inst., that the power to legislate with reference to health matters and hospitals (with the exception of marine hospitals and quarantine) is vested in the local legislature. There is no doubt that this judgment is in accordance with the current of decisions on the subject. The late Mr. Loranger inserted the provisions of ch. 38 of the Consolidated Statutes of Canada in his draft of consolidation of the Statutes in force in Quebec, and his successor Mr. Würtele, in a letter which has been shown to us, says he will "not recommend that they be struck from the roll." The following are in substance the reasons given in Mr. Justice Taschereau's judgment: The petition, it may be observed, was for a writ of injunction to prevent certain buildings belonging to the Provincial Government, situated within the limits of the municipality, and known as the Exhibition buildings, from being used as a smallpox hospital:—

Considering that the plaintiffs, petitioners, have not shown any right of property or any interest in the ownership of the land and buildings mentioned in their petition, permitting them to apply to this court to obtain the writ of injunction asked for;

Considering that the plaintiffs, petitioners, have not shown that they had, as a municipal corporation having under their control the land and buildings in question, any sufficient interest to support the allegations and conclusions of their petition;

Considering that the petitioners have not established to the satisfaction of this court

that the works and operations complained of are in contravention of any of the by-laws of the said municipality or constitute any danger to the inhabitants and rate payers of the municipality;

Considering that it is established that the works and operations above mentioned have been executed by and on behalf of the local Board of Health of the city of Montreal with the permission, authority and sanction of the Central Board of Health of the province of Quebec, duly appointed by the Lieutenant-Governor-in-council and after proclamation duly issued and published under chapter 38 of the Consolidated Statutes of Canada, putting in force within the said province the provisions of the said act; that said works and operations have, moreover, received the express sanction of the executive of this province, which, furthermore, has permitted the Central Board and the local Board of Health the use and occupation of the lands and buildings known under the name of the Exhibition buildings, which lands and buildings are the property of the Government of the province of Quebec, though under the temporary control of the Council of Agriculture of the province of Quebec;

Considering that the defendant (the city), by the effect of the said proclamation and of the nomination of central and local boards of health, has ceased to have the powers, authority and duties which devolved upon it before the issue of the said proclamation; that from the date of said proclamation and the nomination of said boards, the latter have been invested with all the powers entrusted to them by the said act, ch. 38 of the C. S. C.; that in virtue of these powers they took possession of said lands and buildings, and have performed the works in the public interest and with the sanction of the executive;

Considering that the defendant does not appear to have intervened, and had no right to intervene, in the proceedings or acts of said central and local boards of health, and that the petition, so far as directed against the city of Montreal, should in any case be dismissed;

Considering that said chapter 38 C. S. C., is still in full force and effect, and could not be repealed or abrogated by any legislative disposition of the Dominion Parliament, seeing that by the B. N. A. Act, 1867, all questions of health, control of hospitals other than marine, and generally all matters of a purely local or private nature within the province are within the exclusive jurisdiction of the Provincial Legislature, which alone had the right to amend or repeal the said statute, and has not done so; Petition dismissed with costs.

It is curious with what tenacity some antiquated and unreasonable customs are adhered to in England. One of the jury in a recent case of *Regina* v. *Malcolm*, writes a letter which furnishes an illustration. He says: "We had breakfast on Friday at eight A.M., sat patiently listening to counsel and judge till a few minutes before 3 P.M., when we retired; and, instead of sitting down to satisfy our cravings, we were locked into a room with bare boards, and coolly told that neither food nor drink would be supplied until we gave in our verdict; and by way of further exasperation, we were informed that, in an adjoining apartment, luncheon was prepared and ready for us as soon as we agreed. After that, we had four more hours' wrangling amongst hungry and thirsty men—eleven hours in all of a process of exhaustion." It seems that although under an Act passed in 1870, the judge is authorized to allow the jury the use of a fire and reasonable refreshment *at their own expense*, the bailiff who takes charge of them when they retire to consider their verdict, is still sworn, in a case of felony, to keep them "without meat, drink or fire, candle-light excepted." How would this sound if applied to a bench of judges and yet judges and jurymen under our system have often precisely similar functions to discharge.

LONDON LETTER.

The approaching end of the long vacation is shown by the gradual return of those who have been ruralizing or pleasure-seeking these last six weeks. In the common-rooms, in the squares about the Inn, you come upon friends with darkened complexion, and lacking the glossy hat and long coat so proper to

these precincts; or else you hear, every now and again, greetings exchanged by those who parted last week in Norway, or in the Highlands, or on the banks of Lake Lucerne.

But those of us who were in the old haunts at the close of last month had an opportunity of witnessing a most remarkable and indeed unprecedented trial at the Old Bailey. Upon an indictment for bigamy, the most conflicting and yet positive evidence was offered as to the identity of the prisoner, it being maintained, for the Queen, by the prosecutrix, her mother and the parson, that the man in the dock was he who had married himself to the prosecutrix, while the prisoner, on the other hand, by a cloud of witnesses, differentiated himself and established an *alibi*. The suspicious element, however, of the defence is that the man charged, who is a Londoner, was unquestionably in Brighton where the crime was committed, at the same house, and at nearly the same time. The jury, amid these bewildering facts, were unable to agree, and the case must be tried again. The offender, whoever he was, had only remained a few days with his inamorata, and then had disappeared, so that the poor woman is in the position of knowing that she is tied for life to somebody who is little better than a myth.

A vast deal of discussion and passion, and sentiment has been expended upon what is known as the scandal of the *Pall Mall Gazette;* and Stead, the editor of that paper, together with some other such philanthropists, stand to take their trial for abduction and assault at the Old Bailey.

At the Old Bailey, last month, the first instance occurred, under the new act, of a prisoner tendering himself as a witness on his own behalf.

A recent decision of the Reviser of Votes in Chelsea must cause great surprise in the colonies and particularly in India. The suffrage of a man born in Calcutta was disallowed, on the ground that he was not a subject of the Queen of England, but merely of the Empress of India, and therefore an alien in this country. But the proposition has been combated by Mr. Louis de Souza in a letter to the *Times*, showing on the authority of *Calvin's* case, in the time of King James the first, that an "alien" is one who is not only *extra ligentiam nostri regis*, but also *infra ligentiam alterius;* and that allegiance "cannot be confined to one kingdom," and that all subjects of the Queen, in any title, are equally within her allegiance in every part of her dominions. Otherwise it might happen, that if a native of Calcutta, or of Jersey (which is an appendage of the ancient dukedom of Normandy) should league with rebels here to dispossess the Queen of Her English throne, he would not be within the Statute of Treasons as levying war "in the realm" nor as a "subject" abroad aiding traitors here.

The mention of this matter reminds me to say that public interest is now almost wholly concentrated on the impending elections, which are the nearer, because the date of dissolving the present parliament has just been made known.

Lincoln's Inn, 10th Oct., 1885.

*SUPERIOR COURT—MONTREAL.**

Capias—Forme de la déposition—Il peut reposer pour partie sur un jugement.

JUGÉ:—1o. Que l'allégation dans la déposition pour *capias*, "que le défendeur a caché, soustrait et recélé ses biens, et est sur le point de cacher *ou* soustraire et recéler ses biens avec l'intention de frauder ses créanciers en général *ou* le demandeur en particulier," est suffisante.

2o. Qu'il n'y a pas non plus d'incertitude dans l'allégation, "que le défendeur est sur le point de quitter immédiatement la Province du Canada, comprenant les Provinces de Québec et d'Ontario, avec l'intention de frauder ses créanciers en général *ou* le demandeur en particulier," et que cette allégation est aussi suffisante.

3o. Qu'en faisant émaner le *capias* en cette cause, tant pour le montant d'un jugement déjà rendu en faveur du demandeur, que pour une autre créance dont il était porteur, le dit demandeur n'a en rien violé la loi, le *capias* ayant été valablement émis comme procédure distincte et séparée du jugement en question.—*Senécal* v. *Hart*, Jetté, J., 25 fév. 1885.

* To appear in full in Montreal Law Reports, 1 S.C.

Vente de foin—Contrat sous seing privé—Dommages-intérêts.

Par contrat sous seing privé en date du 26 octobre 1880, le défendeur s'obligea livrer au demandeur, dans sa cour, à Montréal, quand il en serait requis (as required), à compter de la date de ce contrat jusqu'au 1er mai 1881, 50 tonnes de foin, *de première qualité*, à $13 la tonne, formant un prix total de $650. Avant le 1er mai 1881, le vendeur ne livra à l'acheteur que 23½ tonnes du foin en question et il restait encore 26½ tonnes non livrées, représentant une balance de $342 pour le prix de cette dernière quantité. Le 23 mai 1881, le vendeur fut mis en demeure de livrer à l'acheteur la balance du dit foin, mais ne tint aucun compte du protêt.

JUGÉ:—1o. Qu'aux termes de ce contrat, le défendeur n'était tenu de livrer au demandeur le foin en question, *que s'il en était requis avant le 1er mai* 1881 *et jusqu'à cette époque*, MAIS PAS PLUS TARD.

2o. Que l'époque fixée par le dit contrat pour la livraison du foin en question, était *de l'essence* du contrat, et que le défendeur n'était pas tenu et ne pouvait valablement être requis de le livrer après cette époque.—*Larin* v. *Kerr*, En Révision, Torrance, Jetté, Gill, JJ., 29 avril 1882.

Parts ou actions—Souscription—Cause d'action—Juridiction—Exception déclinatoire.

Le défendeur fit, du district de Kamouraska, application à une compagnie incorporée, à Montréal, pour des parts qui lui furent accordées par les directeurs, à cette dernière place. Plus tard, il fut poursuivi pour des versements sur ces parts. L'action fut intentée à Montréal et signifiée au défendeur dans le district d'Ottawa où il était domicilié.

JUGÉ:—Que toute la cause d'action n'ayant pas originé dans le district de Montréal, le consentement du défendeur à prendre les dites parts ayant été donné dans un autre district, la Cour, siégeant à Montréal, n'avait pas de juridiction.—*Ross et al.* v. *Rouleau*, En Révision, Sicotte, Jetté, Mathieu, JJ., 31 mai 1885.

Compagnie d'Assurance — Risque — Incendies antérieures—Réticences—Nullité.

JUGÉ:—Que lorsqu'une compagnie d'assurance refuse d'assurer, parce que déjà plusieurs fois des bâtisses semblables à celle qu'on cherche à assurer, appartenant au même propriétaire, ont été incendiées, chaque fois dans les mêmes circonstances, ce fait doit être déclaré par l'assuré lors de la demande pour une nouvelle assurance, comme étant de nature à étendre le risque, et la réticence de l'assuré sur ce point est une cause de nullité du contrat. C. C. arts. 2485-2487.—*Minogue* v. *Quebec Fire Assurance Co.*, Mathieu, J., 30 avril 1885.

Société—Convention préalable—Défaut d'exécution—Résolution de contrat.

B., cessionnaire de partie du droit d'exploiter une patente, dans la Province de Québec, fait avec L. ce contrat: "*L. désireux de "s'associer à cette exploitation paye à B. la somme de* $1,000 *comptant à condition de partager "également, etc..... Ce dernier (B.) s'engage "à se rendre à Québec et à consacrer son temps, "son travail et son énergie à mettre ce projet à "exécution, et se fait fort de mettre en marche la "compagnie projetée avant le* 15 *novembre prochain.*"

JUGÉ:—Que dans le cas où B. n'a pu remplir ses obligations et mettre en marche la dite compagnie pour l'exploitation de la patente en question, avant le délai fixé, ce contrat ne peut être considéré comme un acte de société, et L. a droit de faire résilier le dit contrat et de faire condamner B. à lui remettre les $1,000 par lui payées.—*Laviolette* v. *Bossé*, En Révision, Sicotte, Torrance, Mathieu, JJ., 31 mars 1883.

Nourriture et soins donnés à un cheval—Droit de rétention—Saisie-revendication.

JUGÉ:—Que celui qui nourrit un cheval et en prend soin et qui le dresse pour la course au trot, a sur ce cheval et les objets à son usage, tels que harnais, licou, &c., un droit de rétention pour sûreté du payement de tels nourriture et soins et pour l'avoir ainsi dressé pour la course.—*Brazier* v. *Léonard*, Papineau, J., 27 décembre 1882.

Registrar—Tariff—Certificate furnished to Sheriff.

HELD:—That a registrar, when furnishing to a sheriff a certificate as to several lots of

land sold, is not entitled to make separate certificates for each lot sold, when but one requisition covering all has been filed with him by the sheriff.—*Morris* v. *Canadian Iron & Steel Co.*, Mathieu, J., June 11, 1885.

Judicatum solvi—Prête-nom.

JUGÉ:—Que le fait qu'une personne qui réside dans la Province de Québec, et y intente une action, n'est que le prête-nom d'une autre personne résidant en dehors de la dite province, n'est pas suffisant pour obliger le demandeur à fournir le cautionnement *judicatum solvi.*—*Reed* v. *Rascony*, Mathieu, J., 13 mai 1885.

Compagnie de chemin de fer—Passager—Arrêt de trains—Responsabilité—Imprudence.

JUGÉ:—1o. Qu'une compagnie de chemin de fer qui vend un billet de passage d'un endroit à un autre sur sa ligne, et qui collecte ce billet du passager dans un de ses chars, est tenu d'arrêter ce train à l'endroit indiqué sur le dit billet et sera tenue responsable des dommages qu'elle cause à ce passager si elle ne le fait pas.

2o. Qu'en pareil cas, si le passager saute en bas du train lorsqu'il est en mouvement, et se fait des blessures graves, ce fait constitue une imprudence de sa part que la Cour doit prendre en considération pour diminuer les dommages à être accordée à cette personne.—*Lareau* v. *Vermont Central R.R. Co.*, Gill, J., 11 mai 1885.

Amendement—Compensation—Réponses et répliques.

JUGÉ:—Que le demandeur, après avoir inscrit sa cause pour enquête et fait entendre plusieurs témoins, ne peut être admis à suppléer, par amendement à ses réponses ou répliques, à l'insuffisance des allégués de sa déclaration, en offrant de compenser certaines réclamations contenues dans le plaidoyer du défendeur et offertes en compensation par un compte additionnel.—*Lalonde* v. *Rochon*, Loranger, J., 18 novembre 1884.

Cour Supérieure—Juridiction—Montant réclamé—Retraxit.

JUGÉ:—Que lorsque, après l'émanation d'un bref de sommation et sa signification au défendeur, mais avant l'entrée de la cause en cour, le demandeur fait signifier au défendeur un *retraxit* de partie de la somme réclamée, suffisant pour réduire cette somme au-dessous de $100, la Cour Supérieure n'a pas de juridiction pour juger l'action qui sera renvoyée sur un plaidoyer du défendeur.—*Saxton* v. *Paradis*, Sicotte, J., 14 octobre 1884.

Mandamus—Arbitrators—Value of Property—Principle of Valuation.

HELD:—1. That when arbitrators appointed to value a property, proceed upon an erroneous basis in law, and refuse to admit the best evidence of value, an interested party may obtain a writ of mandamus against the arbitrators to compel them to admit such evidence.

2. That the best mode of ascertaining the value of a property for purposes of expropriation, is to establish its market value, and such value should be based upon the annual revenues of the property.—*Re Expropriation of St. John's Bridge, Jones et al. & Laurent et al.*, Torrance, J., June 26, 1885.

Cadastral Plan—Subdivision of Lots—Sheriff's Sale.

HELD:—1. That, although a block of land may have been subdivided on the official plan, the sheriff is not bound to sell the official subdivisional lots separately, if they have not been defined on the ground and if the land is used as a whole.

2. That the sheriff may be ordered by a judge in Chambers to seize and sell the land as a whole.—*Gale et al.* v. *Canadian Iron & Steel Co.*, Mathieu, J., Dec. 26, 1884.

Sheriff's Sale—Tariff—Subdivisional Lots.

HELD:—That if a block of land composed of several subdivisional lots is seized and sold as one, the sheriff is not entitled to charge the 50 cents per extra lot provided for by the tariff for extra lots.—*Gale et al.* v. *Canadian Iron & Steel Co.*, Mathieu, J.

Execution—C.C.P. 606—Privilege for costs.

HELD:—That the plaintiff's privilege for the costs of suit under C.C.P., Art. 606, ss. 8, includes the costs incurred up to final judg-

ment in appeal; and so, where the plaintiff obtained judgment in the Superior Court against three defendants jointly and severally, and the judgment was reversed by the Court of Queen's Bench sitting in appeal, and on appeal to the Privy Council the original judgment was restored, it was held that the plaintiff was entitled to be collocated by privilege on the proceeds of the moveables of the defendants for all costs up to and including the final judgment of the Privy Council.—*Elliot* v. *Lord et al., & Atkinson*, oppt., In Review, Torrance, Loranger & Cimon, JJ., Sept. 30, 1885.

Ejectment—Action by proprietor of one undivided half in usufruct—"Grosses réparations."

HELD:—1. That the proprietor for one undivided half in usufruct may bring alone an action in ejectment against the tenant; but he cannot of himself lease the premises subject to his usufruct.

2. "Grosses réparations" do not include the putting on of a new roof.—*Ross et vir* v. *Stearnes et al.*, Torrance, J., Aug. 22, 1885.

Certiorari—Juridiction—Cour des Commissaires—Municipalités de Ville.

JUGÉ:—1o. Que pour enlever à une cour sa juridiction, il faut une loi expresse et formelle.

2o. Qu'une Cour des Commissaires créée pour une paroisse conserve sa juridiction, lorsque subséquemment le territoire de la paroisse est érigé en municipalité de village ou de ville; et que les personnes assignées devant cette Cour peuvent être décrites comme étant du dit village ou de la dite ville.—*Ex parte Lemoine* v. *Doré*, Mathieu, J., 9 juin 1885.

CIRCUIT COURT.

MONTREAL, October 7, 1885.

Before JOHNSON, J.

LE COLLEGE DES MÉDECINS ET CHIRURGIENS DE LA PROVINCE DE QUÉBEC v. THEOBALD CHIVÉ.

Practising Medicine without a license—Assuming to be a physician—42 & 43 Vic. c. 37 (Q.)

HELD:—1. *That a druggist who recommends a tonic or a lotion for a particular ailment, and who sells the customer such tonic or lotion, charging him merely the ordinary price of the preparation, is not guilty of practising medicine without being a registered licensee in accordance with 42 & 43 Vic. c. 37 (Q.)*

2. *That a druggist who was formerly a doctor of Rouen, and who sells bottles of medicine with the label "Dr. Chivé, ex-interne des hopitaux de Rouen" thereon, is not liable for assuming the title of physician.*

PER CURIAM. (No. 3465.) This was an action for $50 penalty under the Stat. 42 & 43 V., c. 37 and amendments, for practising medicine without being a registered licensee (10th April, 1883.)

Two instances are specified: First, one Ad. Martel, whom he treated, and received thirty cents; second, Jos. Archambault, whom he also treated, and got eighty cents, (20th March, 1884.)

He pleads that he never practised medicine contrary to the statute, but that he is a licensed chemist and druggist, and has a right to sell and recommend his drugs and wares, and that he did no more. Secondly, he pleads prescription.

The plaintiff, in his declaration, alleges that the reason he did not bring the action before was the absence of the defendant from the province.

There is no evidence of practising medicine or prescribing it, in the sense of the statute. In the first case, the man Martel was suffering pain from inflammation of the bladder, and told the defendant so, and the latter recommended a lotion or a liquid in a bottle for which he charged thirty cents. This would seem a small fee for a prescription by a physician, and was evidently only the price of the physic or stuff that he sold and had a right to sell. In the second case, the witness says he was weak and wanted a tonic, and got two bottles for which he was charged and paid forty cents each. It would be straining the law to apply it to such a state of facts as this. The defendant is proved to be a licensed druggist, and he had a right to recommend his wares, and receive the price of them, which is all he did. I see nothing about prescription or limitation of action in the statute, and nothing was cited, but that is unimportant under the evidence.

No. 3,466. This is another case against the same man for another and different offence, under two sub-sections of sec. 88, *i. e.*, for illegally assuming the title of doctor, physician, or surgeon, or any other name implying that he is legally authorized to practice medicine or surgery, etc., or for assuming in an advertisement, a written or printed circular, or on business cards or signs, a title, name or designation of such a nature as to lead the public to suppose or believe that he is a registered or qualified practitioner of medicine, etc.

There is a demurrer pleaded to this action; but I think the allegations are sufficient. They say that the defendant held himself out as a practising physician by printed labels on bottles of medicine which he sold, by using the words *Dr. Chivé* on them. But there is besides a specific allegation that he has assumed a designation of a nature to cause it to be supposed that he is practising as a physician. Therefore, if he has by these labels or otherwise assumed that designation *to himself*, so as to have the effect alleged, it is sufficient. The plea to the merits is the same as in the other case.

There are two labels on which the words "*Dr. Chivé*" appear: one on a bottle of "*extract of tobinambour for flavoring ice cream, custards, etc.*" The other is said to have been removed from a bottle, and reads "Pharmacie normale. *Elixir bechique pulmonaire du Dr. Chivé, ex interne des hopitaux de Rouen*, remède souverain pour la guérison des toux, etc., etc."

The questions are, did defendant assume a designation for himself, or were the printed labels of a nature to cause it to be supposed that he was a practising physician here? It could not be doubted, I think, that this man, who pleads and proves that he is a licensed druggist, has a right to sell flavoring extracts or cough remedies. The only possible doubt would be whether in selling and labelling them in this manner he meant to pass himself off as a licensed doctor here. The words "Dr. Chivé" are there on the two bottles. Do they refer to himself or to another Dr. Chivé of Rouen? or if they refer to himself cannot he say lawfully that he was once Dr. Chivé of Rouen, (and I have no doubt of the fact from the certificate of the mayor of Candelier, which is produced), and that he now sells under his druggist's license here the things he learned to make there? There are three other bottles also produced. They neither of them have the words "Dr. Chivé" on them, but "Dir. Chivé," which is said to signify that he is, and wants to be known as *directeur* of this "Pharmacie Normale," which he keeps, and has a right, under his license, to keep. It may be, perhaps, a device or trick—and that is what is contended for by the prosecution; but there are two reasons why I do not act upon that view of the case. First, in a penal action, I want clear proof; second, the principal witness in the case, and indeed, admittedly, the instigator of it, is Dr. Thayer, who says he bought out this man's business a couple of years ago on condition he was not to return and resume it, but that he has returned and resumed the business, and is now being sued by this same person for $10,000 damages. That is not evidence of a kind that I can implicitly rely upon to convict of an offence against this statute, where the intent of the party is to be made apparent, an intent which is only attempted to be shown, not so much by direct proof as by the inferences and reasoning of this witness. I think there is a fair doubt whether the defendant meant to pass himself off as a doctor, or merely to vend under his druggist's license, things that were made by another, or even by himself in another country where he could truly call himself a doctor. There is a case very much resembling this one, reported in last February's *Canada Pharmaceutical Journal*, and where the Court took the same view of the matter that I do now, and I agree with what was said there, that I do not interpret the act as applying to such cases; and I do not think that it is in the interests of the public to have such restrictions placed on the sale of medicines as would result from the success of such a case as this.

Upon the whole case—and considering the whole extent of the evidence, I think that the defendant cannot fairly be held to have assumed to practice as a doctor here because he said on his labels that when he was in France, he had been a doctor there, and made stuff which he sells here under his license as a druggist.

Both actions are dismissed with costs.

B. Nantel, for plaintiff.

Archambault, Lynch, Bergeron & Mignault, for defendant.

COUR DE CIRCUIT.

MONTRÉAL, 25 sept. 1885.

Coram CARON, J.

EDMOND LAREAU v. E. LECLERC.

Lettre d'avocat — Frais — Règlement—Promesse de payer.

JUGÉ:—*Que l'avocat n'a pas d'action pour recouvrer les frais de lettre écrite au défendeur, si ce dernier règle la dette avec son créancier, même en promettant de règler la dite lettre avec l'avocat ; que cette promesse ne pouvait le lier via-à-vis l'avocat, puisqu'il s'engageait à une chose à laquelle il n'était pas légalement tenue.*

Au soutien de sa prétention le demandeur cita les décisions suivantes :—10 R. L. p. 589, Gill, J.; 6 L. N., p. 8, Loranger, J. ; 27 L.C.J. p. 29 ou 6 L.N., p. 61, Jetté, J. ; 3 L. N. p. 37, Rainville, J.

Le défendeur cita 7 Leg. N. p. 383, décision rendue en 1884 par son Honneur le Juge Loranger.

Au sujet des décisions citées par le demandeur, son Honneur le Juge Loranger a prétendu qu'elles étaient d'équité parce que la preuve établissait que "des rapports avaient eu lieu entre le débiteur qui avait reçu la lettre et l'avocat qui l'avait écrite."

Dans l'espèce il fut établi en preuve que la femme du défendeur avait offert 50c. pour la lettre, après avoir promis au créancier de payer tous les frais de lettre.

La cour fut d'opinion que cette promesse ne pouvait lier le défendeur, que les frais de lettre d'avocat n'étaient pas recouvrables.

L'action fut en conséquence deboutée avec dépens.

Edmond Lareau, avocat du demandeur.

Augé & Lafortune, avocats du défendeur.

(J. J. B.)

GENERAL NOTES.

THE COURTS AND THE EPIDEMIC.—Mr. Justice C. sat in the Circuit Court a few mornings ago hearing all comers with his usual patience, justice and urbanity. An individual, who appeared to receive a wide berth from advocates and criers, pushed his way to His Honor with a handful of papers and desired to be heard, when the following dialogue occurred:—His Honor—You say you are sued in ejectment and you have the smallpox in your house? Defendant—Yes, Your Honor, and I want you to examine these papers. His Honor (to the public)—This is a shame. This man has been after me several times this morning to examine his papers, and I have told him to go home and I will continue his case. (To the Clerk) Who is the lawyer in this case? Clerk—Mr. B. His Honor—Perhaps Mr. B. would be kind enough to come here and examine these dirty papers himself, as the action appears to be an action in ejectment for $3. (To the Crier) Put him out. The Crier tried in vain to expel the aggrieved litigant, but when the latter turned to resist, invariably fled from him. The result was a sensation and a messenger sent for the sanitary police, but before their arrival the carrier of contagion had disappeared. The windows were opened and the distribution of justice was resumed with a sense of relief.

THE London correspondent of the New York *Tribune* says of the new law peers:—"Sir Robert Collier and Sir Arthur Hobhouse are made peers in order to strengthen the legal side of the House of Lords. The former was Solicitor General in the Alabama-Alexandra days, and proved his soundness as a lawyer by the views he took of the obligations of the British Government in respect of stopping the rebel corsairs and rams. He became Attorney General in Mr. Gladstone's administration of 1868: three years later followed his appointment to the Judicial Committee of the Privy Council, a place worth $25,000 a year. This he still retains. The controversy over that appointment is not forgotten, though it turned wholly on technical points. Sir Robert is a lawyer of learning and ability, with a passion for landscape painting, and an exhibitor in the Royal Academy. Sir Arthur Hobhouse is a public-spirited Englishman who has long served his country in various high capacities, as Charity Commissioner, as legal member of the Indian Council, and finally as member of the Judicial Committee of the Privy Council—all without pay. Few men have done more or better work; and not a shilling of public money has ever gone into his pocket. His is one of those cases which might make the sourest socialist meditate on the incidental advantage to the public of allowing men to possess private fortunes. Such honor as he now receives comes to him in a shape which still brings no pay and augments the expenses of life."

A NEW CLASS OF ALIENS.—At Chelsea, on September 25, before Mr. O. J. Williamson (revising barrister), Major Gray brought forward the case of a claimant who was born of Portuguese parents at Calcutta. He submitted that the claimant was a British subject by reason of his having been born within the dominion of the Crown. The claimant had always considered himself a British subject. The revising barrister said that British India was no part of the British Crown when the claimant was born there. Major Gray remarked that the Act taking over the country would make the claimant a British subject. The revising barrister said the Act was not retrospective. A man born at Calcutta was the subject of the Empress of India. An Englishman of the United Kingdom was a subject of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland. The laws of England prevailed in England only. The revising barrister held that the fact of a man being born in Calcutta did not make him a natural-born British subject, and that it was necessary to take out letters of naturalization for the purposes of being enfranchised. The claim must, therefore, be disallowed.—*Law Journal.*