THE LEGAL NEWS.

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The judgment of the Queen's Bench Division in the case of *Conway* v. *Canadian Pacific Railway Co.*, 8 Leg. News, pp. 322, 332, holding that a railway company is not liable for omission to fence as against a mere squatter, has been taken to the Court of Appeal of Ontario, and has there been unanimously affirmed.

A cable despatch received on Thursday states that the Judicial Committee of the Privy Council have reversed the decision in *The Queen & Exchange Bank of Canada*, M.L.R., 1 Q.B. 302. Their lordships appear to have got over the difficulty interposed by Art. 611 of the Code of Procedure, and they have decided in accordance with the legal as well as the equitable view, assuming that Art. 611 were out of the way. It will be remembered that the judgment of the majority in the Court of Queen's Bench turned solely upon this article, and was given with the utmost reluctance. Mr. Justice Ramsay remarked:—"It is totally new law, as has been "shown, I think, clearly, *and it never received* "*the least legislative sanction.* Had matters "remained in this condition, it would not be "difficult to deal with Art. 611, C.C.P. It "was a manifest addition to the Act, and "must have been excised like any addition "to the Parliamentary roll. But to avoid "the litigation arising from this extraordi- "nary source, the Legislature of this Pro- "vince passed an Act, 31 Vic., ch. 7, by the "10th section of which it is provided that "'The Civil Code of Lower Canada and the "'Code of Civil Procedure of Lower Canada, "'as printed before the Union by the "'Queen's Printer of the former Province of "'Canada, have been and are in force as law "'in this Province.'" We are glad that this interpolation in the Code has been rejected, and await with some interest the grounds upon which their lordships base their decision.

Mr. Justice Stephen, in another case on the 2nd instant—*Reg.* v. *Baldwin*—entered more fully into the subject of prisoners making statements at their trial, though represented by counsel (*ante* p. 33). The observations which are reported on another page, will be read with interest.

The new Lord High Chancellor, Baron Herschell, is only 49. He was appointed Solicitor General in 1880, and now steps at once to the woolsack, Mr. Gladstone's Attorney General in the last Government not being prepared to accept his policy on the Irish question.

The new Attorney General, Charles Arthur Russell, is 53. He entered Parliament in 1880 as member for Dundalk. Mr. John Morley, the Chief Secretary for Ireland, is a member of the bar, but is best known as editor formerly of the *Fortnightly* and of the *Pall Mall Gazette*. Sir W. V. Harcourt, the Chancellor of the Exchequer, was Solicitor General in 1873-4, and was appointed Home Secretary in 1880.

English barristers are exercised over the increasing tendency of modern judges to talk instead of listening to the argument, thus preventing anything like a consecutive presentation of the case. One observer, by careful note, found that of every ten minutes occupied by the hearing of a case, counsel were permitted to speak for four minutes and a half. The rest of the time was occupied by the observations of the law lords. Lord Kingsdown is reported to have said that never, till he was on the bench, did he know "the energy it requires to hold your tongue." Of another distinguished judge, the story goes that he asked to be reminded if he should err in this particular. The occasion soon came, and his chosen monitor, like Gil Blas, was faithful to the trust reposed in him. But the answer immediately came back, in a note handed down from the bench, "You—fool, don't you see I am trying to bring him to the point!"

THE YEAR BOOKS.

It will be useful, before making translations from the Year Books, to make some

suggestions as to the general nature of their contents.

The reporters were skilful men, selected by government authority, and their reports are in the true sense official. They cover a large period of time, from A.D. 1292 to 1536, and are of course quite various in their style and modes of presenting the cases. They possess some common features worthy of notice.

They d ffer from modern reports in the fact that there is no head note or syllabus of the point decided. The questions considered can only be determined from a perusal of the case. The Indexes are of very slight value. An example is such an entry: "Divers good cases on the point that one thing implies another"; "Justice, and the separate administration of it in separate degrees and forms," etc. One fact quite singular to modern jurists is that there are no written pleadings. All the demurrers and pleas are by word of mouth made on the spot. There is thus a running fire of statement, criticism, and comment between judges and counsel, until finally the marrow of the case is reached, and then the parties are ready for trial on disputed questions of fact, and then a jury is summoned by a writ termed a *Venire*.

Each case in those days was based on a "writ" issuing in the name of the King, and obtained from a royal office, setting forth the nature of the plaintiff's claim and directing the Sheriff to summon the defendant to answer the cause of action. Many of these writs are inserted in the Books, and when sustained are really good forms of action, capable of being used in pleading at the present day. They are uniformly in Latin. It is the form in the writ that is frequently under discussion by the counsel and the court. If that fails, the case goes down, unless it can be helped out some way by an amendment, called the rule of "jeofails" (meaning "I have failed"). In these discussions it is very difficult to tell whether the disputants are counsel or judge, or counsel sitting by and not engaged in the cause. Sometimes everybody seems to "take a hand in." Occasionally a judge will be absent during a part of the time while the case is on, and then, on his coming in, the progress of the cause is interrupted until what has passed has been rehearsed to him, and then he will join in, and perhaps take the lead in the case. Then, perhaps, the Chief Justice will make a side remark to his associates, which the reporter overhears and diligently records, that the plaintiff's case is without merit and wholly unreasonable.

The mode of proceeding is quite free and informal. The members of the bar feel themselves on a level with the judges. Sometimes the *dictum* of an able counsellor is reported as having the authority of the saying of a judge. There are occasionally ejaculations of a semi-profane nature, and several instances of good, round oaths by individual judges, where some crying act of impropriety or injustice is under consideration. There is nothing like servility on the part of the bar. Lawyer and judge, each addresses the other as "Sir." The title "Your Honour," or "Your Lordship," had not then been invented, while "Sir" is in constant use.

Running all through these Books is the plain fact that both counsel and judges are engaged in the administration of justice. Counsel are there to aid the court by fair and honest argument, and not to dazzle and bewilder the judges by sophistries. They, too, are ministers of justice. One striking feature somewhat in contrast with the practice in modern times is the boldness of the judges in announcing that they have changed their opinion, when they have been convinced by the counsel that their first views were wrong, or that a former decision was unsound. The reporter announces the change of views prominently in Latin, and in different type from that used in the body of the page. "*Mutata opinione*" (opinion changed) is the frequent expression. We can but respect the manliness and sincerity of soul of the judges in this direction, and are reminded of what a great and magnanimous judge says in a New York case in describing an ideal judge. He should be "wise enough to know that he is fallible, and therefore ever ready to learn; great and honest enough to discard all mere pride of opinion, and follow truth wherever it may lead, and courageous enough to acknowledge his errors." *Pierce* v. *Delamater*, 1 New York, 18, 19.

These old judges, when a case is wrong, do not strive to "distinguish" it from other cases which are not in substance different, but openly and perhaps scornfully discard it. Reference may be made to one of the most distinguished and able of them, Sir Anthony Fitzherbert, of the time of Henry VIII., author of the "Grand Abridgment" and other valuable and learned works. After rebuking in a particular case the conduct of certain executors, as acting wrongly without legal advice and solely according to their own opinions, some one cited a case in their favor. Fitzherbert called out from the bench (apparently to the lawyers or students who were busy taking notes), "*Strike that case out of the books, for without doubt* it is not law." The reporter adds as he frequently does when any important decision is rendered, "NOTE THIS" (quod nota). The reporter, however, as in duty bound, supplies for publication both decisions, the bad and the good, with reportorial impartiality (27 Henry VIII., p. 23, case 21).

Another highly interesting feature of these Books is the evidence that they supply of the distance that modern society has drifted from the questions that agitated men's minds in the early days. The Books were then full of controversies concerning fine distinctions in the law of real estate, or as to technical actions, and the shadowy lines dividing them. Commerce had then scarcely lifted its head. The rights of men under contracts were vague and undetermined. Even the lines that bounded ownership in personal property were vague and indistinct. Violent acts were frequent, and the officers of criminal justice were full of employment in curbing the lawless acts of powerful men. Much of the learning worked out by the able men of the time has become obsolete, as much of ours will be when three or four more centuries have expired. But in these Books there is much that will never grow old, nor its value be impaired by lapse of time. Men who are familiar with them will never cease to admire the freedom of discussion, the dauntless spirit of independence, the sympathy with the friendless, the love of justice and of learning, accepted as useful in that day, which everywhere pervade and illuminate their pages. Nor will they fail to find in these old Books the germs of our existing body of law, which by a long and toilsome process of evolution has been developed from the simple and rudimentary cases of those days into a mass of rules marvellous and admirable to an extent never before witnessed in the history of the world, for their fullness and flexibility, and their easy adaptation to every phase of human action.—*Prof. Thos. W. Dwight*, in *Columbia Jurist.*

COUR DE CIRCUIT.

JOLIETTE, 14 février 1885.

Coram CIMON, J.

ST. GEORGE v. GADOURY.

Election municipale — C. Mun. arts. 310, 311, 312—*Contestation de l'élection.*

Après l'heure expirée pour la nomination, le président de l'élection compte les électeurs présents favorables à chaque candidat, et pendant qu'il est à faire cette opération, cinq électeurs demandent poll; le président refuse poll, et recommence à compter à nouveau les électeurs présents favorables à chaque candidat, malgré les protestations des cinq électeurs qui persistent à requérir le poll, et proclame l'un des candidats élu.

JUGÉ:—*Que cette élection est nulle.*

Voici le jugement:

"La Cour, etc....

"Considérant qu'à une assemblée des électeurs municipaux de la municipalité de la paroisse de St-Jean de Matha, tenue en la salle publique de la dite municipalité, étant le lieu ordinaire des séances du conseil de la dite municipalité, aux fins d'élire deux conseillers en remplacement de Louis Marcil et de Norbert Durand, sortant de charge, laquelle assemblée tenue le douzième jour de janvier 1885, à dix heures de l'avant-midi, sous la présidence d'Evangéliste St-George, le dit Jérémie St-George, le présent requérant, dûment qualifié à être candidat à la charge de conseiller de la dite municipalité, a été mis en nomination suivant la loi comme candidat à la dite charge de conseiller en remplacement du dit Norbert Durand, l'intimé Sévérin Gadoury ayant aussi été mis en nomination comme candidat à la dite charge de conseiller en opposition au dit requérant;

"Considérant que le président de l'élection, après l'heure expirée, a commencé, du consentement tacite de tous les électeurs présents à compter les électeurs présents favorables à chaque candidat, mais qu'avant qu'il eût proclamé élu aucun des deux candidats, une demande de cinq électeurs lui a été faite de procéder à tenir un poll pour l'enregistrement des voix des électeurs;

"Considérant que, malgré cette demande, le dit président a procédé à compter à nouveau les électeurs présents, et qu'il a, ensuite, sans tenir de poll, et contre les protestations de plus de cinq électeurs favorables à la candidature du requérant qui persistaient à requérir le poll, proclamé élu le dit intimé Sévérin Gadoury;

"Considérant que le dit intimé a été ainsi proclamé élu illégalement;

"Maintient la requête en cette cause, annule l'élection du dit intimé Sévérin Gadoury, et ordonne une nouvelle élection, etc."

Charland & Tellier, avocats du requérant.
Godin & Dugas avocats de l'intimé.

COUR SUPÉRIEURE.

JOLIETTE, 19 mai 1885.

Coram CIMON, J.

DEZIEL DIT LABRÈCHE v. LA CORPORATION DE LA VILLE DES LAURENTIDES.

40 *Vict.* (*Q.*) *ch.* 29, *sects.* 213, 222—*Clauses générales des corporations des villes—Contestation des règlements pour illégalités—Défaut d'avis—Séance et Session.*

JUGÉ:—1o. *Qu'il suffit que la requête en cassation d'un règlement pour cause d'illégalité soit signifiée dans les trois mois, et qu'elle peut ensuite être présentée à la cour après les trois mois.*

2o. *Que l'avis de motion pour proposer un règlement doit être donné à une session antérieure, et non à une séance antérieure, et que si cet avis est donné à une séance antérieure de la même session où le règlement est proposé et passé, ça équivaudra à un défaut complet d'avis.*

3o. *Que tel règlement proposé et passé sans avis de motion donné à une session antérieure sera annulé pour cause d'illégalité.*

Il s'agit d'un règlement qui a été passé par le conseil de la défenderesse abolissant une rue et la fermant. Le requérant en demande la cassation pour cause d'illégalité.

Voici le jugement qui s'explique suffisamment:

"Considérant qu'il suffit que la requête soit signifiée à la Corporation dans les trois mois à compter de l'entrée en force de tel règlement, ce qui a été fait en cette cause, et que la demande se trouve ainsi faite à temps bien que la dite requête ait été présentée à la cour après les trois mois;

"Considérant que le règlement dont les requérants demandent la cassation a été passé par l'intimée à une *séance* de son conseil tenue le 21 janvier dernier, laquelle *séance* n'était que la continuation de la *session* générale ouverte précédemment; considérant qu'avis de motion de ce règlement n'avait été donné que le 19 janvier dernier à une *séance* de la même *session* générale;

"Considérant que par la sec. 213 du ch. 29 de 40 Vic. (Q), avant de proposer ce règlement il était nécessaire qu'un avis de motion fût donné à une *session* antérieure;

"Considérant qu'aux termes des sections 3 & 9, 112, 113, 116, 117, 118, 119, 120, 121, 126 et 127 du dit chap. 29 de 40 Vic., le conseil de l'intimée ne pouvait passer le dit règlement le 21 janvier dernier, parce qu'un avis de motion n'avait pas été donné à une *session* antérieure, la *séance* du 9 janvier n'étant pas une *session* antérieure, et que le dit règlement est illégal;

"Considérant que cet avis de motion est le seul avis requis pour passer un règlement de la nature de celui allégué, et que si cet avis n'était pas scrupuleusement observé, des injustices pourraient en résulter et des contribuables pourraient être privés de droits légitimes ou obligés à des actes onéreux, sans qu'ils eussent eu occasion quelconque de se faire entendre, et que cet avis de motion est nécessaire, non seulement pour les conseillers mais encore davantage pour les intéressés qui, avant l'ouverture d'une *session*, peuvent s'informer de ce qui devra se faire à cette *session*, et si rien de ce qui les concerne ne doit être agité à cette *session*, alors naturellement ils n'y assisteront pas;

" Casse et annule pour cause d'illégalité le dit règlement, etc."

Archambault & Archambault, avocats pour les requérants.

McConville & Renaud, avocats pour l'intimée.

COUR DE CIRCUIT.

JOLIETTE, 19 octobre 1885.

Coram CIMON, J.

CHARLAND v. FAUCHER.

Hypothèque judiciaire—C. C. art. 2098—*Priorité de l'enregistrement du jugement à celui de l'acte d'achat du défendeur.*

JUGÉ:—1o. *Que le dernier alinéa de l'art.* 2098 *ne s'applique pas au cas de l'hypothèque judiciaire, laquelle n'est pas consentie par le débiteur, mais est prise malgré lui.*

2o. *Que l'hypothèque judiciaire prise sur un immeuble alors vendu par le débiteur, vaudra à l'encontre de l'acquéreur, si l'acte de vente n'a été enregistré que subséquemment à l'enregistrement du jugement.*

C'est une action hypothécaire. Le 12 juin 1885, le demandeur a obtenu jugement contre dame Lescarbault pour $35.45 avec intérêt et dépens. Le 21 juillet 1885, le demandeur fit enregistrer ce jugement, suivant la loi pour obtenir une hypothèque judiciaire sur les lots Nos. 23 et 30 du cadastre de la paroisse de St. Roch, apparaissant alors appartenir à cette dame à titre de propriétaire. Puis l'action allègue que, par acte de vente, le 19 décembre 1884, la dite dame Lescarbault a vendu au défendeur ces deux lots de terre, mais que cet acte de vente n'a jamais été enregistré; que le défendeur est en possession des dits lots de terre et les detient à titre de propriétaire. L'action conclut hypothécairement contre le défendeur. Le 11 août 1885, après l'institution de cette action, le défendeur a fait enregistrer son acte d'achat du 19 décembre 1884. Il plaide que le 21 juillet 1885, lorsque le demandeur a fait enregistrer son jugement, la dite dame Lescarbault n'était pas propriétaire de ces deux lots de terre qui paraissaient alors être au bureau d'enregistrement la propriété de Antoine Paquet. Mais ce dernier, par son testament, en date du 11 janvier 1881, a institué dame Lescarbault sa légataire universelle. Il est depuis décédé, et, après son décès, ce testament a été enregistré le 11 juin 1881, mais sans déclaration du décès et désignation des immeubles. Le 21 août 1885, après l'action, le défendeur a fait enregistrer un avis dans le but de renouveler l'enregistrement des titres du dit Antoine Paquette à la propriété de ces lots et dans le but de renouveler l'enregistrement du dit testament, et ajoutant à cet avis une déclaration du décès de Antoine Paquette et une désignation des immeubles qui étaient dans sa succession. Il n'a pas été question que le demandeur connaissait lorsqu'il a pris son hypothèque judiciaire, l'existence de l'acte de vente de dame Lescarbault au défendeur.

Voici le jugement:

" La Cour, etc.

" Considérant que le dernier alinéa de l'art. 2098 du C. C. ne s'applique pas à l'hypothèque judiciaire, mais seulement à 'toute cession, 'transport, hypothèque ou droit réel *par lui* '(*l'acquéreur*) *consenti* affectant l'immeuble,' que l'hypothèque judiciaire n'est pas une hypothèque *consentie* par l'acquéreur, mais est prise malgré lui; en sorte que l'hypothèque en cette cause est devenue valide et a frappé l'immeuble décrit en cette cause, bien que, lorsque le testament, qui en a fait dame Lescarbault propriétaire, a été enregistré antérieurement à cette hypothèque judiciaire, il n'a pas été enregistré de déclaration du décès du testateur et la désignation de l'immeuble;

" Considérant que l'acte de vente de dame Lescarbault au défendeur, bien que d'une date antérieure à l'hypothèque judiciaire du demandeur, n'a été enregistré que subséquemment à la dite hypothèque judiciaire et même subséquemment à l'action;

" Considérant que la défense du défendeur n'est pas fondée,

" La renvoie avec dépens distraits et déclare les dits lots de terre numéros 23 et 30 etc., hypothéqués par hypothèque judiciaire en faveur du demandeur pour la somme de $35.40 de capital du jugement obtenu le 12 juin dernier, etc., et condamne le défendeur, comme tiers détenteur des dits lots de terre à les délaisser en justice, etc."

AUTORITÉS CITÉES: 8 Q. L. R. 177, *Vidal* v. *Demers*, et *Leclerc*, oppt.; 1 L. N. 230 et 22 L. C. J. 73, *Lefebvre* v. *Branchaud*; 2 L. N. 156,

Tellier v. *Pagé*; 25 L. C. J. 25 et 3 L. N. 5, *Adam & Flanders.*

Jugement pour le demandeur.

Charland & Tellier, avocats du demandeur.

Chenevert, avocat du défendeur.

COUR SUPERIEURE.

JOLIETTE, 13 nov. 1885.

Coram CIMON, J.

GALARNEAU et al. v. GUILBAULT.

Cautionnement judicatum solvi—Frais de l'exception dilatoire—C. C. art. 29.

JUGÉ:—*Que si une exception dilatoire demandant le cautionnement judicatum solvi est fondée, le demandeur devra en payer les frais, qui ne doivent pas suivre l'issue du procès.*

Voici le jugement:

" Attendu qu'il appert que F. X. Galarneau, l'un des demandeurs, réside en la ville de Cohoes, dans l'Etat de New-York, un des Etats-Unis d'Amérique;

" Attendu que le défendeur par la dite exception dilatoire demande la suspension des procédés en cette cause jusqu'à ce que le dit F. X. Galarneau ait fourni le cautionnement *judicatum solvi* et la procuration voulue en pareil cas;

" Considérant que depuis la dite exception dilatoire, les demandeurs ont produit une procuration du dit F. X. Galarneau telle que voulue par la loi;

" Considérant que par écrit au bas de l'inscription, " les demandeurs en cette cause admettent l'exception dilatoire produite en " cette cause par le défendeur avec dépens, " les dépens devant suivre le sort du procès, " et s'en rapportant à justice dans tous les " cas;"

" Considérant que par l'art. 29 C. C., le demandeur non résidant dans la Province de Québec EST TENU de fournir à la partie adverse le cautionnement *judicatum solvi*, et que le demandeur F. X. Galarneau ne l'ayant pas fourni, ainsi qu'il y était *tenu*, le défendeur a encourru pour l'obtenir les frais d'une exception dilatoire, et, cette exception étant fondée, les demandeurs qui y ont donné lieu doivent en payer les dépens au défendeur;

" Maintient la dite exception dilatoire et ordonne que tous les procédés en cette cause soient suspendus jusqu'à ce que le dit demandeur F. X. Galarneau ait fourni au défendeur caution pour la sûreté des frais qui peuvent résulter de l'action du dit F. X. Galarneau, lequel cautionnement devra être fourni d'ici à un mois; et ce mois passé, si le dit cautionnement n'est pas produit, la Cour se réserve, sur application de qui de droit, d'adjuger alors sur les autres conclusions de l'exception dilatoire qui demandent le renvoi de l'action avec dépens. Et la Cour condamne les demandeurs à payer au défendeur les frais de l'exception dilatoire."

PRISONER'S RIGHT TO MAKE A STATEMENT.

On February 2, at Exeter, in the course of the trial of the case of *Regina* v. *Baldwin and others* for manslaughter, Mr. Justice Stephen intimated that he wished to mention a course of procedure which might or might not apply to the case, according as the counsel for the defence thought proper to avail themselves of it. He mentioned it now in order that counsel might consider it in the interval of adjournment. As most of them were aware, there had been a considerable difference of practice in criminal cases amongst various judges as to the right of prisoners to make statements, and some of his learned brethren had admitted such statements when prisoners were defended by counsel, whilst others had not felt themselves warranted in allowing such statements to be made. He had much considered the matter, and he frequently permitted statements to be made by prisoners wishing to make them. The practice which he had followed, and which was the same as that of his brother Cave—there were other judges whom he could mention, but he spoke of him in particular—had been to allow a statement to be made, if the prisoner wished to make it, on condition that he made it before his counsel addressed the jury, and on the understanding that he gave a reply to the counsel for the prosecution, who, however, could not, of course, ask a question. The learned judge wished to say that he always warned the jury to draw no inference

unfavourable to the prisoner from the circumstances of his not making such a statement, because the practice was not uniform. That was the practice which he had followed upon many occasions, and which he should follow then, if it was so desired. He had several times said that when the proper time came he should tell the reasons which had induced him to think that in acting thus he was acting according to the law of the land and not following a mere opinion of his own. The matter had been discussed amongst the judges, but their opinion on the subject was not unanimous. He expressed his regret that the matter should be in such a condition, and that there was no way, so far as he knew or so far as he had heard, of bringing into harmony their views upon the subject. It was a matter of practice at the trial, and not of law, and in consequence no case could be stated about it. He would give his reasons for the opinion he entertained in a very few words. He might run at considerable length, but he would give them the result generally of a very careful inquiry into the matter, although he was not able to give every detail of the authorities which had led him to the conclusion at which he had arrived. It seemed to him that the matter could be properly understood only by reference to the history of the law on the subject. By the original law of England counsel were allowed to prisoners only in cases of misdemeanour. Neither in cases of felony nor in cases of treason were they allowed this assistance. It was also known to everyone who had made any historical study of the matter that in the early periods of our history, so far from the prisoner's mouth being closed, he was sometimes questioned at very great length and with much minuteness upon all the matters connected with his crime. He was said, in fact, to be 'put to answer.' That practice was followed certainly as late as the Civil Wars, and to some extent, though not to the same extent, it was followed after the Revolution of 1688. A prisoner, therefore, at that time down to the year 1688 not only had the right to state what he pleased, but was practically called upon to state what he could, and was in some instances even pressed by questions to explain the facts connected with the charge brought against him. Then came the Revolution of 1688, and in consequence of the trials for treason being so extremely unsatisfactory, an Act was passed in 1695 for regulating trials in cases of treason. That Act (7 & 8 Wm. III, c. 3, s. 1) enacted, among other things, that a person accused of treason 'shall be received and admitted to make his full defence by counsel learned in the law, and in case any person so accused shall desire counsel, the Court before whom such person shall be tried, or some judge of that Court, shall and is hereby authorised and required immediately upon his request to assign to such person such and so many counsel, not exceeding two, as the person shall desire, to whom such counsel shall have free access at all seasonable hours, any law or usage to the contrary notwithstanding.' Notwithstanding this statute, which allowed a defence by counsel, the prisoner in these cases was still permitted to make a statement. It was a practice that had prevailed ever since in respect of trials for high treason. It appeared, from the accounts of trials that had been preserved, that it had been usual, from the time that the Act was passed down to a recent period—indeed there was, he thought, an instance of it in the reign of Her present Majesty at the trial of John Frost, at any rate it was adopted in the case of the Cato Street conspiracy—for the judge to call upon the prisoner, after his counsel had been heard, and ask him to make any addition to what had been said on his own behalf. So the matter stood with regard to treason. It appeared to him that the Act which authorised persons accused of treason to be defended by counsel, did not take from the person so accused the right to make his statement, which, if that Act had never been passed, they certainly would have been entitled to make. With regard to felony, up to the year 1836 counsel were not allowed in cases of felony, except for the purpose of examining witnesses and cross-examining them, but when trials were conducted without counsel in that way the prisoner most unquestionably had the right, and exercised it on all occasions, of saying whatever he thought proper either as to the matter of fact or as to matter of law. In 1836 was passed an Act —6 & 7 Wm. IV, c. 114—to enable any per-

sons indicted for felony to make their defence by counsel or attorney. It had very often been supposed—and he was afraid there had been eminent individuals who had said it—that this Act took away the right of the prisoner to be heard and closed his mouth. He did not think the Act meant to do that. The reason why he did not think so was that an almost precisely similar Act with regard to treason had been interpreted according to the practice of the Courts to mean the opposite. Of late years it was well known that a variety of practice had obtained; for, whilst some judges allowed a statement to be made by a prisoner, others did not. He had searched for, and had not been successful in finding, authorities for the proposition that in cases of misdemeanour the prisoner as well as his counsel should be allowed to make a statement. That left room for some kind of doubt. But he thought, upon the whole, having reference to the opinions and practice of several of his brethren, and having reference to the considerations which he had mentioned, it did not appear that the right which prisoners originally had—in fact something more than the right, the power—and which they were called upon to exercise, of speaking for themselves, was taken away by the Acts to which he had referred. He had in many instances allowed such a statement to be made. This appeared to him to be such a case, because it was a case of great importance, and one more or less likely to attract attention.—Subsequently, in reply to counsel for the defence, the learned judge ruled that a statement made by one of the prisoners would give a right to a general reply on the whole case to the counsel for the prosecution; but he did not wish to lay this down as a universal rule. Every case must depend on its circumstances.—Baldwin made a statement, was convicted, and sentenced to twenty years' penal servitude.—*Law Journal* (London).

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Feb. 13.

Judicial Abandonments.

Avila Birs Desmarteau, St. Hilaire, Feb. 8.

Curators Appointed.

Norbert Leclaire, trader, Contrecœur.—Z. Mayrand, N. P., Contrecœur, curator. Jan. 9.

J. E. Trottier & fils, manufacturers, Three Rivers.—P. L. Hubert, Three Rivers, curator. Feb. 2.

Ambroise Tellier, Montreal.—Kent & Turcotte, Montreal, joint curator. Feb. 9.

Zéphirin Simard, Rimouski.—Kent & Turcotte, Montreal, joint curator. Feb. 4.

Joseph Leduc, Montreal.—Kent & Turcotte, Montreal, curator. Feb. 5.

J. Omer Michaud, Montreal.—Kent & Turcotte, Montreal, curator. Jan. 27.

Alphonse Laurier, Montreal.—Kent & Turcotte, Montreal, curator. Feb. 6.

Edmond Jetté, Montreal.—Kent & Turcotte, curator. Feb. 6.

L. F. P. Buisson, Three Rivers.—A. Turcotte, Montreal, curator. Feb. 8.

Dividend Sheets.

Re Louis Bergevin, Ste. Martine. Final div. sheet open to objection until March 2. Kent & Turcotte, Montreal, curator.

Re Wm. M. McDonald, painter, Quebec.—Final div. sheet on privileged claims, payable Feb. 28. Jesse Joseph, Jr., Quebec, curator.

Re L. E. Morin, Jr., Montreal.—Final div. sheet open to objection until March 24. Kent & Turcotte, Montreal, curator.

Re S. H. May & Co., Montreal.—Final div. sheet from proceeds sale of immovables, open to objection until March 2. A. W. Stevenson, Montreal, curator.

Re Joseph Michaud, Kamouraska.—First and final div. sheet, payable after Feb. 22. C. F. Bouchard, Fraserville, curator.

Application for discharge.

James & Francis Keough, Joliette. March 15.

Rule of Court.

A. E. Constable vs. Charles F. Weston. Creditors of defendant notified to file claims.

Action en séparation de biens.

Dame Adèle Turcotte, vs. Olivier Lemaire, carriage-maker, St. Zéphirin de Courval. Feb. 3.

SPECIALISM.—Specialism means depth of insight, the probing a subject to the core: it means discovery, it means originality. I believe it means development of character and growth of the capacity for knowledge. Let me compare the mind to a house with many windows. For a vital comprehension of truth I would prefer to look through one window thoroughly cleaned than through all of them only half purified from the obscuring medium of error and prejudice. To the young student especially I would say, "Clean one of your windows; be not content until there is one branch of your subject—if it be only one branch of a branch—which you understand as thoroughly as you are capable of understanding it, until your sense of truth is satisfied, and you have intellectual conviction." Be assured that in learning this one thing you will have added an eye to your mind, an instrument to your thought, and potentially have learned many things. In the life of the mature investigator, specialism plays a similar part; to remain healthy he must continually drink deep at the fountain head: he must go further than others have gone before him; and to this end, he must devote what may seem to outsiders an abnormal amount of time and energy to his special department. It is too common an experience that the man of mere general culture loses interest in what he studies; his mind ranges over wide tracts, through which he is guided by no central idea or dominant conviction; he acquires a habit of thinking, like the typical Oxford man, that "there is nothing new, nothing true, and it does not much matter." The cure for this intellectual ailment is concentration. Let the sufferer make some little plot of ground his own; let him penetrate through and beyond the region of literary orthodoxy, and he will find that the universe is not exhausted by even the highest thoughts of the greatest minds; that truth has ever new lights for the inquirer, and that the humble efforts of pygmies like himself may by combination lead to the scaling of heights which even giants could not take by storm.—*Macmillan's Magazine.*