The Legal News.

VOL. VI. AUGUST 25, 1883. No. 34.

THE MACKONOCHIE CASE.

The London *Law Times* reviews as follows the remarkable litigation arising from the eccentric practices of the Rev. Mr. Mackonochie: "The history of the litigation which culminated last week in the sentence of deprivation against Mr. Mackonochie, deserves to be recorded as an interesting example of the extraordinary speed with which 'swift-footed justice' pursues an ecclesiastical offender. The first suit against Mr. Mackonochie came before the Arches Court of Canterbury by letter of request from the Bishop of London to the then Dean of Arches (Dr. Lushington), in 1867, when Sir Robert Phillimore, on behalf of the defendant, opposed the admission of the articles. The articles were reformed as directed by the Court, and in 1868 the case was heard before Sir R. Phillimore, who had succeeded Dr. Lushington. After a hearing extending over sixteen days, the learned judge, in a judgment which occupies 130 pages in the *Law Reports*, found that Mr. Mackonochie had offended against the ecclesiastical law in two out of four points then charged against him. He admonished the reverend gentleman to abstain from the illegal practices. The promoter appealed against the decision as regarded the two points on which Sir R. Phillimore had absolved the defendant; and in December of the same year the Judicial Committee held that the defendant had offended against the law in those points also, and he was admonished to abstain from them. In 1869 the Judicial Committee were applied to for an order to enforce compliance with the monition, and the Court held that, as to one practice, the monition had been disobeyed, and further admonished the defendant to abstain therefrom for the future. In 1870 a motion was again made to the Privy Council to enforce obedience to the monition. The Court found that the defendant had disobeyed the monition, and suspended him *ab officio et beneficio* for three months. Here ended the first suit. In 1874 a second suit was instituted against Mr. Mackonochie for a variety of offences. The charges were held to be established, and the defendant was suspended *ab officio* for six weeks, and was admonished to desist from the like practices for the future. In March, 1878, Lord Penzance, then Dean of Arches, declared that Mr. Mackonochie had disobeyed this monition, and granted a further monition against him, and in the following June Mr. Mackonochie was suspended *ab officio et beneficio* for three years for continued disobedience. Mr. Mackonochie then obtained from the Queen's Bench Division a writ of prohibition to restrain Lord Penzance from enforcing the sentence of suspension, but this decision was subsequently reversed by a majority of the Court of Appeal. In the meantime, a new suit was instituted, praying for a sentence of deprivation against Mr. Mackonochie. Lord Penzance refused to grant a deprivation, on the ground that, while the previous sentence was still subsisting, it would not be consistent with the maintenance of the authority of the Court to pass a fresh sentence. The Judicial Committee reversed this decision, and remitted the case to the Court below to decree such censure or punishment as it might think fit, and on Saturday last Lord Penzance pronounced sentence of deprivation. It would probably be unsafe to say that the end of this vista of litigation has yet been reached."

REGISTRAR'S FEES IN NEW YORK.

Our enterprising neighbours usually stimulate us by their example, but in some respects they are slow in the task of uprooting evil growths. The New York *Herald* has been attacking the system of searches of real estate titles in the city of New York. We avail ourselves of the following summary in our contemporary the *Albany Law Journal*:—"The New York *Herald* of the 3rd inst. contained a very interesting article on searches of real estate titles in the city of New York. There can be no doubt that these searches are of appalling expense. There are in the register's office 3,500 volumes of records, and they are increasing at the rate of 300 a year. Last year there were nearly 10,000 deeds and more than 10,000 mortgages recorded. The necessary and reasonable expense of a proper search must be very large, and there is perhaps no help for it; but it would seem that the official fees are rather too

large. The *Herald* estimates that last year the register received $340,000, and the county clerk $300,000. Every practitioner knows that these enormous sums do not enrich these officials alone, and he knows too that to expedite a search he must bleed at every pore. The *Herald's* remedy for the evil is the following, which we submit for the reflection of our readers: 'The minds of practical men in various places have been independently drawn to this problem, and it has been found by all or nearly all of them who have stated their conclusions that the remedy for this great evil is to arrange the indices of the conveyances and mortgages upon a geographical basis, and not to have a name index at all (except for judgments); to make it a locality index, so that a buyer or lender desiring to know all the deeds and mortgages and liens on record affecting a particular house and lot can turn first to a ward and block map, something like the ward and block maps in the tax office of this city, and there identify by its number the parcel he is searching against, and then turn to another volume which is numbered and paged to correspond with the ward and lot number, and find in that volume a page devoted to that particular lot, and on that page, in regular order, each occupying but one line, find every deed, mortgage and lien affecting that lot properly noted; then it will be a brief and easy labor to examine the specific volumes of records referred to." The above is precisely the system introduced nearly twenty years ago in the Province of Quebec.

THE RETIREMENT OF MR. BENJAMIN.

The withdrawal of this distinguished advocate from active work, in consequence of ill-health, has already been noticed. The *Times* refers to the banquet which was given to the retiring barrister, in the hall of the Inner Temple, on Saturday evening, June 20, as an almost unique event. Though liberal in its hospitality, the *Times* says "the English bar is not prone to go out of its way to honor even its most illustrious members; and to pay this mark of respect to one who had not entered it by the usual gates, who had come late in life to England to repair his shattered fortunes and to join a profession which has all sorts of portals and passwords calculated, if not intended, to exclude outsiders, is a rare event, and is, in fact, without a parallel in the long history of the bar. It is the strange and brilliant ending of a strange professional career. The attendance of the chief judges and of upward of 200 members of the English bar shows that Mr. Benjamin has, in his comparatively brief career here, won the esteem and respect of men from whom so often in forensic contests he must have borne away the prize."

The following notice of his career, from the same journal, will be read with interest:—

"On Saturday little was said as to the element of romance in Mr. Benjamin's career, which is wholly wanting in the commonplace histories of most successful lawyers. But it formed a background of interest to the proceedings. In the brief speech in which, with feeling and tact, Mr. Benjamin acknowledged the warmth of his reception, he stated that he had retired from practice just as he had completed the fiftieth year of his professional life. Into that half century how much variety, what diversity of incident, experience, and scene have been crowded! If Mr. Benjamin writes his autobiography, as it is to be hoped he will, what materials for a stirring narrative he may draw from his memory. When some of the judges who had come to do him honor were children, he was already conspicuous at the New Orleans bar. His earliest published legal work, a digest of the reported cases of the Louisiana courts, is dated as far back as 1834, and his published arguments in important commercial cases, such as Lockett against the Merchants' Insurance Company, made him known as long ago as 1840 throughout the Union as an admirable lawyer. In the Senate he was equally successful as a powerful and dexterous debater. He attained distinction as a legal reasoner before the Supreme Court at Washington, a tribunal which has always preserved a high forensic standard. For some time before the outbreak of the civil war called him to play a still more conspicuous part, he was sought after wherever acumen and learning were needed; and one of the greatest of his forensic efforts was his argument before the Federal District Court of California in regard to an important mining claim—The United States against Castilleros. Of the share which he took in the struggle between the North and the South, it is enough to say that he showed no deficiency in boldness or skill,

and that the disasters which befell his cause were not attributable to any lack of energy on his part. When all was lost—when fortune had pronounced her last word against the Confederate arms—Mr. Benjamin came to England to begin in English courts the practice of the legal profession.

"The experiment might well seem foolhardy and hopeless even in the case of a man of Mr. Benjamin's energy and ability. He was pretty well advanced in years. His professional antecedents were not obvious preparations for success here. He had not been trained as a lawyer in one of the States of the Union in which the common law, with all its incidents, had taken root. He was not a Massachusetts or Pennsylvanian lawyer, accustomed to handle English authorities and to apply English rules of procedure. He was trained in Louisiana, the jurisprudence of which was formed of successive layers of Roman, French and Spanish law, and the courts of which were accustomed, when the States codes afforded no guide, to go in search of general principles to Roman, French, or Spanish authorities. Probably this apparent disadvantage was an advantage in disguise. However great the practical inconvenience of such a state of legal confusion, experience in such a forum was calculated to train lawyers who were more than mere tradesmen and who possessed wide legal knowledge. In this school Mr. Benjamin might well acquire that familiarity with and mastery over general principles which was the greatest of his gifts as an advocate. It was not an accident that Edward Livingston, the first American lawyer to direct attention to the subject of legal reform, began his work in that State. Nor was it a fact of no consequence that Mr. Benjamin received his legal training in circumstances in which it was essential to attain a familiarity with general jurisprudence. When he arrived in this country the fame of his ability had preceded him, and sympathy with him, as a political exile and the representative of a lost cause, smoothed his path. The late Lord Justice Turner, Lord Hatherly, and Sir Fitzroy Kelly bestirred themselves to procure for him a dispensation from the necessity of undergoing the usual period of probation before being called to the bar. Eminent firms of solicitors in Liverpool and elsewhere rallied round him. The publication of his book on the Law of Sale advanced his professional fortunes; and he rapidly rose in favour until it became customary to retain him as a matter of course in all important cases before the Court of Appeals in the House of Lords. He had attained to an eminent position when his medical advisers warned him that he must no longer share in the excitement and tumult of forensic contests, and he decided, much to the regret of his brethren, to retire from his profession."

LEGISLATION IN ENGLAND.

Parliament now sits, not only during the winter, but all summer through, and apparently not even the autumnal shooting season is to be held sacred; yet the quantity of actual work accomplished is not prodigious. The present condition of things has prompted an effort to remedy the evil, and the House of Commons is in future to do a considerable part of its work, or at all events of its talking, in sections. Mr. Gladstone, at the Lord Mayor's Banquet, Aug. 8, referred to the innovation in the following terms:—

"One word on the House of Commons itself. Do what we may and labor as we may—freely as members of that assembly spend their powers and an amount of exertion never equalled, so far as I know, either in any former period or in any other country, for the benefit of the land to which they belong—yet they still seem as if they were engaged in almost hop-less effort in the multitude of demands that arise from every quarter, while the multiplication of interests of this vast and still extending Empire appears to defy the very best efforts they can make. But we have this year entered upon the first trial of an experiment of the utmost interest. That experiment is known under the name of the institution of what are called Grand Committees, by which the House of Commons endeavors to multiply itself for practical purposes with a judicious division of labor, applying to portions of its work for which a part of its members are proficient the energies of that part alone, and leaving the rest free for undertaking though perhaps not less important, yet separate purposes. I earnestly hope that the secret of self-multiplication, which has been largely used in other lands, may be found effectual here, where

undoubtedly the necessity for its use is far more urgent than in any other country on the globe, for there is no country on the globe which has undertaken so much; there never has been a country on the globe on which the cares of Empire have lain so heavily. But, on the other hand, there never has been a people, as I believe, more richly endowed with the energies necessary for the discharge of those duties, or more resolutely determined that, as far as the full disposal of their energies enable them, they will not fail in the fulfilment of the task which the dispensation of Providence appears to have committed to their hands. I hope that the people of this country will watch with far greater interest than ever the present work of the House of Commons. Important as particular subjects of legislation may be, there is no one subject perhaps so important as the condition of that great organ by which the bulk and mass of your work must be done, if it is to be done at all. The present Government have conceived the hope that by this secret of the division of labor and division of force, it may be possible to overtake the long arrears which for so considerable a time have done some discredit to the history of this country, and to keep the efforts of Parliament more abreast of the wants of the nation. I commend that subject to the reflection of every intelligent Englishman, because I am confident that after all this country is in the strictest sense a self-governing country, with its ancient institutions rooted in the heart and mind and in the attachment of the whole body of the people, irrespective of class and condition and sect and party. Yet in the main it is from the nation itself that the final decisive impulse arises, by means of which the great works that have been accomplished in legislation and Government have been carried onwards from their inception to their final consummation."

HUSBAND AND WIFE.

The Court of Appeal were greatly exercised in their minds on Friday by the decision of Mr. Justice Chitty in the case to which we drew attention in our last number, with regard to the rights of a married woman over a house settled to her separate use. The case is, with a somewhat excessive delicacy, reported in the *Times* of last Saturday, under the no-name of——v.——, which is not a very convenient designation, and has been confined hitherto to matrimonial cases in which the details were unfit for publication. However, the real name is given in newspapers of less refinement as *Symonds* v. *Hallett*, and, as it is likely to be a leading case, it is just as well it should not remain anonymous. Lord Justice Cotton pointed out, as we did, that, "if Mr. Justice Chitty's decision was sound, it would enable every married woman who had a house of her own under the Married Women's Property Act, to turn her husband out of it and apply to the court to restrain him from entering it." The Master of the Rolls, with a singular forgetfulness of the manner in which nearly all the most important questions which come before the Chancery Division are decided, asked "whether the court could be expected, upon an interlocutory application of this sort, to decide a question which might have the effect of altering the whole social life of England." In the result, however, they did what they could hardly help doing, as the law on the subject was settled more than forty years ago, and had been acted on ever since, and confirmed the decision of Mr. Justice Chitty. But they carefully guarded themselves from laying down any general principle that a married woman could turn her husband out of her house and keep him out. Surely all this scrupulosity is ill-founded. A man can turn his wife out of his house, and her only remedy is that precarious and scandalous one of a suit for restitution of conjugal rights. Why should not a woman have an equal right? The Vice-Chancellor of England, in 1840, laid it down in a precisely similar case (*Green* v. *Green*, 5 Hare, 400) that the "court had only to consider whether a trust for the separate use of the wife was created. There was nothing unlawful in the settlement, and he saw nothing to prevent the Court from protecting the interests of the parties under it. If the injunction had the effect attributed to it, viz., of operating as a divorce *a mensa et thoro*, a question which he could not determine, the husband would not be without his remedy in the Ecclesiastical Court." Sir Lancelot Shadwell was not a person careless of the results of legal decisions, but he knew that his business was to decide according to law and equity, and he did decide accordingly. If his decision was right (and it was practically approved of by

the Queen's Bench in *Allen* v. *Walker*, L. Rep. 5 Ex. 187, in 1879, by Martin, Channell and Cleasby, BB.), in a case in which the separate use was created by the parties in "derogation of the common law," *a fortiori* must it be right now when the separate use is made a necessary incident by the express declaration of the Legislature in a statute which has abrogated the common law. Nor can the fact that the statute has extended the rule of law from a few to a large number of cases affect the justice of the rule. In actual life there is not the least danger of the right being exercised in cases where it is not right that it should be exercised. Married women are not so anxious to drive away their husbands without cause as alarmist politicians seem to think, and in cases like that before the court it is eminently desirable that the husband should be treated in fact, as he is in law, as a stranger to his wife's separate property. At all events, the decision of the court may be taken to have overruled its *obiter dicta*, and carefully as each member of it guarded himself against laying down any general rule, yet the general rule is necessarily implied in, and forms, the only *ratio decidendi* of the particular decision.—London *Law Times*.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, September 27, 1882.

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

REGINA v. SUPRANI.

Receiving stolen goods—Continued offence.

The prisoner was indicted for feloniously receiving stolen goods, on a date stated in the indictment, and it was proved that the receiving of the property described extended over a considerable period, exceeding six months. Held, that the Crown was not bound to elect on which of the receivings it was intended to proceed against the accused.

The defendant, Suprani, having been convicted of feloniously receiving stolen goods, the following Case was reserved by the presiding Judge, Sir A. A. Dorion, C. J.:—

"The prisoner was tried before me at the Court of Queen's Bench, at Montreal (Crown side), on the 7th day of June instant, for having, on the 26th day of April, 1882, feloniously received stolen goods.

"The indictment is as follows, to wit:—

"The jurors for Our Lady the Queen, upon their oath, present that Jean Suprani and Marie Granelli, on the 26th day of April, in the year of our Lord, 1882, at the City of Montreal, in the District of Montreal, 188 3-12 dozen of silk handkerchiefs, 1 7-12 dozen of kid gloves, the whole of the value of $2,000, of the goods and chattels of Leslie James Skelton and Frederick Charles Skelton, partners in trade, before then feloniously stolen, feloniously did receive and have (they the said Jean Suprani and Marie Granelli, at the time when they so received the said goods and chattels as aforesaid, then well knowing the same to have been feloniously stolen).

"At the trial, the Crown proved that for a long period, extending from the latter part of the year 1880 to the 26th day of March, 1882, John Charles Verity, a clerk in the employ of Leslie James Skelton and Frederick Charles Skelton, doing business in Montreal under the name of Skelton Brothers, had, from time to time, stolen from his employers the handkerchiefs and part of the gloves mentioned in the indictment, and had sold them to the prisoner at from one-fourth to one-third of their value, and under circumstances which were such as to justify the jury in coming to the conclusion that the prisoner knew when he purchased these goods, that they had been stolen. The sales to the prisoner were made as often as once or twice a week during the above period.

"Part of the gloves and some of the handkerchiefs were identified as having been sold to the prisoner in the latter part of December, 1880, and a few of the other handkerchiefs, of the value of $25 or $30, were identified as having been sold to him in the month of March, 1882.

"The evidence as to the sale of the remaining handkerchiefs was general, and did not specify any particular occasion on which any portion of them were sold.

"After the evidence for the Crown had been closed, the defence applied to the Court to order the prosecution to elect on which of the offences it was intended to proceed against the accused, and that such offences should not exceed three in the space of six months.

"I ruled that the Crown was not bound to elect, and that the prisoner was bound to pro-

ceed on the whole case. Whereupon the prisoner adduced some evidence, and the jury returned a verdict of guilty of the charge laid in the indictment.

"I reserved the following questions, which I beg to submit to the Court of Queen's Bench sitting in error and appeal:—

"1st. Was the Crown bound to elect on which of the receivings it intended to proceed against the prisoner?

"2nd. In case my ruling be considered incorrect, can the verdict be sustained?

"No sentence was pronounced against the prisoner, who has been remanded and waits in gaol the decision of the Court on the above questions.

"Montreal, 30th June, 1882."

The conviction was sustained, the Court being of opinion that Sec. 6 of the Larceny Act, 32-33 Vic., Cap. 21, did not apply to the case of receiving. The following order was made:—

"It is considered and adjudged and finally determined by the Court now here, pursuant to the Statute in that behalf, that an entry be made in the record to the effect that, in the opinion of this Court, the proceedings had and taken in the said Court at Montreal are regular; that the ruling of the Judge presiding the said Court of Queen's Bench is correct, and that no reason hath been assigned by and on behalf of the said Jean Suprani sufficient to set aside the conviction on the indictment in this cause.

"It is therefore ordered that the said conviction be, and the same is hereby affirmed; and that it do stand in full force and value."

Conviction affirmed.

A. Ouimet, Q.C., for the Crown.

St. Pierre, for the prisoner.

SUPERIOR COURT.

MONTREAL, April 21, 1883.

Before TASCHEREAU, J.

BIGONESSE v. BRUNELLE.

Rape—Evidence.

In an action of damages by the father of a minor, for rape, where the case rests upon the unsupported testimony of the girl, and there is counter evidence to the effect that the girl is not of irreproachable character, the action will not be maintained.

PER CURIAM. The plaintiff brought the present action as the father of Josephine Bigonesse, a minor, whom he alleged to have been violated by the defendant on the 3rd December, 1881. The outrage, it was said, was committed late in the evening while the girl was crossing a field about three acres from her residence and in front of a barn belonging to the defendant. The action was not brought until May or June 1882, when the girl was in an advanced stage of pregnancy, and on the 5th of September of the same year a child was born.

The defendant denied the charge entirely.

At the trial the girl herself was the only witness brought up to prove the alleged rape, and there was not a single circumstance established to corroborate her statement. The case rests wholly upon her unsupported statement, that the defendant, on the occasion in question, seized her and forcibly had connection with her. She made no complaint or disclosure of the circumstances until long afterwards. It has also been pretended that there is a likeness between the defendant and the child. This point cannot be considered very important when it is remembered that the child was but two or three months old at the time the evidence was adduced.

The Court is not disposed to receive the uncorroborated statement of the girl as evidence of such a grave offence. Moreover, evidence has been adduced on the part of the defendant, showing that the girl's character is not what it ought to be. Two witnesses testified that, to their personal knowledge, she was not virtuous. It would have been easy to rebut this evidence by bringing up those who were well acquainted with her, but in answer to this damaging testimony nothing has been attempted except to call the girl herself, and let her deny the facts alleged against her.

Under all the circumstances it is impossible to condemn the defendant as prayed, and the action is therefore dismissed with costs.

The judgment of the Court is in the following terms:—

"La Cour etc....

"Considérant que le témoignage non corroboré de la soi-disante victime d'un prétendu viol ne peut en règle générale suffire, soit au

civil, soit au criminel, à la constatation légale du crime imputé, surtout lorsqu'il y a de fortes présomptions contre le caractère, l'honnêteté et la chasteté de l'accusatrice;

"Considérant que l'imputation portée par Georgiana Bigonesse, fille du demandeur, contre le défendeur en cette cause, accusant ce dernier de l'avoir violée et connue charnellement le ou vers le 3 décembre 1881, ne repose sur aucun autre témoignage que celui de la dite Georgiana Bigonesse elle-même, et n'est rendue vraisemblable par aucune preuve de circonstance et par aucune présomption légale et raisonnable dans la cause;

"Considérant qu'il est établi par plusieurs témoins que la dite Georgiana Bigonesse a fait preuve, en diverses circonstances, de malhonnêteté, de légèreté coupable et même d'immoralité dans sa conduite, ce qui rend suspect son témoignage rendu en cette cause, et laisse au moins place à un doute raisonnable dont le défendeur, comme partie accusée, doit avoir tout le bénéfice;

"Considérant que, pour ces motifs, l'action en dommages-intérêts, portée par le demandeur père de la dite Georgiana Bigonesse, contre le défendeur, ne peut être accueillie;

"Maintient la défense et renvoie l'action avec dépens distraits," etc.

Action dismissed.

Lacoste, Globensky, Bisaillon & Brosseau, for plaintiff.

Geoffrion, Rinfret & Dorion, for defendant.

COURT OF REVIEW.

MONTREAL, January 23, 1883.

Before SICOTTE, TORRANCE, RAINVILLE, JJ.

MOUSSEAU, Atty-Gen. v. BATE, *es qual.*

Procedure—Action to set aside Letters Patent.

The proceeding was in the nature of a *scire facias*, to set aside letters patent of invention which had been issued under the Act of the Parliament of Canada, 35 Victoria, chap. 26. The proceeding had been taken in the name of the Attorney-General of the Province of Quebec, and objection was made that the action could only be legally brought in the name of the Attorney-General of Canada.

In the Superior Court, Taschereau, J., who rendered the judgment, was of opinion that the objection was well founded, and the action was therefore dismissed. This judgment was confirmed by the Court of Review, "Considérant que la législation sur les brevets d'invention est exclusivement dans les attributions et pouvoirs du Parlement et du Gouvernment Fédéral, et que par l'acte de 1868 déjà cité tout ce qui peut avoir rapport à l'exposition d'un statut fédéral, et du statut relatif aux brevets d'invention est du ressort et des attributions du département de la justice du Gouvernment Fédéral, il suit que le bref de *scire facias*, dont parle la section 29 du Statut de 1872, doit émaner sur le *fiat* du Procureur Général du Canada et non du Procureur-Général de la Province de Québec, etc."

Judgment confirmed.

Archibald & McCormick, for plaintiff.

Church, Chapleau, Hall & Atwater, for defendant.

RECENT DECISIONS IN ONTARIO.

Railway—Crossing on railway premises—C. S.C. cap. 66, secs. 104, 145.—A railway crossing on the company's premises for the convenience of passengers and others in going to and from the station on railway business, is not a public crossing, highway, or place, within C. S. C. cap. 66, sec. 104, so as to require the statutory signals to be given by trains approaching it; but nevertheless due care must be taken to prevent damage being sustained by reason of such crossing. Section 145 applies to the Railway company's grounds in cities, towns and villages, as well as to the limits outside such grounds.—*Bennett* v. *The Grand Trunk Railway Co.*, Common Pleas, Ontario, June, 1883.

Criminal Law—Indictment—Omission of word "feloniously."—An indictment, purporting to be under 32-33 Vict. cap. 22, sec. 45, which charged the defendant with "unlawfully and maliciously," instead of "feloniously," maiming and wounding two horses, &c., is bad.—*Reg.* v. *Gough*, Common Pleas, Ontario, June, 1883.

Railway—Consignment of grain—Right of railway company to warehouse with other grain.—The plaintiff consigned and shipped by the defendants' railway to D. at their Brock street station, grain which had been sold by sample, signing a consignment note and taking a shipping receipt. The grain was carried to Toronto and warehoused by the defendants in their elevator, under, as they contended, a right conferred on

them by the conditions of the shipping contract. They then tendered to the consignee grain of the same grade as that received by them from the plaintiff, which the consignee refused to accept. The shipping contract showed that a distinction was made between grain consigned to and that not consigned to the defendants' elevator. *Held*, that the defendants under their conditions had only the right to warehouse in their elevator grain shipped thereto, and not grain shipped to another specific address, and that the plaintiff was entitled to recover the damages sustained by the non-delivery of the specific grain shipped by him.—*Leader* v. *Northern Railway Co.*, Common Pleas, Ontario, June, 1883.

Discharging water from building upon street—Formation of ice thereon—Negligence—Liability of proprietor.—The defendants were the owners of a building erected on the limit of the street. A pipe connected with the eave-troughs, conducted the water which collected on the roof down the side of the building, and, by means of a spout projecting over the sidewalk, discharged it upon the sidewalk; and in the winter this water was formed into a ridge of ice, upon which the female plaintiff slipped and fell while walking on the street, and injured herself. The jury found that the defendants did not know of the accumulation of ice, and that they ought not reasonably to have known of it. *Held*, that the defendants were not liable. Hagarty, C. J., said the carrying of the water to the sidewalk was a harmless act; the action of the weather was the proximate cause of the accident, and the defendants, not having knowingly allowed ice to accumulate, are not responsible. Armour, J. who dissented, remarked that the conducting of the water to the sidewalk was a wrongful act, and the formation of ice on the sidewalk in winter was the natural, certain, and well-known result of the defendants' act, and they should be held responsible for the accident.—*Skelton* v. *Thompson*, Queen's Bench, Ontario, June, 1883.

GENERAL NOTES.

The bar of Ontario have made active preparations for the entertainment of the Lord Chief Justice of England. The dinner is to take place at Toronto, September 12th.

The last appointments of Queen's Counsel have caused some consternation in Ontario. The *Canadian Law Times* appends to the list the note "Acts, ii. 12." As the reference is to a work not usually found in lawyers' libraries, we supply the text: "And they "were all amazed, and were in doubt, saying one to "another, What meaneth this?"

An English solicitor not long ago committed the indiscretion of bringing an action against his own client on a bill given for a loan of money which he had procured for her, through the contrivance of paying the bill himself and then endorsing it to one of his clerks and using the name of another solicitor, an intimate friend of his, in bringing suit on the bill in the name of his clerk; he himself appearing for her as her solicitor, assenting to judgment, and then collecting his costs of her. He was tried in a criminal court and convicted of obtaining money under false pretences, and sentenced to six months' imprisonment. He was also stricken from the roll. He subsequently applied, in the Queen's Bench Division, before Grove and Mathew, JJ., to be reinstated, on a showing that he had since his liberation, supported himself honestly and shown himself trustworthy. The application was supported by the Attorney-General and opposed by counsel on behalf of the Incorporated Law Society. The learned judges refused to reinstate him. The *American Law Review*, St. Louis, remarks on this: "In Missouri the Incorporated Law Society would not have been allowed the privilege of being heard by counsel; the applicant would have been reinstated upon an *exparte* fixed-up petition, signed by bankers, merchants, lawyers, politicians, and newspaper publishers. The petitioners would then have given him a banquet, or rather he would have given a banquet to them, and the judges would have gone a-fishing with him."

Mr. Justice Alleyn, resident Judge of the Superior Court in Rimouski, died rather suddenly on the 16th instant. The following notice of the deceased is from *Le Quotidien*:—"M. le juge Alleyn avait fait son cours d'etudes au séminaire de Québec, où il se distingua par sa conduite comme par ses talents. Après avoir étudié le droit à l'université Laval, il fut admis au barreau en 1859 et nommé conseiller de la Reine quelques années plus tard. Il avait agi pendant plusieurs années comme avocat de la Couronne à la cour du Banc de la Reine, et fut nommé en 1875 à la charge de professeur de droit criminel à l'université Laval. L'année suivante, il se présenta contre M. Murphy dans Québec-ouest et fut élu député à la Chambre d'assemblée par quarante-deux voix de majorité. En 1881, la charge de juge de la cour supérieure pour le district de Rimouski étant devenue vacante par la mort de l'honorable juge Maguire, le parlement fédéral choisit M. Alleyn pour le remplacer. C'est alors qu'il abandonna le commandement du huitième bataillon de Québec. Le défunt avait aussi représenté le quartier Champlain au conseil de ville, et occupé plusieurs charges dans differentes sociétés. Le juge Alleyn était universellement estimé et sa mort sera longtemps regrettée. Il était âgé de quarante-huit ans seulement: c'était le fils de l'ancien capitaine Alleyn et le frère du shérif de Québec. En premières noces, M. Alleyn avait épousé mademoiselle Lindsay, et en deuxièmes noces, mademoiselle Déléry, qui lui survit."