The Legal News.

VOL. VIII. FEBRUARY 14, 1885. No. 7.

The text of the decision of the Privy Council in *Attorney General & Reed* has been received, and we report the case in the present issue. The observations of the Lord Chancellor, who delivered the judgment of the Committee, are brief, but, so far as they extend, they do not appear to support the majority judgment of the Court of Appeal in the Provincial Tax cases. Their lordships adopt, or at least favor, Mr. Mills' definition of direct and indirect taxation. And as to local powers of taxation for local objects, although they do not attempt to define particularly the meaning of sub-section 16 of section 92, B.N.A. Act, their lordships indicate a mode of interpretation which seems to differ essentially from that laid down by the majority of the Court of Appeal in the recent decision.

The oath question came up in a new form a few days ago in Illinois. It appears that a religious society exists in that State known as the Beakmanites, or followers of the teachings of one Dora Beakman. Some of the members of this society, being called as witnesses in a suit, refused to take an oath or to affirm, declaring that their religious belief prohibited their doing either—citing 5th Matthew, verses 34-37: "Swear not at all, neither by heaven," etc. The minister of the society, who was present, being asked whether, as regards being witnesses, there was any recognized form or ceremony known to their sect, replied, "None whatever; we believe it sinful either to swear or to affirm." *The Court:* "You believe in the existence of a God?" *Ans.*: "We do." *The Court*: "And in a future existence?" *Ans.*: "Certainly." *The Court*: "Also in punishment here or hereafter for not speaking the truth when called upon to do so as a witness?" *Ans.*: "We believe in both, in punishment both here and hereafter for such a sin." Thereupon the witness was asked, "Do you, in the presence of Almighty God, solemnly state that you will speak the truth, and that you believe that if you do not you will be punished both in this world and in the world to come?" To which the witness answered, "I do," and was permitted to testify in the case. If the above is not an affirmation, it would be interesting to know what the witness' idea of an affirmation was.

Mr. Landry, the member for Montmagny, has introduced at an early stage of the session, his bill intituled: "Acte à l'effet de re-
"streindre la jurisdiction d'appel de la Cour
"Suprême." Being asked for explanations the hon. member said the bill would explain itself: "Comme le titre l'indique il s'agit de
"restreindre la jurisdiction de la Cour Su-
"prême dans les matières qui regardent les
"lois civiles des différentes provinces; le but
"de cette loi est de soustreindre ces causes-là
"à la jurisdiction de la Cour Suprême. Si le
"gouvernment a une mesure à proposer sur
"ce sujet qui soit plus propice que la mienne
"et qui rencontre nos vues, je n'ai pas d'ob-
"jection qu'elle soit substituée à mon bill;
"mais s'il n'en propose aucune, j'ai l'intention
"de demander le vote de cette Chambre."

The *London Law Journal*, referring to Mr. Frederick Pollock's new *Law Quarterly Review*, says: "By an unreasonable prejudice English lawyers are apt to look upon jurists as persons knowing a little law of every country except their own, and to leave their productions unread." This prejudice, we are sorry to say, is not confined to the lawyers of the metropolis. We are acquainted with a few whose colonial experience has not broadened their vision, and whose highest ambition is to be informed as to what the Courts before whom they practice have actually decided.

FOREIGN COPYRIGHT.

The following is a head-note which appears in the twenty-first volume of the Federal Reports to the case of *Estes* v. *Williams*, a decision of Mr. Justice Wheeler delivered on July 31 last, in the Circuit Court of the Southern District of New York, which is of the deepest interest and importance to English writers and publishers:—

COPYRIGHT--FOREIGN PUBLISHER--AMERICAN ASSIGNEE —USE OF A NAME—RIGHT OF ACTION.—The publisher

of 'Chatterbox,' in England, having assigned the exclusive right to use and protect that name in this country, the assignee may maintain his action against any other person who undertakes to publish books under that name in the United States. *Jollie* v. *Jaques*, 1 Blatch. 618; *M'Lean* v. *Fleming*, 96 U.S. 245 cited.

The word 'undertakes' is evidently used in the Transatlantic sense of 'holds himself out.' If this decision be upheld, the position of English authors in the United States will be much improved, as they can assign the right to use the title of a book to an American publisher who will then have an exclusive right to publish a book under that title. It is true that the American publisher will not obtain a copyright, but he will obtain something very valuable—namely, the exclusive right to sell a literary production under its right title and the name of its author. There is nothing in the present decision to prevent the book called 'Chatterbox' being published word for word, but it must be published without the title, and, as seems inevitably to follow from the decision, without the author's name. People who would buy 'Chatterbox' with the author's name would probably not buy the same book, under the title say of 'Magpie,' without the author's name, and there would be something contraband about the latter book. The decisions in England on the names of books, such as *Dicks* v. *Yates*, 50 Law J. Rep. Chanc. 809, in so far as they may be adverse to *Estes* v. *Williams*, may well be distinguished from it. Those decisions refer to cases in which a new book is published under an old title, but this is a case in which the same book is published under the same title. Although there may be no copyright in the book, the fact that the book is a plagiarism cannot be disregarded in considering whether the assignee of a title which is put in the position of a trade-mark is substantially damaged by some one else using the title.—*Law Journal*, (London.)

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

LONDON, Nov. 26, 1884.

Before THE LORD CHANCELLOR, LORD FITZGERALD, SIR MONTAGUE E. SMITH, SIR ROBERT P. COLLIER.

THE ATTORNEY-GENERAL FOR QUEBEC (Intervenant below) Appellant, and REED (Plaintiff below) Respondent.

B. N. A. Act, 1867—*Powers of Provincial Legislatures*—44 *Vict.* (*Q.*) *cap.* 9—*Direct and Indirect Taxation*—*Fee on filing Exhibit.*

1. *The best general rule in determining whether a tax is direct or indirect is to look to the time of payment: if at that time the ultimate incidence of the tax is uncertain, it is not direct taxation within the meaning of the 2nd Subsection of Sect.* 92, *B. N. A. Act. The ultimate incidence of the tax imposed by the Provincial Act* 44 *Vic.* (*Q.*) *c.* 9, *being uncertain at the time of payment, it falls under the denomination of indirect taxation.*
2. *The Act imposing the tax does not relate to the administration of justice in the Province within the meaning of Sub-sect.* 14 *of Sect.* 92, *B. N. A. Act.*
3. *The Act imposing the tax cannot be justified under Sect.* 65, *B. N. A. Act.*

The appeal was from an order of the Supreme Court of Canada of the 18th of June, 1883, reversing a judgment of the Court of Queen's Bench of the Province of Quebec, of the 24th November, 1882 (5 L.N. 397), and restoring a judgment of the Superior Court, Montreal (5 L.N. 101), of the 10th of March, 1882, which declared that a certain duty of ten cents imposed by an Act of the Legislature of the Province of Quebec (43 & 44 Vic., c. 9), on every exhibit produced in court in any action depending therein, was not warranted by law, the Act being *ultra vires* of the Legislature of that province.

The substantial question involved in the appeal was whether the duty of ten cents on exhibits produced in court in any action depending in any court of the Province of Quebec, and which duty was imposed by the Quebec Act, 43 & 44 Vic., c. 9, was within the power of that Legislature to impose under any of the following alternatives, viz.:—[1] Under the express power of that provincial legislature to make laws given by the British North America Act, 1867, as being "direct taxation" within the meaning of those words as therein employed; [2] Under sec. 92, ss. 14 of that Act as relating to "the administration of justice in the provinces, including the

constitution, maintenance, and organisation of provincial courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts; [3] Under a further sub-section as being a matter of a "merely local or private nature" in the province; [4] Under the reservation given by the Act to the Provinces of Ontario and Quebec jointly of the building and jury fund, Lower Canada; [5] Under the provision of the Act as being an alteration of a law in force in the former province of Canada at the union of the provinces into the Dominion; [6] As being the exercise of a power, authority, or function, exerciseable in such former province of Canada at such union; or, [7] As an inherent right or power in the provincial legislature of which it had not been deprived by the Imperial Act either by express words or by any necessary implication.

The matter arose out of an action in the Superior Court of Quebec, wherein the respondent, Reed, was plaintiff, and Roy and another were defendants. The respondent tendered a promissory note to be filed as an exhibit in support of his action by the prothonotary of the court, whereon the prothonotary refused to receive or file the note as an exhibit unless there were affixed to it a law stamp of ten cents in payment of the duty imposed on the filing of such exhibit by the Act of Quebec, 44 Vic., c. 9. The respondent obtained from the Superior Court a rule calling upon the prothonotary to show cause why he should not receive and file the exhibit as tendered without having the stamp affixed. The Attorney-General for the province intervened in the matter, and on the 10th of March, 1882, Mr. Justice Mackay, before whom the matter was argued, delivered judgment, making the rule absolute and dismissing the intervention of the Attorney-General with costs. The Attorney-General appealed to the Court of Queen's Bench, who, by a majority of four judges to one (the Chief Justice), reversed the decision of Mr. Justice Mackay and quashed the rule. The respondent took the matter on appeal to the Supreme Court, who, by a majority of four judges to two, set aside the judgment of the Queen's Bench, and restored the original decision in favour of the respondent. From that judgment the present appeal was preferred.

Horace Davey, Q.C., Globensky, Q.C. (of the Montreal Bar), and *Pollard*, for the Appellant.

The Respondent was not represented.

The LORD CHANCELLOR delivered judgment as follows:—

Their Lordships have considered the argument which they have heard, and they have come to the conclusion that the judgment appealed from must be affirmed.

The points to be considered are three: first of all, can this charge upon exhibits used in the courts of justice of the province be justified under the 2nd sub-section of clause 92 of the British North America Act? Is it a case of direct taxation within the province "in order to the raising of a revenue for "provincial purposes?" What is the meaning of the words "direct taxation."

Now it seems to their Lordships that those words must be understood with some reference to the common understanding of them which prevailed among those who had treated more or less scientifically such subjects before the Act was passed. Among those writers we find some divergence of view. The view of Mill, and those who agree with him, is less unfavourable to the appellant's argument than the other view, that of Mr. McCulloch and M. Littré. It is, that you are to look to the ultimate incidence of the taxation as compared with the moment of time at which it is to be paid; that a direct tax is —in the words which are printed here from Mr. Mill's book on political economy—"one "which is demanded from the very persons "who it is intended or desired should pay "it." And then the converse definition of indirect taxes is, "those which are demanded "from one person in the expectation and "intention that he shall indemnify himself "at the expense of another."

Well now, taking the first part of that definition, can it be said that a tax of this nature, a stamp duty in the nature of a fee payable upon a step of a proceeding in the administration of justice, is one which is demanded from the very persons who it is intended or desired should pay it? It must be

paid in the course of the legal proceeding, whether that is of a friendly or of a litigious nature. It must, unless in the case of the last and final proceeding after judgment, be paid when the ultimate termination of those proceedings is uncertain; and from the very nature of such proceedings, until they terminate, as a rule, and speaking generally, the ultimate incidence of such a payment cannot be ascertained. In many proceedings of a friendly character the person who pays it may be a trustee, an administrator, a person who will have to be indemnified by somebody else afterwards. In most proceedings of a contentious character the person who pays it is a litigant, expecting or hoping for success in the suit; and whether he or his adversary will have to pay it in the end, must depend upon the ultimate termination of the controversy between them. The Legislature, in imposing the tax, cannot have in contemplation, one way or the other, the ultimate determination of the suit, or the final incidence of the burden, whether upon the person who had to pay it at the moment when it was exigible, or upon anyone else. Therefore it cannot be a tax demanded "from the very persons who it is intended or "desired should pay it;" for in truth that is a matter of absolute indifference to the intention of the Legislature. And, on the other hand, so far as relates to the knowledge which it is possible to have in a general way of the position of things at such a moment of time, it may be assumed that the person who pays it is in the expectation and intention that he may be indemnified; and the law which exacts it cannot assume that that expectation and intention may not be realized. As in all other cases of indirect taxation, in particular instances, by particular bargains and arrangements of individuals, that which is the generally presumable incidence may be altered. An importer may be himself a consumer. Where a stamp duty upon transactions of purchase and sale is payable, there may be special arrangements between the parties determining who shall bear it. The question whether it is a direct or an indirect tax cannot depend upon those special events which may vary in particular cases; but the best general rule is to look to the time of payment; and if at the time the ultimate incidence is uncertain, then, as it appears to their Lordships, it cannot, in this view, be called direct taxation within the meaning of the 2nd sub-section of the 92nd clause of the Act in question. Still less can it be called so, if the other view, that of Mr. McCulloch, is correct.

That point, which is the main point, and was felt to be so by Mr. Davey in his very able and clear argument, being disposed of, the next question, upon the terms of the same section of the same Act, is that which arises under sub-section 14. One of the things which are to be within the powers of the Provincial Legislatures—within their exclusive powers—is the administration of justice in the province, including the constitution, maintenance, and organization of Provincial Courts, and including the procedure in civil matters in the Courts. Now it is not necessary for their Lordships to determine whether, if a special fund had been created by a Provincial Act for the maintenance of the administration of justice in the provincial courts, raised for that purpose, appropriated to that purpose, and not available as general revenue for general provincial purposes, in that case the limitation to direct taxation would still have been applicable. That may be an important question which will be considered in any case in which it may arise; but it does not arise in this case. This Act does not relate to the administration of justice in the Province; it does not provide in any way, directly or indirectly, for the maintenance of the Provincial Courts; it does not purport to be made under that power, or for the performance of that duty. The subject of taxation indeed is a matter of procedure in the Provincial Courts, but that is all. The fund to be raised by that taxation is carried to the purposes mentioned in the second sub-section; it is made part of the general consolidated revenue of the province. It therefore is precisely within the words "taxation in order to the raising of a revenue for provincial purposes." If it should greatly exceed the cost of the administration of justice, still it is to be raised and applied to general provincial purposes, and it is not more specially applicable for the administration of

justice than any other part of the general provincial revenue.

Their Lordships, therefore, think that it cannot be justified under the 14th sub-section.

With regard to the third argument, which was founded on the 65th section of the Act, it was one not easy to follow, but their Lordships are clearly of opinion that it cannot prevail. The 65th section preserves the pre-existing powers of the Governors or Lieutenant-Governors in Council to do certain things, not there specified. That, however, was subject to a power of abolition or alteration by the respective Legislatures of Ontario and Quebec, with the exception, of course, of what depended on Imperial Legislation. Whatever powers of that kind existed, the Act with which their Lordships have to deal neither abolishes nor alters them. It does not refer to them in any manner whatever. It is said that, among those powers, there was a power, not taken away, to lay taxes of this very kind upon legal proceedings in the Courts, not for the general revenue purposes of the province, but for the purpose of forming a special fund called "the Building and Jury Fund," which was appropriated for purposes connected with the administration of justice. What has been done here is quite a different thing. It is not by the authority of the Lieutenant-Governor in Council. It is not in aid of the Building and Jury Fund. It is a Legislative Act without any reference whatever to those powers, if they still exist, quite collateral to them; and, if they still exist, and if it exists itself, capable of being exercised concurrently with them; to tax, for the general purposes of the province, and in aid of the general revenue, these legal proceedings.

It appears to their Lordships that, unless it can be justified under the 92nd section of the British North America Act, it cannot be justified under the 65th.

Their Lordships must, therefore, humbly advise Her Majesty to dismiss this appeal.

SUPREME COURT OF CANADA.

STEVENS, Appellant, and FISK, Respondent.

[Continued from p. 48.]

FOURNIER, J. (concurring in the judgment of the Court):—This action was brought by the appellant as the divorced wife of the respondent, in order to obtain from the latter an account of the personal fortune she brought him at her marriage, and which she had given him to manage and administer.

The parties were married in May, 1871, in the State of New York, where they had their domicile. In 1872 they both came to Canada, with the intention of permanently fixing their residence in the city of Montreal where, since that time, both parties have been domiciled (until 1876). The appellant then left her husband to return to the United States. The parties not having made an ante-nuptial contract, they must be presumed to have intended to subject themselves to the general law of the State of New York, which declares that in such a case there is no community of property between husband and wife, and that the wife remains the sole and exclusive owner of her property and continues to exercise her rights over the same as if she were *a femme sole*.

It appears that at the time of her marriage the appellant had moveable property in her own right amounting to $220,775.74, which she received from her trustees on or about the 8th January, 1872, and that she thereupon placed this fortune in the hands of the respondent, who administered and controlled it until the 25th day of September, 1876, at which date, being dissatisfied with her husband's administration, she demanded the return of her securities and an account of his administration.

Respondent returned her only a small portion of it, and refused to account for the balance, which he still withholds. In December, 1880, at the request of the appellant, the Supreme Court of New York decreed a divorce in her favour. Believing the marriage tie to have been dissolved, and that she had the control over her property as if she had never been married, she (the appellant) brought the present action without having previously obtained any authorization from a judge. To this action the respondent pleaded: first, by a demurrer which was overruled; second, by a plea to the merits alleging that long before the divorce relied on by the appellant, the parties had acquired a new domicile in the Province of Quebec, and therefore the divorce was null and void; and thirdly, that

the plaintiff was not authorized to institute the present action.

By a special answer to the respondent's plea, the appellant reiterated the allegation of the validity of the divorce obtained in the New York Supreme Court, and stated further that even if the divorce were invalid, she would nevertheless have a right to demand from respondent an account of his gestion of her fortune, both under the law of New York and of the Province of Quebec.

There are several important questions raised under this issue, and which are submitted as follows in the appellant's factum:

"The appellant, even if she be still the wife "of the respondent, can institute the present "action without authorization.

"The want of authorization, even if fatal, " has been badly pleaded.

"If authorization was necessary, the Court " should not have dismissed the action, but " should have authorized the wife *séance tenante*, or, at least, sent back the record to the " Court below to enable plaintiff to get the " necessary authorization.

"The divorce alleged in the declaration is " good and valid, and entitled to recognition " in this province; and its pretended invalidity cannot, in any event, be set up by the " respondent."

If the first proposition propounded by the appellant is good in law, it is evident, that for the purpose of determining this suit, it is not necessary to inquire into the other questions submitted.

The first question therefore is: Could appellant, under the circumstances, bring the present action without any previous authorization, even supposing that the decree of the New York Supreme Court granting a divorce is not binding here? The majority of the Court of Queen's Bench have answered this question in the negative.

The judgment of the Court of Queen's Bench is based upon the provisions contained in the articles of the Civil Code relating to the rights and status of persons, commencing with the third paragraph of Art. 6, which enacts:—"The laws of Lower Canada relative to " persons, apply to all persons being therein, " even to those not domiciled there; subject " as to the latter to the exception mentioned " at the end of the present article," and upon the fact that the parties having abandoned their domicile in New York, with the intention of fixing themselves in Montreal and acquiring a new domicile, the laws of the Province of Quebec must govern their status and capacity. The Court also relied on articles 176 and 178, which forbid married women to appear in judicial proceedings without the husband or his authorization or that of a judge, as well as on article 183, which enacts that "the want of authorization by " the husband, where it is necessary, constitutes a cause of nullity, which nothing can " cover," etc., etc. And upon these articles, and the authorities cited by the learned judges in their opinions, they arrived at the conclusion that the present appellant had no right to bring the present action without having previously obtained the authorization of a judge.

I do not intend to discuss the correctness of the propositions they laid down in order to arrive at the conclusion they did. I will be permitted, however, to say, that I do not admit that they are applicable in the general and absolute form in which they are laid down in the judgment of the Court. Then I am led to inquire if, without considering the general law as to the status and capacity of a foreigner in this province, there is not in his favour some exception or legislative provision which will dispense the appellant from the obligation of first obtaining the authorization of her husband or of the Court in order to bring the present action.

As already stated, the appellant was married under a system of law which recognizes to a married woman, married without any ante-nuptial contract, the absolute right of disposing of her property independently of all control by the husband. The law of the State of New York has been set up and proved in the most positive manner. The testimony of Sidney F. Shelbourne, a barrister of the State of New York, is so clear and precise on this important point, that I will quote it at length:—"Will you state to the Court " what is the law of the State of New York " regarding proprietary rights of consorts " who were married on the seventh of May, " eighteen hundred and seventy-one (1871).

"A. The laws of the State of New York since "the year 1848 down to the present time "with reference to the separate property of the "wife, which she has at the time of her mar-"riage, have been that such property is en-"tirely separate and free from the control of "her husband. It does not enter into the "community. She has absolute control over "it, and the power to dispose of it, and to "alienate it without any control on the part "of her husband.

"Q. That is when there is no ante-nuptial "contract?

"A. Yes; she is just the same as if she "were a *femme sole* with regard to such prop-"erty; there is no conjugal partnership."

It is clear from this evidence that according to the law in the State of New York, the appellant, even during the continuation of her marriage, could, without any authorization whatever, have instituted the present action in her own country, and that she could still have that right if her husband could be summoned within the jurisdiction of the State of New York.

The fact being established that in the State of New York the appellant could have sued her husband without any previous authorization, as she did in this case, there remains to consider the question whether under such a state of facts, the laws of the Province of Quebec do not dispense the appellant with the necessity of first obtaining her husband's authorization before suing. I have not the slightest hesitation in stating that in my opinion this question must be answered in the affirmative, being clearly settled by the third paragraph of Art. 14 of the Code of Procedure, which declares that: "All foreign "corporations or *persons*, duly authorized "under any foreign law to appear in judicial "proceedings, may do so before any court in "Lower Canada." Now this article, based on chap. 91 of the Consolidated Statutes of Lower Canada, has given to strangers in a general way the same rights (as are recognized and given to them by sec. 2 of the Con. Stats.) of suing (*ester en jugement*) when they have that power or right in their own country. The section in the statute being more explicit and positive than the article of our code, I will quote it at length; chap. 91, C. S. L. C., sec. 2:—

"All joint stock or other companies or "bodies politic or corporate, who have a legal "capacity in the jurisdiction wherein they "were respectively erected or recognized, and "*all persons* on whom by any properly con-"stituted authority or law (whether of the "heretofore Province of Upper Canada, or of "the Imperial Parliament of Great Britain "and Ireland, or of the United States of "America, or of any of them, or of any other "foreign state, colony or dominion,) the "right or power of suing or being sued has "been conferred, shall have the like capacity "in Lower Canada to bring and defend all "actions, suits, plaints, bills and proceedings "whatsoever, and shall, by and before all "courts, judges, and judicial authorities "whatever in Lower Canada, be held in law "to be capable of suing and being sued, in "the same name, manner and way as they "could or might respectively be within the "jurisdiction wherein such executors or ad-"ministrators or persons, bodies politic and "corporate, joint stock companies or associa-"tions of persons were respectively created, "erected or recognized."

This provision is couched in the very same words as sec. 2, cap. 6, 22 Vic. (1858).

The words are very general and apply to all persons on whom by any properly constituted authority or law, the right or power of suing has been conferred, and gives them the power of exercising the same right in Lower Canada. Though domiciled in the Province of Quebec, the appellant never changed her nationality, she is still a foreigner, never having lost the quality of an American citizen.

Now, according to the law of the State of New York, the appellant, having been married without having made an ante-nuptial contract, is entitled to manage her property as if she were not married, and is consequently entitled here by said article 14 to take her present action just as if she were a *femme sole* with regard to said property. Considering the question settled by the effect of Article 14 of C. C. P. it is not necessary for me to determine

whether or not in the absence of that article the present appellant, under the laws of the Province of Quebec relating to marital power, could exercise in this country the right she had in her own country to sue as a *femme sole*. But admitting, for the sake of argument, that in such a case she would not be entitled to sue as a *femme sole*, it seems to me that by the enactment of article 14 recognizing (as it does as to the right to sue) the personal status of a foreigner to be the same in this country as in his own, the Legislature has *at least* declared that the laws of the Province concerning marital power as interpreted by the Court below, shall not apply to persons situated as the present appellant is. Therefore she can sue for the revendication of her property.

It seems to me that article 14 settles the point in favour of the appellant so clearly that I need scarcely refer to any other authorities. I shall, however, cite one in order to show that jurisprudence in France is in accord with the law as laid down in our code of procedure. See *Sirey* (Codes-Annotés, Art. 215, 1875.) "A foreign married woman in "order to sue in France need not previously "obtain her husband's authorisation, if in "her own country such authorisation is not "necessary." 16 Fév. 1844.

It is the result of the principle recognized by all authors that the necessity of an authorisation depends upon the personal status, 1 Fœlix, Dr. Int., p. 117, No. 65, et Massé, Dr. Com., t. 2, No. 63.

For these reasons I am of opinion that the judgment of the Court of Queen's Bench should be reversed, and the judgment of the Superior Court ordering an account to be rendered should be restored with costs.

RECENT DECISIONS AT QUEBEC.

Ship—Necessaries.—A ship having brought out a cargo of coal, the master, in order to enable her to take a cargo of wheat on her return voyage, employed the promoter as a ship-liner to fit her for that purpose.—*Held*, that such lining comes under the term "necessaries" in the Imperial Act, 26 Vict., c. 24, s. 10, § 10.—The *Glendevon* (Vice-Admiralty Court; McCord, Deputy Judge), 10 Q. L. R. 295.

Ship—Collision—Look-out—Fog-horn—Sailing Regulations.—A steamer proceeding at "easy" speed, on a thick and foggy night, ran down a schooner lying at anchor on a fishing ground. The latter had a bright light burning and a fog-horn blowing, and at sound of the steamer's whistle, some minutes before the collision, a flash-light or "flare-up" was exhibited, and muskets fired, which were heard on the steamer. *Held*, that the steamer must be condemned for not keeping a sufficient look-out, notwithstanding the schooner's infraction of the law in sounding a fog-horn instead of ringing a bell, it appearing that this had not contributed to the accident.—*Lohnes et al.* v. *SS. Barcelona* (Vice-Admiralty Court, Irvine, J.), 10 Q. L. R. 305.

RECENT ENGLISH DECISIONS.

False pretences.—On an indictment for obtaining goods by false pretences, the false pretence charged and proved being that the prisoner was daughter of a lady of the same name residing at a certain place, there being no evidence that the goods were not delivered to the prisoner before her name and address were asked for, *held*, that there was no sufficient evidence to sustain the indictment, it being essential on a prosecution for obtaining goods by false pretences to prove that the goods were delivered on the faith of the false pretence charged.—*Reg.* v. *Catherine Jones*; 50 L. T. Rep. [N.S.] 726.

GENERAL NOTES.

The *Central Law Journal* (St. Louis, Mo.) notes a peculiar specimen of indexing in the Ontario Statutes; but in the same issue of our esteemed contemporary is to be found the following index line: "*Valenti non fit injuria.*" This rather startling doctrine is perhaps specially applicable in Missouri. Freely translated it may read that "a man well equipped with six shooters can walk about in safety."

A curious form of contempt of Parliament is before the Senate at Ottawa. One of the honourable senators (Mr. Alexander) has given notice, "that he will call the attention of the House to the fact of a Speaker's portrait having been placed in the corridors, calculated, from the enormity of its dimensions, and from its want of uniformity with those of all the former Speakers, to bring this branch of the Legislature into public derision."

We have received Vol. I No. 1 of the 'Montreal Law Reports,' published by the Gazette Printing Company, and edited by the editor of the *Montreal Legal News*, assisted by two learned advocates, one for the Superior Court series and the other for the Queen's Bench series. Nineteen cases in all are reported, some half of which are given in French and the rest in English. The reporting appears to be well and concisely done. —*Law Journal*, (London).