The Legal News.

VOL. II. SEPTEMBER 6, 1879. No. 36.

THE TAXES ON LEGAL PROCEEDINGS IN MONTREAL.

The taxes imposed on legal proceedings in the District of Montreal have long been felt to be oppressively heavy, but the burden has been borne with equanimity under the supposition that the onerous charges collected could not, somehow, be dispensed with. But if we may accept a report of a recent debate in the Legislative Assembly at Quebec, the imposts levied have ceased to be justifiable. On the 29th ult., Mr. Wurtele moved that an address be presented to His Honor the Lieutenant-Governor, drawing the attention of the Lieutenant-Governor in Council to the statement prepared by the Auditor of the Province of the fund established by the Acts 12 Vic., chap. 112, and 18 Vic., chap. 164 for the building of the Court House of the district of Montreal, "which "statement shows that the amount expended in "building the Court House has been recouped, "and praying that the Lieutenant-Governor in "Council will be pleased to order the judicial "officers of the district of Montreal to discon- "tinue the collection of the duties authorized "to be imposed and levied by the two Acts "above mentioned, which duties can be no "longer legally exacted and collected under the "authority and in virtue of the Acts creating "the fund for the building of the Court House, "inasmuch as the amount chargeable to it has "been collected, and the power to levy such "duties has lapsed."

The reason given by the Government for continuing to exact the impost will not be considered very satisfactory by the profession in Montreal. "Hon. Mr. Langelier", says the report, "replied that it would be very difficult "for the Government to dispense with this tax. "The matter was brought up too late for "Government to give it the necessary consider- "ation. The district of Montreal owed to the "Municipal Loan Fund $171,000, and therefore "could not complain of paying this tax, which "would not cover the interest on the Municipal "Loan Fund." Mr. Wurtele's reply was very reasonable:—

"Mr. Wurtele said that because the district of Montreal was indebted to the Municipal Loan Fund was not a reason for the collection of this most odious tax. It would be better that the district should be taxed directly to pay its debt than suffer the imposition of the present tax, which bore principally on unfortunate litigants, and often hindered people, through dread of the taxes, from seeking the remedy and justice which were due them. The tax in question was imposed to pay $160,000 with interest for the building of the new Court House, and the amount necessary for the construction of the female goal. He was informed that both those amounts were now covered, and consequently the continuance of the tax was illegal. He drew the attention of the Government to the fact that a writ of injunction might be taken out against the Sheriff to prevent the imposition of this tax. The total debt of all the districts, including Montreal, to the fund was $461,000, of which Montreal's share was $171,000. Then why should Montreal alone be called upon to pay a special tax on account of this debt, while the other districts were not taxed? The Government had the right to make the municipalities contribute in proportion to their indebtedness, and it would be better to adopt this course with Montreal than to allow the continued existence of the charge on the administration of justice which existed to-day, and which weighed on a special class, whereas the charge was one for the benefit of Montreal."

The discussion concluded as follows:—

"Hon. Mr. Langelier said he had ordered statements to be prepared, showing the debt of each municipality, after which the Government would consider the necessary steps to be adopted. He had no objection to a writ of injunction being taken out to stop the further collection of the stamp duty, as the courts would then decide its legality. The Government did not at present feel justified in discontinuing the collection of the tax, as they were not aware whether the statement made was correct or not.

"Mr. Wurtele said that as the matter had only recently been brought before the attention of the Government, he would, with the consent of the House, alter his motion, by striking out the latter portion requiring the Government to discontinue the collection, but drawing the special attention of the Government to the statement which seemed to show that the fund was recouped. He would leave the responsibility of action with the Government, and stated that although the Treasurer had said that it was necessary to raise funds and that a considerable sum would be taken from the revenue by the abolition of these taxes, there was no reason why Montreal, which contributed nearly two-thirds of the revenue collected in the Province, should bear this burden unjustly levied on an exceptional class when all the other districts contributed nothing."

The motion was then carried, having been changed to read as follows:—"That an address "be presented to his Honor the Lieutenant-"Governor, drawing the attention of the "Lieutenant-Governor-in-Council to the state-"ment prepared by the Auditor of the Province "of the fund established by the Acts 12 Vic., "chap. 112, and 18 Vic., chap. 164, for the "building of the court house of the district of "Montreal, which seems to show that the "amount expended in building the court house "has been recouped."

A PEER'S PRIVILEGE.

There has been a time when, in the ardour for changes (or reforms, as their promoters would say), it has seemed doubtful whether the House of Lords would be much longer suffered to exist. But whatever may be the merits of this question, the peers seem to possess one privilege which might beneficially be curtailed. We take the following from the London *Times'* report of proceedings in the House of Commons, Aug. 13:—

"Mr. Blake asked whether the attention of the Attorney-General had been called to a case which occurred last week in the Brompton County Court, in which a defaulting debtor, who is also a peer of the realm, refused to obey a judgment summons of the Court and, as in the case of a former summons before the Court, pleaded his privilege as a peer in order to secure immunity from arrest, and declined in any way to take cognizance of the proceedings; whether, in the opinion of the Law Officers of the Crown, defaulting debtors who are peers are entitled by law to such exemption; and whether the Attorney-General had considered the desirability of repealing the exemption.

"The Attorney-General.—My attention has been called to the case mentioned in the question, and the facts appear to be correctly represented. I may state that the judgment summons was issued against the noble defendant to compel payment of an amount of £2 8s. for coal sold to him by the plaintiffs. I do not think it would be becoming in me to pronounce an opinion upon a point of law which has been decided by a Court. The learned Judge of the Brompton County Court is a man of great ability and experience, and I think we may presume his decision was right. With reference to the last portion of the hon. gentleman's question, I should not myself be disposed to extend the power of commitment for the non-payment of debt, or to interfere with the long established privileges of the peerage. It is to be regretted that the privilege should have been relied upon in the case in question. The plaintiffs, however, may be consoled by the reflection that as the noble defendant thought proper, for the purpose of evading the payment of a debt, to envelope himself in the mantle of the privileges of his order, he may be left to resort to the same mantle for the purpose of keeping himself warm. The plaintiffs can refuse again to supply the noble lord with coals. (Laughter.)"

Would it not rather add to than take away from the dignity of the nobility, if a privilege were renounced which is never used save by an unworthy member to bring discredit upon his order? Ought any class to be privileged to act dishonestly?

As we are often visited in these days by members of the nobility, an interesting question might be raised if "the noble defendant" referred to above came to the Province of Quebec, and attempted to use the privileges of his order to swindle our hotel keepers. Would our Judges be bound to take a similar view of the time honored privileges of a peer?

TRIAL OF ELECTION PETITIONS.

An important change has been made in England in the composition of the tribunal for the trial of election petitions. The Election Court is no longer to consist of one, but of two Judges. On the 12th of August, the House of Commons decided that all trials should thereafter take place before two Judges, and the Act applies to England, Ireland and Scotland. Sir Charles Dilke was against the change as regards England, and Mr. McLaren opposed it as regards Scotland. Mr. Martin, an Irish member, said "he believed more bad decisions had been "rendered by English Judges than by Irish." The Attorney-General, for himself, said that a tribunal of three would be better than one of two. Mr. Courtney considered a tribunal of two Judges to be a bad one. Mr. Monk asked what would be the result if the two Judges differed, to which the Solicitor-General said: "it was not difficult to answer, to wit, if they "did not agree, the Act was simply not per-"formed!"

The impression left by the full discussion which the question received, according to the *Times*, is that, though no urgent case for a change has been made out, there are some advantages in the presence of two Judges. "The confidence now reposed in one," it says, "is, if we come to look at it, altogether without "example. The business of the Judge who "investigates charges of bribery, treating or "intimidation brought against a candidate who "has been returned is, in the main, to form an "intelligent opinion of the value of the "evidence put before him. He has to act as a "jury; and to commit to any one man duties "which usually devolve upon twelve is to "exhibit great confidence in his impartiality "and sagacity. In several jurisdictions, as, for "example, in the Divorce Court, such con-"fidence is shown, but it is important when "party feeling runs high that the result should "command peculiar respect; and this is most "likely to be obtained if the decision is that of "two minds. An Election Judge has power to "inflict severe punishments. He may virtually "deprive one candidate of a seat and give it to "another, and he may fasten upon one of them "an ineffaceable stigma."

The *Times*, however, points out a difficulty of detail in putting the Act into operation. The Judges have already complained of the obstruction to their ordinary duties. That obstruction will now be doubled. "The change "will be a new strain on the judicial staff of "the country. It will be inconvenient to "suitors. If candidates at the next general "election are free-handed, there will be an "abundance of petitions; and for a time a "*quota* of the Judges will be taken from their "ordinary work in London, to the detriment of "litigants, and be sent to pursue protracted "investigations in far-away boroughs. The "change may lead to a renewal of the demand "for the creation of new Judges; and it will be "made with vehemence when, as may happen "after a general election, petitions must be "tried at a time when the Courts are blocked."

A DEAF MUTE'S WILL.

Some fifteen years ago in England, John Geale, of Yateley, yeoman, deaf, dumb, and unable to read or write, died leaving a will which he had executed by putting his mark to it. Probate of this will was refused by Sir J. P. Wilde, Judge of the Court of Probate, on the ground that there was no sufficient evidence of the testator's understanding and assenting to its provisions. At a later date, Dr. Spinks renewed the motion upon the following joint affidavit of the widow and attesting witnesses: "The signs by which the deceased informed us that the will was the instrument which was to deal with his property upon his death, and that his wife was to have all his property after his death in case she survived him, were in substance, so far as we are able to describe the same in writing, as follows, viz.:—The said John Geale first pointed to the said will itself, then he pointed to himself, and then he laid the side of his head upon the palm of his right hand with his eyes closed, and then lowered his right hand toward the ground, the palm of the same hand being upward. These latter signs were the usual signs by which he referred to his own death or the decease of some one else. He then touched his trowsers pocket (which was the usual sign by which he referred to his money), then he looked all around, and simultaneously raised his arms with a sweeping motion all around (which were the usual signs

by which he referred to all his property or all things). He then pointed to his wife, and afterward touched the ring-finger of his left hand, and then placed his right hand across his left arm at the elbow, which latter signs were the usual signs by which he referred to his wife. The signs by which the said testator informed us that the property was to go to his wife's daughter, in case his wife died in his lifetime, were as follows: He first referred to his property as before, he then touched himself and pointed to the ring-finger of his left hand, and crossed his arms as before (which indicated his wife); he then laid the side of his head on the palm of his right hand (with his eyes closed), which indicated his wife's death; he then again, after pointing to his wife's daughter, who was present when the said will was executed, pointed to his ring-finger of his left hand, and then placed his right hand across his left arm at the elbow as before. He then put his forefinger to his mouth and immediately touched his breast, and moved his arms in such a manner as to indicate a child, which were his usual signs for indicating his wife's daughter. He always indicated a female by crossing his arm, and a male person by crossing his wrist. The signs by which the said testator informed us that his property was to go to William Wigg (his wife's daughter's husband), in case his wife's daughter died in his lifetime, were as follows: He repeated the signs indicating his property and his wife's daughter, then laid the side of his head on the palm of his right hand with his eyes closed, and lowered his hand toward the ground as before (which meant her death); he then again repeated the signs indicating his wife's daughter, and crossed his left arm at the wrist with his right hand, which meant her husband, the said William Wigg. He also communicated to us by signs that the said William Wigg resided in London. The said William Wigg is in the employ of and superintends the goods department of the North-western Railway Company at Camden Town. The signs by which the said testator informed us that his property was to go to the children of his wife's daughter and son-in-law, in case they both died in his life-time, were as follows, namely: He repeated the signs indicating the said William Wigg and his wife, and their death before him, and then placed his right hand open a short distance from the ground, and raised it by degrees and as if by steps, which were his usual signs for pointing out their children, and then swept his hand round with a sweeping motion, which indicated that they were all to be brought in. The said testator always took great notice of the said children, and was very fond of them. After the said testator had in manner aforesaid expressed to us what he intended to do by his said will, the said R. T. Dunning, by means of the before-mentioned signs, and by other motions and signs by which we were accustomed to converse with him, informed the said testator what were the contents and effect of the said will." Sir J. P. Wilde granted the motion.

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, July 9, 1879.

MACKAY, TORRANCE, RAINVILLE, JJ.

[From S. C. Montreal.

YOUNG v. THE DENTAL ASSOCIATION OF THE PROVINCE OF QUEBEC.

License to practise as dentist — Interpretation of word "constantly."

In November, 1877, Young took a *mandamus* to compel the defendants to grant him a license to practise as a dentist. The petitioner alleged that during three years and upwards previous to the 28th January, 1874, he had been constantly engaged in the practice of dentistry in the Province of Quebec, having an office in Montreal; and that on the 10th July, 1877, he applied to the defendants for a license as dentist, but his application was rejected.

The defendants pleaded that petitioner had not been constantly engaged in the practice of the profession of dentistry during the three years immediately preceding the 28th January, 1874, date of defendants' incorporation by 37 Vict. c. 14. That petitioner had himself acknowledged that he was not entitled to demand a license, seeing that on the 15th July, 1874, he had voluntarily presented himself before defendants' Board to undergo an examination as candidate for a license, and was rejected as not qualified to practise. Further, that in

June, 1877, the petitioner had himself declared that he had never practised as a dentist; for, being prosecuted before the Police Magistrate for practising without license, he pleaded that the charge was unfounded, and obtained his discharge.

The Superior Court, (Papineau, J, 25th February, 1879) dismissed the action, the grounds assigned being the following :—

" Considérant que le demandeur, requérant, demande à la cour de forcer la corporation, défenderesse, de lui donner la licence de dentiste qu'il désire obtenir en se fondant sur la section 11 du chap. 14 de la 37 Vict. sanctionnée le 28 Janvier, 1874, mais que son diplome de Philadelphie en date du 28 mars 1873 et les témoins prouvent qu'il a été de quatre à six mois absent, et lui-même reconnaît avoir été deux ou trois mois à Philadelphie susdit lorsqu'il a pris ce diplome, et que par conséquent, il ne se trouve pas dans les conditions de la dite section 11 du dit statut qui exige une pratique constante durant les trois années précédant immédiatement le dit 28 Janvier 1874, dans un bureau établi de dentiste dans la Province de Québec ;

" Considérant que depuis la loi passée en 1849, incorporant l'association des dentistes, dont le demandeur n'a pas pris avantage, il ne pouvait plus pratiquer avec la même liberté qu'auparavant et sans se soumettre aux prescriptions de cette loi, et qu'il n'y a pas de preuve qu'il s'y soit soumis ;

" Considérant que la dite interruption de deux à six mois occasionnée par l'absence du demandeur à Philadelphie est une contravention à l'obligation de pratique constante pendant les dites trois années, et que telle contravention est fatale à la prétention du demandeur requérant, renvoie la dite action," &c.

Against this judgment the plaintiff argued : " Si l'interprétation stricte que son honneur a donnée à ce mot (constamment) est correcte, alors le jugement rendu contre lui doit être confirmé. Mais le demandeur soumet respectueusement que cette interprétation est contraire au sens grammatical qu'on lui donne et à l'usage que l'on en fait soit en législation ou dans le langage habituel. Cette interprétation est aussi contraire à l'esprit de la loi que le demandeur invoque ; car si elle était vraie, il aurait été impossible pour un homme dans la position du demandeur d'avoir été malade durant ces trois années requises par la loi, ou même de s'absenter de son bureau un seul jour sans forfaire tous les droits que cette loi lui accorde."

MACKAY, J., said the judgment must be confirmed. There were other reasons for dismissing the action besides those assigned in the judgment. One of the things fatal to the plaintiff was the *arbitrage* which had taken place in the McCormick affair. One McCormick made a complaint against the father of the plaintiff for unskilful work, in pulling out a piece of his jaw while attempting to extract a tooth. The work was the act of the son, the plaintiff here, but the demand was against the father, it being done in his office in which the son was employed. The father admitted his responsibility for the unskilfulness of his son, and paid the damages. Again, in 1877, the plaintiff was prosecuted for practising without a license, and his father being examined, stated that his son had never practised dentistry, but had acted simply as an assistant in his office.

Judgment confirmed :—

" Considering that there is no error in the said judgment of the 25th day of February, 1879, it is hereby confirmed, as this Court finds supported for several other reasons than expressed : one that the weight of evidence is against plaintiff or *requérant* on the principal question of constant practice by him as alleged, immediately before January 28, 1874, his own representations and conduct on several important occasions being inconsistent with his present claim," &c.

Doutre, Branchaud & McCord, for plaintiff.
Geoffrion, Rinfret & Dorion, for defendants.

SUPERIOR COURT.

ST. HYACINTHE, August 4, 1879.

ADAM v. MERCIER.

Quebec Controverted Elections Act of 1875—*Qualification of petitioner cannot be tried on preliminary objections—Recriminatory charges may be made against unsuccessful candidate not a petitioner in the case.*

A petition having been presented against the return of the defendant as member for St. Hyacinthe in the Legislative Assembly of Quebec, the defendant, by a plea to the merits, alleged

that the petitioner was not duly qualified as an elector to vote. The defendant also alleged that M. Casavant, the unsuccessful candidate, had been guilty of corrupt practices.

The plaintiff moved that the plea be rejected as irregular. 1st, Because the qualification of petitioner should have been attacked by preliminary objections. 2ndly. The conduct of the candidate Casavant who was not a petitioner and did not seek the seat, could not be inquired into unless an election petition were filed, accompanied by the formalities required by law.

SICOTTE, J., was of opinion that the qualification of the petitioner could not be tried by preliminary objection. There was a conflict of decisions on the point. In the Islet Case 19 L. C. Jurist, p. 16, the majority of the Court decided that the qualification of the petitioner may be tried on preliminary objection. But in four other cases—Megantic, Gaspé, St. Maurice, and Assomption—it was held that the qualification of the petitioner could not be tried on preliminary objection. The latter decisions were in conformity with the common law practice, and with the practice of Parliamentary election Committees. Want of qualification in petitioner might be tried on a distinct and special plea, and as Mr. Justice Mackay remarked in the Assomption case, 19 L. C. Jurist, p. 6, "if it turn out that the petitioner has not due quality of voter, he must fail." Moreover, the Judge who presides at the trial is not judge of the *fond*. His part is simply to regulate the procedure, so that the case and all its incidents may be disposed of at one time by the judges who finally hear the case.

On the second point—the counter charges made against the unsuccessful candidate—the case of *Somerville* v. *Laflamme*, 21 L.C. Jurist, p. 240, had been cited in support of the motion for the rejection of the plea. In that case, however, the election attacked was governed by the Federal Act, which contained no clause equivalent to section 55 of the Quebec Act of 1875. Under the Provincial Act there is no exception. Proof may be made against any candidate at the election in question, without it being necessary that the seat should be demanded for him. On both grounds, therefore, the motion of the plaintiff must be rejected.

A. O. T. Beauchemin, for petitioner.
Fontaine & Morison, for defendant.

MONTREAL, June 18, 1879.

BERGER v. DEVLIN.

Pleading—Demurrer.

The defendant pleaded, 1st, an exception; 2nd, another exception; and 3rd, a *défense en droit*. On objection by plaintiff to the *défense en droit* for irregularity,

MACKAY, J., dismissed the *défense en droit*, "the same being pleaded after two other pleas, the second one of which covers defendant's grievance stated by the *défense en droit*." No costs.

Doutre & Co. for the plaintiff.
Coursol, Girouard, Wurtele & Sexton for defendant.

HUOT et ux. v. COUTU et al.

Pleading—Demurrer.

In this case the *défense en droit* commenced by protesting that all the plaintiffs' allegations were false and untrue.

The Court (MACKAY, J.,) dismissed the *défense en droit*, with costs, the *défense* "being inconsistent with itself, avowedly not admitting but denying plaintiffs' allegations."

Bertrand for plaintiffs.
Mousseau & Archambault for defendants.

COURT OF QUEEN'S BENCH.

[In Chambers.]

MONTREAL, July 29, 1879.

YOUNG v. THE DENTAL ASSOCIATION.

Appeal to Privy Council from final judgment in review confirming judgment of Superior Court—Where security is to be given.

In the above case, noted on page 292, the judgment rendered by the Superior Court having been confirmed in review, there was no appeal to the Court of Queen's Bench. The plaintiff being desirous of appealing to the Privy Council, gave notice (July 25) that on July 28, he would enter security upon an appeal from the judgment to Her Majesty in Council. He also lodged a fiat requiring the preparation of a bond to be signed by the surety. This was the first application of the kind.

Cross, J., having taken time to consider, rejected the application, on the ground that he had no jurisdiction to accept security.

The judgment was as follows:—

"The parties being heard on the notice herein given by the appellant to the respondent, that he, the appellant, would enter security upon an appeal from a final judgment rendered by the Superior Court at Montreal sitting in review the 9th day of July instant, to Her Majesty in Council, and on the bail bond herein tendered by the same appellant for the prosecution of the said appeal;

"Considering that the Judges of the Court of Queen's Bench have no authority or jurisdiction to accept security upon an appeal from a judgment of the Superior Court in Review, the reception of the said bail bond is refused, and the application to have the same received is rejected, and the said notice is overruled and held for naught with costs."

N. B.—Security was subsequently entered in the Superior Court.

Doutre, Branchaud & McCord, for plaintiff.

Geoffrion, Rinfret & Dorion, for defendants.

CURRENT EVENTS.

ENGLAND.

Rights of Untried Prisoners. — The status of untried prisoners has been recently vindicated by one Fortescue in a peculiar manner, and the affair has made some noise. The following is from the *Daily Telegraph*, (London:—"Mr. Luke Fildes' well-known cartoon of "The Bashful Sitter," the sturdy goal bird who violently resists the operation of being focused by the photographing warder, and is consequently held down by main force in front of the camera, has found a curious reduplication in real life. There is under detention in Newgate, on a very serious charge, one Ambrose Fortescue, an American. It occurred to the usually judicious governor of Newgate that the interests of justice might be served if the police could be put in possession of a portrait of Fortescue, who was accordingly ordered to stand at attention to be photographed. The American, however, preferred to stand on his rights as an untried prisoner, and flatly refused to be photographed. Thereupon the Governor, forgetting that he was dealing with an unconvicted prisoner, ordered the man to be seized and photographed against his will. Against this illegally high-handed proceeding the prisoner protested, and Mr. Callan, on Monday, interpellated the Home Secretary on the subject. Mr. Cross very promptly and candidly replied that the Governor of Newgate had acted entirely against the rules in this matter, and that the Prison Commissioners, having had the circumstances brought under their notice, had expressed their disapproval of what had been done. Care will be taken, added Mr. Cross, to prevent the recurrence of such irregularity. The charge against Fortescue being still *sub judice*, it cannot obviously be commented upon; but, should he get a good deliverance, he may be advised that an action will lie against Mr. Sidney Smith for assault and battery, in causing him to be photographed against his will."

A Victim of a Judicial Error.—A resolution was recently adopted in the British House of Commons praying her Majesty to pardon Edmund Galley, who, it is now ascertained, has been for forty-three years the victim of a "judicial error." He was arrested in 1836, and, together with one Oliver, was found guilty of the murder of a farmer named May. The only witness against him was a woman named Harris, who had been under sentence of transportation. She invented a story that she had seen Oliver and Galley in company at the time of the alleged murder a year before, and, expecting something to happen, concealed herself in a hedge, and soon saw them kill May. She now procured a pardon in order to testify. Galley had no counsel, and could only assert his innocence. Both Oliver and Galley were found guilty. Oliver acknowledged the justness of the verdict as to himself, but denied Galley's participation in the murder. When appealed to by the other, he broke out passionately: "My Lord, you are going to send that innocent man to the trap? He was not there, and I never saw him before until to-day." Subsequent evidence was discovered, establishing an *alibi* for Galley, in consequence of which he was reprieved, and then his sentence commuted to transportation for life. Oliver was executed.

Sir Alexander Cockburn, the present Chief-Justice of England, who had attended the trial and was convinced of Galley's innocence, took up the matter, and it was finally brought, by petition, before the House of Commons. Though the evidence adduced was almost conclusive against the justness of Galley's sentence, his release was opposed by Mr. Lowe for the remarkable reason that: "It would be wrong for Parliament to reverse decisions arrived at so many years ago by so eminent a judge, and confirmed by Lord John Russell and other eminent statesmen. 'If Galley had been wrongly convicted he certainly had assisted very much in his own conviction by the irregular life which he led. (Murmurs.) For some little time he himself held the office of Home Secretary. He was then asked to go into this case, but he refused to do so. (Ironical cheers.) He refused because, even if he had come to a decision contrary to that arrived at by Lord Chief-Justice Denman, he should not have deemed it his duty to interfere after the lapse of so long a period of time, and therefore he declined to go into the question at all.' (A laugh.) He continued that if the Commons took action they would adopt a principle which would render the continuity of administration in England impossible. Mr. Bright spoke of the trial as having taken place in barbarous times, when counsel were not allowed to address the jury and the prisoner had no counsel to defend him, and cited the Habron case and another recent trial where four men were sentenced to death, and an eminent lawyer declared that there was not a particle of evidence against one of them, and it was even doubtful if a murder had been committed." Mr. Lowe did not convince the House that to do what was simply right would establish a bad precedent, or that a decision by Lord John Russell was of more consequence than a subject's right of personal liberty.

GENERAL NOTES.

THE DRESS OF SOLICITORS.—An amusing incident occurred recently in the City of London Court. *Smith* v. *Newman*, was an action for damages by collision with the defendant's omnibus, tried before Mr. Commissioner Kerr. His Honor found a verdict for the defendant, whose representative asked for costs. The Registrar (Mr. Speechley): "Are you the defendant's solicitor?" Answer: "I am not." His Honor: "Who or what are you, then?" Answer: "I am the defendant's 'bus conductor." [A laugh.] His Honor: "If I had known that I should not have heard you. You have practiced an imposition on the court—first, by occupying a place in the seat assigned for solicitors; and, secondly, by making speeches and asking questions, and leading us to believe you were a proper qualified member of the profession. Although you are well dressed, I might have judged from your occasional lapses of grammer that you were not what you either intentionally or otherwise represented yourself to be. However, I am not surprised. In my early days attorneys used to dress as gentlemen, but nowadays from their peculiar style of garments, it is hard to distinguish between a solicitor and Scotch terrier. [Laughter.] I shall certainly not allow the defendant any costs in this case. The idea of his sending one of his 'bus conductors to conduct his defence and simulate the part of a solicitor! I realy do not know what we shall have next."

—The longest law suit is related to have been the famous "Berkley suit," which lasted upwards of 190 years, having commenced shortly after the death of Thomas, fourth Lord Berkley, in the reign of Henry V., 1416, and terminated in the seventh of James I., 1609. It arose out of the marriage of Elizabeth, only daughter and heiress of the above baron, with Richard Beauchamp, Earl of Warwick—their descendants having continually sought to get possession of the castle and the lordship of Berkley, which not only occasioned the famous lawsuit in question, but was often attended with the most violent quarrels on both sides, at least during the first fifty years or more. In the year 1469, tenth of Edward IV., Thomas Talbot, second Viscount Lisle, great grandson of the above Elizabeth, residing at Wotton-under-Edge, was killed at Nibley-green, in a furious skirmish between some 500 of his own retainers, and about as many of those of William, then Lord Berkley, whom he had challenged to the field, who likewise headed his men; when, besides the brave but illfated young Lisle, scarcely of age at that time, about 150 of their followers were slain, and 300 wounded, chiefly of the Wotton party, who fled on the fall of their leader.