In re LANCE.

Attorney's Clerk.—Rule of Court, No. 151.—*Act* 12, 1858, *sect.* 3.

An attorney's clerk, who has served under articles in England for two years, may be admitted as an attorney of the Supreme Court after one year's service in this colony, on obtaining the law certificate required by Act No. 12, 1858.

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The petition of William Fuller Lance set forth that he had served Mr. Thomas Colborne, of Newport, Monmouthshire, England, a solicitor in Chancery and attorney-at-law, as a clerk from July, 1862, to March, 1874. That on the 14th of March, 1872, he became articled to Mr. Colborne, and served him under his articles until the 14th March, 1874, when, owing to failure of health, he was compelled to go abroad without any prospect of being able to return to England to complete the service under the said articles, which were thereupon treated and considered as of no further effect. That he had come to this colony in June, 1874, and was advised that if he was to add a term of service of one year in this colony to the two years already served in England, and obtained the necessary certificate in law and jurisprudence, he could be admitted as an attorney of the Supreme Court of this colony. Wherefore he prayed the Court to allow the two years served under articles in England to reckon as two years of similar service in this colony, so that upon being articled for another year to an attorney in this colony he might be in the same position and entitled to the same rights and privileges as he would be entitled to if he had been articled in this colony for three years.

Stockenström appeared in support of the petition. The 151st Rule was framed before the Act No. 12, 1858, which provided for the examination of clerks to attorneys, was passed, and this Rule allowed any holder of a certificate of proficiency in law and jurisprudence to be admitted an attorney after three years' service. When the Rule was promulgated, articled clerks were required to serve for five years, and it was provided that any person who had served

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any period not exceeding four years in Great Britain might count so much of such service as did not exceed four years as service in this colony. The 3rd section of Act 12, 1858, allowed any person who passed his examination to be admitted after three years' service, but it did not expressly refer to service in England. Counsel submitted that the intention of the Act was simply to reduce the period of service required, if an examination was passed, so that as long as an articled clerk served for one year in this colony, he might count service ir England for the remainder of the period required.

DE VILLIERS, C.J., said:—I think the view urged by the learned counsel is the correct one. The petitioner's service in England for two years may count as if served in this colony, so that if he serve for one year longer and pass the law examination, he would be entitled to be admitted.

Ordered accordingly.

[Applicant's Attorneys, TREDGOLD & HULL.]

JORDAAN AND OTHERS *vs.* WINKELMAN AND OTHERS AND THE COLONIAL GOVERNMENT.

Water-rights of lower proprietors.—Prescription.—Negative servitude.—Judgment of Landdrost and Heemraden.

The user for the purposes of irrigation for a period of thirty years and upwards by lower riparian proprietors of the water of a stream which had been allowed to flow down to them free and unobstructed, does not per se confer on them a prescriptive right against the upper proprietor, to prevent him from making any use of the water; but the parties are thrown back on their ordinary rights as riparian proprietors.

A negative servitude cannot be acquired by prescription, unless there has intervened some act by which the person claiming it has asserted it, and the opposed party has yielded to that assertion.

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May 20.
„ 21.
„ 23.

Jordaan and others *vs.* Winkelman and others and the Colonial Government.

The Commissioners of Crown Lands, as representing the Colonial Government, together with W. Winkelman, M. Tri-