

before he married her. Therefore—*serment supplétoire déferé* to plaintiff.

Dunlop & Co. for plaintiffs.

D. Barry for defendant.

THE CANADIAN FIRE AND MARINE INSURANCE CO.
V. KERROACK.

*Payment of Insurance Premium—Commission—
Evidence as to Custom.*

JOHNSON, J. Action by Company, plaintiffs, for \$100, balance of premium. Plea: payment, and a receipt so called is produced, but it is no receipt at all in its terms. It is, I believe, what is called an interim receipt; but it acknowledges no receipt of money. It merely says the Company agrees to indemnify the applicant to the extent of \$5,000 for twelve months against loss by fire on the hides in the vats in his tannery; and at the bottom is "\$150 premium," so that we have an agreement to insure under a policy to be issued, and we have the rate of premium agreed on, and that is all; and the question of payment remains where it was. This insurance was done through a broker or brokers. First, a Mr. Bossé acted, and when he went to the defendant to get the money, he was told that he had another broker, a Mr. Morin, who was to get the commission; but Bossé was the only one trusted by the company, and he never got any money from the defendant. The policy issued in due course on the 5th September, 1878, and the question is whether the defendant has paid the plaintiff. A payment to Morin would be no payment to the plaintiff. The policy does not acknowledge the receipt of the money; but only the rate of premium. The evidence shows this sort of thing is done every day, *i. e.*, that parties are insured, and get credit for their premiums as was done here. The evidence also shows that the defendant personally effected this insurance direct with the agent, Mr. Kavanagh, who consented to pay Morin's commission; but warned the defendant against trusting him with the money; nevertheless, he appears to have done so; but I can't hold that, under the circumstances, to be a payment to the plaintiff. But there is a letter from the agent to this Morin mentioning a balance of only \$85, if Morin paid, as there was a commission to be deducted; but previous to this, Morin had asked for delay and had been told by the agent that he had no

dealings with him, and that he only looked to the defendant. Still that does not better the plaintiff's position as regards the amount, for if they agreed to pay the broker's commission, and the defendant has already paid it, he should not pay it over again. Therefore judgment for \$85, with interest from service of process and costs of Circuit Court.

There are two motions made: one to amend the plea by referring to policy as well as to the receipt, and that is granted. The other is to reject evidence as to slipshod way of doing insurance business. I think the evidence is perfectly legal, as throwing some light on practices so absurd as to give rise to actions of this sort.

Doherty & Co., for plaintiff.

Loranger, Loranger, Pelletier & Beaudin, for defendant.

ADDENDUM.—In the case of *Henderson v. The St. Michel Road Co.*, ante p. 262, add to note, "*C. H. Stephens* for the plaintiff; *Carter, Church & Chapleau* for the defendants."

CURRENT EVENTS.

ENGLAND.

A JURY OF MATRONS.—Mr. Justice Denman was recently somewhat puzzled by an incident which occurred for the first time in his 32 years' experience. Catherine Webster, found guilty of murder at the Old Bailey, when asked if she had anything to say in stay of execution, replied that she was in an "interesting situation." Some ladies being present, a jury of matrons was impanelled from them. The presiding justice, Denman, seemed somewhat at a loss as to the proper practice, but finally the jury retired, and with them a surgeon and the prisoner, the latter being by this time "in a prostrate condition." On the return of the parties the surgeon stated to the court that he had made an examination, and it was his opinion that the prisoner was not quick with child, although he could not positively say that she was not pregnant. The judge then briefly charged, addressing the jury as "ladies of the jury," and after a few minutes' deliberation in the box, they returned a verdict that the prisoner was not quick with child. The proceeding seems quite farcical, so far as the intervention of the matrons is concerned. The proposed Criminal Code contemplates its disuse, and the substitution of an examination by registered medical practitioners. The *Law Times* says of the jury, "no criticism can be too severe in condemnation of a proceeding which is confessedly unreliable."