

*OBTAINING MONEY BY FALSE
PRETENCES.*

At Montreal, February 18, Mr. Desnoyers gave the following decision on a charge made by James Macfarlane against B. L. Nowell, of obtaining money by false pretences:— The prosecutor made a verbal promise to loan defendant \$2,000 to be advanced in instalments. Prosecutor advanced one instalment. Before parting with the second instalment, prosecutor called on defendant and examined his books of account with him, defendant himself giving out the figures. Prosecutor wrote a statement showing the defendant with a surplus of about \$300. Defendant asserted that said statement contained the true state of his affairs. On the strength of this statement a written contract was signed between the parties, and prosecutor advanced the second instalment and subsequently several other instalments, amounting in the aggregate to an amount of upwards of \$1,200. Several months afterwards the prosecutor being unpaid by the defendant, the latter made a judicial abandonment of his estate, and thereupon it was proved that at the time of the first advance, as well as at the time of the several subsequent advances made by prosecutor to defendant, the latter, instead of having a surplus of \$300, was indebted in a sum of several thousand dollars (about \$10,000). The prosecutor swears positively that he parted with the first sum advanced to defendant on the representations that he had a good paying business on hand; but as to the second and subsequent instalments he parted with them on the representation of defendant that he had a surplus of \$300. Two questions are to be considered: 1st. The moneys having been advanced in execution of a contract, can a false pretence be said to have taken place? No decision in any similar case has been quoted, and having made a careful search in the books, I have been unable to find a precedent of a case just under similar circumstances. However, in commenting upon the case of *Reg. v. Kenrick*, 5 Queen's Bench Reports, page 64, which has some similitude with the present case, Lord Denman is reported to have said: "The execution of a contract between the same

parties does not secure from punishment the obtaining of money under false pretences in conformity with that contract." 2nd. Is the intent to defraud disclosed in the above statement of fact? It may be said that the defendant, having apparently at the time a good business on hand, may have lived in hopes to meet all his liabilities in course of time and not have intended to defraud the prosecutor of his money. However, I am not prepared to say that he had not such intent. At all events I consider that this is matter for the jury to determine, not for the examining magistrate. On the whole I believe this is a case that ought to go to a jury, and therefore am bound to commit for trial to the Court of Queen's Bench.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, March 30.

Judicial Abandonments.

Elzéar Drolet, wheel-wright, La Rochelle, March 26.

Curators appointed.

Re J. Ahern, trader, New Port.—H. A. Bedard, Quebec, curator, March 1.

Re Amable Beauvais.—Kent & Turcotte, Montreal, joint curator, March 29.

Re P. Rival dit Bellerose, St. Alexis.—Kent & Turcotte, Montreal, joint curator, March 28.

Re F. X. Dugal, trader, Petite Rivière Ouest.—H. A. Bedard, Quebec, curator, March 1.

Re John Hector Graham *et al.* ("Graham Bros.")—J. N. Fultin, Montreal, curator, March 20.

Re Alexis Grégoire.—C. Desmarteau, Montreal, curator, March 27.

Re Albert Piché.—C. Desmarteau, Montreal, curator, March 27.

Re Victor Portelance, Lachevrotière.—D. Arcand, Quebec, curator, March 22.

Re David Rea.—A. F. Riddell and C. Meredith, Montreal, joint curator, March 27.

Re Alexandre Rufange.—C. Desmarteau, Montreal, curator, March 29.

Re C. N. Savage, Petit Pabos.—H. A. Bedard, Quebec, curator, March 1.

Re vacant estate of late James Wellington Toof.—S. N. Hunter, Frelighsburg, curator, March 18.

Dividend.

Re E. B. D. Lafleur, Bryson.—First and final dividend of 86½ p.c., payable April 10, J. McD. Hains, Montreal, curator.

Separation as to Property.

Mathilde Beauchamp vs. Lambert Gingras, cigar-maker, Montreal, March 21.

Georgiana Sénécal vs. Joseph Dufour dit Latour, Joliette, March 22.

Cadastre deposited.

Parish of Ste. Angélique, lot 889.