should have charged extra, and notified the office in Montreal of it. I would have charged him, had it been left to myself, 7s 6d extra or 10s, according to the new tariff." This positive statement of Mr. Chandler is to some extent confirmed and strengthened by the testimony of Mr. Frank on the same point: "It is not at all likely that I sent, I may say I never did send, a notice in writing to the Company that the house in question was occupied as a grocery and saloon. I gave no notice in writing to that effect. I think I gave a verbal notice, I would not *positively* swear I did." The continuation of Mr. Frank's testimony on this point shows that he has no recollection of having given such notice, nor of the place where he gave it, and he ended with this expression, "I cannot call the fact to mind at all."

There is, nevertheless, the latter part of the answer of the ten jurors to the 8th question quoted above. This part of that answer is as weak as the part of Mr. Frank's evidence just cited. It is only the sequel to it, for there is nothing in the proof which can justify this answer in the face of the precise testimony of Mr. Chandler on this point.

It is proper to observe that Mr. Chandler, agent of the Company, took exception to the fact that he had not received notice in writing of the new destination or occupation of the premises, in the first conversation which he had after the fire—only a few days after,—with the plaintiff's brother, Mr. A. A. Campbell. The latter reports their conversation on the subject.

From all that has been stated above, we must necessarily come to the conclusion that the defendants, and their agent, Mr. Chandler, had never been notified in writing according to the second condition on the back of the policy; and there is no evidence that Mr. Chandler was aware that the tavern of Crouet had replaced the vinegar manufactory. Even if he had known it, this would not have prevented the defendants from invoking the second condition of the policy, which imposed on the insured a formal obligation to give notice in writing of any change in the premises insured, which was of a nature to increase the risk of the insurers. See Quenault, pp. 62, 63, 64. Nos. 74, 75.

As to the waiver resulting from the Insurance Company making other objections, there was nothing to prevent the defendants from invoking other grounds of objection, according to the principle of French law, that the debtor may at any stage of the case oppose every exception or ground of exception which avails him. Moreover, in the case of Barsalou vs. Royal Insurance Co., L. C. Reports, a pleading of the same kind was admitted and allowed, after the defendants had filed other exceptions which they afterwards abandoned.

Verdict set aside, and judgment for the defendants.

J. J. C. Abbott, Q. C., for the plaintiffs.

S. Bethune, Q. C., for the defendants.

COURT OF QUEEN'S BENCH.—Appeal Side.

March 5th.

IRELAND, (plaintiff in the Court below) Appellant; and DUCHESNAY et vir, (*tiers-saisis* in the Court below) Respondents.

Practice—Husband and Wife—"Party in a cause"—C. S. L. C., cap. 82, sec. 14, 15.

Held, that the husband of a *marchande publique séparée de biens* by marriage contract, who is merely brought into the cause to authorize his wife, is not a "party in a cause" within the meaning of C. S. L. C., c. 82, s. 15, and cannot be examined as a witness for or against his wife.

The rule of law, prohibiting husband and wife from being examined for or against each other in civil cases, suffers no exception in the case where the husband is the agent of his wife, a *marchande publique*, and sole manager of her business under a power of attorney.

This was an appeal from a judgment rendered in the Superior Court at Montreal, by *Berthelot*, J., on the 31st May, 1865, dismissing the plaintiff's contestation of the respondents' declaration on a *saisie-arrêt*.

The plaintiff, having obtained a judgment against one William Maume, took out a *saisie-arrêt*, attaching goods and moneys belonging to the defendant in the hands of Marie