

appellants, on the present appeal, contended that inasmuch as the barn was built on wooden posts there was no solid floor in the barn, and the drain could be raised up and repaired just as well, if not better, as outside of the barn, there was no change of condition of the servient land contrary to law.

HELD, affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q. B. 139, that on the evidence the building of the barn in question aggravated the condition of the premises, and therefore that the judgment of the Court below ordering the appellants to demolish a portion of their barn covering the said drain, in order to allow the respondents to repair the drain as easily as they might have done in 1843, when said drain was not covered, and to pay \$50 damages, should be affirmed.

GWYNNE, J., was of opinion that all appellants were entitled to a declaration of right to free access to the land in question for the purpose of making all necessary repairs in the drain as occasion may require, without any impediment or obstruction to their so doing being caused by the barn which had been erected over the drain, and that the action for damages was premature.

Appeal dismissed with costs.

Robertson, Q. C., for appellants.

Geoffrion, Q. C., for respondents.

Quebec.]

OTTAWA, March 14, 1887.

L'ASSOCIATION PHARMACEUTIQUE DE LA PROVINCE DE QUEBEC V. WILFRED E. BRUNET.

Quebec Pharmacy Act, 48 Vic. (Q.) ch. 36, s. 8—
Construction of—Partnership contrary to law—Mandamus.

HELD, affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q. B. 362, that section 8 of 48 Vic. ch. 36 (Q.) which says that all persons who, during five years before the coming into force of the Act, were practising as chemists and druggists in partnership with any other person so practising, are entitled to be registered as licentiates of pharmacy, applies to respondent, who had, during more than five years before the coming into force of said Act, practised as chemist and druggist in partner-

ship with his brother and in his brother's name, and therefore he (respondent), was entitled under section 8 to be registered as a licentiate of pharmacy.

Appeal dismissed with costs.

J. L. Archambault for appellants.

C. A. Geoffrion, Q. C., for respondent.

Quebec.]

OTTAWA, March 14, 1887.

THE CORPORATION OF THE PARISH OF ST. CESAIRE V. MACFARLANE.

Municipal debentures—Conditions—Municipal code, Art. 982.

HELD, affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q. B. 160, that a debenture being a negotiable instrument, a railway company that has complied with all the conditions precedent stated in the by-law to the issuing and delivery of debentures granted by a Municipality is entitled to said debentures, free from any declaration on their face of conditions mentioned in the by-law, to be performed in future, such as the future keeping up of the road.—Art. 982 (Mun. Code) Fournier, J., dissenting.

Appeal dismissed with costs.

C. A. Geoffrion, Q. C., for appellants.

J. O'Halloran, Q. C., for respondent.

Quebec.]

OTTAWA, March 14, 1887.

FAIRBANKS et al., Appellants v. BARLOW et al. (Defendants), and O'HALLORAN (Intervenant) Respondents.

Pledge without delivery—Possession—Rights of creditors.

B, who was the principal owner of the South Eastern Railway Company, was in the habit of mingling the monies of the Company with his own. He bought locomotives which were delivered to and used openly and publicly by the Railway Company as their own property for several years. In January and May, 1883, B, by documents *sous seing privé*, sold ten of these locomotive engines to F et al., the appellants, to guarantee them against an endorsement of his notes for \$50,000. B,