

is any advance gained by asserting that he who violates the law of nature will be punished, for admittedly such punishment will follow with unerring certainty. While the witness Becker said he believed in a supreme power that would punish him here for false swearing, he would not say that he believed that power was divine, and he totally denied the personality of God as generally understood by the people. With such a belief how can he be said to be in fear of divine punishment for testifying falsely? His belief being defective in this respect, it falls short of one of the legal requirements, which is indispensable to entitle him to be examined as a witness in the courts of this State. It follows that I erred in receiving his testimony, and that a new trial should be ordered."

PRIVILEGED CAUSES.

The Court of Queen's Bench (Appeal Side) has made the following order:—

1st. No application to have a cause declared privileged shall be entertained unless the factum of both parties be produced ready to be distributed to the Judges.

2nd. Privileged causes shall be placed first on the day list (*ordre du jour*) for hearing, provided a full day shall have intervened between the production of the factums and the setting down of the cause for hearing.

RIGHTS OF UNPAID VENDORS.

A question of considerable importance arose lately as to the rights of unpaid vendors, in respect of certain seizures upon the Hope estate. The case was submitted by consent to a Court of Counsel, the gentlemen named being the Hon. Mr. Badgley, late Judge of Queen's Bench, Mr. W. H. Kerr, Q.C., Hon. A. Lacoste, Q.C., Mr. W. W. Robertson, *bâtonnier*, and Mr. Geoffrion.

Mr. L. N. Benjamin represented the unpaid vendors, and Mr. J. J. Maclaren the creditors and trustees opposing claims of unpaid vendors.

Mr. Maclaren submitted the following argument:

In re A. & C. J. HOPE & Co.

This firm suspended payment Oct. 16th, 1882, and offer a composition of 32½ or 40 cents on the dollar, dependent upon the decision of the arbitrators as to whether the claims of unpaid vendors to get back their goods or to obtain a preference on the proceeds are valid or invalid.

Ten unpaid vendors have seized. One of them, Ross, asks for a preference on the price; the others demand the resolution of the sale and also payment by preference if the goods are sold.

The goods claimed were sold during June, July, August and September last, the latest sale being September 9th. Delivery took place immediately after the sale in each case; in two instances, the goods were shipped from England in September, and arrived in Montreal on October 5th and 9th respectively. The first seizure was made on October 19th, the others on that and subsequent days.

The undersigned, on behalf of the ordinary creditors, submits that the unlimited right of dissolution and preference claimed by these unpaid vendors on all goods sold by them and in the possession of the insolvents at their suspension is unfounded; and that these privileges are lost by not having been claimed within 15 days of the sale.

First, as to preference on the proceeds. This is governed by Art. 1998, Civil Code, which says: "The unpaid vendor of a thing has two rights: 1. A right to revendicate it; 2. A right of preference upon its price. In the case of insolvent traders these rights must be exercised within fifteen days after the sale." Since the coming into force of our Code this has been part of our common law, independent of any Insolvent Act. Indeed, it is not taken from, and does not even agree with the Insolvent Act of 1864, which was in force when the Code was adopted. By sec. 12 of the Insolvent Act of 1864 the privileges of the unpaid vendor were restricted to 15 days from *delivery*; article 1998 is more strict, and limits them to 15 days from the sale.

"Insolvent traders" in Art. 1998 evidently means traders who stop payment and become insolvent independently of any Insolvent Act. The French version used the word "*faillite*," and s. s. 23 of Art. 17 says that when this word is used in the Code it means "*P'état d'un commerçant qui a cessé ses paiements.*" This is the meaning of the word in the French Code de Commerce and that given in all legal dictionaries. In the English version of the Code the word "*bankruptcy*" is used in Art. 17, and "*insolvent*" in 1998, but the French version shows that they are synonymous. In the pre-