

of Sorel, where he resides, in execution of a judgment obtained by plaintiff against him. The opposant, pretending that the defendant has made a legal cession of his estate to him as official assignee, opposes the *saisie et execution* above mentioned. The Circuit Court of the District of Richelieu has dismissed the opposition on the principle, 1st. That Brown is not a *Syndic* or assignee for the District of Richelieu, but only for the District of Montreal. 2nd. That there is at the town of Sorel and there was at the time of said session, a *Syndic* or assignee. The judgment, of course, declares the cession to Brown null and of no effect. I entertain no doubt on this very plain point. By the Insolvent Act, the Board of Trade of any locality may appoint any number of assignees in the county or district wherein is situate such Board of Trade, or in the county or district adjacent, where there is no Board of Trade. Now Mr. Brown has been appointed for the District of Montreal and no more. If there be no Board of Trade in the District of Richelieu, the Board of Trade of the adjoining District can appoint an assignee or any number of assignees for the District of Richelieu. If such *syndic* or assignee does exist, of course the cession should have been made to him; if none has been appointed there, no such cession could take place. In either case, the cession to Brown is null and void. In vain is the 2nd section of Chap. 18, 29 Vict., the Amending Act of 1859, invoked: it merely enacts that a voluntary cession may be made to any assignee appointed under the said Act of 1864. If under the Act of 1864, the Board of Trade, or the Council thereof, could name assignees only for the County or District wherein it is situate, or for the adjacent County or District if therein there is no Board of Trade, it is plain that a cession to a *syndic* not specially named for the County or District where the insolvent resides, and in which the insolvent carries on his trade, is an utter nullity, and in this case very properly so declared by the Circuit Court of Richelieu, (*Loranger, J.*) Besides it is of record that there is no official assignee at Sorel. But,

as above remarked, it matters not whether at Sorel there is or is not an official assignee. The sole question is as to whether Brown is or is not appointed for the District of Richelieu. He being an assignee only for the District of Montreal, he had no authority to receive the voluntary assignment of the defendant, though it has or may happen to have been made in the District of Montreal. If the contrary doctrine were maintained, it would open the door to innumerable frauds. An insolvent from Rimouski, or any distant part of the Province, might come up and make an assignment in Montreal, and thus out of sight of his creditors, carry on an operation unknown to them. And inasmuch as that assignee should and ought to be controlled by the Court within the jurisdiction of which is situate *le siège des opérations du failli*, it is easy to apprehend at once *que le failli aurait ses coudees franches*. Wherefore, on the law first, on the consequences, next, I frame my opinion, and conclude by saying that the judgment appealed from is strictly correct and should be confirmed.

BERTHELOT, J., concurred.

#### SUPERIOR COURT.

CORNELL v. THE LIVERPOOL AND LONDON INSURANCE COMPANY.

Montreal, June 10, 1867.

#### *Insurance—Prescription.*

MONK, J. This is an action on a policy of insurance to recover for loss by fire. There were two points relied on by the defendants; first, that the policy of insurance required a particular statement to be sent in. The Court might, perhaps, have got over this difficulty under the circumstances proved, but the second objection was that under the law it was absolutely necessary that the action should be brought within a year, and in this instance two or three years had elapsed. His Honor was at first under the impression that this prescription was one which the Court need not enforce, but after examining the authorities sent up, he felt satisfied that he was bound to enforce this prescription. The authorities were