judgment, accordingly, must be reversed; but he was not inclined to hold absolutely that notice was unnecessary.

Judgment reversed.

FARRELL *v.* GLASSFORD, *et al.*

Partnership.

A steamboat captain advanced monies to the owners, on their promise to admit him as a partner. It did not appear, from the evidence, that the promise was carried out. Losses having been incurred in running the vessel, it was broken up.

Held, that the captain had not become a partner, and was not liable for any share of the losses.

SMITH, J. This is an action brought by the plaintiff against the firm of Glassford, Jones & Co., to recover about $1200, for money advanced by him, for salary, and for superintending the building of a steamboat. The defendants set up an agreement by which the plaintiff was to become a partner in the steamer to the extent of 8-64ths, and that the advance he made was to enable him to become such joint owner. The defendants acknowledge that plaintiff was their steamboat captain, but deny that he ever superintended the building of the steamer in question. They say, that by reason of plaintiff agreeing to become copartner, they ran the boat, and at the end of the season found that they had incurred a heavy loss. They contend that the plaintiff's share of this loss more than sets off the amount due him for his advances, &c. and therefore his action should be dismissed. The question then is, did Farrell ever become a partner? It appears that he advanced a certain sum of money, on the promise that within a certain period he was to receive a share. It was the duty of the defendants to have offered him this share. As the case stands, there was nothing more than a promise to admit him to a share. This promise was never fulfilled. Therefore, the only question is, whether the plaintiff is entitled to recover back the advance made for the purpose of becoming a partner. There can be no doubt that he paid this money in the hope of getting a share, and this share was never offered to him. At the close of the season the defendants broke the vessel up, as sole owners, without the plaintiff's participation. There can be no doubt, that under the circumstances, he is entitled to get back his money. The judgment must be confirmed in all respects.

Berthelot and Monk, JJ., concurred.

LOISELLE *et al. v.* LOISELLE.

Deposit in Court of Review.

SMITH, J. This is an application on the part of the defendant, that the prothonotary be ordered to receive his inscription for revision, without the deposit, with consent of plaintiff. This is an application which the Court cannot entertain. The prothonotary is by law liable for the deposit, as soon as the case is inscribed, because the law says that the deposit must be made. The prothonotary may make any arrangement he chooses, but he still continues liable. Motion rejected.

Badgley and Berthelot, JJ., concurred.

MASSON *et al. v.* JOHN MCGOWAN, and PETER MCGOWAN, opposant, and MASSON, contesting.

Insolvency—Fraudulent Sale.

John McG., an insolvent trader, made a transfer of his moveable and immoveable property to his brother Peter, a sailor, who afterwards executed a lease back to John. The immoveable property being seized by John's creditors:—

Held, that the transfer was fraudulent; that Peter must be presumed to be acquainted with his brother's circumstances.

Held, also, that the plea of *chose jugée* was good; the transfer having previously been declared invalid in a contestation as to the moveable property.

SMITH, J. In this case I have the misfortune to differ. The firm of Masson & Co. sued McGowan on a promissory note, and seized his moveable effects by a *saisie-arrêt* before judgment. This was in 1855. In 1856, before a judgment was obtained in the Court, John McGowan made a transfer of his estate to his brother Peter. In 1857, the farm which had been transferred to Peter, was seized as belonging to John. Peter opposed the seizure, alleging that he had acquired the property for valid consideration, and had been in possession for two years. It is pretended that John McGowan & Co. were insolvent; but there does not appear to be any proof of their insolvency. Their effects have never been discussed. The