Touching the suits taken out against Meunier, the first I find is by the Molsons Bank, on the 27th April. The action by Prevost & Cie. is on the 29th April, and Prevost says he sued because the Bank had. Meunier carried on business till June. Do all these facts show notorious insolvency on the 28th April, and on the 1st May, dates of the two obligations? M. De Martigny says in his examination in chief that it was about admitted that Meunier was insolvent when he was sued. In cross-examination, in answer to the question whether Meunier was notoriously insolvent in the beginning of May, he says he was under the impression that he was insolvent. He adds, he thought a number thought so. The opinion of those with whom he had conversations was that Meunier was involved (entrainé) by Marion.

Mr. Blais, cashier of the Banque d'Hochelaga, could not say when Meunier was sued, that the commercial world said he was insolvent. He had not heard it. He had doubts himself. The facts show that Meunier was insolvent about the first of May, but I do not see proof of notorious insolvency—insolvency known to the public as a fact, or insolvency known to Mr. Prevost or Mr. Dionne. C.C. 1035.

Referring now to the jurisprudence of our Courts, I have before me a case of *Shaw*, mortgage creditor in the insolvency of *Warren*, 12 L.C.J. 309, where the mortgage was upheld by the Court of Review. Mr. Justice Mackay said: "It would be intolerable if mere insolvency should vitiate all transactions which have occurred in good faith with the insolvent. In order that it should vitiate such transactions, the insolvency must be known to the party or notorious." This case was reversed by the Queen's Bench, but on the facts. There is also the case of *Dorwin* v. *Thomson*, and *La Banque Jacques Cartier*, opposant, where the Superior Court (Torrance, J.) held that the *hypothèque* was valid where as a matter of fact C.C. 2023 could not apply. 3 Rev. Crit. 85. This judgment was reversed in Appeal, on the ground that the facts established notorious insolvency. 19 L. C. J. 100.

On the whole case, my conclusion is that the contestation by the Bank be dismissed, and the *hypothèque* allowed to stand.

Contestation dismissed.

Beique & McGoun for the Bank.
Duhamel & Co. for creditor collocated.

SUPERIOR COURT.

MONTREAL, June 28, 1881.

Before TORRANCE, J.

WALKER v. THE CITY OF MONTREAL.

Corporation—Illegal arrest.

An arrest under the Vagrant Act (32-33 *Vict.* [*Can.*] *c.* 28), *for indecent exposure, cannot be made without warrant after an interval of time following the offence, and where such unauthorized arrest was made the City was held liable in damages for the act of its policeman.*

This was an action of damages against the City of Montreal and Alexis Prefontaine, one of its policemen, for an illegal arrest and criminal prosecution. The city pleaded that it was in no wise responsible for the acts of the policeman, and if plaintiff had been illegally imprisoned, Prefontaine did not act by the orders of the City. Prefontaine pleaded that complaints of indecent exposure of his person by Walker had been made, and he was arrested and indicted and a true bill found by a jury against Walker, and in the circumstances of this case, there was probable cause for the arrest and prosecution.

PER CURIAM. The facts show that Walker was arrested by Prefontaine by order of the assistant sergeant of the Chaboillez police station on the 16th April 1880, and confined in the station until the afternoon of the following day (Sunday), and then was liberated on bail. The following morning he was brought before the Recorder's Court on the charge of exposing his person to wit, his privy parts, publicly and indecently in St. Bonaventure street, and after hearing witnesses, the case was sent to the general sessions of the peace. There an indictment was laid before the grand jury, a true bill found and plaintiff was in the month of June acquitted by the petty jury. There was evidence by school girls who had complained to their parents that they had seen the plaintiff more than once in a lane or passage, and also in a yard with the gate open off St. Bonaventure street, exposing his person, with his trowsers unbuttoned, and holding his privy parts in his hands. The plain English of it was that he obeyed a call of nature in a passage or yard off a street of the City. Probably he did it in a more careless way than might have been, and it is much to be regretted that the Corporation has not provided in convenient