

## The Legal News.

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### SEIZURE OF IMMOVABLES.

The judgment in *Corbeil v. Charbonneau*, noted in the last volume of the Legal News, p. 381, has been reversed by the Court of Review. The question was whether immovables could be seized under a writ of *saisie-arrest avant jugement*. The Court of Revision holds that the words *biens et effets*, employed in Art. 834 of the Code of Procedure, do not include immovables.

### MENTAL SUFFERING AS AN ELEMENT OF DAMAGES.

In a recent issue of the *Albany Law Journal*, a number of authorities are collated on a point of considerable interest, viz., the appreciation of mental suffering as an element of damages in actions of negligence. "There can be no doubt," says the writer, "that mental suffering forms a proper element of damage in actions for intentional and wilful wrong, and in actions of negligence resulting in bodily injury; but whether it forms an independent ground of action, disconnected from these facts, is more doubtful.

"In *Sorelle v. Western Union Tel. Co.*, Texas Commission of Appeals, June 14, 1881, 4 Tex. L. J. 747, it was held that injury to feelings resulting from disappointment and grief at not being present at a relative's funeral, caused by neglect of a telegraph company in failing to deliver a message, constitutes general damages. In this case the message showed on its face the nature of the summons. The court said: 'It appears to us that the natural consequence of a failure to promptly transmit and deliver a message like that in this case, and under the circumstances shown in appellant's petition, is to produce the keenest sense of grief incident to a sad disappointment. For it is a principle of our nature, implanted in the bosom of every reasonable being, not devoid of human sensibilities, to promptly pay the last tribute of respect to the mother who bore and fostered us; and to be thwarted in the discharge of this duty, prompted as it is by natural desire, by the will-

ful fault or neglect of one whose business it is to communicate the news, and who has received his compensation therefor, in the very nature of things, is calculated to, and will, inflict upon the mind the sorest sense of disappointment and sorrow.'

"In *Shearm. & Redf. on Neg.*, in speaking of telegraphs, it is said: 'Delay in the announcement of a death, an arrival, the straying or recovery of a child, and the like, may often be productive of an injury to the feelings, which cannot be easily estimated in money, but for which a jury should be at liberty to award fair damages.'

"But in *Wyman v. Leavitt*, Maine Supreme Court, 23 Alb. L. J. 253, it was held that anxiety in respect to one's personal safety is not a proper ingredient of damages in an action of negligence for an injury caused to property alone by blasting. The court there said: 'We have been unable to find any decided case which holds that mental suffering alone, unattended by any injury to the person, caused by simple actionable negligence, can sustain an action.' 'If the law were otherwise, it would seem that not only every passenger on a train that was personally injured, but every one that was frightened by a collision or by the train's leaving the track, could maintain an action against the company.' In the principal case two Texas cases are cited as authority, but in both of them there was injury to the person. *Canning v. Williamstown*, 1 Cush. 451; *Lynch v. Knight*, 9 H.L. 598; *Johnson v. Wells*, 6 Nev. 224; S.C., 3 Am. Rep. 245, seem opposed to the doctrine of the principal case. *Canning v. Williamstown*, however, was founded on a statute providing only for injury to the person, and *Johnson v. Wells* seems overruled in *Quigley v. Railroad*, 11 id. 350.

"Mr. Wood says in a note, in his edition of *Mayne on Damages*, p. 74: 'We do not apprehend that the rule has any such force as to enable a person to maintain an action when the only injury is mental suffering, as might be thought from a loose reading of loose dicta and statements of the courts in some of the cases. So far as I have been able to ascertain the force of the rule, the mental suffering referred to is that which grows out of the sense of peril, or the mental agony at the time of the accident, and that which is incident to and blended with