

sermenté et soutenu de pièces justificatives, de leur gestion des biens qu'il leur a cédés, avec, contre les dits défendeurs, dépens en révision et aussi en première instance, sauf les frais d'enquête, qui sont réservés pour adjudication en même temps que sur le compte qui sera définitivement établi."

*L. P. Guillet*, for the plaintiff.

*E. Gtrin*, for the defendants.

(J. O'F.)

### SUPERIOR COURT.

MONTREAL, Nov. 11, 1886.

*Before* TASCHEREAU, J.

*In re* DUPERROUZEL, Insolvent, & SEATH et al.  
Curators, & STEPHENS, Contestant.

*Lessor and lessee—Fixtures and fittings.*

*Where it was stipulated that the "fixtures and fittings" erected by the tenant in a restaurant were, to remain the property of the landlord, these terms included the bar, bar-shelving, oyster counter, gaseliers and other gas fixtures.*

The curators applied for leave to sell the effects of the insolvent, garnishing the premises leased from the contestant.

The contestant opposed the sale of certain of these effects, as being included in the terms "fixtures and fittings" erected by the tenant, which by a clause in the lease, were to remain the property of the landlord.

The contestation was maintained as to the bar, bar-shelves, oyster counter, gaseliers, gas-brackets and other gas fixtures. Some of these were attached by nails or screws, and as such were fixtures. The term "fittings" applied to objects necessary to fit the premises for their special destination, e.g. the bar and counters in a bar-room.

Contestation maintained without costs.

*Mercier, Beausoleil & Martineau*, for curators.

*Laflaur & Rielle*, for contestant.

(N. T. R.)

### CIRCUIT COURT.

HULL (dist. of Ottawa), Nov. 5, 1886.

*Before* WURTELE, J.

*Fiset v. Pilon.*

*Note signed with a cross—Evidence.*

**Held:**—That a note signed with a cross does

*not make proof of itself, and proof must be made of the signature in order to obtain judgment thereon.*

The action is founded on a promissory note, signed with a cross in the presence of a witness, and was inscribed for judgment on the note, without enquête.

**PER CURIAM:** Promissory notes and other private writings or documents upon which any claim is founded, are held to be acknowledged and make proof against the parties who signed them if they do not formally deny under oath their writing or signatures.

A private writing, susceptible of thus making proof, is one which is signed by the party executing it. Pothier, in No. 742 of his Treatise on Obligations, in speaking of private writings says, "la personne qui a elle-même souscrit l'acte, ne pouvant ignorer sa propre signature, doit la reconnaître ou la dénier précisément; et faute par elle de la dénier, le juge prononce la reconnaissance de l'acte comme souscrit d'elle." In Sirey's Annotated Civil Code, under article 1322, I find the following note: "Ne peut être regardé comme revêtu d'une signature et des lors valable, l'acte auquel il n'est apposé qu'une simple croix ou marque; et cela encore que l'acte soit signé de témoins."

These rules are contained in, or result from, articles 1221, 1222, 1223, 1224 and 1225, of the C. C., and it appears by article 1226 that they apply to writings of a commercial nature, such as the instrument sued upon.

The note filed in this case does not therefore make proof of itself against the defendant, and to obtain judgment, proof must be made in the ordinary manner.

The inscription for judgment is therefore discharged.

*Rochon & Champagne* for plaintiff.

### COUR DE POLICE.

MONTREAL, 17 novembre 1886.

*Coram* DESNOYERS, magistrat.

*TALON* dit LESPÉRANCE v. RÉV. PICHÉ.

*Obtention d'argent sous de faux prétextes—Menaces et violences pour extorquer—Intention de l'accusé.*

**Jugé:**—10. Que pour constituer l'offense prouvée