The law of civilized states has adopted no uncertain rule upon this matter. Like theology it recognizes free-will as the normal condition. It deals not with sanity in the abstract, but with responsibility. This is a material fact to be proved as all others, and it has to be decided by the tribunal charged with the case.

It is not at all likely we shall advance, in the smallest degree, toward establishing a philosophic delimitation of sanity. It is possible we may gain empirically further knowledge of the manifestations of insanity. For instance, it may be established sufficiently for practical purposes, that the temperature of the body gives indication of some peculiar habit of the body. We may, perhaps, find out that fat men, with good circulation, "sleek-headed men, who sleep abed o' nights," are more responsible than the *lean and hungry-looking* Cassios; but as yet the experiments are somewhat inconclusive.

In the case of Riel, the plea of insanity was urged at the trial and disposed of. He was held not to be insane, and no fact has since been adduced to give any colour to the proposition that he was not responsible for his acts.

R.

SUPERIOR COURT.

SHERBROOKE [ST. FRANCIS], Nov. 30, 1885.

Before BROOKS, J.

THE ONTARIO CAR CO. v. THE QUEBEC CENTRAL RAILWAY CO. & ANDERSEN, T. S., and PLAINTIFF, Contesting.

Execution—Saisie-arrêt—Moneys in possession of employee—Deposit in bank—C.C.P. 612 *—Third person.*

HELD:—*That a clerk or employee is not a "third party" within the meaning of Art.* 612, *C.C.P., and defendant's moneys in the hands of his clerk cannot be seized by garnishment. The fact that the employee has deposited such moneys in a bank in his own name "in trust" does not affect the case.*

PER CURIAM. There is only one point in this case: Is a clerk or servant a third person to the extent that a *Saisie-Arrêt* will hold good under the circumstances disclosed by the evidence?

The plaintiff took a *Saisie-Arrêt* in the hands of Andersen, who declared that he had, as clerk or employee, or assistant cashier of defendants, a certain sum of money ($867.25) which, for purposes of safe-keeping, he placed in the Eastern Townships Bank in his own name in trust, not knowing what else to do with it, as he had been instructed by defendants' manager, who was absent, not to deposit anything in their name. The *Saisie-Arrêt* was served, the garnishee declared that personally he owed nothing, and the plaintiffs contested, claiming in addition to the $867.25 the larger sum of $10,000 which, as they said, had passed through Andersen's hands between the service and return of the *Saisie-Arrêt*. C. C. P., 553 and 612 were cited. Is Andersen a third party within the meaning of Art. 612? Is the clerk's or servant's possession his own, distinct from his master's? The *Tiers-Saisi* has complicated the matter by the deposit in bank, but the question to be decided is, were the defendant and the *Tiers-Saisi* in law one and the same person, so as to make the *Tiers-Saisi's* possession the defendants', or was the *Tiers-Saisi* a third person *quoad* defendants?

At the argument I was inclined to think that the *Tiers-Saisi* had *assumed* possession by the disposition he made of the money, for the principle that you cannot arrest money merely passing through the hands of an employee was virtually admitted by the giving up of the pretension that plaintiffs could hold the $10,000.

I think some light is thrown on this question by our own Code, Art. 619. The *Tiers-Saisi* was not *indebted*. He was bound to declare by what *title* he held movables (in this case monies). He held them as servant of defendants. See also Pothier, Proc. Civ. (edition 1861), p. 231. See also Roger, Traité de la Saisie-Arrêt (1860), p. 13, Secs. 16, 17, 18 and 19, who says:—"Il résulte de cette règle que, "si l'individu, détenteur des objets d'un dé- "biteur, n'est pas un véritable *tiers* par rap- "port à celui-ci, on pourra les appréhender "par voie de saisie-exécution; mais que, si "c'est un *tiers* il faudra prendre la voie de "saisie-arrêt.

"Mais comment reconnaitre si le déten-