The Legal News.

Vol. XII. NOVEMBER 16, 1889. No. 46.

A railway regulation, oppressive to travellers and too favorable to companies, was that which obliged every passenger found without a ticket to pay the fare from the place whence the train originally started, to the end of his journey. This has been abolished in England, by the Regulation of Railways Act, 1889. A passenger without a ticket may pay the fare from the place whence he started, and if he has no money with him, he may give his name and address. This applies only to those who are in good faith, for fraudulently travelling without a ticket exposes the passenger to a fine, or, on a second conviction, to fine and imprisonment. Another excellent regulation of the new Act, which should be universally introduced, is that which makes it imperative that every passenger ticket issued by any railway company in the United Kingdom shall bear upon its face, printed or written, in legible characters, the fare chargeable for the journey. The passenger is thus secured against overcharge, accidental or otherwise, and can see that he gets the correct change without making any inquiry as to the fare.

A celebration of some interest is proposed in commemoration of the first centenary of the United States Supreme Court, to take place in New York, in February next. The Chief Justices of the several States are to be invited, as well as many other members of the bench. The addresses to be delivered are to afford "an appropriate survey and delineation, by representative citizens from different parts of the country, of the origin and growth of the Supreme Court, its relations to the government and the people, and its place in our constitutional system."

COUR SUPÉRIEURE.

SAGUENAY, février, 1889.

Coram PELLETIER, J.

CARON *et vir* v. CARON.

Misnomer—Erreur dans copie du Bref—Motion pour amender—Exception à la forme—Discrétion quant aux frais.

JUGÉ:—1. *Qu'il suffit au demandeur de se désigner par le prénom sous lequel il est ordinairement connue, et suffisant pour l'identifier.*

2. *Que l'erreur cléricale dans la copie du bref d'assignation quant à la date de l'émanation, ne rend point telle assignation irrégulière, si le défendeur n'a pu être induit en erreur.*

La demanderesse mineure émancipée par mariage, assistée de son mari nommé curateur, poursuivait son père en reddition de compte de tutelle. L'action était rapportable le 31 janvier. Le 23 janvier le procureur de la demanderesse, constata que cette dernière, denommée dans le bref "Emma," s'appelait "Marie Catherine Emma," et que l'acte de tutelle la désignait par ces trois prénoms. Bien que la désignation lui parût suffisante, pour enlever tout motif à une exception à la forme qui ferait encourir des délais considérables, le dit procureur crut prudent de faire signifier au défendeur une motion demandant permission d'amender en désignant la demanderesse par les trois prénoms ci-dessus. La motion alléguait que la demanderesse était généralement connue sous le nom d'Emma, et était rapportable le 31 janvier, jour où l'on croyait que la cour devait siéger. Le 25 janvier information étant reçue que la cour ne siégerait que le 13 février, le dit procureur pour éviter les frais d'un nouvel avis, obtint de l'avocat chargé de comparaître pour le défendeur, un consentement pour présentation de la motion le 13 février.

L'action fut rapportée le 31, et le 1er février, le défendeur comparut et plaida par exception à la forme :

I. Misnomer, vu que la demanderesse s'appellait Marie Catherine Emma ;

II. Que la copie du bref d'assignation à lui délivrée comportait avoir été émanée en 1809, les mots "quatre-vingt" ayant été omis. Cette copie était correcte d'ailleurs, et à la suite des mots 1809, se trouvaient les suivants : "et dans la 52me année de Notre Règne."

Réponse générale à l'exception, et spéciale, alléguant : Que la demanderesse était ordinairement désignée sous le nom d'Emma ; que d'ailleurs, pour enlever tout motif de chicane, motion avait été faite pour amender,

Admission étant produite au dossier que la demanderesse était ordinairement connue et désignée sous le nom d'Emma, la cause fut soumise sur l'exception à la forme, et sur la motion pour amender, le 13 février.

La demanderesse soumit :

Que le prénom "Emma" la désignait suffisamment, surtout quand elle poursuivait son père ;

Qu'en supposant qu'il y eût misnomer, la motion pour amender, signifiée personnellement au défendeur plusieurs jours avant le rapport de l'action, faisait disparaître l'irrégularité ;

Que le défendeur était d'autant moins justifiable de plaider à la forme sur ce chef, que par son procureur, il avait consenti à l'amendement le 25 janvier ;

Que l'erreur quant à la date de l'émanation du bref, dans la copie, était une erreur cléricale sans importance aucune, qui n'avait pu induire le défendeur en erreur ;

Que l'omission se trouvait corrigée par les mots : "dans la 52me année de Notre Règne," et l'année correctement indiquée ;

Qu'il n'y a point de nullité sans grief.

Autorités citées : *Mailloux* v. *Desmeules*, 10 Leg. News, 338 ; 12 R. L. 627 : "Qu'en principe, les vices de procédure entraînant nullité sont les seuls susceptibles d'être attaquées par exception à la forme."

Solon, Des Nullités I, p. 275 et seq.

Pigeau I, p. 158 et seq., Des Nullités de procédures.

Jugement accordant permission d'amender et renvoyant l'exception à la forme, vu la futilité des griefs allégués, chaque partie payant ses frais sur l'exception à la forme.

La raison qui, dans l'opinion de la cour, justifiait le partage des frais, c'est que la demanderesse n'était point tenue d'amender, et que sa motion à cette fin était inutile ; cette procédure de la demanderesse, strictement légale mais pas indispensable, expliquant et légalisant jusqu'à un certain point l'exception à la forme pourtant futile et non fondé, à tous égards.

Charles Angers, Proc. de la demanderesse.
J. S. Perrault, Proc. du défendeur.
(C.A.)

COUR SUPÉRIEURE.

MALBAIE, ...

Coram ROUTHIER, J.

FRENETTE v. BÉDARD.

Honoraires d'avocat—Solidarité de la part des défendeurs défendus par même procureur.

PER CURIAM.—Les clients défendus par un avocat dans une même cause par une seule et même défense, sont-ils tenus solidairement ?

Dalloz, Répertoire, vbo. Avocats, No. 252, dit : "Dans le cas où l'avocat croirait devoir poursuivre judiciairement le paiement de ses honoraires, il nous semble qu'il aurait pour obtenir ce paiement, une action solidaire contre les clients qui l'ont chargé de leur défense dans une même affaire où ils avaient le même intérêt. A cet égard on peut se prévaloir des arrêts de la cour de Cassation, qui ont décidé que le notaire a une action solidaire contre chacune des parties qui ont figuré dans un acte passé devant lui pour le paiement de ses déboursés et honoraires, sauf le recours de la partie qui paie, contre les autres parties, s'il y a lieu." Le même auteur, vbo. Honoraires, No. 3 : "Les honoraires sont dûs solidairement par ceux qui ont demandé les conseils, les travaux, les soins pour lesquels, ils sont dûs." No. 4.—(Même chose). No. 8 : "L'avoué a une action solidaire contre toutes les parties qui l'ont chargé de les défendre."

Cette doctrine de Dalloz se trouve conforme aux principes généraux du mandat, et elle se déduit logiquement des articles 1722-1726 et 1732 de notre code civil. Berriat St. Prix, Vol. I, p. 77 : On a donné à l'avoué comme au mandataire, une action solidaire contre ses clients, et il cite un grand nombre d'arrêts en ce sens.

Rogron, Codes français expliqués, art. 2002, soutient même doctrine et cite un arrêt de la cour de Nîmes dans ce sens.

Carré et Chauveau, Vol. I, p. 655, question 553 : "L'avoué peut réclamer solidairement des parties, les dépens qu'il a fait pour elles."

Pigeau I, p. 308, et Domat, Lois civiles, T. I, p. 127, Tit. 15, Sect. 11, p. 5, même doctrine.

Répert. J. du Palais, vbo. Honoraires No. 77 : "Les honoraires sont dûs solidairement

à l'avocat par les clients qui le chargent de leur défense, quand ils ont le même intérêt."

Comment le juge Monk a-t-il pu en face de ces autorités décider que l'avocat n'avait pas d'action solidaire, dans une cause de *Doutre* v. *Dempsey*, 9 L. C. J., p. 176? Cette décision inexplicable ne me paraît appuyée sur aucune bonne raison.

Action maintenue avec dépens.

F. X. Frenette, pour le demandeur.

M. Bouchard, pour le défendeur.

(C. A.)

RHODE ISLAND SUPREME COURT.

June 17, 1889.

STATE v. MURPHY.

Criminal law—Dying declarations—Res Gestæ.

On the trial of an indictment for murder, two statements made by the deceased, describing his assailant, were admitted in evidence. One was made just after the murderous assault to a man who came at the victim's call. One was made ten or fifteen minutes later to a friend who was summoned at the victim's request. Held, properly received.

Exceptions to the Court of Common Pleas.

STINESS, J. The bill of exceptions shows that upon the trial of an indictment for murder, two statements of the deceased were admitted in evidence, to the effect that he had been assaulted and robbed by two men whom he described. One of these statements was made immediately after the assault, and the other from ten to fifteen minutes later. When first seen by the witness Sweet, the deceased stood at the door of his shop, beckoning to Sweet, who was across the street, crying out: "Come over; I want you right away." He then sank back into a chair, weak and exhausted, his head bleeding, saying he had been robbed and about killed by two men who had not been out of there half a minute. He asked Sweet to call assistance, naming Mr. Osgood, whose place was near by. Sweet talked with the deceased a few minutes, perhaps six or eight; then went to Osgood, returning with him three or four minutes afterward, when the deceased made a similar statement to Osgood.

These statements were admitted against the defendant's objection as a part of the *res gestæ*. The question is, was the admission of this testimony erroneous?

The admissibility of this kind of testimony has been much discussed, but it is now settled beyond question that, to some extent at least, statements immediately following and connected with a transaction, which otherwise would be mere hearsay, are admissible as a part of the transaction itself. The principle upon which the admission of such evidence rests, is that declarations after an act may, nevertheless, spring so naturally and involuntarily from the thing done as to reveal its character, and thus belong to it and be a part of it, also to rebut all inference of calculation in making the declarations, and thus to entitle them to credit and weight, as evidence of the transaction itself. So numerous have been the adjudications upon this point, that the difficulty does not now lie in ascertaining whether testimony of this kind is admissible, but in determining to what extent and under what circumstances it is admissible.

The most notable case in limiting its scope is *Reg.* v. *Bedingfield*, 14 Cox Crim. Law Cas. 342, in which Cockburn, C. J., excluded all testimony of declarations after the act done. This ruling was much criticised and led to a vigorous discussion of the subject in public prints; in the course of which the lord chief justice issued a pamphlet in defence of his ruling. An extended quotation from this pamphlet is given in *People* v. *Ah Lee*, 60 Cal. 85, which we take to be accurate. In the words quoted, 'the chief justice so far qualifies what appears to be the doctrine of the case as to concede the admissibility of statements by the deceased, after the act done, while he is fleeing, under the apprehension of danger, and asking for assistance and protection, even though they be made in the absence of the accused. He styles such flight and appeal the "constructively continuing" act of the wrong-doer, and hence a part of the *res gestæ*. Without stopping to examine the nicety of the discrimination here made, it is enough to note that, even in the opinion of Lord Cockburn, who is considered to have taken extreme ground, statements made by the deceased are not neces-

sarily confined to the time covered by the actual doing of the act. Cases allowing a wider range of testimony are numerous, and many of them are referred to in Whart. Crim. Ev. (8th ed.), § 263, notes 1 and 4; also in articles by Prof. James B. Thayer, one entitled *Bedingfield's Case*, 14 Am. Law Rev. 817, and 15 id. 1, 71; also one entitled *Declarations as Res Gestæ in Criminal Cases*, 21 Alb. L. J. 484, 504; 22 id. 4. See also *Dismukes* v. *State*, 83 Ala. 287; *State* v. *Driscoll*, 72 Iowa, 583; *State* v. *Schmidt*, 73 id. 469; *Kirby* v. *Commonwealth*, 77 Va. 681; S. C., 46 Am. Rep. 747; *Louisville Co.* v. *Buck*, Ind., 19 N. E. Rep. 453.

The rule deducible from these cases is well expressed by Bigelow, C. J., in *Commonwealth* v. *Hackett*, 2 Allen, 136, 139: "The true test of the competency of the evidence is not, as was urged by the counsel for the defendant, that it was made after the act was done, and in the absence of the defendant. These are important circumstances, entitled to great weight, and, if they stood alone, quite decisive. But they are out-weighed by the other facts in proof, from which it appears that they were uttered after the lapse of so brief an interval, and in such connection with the principal transaction, as to form a legitimate part of it, and to receive credit and support as one of the circumstances which accompanied and illustrated the main fact, which was the subject of inquiry before the jury."

Applying this rule to the case before us, we think the testimony of the first conversation was properly admitted. The deceased went to the door of his shop and called for assistance, immediately after the assault. There was apparently no time to concoct a story against the defendant; indeed he did not know who had assaulted him. From natural impulse he immediately appeals for assistance and describes his condition, thus revealing the character of the act done. It was not an accident; not a self-inflicted injury, but an assault. Unlike a wound from stab or shot, his condition did not reveal its cause, but gave credit to his immediate and natural and unpremeditated statement, and threw light upon the character of the act done. The statement has all the recognized characteristic marks of admissibility, and we think it is within the authority of conservative cases upon this point.

The admissibility of the second statement is not so clear, but yet we think it is so connected with the first that it should be governed by the same rule. It was later in time by several minutes, but we do not think this is decisive, since the controlling element of admissibility is not the interval of time, but the real and illustrative connection with the thing done, in which the interval of time is a factor. In the first conversation he asked for Osgood, who was his neighbour and the one upon whom he relied for assistance. As soon as Osgood could be brought, he was by the side of the deceased. He found him bent over and complaining; but the nature, cause and extent of his injuries were not apparent. The deceased then stated to Osgood what had taken place, whereupon the latter ran out to notify the police. In view of the condition of the deceased, of the fact that Osgood was the one in his mind from whom he expected help, of the call for Osgood, as soon as he could make it, to the first witness, and of his explanation of his condition to his friend and neighbour upon his arrival, we see no radical difference between the statement so made, and the first one. Indeed, except in point of time, it is the same as though it had been made to him at the time of the first call. The common marks of impulsiveness, of connection with and illustration of the main transaction, entitle both statements to similar credit and support. If, as established by principle and authority, the first statement is admissible, the second is not essentially different. If the deceased would naturally and almost necessarily declare his condition and its cause to a stranger, hailed in the emergency, with equal, if not greater reason, would he declare it to the friend he calls for, who so soon after finds him in the place where he was assaulted, weak, bleeding and helpless. The deceased was an old man, terribly injured internally; several ribs were broken; the intestines were ruptured, and he was so bruised in the chest and abdomen as to cause extravasation of blood. Under the shock of such injuries,

from which he died a few hours after, it is impossible to believe that he could have invented a story against the defendant. His condition precluded it. On the contrary, as the acts of men are judged from common knowledge and experience, the statement commends itself as the instinctive utterance of a man in extremity, which not only discloses his condition, but is compelled by it. That which is recognized by such common experience as the instinctive outcome of an act is, for this reason, deemed to be a part of it, whether the time of the expression be five or fifteen minutes after. Words and acts, in this respect, stand upon the same footing; and the latter go without challenge.

The defendant further contends that the admission of this evidence violates his constitutional right to be confronted by his witnesses. But this is not so. The deceased is not the witness; nor are his statements, merely as statements, reproduced in evidence. What he said and did in natural consequence of the principal transaction, became original evidence, concerning which the witnesses are produced. This point is fully covered in *State* v. *Waldron*, Index CC, p. 1.

Exceptions overruled.

UNITED STATES CIRCUIT COURT.

CALIFORNIA, October, 1889.

Coram SAWYER, Ch. J., and SABIN, D. J.

In re NEAGLE.

Constitutional Law—Power of Government to protect Federal Judges on way to Court.

[Continued from page 352.]

Mr. Neagle, in his testimony, stated that before the train arrived as Fresno, he got up and went out on the platform, leaving the train, and there saw Judge Terry and his wife get on the cars: that when the train arrived at Merced he spoke to the conductor, Woodward, and informed him that he was a deputy United States marshal, that Judge Field was on the train, and also Judge Terry and his wife, and that he was apprehensive that when the train arrived at Lathrop there would be trouble between those parties; and enquired whether there was any officer at that station, and was informed in reply that there was a constable there: that he then requested the conductor to send word to the officer to be at Lathrop on the arrival of the train, and that he also applied to other parties to induce them to endeavor to secure assistance for him at that place in case it should be needed. The deputy marshal further stated that when the train arrived at Lathrop Justice Field went into the dining-room, he accompanying the justice; that they took seats at a table; that shortly after they were seated Judge Terry and his wife entered the dining-room, his wife following him several feet in the rear; that when the wife reached a point nearly opposite Justice Field, she turned around and went out rapidly from the room, and as appeared from what afterwards followed, she went to the car to get her satchel. When she returned from the car the satchel was taken from her and it was found to contain a pistol—revolver—containing six chambers, all of which were loaded with ball. This pistol lay on the top of the other articles in the satchel. The witness further stated that Judge Terry passed down opposite Justice Field to a table below where they were sitting; that in a few minutes, while Justice Field was eating, Judge Terry rose from his seat, went around behind him—the justice not seeing him at the time—and struck him two blows, one on the side and the other on the back of the head; that the second blow followed the other immediately; that one was given with the right hand and the other with the left; that Judge Terry then drew back his hand with his fist clinched, apparently to give the justice a violent blow on the side of his head, when he, Neagle, sprang to his feet, calling out to Terry: "Stop! stop! I'm an officer;" that Terry bore at the time on his face an expression of intense hate and passion, the most malignant the witness had ever seen in his life, and that he had seen a great many men in his time in such situations, and that the expression meant life or death for one or the other; that, as he cried out those words, "Stop! stop! I'm an officer," he jumped between Terry and Justice Field, and at that moment Judge Terry appeared to recognize him, and instantly, with a growl, moved his

right hand to his left breast, to the position where he usually carried his bowie-knife; that, as his hand got there, the deputy marshal raised his pistol and shot twice in rapid succession, killing him almost instantly. He further stated that the position of Justice Field was such—his legs being at the time under the table and he sitting—that it would have been impossible for him to have done anything, even if he had been armed, and that Judge Terry had a very fierce expression, which was characterized by the witness as that of an infuriated giant. He also added that his cry to him to stop was so loud that it could be heard throughout the whole room, and that he believed that a delay in shooting of two seconds would have been fatal both to himself and Justice Field.

The facts thus stated in the testimony of Justice Field and of the petitioner were corroborated by the testimony of all the witnesses to the transaction. The petitioner soon after accompanied Justice Field to the car, and whilst in the car he was arrested by a constable, and at the station below Lathrop was taken by that officer from the car to Stockton, the county seat of San Joaquin county, where he was lodged in the county jail. Mr. Justice Field was obliged to continue on to San Francisco without the protection of any officer. On the evening of that day Mrs. Terry, who did not see the transaction, but was at the time outside of the dining-room, made an affidavit that the killing of Judge Terry was murder, and charged Justice Field and Deputy Marshal Neagle with the commission of that crime. Upon that affidavit a warrant was issued by a justice of the peace at Stockton against Neagle and also against Justice Field. Subsequently, after the arrest of Justice Field, and after his being released by the United States Circuit Court on *habeas corpus* upon his own recognizance, the proceeding against him before the justice of the peace was dismissed, the governor of the State having written a letter to the attorney-general of the State, declaring that the proceeding, if persisted in, would be a burning disgrace to the State, and the attorney-general having advised the district attorney of San Joaquin county to dismiss it. There was no other testimony whatever before the justice of the peace except that affidavit of Sarah Althea Terry upon which the warrant was issued.

In the suit of William Sharon against Mrs. Terry, in the Circuit Court of the United States, it was adjudged that the alleged marriage contract between her and Sharon produced by her was a forgery, and it was held that she had attempted to support it by perjury and subornation of perjury. She had also made threats during the past year and up to the time of the shooting of Judge Terry, that she would kill the circuit judge and Justice Field, and she repeated that threat up to the time she made her affidavit for the arrest of Justice Field and Neagle; and that she had made such threats was a notorious fact in Stockton and throughout the State.

The petition was accordingly presented on behalf of Neagle to the Circuit Court of the United States for a writ of *habeas corpus* in this case, alleging among other things that he was arrested and confined in prison for an act done by him in the performance of his duty, namely, the protection of Mr. Justice Field, and taken away from the further protection which he was ordered to give to him. The writ was issued, and upon its return the sheriff of San Joaquin county produced a copy of the warrant issued by the justice of the peace of that county and of the affidavit of Sarah Althea Terry, upon which it was issued. A traverse to that return was then filed in this case, presenting various grounds why the petitioner should not be held.

SAWYER, C.J., delivered the opinion of the Court, holding that the homicide in question was committed by petitioner while acting in the discharge of a duty imposed upon him by the Constitution and laws of the United States, within the meaning of the provisions of section 753 of the Revised Statutes; and that the homicide was necessary to the full and complete discharge of the duty. The learned judge observed, in conclusion: "We have seen some adverse criticism upon the action of petitioner, attributed to quarters ordinarily entitled to great consideration and respect. But it is not for scholarly

gentlemen of humane and peaceful instincts —gentlemen who, in all probability, never, in all their lives, saw a desperate man of herculean proportions and strength in murderous action—it is not for them, sitting securely in their libraries three thousand miles away, looking backward over the scene, to determine the exact point of time when a man in Neagle's situation should fire at his assailant in order to be justified by the law. It is not for them to say that the proper time has not yet come. To such, in all probability, the proper time would never come. Neagle on the scene of action, facing the party making a murderous assault; knowing by personal experience his physical powers, and his desperate character; and by general reputation, his lifelong habit of carrying arms, his readiness to use them, and his angry, murderous threats, and seeing his demoniac looks, his stealthy assault upon Justice Field from behind, and remembering the sacred trust committed to his charge, Neagle, in these trying circumstances, was the party to determine when the supreme moment for action had come, and if he honestly acted with reasonable judgment and discretion, the law justifies him, even if he erred. But who will have the courage to stand up in the presence of the facts developed by the testimony in this case, and say he fired the smallest fraction of a second too soon? In our judgment, he acted, under the trying conditions surrounding him, in good faith and with consummate courage, judgment and discretion. The homicide was, in our opinion, clearly justifiable in law, and in the forum of sound, practical common sense, commendable."

---

*SUPERIOR COURT—MONTREAL.**

*Licenses—City of Montreal—*1 *R.S.Q.* 843, ¿13 *—Authority of License Commissioners — Second application by same person.*

Held:—The enactment contained in 1 R.S. Q., Art. 843, ¿ 13, that the decision of the license commissioners, either granting or refusing the confirmation of a license certificate, is final, does not preclude the reconsideration by them of an application, or the consideration by them of a new application by the same person in the current license year. The decision of the commissioners is "final" only in the judicial sense that it is not subject to appeal or to review. *Ex parte Citizens League of Montreal*, Wurtele, J., May 16, 1889.

City of Montreal—Widening of St. Lawrence Street—52 Vict. ch. 79, s. 243.

Held:—That under 51-52 Vict. (Q.) ch. 79, s. 14, as revised and consolidated by 52 Vict. (Q.) ch. 79, s. 243, the portion of the indemnity payable by the city, for the expropriation of the property required for the widening of St. Lawrence Street, may properly be paid out of the capital funds of the city, and not out of the annual revenue. *Ex parte Foster, & City of Montreal*, Wurtele, J., May 17, 1889.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Nov. 9.

Judicial Abandonments.

Joseph W. Barrette, trader, Lachine, Oct. 29.
André Beauregard, St. Hyacinthe, Nov. 5.
Michel Bertrand, trader, Varennes, Nov. 5.
Charles Carignan, trader, Weedon, Nov. 4.
James G. Davie, banker, Montreal, Nov. 5.
Théophile Desy, trader, St. Tite, Oct. 31.
Phelias Faucher, trader, Township of Brompton, Nov. 4.
Guenette & Co., St. Dominique, Oct. 31.
Joseph P. Morin, trader, Stanhope, Nov. 5.
John Reiplinger, Montreal, Nov. 5.
Roy Frères & Deshais, Scotstown, Nov. 5.

Curators Appointed

Re Hormisdas Bachand, parish of St. Liboire.—J. Morin, St. Hyacinthe, curator, Nov. 4.

Re Ovide Bouchard, dry goods, Quebec.—H. A. Bedard, Quebec, curator, Nov. 5.

Re Martin Granger & Co., Montreal.—A L. Kent and J. M. Marcotte, Montreal, joint curator, Nov. 6.

Re Aristide Gratton, St. Johns.—Kent & Turcotte, Montreal, joint curator, Nov. 4.

Re Joseph Edouard Hallée, flour dealer, Quebec.—N. Matte, Quebec, curator, Nov. 6.

Re F. J. Hébert, Granby.—Kent & Turcotte, Montreal, joint curator, Nov. 4.

Re Benjamin Hugman.—J. McD. Hains, Montreal, curator, Nov. 6.

Re J. A. Laferrière, Berthierville.—Kent & Turcotte, Montreal, joint curator, Nov. 4.

Re Ambroise Rufiange, contractor, formerly of Salaberry de Valleyfield, and now of Montreal.—R. S. Joron, N. P., curator, Oct. 29.

* To appear in Montreal Law Reports, 5 S.C.

Dividends.

Re Salomon Adam, Cap St. Ignace.—First and final dividend, payable Nov. 26, A. Carrier, Cap St. Ignace, curator.

Re J. S. Bullick & Co., Montreal.—First and final dividend, payable Nov. 26, A. W. Stevenson, Montreal, curator.

Re Michel Chenard, trader, Fraserville.—Second and final dividend payable Nov. 25, H. A. Bedard, Quebec, curator.

Re John Graham Darling.—First and final dividend, payable Nov. 8, James Steel, Montreal, curator.

Re Léon Joubert.—First and final dividend, payable Nov. 26, C. Desmarteau, Montreal, curator.

Re M. C. Maxwell, Three Rivers.—First and final dividend, payable Nov. 17, Bilodeau & Renaud, Montreal, joint curator.

Re J. C. Rousseau & Co., Three Rivers.—First dividend, payable Nov. 29, Kent & Turcotte, Montreal, joint curator.

Re J. D. Thurston.—Second and final dividend, payable Nov. 28, C. Desmarteau, Montreal, curator.

Separation as to Property.

Jane Clifford Beal vs. Ezekiel McConkey, tailor, St. Johns, Nov. 6.

Elizabeth Kerr vs. Eustache Lafleur, jr., postmaster, Bryson, Oct. 22.

Aurélie Lanoux vs. George Mullin, trader, Farnham, Oct. 29.

Cadastre changed.

Notice is given that the numbers 34-34 and following numbers (except No. 34-268, which was corrected) to No. 34-382, inclusive, of the plan and book of reference of the subdivision of the cadastral lot No. 34, of the parish of Montreal, county of Hochelaga, have been cancelled, and that Nos. 34*a* 34*b* and 34c, which are substituted therefor, have been added to the official plan and book of reference, of the said parish of Montreal, the said number 34 having been thereon corrected accordingly, the whole in conformity with the provisions of the articles 2174 and 2174*a* (Art. 5846 R. S. P. Q.) of the Civil Code.

Court Terms altered.

District of Bedford.—Court of Queen's Bench, Crown Side, to begin 1st March and 1st September. Circuit Court, Co. of Brome, to be held at Knowlton, 23rd and 24th January, March, May, September and November. Co. of Shefford, to be held at Waterloo, 26th, 27th and 28th January, March, May, September and November. Co. of Missisquoi, to be held at Bedford, 23rd and 24th February, April, June, October and December; and at Farnham, 26th and 27th February, April, June, October and December.

GENERAL NOTES.

FAITHFUL SERVICE REMEMBERED.—The late Mr. McIntyre has followed the example of the late Lord Justice Thesiger and Mr. Justice Quain and others by making a provision for his clerks. Not having mentioned them in his will, he made a death-bed request that the amount should be what his family should think fit. This sum will be, in the case of the senior clerk, at least a thousand pounds.—*Law Journal (London.)*

THE DUTY OF GIVING ASSISTANCE.—Article 450 of the Dutch Penal Code provides that "he who seeing another person suddenly threatened with the danger of death omits to give or furnish him with assistance which he can give or procure, without any reasonable fear of danger for himself, is punished, if the death of the person in distress has resulted, with three months' imprisonment and fine." A good swimmer, under such a law, could not safely walk along the Thames embankment. A liability to fine and imprisonment does not make heroes.—*Ib.*

THE LAW COURTS.—Mr. Uttley writes in the *Law Journal*:—"That the legal temple in the Strand is a magnificent one, everyone will admit, but as to the commodiousness and comfort of its interior opinions will differ. The corridors, the winding staircases, and the multitudinous arched doorways are most bewildering to a visitor, and it is insinuated, as confusing as the complications of the law itself. Some litigants, indeed, lose their way completely among the picturesque but crooked passages of the building. Of one individual it is said that, being in a state of mental collapse after hearing his case argued all the afternoon by various legal luminaries, he sank down exhausted by a fruitless effort to find his way out of the mazy halls of justice, with the despairing observation, 'I am now completely entangled in the meshes of the law, and I see that it is utterly hopeless ever to attempt to extricate myself;' and yet Sir William Blackstone wrote:—'Of a constitution so wisely contrived, so strongly raised, and so highly finished, it is hard to speak with that praise which is justly and severely its due; the thorough and attentive contemplation of it will furnish its best panegyric.'"

JUDICIAL OPINIONS ON INTEMPERANCE.—The following expressions are quoted from judicial utterances on the temperance question:—"Almost every crime has its origin more or less in drinking"—Judge Gurney. 'Ninety-nine cases out of every hundred are caused by drink"—Judge Erskine. "If it were not for drink, you (the jury) and I would have nothing to do"—Judge Patteson. "If all men could be persuaded from the use of intoxicating drinks, the office of judge would be a sinecure"—Judge Alderson. "Three-fourths of the cases of crime have their origin in public-houses and beershops"—Judge Wightman. "Intemperance has destroyed large numbers of people, and will at its present rate of increase in time destroy the country itself"—Judge Grove. "I can keep no terms with a vice that fills our gaols and destroys the comfort of homes and the peace of families, and debases and brutalises the people of these islands"—Chief Justice Coleridge.

A DEBATABLE POINT.—In one of the London Courts recently a somewhat remarkable case came before the judge for decision. The point to be decided was in connection with the Bankruptcy Act. The plaintiff in this case sued the defendant for a sum of money overpaid by the plaintiff as trustee of a bankrupt estate. The evidence shewed that the debts of the bankrupt came to the sum of £5,712, in respect of which a dividend of 1s 6d in the pound had been declared. After this amount had been paid, however, certain costs were discovered on taxation to be much heavier than had been apprehended. Application was thereupon made to the creditors to refund the redundance. Counsel for the defendant contended that such excess was not recoverable, for the dividend had been duly declared and announced in the *London Gazette*. This mistake, too, was one in law, and not of fact, and, therefore, the Court of Bankruptcy itself could not interfere. The advocate for the plaintiff urged, however, that a trustee is entitled to pay at discretion, but, if there is any negligence, he has no right to come into Court and complain. Ultimately judgment was given in the plaintiff's favour, but leave to appeal was allowed. This point is of such interest, and so new and unusual in character, that the result of the appeal will be awaited with curiosity.—*Law Journal.*