The Legal News.

Vol. XIV. MAY 30, 1891. No. 22.

The recent discussion in the House of Commons on the subject of the salaries of judges is not encouraging to those who would like to see a proper revision of the scale of judicial remuneration. The Minister of Justice concurred in the statement that the present salaries are inadequate, but he hinted that there was a financial difficulty. If so, it is unfortunate that the question was shelved when the finances of the country were in a more prosperous condition. Mr. Girouard, Q.C., pointed out that heads of large corporations are paid from $20,000 to $25,000 a year, although the duties they perform are not more important than the duties performed by the judges. In fact several of the subordinate officers of railways and banks receive much higher salaries than the judges. The weight of argument was decidedly in favor of a reasonable increase, and it is to be regretted that there should be a further postponement of the question.

A Bill introduced by the Hon. Mr. Abbott proposes to amend the Bills of Exchange Act of last session in the following particulars:

1. The paragraph lettered (*a*) of sub-section one of section eleven of "*The Bills of Exchange Act*, 1890," is hereby repealed and the following substituted in lieu thereof:

(*a.*) At sight, or at a fixed period after date or sight.

2. Section 12 is amended by inserting after the word "payable" in the third line thereof the words "at sight, or."

3. Section 17 is amended by striking out of the third line of sub-section 3 thereof the words "if he thinks fit."

4. Section 18 is amended by inserting after the word "payable" in the first line of subsection two thereof the words "at sight, or."

5. Section 24 is amended by adding the following sub-section:

"2. If the drawee of a check bearing a forged endorsement pays the amount thereof to a subsequent endorser, or to the bearer thereof, he shall have all the rights of a holder in due course for the recovery back of the amount so paid from any endorser who has endorsed the same subsequent to the forged endorsement, as well as his legal recourse against the bearer thereof as a tranferee by delivery; the whole, however, subject to the provisions and limitations contained in the last preceding sub-section."

6. Section 40 is amended by inserting in the second line thereof, after the word "payable," the words "at sight, or."

7. The paragraph lettered (*a*) of sub-section 2 of section 41, is amended by striking out the words "or bankrupt" in the first line thereof.

8. Section 51 is amended by striking out the words "becomes bankrupt or" in the first line of sub-section 5 thereof.

9. The rules of the common law of England, including the law merchant, save in so far as they are inconsistent with the express provisions of the said Act, as hereby amended, shall apply, and shall be taken and held to have applied from the date on which the said Act came into force, to bills of exchange, promissory notes and cheques.

NEW PUBLICATION.

The Dominion Law Index. By Messrs. Harris H. Bligh, Q.C., and Walter Todd. Toronto, Carswell & Co., Publishers.

The statute law is a subject which especially calls for a full and carefully prepared index, and a really valuable work will merit the gratitude of the profession. The present work embraces all the legislation of the Dominion Parliament, and such unrepealed provincial enactments and imperial statutes, treaties and orders as bear a special relation to Canada. The authors remark that previously to 1875 all the Dominion Statutes of each year were included and bound in one volume, the pages of which were numbered consecutively from beginning to end. Subsequently to that date the Statutes of each year have been arranged and published in two parts or volumes, the former containing the Acts of a public or general, the latter

those of a local or private character; each part or volume being paged separately. The present work therefore embraces the material scattered over fifty-eight volumes or parts of volumes. The value of an Index can only be adequately tested by use and the extent of the aid which it affords to those who resort to it. From the examination which we have been able to make of this work we are disposed to believe that it will prove satisfactory. The subjects are arranged alphabetically with reference to the year or volume and page, the reference being repeated under the various titles which might be looked for by those consulting the Index. The book is issued in neat form by Carswell & Co., publishers.

CIRCUIT COURT.

MONTREAL, April 17, 1891.

Present: PAGNUELO, J.

REGINALD GRAVES v. JAMES E. DURAND.

Art. 1053, *C. C.—Action of damages for imprudence in giving an opinion as to credit of a third party.*

HELD:—*That the defendant was liable for the price of goods advanced to C. by the plaintiff on the unqualified opinion given by the defendant as to the solvency of C., when in fact C. was not solvent, and the defendant had not sufficient information to warrant his opinion.*

On the 10th April, 1890, A. H. Cranston went to the plaintiff's store to purchase a suit of clothes, which were to be made to order. Cranston being unknown to the plaintiff, credit was refused to him, and he paid five dollars on account at the time the order was given. Before the clothes were ready plaintiff made enquiry and learned that it would not be safe to give credit to Cranston. He accordingly wrote to Cranston as soon as the suit was ready, asking him to call and pay for it and take it away. Cranston called and expressed great indignation, and at the same time told the plaintiff that the present defendant was a friend of his, and that he might apply to him for information as to his character.

Plaintiff thereupon wrote the following letter to defendant:—"Montreal, April 19th, '90, 1790 Notre Dame Street.—Dear Sir, Will you kindly inform me if you would consider an order from Mr. A. H. Cranston for a suit of clothes on credit a safe transaction. He has mentioned your name to me, so I have taken the liberty of addressing you on the subject; not knowing him myself, I am obliged to seek for information. Trusting to be favored with an answer by bearer, I am, etc."

On receipt of this, defendant immediately wrote across the face of the letter the word "Yes," to which he added his usual signature. When this answer was received by plaintiff, he concluded that his former information was incorrect, and immediately delivered the suit to Cranston.

About ten days later he sent his agent to collect the bill, and then learned that Cranston had left his boarding-house early one morning, taking his clothes with him, leaving a bill unsettled, and has not since been heard of. The defendant was then written to and asked for Cranston's address, which he gave as "Care of Adam Cranston, Miller, Galt, Ont." Failing to collect, the plaintiff thereupon brought the present action, alleging the foregoing facts.

The defendant pleaded that it appeared from the first letter that the plaintiff requested information about the said A. H. Cranston for his own profit and advantage, and asked the same as a favor from the defendant; that the defendant had received no consideration for answering the letter or giving his opinion, but was in good faith and believed, as he alleges the fact is, that the said Cranston was in regular employment and in receipt of sufficient salary to enable him to pay for a suit of clothes, and that his answer to the letter merely meant that, in defendant's opinion, an order for a suit of clothes from A. H. Cranston on credit was a safe transaction; that the answer was given in good faith with reasonable cause, and was and is true to the

best of the defendant's belief, and that the defendant did not at any time become responsible for the indebtedness of the said Cranston.

The witnesses examined were the plaintiff's clerk, who was present when the order was given for the clothes, who delivered the letter to defendant, and who also proved the facts with regard to plaintiff's attempt to collect his account from Cranston. The defendant examined a witness, who proved that, at the time the letter was given, Cranston was in regular employment in the city of Montreal, and in receipt of a fair salary. It was also admitted that plaintiff gave no consideration for the letter. At the suggestion of the defendant's counsel, defendant himself was examined by the Court, and stated that he had known Cranston as a boy, knew his family, and that he was respectably connected; he also knew that, at the time he gave the answer, Cranston was in a situation in Montreal. Being further examined by the Court, it appeared that he had not seen much of Cranston for about nine years, and was not intimate with him while he was in Montreal. Being asked if he knew anything against him, he said, that he had heard that, about two years ago, Cranston had been arrested on a charge of embezzlement, but that he did not consider this against him because he had been discharged.

The Court, in rendering judgment, considered the defendant had acted very imprudently in answering as he did; that he was not bound to answer at all, but that, having undertaken to do so, it was his duty to tell the plaintiff exactly what he knew about Cranston; that the plaintiff's loss had been caused by this imprudence, and defendant, consequently, would be condemned to pay the amount of the loss with costs. Judgment for $27.50 and costs.

W. J. White, for plaintiff.

F. E. Meredith, for defendant.

HOUSE OF LORDS.

March 5, 1891.

THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND v. VAGLIANO BROTHERS. (26 L.J. N.C.)

Banker—Bill of exchange—Forged instrument Genuine acceptance—Payment by banker—Negligence of customer—'Estoppel'—'Fictitious or Non-existing' payee—Bills of Exchange Act, 1882, *s.* 7, *subs.* 3.

The respondent's clerk, by forging letters of advice and preparing and filling in forged drafts, in which he inserted the name of a foreign correspondent as being that of the drawer, and the names of a foreign firm who were existing persons and actual correspondents of the respondent as payees, procured his employers' acceptance of these forged instruments and obtained payment of them across the counter from the appellant bank. The clerk appropriated the moneys to his own use.

Held by Lord Halsbury, L.C., the Earl of Selborne, Lord Watson, Lord Herschell, Lord Macnaghten, and Lord Morris, *dissentientibus* Lord Bramwell and Lord Field, reversing the Court of Appeal, that the loss incurred on the forged bills must fall upon the respondents. Whenever a name is inserted in a bill as that of payee by way of pretence merely, without any intention that payment shall be made in conformity therewith, the payee is a 'fictitious' person within the meaning of the Bills of Exchange Act, 1882, s. 7, subs. 3. *Robarts* v. *Tucker*, 20 Law J. Rep. Q. B. 270; L. R. 16 Q.B. 560, explained and distinguished. Judgments of Charles, J. (58 Law J. Rep. Q.B. 27) and the Court of Appeal (58 Law J. Rep. Q. B. 27) reversed.

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*DECISIONS AT QUEBEC.**

Servitude—Passage—Enregistrement—Usufruitier.

Jugé:—1. L'Acte 44-45 Vict. (Q.) ch. 6, qui exige l'enregistrement des titres créant les servitudes discontinues et non apparentes, pour leur conservation vis-à-vis des tiers, ne

* 17 Q. L. R.

s'applique pas à un droit de passage apparent.

2. Un droit de passage est rendu apparent par l'existence d'une porte dans la clôture qui sépare les deux fonds dominant et servant.

3. L'usufruitier du fonds dominant qui est troublé dans sa jouissance d'une servitude peut, par action, se borner à demander que celui qui le trouble soit condamné à reconnaitre son droit de jouissance, et à lui payer le montant des dommages soufferts.—*Déroche* v. *Gagné*, C.S., Casault, J., 26 janv. 1891.

Corporation privée — Cautionnement — Billets promissoires—Endossement—Tiers porteur.

Jugé:—1. Une corporation créée par un acte de la législature de Québec, "pour fonder à Arthabaskaville des hôpitaux, hospices et autres maisons de charité," ne peut pas se porter caution de la dette d'autrui, ni endosser des billets promissoires par complaisance (for accommodation).

2. Une banque qui a escompté un billet endossé par une telle corporation, ne peut pas en recouvrer le montant de cette dernière, si elle savait lors de l'escompte que l'endossement était sans considération et donné par complaisance.

3. La banque qui escompte un billet endossé par une corporation créée pour les fins susdites, est censée connaître l'incapacité de celle-ci d'endosser sans considération ou par complaisance, et savoir que l'endossement a été ainsi donné, lorsqu'elle a porté le produit de ce billet dans ses livres au crédit du faiseur, et non à celui de la corporation qui l'a endossé.—*Le Banque Jacques Cartier* v. *Quesnel*, en révision, Casault, Caron, Andrews, JJ., (Andrews, J., *diss.*), 31 janv. 1891.

Diffamation—Cause d'action—Compétence.

Jugé:—La Cour Supérieure, siégeant à Trois-Rivières, est incompétente à connaître d'une action en dommages contre un défendeur domicilié et assigné hors du district, pour libelle allégué avoir été publié par lui, "dans le district de Richelieu, dans celui de Trois-Rivières et en dehors d'iceux dans la province de Québec."—*Barthe* v. *Rouillard et al.*, en révision, Casault, Routhier, Andrews, JJ., 31 janv. 1891.

Contrat de mariage—Avantage matrimonial—Réclamation par la femme du vivant du mari.

Jugé:—La stipulation dans un contrat de mariage par laquelle "le futur époux fait donation entre vifs à la future épouse d'une somme de...." ne donne pas simplement droit à un gain de survie, mais à un avantage matrimonial qui peut être réclamé du vivant même du mari.—*In re Morin*, failli, et *Bédard*, réclamante, C.S., Larue, J., 2 nov. 1889.

Usufruit — Inventaire — Cautionnement — Intérêts.

Jugé:—1. L'usufruitier a droit aux fruits dès l'ouverture de l'usufruit, lors même qu'il n'a pas fait faire inventaire, ni donné cautionnement.

2. Il ne peut cependant réclamer que les intérêts actuellement perçus par ceux qui detiennent les capitaux.—*Lyster* v. *Reed*, en révision, Casault, Routhier, Andrews, JJ., 31 janv. 1891.

FIRE INSURANCE.

(*By the late Mr. Justice Mackay.*)

CHAPTER XII.

PROCEEDINGS ON POLICIES.

[Continued from p. 168.]

A policy being delivered is not a bar to a reformation for mistake. But if the reformation be asked late, it will call for observation, and may lead to *mistake* being less certain.[1]

In *Bryce* v. *Lorillard*[2] it was held that mistake to be corrected, in reformation of a policy, must be by both parties. The instrument will not be reformed unless for mutual mistake, and where the true intent of the parties is not expressed in the instrument sought to be reformed. Opinion by Bowie, J., *Farmers' Insurance and Banking Co.* v. *Butler*, Alb. Law J., vol. xxiv, p. 399; 54 Maryland Supreme Court.

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[1] *Van Tough* v. *Westchester, etc.*, 55 N. Y.; *Bidwell* v. *Astor*, 16 N. Y.

[2] 14 Am. Rep.

In *Wright* v. *Sun Mutual Life Insurance Co.*, and *Wright* v. *The London Life Insurance Co.*,[1] the seal was omitted. Reformation of the policy and equitable relief was sought for. The policy of the Sun Company had an attestation clause acknowledging it sealed. The London Company's policy had nothing to show seal; the policy only professed to be signed. Held, a mutual mistake, and the insured was held entitled to relief by reformation, by seals to be added; or, secondly, by debarring the defendants from defence on the ground of want of seals. An equitable replication was allowed. A trial took place on the policies as they appeared, and a verdict was found for the plaintiffs. The jury by their verdict seem to have found sealing. A new trial was moved for, for want of evidence of seals. In the plaintiff's declarations seals were not referred to or alleged. At the first trials the defendants did not object at all to want of seals. New trials took place, but on the merits. Then, when these new trials took place, defect of seals was urged. Yet verdicts were found for plaintiffs, and then again new trials were asked. The rule for it was discharged, with order that the pleadings should be amended. "We have "power under the Acts for the better ad- "ministration of justice to allow an equit- "able replication to be filed now, and such as "would justify us in restraining defendants "from relying on their pleas of *non est fac-* "*tum*," said one judge. *Nunc pro tunc* and verdicts to stand.

In *Snell et al.* v. *Insurance Company*, a suit in equity to reform a fire policy insuring S. L. Keith against loss of cotton; loss, if any, payable to Keith, Snell & Taylor. Keith did not own, but his firm did. After the fire this bill to have the error in the policy corrected and the firm's name substituted for Keith's. *Henkle* v. *Rl. Exc.*, 1 Vesey, Senr., was cited by the Court; parol proof of mistake may be. The judgment of the Court below was reversed. Judgment for the firm appellants.

CHAPTER XIII.

Fraudulent Firing.

§ 277. *Evidence of fraudulent setting fire to property insured.*

If the insured set fire to his property insured, it is plain that he will be repelled when he sues for his loss. Further, he will be liable to an indictment for arson.

As to the evidence requisite in a civil action to support a plea by the insurers that the plaintiff wilfully set fire to his property, see *Regnier* v. *Louisiana State M. & F. Ins. Co.*; *Hoffman* v. *Western M. & F. Ins. Co.* The better opinion in the United States is that the evidence need not be so strong as upon an indictment for arson. In Lower Canada the accused would have the benefit of all presumptions in his favor, and *Thurtell* v. *Beamont* would be approved. Evidence as strong as in a criminal case would be required probably; see *Dill's* case. But *semble*, in criminal cases, even for arson, evidence is circumstantial.

Upon an indictment, where the intent is laid to defraud the insurers, the policy is the best evidence on their part to show that the house was insured, and the books of the insurance company are not evidence without notice to the insured to produce the policy. And where the notice to produce it is insufficient, secondary evidence of it cannot be given.

The act of wilfully burning the property of a third person carries within itself sufficient evidence of an intention to injure that person, but where the accused is charged with setting fire to his own house the intent to defraud cannot be inferred from the act itself, but must be proved otherwise. See pp. 418-420 Archbold's Pl. & Evid. in Cr. Cases, 13th edition.

The *general* evidence in proof of the offence resolves itself into the probable motives of the prisoner, his opportunity and means of committing the offence, and his conduct; and where the prisoner is charged with setting fire to his own house with intent to defraud the insurers, the value of the property as compared with the amount insured is a question of importance, in order to establish or repel the inference of motive.

In *Wightman* v. *W. M. & F. Fire Ins. Co.*[1] it was held that in a civil case, where wilful firing is pleaded, the proofs need not be so

[1] 29 Com. Pl. Rep. Ontario, pp. 226, 228 (A. D. 1878). 8 Otto, S. Ct. (U. S.) Rep.

[1] 8 Robinson, La. See also to the same effect *Hoffman* v. *Western M. & F. Ins. Co.*, 1 Annual Rep., by Robinson, La.

strong as in a criminal case for arson. And so, in *Blaeser* v. *Milwaukee Mech. Mut. Ins. Co.*[1] it was held that proof as strong as in a criminal case for arson is not required where an insurance company pleads that the insured wilfully set fire to the insured subject. But proof beyond reasonable doubt is required. On which side does the evidence preponderate is in Wisconsin held to be the proper question.

So, in *Kane* v. *Hib. Ins. Co.*,[2] where wilful firing was pleaded, it was held that proof as strong as to convict for arson is not required.

§ 278. *Where a criminal prosecution has been brought.*

Where a criminal prosecution for arson has been brought against the assured, and he is acquitted; supposing he sues afterwards, can the insurers plead that he set fire, etc.? Or can the assured repel them by saying it is *chose jugée?* It depends. See Journal du Palais, volume of 1863, p. 774. Though the insured has been acquitted on the criminal charge, this does not prevent the insurance company proving *au civil* that the insured caused the fire. P. 271 *Ib.* There are *arrêts*, however, both ways, the criminal jury's finding being sometimes particular. If the criminal court has found negatively the facts which are the common basis of both actions, there is *chose jugée.*

In *Chowne* v. *Baylis*[3] it was held that the civil remedies for suing a felon which belong to the person whose property is stolen are suspended after discovery of the offence till after criminal prosecution and trial of the felon.

In France *action civile*, resulting from *délit* and prosecuted separately, cannot be decided till definitive sentence on the *action publique intentée*, whether before or after the civil suit. "Il est de maxime que le criminel tient le civil en état. Il doit être sursis à statuer sur l'action civile." Cassn. 18th Nov., 1812.

Yet *chose jugée* need not necessarily be held after criminal condemnation, and will not be unless it be clear that the very facts involved in the civil suit were passed upon in the criminal. Merlin and Toullier differ between themselves.

Suppose the plaintiff to have been acquitted. This sometimes makes *chose jugée;* sometimes not. Suppose no bill found: that is not final. Roll. de Villargues, "Délit."

Fire *prima facie* is accidental. Alauzet, vol. i, p. 113. Rev. de Lég., 11 Toullier, pp. 238-240. Yet if an inn be burned there is a presumption of negligence against the innkeeper, and he must pay the guest's loss, unless he clearly prove no negligence.

Though a true bill for arson has been found against the plaintiff, his civil action against the insurance company is not to be retarded.[1]

§ 279. *Effect of conviction.*

As to the influence of condemnations *au criminel* upon civil suits, No. 350, 1 Sourdat, may be referred to. Suppose A prosecuted B as a cheat in a criminal court and that B was freed. B sues for damages. Can A reopen, and offer to prove B to have been guilty, or to have really cheated? *Semble* no, if A really personally acted as prosecuting the criminal proceedings. [2]

§ 280. *Effect of acquittal in criminal prosecution.*

Suppose the assured is indicted for arson and acquitted. According to Grun and Joliat,[3] *semble* he cannot be tried again (as it were) by the insurance company, sued *au civil*, putting in issue his having committed arson. But French jurisprudence is otherwise: *Le criminel n'influe pas sur le civil*, and

[1] 19 Am. Rep. 748.

[2] 17 Alb. L. J., 226 (Errors and Appeals, N. J.), disapproving *Thurtell* v. *Beaumont*, 8 J. B. Moore. Best, § 95, agrees.

See 5 Bennett's Ins. Cases, 796, *Ætna Ins. Co.* v. *Johnson*, to the same effect. *Thurtell* v. *Beaumont* says the evidence must be as strong as on a trial for arson. The Louisiana rule is not that, but that the jury, as in all other civil cases, find according to the weight of evidence. 1 La. Annual Rep., *Hoffman* v. *West. M. & F. Ins. Co.* The same rule prevails in Massachusetts; see case in 1 Gray.

[3] 31 Beavan, Jur. Index of 1863, 10, 91.

[1] 7 L. C. R 343.

[2] See also 14 L. C. Jurist as to the influence of the criminal court verdict upon civil suits;—*e.g.*, A man is indicted for arson and acquitted; afterwards, can the insurance company say to him, suing for insurance money, You committed arson, and go again into that?

[3] Tom. iii, c. 361.

the insurance company may have no conduct of the criminal prosecution.

At common law in England every man was bound to keep his fire so as not to injure others. But to limit the hardship a statute (6 Anne) was passed, prohibiting action by third persons against a person in whose house or chamber fire accidentally began. 14 Geo. III enacted more comprehensively, adding stable, barn or other building, or "on whose estate," to the words of 6 Anne. But it is held that fires by negligence are not to be considered *accidental*. Actions for negligence are common, and, therefore, for negligence railway companies are frequently condemned, but go free where they "have resorted to all known means of precaution." P. 206 Bunyon, 2nd ed., 1875.

Where a fire has been wilful, felonious, before the party injured can seek civil redress, the crime must be prosecuted. The justice of the country must be first satisfied in respect of the public offence. Forfeiture for felony is abolished now in England since 1870; so the insured is not obliged to resort to petition of right to get paid after conviction of felony.

§ 281. *Setting fire by insured while insane.*

An insured went mad, then set fire to his house. Has the company to pay the loss? Yes; so ruled in France in 1870, Cassn., January, J. du P. The fire in this case was assimilated to *force majeure* or *cas fortuit*, and the madman was held in no fault. 1148, 1382 C. N. Yet if a man be insane merely from drink, and when drunk burn the insured premises, it would be held that he and his estate must bear the loss, and not the insurance company. Just as much liable are insurers for loss by fire of insured, mad, as of his servant mad, says the note on p. 243 Journ. du P. of 1870.

§ 282. *Fire occurring through negligence.*

Mere negligence, whether of the insured or his agents or servants, constitutes no defence for the insurers. In *Shaw* v. *Robberds* Lord Denman, C. J., thus expresses himself:—"One argument remains to be noticed, namely, that the loss here arose from the plaintiff's negligent act in allowing the kiln to be used for a purpose to which it was not adapted. There is no doubt that one of the objects of insurance against fire is to guard against the negligence of servants and others, and therefore the simple fact of negligence has never been held to constitute a defence; but it is argued that there is a distinction between the negligence of servants or strangers and that of the insurer himself. We do not see any ground for such a distinction, and are of opinion that in the absence of all fraud the proximate cause of the loss only is to be looked to."[1]

Art. 2578, C. C. of L. C., as to fault of insured, puts on the insurer all losses other than those caused by fraud or gross negligence of the insured.[2] And in *Austin* v. *Drew* Lord Tenterden said:—"Certainly the circumstance that the fire happened through the negligence of the plaintiff's servant furnishes no answer to the action."

Walker v. *Maitland*[3] is against the insurer, and makes him pay, though the insured be guilty of gross negligence. Kent thinks this to be the better opinion. 2 Arnold, § 285. The bursting of a boiler is from gross negligence, yet Kent says the insurer is liable. (Men fall asleep and the vessel is wrecked.) But, of course, the negligence (even in Lower Canada) must not be remote. It ought to be the cause of the loss, close cause. It was held in *Chandler* v. *Worcester Mut. Fire Ins. Co.*[4] that the negligence of the insured may be so gross and culpable that the law will presume fraud, and the insurers will be discharged, though there be no positive proof of an actual design on the part of the insured to burn the property.

If there be gross negligence the policy will be void. What is such? In *Campbell* v. *Monmouth Fire Ins. Co.*[5] gross negligence was defined by the judge to be "the utter disregard of those precautionary measures which men of ordinary prudence would adopt in such a case."

[1] See also *Austin* v. *Drew*, 6 Taunton. The Irish Q. B. said this case was not to be sanctioned; "that the loss was by the negligence of the assured is not fatal."—*Jamieson* v. *Royal Insurance Co.*, 1873, 5 Bennett, p. 565.

[2] 3 Kent. 374, note c, cited. See Stuart's Rep., p. 148.

[3] 5 B. & Ald.

[4] 3 Cushing, 328.

[5] 5 Bennett, 395, Supreme Court, Maine, 1871.

In France, in fire assurance, the insurer goes free if *faute lourde* of the insured cause the fire.[1] And in Lower Canada, if gross negligence be the proximate cause of the fire, the insurer is discharged.[2]

Where there is fault of the insured leading to the fire, the insurer has to pay if policy do not forbid. E. Persil. 16, "Ass. Terr." No. 33, Roll. de Vill. Grun *contra*, 160. But insured may not be grossly careless.

The insurers are not liable for loss by fraudulent conduct of the assured. No contract can make them liable in such case. Nullâ pactione effici potest ut dolus præstetur.[3] Pactis privatorum juri publico non derogatur. Broom's Leg. Maxims, 544.

INSOLVENT NOTICES, &c.

Quebec Official Gazette, May 30.

Judicial Abandonments.

Joseph C. Hémond, doing business under the name of P. Hémond & fils, manufacturer, Montreal, May 15.

Curators appointed.

Re Exias Amyot.—C. Desmarteau, Montreal, curator May 27.

Re Louis Bernier & fils, Weedon.—J. P. Royer, Sherbrooke, curator, May 18.

Re Isaie Charbonneau.—C. Desmarteau, Montreal, curator, May 22.

Re N. Dubuc, St. Isidore, Kent & Turcotte, Montreal, joint curator, May 23.

Re Joseph C. Hémond.—C. Desmarteau, Montreal, curator, May 23.

Re Edm. Julien & Co., curriers, Hedleyville.—N. Matte, Quebec, curator, May 23.

Re J. F. Parsons, Coleraine.—J. P. Royer, Sherbrooke, curator, May 21.

Re Pierre Rhéaume.—Alfred Lemieux, Levis, curator, May 19.

Re Absalon Thouin, Repentigny.—Bilodeau & Renaud, Montreal, joint curator, May 26.

Re Z. Turgeon, Montreal.—Kent & Turcotte, Montreal, joint curator, May 28.

Re James S. Wilson.—J. M. M. Duff, Montreal, curator, May 6.

Dividends.

Re Joseph Hamel.—First and final dividend, payable June 17, J. E. Poulin, Montreal, curator.

Re L. A. Lavallée.—First and final dividend, payable June 16, J. B. A. Richard, Joliette, curator.

Re Pelletier & Roy, Fraserville.—First and final dividend, payable June 15, N. Matte, Quebec, curator.

Separation as to property.

Philomène David vs. Joseph Lamarche, manufacturer, Montreal, May 23.

Georgiana Delisle vs. Charles Bedard, manufacturer, Richmond, May 29.

Marie Gagnon vs. Jean Baptiste Gagnon, manufacturer, Montreal.

APPOINTMENTS.

Wm. Henry Lovell, Barnston, to be registrar for the registration division of Sherbrooke, in place of E. R. Johnson, resigned.

E. R. Johnson, Q.C., to be sheriff for the district of St. Francis, in place of W. H. Webb, deceased.

GENERAL NOTES.

MR. MONTAGU WILLIAMS AND THE WHITECHAPEL MURDERS.—At the 398th page of "Later Leaves," by Mr. Montagu Williams, Q.C., only just issued, will be found a most interesting account of a mysterious circumstance in connection with the Whitechapel murders. It appears that Mr. Williams, foreseeing the possibility of "the assassin," if arrested, being brought before himself, as stipendiary magistrate, "made it his business to personally visit all the scenes of the crimes, and to make what medical and other inquiries he thought desirable." One day a visitor, whose name is not given, called on Mr. Williams and announced that he had set on foot a number of inquiries "that had yielded a result which in his" (the visitor's) "opinion afforded an undoubted clue to the mystery and indicated beyond any doubt the individual *or individuals* on whom this load of guilt rested." "My visitor," proceeds Mr. Williams, "handed me a written statement in which his conclusions were clearly set forth, together with the facts and calculations on which they were based; and I am bound to say that this theory—for theory it is of necessity—struck me as remarkably ingenious and worthy of the closest attention. . . . This gentleman also showed me copies of a number of letters he had received from various persons. . . . He had communicated his ideas to the proper authorities, and they had given them every attention." This being so, all who have confidence in the proper authorities will probably be satisfied that everything will be done to test the "theory" of Mr. Williams's mysterious visitor. But there is something more strange still to come. Mr. Williams, who had *carte blanche* from his visitor to make any use he pleased of the information afforded him, and who, doubtless, from good and well-considered reasons, declines to take the public further into his confidence at present, winds up as follows: "The cessation," writes he, "of the East End murders dates from the time when certain action was taken as a result of the promulgation of these ideas."—*Law Journal (London).*

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[1] See Dalloz of 1851, p. 99, 2nd part, where the Cour d'Appel of Paris, finding no *faute lourde* proved, reversed the judgment of the Tribunal of the Seine, in favor of the Chemin de Fer d'Amiens against "La Paternelle" Insurance Co.

[2] See Stuart's Rep., p. 148.

[3] *Cullen* v. *Butler*, 5 M. & S., 4 Camp. 789.