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SUPREME COURT OF CANADA.

OTTAWA, March 10, 1890.

Ontario.]

O'KEEFE v. CURRAN.

Partnership—Terms of—Breach of conditions—Expulsion of one partner—Notice—Waiver—Good-will.

Partnership articles for a firm of three persons, provided that if any partner was guilty of breaking certain conditions of the terms of partnership, the others could compel him to retire, by giving three months' notice of their intention so to do, and a partner so retiring should forfeit his claim to a share of the good-will of the business. One of the partners having broken one of such conditions, the others verbally notified him that he must leave the firm, and to avoid publicity he consented to an immediate dissolution, which was advertised as "a dissolution by mutual consent." After the dissolution, the retiring partner made an assignment of his good-will and interest in the business, and the assignee brought an action against the remaining partners for the value of the same.

Held, reversing the judgment of the court below, Fournier, J., dissenting, that the action of the defendants in advertising that the dissolution was "by mutual consent" did not preclude them from showing that it took place in consequence of the misconduct of the retiring partner; that such advertisement could not be invoked to support a claim which could have been made if the dissolution had really been by mutual arrangement; that the forfeiture of the good-will was caused by the improper conduct which led to the expulsion of the partner in fault, and not by the mode in which such expulsion was effected: and, therefore, the want of notice, required by the articles, of intention to expel, could not be relied on as taking the retirement out of that provision of the articles by which the good-will was forfeited.

Appeal allowed with costs.

Christopher Robinson, Q.C., and *Moss, Q.C.*, for the appellants.

McCarthy, Q.C., and *Worrell* for the respondents.

OTTAWA, March 10, 1890.

New Brunswick.]

O'BRIEN v. O'BRIEN.

Partnership—Action by partners—Set off—Dissolution—Notice to defendant.

An action was brought by three partners in the lumbering business for the amounts due from the defendants, for whom they had been getting out lumber during the years 1880, 1881, and 1882, as appeared by the accounts made out by defendant at the end of each year. To this action a set-off was pleaded, the greater part of which was for goods supplied after the year 1882, and the plaintiffs contended that such goods were supplied to one of them only; that the partnership had been previously dissolved, and the other plaintiffs had nothing to do with the dealings connected with the set-off. The issues involved in the action were, first, whether or not the partnership had been dissolved before the goods covered by the set-off were supplied by the defendant. Secondly, if it had been so dissolved, whether or not the defendant had notice of the dissolution.

On the trial, the plaintiffs made a *primâ facie* case by proving the accounts of the defendant at the end of each year showing the several balances claimed in the action, and after evidence was taken on the set-off the plaintiffs caused the books of defendant to be produced to show that the goods supplied after 1882 were charged to P.B., whereas during the previous years the charges were to P. B. & Bros., the name of plaintiffs' firm. To rebut this, defendant was allowed, subject to objection, to show that entries had sometimes been made during the existence of the partnership, against P. B., and the judge in charging the jury told them that they could inspect the books and see how they were

kept for both periods, and if there was any difference between the years 1880-83 and the subsequent years.

The jury found the issues in favour of the defendant who obtained a verdict on his set-off. This was affirmed by the full court, subject, however, to the defendant consenting to his verdict being reduced by deduction of an amount as to which the trial judge had certified there was not satisfactory evidence, and unless defendant consented to such reduction a new trial would be ordered. On appeal from this decision to the Supreme Court of Canada:

Held, Strong and Gwynne, JJ., dissenting, that there was no misdirection in the trial judge charging the jury as he did; that the jury having, on the evidence, found the facts in favour of defendant, and their finding having been confirmed by the full court, it should not be disturbed; and that substantial justice was done by the reduction of defendant's damages.

Held, per Gwynne, J., that there should be a new trial; that the evidence from defendant's books which was objected to, should not have been received; and that the course pursued at the trial, and by the learned judge in his charge, seemed based on the assumption that because the plaintiffs had at one time been partners in special transactions, they should be deemed to be partners subsequently in an entirely different business, which assumption was utterly without warrant.

Held also, *per* Gwynne, J., that the court had no right to compel the defendant to consent to a reduction of damages, as such a course has never been pursued except in an action for unliquidated damages where the sum awarded was considered excessive.

Appeal dismissed with costs.

G. F. Gregory for the appellants.

Gilbert, Q.C., for the respondent.

OTTAWA, March 10, 1890.

New Brunswick.]

SEARS v. CITY OF ST. JOHN.

Lessor and lessee—Covenant for renewal—Option of lessor—Second term—Possession by lessee after expiration of term—Effect of—Specific performance.

A lease for a term of years provided that when the term expired any buildings or improvements erected by the lessees should be valued, and it should be optional with the lessors, either to pay for the same or continue the lease for a further term of like duration. After the term expired the lessees remained in possession for some years, when a new indenture was executed which recited the provisions of the original lease, and after a declaration that the lessors had agreed to continue and extend the same for a further term of fourteen years from the end of the term granted thereby at the same rent and *under the like covenants, conditions* and *agreements* as were expressed and contained in the said recited indenture of lease, and that the lessees had agreed to accept the same, it proceeded to grant the further term. This last mentioned indenture contained no independent covenant for renewal. After the second term expired the lessees continued in possession and paid rent for one year, when they notified the lessors of their intention to abandon the premises. The lessors refused to accept the surrender and after demand of further rent, and tender for execution of an indenture granting a further term, they brought suit for specific performance of the agreement implied in the original lease for renewal of the second term at their option.

Held, affirming the judgment of the court below, Ritchie, C. J., and Taschereau, J., dissenting, that the lessees were not entitled to a decree for specific performance.

Held, per Gwynne, J., that the provision in the second indenture, granting a renewal under the like covenants, conditions and agreements as were contained in the original lease, did not operate to incorporate in said indenture the clause for renewal in said lease which should have been expressed in an independent covenant.

Per Gwynne, J., Patterson, J., *hesitante*, that assuming the renewal clause was incorporated in the second indenture, the lessees could not be compelled to accept a renewal at the option of the lessors, there being no mutual agreement therefor; if they could, the clause would operate to make

the lease perpetual at the will of the lessors.

Per Gwynne and Patterson, JJ., that the option of the lessors could only be exercised in case there were buildings to be valued erected during the term granted by the instrument containing such clause; and if the second indenture was subject to renewal the clause had no effect, as there were no buildings erected during the second term.

Per Gwynne, J. The renewal clause was inoperative under the statute of frauds which makes leases for three years and upwards, not in writing, to have the effect of estates at will only, and consequently there could be no second term of fourteen years granted except by a second lease executed and signed by the lessors.

Per Ritchie, C. J., and Taschereau, J., that the occupation by the lessees after the term expired must be held to have been under the lease, and to signify an intention on the part of the lessees to accept a renewal for a further term as the lease provided.

Appeal dismissed with costs.

Gilbert, Q.C., and *Sturdee* for the appellant.

I. Allen Jack for the respondent.

OTTAWA, March 10, 1890.

New Brunswick.]

VAUGHAN v. WOOD.

Dog—Injury committed by—Ownership—Scienter—Evidence for Jury.

W. brought an action for injuries to her daughter committed by a dog owned or harbored by the defendant V. The defence was that V. did not own the dog, and had no knowledge that he was vicious. On the trial it was shown that the dog was formerly owned by a man in V's employ who lived and kept the dog at V's house. When this man went away from the place he left the dog behind with V's son to be kept until sent for, and afterwards the dog lived at the house, going every day to V's place of business with him or his son who assisted in the business. The savage disposition of the dog on two occasions was sworn to, V. being present at one, and his son at the other. V. swore that he knew nothing about the dog being left by the owner with his son until he heard it at the trial. The trial Judge ordered a nonsuit which was set aside by the full court, and a new trial ordered.

Held, affirming the judgment of the court below, that there was ample evidence for the jury that V. harbored the dog with knowledge of its vicious propensities, and the nonsuit was rightly set aside.

Appeal dismissed with costs.

Weldon, Q.C., for the appellant.

Alward for the respondent.

OTTAWA, June 12, 1890.

New Brunswick.]

FERGUSON v. TROOP.

Lessor and Lessee—Eviction—Entry by lessor to repair—Intent—Suspension of rent—Construction of lease.

A lease of business premises provided that the lessor could enter upon the premises for the purpose of making certain repairs and alterations at any time within two months after the beginning of the term, but not after, except with the consent of the lessee. An action for rent under the lease was resisted on the ground that the lessor had been in possession of part of the premises after the specified time, without the necessary consent, whereby the tenant had been deprived of the beneficial use of the property and had been evicted therefrom. On the trial, the jury found that no consent had been given by the lessee for such occupation, and that the lessee had no beneficial use of the premises while it lasted.

Held, per Taschereau, Gwynne and Patterson, JJ., reversing the judgment of the court below, that the evidence did not justify the finding of no assent; that an express consent was not required, but it could be inferred from the conduct of the tenant; and there being no limitation of time for the completion of the repairs, the limitation being confined to the entry, and there being evidence that the lessee acquiesced in the occupation by the lessor after the time limited, the plea of eviction was not proved.

Held, per Ritchie, C. J., and Strong, J., approving the judgment of the court below, that the jury having negatived consent by the lessee, and having found that the inter-

ference with the enjoyment by the tenant of the premises was of a grave and permanent character, the rent was suspended in consequence thereof.

Held, per Patterson, J., that interference by a landlord with his tenant's enjoyment of demised premises, even to the extent of depriving the tenant of the use of a portion, does not necessarily work an eviction; a tenant may be deprived of the beneficial occupation of the premises for part of his term, by an act of the landlord which is wrongful as against him, but unless the act was done with the intention of producing that result it would not work an eviction.

Appeal allowed with costs.

Gilbert, Q.C., for the appellant.

Weldon, Q.C., for the respondent.

OTTAWA, June 12, 1890.

Ontario.]

HISLOP v. TOWNSHIP OF MCGILLIVRAY.

Municipality — Duty of — Road allowance — Obligation to open—Substitution in lieu thereof—Jurisdiction of court over municipality—C. S. U. C. c. 54.

H. was owner of, and resided on, a lot in the eighth concession of the Township of McG., and under the provisions of C. S. U. C. c. 54, an allowance was granted by the Township for a road in front of said lot. This road was, however, never opened, owing to the difficulties caused by the formation of the land, and a by-law was passed authorising a new road in substitution thereof. Some years after, H. brought a suit to compel the township to open the original road, or, in the alternative, to provide him with access to his lot, and also to keep said road in repair and pay damages for injuries caused by the road not having been opened.

Held, affirming the judgment of the court below, that the provisions of the Act C. S. U. C. c. 54, requiring a township to maintain and keep in repair roads, etc., and prohibiting the closing or alteration of roads, only applied to roads which had been formally opened and used, and not to those which a township in its discretion has considered it inadvisable to open.

Held also, that the courts of Ontario have no jurisdiction to compel a municipality, at the suit of a private individual, to open an original road allowance and make it fit for public travel.

Appeal dismissed with costs.

R. M. Meredith for the appellant.

W. R. Meredith, Q.C., for the respondent.

OTTAWA, June 12, 1890.

Ontario.]

GRANT v. BRITISH CANADIAN LUMBER CO.

Action for discovery—Possession of company's books—Evidence.

G. was for some time manager of the B. C. L. Co., and his services were dispensed with by written notice which directed him to hand over the books, etc. to a person named. He demanded an audit of the books which was begun and partially finished, and while the books were, presumably, in an office formerly occupied by G. as such manager, he ejected from said office a liquidator of the company, which had become insolvent. In an action against G. to compel him to hand over the books, or make discovery as to where they were, he alleged that they were not in his possession, or under his control. The trial judge held that they had been in his possession when the liquidator was ejected from the office, and that the defence was not made out. He made an order for discovery, and his judgment was affirmed by the Divisional Court and the Court of Appeal. On appeal to the Supreme Court of Canada:

Held, affirming the judgments of the courts below, that the judgment of the trial judge, who saw and heard the witnesses, affirmed as it was by two courts, should not be interfered with, only matters of fact being in issue.

Appeal dismissed with costs.

Hoyles, Q.C., and *Wyld* for the appellant.

W. Cassels, Q.C., and *Gordon* for the respondents.

OTTAWA, June 12, 1890.

Ontario.]

TITUS v. COLVILLE.

Solicitor — Action by — Professional services—Election petition—Evidence—Questions of fact.

T. a solicitor, brought an action for professional services rendered in the conduct of a petition against the return of a member of the legislative assembly of Ontario. The defendants in the action were respectively the President, Secretary and Treasurer of the Liberal Conservative Association of the county returning the member whose election was protested. In his statement of claim, T. alleged that at a meeting of the association when it was determined to protest the return, a resolution was passed appointing him solicitor to carry on the proceedings, and that defendants retained and employed him as such solicitor. The defence to the action was that defendants never retained T. as alleged, but that he had volunteered to act as such in the said proceedings without any remuneration. The action was tried without a jury, and the trial judge found that there was no evidence of any resolution appointing T. solicitor, or of any retainer of T. by defendants as solicitor in said proceedings, and he gave judgment for the defendants. The Divisional Court reversed this judgment holding, that the retainer was proved, but the Court of Appeal, in turn, reversed the judgment of the Divisional Court and restored that of the trial judge. On appeal to the Supreme Court of Canada:

Held, affirming the judgment of the Court of Appeal, that the only matters in issue being matters of fact which were found in favour of defendants by the trial judge who saw and heard the witnesses, and was the most competent person to decide these questions, and his judgment having been affirmed by the court of appeal, it should not be disturbed by this Court.

Appeal dismissed with costs.

F. F. Titus for the appellant.

Northrup for the respondent.

FIRE INSURANCE.

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

CHAPTER VI.

THE CONDITIONS OF THE POLICY.

[Continued from p. 296.]

A fire being in a house insured, and a gunpowder explosion destroying it, the house must be paid for by its insurer. But the concussion damaging another house, insured at another company, this company is not to pay, nor the first company either.[1]

Cotton in a warehouse was insured, the policy containing an exception against fire by means of invasion, &c., explosion, &c. An explosion took place in another house, and there resulted an extensive conflagration, and the warehouse and cotton were wholly consumed. The fire was not communicated to them directly from the house in which was the explosion, but from another house fired by the fire from the house in which the explosion was. The whole fire was a continuous affair. The insurers were held not liable upon appeal by them.[2]

The explosion lighted the fire which in a single conflagration destroyed the property insured, yet the fire was the proximate cause of the loss claimed, but the fire was caused by explosion.

§ 176. *Conditions against keeping of gunpowder.*

"No greater quantity of gunpowder to be "allowed in any house or building assured "by this company, or the premises connected "therewith, than twenty-five pounds; and "the keeping any greater quantity than "twenty-five pounds shall make this policy "void."

Sometimes it is stipulated that "the keep-"ing of gunpowder, for sale, or on storage, "upon or in the premises insured, without "written permission on the policy, shall "render it void."

Semble, under the above conditions the mere keeping avoids.[3] A insures his house

[1] 15 Annual Rep. La., A. D. 1860, *Caballero* v. *Home Mutual Ins. Co.* The proximate cause of the loss only is to be considered. Yet in *Waters* v. *Merchants Louisville Ins. Co.*, 11 Peters, the insurance company was held liable for an explosion.

[2] December, 1868, Supreme Court of United States, 7 Wallace's R.

[3] The condition against keeping gunpowder is violated by keeping half a pound. Goods, groceries, provisions, were insured. The policy to be void if the assured should keep gunpowder without written permission on the policy. In the body of the policy permission was given to keep 25 pounds of gunpowder for retail trade, to be kept in close tin cans and sold by daylight only. On the day preceding the fire the assured's clerk sold half a pound from a wooden keg

subject to the first of the above conditions; afterwards he keeps fifty pounds of gunpowder in it, for a month, up to the time of a general conflagration, when he is seen removing it out of the house. The house is burnt in the general conflagration. The insurers go free. Let the clause read, "so long as, &c.," else the policy is void.

If not over 25 pounds weight of gunpowder be allowed on the premises, say a store insured, or where any goods are insured, the insurance will be void if over 25 pounds be brought into or taken into the store, though it be removed before fire happens to the store.[1]

Three adjoining houses were insured by one policy, for a sum on each. By condition in the policy the keeping of gunpowder was to avoid the policy. The houses were let to different tenants. The three houses were injured by an explosion of gunpowder in one of them. Neither the insurers nor the insured knew, previously, of any gunpowder being kept in any of the houses. The insured sued, but the insurers were, rightly enough, held free.[2]

In April, 1856, Gibb & Ross insured their steamer Tinto for £1,000. The policy of insurance provided that if more than 20 pounds of gunpowder should be on the premises, at the time when any loss should happen, such loss should not be made good. In July, 1856, the boat was destroyed by fire on Lake Ontario. At the time of the fire there were 100 pounds of powder on board the boat, as freight. At the trial, at Quebec, Gibb & Ross offered to prove that it was customary to carry on freight gunpowder in vessels like the Tinto, but the evidence was refused.

Upon a question "At time of the fire was there any quantity of gunpowder on board said steamer, and if so, what weight and quantity?" the jury found "Yes! we find that a package containing a hundred pounds of powder was on board as freight, and which the owners of the steamer were not precluded by the policy from carrying."

The insurance company moved to reject the last part of the finding, and for hearing on the merits, and their motion was granted on the 1st June, 1859, in the Superior Court, Quebec, and on the merits the Court, finding a quantity of powder contrary to the policy to have been on the boat at the time of the fire, dismissed the plaintiffs' action.

Upon appeal, the Queen's Bench, by a majority of the judges, reversed that judgment; but its judgment was afterwards reversed by judgment of the Privy Council, December, 1862, and the judgment of 1st June, 1859, confirmed.[1]

McEwan *et al.*, sued on two policies, "on stock in trade of general merchandize, including hazardous, contained in building described." On the policies was endorsed this eighth condition: "Every policy shall be void if there shall at any time be more than 56 pounds weight of gunpowder on the premises, unless specially provided for in the policy." The tenth condition freed the insurers from loss by fire happening from invasion, &c., or "by explosion of gunpowder kept by the insured upon his insured premises," &c. Fifteenth, that the following goods shall be deemed hazardous: "Pitch, gunpowder," &c.

The property insured was destroyed by fire. The insurers refused to pay, on the ground that the insured had more than 56 pounds of gunpowder on their premises at the time of the fire. A replication was filed that the plaintiffs were dealers in gunpowder, that the defendants had notice of that fact, that the stock of a dealer in gunpowder usually consisted of over 56 lbs., and that the gunpowder on the premises was part of plaintiff's general merchandize, etc.

The defendant demurred to the replication. The demurrer was maintained, the Court (in Australia) saying: By the 8th condition, the insurers reserve to determine what quantity of gunpowder, if any, although insured as hazardous, they will permit to be stored in excess of the limited amount. The plaintiff appealed to the Privy Council, "because

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where it had been kept. More had been kept in the keg. Held, that the policy was avoided. *Shipman* v. *Oswego and O. Ins. Co.*, January, 1880, New York Court of Appeals. Alb. Law Journal of 1880, p. 154, (1st vol.)

[1] 7 Kerr's N. Br. Rep.

[2] *Williamson* v. *The Trustees of the Fire Ass. of Philadelphia*, A. D. 1856. Monthly Law Reporter.

[1] *The Beacon L. & F. A. Co.*, appellants, and *Gibb et al.*, respondents.

the 8th condition did not apply to cases in which hazardous goods were specified, in the policy, as the subjects of insurance. 2nd. Because the 8th condition did not apply to policies effected, not on buildings, but on stock in trade.

The respondent contended that the judgment appealed from was correct, because the undertaking of defendants was conditional, the condition being that there should not be upon the premises at any time, or at all events at the time of the happening of a fire, more than 56 lbs of gunpowder.

The appeal was dismissed.[1]

§ 177. *Hazardous goods.*

The printed part of a policy makes the policy null if any hazardous goods are kept; yet an insurance itself being on a stock of a country store by a policy insuring goods such as usually kept in country stores, the policy was held good on fire happening, though some hazardous goods were kept, but not beyond what is usual in country stores; the written matter was held to control printed.[2]

But some clauses read to prohibit if not specially provided for. In such a case, in Massachusetts, they hold that generality of mention of a country store stock cannot be held special providing against the written clause against gunpowder.[3]

§ 178. *Loss by Camphene Oil, Spirit Gas, &c.*

"This Company will not be answerable "for any loss or damage to buildings or the "contents of building in which is used or "stored Camphene Oil, Spirit Gas, or any "other article for light, of which Spirits of "Turpentine or Alcohol form a component "part, unless the same is specially agreed "upon, and set forth in the Policy."

Under such condition, must the camphene etc. be used or stored at the time of the fire? Perhaps. If so, if use have ceased before the fire, insured will recover.

Some policies have a clause so plain that the use of camphene may avoid the policy, though the use of it have ceased long before the fire.

Under some policies, camphene oil is not to be used without special permission of the insurers, and the policy is avoided if use be without such permission. Under such a policy and condition, A may insure his house; afterwards use, without permission, camphene oil, for a week or so; discontinue its use; afterwards his house may burn, and the insurers will go free.[1]

In *Stettiner*, respondent v. *Granite I. Co.* appellants,[2] insurance was upon goods in a building; lighting the premises insured by camphene, "or spirit gas," without written permission on the policy was to "render it void." The premises were afterwards lighted with *burning fluid*. One witness said that spirit gas and burning fluid were the same; but the Jury found the burning fluid not to be the spirit gas mentioned in the policy. It was held by the Superior Court N.Y., that it was wrong in the judge, at the trial, to hold that the condition in the policy only related to insurance upon *buildings*, and not to insurance upon goods. Judgment would have been reversed upon this ground, but for the jury's finding that the burning fluid was not spirit gas.

In *Lancaster F. In. Co.*, appellant v. *Lenheim*, (Pennsyl., 1879, 33 Am. R.) a stock of general merchandise was insured, "of all kinds usually kept in a country retail store" "except as hereinafter provided." Then followed that the Co. was to be "exempt from liability "for loss where turpentine or benzine were "deposited, stored, kept or used without "written consent on the policy." The exempting clause was printed; the insurance clause written. The insured kept both turpentine and benzine for sale without such consent. The policy was held void, though those articles might be part of merchandise usually kept in country stores.

[1] *McEwan et al* v. *Guthridge* (2 Feby. 1860), 13 Moore's P. C. Rep.

[2] *Pinder* v. *King's Co. F. In. Co.*, 36 N. Y. Rep.

[3] See 18 Alb. L. J. p. 224, as to keeping of hazardous articles, camphene, kerosene, fireworks. Matches even are sometimes prohibited in stores.

[1] Hunt's Merch. Mag. vol. 28., (A.D. 1852) *N. W. A. Co.*, Appellant, and *Mead*, Respondent. *Semble*, such use avoids the policy, though it have been discontinued before the fire.

[2] 5 Duer's R.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Sept. 13.

Judicial Abandonments.

Napoléon Rousseau, baker, Quebec, Sept. 10.

Curators appointed.

Re Henrietta Mousseau, milliner, Montreal.—Bilodeau & Renaud, Montreal, joint curator, Sept. 10.

Re J. H. Dubois Drummondville.—Kent & Turcotte, Montreal, joint curator, Sept. 6.

Re Charles Lemire, l'Assomption.—Bilodeau & Renaud, Montreal, joint curator, Sept. 10.

Re S. Jacques Ornstein, doing business under name of S. Jacques, Montreal.—J. McD. Hains, Montreal, curator, Sept. 6.

Re Louis Robert.—Bilodeau & Renaud, Montreal, joint curator, Sept. 9.

Dividends.

Re Anselme Asselin, St. Joseph d'Alma.—Second and final dividend, payable Sept. 22, D. Arcand, Quebec, curator.

Re E. Beaulieu et al.—First and final dividend, payable Oct. 1, Millier & Griffith, Sherbrooke, joint curator.

Re Bernard Sauvage, St. John's.—Dividend, payable Sept. 25, A. L. Kent, Montreal, curator.

Re Stanislas Gendron.—First and final dividend, payable Oct. 1, Millier & Griffith, Sherbrooke, joint curator.

Re F. A. Lallemand. Dividend, payable Sept. 30, A. W. Stevenson, Montreal, curator.

Re F. X. Lepage, dry goods, Quebec.—Second and final dividend, payable Sept. 29, H. A. Bedard, Quebec, curator.

Re W. E. Potter, Montreal.—Dividend, payable Sept. 25, Kent & Turcotte, Montreal, joint curator.

Re Leandre Proulx.—First and final dividend, payable Oct. 1, Millier & Griffith, Sherbrooke, joint curator.

Re Anthime Robert et al.—First and final dividend, payable Oct. 2, F. Fafard, Upton, curator.

Re "The Hibbard Elec. Mfg. and Supply Co.," Montreal.—First dividend, payable, Sept. 30, A. W. Stevenson, Montreal, liquidator.

Separation as to Property.

Domitilde Matte vs. Eusèbe Leclair, laborer, Montreal, Sept. 8.

GENERAL NOTES.

HEADS NOT TO BE MIXED.—Mr. Charles Kemble on entering Brussels found that there was preparation making for an execution that occupied a good deal of attention. Three men were to be executed; but one man was remarkable for having committed almost twenty assassinations—having broken prison, etc., and for being a person of remarkable talent. Mr. Kemble determined to witness the spectacle. Now it is to be remembered that at Brussels they do not (or did not) execute any criminals after a certain hour in the day; and in order not to run too near this hour, the culprits are taken to the block some considerable time beforehand. The two undistinguished rogues were melancholy enough; but the notorious one was anything but chap-fallen. He was well dressed, had a good carriage, hummed a popular air, and in all other things exhibited the extreme of self-possession. On his way to the guillotine (or when he arrived there) he said, 'Now, don't mix my head with those fellows'; keep it apart. I would not for the world have it supposed that I had such a rascally look as either of these vagabonds.'

IN THE STOCKS.—Lord Camden, when a barrister, had himself fastened in the stocks on top of a hill, in order to gratify his curiosity on the subject. Being left there by the absent minded friend who had locked him in, he found it impossible to procure his liberation for the greater part of the day. On his entreating a chance passer to release him, the man shook his head and passed on, remarking that of course he was not there for nothing.

WEBSTER.—When Daniel Webster, in attacking the legal proposition of an opponent at the bar, was reminded that he was assailing a dictum of Lord Camden, he turned to the Court, and after paying a tribute to Camden's greatness as a jurist, simply added, 'But may it please your Honor, I differ from Lord Camden.'

PROFESSIONAL FOOTBALL-PLAYERS. — Mr. Everitt, Q.C., had a hard task on Saturday last to try and persuade the Court of Appeal, consisting of Lord Esher and Lord Justice Lindley, to say that Mr. Justice North's refusal to grant an injunction in *Radford* v. *Campbell*, the football case, was wrong. The plaintiffs, two officers of a football club, claimed an injunction against Campbell, a professional football-player, to restrain him from playing for any other club than their own, in breach of his agreement to play for them, and also to restrain a rival club from employing him. The Court sat beyond the usual hour for rising, and listened with good humoured impatience to the arguments on behalf of the appellants. Lord Esher asked Mr. Everitt what use an injunction would be to his clients if they got it. They would only secure a sulky player who would, his lordship thought, very probably kick their football the wrong way. 'But,' said Mr. Everitt, 'it is a very important question of principle.' 'Principle,' said Lord Esher; 'do you mean to tell me that professional football-players have any principle? I think the game would be much better without them.' The Court agreed with Mr. Justice North that it would be a great advance upon the older decisions to grant an injunction in such a case, and dismissed the appeal. — *Law Journal* (London).

NOT SO EASY.—A heavy appeal case was being argued in the Second Division of the Court of Session by a juvenile but very self-possessed advocate. 'The case,' said this youthful Hortensius, 'turns to a large extent upon the voluminous correspondence which I am about to read to your lordships.' Lord Young, who masters documentary evidence as rapidly as Mr. Justice Kay, interrupted him: 'If you refer to me to the pages of the record, I can soon pick up the relevant parts of the letters for myself.' 'Oh no, my lord,' retorted the young lawyer, 'it is not nearly so easy as all that!' Everybody enjoyed the joke, but no one laughed at it more heartily than Lord Young.