The Legal News.

Vol. X. DECEMBER 3, 1887. No. 49.

Notice is given in the *Official Gazette*, that the new Court House at Quebec, to replace the building which was destroyed by fire on the 1st February, 1873, will be ready for occupation on Dec. 21, and from that date will be used for the purposes of the administration of justice and registration of deeds for the registration division of Quebec.

The following additional appointments to the Bench of Ontario have been gazetted:—William P. R. Street, Esq., Q.C., of London, is appointed a Justice of the High Court of Justice for Ontario, and a member of the Queen's Bench Division, *vice* Mr. Justice O'Connor, deceased. Hugh MacMahon, Esq., Q.C., of Toronto, is appointed a Justice of the High Court and a member of the Common Pleas Division, *vice* Mr. Justice Galt, appointed President of that Division.

Lord Coleridge, according to the *Law Times*, has been indulging in sarcasm at the expense of the Justices in Appeal. His lordship "has formed a very definite opinion as to the source of all the evils arising out of the last Bills of Sale Act. That source is not any infirmity in the Act; the 'mental intention' of Parliament was well known, and the result has been a simple, plain, and unambiguous enactment. Unluckily, decisions upon it came up for review before the court of appeal. Then confusion began: 'powerful and ingenious minds' were brought to bear upon simple words of the English language. Consequence: fog impenetrable. Moral: If it is desired to keep the law clear and certain, abolish the Court of Appeal."

In a recent contempt case, *In re Johnson*, Nov. 7, the English Court of Appeal decided that it was not necessary that the contempt complained of should take place in Court, or be a contempt of a Judge who was sitting in Court. All that was necessary was that it should be a contemptuous interference with judicial proceedings, the judge acting in his judicial capacity as a judge of the High Court. This case (of which we shall publish a fuller note in a future issue), supports the ruling of Mr. Justice Mackay in a case which occurred here some years ago, *In re Lanctot*. The defendant sent a letter to the judge through the post office, declaring that a judgment which had been rendered by the learned judge was absurd and oppressive. Mr. Justice Mackay proceeded against him for contempt. The judge asked him from the bench, "Did you send me this letter?" Mr. Lanctot said, "Yes." The proceedings for contempt were stayed upon Mr. Lanctot making an apology.

SUPERIOR COURT.

Aylmer (District of Ottawa), Nov. 16, 1887.

[In Chambers.]

Before Wurtele, J.

Gilmour et al. v. Monette.

Costs—Capias—Cases between $100 *and* $200—*Fees of advocates and bailiffs—Articulations of facts.*

Held:—1. *That in cases in the Superior Court between* $100 *and* $200, *instituted by writ of capias ad respondendum, the advocates' and bailiffs' fees on the action are to be taxed as in a case in the Circuit Court over* $100, *and the prothonotary's and and sheriff's fees as in a case in the Superior Court under* $400.

2. *That in such cases the costs on a petition to quash the writ of capias are to be taxed according to the tariffs for the Superior Court.*

3. *That in such incidental proceedings, when the contestation is founded upon the falsity of the allegations of the affidavit, the advocates are entitled to fees on articulations of facts.*

Per Judicem. The action in this cause was founded on a claim for $186, and was instituted in the Superior Court by writ of *capias ad respondendum*. The defendant presented a petition to quash the capias, and contested the truth of the allegations of the affidavit; issue was regularly joined upon the petition and articulations of facts were

filed. The petition was dismissed, and judgment was rendered condemning the defendant for a sum exceeding $100 and maintaining the capias.

In taxing the plaintiff's bill of costs the prothonotary taxed the advocate's fees on the action, as in a case in the Circuit Court, for the amount of the judgment, and allowed the same advocate's fees on the incidental proceeding as are allowed in the Circuit Court on the contestation of a writ of attachment before judgment, but disallowing the fees for articulations of facts. I am now asked to revise this taxation.

Article 16 of the tariff of advocates' fees in the Superior Court provides that in actions under $200 instituted by writ of *capias ad respondendum* the costs are the same as in actions over $100 in the Circuit Court. Then we have the general rule adopted in December, 1870, that in all suits in the Superior Court between $100 and $200 the fees to be allowed to advocates and bailiffs shall be those allowed in actions of the same class in the Circuit Court. These provisions, however, only apply to fees allowed to advocates and bailiffs. No special provision for these cases is made in the tariffs regulating the fees payable to prothonotaries and sheriffs; and in all suits in the Superior Court, whether the amount be over or under $200, the tariffs made for that court must be applied. These officers are, therefore, entitled to the fees allowed in actions of $400 and under, which is the lowest class mentioned. The prothonotary has taxed the costs on the action in this cause according to these principles, and I maintain his taxation.

The contestation of the capias, whatever may be the amount of the action, is an incidental proceeding that concerns the liberty of the subject and that essentially appertains to the Superior Court, which alone has jurisdiction in matters of capias. No provision for such an incidental proceeding is made in the tariffs for the Circuit Court; but full provision is to be found in the tariffs for the Superior Court. The fees allowed by the tariffs for the Superior Court on a petition to quash a capias must consequently be allowed even when the suit is for a sum under $200. I therefore overrule the prothonotary's taxation, and allow the fees fixed by the tariffs of the Superior Court on the petition to quash.

Article 821 of the Code of Civil Procedure says that if the contestation of a capias is founded upon the falsity of the allegations of the affidavit, issue must be joined upon the petition *in the ordinary course* and independently of the contestation upon the principal demand. All the incidents of the procedure in a principal demand consequently apply *in the ordinary course* to such an incidental proceeding, including articulations of facts. I am of opinion, therefore, that the advocates in this cause are entitled to their fees on the articulations of facts filed in the issue on the petition to quash; and I allow them.

My ruling will be recorded as follows:—

"Having heard the parties upon the application of the plaintiffs for the revision of the taxation of their bill of costs as well on the action as on the petition to quash the capias in this cause;

"I, the undersigned judge of the Superior Court, rule and order that the costs on the action, which was for a sum under $200, and was instituted by writ of *capias ad respondendum*, be taxed as regards the advocate's and the bailiff's fees as in an action over $100 in the Circuit Court, and as regards the prothonotary's and the sheriff's fees as in an action under $400 in the Superior Court, and that the costs on the incidental proceeding or petition to quash the capias be taxed according to the tariffs for the Superior Court; and I further rule that the advocates are entitled to fees for articulations of facts and answers thereto on such incidental proceeding, and I order that such fees, as well as the prothonotary's fees on the production of such articulations and answer, be allowed to the plaintiffs;

"And proceeding to revise the taxation of the prothonotary, I tax the plaintiffs bill of costs as follows:—&c., &c."

Taxation revised.

H. A. X. Talbot, for plaintiffs.

Rochon & Champagne, for defendant.

CIRCUIT COURT.

AYLMER (District of Ottawa), Sept. 16, 1887.
Before WURTELE, J.

LAPIERRE v. BRIÈRE.

Sale of Intoxicating Liquors to be drunk on the spot—Traveller—C.C. 1481.

HELD:—*That when a traveller, lodging in a hotel, has spent the evening drinking in the bar-room with a number of the inhabitants of the locality, and has ordered intoxicating liquors, in his turn as his treats, the exception contained in article* 1481 *of the Civil Code does not apply to such traveller, and that the tavern-keeper has no action against him for the price of such liquors.*

PER CURIAM.—The plaintiff, a tavern-keeper of the village of Buckingham, has sued the defendant, a farmer of the township of McGill, on an account including a number of items, for five glasses of liquor each, on the 17th January and 31st March of last year.

The defendant has pleaded that the plaintiff has no action for the recovery of the price of this liquor, which was drunk on the premises; and the plaintiff has answered that it was sold to the defendant and drunk by him and his friends, while they were travellers, lodging in his hotel.

The plaintiff quoted article 1481 of the Civil Code, which, while depriving hotel-keepers of the right of action for the recovery of the price of intoxicating liquors sold to be drunk on the spot, makes an exception with respect to liquors sold to and used by travellers.

The proof showed, however, that on the two occasions in question the defendant had spent the evening talking and drinking with a number of the inhabitants of the village, each paying his treats in turn.

The general rule laid down in the customs of Paris and Orleans was that tavern-keepers had no action for liquors sold to be consumed in their houses; but jurisprudence restricted the denial of action to the case of liquors sold to the inhabitants of the locality, and allowed the action in the case of travellers. The article of our code is founded upon the articles above mentioned of these two customs, but the modification introduced by jurisprudence has been incorporated in the text.

The end had in view by the customs was the repression of carousing and of debauchery, while jurisprudence protected the tavern-keeper who merely provided travellers with liquors for their reasonable wants.

I must apply these reasons in interpreting the article of our code. When the tavern-keeper gives liquors to a traveller for his ordinary use and reasonable wants, the exception gives him an action, and, consequently, a lien on the traveller's baggage for the price of such refreshments; but when the tavern-keeper aids and abets the traveller in indulging in base appetites and in committing excesses, he cannot claim the benefit of the exception. When, as in the present case, the traveller joins a number of the inhabitants of the place in a carousal and contributes for his share of the expense, he ceases to have an exceptional character, and no distinction can be made between him and his companions as to the tavern-keeper's rights for the liquors supplied to them.

I am of opinion that, under the circumstances, the plaintiff has no action for the price of these treats, and I strike the items from the account.

Judgment for the balance.

F. A. Baudry, for plaintiff.
Thos. P. Foran, for defendant.

CIRCUIT COURT.

HULL (County of Ottawa), Oct. 17, 1887.
Before WURTELE, J.

FOX v. BEATON, AND WOODBURN, intervener.

Circuit Court—Jurisdiction of—Action for seaman's wages.

HELD:—*That the Circuit Court has no jurisdiction, except in certain exceptional cases, for the recovery of wages due to seamen employed on steamboats of more than twenty tons, or on other vessels of more than fifty tons, registered in Canada and navigating its inland waters.*

PER CURIAM.—The plaintiff alleges that at the city of Ottawa, on the 25th June last, he was engaged as engineer on board of the

"Swan," a steamboat of 25 tons, registered in Canada and employed in navigating the River Ottawa, by the defendant, acting as master of the vessel, and that on the 30th August last the defendant abandoned his vessel. The plaintiff has brought suit for the recovery of a balance of $34 due to him on his wages, and has seized the vessel on a writ of attachment before judgment.

The defendant is stated to reside in Ottawa, but the writ was served on board the vessel, speaking to one of the seamen; and the defendant has made default to appear.

Woodburn, the registered owner of the steamboat, who also resides in Ottawa, has intervened; and he pleads the nullity of the seizure, alleging in the first place that there are fatal irregularities in the proceedings, and then that the plaintiff could not enforce his claim for wages due to him by the defendant against the vessel, which was the registered property of the intervener and had only been leased to the defendant for the season.

The certificate of registry and the lease have been filed; and the plaintiff's engagement by the defendant and the latter's abandonment of the vessel have been proved.

Under the law regulating merchant shipping, both the owner and the master are liable for the plaintiff's wages, and he has also a maritime lien for their recovery on the vessel.

But is the mode adopted in this case the proper one, and has this court jurisdiction in the matter?

In the assignment of subjects made by the British North America Act, navigation and shipping fall under the exclusive legislative power of the Parliament of the Dominion; and all matters respecting seamen employed on steamboats of more than twenty tons, and on other vessels of more than fifty tons, registered in Canada and used in navigating the inland waters of Canada above the harbor of Quebec, have been regulated by chapter 75 of the Revised Statutes of Canada, known as "The Inland Waters Seamen's Act." Section 30 prescribes the mode of recovering from any master or owner the wages due to any seaman or apprentice to an amount not exceeding $200; and section 33 provides how in default of sufficient distress such wages may be levied on the vessel on board which they were earned.

Summary jurisdiction for the recovery of such wages is conferred on any judge of the Superior Court, any judge of the Sessions of the Peace, any stipendiary magistrate, and also on any two justices of the peace, acting at or near the place where the service of the complainant has terminated, or where he has been discharged, or where the master or owner is or resides; and power is given to such judge, magistrate or justices to cause the amount of the wages awarded to be levied by the distress and sale of the goods and chattels of the person condemned, and in default of sufficient distress by the sale of the vessel.

And it is in fact specially enacted that no suit for the recovery of wages under the sum of $200 shall be instituted or had in any Superior Court, unless the vessel is under arrest or has been sold by process of such court, or unless the case has been referred by the summary court to such court for adjudication, or unless neither the master nor the owner is or resides within twenty miles of the place where the seaman or apprentice has been discharged or put ashore.

In the present case the exceptions above mentioned do not apply, and the Circuit Court clearly has no jurisdiction in the matter; the parties must therefore be dismissed out of court. But as the intervener has not pleaded the incompetency of the court, I will not allow any costs.

The judgment will be recorded as follows:—

"Le tribunal se déclare incompétent, et renvoie les parties sans frais."

Rochon & Champagne, for plaintiff.
Arthur McConnell, for intervener.

COUR D'APPEL DE PARIS.

25 janvier 1887.

Présidence de M. MULLE.

LAGARDE v. LAPAYRE.

Propriété artistique—Contrefaçon—1o. Failli—Action en justice—2o. Statue religieuse—Copie.

1o. *La faillite de l'auteur d'une œuvre d'art ne*

saurait le priver du droit, de poursuivre une usurpation, qui l'atteint dans son honneur artistique. Il est donc recevable à poursuivre personnellement, nonobstant sa faillite, le contrefacteur de son œuvre.

2o. *Si la plupart des statues religieuses, faites en fabrique, présentent de grandes ressemblances entre elles, par suite du programme très précis, sur lequel elles sont composées, il ne s'ensuit pas qu'elles doivent forcément affecter le même aspect, et être la reproduction servile d'un modèle unique, et qu'elles ne puissent jamais constituer une œuvre personnelle.*

Spécialement une statue de la Vierge de Lourdes, qui diffère du type commun par une plus grande étude de détails, par des arrangements de plis heureux, et par une certaine délicatesse d'exécution, constitue entre les mains de son auteur une propriété artistique, dont il est en droit de poursuivre la contrefaçon.

Le 10 juillet 1886, jugement du Tribunal correctionel de la Seine ainsi conçu :

" Attendu que le 28 juin 1884, sur la réquisition de Lapayre, Guérin, commissaire de police à Paris, s'est transporté dans les magasins de Lagarde, rue de la Chaise, 26, et dans ses ateliers, rue Oudinot, 10, et y a saisi trente et une statuettes qui d'après Lapayre étaient la contrefaçon d'une statuette de la Vierge de Lourdes dont il se disait le propriétaire ;

" Attendu que Lapayre ayant cité Lagarde en police correctionnelle sous l'inculpation de contrefaçon, Lagarde a pris des conclusions tendant à faire déclarer l'action du demandeur non recevable en son état de faillite ;

" Attendu que la faillite de l'auteur d'une œuvre d'art ne saurait le priver du droit de poursuivre une usurpation qui l'atteint dans son honneur artistique ;

" Attendu d'ailleurs que Lapayre a fait citer Lagarde en police correctionnelle le 25 septembre 1884, antérieurement au jugement du 11 novembre 1884, qui l'a déclaré en faillite et a obtenu son concordat le 10 avril 1885, antérieurement à la citation du 28 mai 1886 par laquelle il a repris ses conclusions contre Lagarde ; qu'en l'état, son action est recevable ;

" Au fond :

" Attendu que le Tribunal avant faire droit a ordonné une expertise à laquelle il a été procédé par Barrias, statuaire ;

" Attendu que d'un commun accord des parties les seules statuettes qui ont été soumises à l'expert sont les statuettes formant les scellés 1, 2, 4, 5, 9, 16, 18, 23, 26 et 29 ;

" Attendu qu'il résulte de l'expertise que, si les statuettes portant les numéros 4, 5, 23, 22 et 29 ne semblent pas particulièrement inspirées par la statuette de Lapayre, il est établi, au contraire, que celles qui portent les numéros 1, 2, 9, 16, sont malgré certaines inversions non-seulement inspirées par celle de Lapayre, mais encore copiées sur elle ;

" Attendu, il est vrai, que Lagarde oppose à Lapayre, qu'il ne justifie d'aucun titre de propriété sur la statuette dont il poursuit la contrefaçon : qu'en tout cas la statue de la Vierge de Lourdes appartient au domaine public et que celle dont Lapayre serait propriétaire ne se distingue du type commun par aucun caractère particulier propre à l'auteur de la statue ;

" Mais attendu que Lapayre justifie qu'il était propriétaire de sa statuette dès 1878 par un certificat de dépôt effectué au ministère de l'intérieur d'une photographie de la dite statuette le 3 avril 1878, et que Lagarde n'offre même pas de prouver que les statuettes contrefaites sont la reproduction d'un type lui appartenant et créé avant cette époque ;

" Attendu, d'autre part, que si la plupart des statues religieuses faites en fabrique présentent de grandes ressemblances par suite du programme très précis sur lequel elles sont composées, il ne s'en suit pas qu'elles doivent forcément affecter le même aspect et être la reproduction servile d'un modèle unique et qu'elles ne puissent jamais constituer une œuvre personnelle ; que spécialement, en ce qui concerne la statuette de Lapayre, elle diffère du type commun de la Vierge de Lourdes par une plus grande étude de détails, par des arrangements de plis plus heureux et par une certaine délicatesse d'exécution ; qu'elle constitue dès lors entre ses mains une propriété artistique dont il est en droit de poursuivre la contrefaçon ;

" Attendu qu'il résulte de ce qui précède que Lagarde a commis le délit de contrefaçon prévu et puni par l'article premier de

la loi du 19 juillet 1793, et les art. 425, 427 et 429 C. pén.;

" Condamne Lagarde à 200 francs d'amende ;

" Prononce la confiscation des statuettes et moules saisis, et attendu que le fait dont il s'agit a causé à Lapayre un préjudice dont il lui est dû réparation ;

" Ordonne que les statuettes et moules saisis lui seront remis et attendu que le Tribunal n'a pas, quant à présent, les éléments pour fixer le supplément des dommages-intérêts, ordonne qu'il sera fixé par état."

Lagarde a interjeté appel de ce jugement. Arrêt :

La Cour,

Adoptant les motifs des premiers juges :

Confirme.

Note.—Sur le premier point : V. en ce sens : Pouillet, Propriété litt. et artist. No. 635 ; et Brev. d'invention, Nos. 756 et suiv. ; Ruben de Couder, Dict. de dr. comm. et marit., vo. Faillite, No. 239. *Contrà* : Renouard, Droit d'auteurs, t. II, p. 216.

Sur le deuxième point : V. conf. : Paris 13 février 1884 (Gaz. Pal. 84, I. sup. 44), et sur pourvoi : Cass. 27 décembre 1884 (Gal. Pal. 85, I. 176); Paris, 23 novembre 1885 (Gaz. Pal. 2, 766).—*Gaz. Pal.*

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*SUPERIOR COURT—MONTREAL.**

Contract in fraud of creditors—C. C. 1032-1035 *—Knowledge of insolvency.*

One of the defendants sold real estate to the other defendant, who was his nephew, as well as book-keeper of a firm in which the uncle was a partner; and the sale took place at a time when, in the opinion of the court, the insolvency of the uncle was generally known.

Held, That the nephew must be presumed to have had knowledge of the uncle's insolvency, and the sale, under C. C. 1035, was annulled.—*La Banque Nationale* v. *Chapman et al.*, In Review, Taschereau, Loranger, Ouimet, JJ., May 31, 1887.

Procedure—Writ of summons—Service.

A writ of summons was issued in the district of Saint Francis, and directed to any bailiff of that district. The writ was served personally upon the defendants in the district of Beauce by a sheriff appointed for the district of Beauce.

Held, 1. That a Superior Court writ cannot be validly served by any other than one of the bailiffs to whom it is directed; and that the writ in question having been directed to any of the bailiffs district of Saint Francis, the service of such writ by a bailiff of the district of Beauce, was null and void.

2. That the plaintiffs having obtained judgment by default, under article 89, C.C.P., defendants had properly proceeded against said judgment, and all other proceedings subsequent to the issue of the writ, by an opposition styled an opposition *à fin d'annuler*, and that defendants were entitled, by means of such opposition, to have the said judgment and other proceedings set aside on account of the nullity of the service.

3. That in such case, neither the opposition, nor the affidavit accompanying the same, need comply with the provisions of 46 Vict., c. 26, sec. 4, the said statute applying only to suits in which the defendants have been validly served.

4. That the opposition need not be accompanied with the deposit required with an exception to the form.—*The Eastern Townships Bank* v. *Wright*, In Review, Jetté, Taschereau, Mathieu, JJ., June 30, 1887.

Communauté de biens—Licitation volontaire—Partage—Propres—Indivis.

Jugé, 1. Que dans le cas où un père possède par indivis avec ses enfants des immeubles dont il est propriétaire pour moitié, et les enfant pour l'autre moitié comme représentant leur mère, la licitation volontaire, autorisée par justice en ce qui regarde les mineurs, est un véritable partage et en a tous les effets ;

2. Que sous ces circonstances si le père achète directement ou par personne interposée, il sera censé avoir toujours été propriétaire des immeubles, et, par suite, ces biens ne seront pas tombés dans la communauté de biens qu'il aura créé en se remariant en secondes noces, mais lui seront restés propres.—*Dufort* v. *Chicoine*, Mathieu, J., 8 oct. 1887.

* To appear in Montreal Law Reports, 3 S.C.

Bail verbal—Expulsion—Dommages.

Jugé, 1. Que lorsque le bail quoique verbal est défini et le loyer payable memsuellement, le locateur peut demander la résiliation du bail quand il y a un mois de loyer de dû;

2. Que le locateur qui poursuit en expulsion pour un terme de loyer dû, savoir, $16.66, peut en même temps réclamer la somme de $133.33, balance de loyer à devenir dû sur un bail verbal d'un an, à savoir, de $200.00, comme dommages résultant de la résiliation du bail.—*Robert* v. *Chateauvert et al.*, Gill, J., 25 oct. 1887.

Désistement—Comment il prend effet.

Jugé, Qu'un défendeur pour prendre avantage d'un désistement de l'action signé par le demandeur, ne peut obtenir de la Cour la permission de plaider de nouveau, mais doit simplement produire le désistement dans la cause, lequel aura ainsi tout l'effet qu'il peut avoir.—*Brunet* v. *Brunet*, Jetté, J., 6 juin 1887.

Inscription pour jugement—Signification à la partie et non au procureur.

Jugé, Que lorsqu'une partie a comparu par procureur *ad litem* les pièces de procédure doivent être signifiées à ses avocats; un jugement obtenu par défaut sur une inscription signifiée à la partie même et non à ses procureurs *ad litem* sera renversé en révision.—*Dumouchel* v. *La Cie. du chemin de fer du Pacifique*, en révision, Johnson, Papineau, Taschereau, JJ., 24 sept. 1887.

APPEAL REGISTER—November Term.

Montreal, Tuesday, November 15.

McTavish et al. & Fraser.—Appeal from judgment granting a *séquestre*, declared privileged. Hearing for 21st.

Tassé & Ouimet Bastien.—Heard on motion for leave to appeal from interlocutory judgment. C.A.V.

McLeish & Dougall et al.—Heard on motion for leave to appeal from interlocutory judgment. C.A.V.

Parent & City of Montreal.—Motion to dismiss appeal. Granted for costs only.

Boxer & Judah, & Kimber.—Heard on petition for leave to appeal from interlocutory judgment. C.A.V.

Linton et al. & Henderson Lumber Co.—Motion for leave to appeal from interlocutory judgment.—Motion rejected with costs.

Spencer & McQuillan, & Browning.—Motion for leave to appeal from interlocutory judgment. Motion rejected without costs; Cross, J., *diss.*, as to costs.

Spencer & McQuillan, & Cusson.—Motion for leave to appeal from interlocutory judgment. —Motion rejected without costs; Cross, J., *diss.* as to costs.

Fraser & Brunette.—Heard on motion for dismissal of appeal. Judgment reserved.

Gilman & Exchange Bank of Canada.—Rehearing. Part heard.

Wednesday, November 16.

Fraser & Brunette.—Motion for dismissal of appeal rejected with costs.

Tassé & Ouimet Bastien.—Motion for leave to appeal from interlocutory judgment, rejected with costs.

McLeish & Dougall et al.—Motion for leave to appeal from interlocutory judgment, rejected with costs; Doherty, J., *diss.* as to costs.

Hénault & Chapdeleine, & Fauteux—Petition to take up the *instance* granted.

Rascony Woolen & Cotton Manufacturing Co. & The Lancashire Insurance Co.—Heard on motion for leave to appeal from interlocutory judgment. C.A.V.

Gilman & Exchange Bank of Canada.—Rehearing concluded. C.A.V.

Gilman & Gilbert et al.—Re-hearing. Part heard.

Friday, November 18.

Boxer & Judah, & Kimber.—Petition for leave to appeal from interlocutory judgment, rejected with costs.

Rascony Woolen & Cotton Manufacturing Co. & Lancashire Insurance Co.—Motion for leave to appeal, rejected with costs.

Allan et al. & Pratt.—Heard on motion to send record to Court below. C.A.V.

Gilman & Gilbert et al.—Re-hearing concluded. C.A.V.

Lowrey & Routh.—Re-hearing. Appellants file a *retraxit*. C.A.V.

Brosseau & Forgues.—Re-hearing. C.A.V.

Saturday, November 19.

Massue & Corporation Paroisse St. Aimé.—Heard on petition for leave to appeal to Supreme Court. C.A.V.

Sherbrooke Gas & Water Co. & Corporation of City of Sherbrooke.—*Acte* granted by consent of discontinuance of appeal without costs.

La Cité de Montréal & Les Ecclésiastiques du Séminaire de St. Sulpice.—Heard on merits. C.A.V.

Banque d'Hochelaga & Rielle.—Part heard.

Monday, November 21.

Banque d'Hochelaga & Rielle.—Hearing concluded. C.A.V.

Thompson & Molsons Bank.—Heard. C.A.V.

The Mayor et al. & Brown.—Heard. C.A.V.

Banque d'Hochelaga & Ewing et al.—Heard. C.A.V.

Tuesday, November 22.

Allen & Merchants Marine Insurance Co.—Judgment confirmed,

De Bellefeuille & Desmarteau.—Judgment reversed, with costs in three courts.

Gauvin & Leclaire et al.—Judgment rever'd.

Ross & Paul.—Judgment confirmed with costs in three courts.

Christmas & Robertson.—Judgment confirmed, Tessier, J., *diss.*

Communauté des SS. NN. de Jésus et Marie & Corporation of Waterloo.—Judgment confir'd.

Massue & Corporation de la Paroisse St. Aimé.—Petition for leave to appeal to Supreme Court (after expiration of the 30 days), rejected with costs.

Allan et al. & Pratt.—Motion to have record sent to Court below for execution granted.

Mercier & Waterloo & Magog Railway Co.—Argument on petition for leave to appeal from interlocutory judgment united to argument on the merits of the appeal taken from the final judgment.

Beckett & Merchants Bank.—Heard. C.A.V.

Wednesday, November 23.

Guevremont & Guevremont.—Heard. C.A.V.
Galarneau & Guilbault.—Heard. C.A.V.
Rivard & Paquette.—Heard. C.A.V.
Larivière & Arsenault.—Heard. C.A.V.

Thursday, November 24.

Downie & Francis.—Heard on motion for dismissal of appeal. C.A.V.

Ex parte John Spears.—Heard on petition for *habeas corpus.* C.A.V.

Fairbanks & O'Halloran, & Montreal, Portland & Boston Railway Co., T.S.—Heard upon petition of M. P. & B. Co., garnishee in the Court below, to be allowed to make a new declaration. C.A.V.

Mail Printing Co. & Laflamme.—Hearing resumed.

Friday, November 25.

Downie & Francis.—Motion granted; eight days allowed to file factum upon payment of $10 and costs of motion.

Fairbanks & O'Halloran, & Montreal, Portland & Boston Railway Co.—Ordered that the hearing on the motion be united to the hearing on the merits. Costs reserved.

Ex parte John Spears.—Application rejected.

Ville de Ste. Cunégonde & Berger et al.—Judgment confirmed.

Taylor & Webster.—Judgment confirmed.

Mullarky & Kronig.—Judgment reversed, Dorion, Ch. J., dissenting.

Baldwin & Corporation of Barnston.—Motion for substitution granted.

Mail Printing Co. & Laflamme.—Hearing concluded. C.A.V.

McTavish & Fraser.—Hearing postponed until next term.

Saturday, November 26.

The following causes were declared *perimées* for default to proceed within the year:—

Senécal & Coté.—Appeal dismissed.
Smith & Fairbanks.—Do.
Jodoin & Banque d'Hochelaga.—Do.
Windsor Hotel Co. & Lunn et vir.—Do.
Exchange Bank & Montreal Coffee Co.—Do.
Gaudry & Gagnon.—Do.
Barré & Picard.—Do.
Beckett & Banque Nationale (No. 42).—Do.

Racine et al. & Morris.—Petition granted by consent, but as to costs only.

Labrecque & Cie. de Tabac de Joliette.—Judgment reversed.

Skelton & Evans.—Judgment reversed, Church, J., *diss.*

Senécal & Rouillard.—Heard on merits. C.A.V.

The Court adjourned to December 22.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Nov. 19.

Judicial Abandonments.

Isaïe Caillié, mill-owner, township of Acton, Nov. 14.
Henry Dinning & Co., shipbuilders, Quebec, Nov. 3.
Elzéar Alexandre Emond, merchant, Quebec, Nov. 10.

Curators appointed.

Re Geo. Lamontagne, Quebec.—W. A. Caldwell, Montreal, curator, Nov. 10.

Re Frank Langlands (James Langlands & Son).—S. C. Fatt, Montreal, curator, Nov. 16.

Re Eugène Pommier, Beauharnois.—W. A. Caldwell, Montreal, curator, Nov. 15.

Re Fletcher Thompson.—H. A. Odell, Sherbrooke, curator, Nov.

Dividends.

Re Estate of late Mrs. M. A. N. Mercer.—Dividend payable Dec. 12, John W. Molson, Montreal, curator.

Re Israël Lemay, Beauharnois.—First dividend on privileged claims, payable Dec. 5, C. Fortin, Beauharnois, curator.

Separation as to property.

Cédulie Audelin vs. Joseph Hughes Cadieux, joiner, St. Hyacinthe le Confesseur, Nov. 14.

Susan Ellen Cain vs. Francis Bartels, general agent, St. Hyacinthe, Nov. 9.

Célina Courtemanche vs. Hilaire Péloquin, clerk, St. Hyacinthe.

Virginia Dumas vs. Léon Samoisette, farmer, parish of St. John's, Nov. 12.

Quebec Official Gazette, Nov. 26.

Judicial Abandonments.

Zélire Brouillette (E. Beauchamp & Co.) *marchande publique*, Montreal, Nov. 18.

Anastase Joubert *et al.*, butchers, Montreal, Nov. 22.

Jean Baptiste Scott, Nicolet, Nov. 19.

Aug. O. Turcotte, St. Pierre, Nov. 4.

Curators appointed.

Re Isaïe Caillié.—J. O. Dion, St. Hyacinthe, curator, Nov. 22.

Re Chateauvert & Desroches.—E. Hanson, Montreal, curator, Nov. 18.

Re Richard Duckett.—Kent & Turcotte, Montreal, curator, Nov. 18.

Re Antonin Giguère, trader, Ste. Justine.—H. A. Bédard, Quebec, curator, Nov. 21.

Re J. A. Michaud & Co., Carleton.—J. B. E. Letellier, Quebec, curator, Oct. 30.

Re Charles O'Brien.—C. Desmarteau, Montreal, curator, Nov. 22.

Re Perry & Simpson.—C. Desmarteau, Montreal, curator, Nov 24.