The Legal News.

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LEGISLATION AT QUEBEC.

The Session goes on, and the legal members of the Assembly continue to introduce bills for the amendment of the Codes. It may be doubted whether a midsummer session is the most suitable occasion for effecting changes so numerous and important in the laws of the country. Many years were spent on the Codes, but what is built in a year may be pulled down in a night. Something of this sort seems to have occurred to Mr. Wurtele, for he has given notice of motion to amend the Standing Orders, so that it shall not be allowable to bring in bills to amend the Codes until after the following formalities have been observed:—

1st. The submitting the principle or nature of the amendment by motion to the House, and getting the expediency of considering it concurred in.

2nd. The reference of the proposed amendment to a standing committee for consideration of the subject and elaboration of a bill.

3rd. A favorable report, giving the reasons for recommending the adoption of the proposed amendment, accompanied by the draft of a bill prepared.

WHAT IS A PROMOTER?

The *Law Journal* (London), in an article under this heading, says:—The duties and liabilities of the promoter of a company have of late years so rapidly developed, that he may now be considered fully created as a legal entity, subject always to his infancy being blighted by Courts of Appeal; and the history of his birth and growth may be clearly traced. In the beginning, the promoter, like the world, was legally without form and void, and he did his best to cover himself with darkness. It was to the interest of those persons who represented him in the flesh to assert his insignificance. He loudly protested that he was nobody; he was not a director, trustee, or agent of the company; he had never put himself forward in any shape or form; and, if he ever had any existence entailing tangible duties, they all disappeared when the company was formed, as the chrysalis disappears when the butterfly spreads its wings. If he was anything at all, it was an honest capitalist who advanced money when no one else was able to do so, and who did a great deal of work for a very reasonable percentage. All this was very plausible; but still the hard fact remained that, while every one else had lost money over the company, the promoter alone had made money. This gave shareholders some confidence in the strength of the law to make promoters disgorge. Still, there were many legal difficulties in the way. Equity was thought more likely to assist the shareholder than Common Law: but in Lincoln's Inn there was a respectable body of opinion that the promoter would never be held to fill a fiduciary relation to the company. Men who who have since risen to the bench thought that the doctrines of trusteeship had so far become stereotyped, as not to admit of this new development. The Courts, however, early began to decide against the promoter. Not only did they clothe him with the duty of the highest degree of good faith, but they pronounced him a trustee. The word was fatal. Calling a man a trustee is giving a dog a bad name; and it is a mercy to hang him at once. The promoter, when attacked, was not only deprived of his magnificent profits, but was even stripped of his commission; and in one case it became a question, when the company offered its promoter, out of charity, a reasonable remuneration in its own statement of claim, whether the Court would sanction such a compounding with the evil one.

The case of the *Emma Silver Mining Company* v. *Lewis & Son*, decided last week, is the latest of the series of cases in which the war has been carried into the promoter's camp. It may be said to be the apex of the pyramid, of which the *New Sombrero Company* v. *Erlanger*, 48 Law J. Rep. Chanc. 73, is the base, *Bagnall* v. *Carlton*, 47 Law J. Rep. Chanc. 30, is the middle. The Sombrero case decides that a promoter is in a fiduciary relation to the Company, this finally putting an end to the doubts which have been expressed on the point. This relation being established, the Court of Appeal

decided in Bagnall's case that it involves the restoration to the company of the promotion money which has been intercepted out of the subscribed capital. Thirdly, the Common Pleas, in the Emma Mine case, held that there is no legal definition of a promoter: but that if a man has contingent interest in the subscribed capital of a company when formed, and does anything to help along its formation, or the subscription to its shares, a jury may well find him to be a promoter. The consequences of that relation had already been applied by Mr. Justice Denman to the case of the Messrs. Lewis. His decision, on further consideration, is reported in the April number of the *Law Journal Reports*, and may be looked upon as a further application of Bagnall's case. We have thus the three questions dealt with —Is a promoter a trustee? is he liable for profits? and who is a promoter?

Practically, perhaps, the third of these questions is as important as any. Most who have had anything to do with companies would rather be sure that they have not made themselves promoters at all, than run the risk of having it proved that they have done something which promoters ought not to do. In order thoroughly to understand the Emma Mine case, it is necessary to know the history of the action. It was an action claiming damages against the Messrs. Lewis for conspiring with the vendor of the mine to palm it off on the company at an excessive price. It also claimed £5,000, being the value of 250 shares given by the vendor to the Messrs. Lewis. Upon the question of conspiracy the jury were divided in opinion; but they found that the Messrs. Lewis were promoters of the company, and, as such, ought to repay the £5,000 with interest. This explains how the question of promotership, which is an issue usually determined by a judge, came to be submitted to a jury. The jury being doubtful on the question of conspiracy, the damages in respect of which would have been very great, naturally had little difficulty in assisting the company to recover what had been taken out of the pockets of the shareholders and put into those of Messrs. Lewis; but the question for the Court was, whether there was evidence on which the verdict could be founded. Messrs. Lewis, there was no doubt, had agreed with the vendor to do all they could to assist him in the promotion of a company to buy the mine; but there was equally no doubt that the plaintiff company, as a legal entity, had, in fact, been formed independently of their help. They had introduced the vendor to two mining agents; but neither of these agents had been able to undertake the formation of the company, which was ultimately brought out under the auspices of Mr. Albert Grant. It was, therefore, fairly argued that the grounds on which promoters had been held to fill a fiduciary relation in the Sombrero case were not satisfied in this case; the grounds assigned for the relation in the Sombrero case being that Messrs. Erlanger had in their hands the moulding of the company, the framing of the memorandum and articles of association, of the prospectus, and so on. The Messrs. Lewis did none of these things; so that it must now be taken to be the law that it is not essential to the character of promoter that the form and fortunes of the company should be in his hands. On the other hand, Messrs. Lewis were referred to in the prospectus as possessed of knowledge about the mine, and they had answered questions from intending shareholders in a manner likely to induce subscriptions. They were, moreover, in full possession of knowledge about the mine and about the reports which had been made upon the mine, which, if disclosed, was not likely to advance the purchase of the property, and which they did not disclose either to the company or intending shareholders. Further, they had so far acted in concert with the vendor as perhaps to make him their agent in preparing the constitution of the company. The judgment of the Court studiously avoids basing the decision on any one of these facts or series of facts. It cannot be said that conduct conducing to the taking of shares is in itself sufficient to constitute a promoter. Still less can it be said that keeping silence in respect to material facts known to the alleged promoter is enough. Neither has it been laid down what form of authority will constitute promotion through an agent. All that the decision comes to is that these facts are material to be considered; and the matter is left just in that position of uncertainty which will be most frightening to persons who have been mixed up with companies to their own profit, and most encouraging to shareholders who have made bad bargains. He

would be a bold man who should advise any person who has made money out of a company that he will not be held to have been a promoter. Juries are inclined to find in favor of companies in such cases, and the judges are disinclined to disturb such findings; while there is absolutely no exhaustive definition of what amounts to a promoter.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

[In Chambers.]

MONTREAL, July 16, 1879.

SHERIDAN, Appellant, and THE OTTAWA AGRICULTURAL INSURANCE CO., Respondent.

Appeal to Supreme Court—Amount in "controversy."

Hutchinson, for the Insurance Company, applied in Chambers for leave to appeal to the Supreme Court of Canada, from the judgment of the Court of Queen's Bench, reported *ante* p. 206.

Duhamel, Q.C., objected that as the amount of the judgment was only $1650, there was no appeal to the Supreme Court. In the Act establishing the Supreme Court, sect. 17 provided that no case in which the amount in dispute did not reach $2,000 could be appealed. But in the amending Act, assented to 15th May, 1879, the word "controversy" was substituted for "dispute," and it was contended that it was now the amount of the judgment, and not the amount for which the action was instituted, that gave the right to appeal to the Supreme Court.

Hutchinson, in reply, said the principle had been settled in the case of *Hart* v. *Joyce*, 1 Supreme Court Rep., p. 321, in which it was held that the right to appeal is determined by the amount asked for by the declaration. The Act of last Session made no change.

CROSS, J., overruled the objection, and granted leave to appeal.

Duhamel & Co., for Sheridan.

Hutchinson & Co., for the Insurance Co.

SUPERIOR COURT.

MONTREAL, June 25, 1879.

VIGER et al., Petitioners, v. THE CORPORATION OF THE TOWN OF LONGUEUIL, Respondents.

Electoral List—Revision—Form of Petition for striking off names—Plainte par écrit.

MACKAY, J. The petitioners, parliamentary electors for the Electoral District of Chambly, ask that the names of Adolphe Gadoua and 21 others be struck off the Electoral List, and the list reformed to that extent, and that the names of Edmond Contois, Alfred Lapointe, Elzeard Lemieux and eleven others, be reinscribed on the list of Electors, and the list reformed accordingly.

The petition alleges the preparation of the Electoral List by the Secretary-Treasurer of the town of Longueuil in the month of March last; that notice was duly given of it, and that afterwards, within the fifteen days allowed by law, *requêtes* were duly presented to the Council asking that the names of said Adolphe Gadoua and 21 others be struck from the list, they not possessing at the time of the completion of the list, the qualifications required by law to be electors;

That the Council refused on the 9th and 10th of April to do right and justice upon the petitions presented to them, asking that the names of Gadoua and the 21 others be struck off the list, but decided to leave them on;

That on or about the said 10th of April the Council struck off the list or refused to enter upon it, though duly demanded, the names of Edmond Contois, Alfred Lapointe, Elzeard Lemieux and eleven others, all of whom possessed the requisite qualifications to be electors, and whose names were inscribed on the *Roll d'évaluation*.

The respondents plead a general denial, and further say that the *plaintes*, or *requête*, of Viger, asking that the names of Adolphe Gadoua and 21 others be struck off, were not *libellés*, and did not show by particulars, or for what reasons, those persons' names should be struck off; that no proof was tendered to show those persons not duly qualified, and that the names of those persons were all on the *Roll d'évaluation* in force on 1st March;

That Edmond Contois, Alfred Lapointe, Elzeard Lemieux and eleven others, had to be

struck off the Electoral List, some for not holding *feu et lieu* at the time of the revision of the List on the properties attributed to them by the *Roll d'évaluation*; some of them because their names were not on the *Roll d'évaluation*, and that no proof was tendered to the Council to show that Contois, Lapointe and the twelve others had to be on the *Liste électorale*, or had not to be.

The petitioners allege a refusal by the Council to do right and justice upon the 22 petitions, or *plaintes*, against Adolphe Gadoua and 21 others. Has the Council neglected or refused in the sense of the 42nd section of 38 Vict., c. 7, as amended by 39 Vict.? The *procès-verbal* of the Council's proceedings shows the petitions referred to to have been objected to for want of sufficient libel or particularity, and to have been rejected in consequence. *Plaintes par écrit* are required by the Electoral Act, to the Council revising the Electoral List, whereas any kind of *plainte*, even verbal, suffices for objections against the *Roll d'évaluation* while it is being settled, or amended, under the *Code Municipal; plaintes par écrit* having been ordered, the Council seems to have supposed that the Legislature meant *plaintes* possessing form and particulars, and I can't say that the Council was wrong, or proceeded upon frivolous grounds, nor do I see that it has neglected or refused, as is charged by petitioners, in respect of the 22 petitions alluded to. These petitions are deficient in particulars, and this is fatal to part of the petition now before this Superior Court. The respondents are inexorable, insisting upon forms. No *plainte* in form, no jurisdiction, they say.

There remains the complaint that the Council struck off the Electoral List, or refused to enter upon it, the names of Edmond Contois, Alfred Lapointe, Elzear Lemieux, and eleven others. It is said that these fourteen persons' names were upon the *Roll d'évaluation*, and so it appears, except as to four, viz., Riley, Talbot, Weilbrenner, and Audette. Their names have been properly refused to be put upon the Electoral List. Besides, for their case, and the judgment upon it, there is no appeal. The names of the other ten were all on the *Roll d'évaluation*, and the Secretary-Treasurer put them on the Electoral List, as he was bound to, to wit, at date March 1st.

The respondents have to justify striking off their names. Condition precedent to right to strike off is the possession of formal, particular *plaintes* against those whose place on the List is disputed. Mere verbal *plaintes* will not suffice, nor can the Council (as can the Council of 734 C. M.) *ex mero motu* strike off.

Has the Council put before me *plaintes* warranting the striking off of the ten names? no; nor does the *procès-verbal* state any cause save that as regards Lapointe, Lemieux, Contois and Joseph Paradis, the Council seems *ex mero motu* to have struck off their names owing to their not holding *feu et lieu* on 1st of March, for which I see no complaint against any of them. The Council purports to act upon a petition of Viger and Achin. Now, that petition did not call for or warrant such action by the Council. So the names of the ten must all be restored to the Electoral List, and the petition to that extent is granted. If forms are insisted upon to one end, they must be submitted to, to all intents. No *plainte* in form, no jurisdiction. Costs against respondent, save only those made necessary and caused by the first part of the petition (hereby rejected), which costs petitioners must pay and bear.

Prevost & Co. for petitioners.
Lacoste & Co. for respondents.

MONTREAL, May 31, 1879.

PELOQUIN alias DUBOIS v. WORKMAN et al.

Malicious Prosecution — Prescription — Action against firm—Probable cause.

JOHNSON, J. This is an action of damages for a malicious prosecution. The first plea is one of six months' prescription, which is bad. The statute invoked gives protection to magistrates and others who are required to execute the criminal laws. The act complained of here was a complaint or charge, which the defendants brought against the plaintiff, of having feloniously received stolen goods. Therefore, the plea of prescription is dismissed.

Then, on the merits: the case is brought against a firm as such; but they don't object to this. They all appear and plead together to the merits, although only one of them, Mr. Eadie, made the complaint; and they say they had reasonable grounds for proceeding as they did; and the evidence amply sustains this plea.

It was for the plaintiff to prove his case: that is to say, he had to prove want of probable cause, and not they, the existence of it, but not only has he failed to prove it, but the defendants have succeeded in establishing its existence. The case is a very painful one as regards the principal offender, a man named Kearney, if, indeed, any distinction can be made between thieves and receivers; but my own opinion is that the latter are the worse of the two. However this may be, this unfortunate Kearney, trusted by his employers for over thirty years, was discovered to be dishonest at last, and to have disposed of large quantities of their property; from enquiry, it was found that the plaintiff, who is a carpenter, was one of those who had got some of it. The detectives were set to work, and they found that Kearney had really sold some of it to the plaintiff, who said he had sold it to one Segouin, a tinsmith. Segouin said the plaintiff, in offering it to him, had represented that he got it in payment of work he had done. He told another that he would sell at a loss. These and a number of other suspicious circumstances coming to the defendants' knowledge, one of them, Mr. Eadie, made his deposition, and the plaintiff was committed for trial and subsequently bailed, and indicted before the Grand Jury, who threw out the bills. But under the modern law I should be disposed to attach more importance to the commitment for trial by a Police Magistrate who can hear both sides of the story, than I should to the return of an unlettered Grand Jury. The criminal laws are made for the protection of life and property. If honest men cannot invoke them without paying damages in such a case as this, they become a nuisance instead of a benefit. Action dismissed with costs.

Mignault & Co., for the plaintiff.
Davidson, Monk & Cross, for defendants.

LEFEBVRE v. THE BEAUHARNOIS STEAM NAVIGATION CO.

Malicious Prosecution—Evidence—Reasonable and Probable Cause—Onus Probandi.

JOHNSON, J. This is another case of damages sought for a malicious arrest; and here the defendants plead that Filgate, who made the charge, was not authorized by the Corporation, but Filgate himself, in his evidence, admits the authority. At that time he was captain of the steamer Beauharnois, and also a stockholder in the defendants' company, and a large sum of money was stolen from the safe, and he procured the arrest of the plaintiff as the thief. The plaintiff himself furnished by his language and his conduct the defendant's best justification for the step he took in causing his arrest. The defendant's boat and the plaintiff's boat (the St. François), both left the Lachine wharf at the same time on the day that the money was taken. The plaintiff's boat took the direct line and got to Beauharnois first, while Filgate's boat had to go to Chateauguay, but finding on the road that he had been robbed, he returned to Lachine and got to Beauharnois about two hours after the plaintiff, who in the meantime had informed several people there of the event. He acted as if he was a most imprudent thief. He swaggered and boasted that he knew the thief, (which may have been true enough), but he added that he was searching for him, and hired a horse and buggy for the purpose, and told a man named Monarque that he had got rich and was going to build a new house. Upon this information, and also upon information given by a man named Archambault, to whom the plaintiff said that he was in search of the person who had stolen a large sum of money that day from his own boat, the defendant acted; and if the plaintiff has any cause of complaint it could only be against himself. Filgate, called as a witness, says all this, and his evidence is objected to, and rightly, to the extent of his competency to prove the truth of what he had heard; but he can prove that he heard it, which of itself would be something, and Archambault himself is then brought up and corroborates him. Mr. Elliott's evidence proves also that the plaintiff acknowledged he had brought all this on himself. There is no such thing as an action for false arrest merely because the party arrested is innocent. It must be shown that the party causing the arrest had no reasonable grounds for acting. This is elementary, and I am really tired of repeating it in cases of this sort.—Action dismissed with costs.

E. C. Monk for the plaintiff.
A. & W. Robertson for defendants.

VIEN v. SICOTTE et al.

Work done on order of Government officer—Personal Liability.

JOHNSON, J. The plaintiff sues for the price of carpenters' work done for the defendants, who are joint registrar of one of the new registration divisions of the city. They plead that the work was done for the Government, and they are not personally liable. There is no doubt the work was done, and the plaintiff contracted with the defendants personally, and they are personally liable. There was some talk between them and the Inspector of Public Works, who told them distinctly he had no authority to do any more work. If they have any claim against the Government, they can urge it. In the meantime, the plaintiff has his recourse against them—there being nothing to show he did the work for the Government; though, from what they said to Mr. Genereux, the Inspector, they seemed to expect Government would reimburse them; but the plaintiff has nothing to do with that. Judgment for the plaintiff.

O. Augé, for the plaintiff.
Mousseau & Co., for the defendants.

GIROUARD v. GUINDON.

Note transferred before maturity—Title of holder.

JOHNSON, J. This a case where, perhaps, the defendant would have had a good defence to the action, if it had been brought by the payee of the note; but I say nothing about that, because the action is brought by an innocent holder of a note for which he gave value before maturity, and there is nothing whatever to show that he is a *prête-nom*, or in any way cognizant of the matter which the defendant pleads. It is one of those rather numerous cases where the note is said to have been given to the payee to procure the discharge of an insolvent. Whether that is true in itself, however, is immaterial. See 2287, C.C. It was contended that the note was null *ab initio*: so it might have been as between the parties. The principle *ex dolo non oritur actio* applies only to them. It has been held that the note of a third person given for such an object is null also; but never, that I am aware of, that the holder by indorsement before maturity, and in good faith, does not acquire a perfect title free from all the objections that might have been urged against the indorser. Judgment for plaintiff.

Renaud, for the plaintiff.
McMahon, for the defendant.

DESJARDINS v. DUCASSE.

Professional Services—Valuation.

JOHNSON, J. Action by attorney against client. Plea offers a cognovit for $77, which is alleged to be quite enough. The taxed bills are $112, and the balance, though it looks high, is sustained by the usual evidence which leaves something to the discretion of the Court. But I see two charges of $20 each for examining an inventory and drawing a declaration, and I think both are well paid at half the price charged, so I knock off one. There are also $5 and $4 not specifically proved, making $29 too much. Judgment for balance, $135 and costs.

Desjardins for the plaintiff.
O. Augé for the defendant.

KAY v. HANDS et al.

Action against widow who has not renounced—Pleading.

JOHNSON, J. This action is to recover the amount of an *acte* of obligation made in favor of the plaintiff by the late Thomas Brooks, who is represented by the defendants. Only one of them pleads, and she is the widow, who is sued in her own name and right and also as tutrix to her children. She pleads that the action is premature, because the delays to deliberate as to acceptation or renunciation have not expired. Then she pleads payment. As to the first plea, it is answered that it is in its nature a mere dilatory plea, and ought not to conclude for the total dismissal of the action as it does, but merely for the present. Then it is further answered that she has intermeddled with the estate. I am with the plaintiff on both points. Art. 1347 C. C. settles all the law on the subject. The widow is not precluded from renouncing or making an inventory even after the expiration of the delays; on the contrary, she can do so by permission and is always favorably received, but not after having acted as she is proved to have done here. She

can be sued as long as she has not renounced. Judgment for plaintiff.

Judah & Co. for plaintiff.
D. E. Bowie for defendants Brooks.
St. Pierre & Scallon for defendant Hands.

MONTREAL, June 10, 1879.

MONTREAL CITY & DISTRICT SAVINGS BANK v. GEDDES et al.

Recusation—Procedure.

In this case (May 14) the counsel for plaintiffs, at the hearing of a motion before Torrance, J., to revise a ruling of Mackay, J., at *enquête*, stated that it was the intention of the plaintiffs to recuse the honorable Judge, on the ground that his Honor had expressed an opinion on the question extra-judicially. Subsequently (May 16) the recusation was filed, and the Judge (June 3) made answer, alleging that there was no ground for it.

The following term (June 10) it was arranged that the motion to revise the ruling at *enquête* should be heard before Jetté, J. But when the argument was about to commence,

JETTE, J., inquired whether there had not been a recusation, and in what position it then stood.

Wurtele, Q.C., for the plaintiffs, replied that he considered the recusation practically at an end, as the case was being heard before a Judge other than Mr. Justice Torrance, against whom the recusation was made, and that it was his intention, in order to regularise the record, to produce a discontinuance of the recusation after the case had been argued.

JETTE, J., said the recusation must first be disposed of. Art. 184 of the Code of Procedure required that another Judge should proceed to determine whether the recusation is founded or not. It was a question which affected the administration of justice generally, and it was important that a recusation should not be made for the purpose merely of sending a case before another Judge.

After hearing counsel further on the question,

JETTE, J., decided that the recusation must either be formally withdrawn before the Judge against whom it was made, or it must be disposed of by the Judge entitled to decide it.

The recusation was formally withdrawn, June 16.

Judah & Co. for plaintiffs.
Lunn & Co. for defendants.

MONTREAL, June 30, 1879.

OAKES et al. v. CLEMENTS.

Pleading—Payment by a Consort separated as to property.

JOHNSON, J. The defendant is sued for $165.-60, which is charged as a balance for the price of fish sold. He pleads that his wife previous to her marriage with him, used to deal in fish with the plaintiffs; that they are now *séparés quant aux biens* by their contract of marriage; and the plaintiffs impute to her old account, $90 paid on his account since his marriage. There is no evidence in the case but the defendant's, who is brought up by the plaintiffs; and instead of proving their case, he only admits the debt to the extent of some $65, telling his story about the $90 which has been misapplied. There is no motion to reject this evidence; and if there was, I do not see how I could reject it. He is the plaintiffs' witness, and what he says must be taken as he says it. He pleads in substance that the plaintiffs' account is wrong in not crediting him with the $90 paid. Their answer is not that the $90 were paid on account of the wife's debt; but only a general answer—that the plea is not true. There is no presumption in law that a payment made by one of the *conjoints séparés* is made for the other. I never understood how a man who is brought up by the other side and sworn to tell the truth, and the whole truth, can be said to be proving his own case merely because he is unable to prove the plaintiff's case. But it may be said the defendant must prove what he avers. He avers a payment of $90, and he says more: he says it was agreed that the matter should be set right, and that he should get credit first. Well, I will not allow justice to be defeated by a technical rule, if I can get at it, without disregarding the rule; and I can do that, I think, here by calling on the plaintiff (*d'office*) to swear whether this payment was made, and at what time; for if it was made after the marriage, it was made probably by the husband for his own account, and not for the previous account of the woman

before he married her. Therefore—*serment supplétoire déferé* to plaintiff.

Dunlop & Co. for plaintiffs.
D. Barry for defendant.

THE CANADIAN FIRE AND MARINE INSURANCE CO. v. KEROACK.

Payment of Insurance Premium—Commission—Evidence as to Custom.

JOHNSON, J. Action by Company, plaintiffs, for $100, balance of premium. Plea: payment, and a receipt so called is produced, but it is no receipt at all in its terms. It is, I believe, what is called an interim receipt; but it acknowledges no receipt of money. It merely says the Company agrees to indemnify the applicant to the extent of $5,000 for twelve months against loss by fire on the hides in the vats in his tannery; and at the bottom is "$150 premium," so that we have an agreement to insure under a policy to be issued, and we have the rate of premium agreed on, and that is all; and the question of payment remains where it was. This insurance was done through a broker or brokers. First, a Mr. Bossé acted, and when he went to the defendant to get the money, he was told that he had another broker, a Mr. Morin, who was to get the commission; but Bossé was the only one trusted by the company, and he never got any money from the defendant. The policy issued in due course on the 5th September, 1878, and the question is whether the defendant has paid the plaintiff. A payment to Morin would be no payment to the plaintiff. The policy does not acknowledge the receipt of the money; but only the rate of premium. The evidence shows this sort of thing is done every day, *i. e.*, that parties are insured, and get credit for their premiums as was done here. The evidence also shows that the defendant personally effected this insurance direct with the agent, Mr. Kavanagh, who consented to pay Morin's commission; but warned the defendant against trusting him with the money; nevertheless, he appears to have done so; but I can't hold that, under the circumstances, to be a payment to the plaintiff. But there is a letter from the agent to this Morin mentioning a balance of only $85, if Morin paid, as there was a commission to be deducted; but previous to this, Morin had asked for delay and had been told by the agent that he had no dealings with him, and that he only looked to the defendant. Still that does not better the plaintiff's position as regards the amount, for if they agreed to pay the broker's commission, and the defendant has already paid it, he should not pay it over again. Therefore judgment for $85, with interest from service of process and costs of Circuit Court.

There are two motions made: one to amend the plea by referring to policy as well as to the receipt, and that is granted. The other is to reject evidence as to slip-shod way of doing insurance business. I think the evidence is perfectly legal, as throwing some light on practices so absurd as to give rise to actions of this sort.

Doherty & Co., for plaintiff.
Loranger, Loranger, Pelletier & Beaudin, for defendant.

ADDENDUM.—In the case of *Henderson* v. *The St. Michel Road Co.*, *ante* p. 262, add to note, "*C. H. Stephens* for the plaintiff; *Carter, Church & Chapleau* for the defendants."

CURRENT EVENTS.

ENGLAND.

A JURY OF MATRONS.—Mr. Justice Denman was recently somewhat puzzled by an incident which occurred for the first time in his 32 years' experience. Catherine Webster, found guilty of murder at the Old Bailey, when asked if she had anything to say in stay of execution, replied that she was in an "interesting situation." Some ladies being present, a jury of matrons was impanelled from them. The presiding justice, Denman, seemed somewhat at a loss as to the proper practice, but finally the jury retired, and with them a surgeon and the prisoner, the latter being by this time "in a prostrate condition." On the return of the parties the surgeon stated to the court that he had made an examination, and it was his opinion that the prisoner was not quick with child, although he could not positively say that she was not pregnant. The judge then briefly charged, addressing the jury as "ladies of the jury," and after a few minutes' deliberation in the box, they returned a verdict that the prisoner was not quick with child. The proceeding seems quite farcical, so far as the intervention of the matrons is concerned. The proposed Criminal Code contemplates its disuse, and the substitution of an examination by registered medical practitioners. The *Law Times* says of the jury, "no criticism can be too severe in condemnation of a proceeding which is confessedly unreliable."