The Legal News.

Vol. XIV. AUGUST 22, 1891. No. 34.

A curious example of the discharge of a civil liability by undergoing a term of imprisonment is contained in the recent case of *Bowen* v. *Watson*. The secretary of a friendly society was convicted under section 16 of the English Friendly Societies Act, 1875, of having misapplied money received by him as the subscriptions of members, and was ordered to pay over the money, or else be imprisoned for two months with hard labor. The defendant did not pay over the money, but suffered his term of imprisonment. The trustees of the society then took civil proceedings in the Derby County Court, and succeeded in obtaining a judgment for the amount misapplied. A Divisional Court (Baron Pollock and Mr. Justice Charles) reversed the judgment (60 Law J. Rep. Q.B. 205), holding that the case was governed by the decision in *Knight* v. *Whitmore*, 53 L. T. (N.S.) 233. There, the treasurer of a branch of the United Society of Boiler Makers and Iron Shipbuilders, registered under the Trades' Union Act, 1871, having unlawfully and fraudulently misapplied monies received by him on behalf of the society, was ordered to pay a penalty and repay the misappropriated sum, and, in default of payment, to be imprisoned for two months with hard labor. He did not pay, and was accordingly sent to prison. When he had served his sentence an action was brought against him by the general secretary of the society for the misappropriated money, which, it was alleged, he still retained. The County Court judge entered a nonsuit on the ground that the society's claim against the defendant had been satisfied by their previous proceedings, and a Divisional Court held that the judge was right in doing so. The same principle applied to *Bowen* v. *Watson*, and the Divisional Court, and now the Court of Appeal, have held that the right of action had disappeared when the defendant had been sent to prison for the same offence.

Some of the judges in England having complained of illegible writing in documents placed before them, a correspondent of the *Law Journal* retorts that during the last forty years he has met with two generations of judges and masters and leading counsel, and "can testify that most of them have tortured solicitors and their clerks with illegible writing." Legibility depends a good deal upon the practice which the reader has had, for a handwriting which seems undecipherable to an inexperienced reader is often perfectly legible to one accustomed to a variety of hands, or to whom the particular writing has become familiar. The most embarrassing chirography is that of the careless writer, and type-written documents, though legible enough in one sense, are frequently obscure in consequence of the carelessness or ignorance of the writer. As a great many typewriters are bad spellers the general use of type-writing threatens also to corrupt orthography, the type-writer not being subject like the typographer to the supervision of a proof-reader. Moreover, both practice in writing and practice in reading the ordinary hand are likely to be greatly diminished by the universal use of type-writing machines.

A question bearing upon one of the points raised in *McDonald* v. *Rankin*, M. L. R., 7 S. C. 44, was discussed in the case of *Comfort* v. *Betts*, before the English Court of Appeal. The question was as to the validity of a deed of assignment, by which a number of creditors of the defendant assigned their several debts to the plaintiff in order that he might sue for the same, and out of the amount recovered pay the assignors their respective debts. Although the debts were assigned to the assignee "absolutely," it was contended that the deed did not constitute an "absolute assignment" within the meaning of section 25, subsection 6, of the Judicature Act, 1873, inasmuch as it contained a trust in favour of the assignors. The Court, however, overruled this contention, holding that the assignment was absolute, and that the plaintiff was entitled to maintain an action upon it against the defendant. Lord Justice Fry, in giving judgment, said: "I know of no objection to

a person passing a legal right to another, and converting himself into an equitable owner. Before the Judicature Act, 1873, such a thing might have been done . . . and I cannot see that that Act has created any objection to such a course."

UNITED STATES CIRCUIT COURT, WESTERN DISTRICT OF MISSOURI, JUNE 8, 1891.

DOZIER v. FIDELITY AND CASUALTY CO. OF NEW YORK.*

Insurance—Accidental—"Sun-stroke."

"Sun-stroke or heat prostration," contracted by the decedent in the course of his ordinary duty as a supervising architect, is a disease, and does not come within the terms of a policy of insurance against bodily injuries, sustained through external, violent and accidental means," but expressly excepting "any disease or bodily infirmity."

At law. On demurrer to petition. This is an action on an accident insurance policy. The assured, Willoughby L. Dozier, on the 26th day of April, 1890, took out a policy of insurance in the defendant company, which by its terms would expire on the 26th day of April, 1891. The assurance was "against bodily injuries sustained through external, violent and accidental means." It did not cover "any disease or bodily infirmity." The insured was by occupation a supervising architect. The petition by his wife, the named beneficiary, alleges that the assured, while in the discharge of his ordinary avocation, and without any voluntary exposure on his part, came to his death on the 23d day of June, 1890, "by sun-stroke or heat prostration." To this petition the defendant demurs, on the ground that the petition does not state facts sufficient to constitute a cause of action, in that it shows on its face that the alleged injury was not accidental, within the meaning of the policy.

PHILIPS, J. The question to be decided is whether or not death resulting from sun-stroke or heat prostration comes within the means of injury insured against. This precise question does not appear to have been passed upon by any American court, but it is not too much to say perhaps that it may be regarded as settled in the negative in England by the opinion of Chief Justice Cockburn in *Sinclair* v. *Insurance Co.*, 3 El. & El. 478. The policy there assured against "any personal injury from, or by reason or in consequence of, any accident which should happen to him upon any ocean, sea, river or lake." The assured was master of the ship *Sultan*, and in the course of his voyage he arrived in the Cochin river, on the south-west coast of India, and in the usual course of his vocation he was smitten by a sun-stroke, from the effect of which he died. On full consideration it was held that his death must be considered as having resulted from a natural cause, and not from accident, within the meaning of the policy. The policy there did not, as here, contain the words "external, violent," and yet the learned chief justice held that the term "accident" as used in the policy, involved necessarily some violence, casualty or *vis major*. He says:

"We cannot think disease produced by the action of a known cause can be considered as accidental. Thus disease or death engendered by exposure to heat, cold, damp, the vicissitudes of climate, or atmospheric influences, cannot we think properly be said to be accidental, unless at all events the exposure is itself brought about by circumstances which may give it the character of accident. Thus, by way of illustration, if from the effects of ordinary exposure to the elements, such as is common in the course of navigation, a mariner should catch cold and die, such death would not be accidental; although if, being obliged by shipwreck or other disasters to quit the ship, and take to the sea in an open boat, he remained exposed to wet and cold for some time, and death ensued therefrom, the death might properly be held to be the result of accident. It is true that in one sense disease or death through the direct effect of a known natural cause, such as we have referred to, may be said to be accidental, inasmuch as it is uncertain beforehand whether the effect will ensue in any particular case. Exposed to

*46 Fed. Rep. 446.

the same malaria or infection, one man escapes, another succumbs. Yet diseases thus arising have always been considered, not as accidental, but as proceeding from natural causes. In the present instance, the disease called 'sun-stroke,' although the name at first would seem to imply something of external violence, is so far as we are informed an inflammatory disease of the brain, brought on by exposure to the too intense heat of the sun's rays. It is a disease to which persons exposing themselves to the sun in a tropical climate are more or less liable, just as persons exposed to the other natural causes to which we have referred are liable to disastrous consequences therefrom. The deceased, in the discharge of his ordinary duties about his ship, became thus affected and so died."

According to this high authority, a disease produced by a known cause cannot be considered as accidental. This conclusion has been accepted as authoritative by text-writers. Bliss Ins., § 399; May Ins. (3d ed.), § 519. If sun-stroke or heat prostration is properly classified among diseases, it is expressly excepted from the operation of this policy. It is discussed in works on pathology under the head of diseases of the brain. Niemeyer in his work on Practical Medicine (vol. 2, pages 181, 182) treats of it under the head of "Diseases of the Brain." He asserts that the investigations and experiments of so renowned a specialist as Obernier have entirely exploded the once common notion that sun-stroke or *insolatio*, depends on hyperæmia of the brain, induced by the action of the sun's rays on the head. The rays of the sun are not essential to it. "It is now known that in this disease there is a serious derangement of the heat-producing function, and a great rise in the bodily temperature, which in extreme case may reach one hundred and nine degrees or one hundred and ten degrees Fahr." And he concludes that, while nothing is yet known of the anatomical lesions upon which sun-stroke depends, yet "the disorder has a definite material basis." A standard encyclopædia (Britannica, vol. 22, page 666) terms it a "disease," and prescribes its methods of treatment. From this and other standard works we collate the following facts: That it is a term applied to the effects upon the central nervous system, and through it upon other organs of the body, by exposure to the sun or to overheated air. "Although most frequently observed in tropical regions, this disease also occurs in temperate climates during hot weather. A moist condition of the atmosphere, which interferes with the cooling of the overheated body, greatly increases the liability to suffer from this ailment." The common notion that sun-stroke or "heat prostration," as it is termed in the petition, comes like a stroke of lightning from a piercing ray of the sun, is utterly at fault. It affects persons frequently during the night. It often results from overcrowding in quarters, as in the case of soldiers in barracks, and to persons in poorly ventilated rooms. Also persons whose employment exposes them to heat more or less intense, such as laundry workers and stokers, are apt to suffer from this in hot seasons. "Causes calculated to depress the health, such as previous disease, particularly affections of the nervous system, anxiety, worry or overwork, irregularities in food, and, in a marked degree, intemperance, have a predisposing influence; while personal uncleanliness, which prevents among other things the healthy action of the skin, the wearing of tight garments, which impede alike the functions of heart and lungs, and living in overcrowded and insanitary dwellings, have an equally hurtful tendency." Longmore, in his reports of cases occurring in the British army in India, where it is quite prevalent, attributes it much to the foul air and badly-ventilated quarters, and he also speaks of its pathological conditions. In all its forms, ranging from "heat syncope" and "heat apoplexy" to "ardent thermic fever," it is subjected to medical treatment as a disease, and its fatality is estimated at forty to fifty per cent. With what propriety for accuracy therefore can this malady be termed an accident, any more than cholera, small-pox, or yellow fever, or apoplexy? It may be an accident that a person is exposed to it, but the conditions under which the human system may be affected by it certainly belong to natural causes, which may reasonably be anticipated, as they come not

by chance. The term "accident," as used in the policy, is presumed to be employed in its ordinary, popular sense, which means "happening by chance," "unexpectedly taking place," "not according to the usual course of things." So that a result ordinarily, naturally flowing from the conduct of the party cannot be said to be accidental, even where he may not have foreseen the consequences.

It is not deemed essential to a vindication of the correctness of the conclusion reached to review the various American decisions illustrating the application of the term "accidental" in such policies further than to note the palpable distinction between them and the case at bar. Death by drowning is accidental, as there is present the *vis major*, external and violent, producing asphyxia, and in the act producing the injury there is something unforeseen, unexpected and unusual. May Ins., § 516. In *Association* v. *Barry*, 131 U. S. 100, the assured, after two other persons had jumped from a platform five feet from the ground with safety, also jumped therefrom, followed as to him with serious consequences, producing stricture of the duodenum, from which death ensued. In that case the deceased intended to and thought that he would alight safely, and it was a question for the jury to say whether or not it was an accident that he did not. The court say:

"If the death is such as follows from ordinary means voluntarily employed in a not unusual or unexpected way, it cannot be called a result effected by accidental means; but if in the act which precedes the injury something unforeseen, unexpected, unusual occurs, which produces the injury, then the injury has resulted through accidental means."

In *Association* v. *Newman*, 84 Va. 52, the assured was found dead in his bed early in the morning, caused evidently by inhaling coal gas. The case turned upon the question whether or not this gas was a poison or poisonous substance, within the meaning of the exception contained in the policy. The controversy among the experts was as to whether death resulted from carbonic oxide or carbonic acid, and as to their resultant poisonous power, both causing death by suffocation. Such a death clearly came within the term "accidental," and it was left to the jury to determine whether or not carbonic oxide is poisonous within the meaning and intent of words "poison" and "poisonous" as used in the policy. This course was pursued by the court in view of the conflict in the testimony as to whether such gases were strictly "poisonous" in the ordinary acceptation to be imputed to such term in the policy. These cases do not present the question of an accident and disease as in the case at bar. In *Bacon* v. *Association* (Ct. App. N. Y., Oct. 14, 1890), 25 N. E. Rep. 399, it was held that death resulting from a malignant pustule, caused by the infliction upon the body of diseased animal matter containing *bacillus anthrax*, is death from disease, and not within the terms of an accident policy similar to the one under consideration. It was likened to what is called "wool sorter's disease," because it happens to people who handle wool and hides, such as tanners, butchers and herdsmen. Although the medical experts admitted that this species of malady belonged to pathology, yet they attempted to except this instance from the classification of diseases by defining it as "a pathological condition, and succumbing of the body to the infliction of this particular poison." But the court held that a pathological condition "means neither more nor less than a diseased condition of the body," and therefore, as the policy expressly excepted bodily infirmity or disease, there could be no recovery. The court say: "No abrasion of the skin is needed to produce the contact of the *bacilli*, and what follows from such contact seems to be as plainly a disease as in the case of small-pox or typhoid fever." Sun-stroke seems to be recognized by the courts in New York as a disease. In *Boos* v. *Insurance Co.*, 6 Thomp. & C. 364, the contention was as to whether the court should take judicial cognizance of the fact that sun-stroke was "a serious disease," within the terms of the policy. There seemed to be no question made that it was not a disease, but whether the fact of its seriousness should be left to the determination of the jury. Courts may take cognizance of facts generally known and recognized in nature, science and history. They

will take notice of processes in art and science, the results of which are matters of common knowledge. *Brown* v. *Piper*, 91 U. S. 37. They will take notice of the art of photography and its production of correct likenesses. *Udderzook's Case*, 76 Penn. St. 340; *Cozzens* v. *Higgins*, 1 Abb. Dec. 451. Also that coal oil is inflammable, *State* v. *Hayes*, 78 Mo. 318. So should courts take notice that fever in its multiform grades is a disease, and I apprehend, in view of the universal assignment of apoplexy in pathology among the diseases of the brain, that it would not be seriously questioned that courts in trials before juries may assume it to be a bodily disease.

It is suggested in argument by the learned counsel for plaintiff that at some time anterior to the issuance of this policy the defendant's policies contained an express exception against injury by sun-stroke, and that in its circulars distributed at the time the policy in question was issued it asserted that practically all the old conditions had been expunged from its policies. It is therefore argued that this was tantamount to an assurance on its part that sun-stroke would thenceforth be regarded by it as expressed within the terms "external, violent and accidental." What the facts are touching this assertion the court cannot know, and what the law arising thereon may be the court is not required on this issue to say, as no such facts appear in the petition. The court can look alone to the petition in passing on the demurrer. The demurrer admits only such facts as appear on the face of the petition, and such as are well pleaded.

It results that the demurrer is sustained.

LEGAL ASPECTS OF FICTION.

This was the title given to a capital lecture by Dr. Showell Rogers, lately read at Birmingham. There are some curious cases in which fiction has been realized in law Courts. Perhaps the first recorded case of the kind was when the sensational novelette called 'The mystery of the Hansom Cab' ran into a new edition in actual life, and Charles Parton was sentenced to death at Liverpool Assizes for the murder of John Fletcher, while administering chloral to him in a cab. In 'A Village Priest,' too, occurs an incident which recalls the fact that in a divorce case a year or two ago one of the most conclusive pieces of evidence, by which the guilt of an unfaithful wife was established, was the marking of some verses in a copy of Whyte-Melville's songs and poems. There is a good deal of 'reformatory romance' in Fielding's novels. Some glaring anomalies of then existing law are dealt with in 'Amelia' and in 'Joseph Andrews.' Lawyer Scott is very technical. George Eliot, it is said, consulted Mr. Justice Stephen on the Indian penal code when writing her novel of 'Middlemarch,' and so gave a correct legal statement of Mr. Bulstrode's position in compassing, while not actually causing, the death of Raffles. Anthony Trollope stated that the legal opinion as to the heirlooms in the 'Eustace Diamonds' was written by the late Mr. Charles Merewether, Q.C. Two novelists, it appears, paid fees for legal advice, though one of them (Charles Reade, in 'Griffith Gaunt' and 'Foul Play') propounds some strange law; while Bulwer Lytton, who took counsel's opinion when writing 'Night and Morning,' was disgusted at Daniel O'Connell calling his law in question. One of the best of recent novels containing sound law is Mr. Rider Haggard's 'Mr. Meeson's Will;' but the author has got somewhat astray over the succession and probate duties in 'Colonel Quaritch.' It is well known that Dickens contributed to sundry reforms by his novels, as in his social aspects he often wrote his books with a purpose that touched the law. —*Law Journal.*

CAPITAL PUNISHMENT.

The following correspondence has appeared in the *Times*:

SIR,—Those who advocate the abolition of capital punishment boldly assert that it does not deter from murder. How can they possibly know this? Their only attempt at proof is by an arithmetical computation, with even less foundation than Mr. Gladstone's 'electoral facts.' But there is direct and positive proof that it has this deterrent effect. A convict in Western Australia-

wrote home surreptitiously to his old 'pal' in England, informing him of some of the conditions under which he was living, and, among other things, that by the law of the colony a convict who committed a murderous assault on a warder might be hung. The letter chanced to fall into the hands of the authorities. His words were as follows: 'They tops a cove out here for slogging a bloke'—*i.e.*, 'they hang a convict out here for assaulting a warder.' 'That bit of rope, dear Jack, is a great check on a man's temper.'

A sentence of penal servitude for life cannot have the same deterrent effect, for there is always the chance that it may not be carried out. Mr. Gladstone let out the Fenians who were sentenced in 1867 for life after a few years. There is now a party in the House of Commons and in the country who are trying to procure the release of John Daly and other atrocious dynamiters sentenced only five or six years ago for life, and nobody can doubt that if the Phœnix Park murderers had been sentenced to penal servitude instead of being hung they, too, would have a good chance of being released by or before this time. Can anybody doubt that under these conditions a sentence of penal servitude would be far less deterrent to these desperadoes than that of capital execution?

Your obedient servant,

D.

SIR,—Some years before his death the late John Bright happened to be travelling in company with a man who had held a high official position in Van Diemen's Land, now Tasmania. The conversation turned on the convict system, and Mr. Bright showed great interest in the success in life of men who had been transported and subsequently liberated. At last he asked the colonial official whether he could tell him anything about a particular man, whom he mentioned by name. In answer to inquiries, he said that man, a medical practitioner, had been condemned to death in England for murder, but through his (John Bright's) efforts the death sentence had been commuted to transportation for life. He was greatly opposed to capital punishment, and he would be glad to learn that his intercession in that case had resulted satisfactorily. The colonial official, after further questions as to name, date, &c., was obliged to inform Mr. Bright that his *protégé*, whom he had saved from the gallows in England, had committed two murders by poison in Van Diemen's Land, and had then been hanged.

AN EX-COLONIAL MINISTER.

SIR,—I believe I may add a practical man's opinion on this point. Some years ago, when Sheriff of London and Middlesex, before Lord Cross took the control of the prisons out of the hands of the magistrates, I had some experience of the 'condemned cell.' On one occasion, visiting a prisoner under sentence of death, in respect of whom some considerable efforts had been made to get a reprieve, I entered the cell accompanied by Mr. Jonas, the governor, who had been in charge of Newgate prison for very many years, and who may be said to have had an almost unequalled experience of the effects of hanging.

On the governor telling the prisoner that he could state anything that he desired to me as sheriff, the prisoner immediately began to compare his own case with that of a recent convict, and urged that his act was exactly on the lines of the crime of this man, and that he had been reprieved—evidently expecting a similar result in his own case. On quitting the cell Jonas made use of this remarkable observation: 'It is always the case; when we get one reprieve we have three murders follow!' I believe there is nothing which acts more upon the human mind than the certainty of punishment, or, as the Australian convict describes it, 'The bit of rope is a great check on a man's temper!'

There is, however, another side of this question, and that is the difficulty of dealing with a human being who has imbrued his hands in blood. In the public interests he is better out of the way. Shut in a prison, brooding upon his past deed, he becomes in all probability insane, or excites sympathy, is released, and becomes an encouragement to other evil-doers.

I am, Sir, your obedient servant,

J. WHITTAKER ELLIS.

ADMISSION TO THE LAW COURTS.

Mr. McVane formally applied to the Lord Chief Justice of England for a ticket of admission to his court, on the ground that, though a judge is 'absolute emperor over his Court, yet his power does not extend to the selection of what body of people shall represent the public in cases which are not heard in camera,' and that, if it be necessary to establish a system of admittance by ticket only, that tickets should be distributed impartially to all applicants. The applicant also maintained that 'if there is room in the well of the Court, any member of one of the Inns of Court has a prior right to a seat therein over an ordinary member of the public, whether provided with tickets from the judge or not.' The Lord Chief Justice pointed out that the majority of persons on the bench have been unknown to him, but, have been persons to whom for one reason or another it seemed proper to grant the privilege of admission, and that exactly the same observations apply to his own small gallery and to a portion of the gallery opposite the bench. 'The rest of that gallery,' added his lordship, 'and the whole of the body of the Court has been absolutely free, but I have given strict orders to prevent overcrowding, with the further directions that the utmost available space shall be given to members of the bar in costume, and that the reporters for the press shall be able to perform their important duty, as far as possible, in ease and comfort. . . . I can make no alteration in your favor. As the person you refer to as a Templar and yourself may perhaps repeat your mistakes, I shall send your letter and my answer to the newspapers.' The point raised by this correspondence is, we believe, quite new. The general right of the public to be present at any trial, so long as there is room, is, of course, undoubted, but the extent to which a judge may go in restricting that right in favour of particular individuals has never, so far as we know, been defined. Nor do we believe that members of the Inns of Court, except after their call to the bar, have any priority over the general public. Perhaps all that can be laid down with certainty is that, if any member of the general public can obtain admission to any part of the Court not allotted to the bench or the bar, no ticket holder whatever can by right of his ticket eject such member of the public from his place.—*Law Journal* (*London*).

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Sept. 19.

Dividends.

Re Joseph Daigneau.—Final dividend, payable Sept. 30, Bilodeau & Renaud, Montreal, joint curator.

Re Demers & Riverin, Quebec.—First & final dividend, payable Oct. 1, C. Proulx, Quebec, curator.

Re Lamoureux frères.—Dividend, payable Oct. 1, Bilodeau & Renaud, Montreal, joint curator.

Re Raphael Larocque, Upton.—First and final dividend, payable Oct. 15, J. O. Dion, St. Hyacinthe, curator.

Re Edward Montgomery.—Dividend, payable Sept. 26, Bilodeau & Renaud, Montreal, joint curator.

Re Onézime Pauzé.—First and final dividend, payable Sept. 30, Bilodeau & Renaud, Montreal, joint curator.

Re Joseph Arthur Viau.—Final dividend, payable Oct. 2, N. Tetreau, Hull, curator.

Separation as to property.

Margaret Cutter vs. Oliver Worth Winship, manufacturer, Montreal, March 12.

Mathilde Lavallée vs. Alphonse Métras, laborer, St. Henri, Aug. 22.

Delphine Lebeau vs. Honoré Choquette, farmer, parish of St. Grégoire-le-Grand, Sept. 16.

Vitaline Legault vs. Clovis Léger, tailor, Montreal, Sept. 15.

Cadastre.

Subdivisional lots Nos. 138-211 to 138-298 inclusively of subdivision of part of lot No. 138, parish of Montreal, have been cancelled.

Quebec Official Gazette, Sept. 26.

Judicial Abandonments.

Arthur Laperle, Sorel, Sept. 21.

Adelard H. Lemaitre, trader, Thetford Mines, Sept. 22.

Thomas McIntosh (an interdict, by his curator, Wm. Patton), heretofore doing business at Montreal under the name of John McIntosh & Son, Sept. 14.

Richard Robertson, Black Cape, county of Bonaventure, Aug. 29.

Curators Appointed.

Re Joseph Elisée Bourke, St. John.—Lamarche & Olivier, Montreal, joint curator, Sept. 22.

Re Miss Mary Mahon.—H. A. Bedard, Quebec, curator, Sept. 22.

Re J. A. Dubuc & Co., Sherbrooke.—J. P. Royer and R. R. Burrage, Sherbrooke, joint curator, Sept. 22.

Re Ed. Larue & Co.—C. Desmarteau, Montreal, curator, Sept. 22.

Re J. Mongué & Co.—C. Desmarteau, Montreal, curator, Sept. 22.

Re Rousseau & Vézina and J. F. Vézina & Co.,

furniture dealers, parish of Ste. Anne de la Pérade.—F. Valentine, Three Rivers, curator, Sept. 16.

Dividends.

Re George Baptist, Son & Co., Three Rivers.—Dividend payable Oct. 12, Macintosh & Hyde, Montreal, joint curator.

Re George Bertrand, Montreal.—First dividend, payable Oct. 15, Kent & Turcotte, Montreal, joint curator.

Re David Courchene, L'Avenir.—First dividend, payable Oct. 15, A. L. Kent and J. M. Marcotte, Montreal, joint curator.

Re William Hunter, Montreal.—First and final dividend, payable Oct. 12, J. McD. Hains, Montreal, curator.

Re A. S. Langevin, Montreal.—First dividend, payable Oct. 15, Kent & Turcotte, Montreal, joint curator.

Re Nap. Leroux, Montreal.—First and final dividend, payable Oct. 15, Kent & Turcotte, Montreal, joint curator.

Re H. F. Poirier, Montreal.—First dividend, payable Oct. 15, Kent & Turcotte, Montreal, joint curator.

Separation as to Property.

Marguerite Adam vs. George Baillie, jeweller, Montreal, Sept. 18.

Julie Lemoine vs. Edouard Lefebvre, Montreal, July 4.

Lucy Maria Meany vs. Michael Burns, trader, Montreal, Sept. 22.

Marie Antoinette Patenaude vs. Xénophon Renaud, trader, St. Henri, Sept. 17.

Jennie Ward vs. Charles William Boon, Montreal, Sept. 14.

GENERAL NOTES.

THE DEATH PENALTY FOR TRAIN WRECKERS.—In connection with the recent attack by brigands upon a railway train in Turkey, when, by something like a miracle, no serious bodily harm was received, it is interesting to note that the State Legislature of California has passed a law enacting that convicted train-wreckers shall in future be punished with death. 'Only those who are conscientiously opposed to capital punishment in any case,' says the *Railway World*, 'can make any logical objection to such a statute. The average murderer slays but one; the train-wrecker may kill a hundred. Many who are called murderers, perhaps never intended to deal a fatal blow. In countless instances the homicide has been committed under a sudden impulse or under terrible provocation. But the man who stealthily watches his chance and who contrives, with the precision of a clockmaker and the cruelty of a fiend, to so adjust obstructions as to imperil the lives of scores of human beings is a monster of depravity. Rarely, indeed, is there any clumsiness in the arrangement. Every detail is regulated with scientific accuracy. In the small hours, when the chance of detection is only as one in a thousand, does the train-wrecker do his work.'

A DOG PROVING AN 'ALIBI.'—The following letter recently appeared in our sporting contemporary, *Rod and Gun*: 'Sir,—While staying in Devonshire last week at a farm, I had a practical illustration of an interesting case of sheep-worrying. Looking out of my bedroom window just as it was daylight, I saw a flock of ewes that had recently lambed tearing about the field as if alarmed, and I quickly discovered that two dogs were hunting them. I woke up the farmer, and we were soon on the spot; but the dogs were too quick for us, and we could only identify one of them, which we recognized as belonging to a farm about three miles off. They had killed and partially eaten two lambs, and seriously mauled three others. My friend at once got out his gig, and we drove off to the farm from whence we thought the culprit hailed, expecting to reach there before the dog. On arriving, we told the owner of the animal our errand, and he at once invited us to come and see his sheepdog, which could not possibly have committed the crime, as he was shut up of a night in the stable. There, truly enough, did we find the collie, looking half asleep and curled up in a corner among the straw. His owner triumphantly pointed him out; but he was a peculiarly-marked dog, and we had both spotted him, and, moreover, there was a broken window in the stable, and traces of dirty, and apparently recent, claw-marks on the wall. My farmer looked in the brute's mouth, and thought there was wool on the teeth; but the owner contended that that proved nothing, as the dog had been among his own sheep the previous evening. I then suggested that a dose of salt and water might prove if any mutton had been recently devoured, and, the two farmers consenting to this, we dosed poor collie accordingly, and in a few minutes he disgorged a quantity of raw lamb with the wool on it, unmistakably recently killed. The case was admitted proved, and the neighbors speedily came to terms as to the question of damage. To me it seemed a most interesting case of canine intelligence that two scamps of dogs, one we know having sheep within a few yards of him, should not attempt any sport on their own ground, but should deliberately meet some miles off, and then, when interrupted, tear off to their homes, and, like a human criminal, endeavor to prove an *alibi* by being found asleep in bed about the time when the murder was committed.—I am, &c., MERIVALE, Surrey, March 8, 1871.'

MR. DIGBY ON THE LAW OF CRIMINAL CONSPIRACY.—Mr. Digby's article in the *Law Quarterly* on "The Law of Criminal Conspiracy in England and Ireland' is an interesting one. It is pointed out that it is impossible to describe a certain class of conspiracies in terms more precise than those used by Mr. Justice Stephen (Crim. Law Dig. art. 160) in describing them as 'agreements between more persons than one to carry out purposes which the judges regarded as injurious to the public.' It is, however, as Mr. Digby says, above all things desirable in criminal law that what is and what is not crime should be clearly and intelligibly defined; and the general rule suggested is, that where crime is the object or direct result of the combination, the combination should be held to be a criminal one, but not otherwise; or, in other words, that the enactment of the Conspiracy and Protection of Property Act, 1875, that 'a combination of two or more persons to do or procure to be done any act *in furtherance of a trade dispute between employers and workmen* shall not be indictable if such act committed by one person would not be punishable as a crime,' should be made applicable to all combinations whatever.—*Law Journal (London).*