The Legal News.

Vol. XIII. DECEMBER 20, 1890. No. 51.

The practice of giving a long *congé* to judges who become indisposed does not appear to meet with favor in England. In the case of Lord Justice Cotton, for example, the intimation of his illness was almost immediately followed by the announcement that he had retired from the bench. Baron Huddleston, another very energetic judge, fell ill last August while on Circuit, but declined to take rest, and charged the grand jury from his bed. (See *ante*, p. 273). His lordship almost immediately resumed work, and went on trying cases during the hot weeks of August. Now comes the announcement that he is no more. Chief Justice Coleridge was also taken ill last month while hearing a case in Court, but his lordship has recovered sufficiently to permit him to resume his judicial duties. The work in England is so continuous and severe that the absence of a single judge deranges the machinery, and imposes an undue strain upon his colleagues. For example, when the autumn assizes commenced last month, only five out of the fifteen judges of the Queen's Bench Division were left in London, to dispose of the long lists of common law actions.

In the action of damages brought by Edith Sessions Tupper against Morin, superintendent of police at Buffalo, for the arrest which recently caused some stir, Daniels, J., of the Supreme Court of New York, in rejecting the defendant's motion to vacate the order of arrest in the suit against him, said:—"The plaintiff was arrested in the city of Toronto for felony committed in the city of Buffalo. The arrest was made without process and wholly upon information proceeding from the defendant. The orders to arrest her were sent by telegraph and were positive in their nature. And those positive orders were repeated after some evidence of the identity of the person had disappeared. She was not the felon, but in a strange city, alone, and in the night time, she was arrested for the crime of another, in which she was not only not a participant, but knew nothing whatever of its commission, or the person who committed it. This was an unwarrantable interference with her personal liberty, and should not have been ordered without very satisfactory evidence against her. The defendant claims to have been supplied with that degree of evidence. But the fact that he was, or that he acted with that degree of caution which is due to the liberty and security of an innocent person, is not so clearly established as to justify an order vacating the order for his arrest in this action for damages. An officer may make, or direct, the arrest of a person for a felony without a warrant. But to escape liability for making an unfounded arrest he must be able to excuse himself by proof that he had reasonable cause for believing that the person arrested had committed the crime."

NEW PUBLICATIONS.

The Bills of Exchange Act, 1890: by Thos. Hodgins, Q.C. — Publishers, Rowsell & Hutchison, Toronto.

It seems probable that the Act passed last session, relating to Bills of Exchange, Cheques and Promissory Notes, will be elaborately commented, as announcements were some time ago issued by three Toronto publishers, intimating the early publication of works by three several Queen's Counsel treating of the new law. A fourth work, by a Montreal Q. C., has also been announced. The first in the field is Mr. Hodgins' book which is now before us. Prepared necessarily in some haste, it seems to embody a tolerably full collection of decisions, carefully classified under the several sections of the Act. An introduction covering twenty-four pages will be found interesting. From it we learn that bills of exchange were known in England as early as A.D. 1307, since Edward I. in that year, ordered certain moneys, collected in England for the Pope, not to be remitted to him in coin or bullion, but by way of exchange—*per viam cambii*. About the commencement of the seventeenth century the practice of making bills payable to order, took its rise. Some writers state that the first known mention of

the endorsement of these instruments occurs in 1607. From its obvious convenience it speedily came into general use; and, as part of the general custom of merchants, received the sanction of the courts. In the meantime, promissory notes had also come into use, differing from bills of exchange in that they were not drawn upon a third party, but contained a simple promise of the maker to pay. They were at first made payable to bearer, but when the practice of making bills of exchange payable to order, and making them transferable by indorsement, had become established, promissory notes were also made payable to order and transferable by indorsement. The practice of drawing cheques may be said to have originated with the London goldsmiths, who were the first English bankers. They became the depositaries of the money of merchants, and when a customer wished to make a payment to another, he would write a note to his goldsmith, or banker, requesting him to pay the amount required to the person named. Some of the early reports show that there was a struggle between the merchants and the courts, before the latter would fully recognize the force of mercantile usage. The first Canadian legislative enactment on the subject was an ordinance passed in 1777, for ascertaining damages on protested bills of exchange (17 Geo. III, c. 3).

In connection with this subject it might be well, perhaps, if the Senate debate on the bill were reprinted from the official report and embodied by way of supplement. Some of the promised works on the Act may perhaps include this feature.

TEXT BOOK SERIES.—Blackstone Publishing Company, Philadelphia, Pa.

The Blackstone Publishing Company have issued as No. 36, in their series of text-books, a very complete index of subjects treated upon in the Text-Book Series. This gives the subscriber not only a list of all the books in the text-book series which treat of each subject, but also the pages, so that he can gather all that is contained in the series upon any given subject. Thus, if he turns to the subject "Contract" in the Index, he will be referred to the matters in the several volumes which relate to this subject. This bringing together and classifying the books with regard to the different subjects, will make the collection both serviceable and valuable.

REPORTS OF AMERICAN BAR ASSOCIATION.

The American Bar Association have issued the report of their thirteenth annual meeting, held at Saratoga Springs, N. Y., Aug. 20-22, 1890. The report, as usual, contains addresses upon several subjects of considerable interest to the profession. The next annual meeting of the association will be held at Boston, Aug. 26-28, 1891.

COUR SUPÉRIEURE.

MALBAIE, 18 juillet 1890.

Coram GAGNÉ, J.

In re GEO. DUBERGER, Failli; et DIVERS CRÉANCIERS, Colloqués, et DME M. A. ROY, Contestante.

JUGÉ:—1o. *Que les jugements rendus contre un débiteur peuvent être attaqués par ses créanciers comme rendus en fraude de leurs droits.*

2o. *Que la tierce-opposition n'est pas autre chose que l'action paulienne appliquée aux actes judiciaires.*

3o. *Que le jugement annulant la séparation de biens profite à tous les créanciers du failli.*

Voici le jugement:—"Attendu que Dame M. A. Roy, épouse du dit failli, conteste la feuille de dividende préparée par le curateur aux biens du dit failli, alléguant qu'elle a obtenu un jugement de séparation de biens d'avec son dit mari, en février 1889, que ses droits et reprises ont été, par rapport du *praticien* nommé par ordre de la Cour, établis à la somme de $4,600; que cette somme est une créance privilégiée et qu'elle aurait dû être colloquée de préférence à tous les autres créanciers;

"Attendu que la dite Dame M. A. Roy conteste en outre, les collocations de G. Filion et Joseph Sheehy;

"Attendu que le dit Filion a répondu à la dite contestation et en a demandé 'le renvoi;

alléguant que le susdit jugement de séparation a été, par jugement de la Cour Supérieure, à la Malbaie, rendu le 13 novembre 1889, et confirmé par la Cour de Révision à Québec le 28 février dernier, déclaré nul et de nul effet, et annulé à toutes fins que de droit, comme paraissant avoir été obtenu par collusion, et en fraude des créanciers du dit failli, et ce à la demande même du dit G. Filion, par sa tierce-opposition, produite à l'encontre du dit jugement de séparation de biens ;

"Attendu en fait qu'à la demande, et sur la tierce-opposition du dit Filion, le dit jugement de séparation de biens a été, ainsi que les procédures subséquentes, déclaré nul et de nul effet comme paraissant avoir été prononcé pour favoriser la demanderesse, Dame M. A. Roy, au détriment des créanciers de son mari ; dont le tiers-opposant était l'un, et en fraude de leurs droits ;

"Considérant que les jugements rendus contre un débiteur peuvent être attaqués par ses créanciers comme rendus en fraude de leurs droits ;

"Considérant que la tierce-opposition n'est pas autre chose que l'action *paulienne* appliquée aux actes judiciaires ;

"Que le jugement annulant comme susdit, et pour les raisons susdites, le jugement de séparation de biens obtenu par la dite contestante, et les procédures subséquentes, a profité et profite aux autres créanciers du dit failli ;

"Que la dite contestante ne peut en aucune façon se prévaloir du dit jugement vis-à-vis des créanciers du dit failli, et spécialement vis-à-vis du dit Filion à la demande duquel le dit jugement a été annulé ;

"Considérant par conséquent que la dite contestante n'est pas légalement séparée de biens vis-à-vis des créanciers du dit failli et spécialement vis-à-vis du dit Filion, qu'elle n'est pas créancière du dit failli, et qu'elle n'a pas qualité pour contester la feuille de dividende préparée par le curateur aux biens du dit failli, ni pour contester la collocation du dit Filion, renvoie la dite contestation de la dite Dame M. A. Roy, etc."

Vide Bédarride, Dol et fraude ; Demolombe, vol. 2, des contrats, chap. de la fraude.

J. S. Perrault pour la contestante.

Angers & Martin pour G. Filion.

(C. A.)

FIRE INSURANCE.

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

CHAPTER VII.

OF REPRESENTATION AND WARRANTY.

[Continued from p. 400.]

If this is to be taken as a contract of April, 1805, and the premises were not of the class of which they were warranted to be, it appears quite clear that the respondents ought not to have recovered. If the Court of Session was of opinion that the risk was not greater in mills of the second class than in those of the first class, though that were sworn to by five hundred witnesses, it would signify nothing. The only question is, "what is the building de facto that I have insured?" [The judgment of the Court below was reversed.]

A man has a mill with a building next to it. Between the two, (it is stated,) is a door of iron. Suppose a fire, and all to be lost, from the iron door having been left open. Semble. If without gross negligence, the assured shall recover.[1]

CHAPTER VIII.

INTERPRETATION OF THE CONTRACT.

§ 214. *The general rule of interpretation.*

The imperfection of language, the want of attention in writers of acts, ambiguities and obscurities of acts—these are what call for interpretation properly called. To ascertain the veritable sense of acts obscure or ambiguous, that is the object of rules of interpretation. The Roman law is the great fountain. Policies of insurance are not to be construed differently from other contracts,—the intention of the parties is always to be sought for.

It is by common intention of the parties that we must explain what may be obscure in the convention.

1st. This intention common is discovered by words. Words are to be construed by general usage. The general rule is that the literal interpretation is to be taken, but on

[1] Stuart's Rep., p. 148.

this point a uniform universal rule cannot be laid down.

Another rule is that the intention of both parties is to be carried out.

§ 215. *Literal interpretation not always to be adhered to—Intention of parties.*

A clause requiring the certificate of a magistrate as to character, etc., of the assured and amount of his loss, does not require a strict *literal* compliance. The insured furnished a certificate of a magistrate—it was objected to as not that certificate required by the conditions. Magistrate "most contiguous." It was proved on the trial that there were magistrates nearer.[1]

But was there not in this case a speciality? Insurance Company had refused to return to the assured his *proofs*, alleged informal. Yes!

Sometimes it depends upon who is suing as to how the interpretation is to be. If a man contract with me to make a road from Montreal to Lachine, he may say, if I sue him, that he has done the job, having made a road from Montreal to Lachine line (line of Lachine parish), and that that is all the letter obliged him to do; and that the interpretation is to be in his favor, *à sa décharge*, he being defendant.

But, if he sue me to pay before he has gotten to Lachine village, I may say I intended Lachine village; if there is ambiguity, it is to be interpreted to my discharge, I being sued as contractor of or for the money, or obligor.[2]

The literal terms of the contract are to be overruled, if need be, to carry out what was the most probable intention of both parties.

If a man buy fifty yards of blue cloth from another, one piece is to be given. The seller cannot insist upon offering fifty yards in separate pieces; yet, so offering, he offers a literal fulfilment of his contract, and he might give yards of different shades. Intention is to be got at.

Where the intention of both parties appears, effect must be given to it against the clearest words. L. 219 *de Verb. Sig.* ff. 50, 16. But the words, if clear, must be followed, even against the intention of *one* of the parties.[1]

Literal interpretation sometimes must give place to interpretation according to intention. Suppose a policy to be vacated, unless notice of fire be given to the secretary of the company, at the company's office, on the first day of the month next following, and that notice was given on the day after the fire; would that be fatal? Yet, in grants, may not a duty be to be performed on a particular day, else *déchéance* to be?

Literal interpretation in some cases might be unjust in the extreme. Suppose ashes are required by the policy to be kept in a brick chamber, and be really kept in a stone or iron one, equally safe; there would be forfeiture, if the clause be literally interpreted.

Effect ought to be given to conditions according to the intention of the parties. The intention of both parties ought to be looked for, the nature of the contract considered, and more ought not to be exacted from either party than what he meant by the contract, most probably.

In interpreting the contract of fire insurance, the rule of strict and literal interpretation is most often enforced, yet unwillingly in some cases. It is sometimes said that it would be the height of injustice to enforce it.

When we consider the nature of the obligation undertaken by the insurer, to pay if fire hurt or destroy the property insured, in connection with clauses prohibiting the use of camphene oil, the storing of gunpowder, the depositing of ashes in wooden vessels, etc., we can see the intention, probable, of both parties that, generally, the insurer should pay if loss by fire happen, but that he should go free if the use of camphene oil, the storing of gunpowder, or the depositing of ashes led directly or indirectly to the loss; yet literal interpretation is made in all such cases in England and the United States; and in Lower Canada the Courts are becoming by

[1] *Turley* v. *The N. A. Fire Ins. Co.*, 25 Wendell.

[2] *Derby line* is a well-known village: yet a Yankee agreeing to run a road to Derby line was held not bound to go to the village.

[1] In bi-lateral instruments, the words, if clear, must be followed, even against the intention of *one* of the parties. Lindley [51.] As if a Syrian of the desert being in London, should buy beasts of burden, horses may be forced upon him though of no use to him.

degrees to enforce literal interpretation. True that some judges hold that mere prohibitions will not avail, in such cases, to avoid a policy, though the use of camphene oil be, etc., unless *peine* be annexed. The parties may insert in the policy any conditions not prohibited by law, nor contrary to good morals.

§ 216. *Construction in case of ambiguity.*

If the words are ambiguous, the interpretation is to be *contra proferentem—contre celui qui a stipulé quelque chose à la décharge de celui qui a contracté l'obligation.* Chief Justice Cockburn, in *Fowkes* v. *Manchester Ins. Co.*,[1] makes the company the *proferentem*, the application or instrument prepared by them, and by them submitted to the insured for his signature. It ought to be read against the company.

Suppose endorsement on policy to be required, but the insurance company indorse the second insurance on the premium receipt only, this would certainly be held good.

In all policies there are two *proferentes.* Some clauses in the policy are to be considered proferred by the insurer, others by the insured.[2]

In *Notman* v. *The Anchor Ins. Co.* it was held that the insurer who wrote the description of the intention of the insured was the *proferens.*

Words in a policy ought not to have a sense more large than results from the expressions used. Casaregis, disc. 1, n. 108; 1 Alauzet, p. 368.

Ambiguities in a policy are to be interpreted against the insurance company.[3] But the court in Paris (12 Dec., 1840,) interpreted in favor of the insurer, as being the person obliged. And Grun and Joliat say, in cases of doubt the interpretation should be in favor of the assurer as being the *obligé.*[4]

[1] 3 B. & S., 925.

[2] In Roman law—he who stipulated was the creditor. He interrogated, and the debtor (he was called *reus promittendi*), or obligor, answered. So it was that obligations were contracted.
Q. Promittis? A. Promitto.
Q. Dabis? Dabo.

[3] See Art. 1019, C. C. of L. C. Sirey of 1846, 2nd part, p. 12. Paris, 1 Aug., 1844, 2nd chamber.

[4] Literal interpretation is not absolutely the rule in contracts. Suppose I buy an Encyclopœdia Britannica, 25 vols., bound in Russia; can the seller insist upon my taking a copy though bound in Russia, but in common Vermont sheep?

In *Corse* v. *Lancashire Ins. Co.*,[1] the defendants pleaded that the word "isolated," according to the usage of fire insurance companies, meant not within 60 feet of other buildings. How would this work in cities and villages?

Words are to be taken according to their common use,—what the words immediately suggest to the minds of the general public or common people.

Interpret as insurance companies would have it, and the consequences would be such as could never have been in contemplation of the parties, *e.g.*,—a stable being at 12 feet off, can we suppose that the insured meant to warrant that it was not within 60 feet! that no building was within 60 feet! Is the expression "isolated," ill-used here, seeing that, 12 feet off, though separated by that space (12 feet) was a stable? I hold not. As to usage—no evidence of it should be admitted to substitute a conjectural intent for that which the policy plainly expresses. The judge should decisively charge to reject such proofs. § 30, Ib., p. 179.

Still, usage may be proved of things if it can be presumed as known to the parties, and that the contract was framed in reference to its existence.[2] But let this usage only be in commerce, and not in real property affairs.

How various may be the disputes upon words! Suppose a policy to state that if the house be unoccupied at any time by the space of three continuous weeks, the policy, *ipso facto*, is to be vacated. Well! the house after a month is left in charge of only one man, guardian. Is the policy vacated? Suppose the house large as Eaton Hall! Suppose it small! Can a house in charge of a guardian living there, be held unoccupied? I say no, literally.

Yet argument might be as to what was intended.

Insurance is effected on a mill, and a condition of the policy is that ten buckets filled with water are to be kept always on all the flats above the basement. Now, suppose the next paragraph or condition to say: "Fifty buckets to be kept in the basement;" would

[1] Montreal, November, 1870.

[2] "Rice" may be covered by the word "corn."

this mean *filled with water?* Literally not, yet logically yes. *Noscitur a sociis.* Tautology here is just avoided by the omission of the words "filled with water," which must be understood. Yet, may not distinctions be made? Suppose the mill was at the side of a canal. It might be argued that the fifty were for the neighbors to get water with from the canal, and that they were in the basement for that convenience. I would hold, however, that even in case of neighborhood to the canal, the buckets should be full always in the basement, for such is the contract, and the contract may have had a double object, full buckets at first on hand, and a quantity ready to refill soon. See vol. 24, Alb. L. J., p. 363, for a case in the Vermont Supreme Court, *Carrigan* v. *Lycoming Fire Ins. Co.* It was held that the printed parts of the policy should be construed so as to confine them to the intention of the parties, as expressed in the written parts of the policy. Benzine was held a drug. Stock, including drugs and medicines, were insured by the written part; the printed part prohibited benzine. The company's agent was proved to have said that benzine was allowed. If so, why did not the insured get the pen drawn through the printed part, or have benzine *allowed expressly?*

Against the above case is 33 Am. Rep., 778.

§ 217. *The rule "contra proferentem."*

The rule *contra proferentem* (approved by *Bacon*) has little influence, or value, says Parsons. (Vol. 2, p. 23.)

Query, *de hoc.* Does it not lie at the bottom of the rule in sales and leases by which the interpretation is to be against the seller as a *proferens etc.?*

In the law of Lower Canada a clause that is not of certain meaning is interpreted against him who got it put into the Act; he ought to have been more clear; he ought not to have written an equivocal phrase. (He, for whose profit, or purpose, a clause is put into an Act, is supposed to have put it in.) Instr. fac. sur les con., p. 72.

But who is the *proferens* in the policy? I think it is the insurance company, who promise to pay, subject only to the conditions written by them.

SUPERIOR COURT—MONTREAL.[1]

Capias—Intent to defraud.

Held:—That when the debtor has judicially abandoned his property for the benefit of his creditors, and after unsuccessfully endeavouring to secure employment and to earn a livelihood in this province, finally accepts a position abroad, intent to defraud is not to be presumed from his intended departure, and the *capias* under which he has been arrested should be quashed.—*Shotton* v. *Lawson*, de Lorimier, J., Oct. 28, 1890.

Substitution—Final alienation of property of—Art. 953, *C.C.*

Held:—That the final alienation of the property of a substitution cannot validly be effected while the substitution lasts, except in the manner indicated in Art. 953, C.C., and that the sale of such property by judicial authorization on the advice of a family council, and with the consent of the curator to the substitution, is null and void.—*Joyce* v. *Hodgson*, Gill, J., Dec. 16, 1889.

Testamentary executors—Replacement of—Art. 923, *C.C.—Action by wife's executors to recover a propre—Sufficiency of allegations—Replacement of propre—Arts.* 1303-1306, *C.C.*

Held:—That where the testator has given his testamentary executors power to appoint substitutes, such power may be exercised even after the testamentary executors have commenced to act.

2. It is not necessary that the replacement should be made judicially, unless the testator has so directed. A notarial declaration naming substitutes is legal and regular.

3. In an action by the wife's executors against the husband, to recover possession of a *propre* belonging to her, it is sufficient to allege that the immovable in question was purchased by the wife, during her marriage with defendant, with her own money and in her own name, with the consent and authority of her husband the defendant. The omission to state specifically that the immovable was a *propre*, being purchased with the pro-

[1] To appear in Montreal Law Reports, 6 S.C.

ceeds of a *propre* of the wife, and in replacement of it, is not fatal to the action.

4. Where a wife purchases property in her own name and with her own money, in replacement of a *propre*, a formal acceptance by her of the replacement is not necessary.—*Kennedy* v. *Stebbins*, Tait, J., Oct. 31, 1890.

Gift—Verbal promise—Art. 776, C. C.—Improvements.

Held:—(Affirming the judgment of BROOKS, J.) That a promise of a gift of real property, without legal consideration, made verbally, is null; but where the promisee entered into possession of the immovable in pursuance of the promise, it was sufficient to make him possessor in good faith, and therefore entitled to the value of his improvements if proceedings were taken to evict him.—*Montgomerie* v. *McKenzie*, in Review, Johnson, C.J., Würtele, Tellier, JJ., Nov. 15, 1890.

Promissory note—Consideration.

Held:—That, in the absence of legislative enactments prohibiting the same, and in default of an Insolvent Act whereby the majority of the creditors would bind the remainder to the conditions of a composition and discharge, nothing invalidates, as between the debtor and his creditor, an agreement by which the debtor undertakes to pay such creditor more than the amount of said composition and discharge, and a promissory note given to cover such excess is valid.—*Racine* v. *Champoux*, Gill, J., Nov. 7, 1890.

Principal and agent—Agent acting within scope of his apparent authority.

Held:—Where wines were ordered by the secretary-treasurer of a club, who had apparent authority to purchase supplies for his club, and the wines were invoiced and consigned to the club, that the latter were liable for the price. To establish a defence in such case it would be necessary to show not only that the act of the agent was unauthorized, but that the party dealing with the agent had notice thereof.—*Gourd* v. *Fish & Game Club*, Würtele, J., Nov. 26, 1890.

Railway expropriation—Award of arbitrators—Nullity of award.

Held:—1. An appeal by which the Court is called upon to modify an award of arbitrators in an expropriation under the Railway Act of Canada, by either increasing or diminishing the amount allowed by the arbitrators, can only be taken when a valid award exists.

2. By Section 152 of the Railway Act, no valid award can be made except at a meeting of the arbitrators of which any absent arbitrator had two clear days' notice, or to which a meeting at which he was present had been adjourned.—*Denis dit St. Denis* v. *Cie. de Chemin de Fer de M. & O.*, Würtele, J., Dec. 2, 1890.

COURT OF APPEAL.

LONDON, Oct. 27, 1890.

Before LORD ESHER, M.R., LINDLEY, L.J., LOPES, L.J.

WHITE v. BOLCKOW, VAUGHAN & Co. (LIM.)

Practice—Trial before Jury—Application for New Trial on ground that Verdict against Weight of the Evidence.

Appeal of defendants from the decision of a Divisional Court refusing a new trial of an action tried before DAY, J., and a jury.

The Court dismissed the appeal.

LORD ESHER, M.R., in delivering his judgment, said: As this is the first case of the kind that has come before us since it has been settled that this Court shall hear all applications for new trials, even where the action has been tried before a jury, I shall venture to emphasise what has often been said in this Court before now. I think one of the great objects of the Judicature Acts was to prevent a repetition of trials in an action, and the Court, therefore, where the action has been tried out before the proper tribunal, will not order a new trial but with extreme reluctance, and will struggle to avoid doing so, if justice can be done without imposing upon the parties so burdensome an infliction. Therefore, whether the grounds of the application be misdirection, misreception of evidence, or that the verdict is against the weight of the evidence, the Court will en-

deavour to come to a final determination in the matter without granting a new trial. This rule applies most strongly where the suggestion is that the verdict is against the weight of the evidence. When the proper tribunal has been called in by the parties, and they have done their best or worst before it, and have got the decision of that tribunal, that decision must not be set aside except on very weighty, almost imperative, grounds. The formula, which has often been stated here, applies—namely, that, if a verdict is under all the circumstances, one which twelve reasonable men might fairly find, the Court will not set it aside on the ground that it is against the weight of the evidence. Each case, of course, must depend upon its own particular circumstances, but it is enough for me to say that the Court will be very strict to follow the formula I have stated, and that where the question turns upon the credibility of the witnesses on either side it will be almost impossible to set aside the verdict of a jury, unless some fact is incontestably established, which makes it impossible that the verdict can be right or so improbable that the Court cannot accept it. If the party seeking for a new trial can carry his case the length of showing that some established fact is inconsistent with the case of the party who has obtained the verdict of the jury, and is consistent with that of the party seeking to set the verdict aside, there the Court may interfere with the verdict. I do not say that this is the only case—there are, no doubt, others; but unless some such case is made out, it will be very difficult to induce the Court to say that the verdict is so wrong that it must be set aside.

LINDLEY, L.J., and LOPES, L.J., concurred.

Appeal dismissed.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Dec. 13.

Judicial Abandonments.

Edward R. Bellerose, trader, Sorel, December 8.
Eugène Bourassa, hotel-keeper, Montreal, Dec. 8.
François Mivillo Déchène, dry-goods, Quebec, Dec. 11.
Henry Fairfield, Sweetsburg, Nov. 26.
John Johnson & Co., hotel-keepers, Montreal, Dec. 6.
Edmond Lajoie, trader, St. Hyacinthe, Dec. 5.
Jean Evangéliste Turgeon, trader, Sherbrooke, Dec. 1.

Curators appointed.

Re Arpin & Frère.—C. Desmarteau, Montreal, curator, Dec. 3.

Re Edouard R. Bellerose, Sorel.—L. G. G. Béliveau, Montreal, curator, Dec. 9.

Re Eugène Bourassa.—C. Desmarteau, Montreal, curator, Dec. 10.

Re Henry Fairfield.—W. L. Smith, Pike River, curator, Dec. 5.

Re Z. Garneau, trader, Quebec.—H. A. Bedard, Quebec, curator, Dec. 5.

Re Gendron & Gauthier, Megantic.—M. B. McAulay, Scotstown, curator, Dec. 10.

Re N. H. Madden.—C. Desmarteau, Montreal, curator, Dec. 10.

Re Riopel & Hétu.—C. Desmarteau, Montreal, curator, Dec. 6.

Re F. B. Smith, Montreal.—Kent & Turcotte, Montreal, joint-curator, Dec. 10.

Dividends.

Re Amédée Bayard.—First and final dividend, payable Dec. 26, J. M. Marcotte and P. E. E. de Lorimier, curators.

Re A. G. Elliott.—Interim dividend, payable Jan. 5, 1891, Kent & Turcotte, Montreal, joint-curator.

Re Fred. Moor & Co., Windsor Mills.—First and final dividend, payable Dec. 29, J. McD. Hains, Montreal, curator.

Re Robert Neill, Sheffington.—Second and final dividend, payable Dec. 30, A. W. Stevenson, Montreal, curator.

Re Damase Pageot, trader, St. Sylvestre.—First dividend, payable Dec. 29, H. A. Bedard, Quebec, curator.

Re George Robitaille, Quebec.—First and final dividend, payable Dec. 22, Kent & Turcotte, Montreal, joint-curator.

Separation as to property.

Olivine Lessard vs. Stanislas Payette, trader, Montreal, Dec. 9.

Thaïse Fournier dite Préfontaine vs. Magloire G. Pausé, trader, Montreal, Dec. 5.

Eléonore Sinclair vs. Daniel Angevine, clerk, Montreal, Nov. 4.

Separation from bed and board.

Angélina Dugrenier vs. Louis Bousquet, farmer, township of Ely, Nov. 21.

COLLECTION OF TAXES.—Sir James Mackintosh, who spent ten years in India, knew a rajah, a man of great acquirements and polished manners, who, when he was disappointed in the collection of his taxes of the sum he expected, ordered a pound of eyes to be brought him of those who had refused to pay the taxes.