The Legal News.

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In the section of Mr. Justice Mackay's work published this week, treating of the interest of the insured, the author touches upon the much controverted question recently decided in *National Ass. Co. of Ireland & Harris*, M. L. R., 5 Q. B. 345, and referred to *ante*, p. 89. The earlier case of *Black & National Insurance Co.*, 3 Leg. News, 29; 24 L. C. J. 65, was one in which Mr. Justice Mackay's opinion was overruled by the Court of Appeal. As this question cannot be considered finally settled until a higher Court shall have passed upon it, we have allowed the section to stand as it was written.

A resolution moved by Mr. Blake on the 29th April last, and which was unanimously agreed to by the House of Commons, makes an important suggestion on the subject of disallowance of provincial Acts. The resolution was in the following terms:—"That it is expedient to provide means whereby, on solemn occasions touching the exercise of the power of disallowance, or of the appellate power as to educational legislation, important questions of law or fact may be referred by the Executive to a high judicial tribunal for hearing and consideration, in such mode that the authorities and parties interested may be represented, and that a reasoned opinion may be obtained for the information of the Executive." The judicial opinion is not to be binding upon the Executive, nor to relieve it of responsibility to Parliament, but is intended only for the information of the Government. The resolution was accepted by the Ministerial side, and a measure will at some future time be submitted to Parliament in accordance with it.

CIRCUIT COURT.

MONTREAL, April 8, 1890.

Before WURTELE, J.

THE WILLIAMS MANUFACTURING COMPANY

v.

WILLOCK.

Lessor and lessee—Privilege of lessor—Pledge—Article 1619, *C. C.*

HELD:—1. *That the privilege of the lessor subsists so long as there has been no displacement of the moveable effects subject to it, or no removal of them out of his possession, and for eight days after such displacement or removal. It subsists on effects which the lessor, with the consent of an outgoing tenant, takes into his own possession as security for the amount due for rent.*

2. *A person in possession, ostensibly as owner, of a thing may validly give it in pawn, when the pledgee receives it in good faith, believing it to belong to his debtor.*

WURTELE, J.—The plaintiff seeks to revendicate a sewing machine from the defendant, alleging that it belongs to the company and that the defendant unlawfully retains it.

The defendant does not deny the plaintiff's ownership, but alleges that he had leased a parlor and a bedroom in his house on Bleury street to one William Hodgson, that Hodgson left the rooms on the 1st of May last, owing him $7.50 for arrears of rent, that the sewing machine was brought into, and was kept in, the rooms by Hodgson during his occupation, that it was affected by the lessor's privilege, and was given to him by Hodgson, when he left, as security for the balance of rent then due, and that he was willing to surrender it on the payment of such balance.

It appears that the sewing machine belonged to the plaintiff and had only been leased to Hodgson.

The plaintiff contends that the defendant lost the lessor's privilege upon the sewing machine by having taken it into his possession without judicial process, and that he had no right to take and hold it in pawn as it belonged to the plaintiff and had only been leased to Hodgson.

The defendant denies these pretensions and maintains that he still has his lien as a

landlord, and that at all events the sewing machine was pawned for his claim and can be lawfully retained by him.

The plaintiff says that the defendant had no right to take the law into his own hands and detain the sewing machine by exercising restraint.

As to the principle invoked by the plaintiff, there can be no doubt. A landlord has no right to retain, without judicial process, and by force, the effects of an outgoing tenant; but this did not take place in the present case. Here the defendant did not use any force or exercise any restraint. Hodgson, of his own accord, agreed to leave the sewing machine in the defendant's possession, to secure the payment of the balance which he owed him. When Hodgson gave up and left the rooms the sewing machine was affected by the lessor's privilege for the balance then due of the rent. The plaintiff admits this, and also that it would have existed for eight days more, and could have been preserved by means of an attachment in reception made during that period.

The landlord's privilege is founded upon articles 1619 and 1623 of the Civil Code, which enact that he has for the payment of his rent a privileged right upon the moveable effects which are found upon the property leased, and that he may seize them upon the premises or within eight days after they are taken away. The theory upon which this privilege is founded, is that the moveable effects placed by the tenant in the premises leased are pledged by him for the payment of the rent, and that being on the landlord's property they are constructively in his possession, although in the physical possession of the tenant. Baudry-Lacantinerie (vol. 3, p. 629), says: "En tant que le "privilége porte sur les meubles garnissant "la maison louée, il a pour cause une consti- "tution tacite de gage. On peut facilement "supposer, en effet, entre le bailleur et le "preneur, l'existence d'une convention tacite, "par suite de laquelle le mobilier mis par "le preneur dans la maison louée, a été "affecté à titre de gage au bailleur pour "garantir le paiement des loyers." In the case of an ordinary pledge, the privilege subsists only so long as the thing pawned remains in the hands of the creditor, and in the case of the tacit pledge which results from the lease of property, the privilege subsists as long as the moveable effects which are affected by it remain on the premises, or in the possession of the landlord; but in the latter case, by a special provision of law, to be found in Art. 1623 of the Civil Code, and in Art. 873 of the Code of Civil Procedure, the privilege is extended for eight days after the moveable effects have been removed. The landlord's privilege subsists as long as there has been no displacement of the moveable effects subject to it or no removal of them out of his possession, and for eight days after such displacement or removal, at the end of which delay it expires whether the things subject to it are in the tenant's possession or in the possession of a third party. Pothier, in his treatise on the Custom of Orleans, in No. 49 of the introduction to the title of Executions, says: "Après ce "temps expiré l'hypothèque que le locateur "avait sur les effets déplacés, s'évanouit, soit "qu'ils soient en la possession de tiers, soit "qu'ils soient encore en celle du locataire, "son débiteur."

The condition necessary for the existence of the privilege and for its continuance beyond eight days, is possession by the landlord of the things affected by it as pledgee. Laurent, (Vol. 29, No. 383), says: "La possession est de l'essence du privilége "attaché au gage; le créancier le perd dès "qu'il cesse de posséder. Ce qui est vrai du "gage conventionnel l'est aussi du gage tacite "en vertu duquel le bailleur a un privilége." And in order to preserve his privilege a landlord has the right to prevent the removal of the things affected by it. Pothier, in his treatise on contract of lease, No. 252, says: "Le seigneur d'hôtel a comme en nantisse- "ment les meubles qui sont dans sa maison, "d'où le locataire ne peut les faire sortir à "son prejudice." There is no law to prevent an out-going tenant voluntarily leaving either all or some of his effects in the possession of his landlord to secure the payment of the amount which he may owe for rent; but in case he should attempt to remove his effects before paying all rent due, the landlord can only prevent him from doing so by means of

an attachment under Article 873 of the Code of Civil Procedure. In both cases the landlord retains his privilege; in the first case by retaining possession of the things subject to it, the constructive possession being changed to physical possession, and in the other case by exercising his rights during the existence of the privilege.

But in the present case, the defendant contends that, if he has lost the lessor's privilege, he has, at all events, the privilege and right of retention of a pledgee on the sewing machine, and the plaintiff maintains that, as the sewing machine was its property and only leased to the defendant, the latter could not validly give it in pawn.

Formerly a thing could not be given in pledge to the detriment of the owner, who could always recover it from the pledgee, although it was valid as between the pledgor and the pledgee. See Pothier, Nantissement, No. 7. But in 1879 the principles contained in Articles 1488, 1489 and 2268 of the Civil Code with respect to the sale of corporeal moveables were applied to the contract of pledge; and the law then enacted is now to be found in Article 1966*a* of the Civil Code. Since 1879, therefore, a person in possession, ostensibly as owner, of a thing, may validly give it in pawn, when the pawnee receives it in good faith, that is, believing it to belong to his debtor. The rules of the modern civil law in this respect apply here as in France. Aubry and Rau (vol. 4, p. 700), thus shortly lay down the law: "Il faut, pour pouvoir "donner un objet en gage; en être propriétaire "et avoir la capacité d'en disposer. Toutefois le créancier qui, de bonne foi, a reçu "du débiteur un objet dont celui-ci n'était "pas propriétaire peut, hors les cas de vol ou "de perte, en refuser l'extradition au véritable propriétaire." And Laurent (vol. 28, No. 440), gives the reason for this: "Il peut "paraître singulier qu'un simple droit réel "l'emporte sur le droit absolu de propriété; "la raison en est qu'il y a un intérêt général "en cause, l'intérêt du commerce et de la libre "circulation des choses mobilières." In the present case the defendant received in good faith from his debtor the sewing machine which belonged to the plaintiff, and he has the right to retain it until he is paid.

On the whole, I hold that the defendant's privilege as landlord still subsists on the sewing machine, and that, even if it has expired, he has a right of pledge upon it, and that he has the right to retain it until payment of his claim.

The Court, therefore, maintains the defendant's exception, with costs, and orders that upon payment to him by the plaintiff of the sum of $7.50 due to him by Wm. Hodgson for arrears of rent and of his costs in this suit, he do deliver the sewing machine to the plaintiff.

Archibald & Foster, for plaintiff.
Hutchinson & Oughtred, for defendant.

FIRE INSURANCE.

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

CHAPTER I.

OF THE CONTRACT OF INSURANCE, HOW MADE, WHEN PERFECTED, AND OF THE APPLICATION.

[Continued from p. 142.]

§ 13. *Interest of the insured.*

There must be a subsisting interest at the time of the loss, or the insured cannot recover. If the party insured sustain no loss he can seek no indemnity. But, in the absence of a clause prohibiting alienation of subject, a transfer by the insured of a share in the property insured will not vacate the insurance totally; and so if three or four coproprietors, or joint owners, insure, and two or three of them convey their shares to the other, or to a stranger, the insurance will not be totally vacated, but partially only. Considering that the policy in *Howard et al.* v. *Albany Ins. Co.*,[1] though prohibiting assignment of policy, was silent as to alienation of the subject insured, and had no clause in it providing for its becoming void in case of alienation of the subject, I think the judgment was wrong in holding that assignment by one of two tenants in common to the other was a bar to a joint action by both. But though joint action by both was repelled, was it said by the Court that no action could be brought by one of the original in-

[1] 3 Denio.

sured for his share? The plaintiffs declared in two counts: The first alleged interest in both plaintiffs at time of insurance and of fire. The second alleged interest in one only. Joint action by both would be repelled in Quebec, one of the nominal plaintiffs being without interest; but judgment in such an action would yet go in favor of the original insured who had never alienated. He would get judgment *pro rata*. Angell, § 198, disapproves the above judgment. His note 3 to § 198, I disapprove. I think that *Cockerill* v. *Cinc. M. F. Co.*, referred to by him, was rightly decided.

The American Ætna policy condition (No. 2), literally would apply even to moveables, and to prevent changing of furniture, yet the jurisprudence is against the doctrine that the insured cannot change the furniture of his house.

Under such a clause as in the American policy, *supra*, where two persons hold property jointly and insure, and one conveys to the other, the policy is avoided *in toto*, so I hold. Yet, Angell, § 198, says: "only for the share conveyed." I would only agree with Angell in such a case as this: four insure, each for £100, a house owned by them jointly. In this case the insurance might be held though by one policy.

A trustee insures as trustee. He goes out of the trust and another is named, and after a fire, claims. In this case it was held that title to the property was not changed, and the action was maintained.[1] So, it would seem, if one tutor insure, and another succeed him; the latter shall recover after a loss, though there be a condition against change of property or possession by legal process, &c. Yet, suppose A to insure a house of which he is usufructuary; afterwards he becomes proprietor; afterwards fire destroys the house. In France A could recover nothing, for his quality had changed.

When the property insured has been sold and delivered or otherwise disposed of, "so that all interest or liability on the part of the assured has ceased."[2]

[1] *Savage* v. *Howard Ins. Co.*, 7 Alb. Law Journal, 140.

[2] This is part of one clause in policies of the Royal Insurance Company.

Insurance was effected for $4,000. The insured sold the property insured for $1,000 cash, and a mortgage was given back for $7,000. A fire happened. Held, that the property was not sold and transferred within the meaning of the condition. The insured had still an insurable interest therein, and had not parted with all insurable interest therein;[1] there was not forfeiture.

In a case at Quebec, A insured for $800. After the insurance the property was sold for taxes to B. Plaintiff A says: "that did not finally divest me," and before the fire he had redeemed his property. Held, the plaintiff did not lose his ownership by the sale for taxes; no absolute conveyance of title was to B. Judgment for A against the insurance company.[2]

A policy read, that in case of any change of title, etc., policy to cease. Four months before the fire the insured died, and his four heirs became entitled and vested. The policy was held of no use.[3]

A became a bankrupt; B, the statute assignee, insured the stock for the benefit of the estate. The creditors changed the assignee, and C became assignee. A fire occurred. Had the new assignee, without notice to the company before the fire, right to sue afterwards? The original Court held the negative. The judgment was reversed.[4]

A insures goods. He sells them to a firm in which he is a partner. Held, not to be fatal to A, because he did not sell all his property.[5]

Art. 2577 C. C. of L. C. A transfer of in-

[1] *Savage* v. *Howard Ins. Co.*, 7 Alb. Law J., p. 140.

[2] *Paquet* v. *Citizens Ins. Co.*, 4 Q. L. R. 230.

What of *vente à réméré* in France? Rolland de Villargues, p. 57, says the *vendeur à faculté de réméré* ceases to be proprietor; he is *complètement dessaisi*, Vo. *Réméré*.

[3] *Lappin* v. *Charter Oak F. and Marine Ins. Co.*, New York, 1870; Vol. 5, Bennett's Ins. Cases; followed in 1878. Alb. L. J., June 1.

It would be so in Quebec unless there were a condition to the contrary. The policy in the above case could not have contained the exception of the Royal Insurance Company's policy, "except in cases of succession by reason of death of assured," and this exception is in our Civil Code, Art. 2576. But would the Civil Code override a policy not having such exception? *Semble*, Yes.

[4] *Elliott* v. *Nat. Ins. Co.*, 1 Legal News, 450.

[5] *Cowan* v. *Iowa State Ins. Co.*, 20 Am. Rep. 583.

terest by one to another of several partners or owners of undivided property who are jointly insured, does not avoid the policy.

Partners insure; one retiring, abandons all to the others without notice to the insurers. Fire happens; the Court held that assignment from one partner to his co-partners was not within the meaning of the condition in the policy (such as in the Ætna *supra*) against assignment.[1]

Angell, § 200 *a*, does not commit himself by an opinion upon this decision. *Wilson* v. *Genessee Mutual* is preferred by Flanders, p. 476, 2nd Edn. Now, the Civil Code of L. C., Art. 2577, orders, as in the *Wilson* case, that cession of interest between partners or co-proprietors who insured conjointly may occur, without nullifying the policy. (*Semble*, unless condition *contra*.)

Three own a house and insure it. The policy contained a clause against alienation of the subject or any part of it. One of the insured afterwards sold to the other two, without consent of the insurers. This was held not to affect the policy. The sale was held not to be alienation within the meaning of the condition, but a mere change of interest among joint owners.[2] Angell § 197, noticing this case, does not commit himself by an opinion upon the judgment.

There must be a subsisting interest at the time of the loss, or the insured cannot recover, but it is not necessary, unless there is some specific provision in the policy to that effect, that the interest should be the same, either in quantity or nature, at the time of the loss as when the contract is made. Therefore, though the interest of the insured is changed from an absolute to a qualified or contingent ownership, or from a legal to an equitable interest, he may still recover, in case he suffers any loss, if his remaining interest is not one which the policy requires to be specifically described.

This doctrine has been applied to the case where the interest of the insured has, after the execution of the policy, been changed from the absolute ownership to that of mortgagor, in *Gordon* v. *Mass. F. & M. Ins. Co.*, 2 *Pick.* 249, and *Jackson* v. *Mass. M. Fire Ins. Co.*, 23 *Pick.* 418, and to that of assignor for the benefit of creditors in *Lazarus* v. *Commonwealth Ins. Co.*, 5 *Pick.* 76; S. C., 19 *id.* 81. *Stetson* v. *Mass. Mut. Fire Ins. Co.*, 4 *Mass.* 330. Would this be so, where a discharge is granted by the creditors? Not in Quebec; but such transfer to the creditors would end the assignor's interest.[1]

In *Reed* v. *Cole*, 3 *Burrow* 1512, where one sold a ship on which he had effected an insurance, but agreed with the purchaser, that in case of her loss he would pay him five hundred pounds, it was held that he still possessed an insurable interest to that amount, for an injury to which he might recover under the policy effected by him before the sale.

As said before, policies are often effected to secure loans. A proprietor borrows money, insures his house in his own name, and afterwards transfers the policy to the mortgagee, to whom any loss is to be payable. A fire happens, but before it the original insured transferred his house without consent of the insurers, and his policy contained a condition such as the American one *supra* against alienation. In *Tillon* v. *Kingston M. Ins. Co.*, it was very improperly held that such conduct of the original insured could not defeat the right of the mortgagee.

More legal was the judgment of the N. Y. Court of Appeals in 1858, in *Grosvenor* v. *The Atlantic F. I. Co. of Brooklyn*, (Monthly Law Reporter of 1858.) M owned houses, and mortgaged them in favor of G. M insured in his own name; "loss, if any, to be paid to G." One condition of the policy was, that "in case of any transfer or termination of "the interest of the assured, either by sale "or otherwise, without the consent of the "company, the policy shall, thenceforth, be "void and of no effect." Before the fire M sold the houses, without notice to, or consent of, the insurers. It was held that the policy was void, even as regarded the mortgagee.

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[1] *Wilson* v. *Genessee M. Ins. Co.*, 16 Barbour R. A.D. 1853.

[2] *Tillon* v. *Kingston M. Ins. Co.*, 7 Barb. R.

[1] Suppose a man insured sell a house for £500, but retains mortgage for say £400, or £100 unpaid price. Alienation (under such clause as the Ætna's.) *Semble*, mutation would be seen in this case in Quebec, for the mortgagee is never proprietor here.

M at the time of the loss had no interest in the property insured. M sustaining no loss, the insurers were not liable to pay, so G had nothing to claim. G knew the conditions on which the insurers were to be liable. These were no less conditions after the assignment than before.[1]

Angell, § 61, says the consent of the insurers that the policy issued to the owners of a property, may be assigned to the holder of a mortgage, will be deemed in the nature of a contract with him by which he becomes insured to the amount which the assignment was intended to secure. (Citing Tillon case.) Yes, but he may be affected in many ways by the original insured's breaches of conditions. This § 61 I disapprove.

Pouget, Dict. des Ass., vol. 2, p. 1103, says it is better to take a direct policy than an assignment of another man's, for in this last case the assignee is at the mercy of the assignor. A mortgagee had better not be content with a transfer of the mortgagor's policy.

A policy contained a condition that it should cease to have force if any change take place in the title or possession of the insured, whether by legal process, or judicial decree, or voluntary transfer. The insured was made a bankrupt and all his property became vested in an assignee. Fire happened. Held, that the insurers were free. The policy had ceased to have force, before the loss.[2]

In *Br. Amer. Ass. Co.*, appellant, and *Appleton Iron Co.*, respondent, (Supreme Court of Wisconsin) there was an insurance on moveables, with the condition that if the property be sold, or if any change take place in title or possession, whether by legal process or judicial decree, or voluntary conveyance, the policy shall be void. The insured became bankrupt, and had to transfer to a trustee under order of the Court. But the loss had all along been appointed to be paid to mortgagees whose claims exceeded the insurance. As such mortgagees in Wisconsin are considered owners and as having legal title to the property mortgaged, the policy was held not avoided; but it was conceded that had the subject insured been real estate, such bankruptcy proceedings, and assignment by the bankrupt under compulsion of a bankruptcy law, would be held an alienation or transfer fatal to the policy.

If the mortgagor insure his house in his own name and transfer the policy to the mortgagee, and afterwards sell the house to a third person without notice to the insurer and his consent, required by the policy, and fire happen, the mortgagee cannot recover. *Carpenter* v. *The Prov. W. In. Co.*, 16 Peters.

To which I add: If A, a mortgagee, insure for twelve months his interest in B's house mortgaged to him, *semble* though B afterwards sell, if the house be burned down within the twelve months, the insurers must pay.[1]

It was said in *Jackson* v. *Mass. Fire Ins. Co.*[2] that the mortgage of a house takes nothing from the insurable interest of the mortgagor, even when the policy contains a clause that the policy shall be void if the property be alienated without the consent of the insurers.[3] The rule is the same where only personal property is in question.[4]

A policy interest is assigned without transfer of subjects. The assignee of the policy must, after fire, prove that his assignor lost, and what he lost.[5]

A insures and mortgages his house to B, and B is registered by the insurance company as the transferee of the interest of A in the policy. A sells afterwards to C. Fire happens subsequently. Shall A recover? No. Shall B? Yes, said the majority of the Court, in the case of *McGillivray*. But I think that B cannot recover.

"Aliened by sale" means an absolute and

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[1] Yet in the Queen's Bench, 1879, Black's appeal, the Grosvenor case was not followed, 3 Leg. News, 29.

[2] Perry, applt. v. The Lorillard F. Ins. Co., N. York, 1874, 19 Am. Rep.

[1] Observe in Quebec the mortgagor is free to sell, does not cease to be owner, from the mere fact of mortgaging.

[2] 23 Pick.

[3] *Rollins* v. *Columbian F. Ins. Co.*, 5 Foster.

[4] *Rice* v. *Tower*, 1 Gray.

[5] So I judged in *Whyte* v. *Home Ins. Co.*, Nov., 1871, which judgment was confirmed by the Court of Queen's Bench, two dissenting, and by the Privy Council.

unconditional sale. If an interest is reserved by the vendor, he *may* have an interest at the time of the loss, and may recover.[1]

[To be continued.]

COUNSEL'S FEES IN 1676.

It is not an uncommon belief that incomes made at the bar at the present day far exceed those of earlier times. This is partly due to exaggerated accounts of what is earned being given in contemporary times, and to the fact that, if a counsel's fee-book is published at all, it is not likely to appear until long after his death. In the case of Sir John King, King's Counsel in Charles the Second's reign, who died on June 29, 1677, posterity has the advantage of the fact that one of his family compiled a memoir of him and his family which had been preserved for a hundred years, and which in 1782 was confided to the *Gentleman's Magazine* (vol. lii. p. 110). It appears from this document that John King was the eldest son of John King, M.D., of London, who was the son of John Le Roy alias King, a French refugee to England in 1572. He was born at St. Albans on February 5, 1629, went about the age of thirteen to Eton, was a king's scholar, was admitted into Queen's College, Cambridge, in November, 1655, and took the degree of B.A. His parents were determined that he should go to the Inns of Court to study the law. He wished to go into the Church, but he dutifully submitted and was entered a student of the Inner Temple in Michaelmas Term, 1660, and at the end of seven years was called to the bar. He practised first before the Court for the rebuilding of London after the Fire, and afterwards got better business in Westminster Hall, becoming first practitioner in the Court of Chancery. He was appointed a King's Counsel and Solicitor-General to the Duke of York, and on December 10, 1674, received knighthood. He married and had seven children. In the year 1676, he had in fees 4,700*l.*, and on the four days in Trinity Term, 1677, that he pleaded with a fever on him, he had fees of 40*l.* and 50*l.* per day, as by his book entered by his own hand appeared. On the fourth day, to use the words of the memoir, 'being at the Chancery Bar he fell so ill of fever that he was forced to leave the Court and come to his chamber in the Temple with one of his clercks, who constantly waited on him and carried his bag of writings for his pleadings, and then told him he should return to every client his *brieviat* and his fee, for he could serve no longer, for he had done with the world.' 'On July 4, his body was honourably buried, being carried from the Inner Temple Hall (the velvet pall on his coffin being borne by six of the honourable bench of the Inner Temple), honoured with the presence of the Right Hon. Heneage, Lord Finch of Daventry, Lord High Chancellor of England; Sir Harbottle Grimstone, Bart., Master of the Rolls; the judges and barons of his Majesty's Courts at Westminster Hall, the serjeants-at-law, benchers, and barristers and gentlemen students of the Honourable Society of the Inner Temple, to his grave near the effigies of the Knights Templars in the Round Tower of the Temple Church.' A lengthy memorial inscription, erected by his widow in the Round Tower, which ends 'dilecti, eruditi beati cineres,' records the event. Four thousand pounds in the middle of the seventeenth century means some 16,000*l.* towards the end of the nineteenth, and that sum, it may be safely ventured, has not been reached by any barrister of nine years' standing, which is, in recent times, considered still young at the bar.—*Law Journal* (London).

RECOVERING BETS.

On January 15, before Mr. Justice Stephen and a common jury, the case of *Robson* v. *Cornbloom, Watson & Hurndall* was tried. The plaintiff, a gentleman residing at Newcastle, sued to recover the sum of 177*l.*, being a balance due to him by the defendants upon certain betting transactions. The defendants had carried on the business of betting commission agents at Boulogne-sur-Mer, and had issued circulars offering to do business upon advantageous terms. The plaintiff had commissioned them to lay 7*l.* for him upon a

[1] So said Mowat, arguing in *Sands* v. *Standard Ins. Co.*, 26 Grant, 113.

In *McQueen* v. *Phœnix Mut. Ins. Co.*, 4 Can. S. C. R. 660, the insured recovered, though he transferred to A B for his creditors, the balance to be paid to himself, etc.

horse, Claymore, to win the Manchester November Handicap at 20 to 1, also 5 *l.* upon the same horse for a place at 5 to 1. The defendants contended that they had made the bets as principals and not as agents, and pleaded the Gambling Act (8 & 9 Vict. c. 109, s. 18). The defendant Hurndall denied, further, that he was a partner in the firm, and that he was responsible for the acts of the other defendants.—From the evidence it appeared that the defendants commenced the business of commission agents towards the latter part of 1888, and employed a clerk called Barnes to manage it for them, with instructions to telegraph any bets made. Cornbloom and Watson were bookmakers in London, and Hurndall was a veterinary surgeon. The defendants had an account at the London and South-Western Bank, all the defendants having signed the customers' book. Soon after Hurndall became dissatisfied with the expenditure and wrote to the bank, claiming to be a partner and to have the right to stop the other two defendants drawing cheques. It further appeared that the defendants had sent to the plaintiff a voucher stating that 'they had obtained for him the bets in question.' Watson, in cross-examination, admitted that he knew the law that the plaintiff could not recover unless he could prove that the defendants had actually made the bets with third persons and received the money; and yet, after action brought, he had written admitting his liability. Mr. Justice Stephen summed up and regretted very much that the Courts had permitted a great breach to be made in the sp it of the Gaming and Wagering Acts by enabling perons to recover bets from an agent who had actually made them with third parties and received the money. It enabled the Acts to be completely evaded, and he hoped that a change would sooner or later be made in the law. Still, here they had to administer the law as it stood. The jury found a verdict for the plaintiff for the full amount claimed.—Mr. Candy applied for a stay of execution, but Mr. Justice Stephen declined to grant a stay, as he had no doubt about the case, but the defendants could apply to a Divisional Court if they pleased.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, April 26.

Dividends.

Re Blumenthal, Rosenthal & Co., St. Hyacinthe.—First and final dividend, payable May 13, J. Morin, St. Hyacinthe, curator.

Re A. E. Boisseau, Quebec.—Third and final dividend, payable May 12, H. A. Bedard, Quebec, curator.

Re Hector Bourassa, Three Rivers.—Dividend, payable May 15, U. Martel, Jr., Three Rivers, curator.

Re James Stuart Kennedy.—First and final dividend, R. N. England, Knowlton, curator.

Re J. N. P. Lafricain & Cie., St. Ambroise.—Dividend, payable May 20, Kent & Turcotte, Montreal, joint curator.

Re Lamarche, Prévost & Cie., Montreal. — First dividend, payable May 20, Kent & Turcotte, Montreal, joint curator.

Re Massé & Mathieu, Montreal.—First dividend, payable May 20, Kent & Turcotte, Montreal, joint curator.

Re A. Normandin.—First and final dividend, payable May 16, C. Desmarteau, Montreal, curator.

Re Joseph Pelletier & Cie.—First and final dividend, payable May 14, W. A. Caldwell, Montreal, curator.

Re J. A. Rafter & Son.—First dividend, payable May 20, Kent & Turcotte, Montreal, joint curator.

Re E. St. Amour *et al.*—First and final dividend, payable May 16, C. Desmarteau, Montreal, curator.

Separation as to Property.

Helen Caldwell vs. Joseph Adams, blacksmith, Huntingdon, April 18.

Marie Agnes Germain vs. Jean Baptiste Falardeau Quebec, April 24.

Rosanna Lawlor vs. François X. Goyer, Montreal, April 16.

Martha Jane Whitney vs. James Calvin Moore, farmer, township of Kingsey, April 1.

Notarial minutes transferred.

Minutes of late G. F. Cleveland, N.P., Montreal, transferred to O'Hara Baynes, N.P., Montreal.

Quebec Official Gazette, May 3.

Judicial Abandonments.

Catherine Murray, widow of Hugh Drysdale, watchmaker and jeweller, Montreal, April 26.

GENERAL NOTES.

At the annual meeting of the bar of Montreal, May 1st, the following officers were elected:—*Bâtonnier*, F. L. Béïque, Q.C.; *Treasurer*, J. Dunlop, Q.C.; *Syndic*, H. C. St. Pierre, Q.C.; *Secretary*, H. Lanctot; *Council*, S. Beaudin, Q.C., P. H. Roy, C. A. Geoffrion, Q.C., F. D. Monk, C. J. Doherty, Q.C., J. L. Archambault, Q.C., W. W. Robertson, Q.C., H. Archambault, Q.C.