THE LEGAL NEWS.

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The Legal News.

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A referee of very liberal ideas in the matter of professional deservings, is Mr. Ashbel Green. Reporting on the claim of Aaron Kalm, for compensation as attorney in the Hoyt Will Case, he allows Mr. Kalm a retaining fee of $5,000, compensation at the rate of $1,000 a month, and a solacing fee of $5,000 for having been discharged and "subjected to the trouble and expense of the reference," —making $41,000 in all, for 31 months' services. As Mr. Kalm had only been five years at the bar when retained in the case, he must be regarded as a very promising young man.

The Court of Appeal, in the recent case of *Cox* v. *Turner* (M. L. R., 2 Q. B.), pronounced incidentally upon a claim very commonly urged, to expenses of legal advice as part of the damages flowing from breach of contract by the other party. It is probably a fair and legitimate item where settlements are made out of court, but it is interesting to the profession to know that the Courts will not treat a disbursement for this purpose on the same footing as the costs of a notarial protest. In the opinion of Mr. Justice Cross, the following occurs with reference to a claim for $20 paid for counsel's opinion:—"We are not disposed to allow this charge. The courts are continually pressed to allow extraneous charges, and if such demands were not resisted, the costs of litigation would rapidly become even more ruinous than they already have the reputation of being. Every subject is supposed to be bound to know the law for himself, and if he thinks it prudent to be advised on what is legally an obligation of his own, he indulges in a luxury he is legally and, I presume, fairly bound to put to his own charge."

The State of Maryland has had its stock speculation case, and the Court of Appeals has given a decision similar to that which has been rendered in most of the other States and in our recent case of *Macdougall & Demers*, M.L.R., 2 Q.B. In *Stewart* v. *Schall* it was adjudged that a broker cannot recover for services, money advanced and interest on sales or purchases of stocks, bonds, grains, etc., where the contract between the principals was a mere wagering one. In cases of such kind, defendant may show that although the contract in form was perfectly legal, yet it was in fact mere guise under which a gambling transaction was conducted. The fact that plaintiff acted only as broker in negotiating the contract, and is not suing to enforce the original contracts, but only for services, etc., makes no difference. It was further held that where principal and broker both reside in Pennsylvania, and the principal employed a broker to make purchases of stocks, bonds and grains in other states, but deliveries were to be made in that state, that the law of Pennsylvania governed the contract on the question whether it was void as a wagering contract.

A writer in *Tinsley's Magazine* suggests the reading of law reports as an intellectual recreation for laymen. He says: "I venture to assert that a man who from month to month carefully reads the *Law Journal Reports*, will acquire a mental acumen not attainable by any other study, and let me add that, not being a lawyer, he would soon find the reading of the reports one of his most pleasurable recreations." Those who adopt this mode of recreation will not easily run out of reading matter.

The prospectus of the Mortgage Insurance Corporation (limited), recently issued in England, states that the company has been incorporated for the purpose of granting insurances to the holders of mortgages, mortgage debentures, mortgage debentures stock, and other securities against loss of principal and interest. It is believed by the directors that the system of insurance thus introduced will supply a valuable element of security to all holders of mortgages upon property, and more especially to trustees: and it is to be anticipated that the additional security thus offered to mortgagees will largely increase the present number of mortgage trans-

actions; but assuming that only a small percentage of the property at present in mortgage were assured with the company, the business thus obtained would yield a large dividend to the shareholders. The share capital is £2,000,000, with a first issue of a million, of which one-quarter has been subscribed by the founders, who will pay all the preliminary expenses, except law charges and brokerage.

COURT OF REVIEW.

QUEBEC, January 31, 1885.

Before STUART, CASAULT, CARON, JJ.

L'HEUREUX v. LAMARCHE ET AL.

Assignee of Insolvent Trader—Account—Pleading—Débats de compte.

1. *An assignee to whom an insolvent trader has assigned his estate for the benefit of his creditors, is personally bound to render to the insolvent an account under oath.*
2. *Pleas, first denying liability to account, and secondly, producing an unsworn account, are inconsistent.*
3. *A judgment ordering an account to be rendered is a condition precedent to a discussion of an account produced before the making of such order.*

The plaintiff, a merchant, residing at Ste. Geneviève de Batiscan, became financially embarrassed; on the 23rd September, 1882, at Montreal, he made a voluntary notarial assignment, to the defendants, of all his estate.

The defendants entered into possession of his assets and realized from the sale of such assets, $2,200.71.

The plaintiff's pretensions are that the defendants sacrificed his assets; he claims that they sold, to one Alphonse Turcotte, for $1,600, his stock-in-trade, which was worth $2,825.42; and that, to the same person, they sold for $500:

1. A building-lot with a dwelling and a store upon it.

2. A hypothecary debt for $182.

3. Promissory notes, to the amount of $718.20.

Mr. L. P. Guillet, a barrister of Three Rivers and a creditor of L'Heureux for $185, became dissatisfied with the trustees' management of L'Heureux' affairs, sued the present plaintiff, and, on the latter's confession, obtained a judgment for his claim. He caused to be placed, in that suit, a garnishment-seizure in the hands of the defendants in this case.

Upon that garnishment-seizure, the present defendants made separate declarations denying their indebtedness to the present plaintiff and alleging indebtedness by him to them.

Upon contestations of those declarations, in which the amount involved in such contestations exceeded $200, the Circuit Court, at Three Rivers, dismissed the contestations.

On the 30th April, 1883, the Court of Review, at Quebec, reversed that judgment, putting the parties out of Court, on the ground that the Circuit Court had no power to adjudicate upon that contestation, the amount exceeding $200.[1]

Shortly after the rendering of that judgment in Review, Wilbrod L'Heureux, defendant in the Circuit Court case, brought the present suit, in order to compel the present defendants to render to him in this case a judicial account of their management of his estate.

To this suit the defendants pleaded:

1. That they were not bound to render the account claimed by L'Heureux,—that such an account could only be claimed by L'Heureux' creditors,—and that they, the defendants, were not personally liable towards L'Heureux;

2. That they prayed *acte* that they had already rendered an account, sworn to, and proved, on the contestation of their declarations as garnishees, and that, by the judgment of the Circuit Court (so reversed by the Court of Review), and that there was, therefore, *res judicata* between L'Heureux and themselves.

3. That they prayed *acte* of the fact of their bringing into court in this case an account not sworn to by them.

The parties to this suit proceeded to proof and final hearing on the three issues raised by the defendants. The defendants produced the record of the case in the Circuit

[1] See *Guillet* v. *L'Heureux*, 9 Leg. News, 371.

Court, wherein the judgment had been reversed in review, containing the judgment in review in that case. The defendants further, in support of the unsworn account produced by them, adduced several witnesses, who were cross-examined by L'Heureux.

On the 16th September, 1884, the Superior Court, sitting at Three Rivers, dismissed this suit with costs.

On the 31st January, 1885, that judgment of the Superior Court of Three Rivers, was reversed by the Court of Review, sitting at Quebec.

On appeal to the Court of Appeal, sitting at Quebec, by the present defendants, the judgment of the Court of Review was reversed.

On appeal to the Supreme Court of Canada, by the present plaintiff, the judgment of the Court of Appeal was reversed and the judgment of the Court of Review, to be hereinafter quoted, was restored in its integrity.

By the judgment in review, it was held,

1. That trustees, to whom an insolvent trader has assigned his estate for the benefit of his creditors, are personally bound, in a direct action for a judicial account, to render to the trader such judicial account, sworn to by them and accompanied with the necessary vouchers in support of the account;

2. The two pleas of defendants, that is to say, the first plea of theirs, denying their liability to account and their personal responsibility for the payment of any *réliquat de compte*, that might be found to be due by them,—their second plea,— their readiness to so account and the production by them in this cause of an account unsworn to,—are contradictory and incompatible with each other; — and that, considering the amount (over $3,000) in dispute, no contestations of the declarations of the defendants, as such garnishees, for the want of jurisdiction, could be dealt with by the circuit court;

3. A judgment ordering an account to be rendered, is a condition precedent to any proceeding in the direction of discussing the merits of an account produced, as part of a plea, before the rendering of a judgment so ordering an account;

4. In view of the fact that, by a common error, the defendants had examined, in support of their account so produced in this case, witnesses, whom the plaintiff had cross-examined, the cost of such evidence should abide the issue of the suit;

5. Under the circumstances, disclosed by the record of the case, the defendants should be condemned to render that judicial account to the plaintiff.

The text of the judgment in review is as follows:

"Considérant que les cessionnaires des biens d'un commerçant insolvable, qui les leur abandonne pour le profit de ses créanciers, doivent au cédant un compte de leur gestion;

"Considérant que, ni la déclaration que font les cessionnaires sur la saisie entre leurs mains, à la poursuite d'un tiers, ni la contestation de cette déclaration par le saisissant, ou la justification par les saisis, n'équivalent au compte dû au cédant et ne peuvent en tenir lieu, et que de plus il n'y a eu aucune adjudication sur le mérite des contestations faites des déclarations des défendeurs sur les saisies-arrêts, qu'ils mentionnent dans leur défense;

"Considérant que les défendeurs *nient* au demandeur le droit à un compte et demandent le renvoi de son action, et que, par la même défense, ils *offrent* un compte, non assermenté, mais en forme sous d'autres rapports, et que ces allégations sont contradictoires et incompatibles;

"Considérant que, sous ces circonstances, la contestation ne pouvait être liée, et ne l'a été, que sur le droit du demandeur d'obtenir un compte des défendeurs, et non sur le mérite du compte, et que jusqu'à ce qu'il eût été adjugé sur le droit du demandeur d'obtenir un compte, il ne pouvait pas débattre celu présenté;

"Considérant que les défendeurs ont, pour prouver le compte par eux produit, examiné des témoins et que le demandeur les a transquestionnés, et que la preuve ainsi faite pourra servir sur les débats et les soutennements, qui pourront être ci-après produits;

"Infirme le jugement prononcé le 16 septembre, 1884, par la Cour Supérieure, siégeant dans et pour le district des Trois-Rivières, et condamne les dits défendeurs à rendre, au dit demandeur, sous 15 jours, un compte as-

sermenté et soutenu de pièces justificatives, de leur gestion des biens qu'il leur a cédés, avec, contre les dits défendeurs, dépens en révision et aussi en première instance, sauf les frais d'enquête, qui sont réservés pour adjudication en même temps que sur le compte qui sera définitivement établi."

L. P. Guillet, for the plaintiff.

E. Gérin, for the defendants.

(J. O'F.)

SUPERIOR COURT.

MONTREAL, Nov. 11, 1886.

Before TASCHEREAU, J.

In re DUPERROUZEL, Insolvent, & SEATH et al. Curators, & STEPHENS, Contestant.

Lessor and lessee—Fixtures and fittings.

Where it was stipulated that the "fixtures and fittings" erected by the tenant in a restaurant were to remain the property of the landlord, these terms included the bar, bar-shelving, oyster counter, gaseliers and other gas fixtures.

The curators applied for leave to sell the effects of the insolvent, garnishing the premises leased from the contestant.

The contestant opposed the sale of certain of these effects, as being included in the terms "fixtures and fittings" erected by the tenant, which by a clause in the lease, were to remain the property of the landlord.

The contestation was maintained as to the bar, bar-shelves, oyster counter, gaseliers, gas-brackets and other gas fixtures. Some of these were attached by nails or screws, and as such were fixtures. The term "fittings" applied to objects necessary to fit the premises for their special destination, *e.g.* the bar and counters in a bar-room.

Contestation maintained without costs.

Mercier, Beausoleil & Martineau, for curators.

Lafleur & Rielle, for contestant.

(N. T. R.)

CIRCUIT COURT.

HULL (dist. of Ottawa), Nov. 5, 1886.

Before WURTELE, J.

FISET v. PILON.

Note signed with a cross—Evidence.

HELD:—*That a note signed with a cross does not make proof of itself, and proof must be made of the signature in order to obtain judgment thereon.*

The action is founded on a promissory note, signed with a cross in the presence of a witness, and was inscribed for judgment on the note, without enquête.

PER CURIAM: Promissory notes and other private writings or documents upon which any claim is founded, are held to be acknowledged and make proof against the parties who signed them if they do not formally deny under oath their writing or signatures.

A private writing, susceptible of thus making proof, is one which is signed by the party executing it. Pothier, in No. 742 of his Treatise on Obligations, in speaking of private writings says, "la personne qui a elle-même souscrit l'acte, ne pouvant ignorer sa propre signature, doit la reconnaitre ou la dénier précisément; et faute par elle de la dénier, le juge prononce la reconnaissance de l'acte comme souscrit d'elle." In Sirey's Annotated Civil Code, under article 1322, I find the following note: "Ne peut être regardé comme revêtu d'une signature et des lors valable, l'acte auquel il n'est apposé qu'une simple croix ou marque; et cela encore que l'acte soit signé de témoins."

These rules are contained in, or result from, articles 1221, 1222, 1223, 1224 and 1225, of the C. C., and it appears by article 1226 that they apply to writings of a commercial nature, such as the instrument sued upon.

The note filed in this case does not therefore make proof of itself against the defendant, and to obtain judgment, proof must be made in the ordinary manner.

The inscription for judgment is therefore discharged.

Rochon & Champagne for plaintiff.

COUR DE POLICE.

MONTRÉAL, 17 novembre 1886.

Coram DESNOYERS, magistrat.

TALON dit LESPÉRANCE v. Rév. PICHÉ.

Obtention d'argent sous de faux prétextes—Menaces et violences pour extorquer—Intention de l'accusé.

JUGÉ:—1o. *Que pour constituer l'offence prévue*

par le statut 32-33 Vic., *ch.* 21, *sec.* 44, *concernant les personnes qui exige d'une autre de l'argent avec menace ou menaces, trois conditions sont nécessaires:* 1o. *que l'argent soit exigé;* 2o. *avec menaces;* 3o. *avec l'intention de le voler.*

2o. *Que quoiqu'en général lorsqu'il y a doute, l'intention de voler soit une question de fait à être laissé au jury, néanmoins le magistrat doit décider la question lui-même lorsqu'il n'y a pas de doute qu'il n'y avait pas l'intention de voler.*

3o. *Qu'un créancier qui au moyen de menaces, obtiendrait le paiement de sa créance, ne tomberait pas sous l'opération du dit statut.*

Vers trois heures, cette après-midi, Son Honneur le juge Desnoyers a rendu jugement dans l'affaire de Terrebonne, qui a fait grand bruit dans cette paroisse et dans Montréal.

On se rappelle que le 23 octobre dernier, un nommé Pepin Talon dit Lespérance, hôtelier de la paroisse de Saint-Charles de Lachenaie, a fait une plainte sous serment devant Son Honneur le juge Desnoyers, ainsi conçue:

Le ou vers le neuvième jour de mai 1886, en la ville de Terrebonne, le nommé Jules Piché a félonieusement exigé de moi, avec menaces, la somme de cinquante dollars, avec l'intentien de me la voler, etc.

Or, M. Jules Piché, accusé dans cette plainte était M. le curé Piché, de la paroisse de Terrebonne.

M. le curé Piché, déclara qu'il avait dit au plaignant de lui donner cinquante piastres, mais que cette somme serait donnée "aux pauvres."

Nous publions ce jugement *in extenso:*

PER CURIAM:—

La Reine v. Messire Jules Piché.

Sur accusation d'avoir à la ville de Terrebonne le ou vers le 9 mai 1886, exige de Pepin Talon dit Lespérance, hôtelier de la paroisse de Lachenaie, la somme de cinquante piastres avec intention de voler cette somme.

La plainte en cette cause a été portée en vertu de la sec. 44 de l'acte fédéral concernant le larcin, 32-33 Vict., ch. 21, qui se lit comme suit:

"Quiconque exige de quelque personne, "avec menaces ou violence, quelque pro- "priété, effet, argent, valeur ou autre chose "évaluable, avec l'intention de le voler, est "coupable de félonie, et sera passible d'une "incarcération dans le pénitencier pour une "période de deux ans, ou dans quelque "autre prison ou lieu de détention pour une "période de moins de deux ans, avec ou "sans travaux forcés et avec ou sans réclu- "sion solitaire."

La preuve établit:

Que le 9 mai dernier, le plaignant s'est rendu chez l'accusé à Terrebonne à la demande de Madame Lauzon, dont le fils mineur s'était enivré le dimanche précédent. Madame Lauzon croyait que son fils s'était enivré chez le plaignant.

Rendu chez l'accusé, ce dernier lui a reproché de continuer à vendre de la boisson le dimanche aux citoyens de Terrebonne et l'a reprimandé pour le scandale qu'il causait. Le plaignant admit avoir vendu de la boisson le dimanche, mais nia en avoir vendu au jeune Lauzon. L'accusé lui dit que déjà plusieurs fois il avait promis de ne plus vendre le dimanche, mais qu'il continuait toujours: que lui, le curé, voulait mettre fin à ces scandales et qu'il allait le faire poursuivre pour infraction à la loi du dimanche; le curé répéta plusieurs fois qu'il allait le faire poursuivre pour lui faire payer l'amende.

Le plaignant plaida fortement pour amener M. le curé à ne pas donner suite à sa décision, promettant de nouveau qu'il ne vendrait plus le dimanche. Enfin le plaignant a demandé à l'accusé combien il demandait pour arranger l'affaire avec lui? L'accusé, après avoir plusieurs fois refusé de se prêter à un tel arrangement, finit par dire au plaignant que vu que c'était dans la paroisse de Terrebonne que le scandale avait été causé, que l'argent reçu par le plaignant pour boisson vendue le dimanche, avait été payé par des gens de Terrebonne, il était juste que le plaignant contribuât aux bonnes œuvres de Terrebonne et il lui demanda $50.00 pour cet objet. L'accusé a eu soin de dire dès lors qu'il n'accepterait pas cet argent pour lui-même, qu'il ne voulait pas même toucher à cet argent, car cet argent lui salirait les mains, disait-il; mais qu'il l'accepterait pour des bonnes œuvres pour Terrebonne.

Cet argent ne fut jamais payé.

Tels sont les faits prouvés.

Comme on le voit à la lecture du statut ci-haut cité, trois conditions sont nécessaires pour constituer l'offense, il faut que l'argent ait été :

1o. Exigé.

2o. Avec menaces.

3o. Avec intention de le voler.

1o. L'argent a-t-il été exigé ?

Malgré que ce ne soit que sur la demande du plaignant de régler l'affaire que l'accusé a fixé son montant, je crois qu'il faut dire ici, que l'argent a été exigé, car en considération du paiement de $50, l'accusé consentait à ne pas dénoncer le plaignant ; mais à défaut par ce dernier de payer cette somme là, l'accusé était déterminé à le faire poursuivre.

2o. L'argent a-t-il été exigé avec menaces ?

Qu'est-ce qui constitue une menace ? Les décisions sur cette question sont contradictoires. Une des premières causes rapportées qui aient trait à cette question est la cause de Rex vs. Knewland jugée en 1796, et rapportée dans le 2e Vol. de Leach, causes de la Couronne à la page 721. Cette cause peut se résumer comme suit : La poursuivante fut menacée par des individus présents à un encan simulé, d'être envoyée devant le magistrat et de là en prison à défaut par elle de payer pour un article qu'ils prétendaient lui avoir été adjugé, malgré qu'elle n'eut pas enchéri sur cette article ; et ils appelèrent en conséquence un prétendu gardien de la paix qui lui dit qu'elle aurait à lui payer un sheling ou à l'accompagner chez le magistrat. Elle lui donna un sheling, non parce qu'elle appréhendait aucun danger pour sa personne, mais parce qu'elle craignait d'être conduite en prison. La Cour présidée par M. le juge Heath déclara que ces faits ne suffisaient pas pour justifier une conviction. Mais il est à remarquer que cette poursuite était faite pour une offense de droit commun, de vol avec violence (robbery) et avant que la clause ci-dessus récitée ne fut statuée. Il n'y a pas de doute que les faits de cette cause auraient suffi pour arriver à une conviction sous l'opération de notre statut.

Dans la cause de Regina vs. Walton, jugée en 1863, et rapportée dans Leigh et Cave à la page 288, il a été décidé que pour que l'offense tombe sous l'opération du statut, il faut que la demande, si elle est couronnée de succès, constitue un vol et que les menaces alarment celui qui en est l'objet, au point de bouleverser son esprit et d'enlever à ses actes cet élément libre et volontaire, qui seul peut constituer le consentement.

Dans la cause de Regina vs. Robertson, jugée en 1863, et rapporté dans le 10e vol. des rapports de Cox à la page 9, on semble, avec raison suivant moi, n'avoir pas exigé ces conditions.

Dans cette cause, un gardien de la paix avait menacé d'arrêter un passant pour une offense imaginaire, à moins que ce dernier ne lui payât une somme de cinq chelins. L'argent fut payé au gardien de la paix qui fut ensuite arrêté, jugé et trouvé coupable de l'offense définie dans la clause ci-haut récitée.

La décision de Regina vs. Walton a été beaucoup discutée et révoquée en doute. Greaves dit que cette décision demande reconsidération et il affirme que n'importe quelle menace ou n'importe quelle force suffisent pour donner effet à la clause, si ces menaces ou cette force sont accompagnées de l'intention de voler. Je concours absolument dans cette opinion.

Conséquemment dans la cause actuelle, je suis d'avis que les menaces ont été suffisantes pour assujettir l'accusé aux dispositions de la clause, si ces menaces eussent été accompagnées de l'intention de voler.

3o. Quant à l'intention de voler : Le poursuivant insiste fortement et cite plusieurs autorités pour établir que l'intention de voler est une question qui doit être laissée à l'appréciation du juré et ne doit pas être décidée par le magistrat.

Je crois aussi à cette maxime si les circonstances sont de nature à créer du doute. Mais dans le cas actuel peut-il y avoir du doute ? Ainsi pourrait-on prétendre qu'un créancier qui au moyen de menaces obtiendrait le paiement de sa créance, tomberait sur l'opération du statut ? Certainement non. Eh ! bien, ici, n'est-ce pas précisément un cas analogue ? L'accusé exige avec menaces, du plaignant, qu'il paie en aumônes

ou en bonnes œuvres dans Terrebonne, la réparation qu'il doit pour le scandale et le désordre qu'il est accusé d'avoir causés à Terrebonne en vendant de la boisson, contre les dispositions de la loi, aux gens de cette localité. Je n'ai pas à discuter sur l'opportunité du procédé de M. le curé, mais je puis dire que dans l'occasion en question, l'intention de voler n'existait certainement pas, et comme cette condition est essentielle pour constituer l'offense, la plainte ne peut pas se maintenir; elle est donc renvoyée.

(J. J. B.)

PRISONERS' EVIDENCE.

The *Solicitors Journal*, referring to Mr. Justice Stephen's article on prisoners' evidence, says:—"Mr. Justice Stephen, in his article in the *Nineteenth Century*, has stated very fairly the results of his experience and observation of prisoners' evidence. He sets out by remarking that the value of the evidence given by prisoners varies according to the circumstances of each particular case, as much as the evidence of any other class of witnesses does, and that although their interest in the result is in many cases so important as to destroy altogether the value of their evidence, there are also cases in which it is of great and even of decisive importance. He proceeds to support these propositions by reference to actual cases tried before him. The point of some of these illustrations is to show that a prisoner's evidence is worthless when the circumstances are such that he cannot be contradicted on the subject-matter of his evidence; that in some cases the evidence of the prisoner is worthless, owing to his inability to give the only evidence which can be of any service to him—*e. g.*, to produce or account for certain articles connected with the crime, and alleged to have been seen in his possession; that the evidence of the prisoner may have been of the highest service to him when it supplies the thread on which corroborating facts can be strung; and that in some cases the evidence of the prisoner, though uncorroborated, bears upon it such marks of honesty and sincerity as to lead the jury at once to stop the case. These are points showing that the competency of prisoners as witnesses, while on the whole favorable to them, is also favorable to the administratio nof justice; but some of the illustrations hardly tend in this direction. They show that although a prisoner's evidence may be worthless for proving his innocence, the absence of it may be taken as a confession. If the law is altered, every accused person will have to swear his innocence or be taken to have admitted his guilt. Mr. Justice Stephen thinks that this is just; but has he considered in this connection the fact, which further on in his article he admits, that a 'prisoner, generally speaking, is an ignorant, uneducated man, dreadfully frightened, much confused, and almost always under the impression that the judge and jury know as much about his case as he does himself, and are able at once to appreciate whatever he says about it?' Is it just that a man in this condition, utterly unfit to understand what statements are likely to be useful to him or relevant to the case, should be practically compelled to make a statement which, however innocent he may be, will be worse than useless? What good would a mere statement that he is innocent do him? In a case mentioned by the learned writer, he says that the prisoner's complaints and reproaches were 'wholly unintelligible, thanks to the combined effects of ignorance, confusion, fear and anger,' but by the help of hints from the judge the meaning of the defence was elicited, and the jury acquitted the prisoner. But suppose, instead of a patient judge, there had been on the bench an irritable judge, or a judge in a hurry for his dinner or anxious to catch a train, what would have been the result? Again, Mr. Justice Stephen admits that if prisoners were made competent witnesses there would be a considerable increase of perjury, and not merely of perjury, but in the case of wealthy and educated prisoners, of successful perjury. These people will be so well advised as to the strong and the weak points in their cases as to be able to lie in the witness box with skill and effect. And lastly, one result of the writer's experience is to show that failures of justice may occur by reason of the prisoner, either from artfulness or mere blundering, keeping back till the last

moment, and then bringing unexpectedly before the jury some specious defence which there is no time to test. Mr. Justice Stephen says he has known many cases of this, and he considers it one of the most dangerous tricks to public justice which could be played by persons accused of crime. It would seem that there is a considerable weight of evidence against the statement that the competency of prisoners as witnesses is 'favorable in the highest degree to the administration of justice."

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Nov. 20.

Judicial Abandonments.

Richard A. Caughlin, shoemaker and trader, Bryson, Sept. 30.

Alphonse Goyer, leather dealer, Montreal, Oct. 30.

Curators appointed.

Re Wm. Chamard and Louise M. Morrisor. — E. Maltais, Malbaie, curator, Nov. 10.

Re Adam Darling.—P. S. Ross, Montreal, curator, Nov. 16.

Re Alphonse Goyer.—D. Beaudry, Montreal, curator, Nov. 6.

Re William Knowles, tailor, Montreal.— Seath & Daveluy, Montreal, curator. Nov. 15.

Re Thomas Lang.—W. A. Caldwell, Montreal, curator, Nov. 15.

Re Charles Nelson, hardware merchant, Montreal.— Seath & Daveluy, Montreal, curator, Nov. 5.

Dividends.

Re Eckersdorff & Co.—First dividend, payable Dec. 3, S. C. Fatt, Montreal, curator.

Re J. Bte Pharand *dit* Marcellin.—Final dividend, payable Dec. 22, N. St. Amour, St. Ignace du Coteau du Lac, curator.

Re Camperdown Hotel Company.— Final dividend, payable Dec. 1, C. H. McClintock, Beebe Plain, liquidator.

Re C. Valentine & Son, Three Rivers.—Dividend, G. Daveluy, Montreal, curator.

Separation as to property.

Marie Louise Carrier vs. Napoleon Pellerin, trader, Yamachiche, Nov. 11.

Exilda Thiemens vs. John A. Saunders, trader, Montreal.

Members elected.

L. O. David, Montreal East; Elie St. Hilaire, Chicoutimi and Saguenay,

GENERAL NOTES.

THERE has lately died at Helston, in Cornwall, an example of a practitioner in the law whose experience of it for length of time and permanence in one place is probably unparallelled. A legal practice once established, especially in a country town, very often lasts for many generations; but no man ever practiced as a solicitor in one firm for eighty years. The nearest approach to this distinction has been attained by a representative of that well-deserving class, which for want of a better name, is called lawyers' clerks. In the year 1806, the late Mr. Treloar entered the service of a firm of solicitors in Helston, at the age of fifteen, not earlier than most of his class begin, and remained with the same firm until he died last week. Partners came and went, but the clerk continued, managing the estates of the clients of the firm, and acting as their deputy at boards of guardians, highway boards, and elsewhere. So valuable a servant was of course well paid, and Mr. Treloar became a man of substance, besides acquiring posts like that of registrar of marriages and manager of the gas company. He also took a leading part in the religious body to which he belonged; but he remained a lawyer's clerk to the end. Probably it was not worth his while, or he could not afford the time, to become a solicitor. Mr. Treloar has at length fallen a victim to the principle that nature, like the law, objects to perpetuities; but he has left a reputation which does credit to the profession of the law, although he was not a formally authorized practitioner of it.—*Law Journal*, (London.)

AN evening contemporary (says the *Law Journal*) desperately given to torturing its readers with puzzles of all kinds, lately propounded for translation a version of an old gibe against lawyers, which had been done into Greek elegiacs by Mr. Thorold Rogers. The following paraphrase was adjudged the best:—

Sing a song of lawyers,
Lawyer Proclus, he,
By a misadventure
Swallowed down his fee.

Three times six-and-eightpence,
Shillings twenty-one—
Down they went, but 'twas not
Altogether fun.

So they fetched a doctor
To relieve his pain;
And the missing coins
Bring to light again.

He with skill sagacious
Manages the case,
Gives a strong emetic,
Active in short space.

Up came sixteen farthings,
Shillings came thirteen;
But the six-and-eightpence
Never more was seen.

EVANGELISTS IN COURT.—Chief Justice Cameron, at Toronto, appears to have been greatly perplexed, a few days ago, by the hard swearing in *Cook* v. *Baxter*, in which the plaintiff was the Rev. Jonathan Cook and the defendant Rev. M. Baxter, president of the Gospel union and commander-in-chief of the Gospel army. Plaintiff sued defendant for salary due him as an evangelist at Fergus and Elora, and to his daughter, who acted as his lieutenant. Judgment was given for plaintiff. In delivering judgment, Chief-Justice Cameron said; "I regret the contradiction of witnesses shown in this case. If in matters of religion we cannot have the truth, it is difficult to say where truth shall be found. We have two Gospel army officers on each side, swearing to directly opposite facts, and this brings a scandal on the way in which the army is either conducted or officered. It is my painful duty to determine where the truth lies between these parties. The army officers at headquarters do not agree among themselves, Mr. McClellan, a witness, being flatly contradicted by two other officers." He preferred accepting the evidence of plaintiff's daughter, and added that there was a moral obligation to keep the case out of court.