The Legal News.

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TRADERS' BOOKS OF ACCOUNT.

The establishment of efficient checks upon dishonest debtors is, admittedly, one of the greatest difficulties of the day. In this strait, it is not out of place to look abroad for assistance. A correspondent of the London *Times*, writing over the signature "An Accountant", having suggested that traders should be compelled by law to keep regular books of account, another correspondent "E. A. W." says that on this subject the German Handelsgesetzbuch has some useful provisions, of which the following is a summary :—

Art. 28.—Every trader is bound to keep books in which his business transactions and his financial position are fully disclosed. Further, he is bound to keep the business letters which he receives and copies of the letters which he sends.

Art. 29.—Every trader, on commencing business, is bound to make an inventory containing an exact description of his property and liabilities; it must state the value of such property as is in land. He must also draw up a balance-sheet of his property and liabilities. In each subsequent year the trader must draw up a similar inventory and balance-sheet.

Art. 30.—The inventory and balance-sheet must be signed by the trader. In the case of a partnership every partner, personally liable, must sign.

Art. 31.—In making up the inventory and the balance-sheet the property and the debts due to the estate must be estimated according to their existing value. Doubtful debts must be estimated according to their probable value. Bad debts must be written off.

Art. 32.—The books must be bound, and each page of them must be numbered. No space must be left between the entries. Entries must not be erased or made illegible in any way. Alterations must not be made if they are of such a character as to make it uncertain whether they were original or subsequent entries.

Art. 33.—Traders are bound to keep their books, inventories, and balance-sheets for ten years from the time they were made up.

It is obvious that such a law, if in force in this Dominion, would go a long way towards enabling creditors to keep a tight rein on debtors inclined to deceive them in the matter of statements of their position. It would be necessary to supplement it merely by a section enabling creditors to proceed in an ordinary suit before the Superior Court, for violation of its provisions, with conclusions for the imprisonment of the delinquent debtor in default of complete payment, as under the Insolvent Act. Article 33 is worthy of special attention, for it is apparent that such a clause would prevent the suppression of statements and balance-sheets which creditors have so often to complain of.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, Oct. 13, 1880.

FAIR es qual. v. CASSILS et al.

Witness—Contempt—Appearance by Counsel.

A witness who has made default to appear and give evidence, and against whom a rule has issued for contempt, must appear in person in answer to the rule.

This case came up on the merits of a rule for contempt against witnesses who had made default to appear and give evidence. They were served personally, and on their default, plaintiff applied for a rule *nisi* for *contrainte* for contempt, which was issued by the Court and served upon the witnesses Cassils and Stimson, who made default to appear in answer to the rule as they had made default in answer to the subpœna.

Benjamin, when the rule was called, asked to be allowed to appear on behalf of the witnesses.

TORRANCE, J. Mr. Benjamin's application cannot be entertained. The witnesses are in default and must appear in person. They have not done so, and there can be no difficulty in declaring the rule absolute against the witnesses who show so little respect for the exigencies of Her Majesty's writ of subpœna.

Rule declared absolute.

R. Laflamme, Q C., for plaintiff.

L. N. Benjamin, for defendants.

[In Chambers.]

MONTREAL, Oct. 13, 1880.

Ex parte LISÉ.

Harbor Commissioners—Pilot.

The Harbor Commissioners of Montreal have authority, under their by-laws made under 36 *Vict. c.* 54, *s.* 18, *ss.* 6 *&* 7, *to suspend the license of a pilot guilty of dereliction of duty.*

This case was before the Court, on a petition for a writ of certiorari, on the complaint of one Robert Brown, captain of the steamship Polynesian, against petitioner. The petitioner was charged before the Harbor Commissioners of Montreal with being guilty of a breach and dereliction of duty on the 16th June, 1880, inasmuch as he, being in charge of the steamship, and it being then under his direction and management, by neglect of his duty, caused the steamship to be driven at too great and unnecessary speed, and thereby caused the steamship to run aground, &c.

On the 22nd July, petitioner was found guilty of the offence charged in the complaint against him, and the Harbor Commissioners suspended him from the exercise of his functions, and withdrew his license temporarily, namely, until the end of the 30th September.

This conviction was complained of, 1. Because it did not show any legal offence over which the Commissioners had jurisdiction. 2. Because it was not the same as charged in the complaint. 3. Because the penalty inflicted was not the one which the Commissioners had power to inflict when they sat in judgment on the acts of the pilots.

TORRANCE, J. I have compared the complaint with the conviction and find no variance between them. At the hearing I was informed that the conviction was under the by-laws of the Harbor Commissioners passed on the 26th January, 1875, and sanctioned on the 10th April, 1875. By article 91, upon any breach or dereliction of duty on the part of any pilot, it was competent for the Commissioners to suspend such pilot, and temporarily or permanently to withdraw his license. By 36 Vic. c. 54, the pilots are under the control of the Commissioners, and the latter are authorized to make by-laws to be approved by the Governor-General in council, which has been done here. S. 18, s.s. 6 & 7, gives the Commissioners power to make the by-laws under consideration. If we look at the question of justice or injustice in this conviction, it would be much to be regretted if a pilot guilty of dereliction of duty were not answerable as he has been made to answer here. I see no irregularity or injustice in the conviction.

Application refused.

H. Abbott, for Harbor Commissioners.

S. Pagnuelo, for petitioner.

MONTREAL, Oct. 15, 1880.

FAIR es qual. v. CASSILS et al.

Amended declaration—Service.

A copy of an amended declaration must be served upon the defendant before he can be called upon to plead.

This was a motion by defendants that the Court take off a foreclosure made by plaintiff of defendants from pleading. Plaintiff had obtained leave to amend his declaration, and when amended, he had notified the defendants to plead. They failed to do so. Hence the foreclosure.

L. N. Benjamin, moving, cited C.C.P. 142, and argued that he was entitled to a copy of the amended declaration before being called upon to plead.

R. Laflamme, Q. C., è contra, said that the service of the motion by which he asked for the amendment was a sufficient service.

TORRANCE, J., granted the motion to take off the foreclosure, holding that defendants were entitled to have a copy of the amended declaration served upon them before pleading to the amended declaration.

Motion granted.

R. Laflamme, Q. C., for plaintiff.

L. N. Benjamin, for defendants.

MONTREAL, Oct. 15, 1880.

CARTER v. FORD et al.

Pleading—Special Replication—C.C.P. 148.

A special replication to a special answer may be filed without obtaining leave of the Court.

This was a motion by plaintiff to reject a special replication filed by defendants to plaintiff's special answer, without asking leave of the Court.

S. Bethune, Q. C., moving, cited C.C.P. 148.

E. Barnard, è contra, cited *Kierskowski & Morrison*, 6 L.C.R. 159, and *Kingsley* v. *Dunlop*, 3 R. L. 448.

TORRANCE, J. There has been no new legislation since *Kierskowski & Morrison*, and in that case the majority of the Court of Appeal held that a special replication could be filed by a defendant without leave of the Court. A majority of the Court of Review appear to have held the same in *Kingsley* v. *Dunlop*.

Motion dismissed.

S. Bethune, Q. C., for plaintiff.

E. Barnard, for defendants.

MONTREAL, Oct. 15, 1880.

BELISLE v. PELLERIN, & DUGAS, opposant.

Action in formâ pauperis—Proceedings after judgment.

A plaintiff who has obtained leave to sue in formâ pauperis, does not require a new authorization to contest in formâ pauperis an opposition to the execution of the judgment.

The plaintiff had sued *in formâ pauperis*. After judgment, he took out execution, and the opposant filed an opposition. Thereupon the plaintiff filed a contestation of the opposition. The opposant now moved the Court to reject the contestation, on the ground that the contestant had not been authorized to contest *in formâ pauperis*.

TORRANCE, J., held that the opposition and contestation were incidents to the execution of the judgment in favour of plaintiff, and that a new authorization to contest *in formâ pauperis* was not necessary.

Motion rejected.

Driscoll, for plaintiff.

Martineau, for opposant.

SUPERIOR COURT.

MONTREAL, June 30, 1880.

MONTCHAMPS et al. v. PERRAS.

Obligation — Interest — Stipulation in contract— Prescription.

An obligation containing an undertaking to pay a sum of money on a fixed day "pour tous délais à peine, &c.," or "sans intérêts pendant délai," implies an undertaking to pay interest on the sum from the day the payment becomes due.

A clause of a contract, though not relating to the principal object of the convention, makes proof of its contents when it contains a separate and distinct obligation.

A payment of one sum exceeding $50, as the total arrears of interest on two obligations, and the creditor's acknowledgement to that effect, cannot be proved by verbal testimony,

Interest on obligations is prescribed by five years.

Action for nine years' interest at 8 per cent. on two obligations;—the first, of date 21 March, 1853, for 4,000 livres, stipulated: "laquelle somme de 4,000 livres du dit cours, le dit débiteur promet et s'oblige la payer, bailler et rembourser au dit créancier ou à son ordre dans un an de cette date pour tous délais, à peine, &c.;" and the second, of date 7 January, 1864, contained this clause: "Laquelle dite somme le dit débiteur promet et s'oblige à payer au créancier ou à son ordre, dans le mois de Mai prochain, sans intérêts pendant délai."

The defendant pleaded that he had paid all the interest, on demand, up to the institution of the action, and he also pleaded the five years' prescription. He contended that interest ran only from the date of the demand.

At *enquête*, the plaintiffs produced a third obligation, of date 19 July, 1866, for a different loan. But in this obligation there was a clause stipulating that interest should be payable on the two obligations first mentioned at eight per cent.

The defendant brought up his son to prove that in March, 1879, he had paid $70, for all arrears of interest due up to that date on the two obligations sued upon.

RAINVILLE, J., held that where obligations contain the clauses quoted above, interest commences to run from the expiration of the time stated, without putting *en demeure;—Rice* v. *Ahern*, 6 L. C. J. 201. The clause in the obligation of 1866, though not relating to the principal object of the contract, made complete proof of itself, and fixed the rate of interest at eight per cent;—Larombière, vol. 4, art. 1320. As to the payment of $70, which the defendant had attempted to prove by the evidence of his son, it could not be proved by verbal evidence, being over $50. The plea of prescription was well founded, and judgment would go for the plaintiffs, for five years' arrears only.

Mousseau & Archambault for plaintiffs.

De Bellefeuille & Bonin for defendant.

SUPERIOR COURT.

MONTREAL, June 30, 1880.

DUPUY es qual. v. MCCLANAGHAN.

Hypothecary creditor—Lessee—Rent.

A tenant who in good faith has paid rent in advance to the proprietor of an immoveable, even for a term less than one year, may be compelled to pay the rent a second time to the hypothecary creditor whose claim is not satisfied by the sale of the said immoveable.

The action was by hypothecary creditors of Jubinville, an insolvent, in the name of the assignee, Dupuy, but for their own benefit, for the recovery of rent. The immoveable did not bring enough to satisfy the claims of the hypothecary creditors, and they obtained leave to institute an action against the tenant McClanaghan. It appeared that Jubinville, on the 27th June, 1878, leased a certain immoveable to McClanaghan for two years and ten months from 1st July, 1878, and the lessee paid the first ten months in advance—$270. On the 10th August, 1878, Jubinville became insolvent, and the immoveable being sold, the proceeds were insufficient to pay the hypothecary claims. The hypothecary creditors then brought this suit against the tenant for rent from 1st Sept., 1878.

JETTÉ, J., remarked that there was no imputation of fraud or bad faith against the lessee, defendant, so that a pure question of law was presented,—whether the proprietor of an immoveable may lease it and receive the rent in advance, to the injury of the hypothecary creditor? The defendant relied on C.C. 2129 as not prohibiting a payment in advance for less than a year. But this referred only to third purchasers, and not to the hypothecary creditor whose claim is in a different position, being registered and anterior to that of the tenant. His Honor held that the plaintiffs were entitled to judgment.

The judgment is as follows:—

"Considérant que le demandeur es-qualité de syndic duement nommé à Noel Jubinville, failli, ci-devant négociant de Vaudreuil et propriétaire de l'immeuble ci-après décrit, savoir, etc..., réclame du défendeur la somme de $135 pour cinq mois de loyer de partie du dit immeuble, du 1er septembre 1878 au 1er février 1879, à raison de $27 par mois, le dit immeuble loué au défendeur par le dit failli le 27 juin 1878, et dont la propriété a passé par l'opération de la loi de faillite au dit demandeur es-qualité dès le moment de la faillite du dit propriétaire, savoir le 10me août 1878;

"Considérant que la dite action a été ainsi prise au nom du demandeur es-qualité par James Clyde et al., en leur qualité de créanciers ayant hypothèques duement inscrites sur l'immeuble sus décrit, en vertu d'une autorisation spéciale à eux donnée à cette fin conformément aux dispositions de la loi de faillite; les dits créanciers alléguant que l'immeuble sus décrit affecté à leur garantie a été vendu par le syndic, et n'a rapporté qu'une somme insuffisante pour payer leurs hypothèques, et qui les laisse à découvert d'une somme de $3,000, et que le défendeur, comme locataire et occupant du dit immeuble pendant la période susdite, est tenu d'en payer la jouissance et occupation;

"Considérant que le défendeur plaide en réponse à cette action que par le bail que le failli Jubinville lui a consenti du dit immeuble le 27 juin 1878, il a été reconnu que lui le défendeur avait payé d'avance au propriétaire Jubinville tout le loyer à échoir de la date du dit bail au 1er mai 1879, et qu'en conséquence, il ne peut maintenant être tenu de payer ce même loyer une seconde fois;

"Considérant que le créancier hypothécaire a sur l'immeuble hypothéqué un droit préférentiel pour le paiement de sa créance, qui ne peut être affecté par aucune convention subséquente faite par son débiteur;

"Considérant que le bail d'un tel immeuble avec paiement de loyer par anticipation, si tel paiement pouvait être opposé au créancier hypothécaire, aurait pour effet de diminuer le gage de celui-ci sans son consentement;

"Considérant que le locataire qui prend à bail un immeuble hypothéqué, et qui en paye le loyer d'avance, n'obtient sur icelui pour assurer la jouissance représentant la somme de loyers avancés qu'une créance chirographaire, s'il ne stipule d'hypothèque, et qu'une hypothèque inférieure en rang à celles des créanciers déjà inscrites, dans le cas contraire; et que dans l'un et l'autre cas il ne peut venir en concours avec ceux qui le priment;

"Considérant que l'hypothèque des créanciers en cette cause remonte au 19 février 1876;

"Considérant au contraire que le défendeur

en cette cause n'a enregistré son bail que le 25 juillet 1878, c'est à dire moins de trente jours avant la faillite du propriétaire, et que par suite il ne peut réclamer aucun droit privilégié sur le dit immeuble; que néanmoins la jouissance d'icelui, sans payer de loyer, constituerait tel privilége au détriment des créanciers hypothécaires du failli, vu l'art. 2,090 du C. C.;

"Considérant que l'art. 2,129 ne s'applique qu'au tiers acquéreur et non au créancier hypothécaire;

"Considérant, en conséquence, que le paiement par anticipation de dix mois de loyer fait par le défendeur au failli ne peut préjudicier aux droits des créanciers hypothécaires duement inscrits sur le dit immeuble, et que ceux-ci sont bien fondés à réclamer le payement du loyer, nonobstant tel payement, que le défendeur a fait à ses risques et périls;

"Renvoie l'exception et défense du défendeur, et le condamne à payer au demandeur esqualité la dite somme de $135 cours actuel, avec intérêt à compter du 27 mars 1879, jour d'assignation, jusqu'au paiement, et les dépens, etc.

Abbott, Tait, Wotherspoon & Abbott, for plaintiff.
Doherty & Doherty, for defendant.

SUPERIOR COURT.

MONTREAL, June 30, 1880.

CORSE v. DRUMMOND, & DRUMMOND, oppt.

Succession — Ascendant — C. C. 630 — Beneficiary heir.

Property given to children, which reverts to an ascendant, under 630 C. C., is a succession, and liable for the debts of the deceased donee, and such property may be seized by a creditor in execution of a judgment for a debt of the succession, without first calling upon the ascendant, who has accepted the succession under benefit of inventory, to render an account.

The opposition was filed by Judge Drummond to a seizure of an immoveable. It appeared that Judge Drummond, in 1867, made a donation of this immoveable to his son William, who subsequently died intestate, without issue. Judge Drummond accepted the succession of his son as beneficiary heir, and the immoveable was now seized in execution of a judgment against him for a debt of the deceased.

The opposant claimed that under C.C. 630 the immoveable reverted to him, and he became personally the proprietor thereof. Therefore, under C. C. 672, it could not be seized for a debt of the succession until he had been put in default to render an account of the succession.

JETTÉ, J., held that the right of the ascendant under C.C. 630 is really a kind of succession. The immoveable in question pertained to the son's succession. The question then arose, whether a creditor with a judgment for a debt of the succession could proceed directly against the property of the succession. His Honor considered that he could;—15 Demolombe, No. 228.

The judgment is as follows:—

"La cour, etc., considérant que l'opposant, héritier bénéficiaire de feu Wm. D. Drummond son fils, s'oppose à la vente de l'immeuble saisi en cette cause, alléguant que cet immeuble est un bien qui lui est personnel, attendu qu'il l'a recueilli dans la succession de son dit fils en vertu du droit de retour accordé par l'article 630 du C. C. à l'ascendant donateur lorsque le donataire decède intestat et sans enfant, et que par suite la demanderesse, créancière de la succession du dit Wm. D. Drummond, ne pouvant faire vendre les biens personnels du dit héritier bénéficiaire pour les dettes de la dite succession, la saisie du dit immeuble par la demanderesse est irrégulière et illégale;

"Considérant que le droit de retour reconnu par l'art. 630 du code civil, constitue un véritable ordre de succession tout spécial, mais qui assujetait l'ascendant donateur qui s'en prévaut aux mêmes charges et obligations qu'un successeur ou héritier ordinaire, et que les biens donnés, recueillis en vertu de ce droit de retour, le sont par le donateur à titre d'héritier et non autrement;

"Considérant en conséquence que l'immeuble saisi, n'est pas un bien personnel à l'opposant, mais un bien de la succession du dit feu Wm. D. Drummond, recueilli par l'opposant, comme tel en vertu du droit de préférence à lui accordé comme donateur sur tous les autres héritiers du défunt;

"Considérant que l'effet du bénéfice d'inventaire obtenu par l'opposant n'a été que d'empêcher la confusion de cet immeuble de la succession avec les biens personnels de l'opposant, et ne peut empêcher les créanciers de la suc-

cession de poursuivre l'exécution de leurs créances sur les biens de la dite succession ;

"Considérant, en conséquence, que l'opposition du dit opposant est mal fondée ;

"Maintient la contestation de la dite opposition faite par les demandeurs, et renvoie la dite opposition avec dépens."

E. U. Piché, Q.C., for opposant.

Ritchie & Ritchie, for plaintiffs contesting.

SUPERIOR COURT.

MONTREAL, March 31, 1880.

LARAMÉE et al. v. EVANS.

Marriage of Roman Catholics — Jurisdiction — Authority of the R. C. Bishop.

Marriage in the Roman Catholic Church is a sacrament and a spiritual and religious bond, over which the Superior Court has no jurisdiction.

Civil marriage does not exist under our law, the law merely giving civil effects to a religious marriage validly celebrated by regularly ordained ministers authorized to keep marriage registers.

The Superior Court has power to refer to the decision of the Roman Catholic Bishop of the diocese the question of the validity or nullity of the marriage of two Roman Catholics celebrated by a Protestant minister, and the decision of the Bishop may and ought to be followed by the Superior Court in deciding as to the civil effects of the ceremony.

The case came up on demurrer.

The action was instituted for the purpose of annulling the marriage of Joseph Laramée, a minor, and (since the marriage) interdicted, to Margaret Evans. The action was brought by the curator and the father of the interdict.

The declaration alleged that Joseph Laramée and Margaret Evans who, at the time of the alleged marriage, were both Roman Catholics, had been married in Montreal by a Protestant minister; that the banns were not published as required by law, by the *curé* of the parties in any Roman Catholic Church; that the parties had obtained no dispensation from publication of banns from the R. C. Bishop of their diocese (Montreal). The conclusions were that the plaintiffs' demand for the annulation of the marriage be referred to the Bishop of the diocese for his judgment upon the validity or invalidity of the marriage, and that the case be then referred back to the Superior Court for judgment, upon the Bishop's report, as to the civil effects of the pretended marriage.

The defendant demurred in the first place to the part of the declaration which asked that the demand be referred to the Roman Catholic ecclesiastical authorities of the diocese of Montreal, chiefly on the ground that they had no power to pass upon a marriage celebrated by a Protestant clergyman.

PAPINEAU, J., remarked that the first demurrer was an exception to the jurisdiction of the Court and of the Bishop rather than a demurrer. The second demurrer attacked only a part of the allegations. The demurrers might be dismissed without further observations, but as the opinion of the Court had been solicited upon the questions raised, his Honor proceeded to advert at some length to the subject of marriage and the power of the Court to refer the validity or nullity of an alleged marriage to the Roman Catholic Bishop. The substance is set forth in the judgment as follows :—

"Considérant que les raisons ou moyens opposés à une partie des conclusions de la demande en cette cause par la défenderesse dans sa première défense en droit sont des moyens d'exception à la jurisdiction de cette cour, et à la jurisdiction de l'évêque catholique romain, plutôt que des raisons ou moyens de défense en droit, et qu'ils ne peuvent pas faire maintenir celle-ci ;

"Considérant d'ailleurs que pour adjuger sur le mérite de la dite prétendue défense en droit, la cour doit considérer comme admis les allégués de la demande, et spécialement que lors de leur mariage les deux parties appartenaient à l'église catholique romaine et résidaient depuis plus de six mois l'une dans la paroisse de Montréal (du Saint Nom de Marie), et l'autre dans la paroisse de St. Jacques, dans le diocèse de Montréal ; que les publications des bans antérieures au dit mariage n'ont pas été faites par les curés des parties, et qu'elles n'ont pas obtenu de dispense de l'évêque de Montréal, seule autorité compétente pour accorder, dans l'église catholique, dispense de telles publications, et que le dit mariage est clandestin, et atteint d'un vice, ou empêchement qui le rendrait radicalement nul aux yeux de la dite église ;

"Considérant que dans la croyance de cette église il existe des empêchements au mariage

résultant de causes autres que celles énumérées dans les articles 123, 124 et 125 du code civil, et que ces empêchements sont soumis aux règles suivies jusqu'ici dans la dite église, aux termes de l'article 127 du code, et que parmi ces empêchements sont ceux invoqués par les demandeurs ;

"Considérant que dans la religion catholique romaine, dont le plein, entier et libre exercice est reconnu par nos lois, le mariage est un lien spirituel et religieux, et un sacrament, sur lesquels cette cour supérieure n'a aucune jurisdiction, vû qu'elle ne doit connaître que des causes d'une nature purement civile ;

"Considérant que notre loi n'a pas établi le mariage civil, mais qu'elle donne des effets civils au mariage religieux validement célébré par les curés et ministres régulièrement ordonnés suivant les rites de leurs églises respectives, et autorisés à tenir des régistres de baptêmes, naissances, mariages et sépultures ;

"Considérant que cette cour a le pouvoir de référer à l'évêque catholique romain du diocèse des parties la décision de la question de la validité ou de la nullité du lien spirituel et religieux de leur mariage, pour, après avoir pris connaissance de la sentence de l'évêque sur telle question, ordonner ce que de droit quant aux effets civils résultant de la validité ou de la nullité de tel lien ;

"Considérant que d'après la jurisprudence du pays, la sentence de l'évêque régulièrement prononcée, et décidant de la validité ou de la nullité du lien spirituel et religieux de mariage entre catholiques, peut et doit être reconnue par cette cour ;

"Considérant que les allégués de la déclaration sont suffisants pour permettre aux demandeurs de prendre les conclusions auxquelles s'attaque la dite première défense en droit, et que celle-ci est mal fondée, la cour la renvoie avec dépens contre la défenderesse."

Demurrer dismissed.

Bonin, Archambault & Archambault for the plaintiffs.

Trenholme, Maclaren & Taylor for the defendant.

ERRATUM.—On p. 331 the words "against absentees like defendant" ought to have been printed after the words *pro confessis*—(second line of second column.)

APPOINTMENTS.

The *Canada Gazette* contains the following appointments of Queen's Counsel, made by the Governor General :—

Ontario :—T. M. Benson, Port Hope ; F. McKelcan, Hamilton ; W. R. Meredith, London ; J. Bethune, Toronto ; W. H. Scott, Peterboro ; M. O'Gara, Ottawa ; T. Ferguson, Toronto ; B. B. Osler, Hamilton ; J. A. Miller, St. Catharines ; J. A. Boyd, Toronto ; J. F. Dennistoun, Peterboro ; G. A. Kirkpatrick, Kingston ; J. Hoskin, Toronto ; R. T. Walkem, Kingston ; J. O'Donohue, Toronto.

Quebec :—G. Macrae, Montreal : E. T. Brooks, Sherbrooke ; Hon. L. O. Loranger, Montreal ; H. G. Malhiot, Three Rivers ; L. R. Church, Aylmer ; D. Girouard, Montreal ; A. R. Angers, Quebec ; G. B. Baker, Cowansville ; Hon. F. X. A. Trudel, Montreal ; F. C. S. Langelier, Quebec ; N. L. Denoncourt. Three Rivers : S. Pagnuelo, Montreal ; R. N. Hall, Sherbrooke ; A. Lacoste, Montreal ; J. G. P. Blanchet, Quebec ; C. P. Davidson, Montreal ; Hon. W. Laurier, Arthabaskaville ; M. Mathieu, Sorel : W. B. Ives, Sherbrooke ; L. P. E. Crepeau, Arthabaskaville ; Hon. W. W. Lynch, Knowlton ; W. C. Cook, Quebec ; J. A. Ouimet, Montreal ; J. M. Loranger, Montreal.

Nova Scotia :—E. F. Munro, Truro, N. S. : J. Fogo, Pictou, N. S. : R. G. Haliburton, Ottawa ; W. F. McCoy, Halifax ; Hon. S. H. Holmes, Pictou ; M. Dodd, Sydney, C. B. ; W. H. Owen, Bridgewater ; Hon. C. J. Townsend, Amherst ; J. W. Bingay, Yarmouth ; A. J. White, Sydney, C. B.

New Brunswick :—A. A. Davidson, Newcastle ; W. Jack, St. John ; D. S. Kerr, St. John.

Prince Edward Island :—R. R. Fitzgerald, Charlottetown.

Rank and precedence are conferred upon the above named gentlemen respectively from the date of their appointments in all courts established or to be established under the authority of any act of the Parliament of Canada, next after the following persons, namely :

1. Those persons who, prior to the 1st day of July, 1867, received appointments as Her Majesty's Counsel learned in the law within any of the late Provinces of Canada, New Brunswick, Nova Scotia, Prince Edward Island or British Columbia.

2. Those persons who, since the 1st day of July, 1867, were appointed Her Majesty's Counsel learned in the law under the Great Seal of the Dominion of Canada.

Furthermore, rank and precedence are conferred upon the gentlemen above named from the date of their appointments in all courts in the Province of the Bar of which they now are

respectively or may hereafter respectively become members, next after the following persons, namely:

1. Those members of such Bar who, prior to the 1st of July, 1867, received appointments as Her Majesty's Counsel learned in the law.

2. Those members of such Bar who, since the 1st July, 1867, were appointed as Her Majesty's Counsel learned in the law under the Great Seal of the Dominion of Canada.

3. Those members of such Bar, if any, who may lawfully be entitled to rank in precedence over the respective gentlemen above appointed.

GENERAL NOTES.

THE LATE CHIEF BARON KELLY.—The *Solicitors' Journal* says: "In respect to longevity, Sir Fitzroy Kelly kept up the traditions of his office. Only nine appointments of Chief Baron have been made during the last ninety years. Sir William Alexander was appointed at the age of sixty-three, resigned at seventy, and died at eighty-one. Lord Lyndhurst, who occupied the post in the interval between his first and second Chancellorships, attained the age of ninety-two. Lord Abinger was appointed at sixty-five and died at seventy-five. Sir Frederick Pollock was appointed at sixty-one, resigned at eighty-three and died at eighty-seven; and Sir Fitzroy Kelly was appointed at seventy and died at eighty-four. The title of Chief Baron appears to have been first used during the reign of Edward II."

The London *Times* says: "As a judge, the Lord Chief Baron showed the soundness for legal knowledge for which his career was a guaranty. His courtesy to those who appeared before him was unexceptionable. But he was a very slow judge, who asked numberless questions about comparatively unimportant dates and facts; and while the matter of his decisions was seldom impeached, his Division got through less work than any other, and was less popular than any with suitors. He had some difficulty in hearing counsel, and more in making himself heard. His defects as a judge, indeed, were largely physical defects, due to the infirmities of age. His mind remained clear and his determination unshaken almost to the very end, and one of his acts a day or two before his death was to write a long letter of advice to a learned colleague. He was a bounteous dispenser of hospitality, very fond of society, a great converser, a warm friend and a bitter enemy. It is possible that with him the title of Lord Chief Baron may perish, for under the new judicature act the Queen has power, by recommendation of a council of judges, to abolish the title on the post becoming vacant."

AN action for assault and battery decided last month in the Supreme Civil Court at Boston, involved a question of some moment as to the rights of railroad passengers. The material point of the case was to determine whether a corporation, having agreed to carry a passenger over a through route at a reduced rate, less than that asked for transport to some intermediate station, has a right to prevent the passenger from stopping at that station until he has paid additional fare. The decision of the court holds that the company has no such right. The plaintiff bought an ordinary limited ticket over the Old Colony line, from Boston to New York, for $1. Arriving at Newport, to which place the regular fare is $1.60, he started to go ashore, when he was stopped by an officer of the company and not allowed to leave the boat until he had paid the sixty cents difference in fare. He acceded to the demand, and then brought the above action. According to the decision, it seems that a railroad or steamboat company cannot lawfully prevent a passenger from leaving the cars or boat at any station when a regular stop is made for the exchange of passengers. The company may demand the difference in fare between local and through rate, and, if payment is refused, recover the same in a civil action, but have no other remedy.—*The Central Law Journal.*

REMOVAL OF NATURAL BARRIER.—By reason of the Royal prerogative there is a correlative duty, though of imperfect obligation, to defend the realm against the encroachments of the sea. Therefore a subject cannot have a right to remove shingle from a foreshore so as to endanger a natural barrier against the sea. Any person who wilfully removes a natural barrier so as to damage his neighbor, is guilty of a nuisance which gives a right of action to the person who suffers from it.—*Atty.-Gen.* v. *Tomline*, 42 Law Times, 880.