The Legal News.

Vol. XIV. MAY 9, 1891. No. 19.

An excellent principle, says the *London Law Journal*, is adopted by Lord Herschell in introducing a bill for codifying the law relating to the sale of goods. If the whole of the law of contract were codified, this bill would form a single chapter in the code. By the passing of such bills, therefore, gradual steps are being taken towards the establishment of a complete code of law. The bill, he tells us, is drafted on the same lines as the Bills of Exchange Act of 1882. It endeavours to reproduce as exactly as possible the statutory and common law rules relating to the sale of goods, leaving for introduction at a later stage any amendments that may seem desirable. The bill is almost entirely a reproduction of the common law. With the exception of the Statute of Frauds, the legislative enactments relating to the sale of goods deal only, Lord Herschell reminds us, with isolated points of not much general importance. In so far as such enactments deal solely with the law of sale, they have been reproduced in the bill, but where they relate mainly to some different subject-matter, and deal only incidentally with the law of sale, or where they affect only certain specified classes of goods, they have been covered by saving clauses. In accordance with the principle of the bill, no attempt is made to reproduce the effect of cases which, though arising out of sales, merely illustrate principles common to the whole law of simple contracts. The bill does not extend to Scotland, the law of that country on the subject differing in many important respects from that of England.

A writer in the *Green Bag*, under the head "Curiosities of Bracton," cites the reasons given by Bracton for composing his celebrated work, in the course of which he says: "But since it often happens that the laws and customs of this kind are drawn into an abuse by foolish and ignorant persons who mount the judgment seat before they have learned the laws, and who stand in doubts and are many times perverted in their opinions, and who decide causes rather according to their own arbitrary opinion than by the authority of the laws, therefore for the instruction at least of the younger, I, Henry de Bracton, have directed my mind to a careful scrutiny of the ancient judgments of just judges, not without vigils and labour, and I have compiled their acts, counsels and responses, and whatever I have found worthy of note, in one summary, in the order of titles and paragraphs, without prejudice to a better opinion, commending those writings to perpetual memory, and asking of the reader that if he should find anything superfluous or amiss in this work he will correct and amend that error, or with conniving eyes pass it by, since to hold everything in perpetual remembrance and to sin in nothing, is more divine than human."

The writer impresses upon those about to assume judicial honours the responsibilities of their position, and indicates that a warm corner is reserved for those who transgress:—"When it becomes the duty of any one to render judgments and become a judge, let him take heed to himself, lest by judging perversely and contrary to the laws, either through importunity, or reward, or some advantage of temporal gain, he should thereby prepare himself for the pains of eternal sorrow, and lest he shall find himself taking vengeance in the day of the wrath of that God who has said, 'vengeance is mine and I will repay it'; and when the kings and princes of the earth weep and wail, when they see the son of man, by reason of the fear of his torments, where gold and silver are of no avail to liberate them. But if any one fears not that trial, in which the Lord shall be accuser, advocate and judge, but from whose decrees no appeal may be taken, because the father has given all judgment to his son, who closes and none can open, and who opens and none can close. O! that rigid scrutiny, in which not only the actions, but even every hateful word which men have unjustly spoken, shall be rendered an ac-

count of. Who therefore shall be able to flee the wrath to come? For the son of man shall send his angels, who shall collect all that gives offence, and all those who do iniquity, and shall bind them up into bundles for burning, and shall cast them into a furnace of fire, where there shall be weeping and gnashing of teeth, groans and howls, wailing, grief, and torment, noise, clamor, fear and trembling, sorrow and labour, heat and stench, darkness and anxiety, cruelty and harshness, calamity and distress, poverty and mourning, oblivion and confusion, twistings and prickings, bitterness and terrors, hunger and thirst, cold and a furnace like heat, sulphur and burning fire forever and ever. Therefore, let each one beware that judgment, where the judge is terribly scrutinizing, intolerably severe, greatly offended, vehemently angry, whose sentence is immutable, whose prison is one from which there is no return, whose torments are without end, without interval and without relaxation, horrible torturers who never weary, never pity, fear of everything throws into confusion, the conscience condemns, the thoughts reprove, and escape is impossible, wherefore St. Augustine exclaims, 'O how very great are my sins.' Wherefore, when any one shall have God the just for judge and his conscience for a witness, he need not fear anything unless it be his own case."

NEW PUBLICATIONS.

THE BILLS OF EXCHANGE ACT, 1890, by D. Girouard, Q.C., M.P., and D. H. Girouard, B.A., B. C. L.—Montreal, J. M. Valois, publisher.

This is the third work on the Bills of Exchange Act which we have had occasion to notice; but although the number of commentaries may be rather embarrassing to the profession at large, there can be but little doubt as to the choice of the practitioner in this Province. The subject is not new to Mr. Girouard, his first venture in the field of legal literature being an "Essai sur les Lettres de Change et les Billets promissoires," published as far back as 1860. As a member of the House of Commons he had occasion to participate in the discussion of the bill in committee, and he was therefore in a favourable position for reviewing and commenting upon the text of the law. With the assistance of his son, whose name also appears on the title page, he has now produced a work of great value to the profession. The extent of research necessary is indicated by the large number of decisions cited, over two thousand cases being referred to. Some interesting information, it may be observed, is given in the introduction relating to the number of decisions. Chalmers, in his work on Bills of Exchange, found that 2,500 judgments in England had been thought worthy of being reported. In some of the later American works no less than 11,000 precedents appear; while the Canadian jurisprudence is represented by some 2,000 cases scattered through the reports of the different provinces. In France, on the other hand, where the laws on bills of exchange and promissory notes have been codified, first in 1673 by the Colbert ordonnance, and secondly and more perfectly in 1807, by the Code de Commerce, the number of reported cases, it is said, does not exceed fifteen hundred.

Besides fulness of citation, the present work contains some valuable matter not to be found in its predecessors. The debates in the House of Commons in 1889 and 1890 are reprinted in full; also the debates in the Senate in 1890. The observations of the codification commissioners in this Province are also given, together with the text of those articles of the Code which relate to bills and notes, and a table of the repealed Canadian and provincial statutes. The subject is thus exhaustively treated, and the result is a work which affords the lawyer the most thorough assistance in his researches.

FOURTH ANNUAL REPORT OF THE INTERSTATE COMMERCE COMMISSION, 1890.—Washington, Government Printing Office.

A very valuable feature of this volume is Appendix B., containing a statement or report of important points decided by the commission since its organization, arranged alphabetically. The report also contains a large amount of information relating to transportation and kindred subjects, the whole forming a volume of 443 pages.

*SUPERIOR COURT—MONTREAL.**

Donation—14-15 *Vict., ch.* 93—*Registration substituted for insinuation—Marriage contract containing appointment of heirs—Necessity of registration after death of person making appointment—Minors.*

Held:—1. Under 14-15 Vict., ch. 93, s. 4, the registration of a donation has the same effect as the insinuation thereof under the law previously in force, even as to donations registered before the passing of the Act and not insinuated; consequently the want of insinuation cannot be invoked against a donation contained in a marriage contract passed in 1842, which was duly registered during the lifetime of the donor, but not insinuated.

2. Children of the age of majority, who have either accepted their father's succession as universal legatees, or have concurred in the testamentary dispositions made by him of his estate by accepting the particular legacies made to them, are estopped from making any claim under his marriage contract at variance with the dispositions of the will.

3. Gifts made in a marriage contract, to take effect only after the death of the donor, such as an appointment of heirs, partake of the nature of wills; and consequently, in order to give effect to the appointment of heirs against third parties acquiring immovables in good faith from the legal heirs or legatees of the donor, it is necessary that the marriage contract containing the appointment of heirs be registered in the same manner as a will, within six months from the death of the person making the appointment, with a declaration of the date of his death, the names of the heirs, and a designation of the immovables affected and transmitted thereby.

4. The want of such registration can be invoked even against minors.—*Paré et al.* v. Allan, Würtele, J., Dec. 10, 1890.

Arrestation et détention illégales—Dommages—Maisons de désordre.

Jugé:—1. Qu'il y a lieu à accorder des dommages exemplaires lorsqu'une personne en fait arrêter une autre pour tenir une maison de désordre, et que cette dernière est acquittée de l'accusation, lorsque le plaignant avait cause probable de porter la plainte, mais que sans nécessité il demande spécialement l'arrestation du défendeur et son incarcération; ce fait indiquant malice de sa part.

2. Que néanmoins lorsqu'il y a cause probable de porter la plainte aucun dommage résultant du procès ne sera accordé.—*Labelle* v. *Versailles et al.*, Würtele, J., 12 déc. 1890.

Louage—Journal politique—Direction politique—Résiliation.

Jugé:—1. Que dans un contrat de louage d'un journal, organe d'un parti politique, la condition que le locateur se réserve la direction politique du journal et la nomination de son rédacteur en chef est une clause essentielle du contrat, dont la violation entraine la résiliation du bail.

2. Que le fait du locataire de refuser d'employer comme rédacteur en chef celui qui est nommé par le locateur, et de le remplacer par une personne professant des opinions contraires au parti politique dont le journal était l'organe, est une violation des conditions du bail suffisante pour le faire annuler.—*Compagnie d'Imprimerie, etc.*, v. *Berthiaume*, Gill, J., 20 déc. 1890.

Alimentary allowance, Seizure of—Judgment granting provisional alimentary allowance to wife—Art. 558, *C. C. P.*

Held:—That a provisional alimentary allowance, granted by the Court to a wife during the pendency of her suit against her husband for separation *de corps et de biens*, is an "alimentary debt" within the meaning of Art. 558, C. C. P.; and an alimentary allowance payable to the husband under the will of his father, may be seized therefor, though declared *insaisissable* by the will.—*Perrault* v. *Masson*, in Review, Gill, Loranger and Davidson, JJ., Dec. 30, 1890.

Carrier—Custody of baggage after arrival at place of destination—Responsibility—Burden of proof—Evidence of value—Arts. 1063, 1071, 1872, 1200, 1672, 1675, 1802, 1815, *C. C.*

Held:—1. A carrier who retains the custody of baggage after it has reached the place

* To appear in Montreal Law Reports, 7 S.C.

of destination, and deposits it in a room assigned to unclaimed baggage, is responsible for its safe-keeping, and is bound to deliver the thing or pay its value, unless delivery has become impossible without his act or fault.

2. The burden of proving that the loss or destruction of the thing has occurred without his act or fault is on the carrier, the presumption being that he is in fault if he fails to deliver the thing. Hence if no explanation is given of the disappearance of baggage before delivery, the carrier is liable for the value.

3. Proof may be made by the plaintiff's oath of the value of baggage lost or destroyed while in the custody of the carrier after arrival at place of destination.—*Pelland* v. *Canadian Pacific R. Co.*, Pagnuelo, J., Feb. 23, 1891.

Hotel-keeper — Necessary deposit — Effects destroyed by accidental fire.

Held:—1. Where a hotel-keeper retains in his custody baggage belonging to a traveller during his absence from the hotel, and gives a check or receipt therefor, it is considered a necessary deposit, and his responsibility as hotel-keeper still subsists; and the value of baggage so deposited may be proved by the oath of the traveller.

2. A hotel-keeper is not liable for the value of effects so retained in his custody when he proves that they were lost or destroyed by inevitable accident, such as a purely accidental fire, in the confusion caused by which the effects were stolen.—*McElwaine* v. *Balmoral Hotel Co.*, Pagnuelo, J., Feb. 23, 1891.

Summary matters—Notice of inscription for proof and hearing—Art. 897*a*, *C. C. P.*

Held:—That by Art. 897*a*, C. C. P., as amended by section 2 of 53 Vict. ch. 61, a notice of five clear days to the adverse party is required of an inscription for proof and for hearing immediately after proof in contested cases, in summary matters.—*Conroy* v. *Mount*, Würtele, J., March 13, 1891.

Promissory note—Given by wife for debt of husband—Absolute nullity—Bank discounting note in good faith—Art. 1301, *C. C.*

Held:—That a promissory note made by a married woman, separated as to property, in favor of a creditor of her husband, in payment of a debt of her husband, is absolutely null; and no action can be maintained thereon by a bank which has discounted the same in good faith before maturity, in ignorance of the cause of nullity.—*Banque Nationale* v. *Guy et al.*, Würtele, J., Feb. 4, 1891.

Promissory note—Transfer without endorsement — Warrantor—Protest.

Held:—1. Where it is shown by the evidence that the endorsers of a promissory note became warrantors of the maker, before "the Bills of Exchange Act, 1890," absence of protest did not relieve them from liability.

2. The holder of a promissory note payable to order has an action against the person who transferred the note to him, and who accidentally omitted to endorse it, to compel him to do so; but in a suit on a note by the holder against the maker, transferor, legal proof of the transfer is sufficient, and a judgment ordering the transferor to endorse the note would be superfluous.—*Coutu* v. *Rafferty et al.*, Würtele, J., March 23, 1891.

Promissory note—Evidence—Art. 2341, *C. C.*

Held:—1. In a suit founded on promissory notes or bills of exchange, in the investigation of facts recourse must be had to the laws of England in force on the 30th of May, 1849. (C. C. 2341).

2. According to the laws of England parol evidence is admissible to establish the real relationship of the parties to a bill of exchange or promissory note, and the circumstances under which it was endorsed.—*Northfield* v. *Lawrance*, Würtele, J., March 26, 1891.

Saisie-arrêt avant jugement—Recel—Dépenses inutiles—Gaspillages.

Jugé:—Qu'un débiteur qui gaspille son argent à boire et dans des maisons de mauvaise réputation, au lieu de payer ses dettes, ne commet pas toute fois l'acte de recel que la loi exige pour la saisie-arrêt avant jugement.—*Mallette* v. *Ethier*, en Révision, Gill, Mathieu, Würtele, JJ., 30 mars 1889.

Exception à la forme—Bref de sommation— Jour du retour.

Jugé:—Dans une cause non sommaire,

qu'il suffit que le bref de sommation ordonne au défendeur de comparaitre à jour fixe, et qu'il n'est pas nécessaire que le bref contienne les mots "ou le jour juridique suivant," l'article 83 du Code de Procédure Civile étant une autorisation suffisante.—*Dessaulles* v. *Stanley et al.*, Mathieu, J., 16 nov. 1890.

Constable — Arrestation — Violence — Assaut— Cité de Montréal — Responsabilité — Dommage.

Jugé :—1. Qu'un officier de justice lorsqu'il arrête légalement un prisonnier peut repousser la force par la force, mais qu'il n'a pas le droit d'employer une plus grande violence qu'il est nécessaire.

2. Que s'il frappe un prisonnier sans nécessité ou plus qu'il n'est nécessaire, il commet un assaut injustifiable.

3. Que la Cité de Montréal est responsable de la conduite de ses hommes de police dans l'exercice de leurs fonctions.—*Courcelles* v. *La Cité de Montréal*, Pagnuelo, J., 16 février 1891.

Limite de propriéte foncière—Dommages—Expertise.

Jugé :—Que dans une instance où les deux parties sont en contestation sur la limite respective de leurs propriétés limitrophes, l'une d'elle réclamant de l'autre des dommages pour empiètement, la Cour ne peut nommer des experts, avant l'enquête, pour visiter les lieux, examiner les titres des parties, entendre des témoins, évaluer les dommages et faire rapport.—*Deseve* v. *Deseve*, Tellier, J., 17 fév. 1891.

Curateur à un insolvable—Action—Autorisation —Exception à la forme—Reddition de compte.

Jugé :—1. Que le curateur aux biens d'un insolvable n'a pas le droit d'intenter une action pour recouvrer d'un débiteur une somme d'argent due à l'insolvable, sans y avoir été autorisé par les créanciers ou les inspecteurs et le tribunal ou le juge. (C. P. C., art. 772).

2. Que ce défaut d'autorisation peut être valablement soulevé, comme moyen préliminaire par une exception à la forme;

3. Que l'on ne peut par exception à la forme demander le renvoi d'une action parce que le demandeur au lieu d'une action *assumpsit*, aurait dû en intenter une en reddition de compte; ce moyen devant être soulevé au fond et non à la forme.—*Kent et al.* v. Gravel, Pagnuelo, J., 10 nov. 1890.

FIRE INSURANCE.

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

CHAPTER XII.

Proceedings on Policies.

[Continued from p. 144.]

§ 265. *Interest on sum assured.*

Interest on the amount insured was awarded by the jury from the time it was due in *Niblo* v. *N. A. Ins. Co.*[1]

In *McGillivray* v. *Montreal Assurance Co.* (A. D. 1858) interest was awarded from the time of the fire. The jury gave their verdict so. *Offres* could not be made by the insurance company before liquidation, and therefore in modern France interest is only allowed from time of the amount being found, and sum due by insurance company is to be assimilated to damages, says Pouget, p. 573.

The jury may give damages in the nature of interest over and above the moneys recoverable in all actions on policies of insurance made after the passing of the Act 3 and 4 William IV, c. 42.[2]

An action on a policy is for unliquidated damages, per Mansfield, Ch. J., in *Lear* v. *Heath.*[3]

A defendant cannot be held to bail for such a debt, however clear it may be that he will have to pay, and though *loss* be admittedly total.

The party insuring is not, *prima facie*, entitled to recover *interest* upon the principal sum insured from the expiration of a certain period after proof of the death of the assured, the policy covenanting to pay a certain sum within such certain period after due proof of the death of the assured. An action of covenant was brought upon a policy of insurance, bearing date the 10th of March, 1819,

[1] 1 Sandf. and 2 Hall's N. Y. Rep. 631.
[2] P. 509, Coote on Mortgage.
[3] 5 Taunt.

by which the defendants covenanted to pay to the plaintiff £4,000 at the expiration of six months after due proof of the death of R. C. Burton. The cause was tried before Bayley, J., at the assizes for the county of York, and the principal question was, whether R. C. Burton's life was an insurable life at the time when the policy was effected. The learned Judge summed up the evidence to the jury with reference to that question, no point having been then made as to interest; but when the jury returned a general verdict for the plaintiff, his counsel then claimed to have interest allowed upon the principal sum insured from the time when that sum became due. It was stated in the affidavits that R. C. Burton died in April, 1821, and that due proof of his death was given to the defendants, so that the principal sum insured became due on the 6th of November, 1822, and that the interest upon that sum, to the first day of Michaelmas Term, 1823, amounted to £200. A rule nisi having been obtained for increasing the damages by that sum, cause was shown.

Abbott, C. J.—"It is now established as a general principle that interest is allowed by law only upon mercantile securities, or in those cases where there has been an express promise to pay interest, or where such promise is to be implied from the usage of trade or other circumstances. It is of importance that this rule should be adhered to; and if we were to hold that interest was payable in this case, the application of the general rule might be brought into discussion in many others. Interest was not claimed by the plaintiff's counsel in this case until the Judge had concluded his address to the jury upon the principal question for their consideration, and they had pronounced their verdict upon that question in favor of the plaintiff. It was then contended, for the first time, that the plaintiff was entitled to have interest allowed him upon the principal sum secured by the policy from the time when it had become payable, and that point was reserved by the learned Judge. The only question upon the present rule is, whether the jury ought to have been told that they were bouud by law to give the plaintiff interest from that time; for if it was a matter for their discretion only, and it was not properly submitted to them, there may be a ground for granting a new trial, but not for increasing the damages. Inasmuch as the money recovered in this case was not due by virtue of a mercantile instrument, and as there was no contract, express or implied, on the part of the defendant to pay interest, I cannot say that the jury ought to have been told to give interest."

Bayley, J.—"I am of the same opinion. It was once the opinion that money lent carried interest, and in *Calton* v. *Bragg*[1] it was so contended, on the ground that the lender would otherwise, for the accommodation of the borrower, lose the benefit which he might make of his capital, and that the lender ought in equity to be put in the same situation as if he had applied his principal to his own use. But this Court held that interest was not due by law for money lent without a contract for it expressed, or to be implied from the usage of trade, or from special circumstances. Now if interest be not due for money lent, which is to be repaid either upon demand or at a given time, it follows, that it is not due for money payable within a certain time after due proof of the happening of a particular event. The circumstance of the money having become due in this case by virtue of a contract under seal, does not make any difference. If it were the intention of the parties that the principal sum should bear interest from the time when it became due, that might have been expressly provided for in the deed; but not having been done, the law will not imply a contract on the part of the defendants to pay interest, and consequently the jury ought not to have been directed to give interest."

Holroyd, J.—"I think that the Judge would not have been warranted in directing the jury to give interest in this case. It is clearly established by the later authorities, that unless interest is payable by the consent of the parties, express, or implied from the usage of trade, (as in the case of bills of exchange,) or other circumstances, it is not due by common law. In *De Haviland* v. *Bowerbank*,[2] Lord Ellenborough was of opin-

[1] 15 East, 224.
[2] 1 Camp. 50.

ion, that where money of the plaintiff had come to the hands of the defendant, to establish a right to interest upon it, there should either be a specific agreement, or something should appear from which a promise to pay interest might be inferred, or proof should be given of the money being used; and in *Gordon* v. *Swan*[1] the same Judge said, that the giving of interest should be limited to bills of exchange and such like instruments and agreements reserving interest. In the latter case, although the money was payable at a particular day, non-payment at that day was held not to give any right to interest. Independently of these authorities, I am of opinion, upon the principles of the common law, that interest is not payable upon a sum certain payable at a given day. The action of debt was the specific remedy by the common law for the recovery of a sum certain. Now in that action the defendant was summoned to render the debt, or show cause why he should not do so. The payment of the debt satisfied the summons, and was an answer to the action. If this, therefore, had been an action of debt, the payment of the principal sum would have been a good defence, because the interest is no part of the debt, but is claimed only as damages resulting from the non-payment of the debt. When indeed the interest becomes payable by virtue of a contract, express or implied, then it becomes part of the debt itself, and consequently it will be no answer to an action of debt for the defendant to show that he had paid the principal sum advanced; here there being no contract, express or implied, to pay interest, it was no part of the debt, but could only be recovered by way of damages for detaining the debt. Inasmuch, therefore, as it appears that if the plaintiff had pursued that remedy, which by the common law is specifically applicable to this case, he could not have recovered interest, I think that he ought not to be permitted to recover interest by way of damages in an action of covenant."—Rule discharged.[2]

In France interest is given against insurance companies from date of judicial demand. P. 169, 2nd part, Dalloz of 1853.

Le Blanc, J., mentioned with disapprobation the fact of Butler, J., having allowed interest on policies of insurance. See 2 Camp., p. 427, and so did Lord Ellenborough, p. 51, 1 Camp.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, May 2.

Judicial Abandonments.

Joseph Grégoire Côté, trader, Grondines, April 27.
Charles Dubois, trader, Victoriaville, April 24.
Gaspard Germain, Quebec, April 29.

Curators appointed.

Re Fridolin Barbeau, Montreal.—Kent & Turcotte, Montreal, joint curator, April 28.

Re Joseph Bégin.—F. Valentine, Three Rivers, curator, April 24.

Re Joseph Bellavance, St. Fabien.—H. A. Bedard, Quebec, curator, April 29.

Re Ulric Collette, St. Basile.—H. A. Bedard, Quebec, curator, April 28.

Re Sauveur J. Demers, founder, Quebec.—Chs. Proulx, Quebec, curator, April 16.

Re Denckert & Graichen.—W. J. Thomson, Montreal, curator, April 25.

Re Eusèbe Dion, Valleyfield.—L. Marchand, Valleyfield, curator, April 20.

Re John Elder, Athelstan.—W. S. Maclaren, Huntington, curator, April 27.

Re F. X. Marsouin, Montreal.—Kent & Turcotte, Montreal, joint curator, April 29.

Re Ernest Neveu.—Bilodeau & Renaud, Montreal, joint curator, April 28.

Re Alfred Pomminville.—C. Desmarteau, Montreal, curator, April 23.

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[1] 12 East 410.

[2] The English rule, that interest is not recoverable unless expressly reserved by the contract, or the payment of it is to be implied from the course of dealing between the parties, or from the usage of trade, has not been adopted in the United States; or rather the Courts have made to it the important addition, that whenever a debt ought to be paid at a particular time, and it is not then paid through the default of the debtor, interest will be allowed as compensatory damages, during the time when the debtor is so in default. *Selleck* v. *French*, 1 Conn. 32; *People* v. *New York*, 5 Cowen 331; *Dodge* v. *Perkins*, 9 Pick. 369. There is no distinction, in the application of the American rule in regard to interest, between sums due upon policies of insurance and claims arising from any other contract. But the allowance of interest in case of policies and all other contracts, in which interest is not expressly or by implication reserved, is based entirely upon the *default* of the debtor, and is of the nature of damages. Hence, an insurance company will not be held liable for interest on a sum due upon a policy, the payment of which is restrained by the legal operation of a trustee process, or foreign attachment, provided there is no fraud or collusion on the part of the company, or unreasonable delay in making its answers and disclosures by the trustee process. *Oriental Bank* v. *Tremont Ins. Co.*, 4 Metcalfe 1.

Dividends.

Re Edouard Caron, Rivière du Loup.—Dividend, payable June 1, A. Lauranger, Louiseville, curator.

Re Hilaire Chevalier, farmer, parish of Ste. Elisabeth.—First and final dividend, payable May 21, F. X. O. Lacasse, Ste. Elizabeth, curator.

Re Francis Giroux, Montreal.—Special dividend, payable May 28, Kent & Turcotte, Montreal, joint curator.

Re Alfred Trottier.—First and final dividend, payable May 22, A. Quesnel, Arthabaskaville, curator.

Separation as to property.

Marie Louise Bégin vs. Louis Gaudiose Leclerc, leather merchant, Montreal, April 29.

GENERAL NOTES.

DECREASE OF CRIME.—In charging the grand jury at Warwick Lord Coleridge stated that his experience showed him that, with a largely increasing population, there was a largely decreasing number of criminals. Whether this was to be attributed to the spread of education, to the better system of police, or to other causes, he did not know, but it was a matter for great congratulation. There is no doubt of the fact of the diminution of crime, in the country districts at least. The very light calendars at most of the smaller assize towns afford ample evidence of this. As to the causes there may possibly be different opinions, but probably the progress of the temperance movement has had much to do with bringing about this desirable result.—*Law Journal.*

SHIPBROKERS' COMMISSIONS.—A point of some importance to shipowners and brokers came before Mr. Justice Kekewich last week in the case of *Williamson* v. *Hine Brothers*(Notes of cases, p. 160). The question there raised was whether the managing owners of a ship, who were also shipbrokers, and were in receipt of a fixed sum as remuneration for their services as managing owners,' were entitled to retain for their own benefit, independently of that fixed remuneration, commission or brokerage for procuring charters and freights. The learned judge considered that the managing owners had no such right, the procuring of charters and freights being part of the duties of managing owners. It was not disputed that managing owners were entitled to employ brokers, and if brokers were so employed they could be paid by the managing owners out of moneys in their hands. But as his Lordship pointed out, where the managing owners were themselves also ship brokers—as is frequently the case —if they chose to employ themselves they could not make any secret profit or commission out of such employment. This, of course, proceeds upon the well established doctrine that an agent is not permitted to make any secret profit out of the conduct of his agency. For all profits acquired whether directly or indirectly, by an agent in the course of, or in connection with, his employment, without the sanction of his principal, belong absolutely to his principal. It was argued that brokers must necessarily be employed; but the evidence went to show that managing owners, who were also ship brokers, did generally, if not always, procure charters and freights either from their own houses or from outside brokers.—*Ib.*

ENGLISH STATUTES OF 1890.—The *Law Students' Journal* directs attention to some features of the annual legislation by the following rhymes;—

'*Company's Act.*

'A brewery company thought
They'd save money by laying down port,
One can't understand 'em,
But their memorandum
Has been altered by leave of the Court.'

'*Directors' Liability.*

'A director, who's credulous very,
Believed toast-and-water was sherry;
But they made him say why
He believed such a lie,
A surprise after *Peek* versus *Derry.*'

'*Judicature Act.*

'There was an old judge of appeal,
Who said he could stand a good deal,
But with oceans and oceans
Of new trial motions,
He'd never have time for a meal.'

'*Intestates' Estates.*

'There was a poor widow called Honey,
Who murdered her son for his money,
But her son, as she found
Left but five hundred pound,
And that went to his widow. How funny!'

A tenant of Lord Halkeston, a judge of the Scotch Court of Session, once waited on him with a woeful countenance, and said; 'My Lord, I am come to inform your Lordship of a sad misfortune. My cow has gored one of your Lordship's cows, and I fear it cannot live.' 'Well, then, of course, you must pay for it.' 'Indeed, my lord, it was not my fault, and you know I am but a very poor man.' 'I can't help that. The law says you must pay for it. I am not to lose my cow, am I?' 'Well, my lord, if it must be so, I cannot say more. But I forgot what I was saying. It was my mistake entirely. I should have said that it was your lordship's cow that gored mine.' 'Oh, is it that? That's quite a different affair. Go along, and don't trouble me just now. I am very busy. Be off, I say!'

Judge Willis about 1780 sentenced a boy at Lancaster to be hanged, with the hope of reforming him by frightening him, and he ordered him for execution next morning. The judge awoke in the middle of the night, and was so affected by the notion that he might himself die in the course of the night, and the boy be hanged though he did not mean that he should suffer, that he got out of his bed and went to the lodgings of the high sheriff, and left a reprieve for the boy, or what was to be considered equivalent to it, and then, returning to his bed, spent the rest of the night very comfortably.

Sir George Rose had a friend who had been appointed to a judgeship in one of the colonies, and who, long afterwards, was describing the agonies he endured in the sea passage when he first went out. Sir George listened with great commiseration to the recital of these woes, and said, 'It's a great mercy you did not throw up your appointment.'