The Legal News.

Vol. XIV. SEPTEMBER 19, 1891. No. 38.

COUR SUPERIEURE.

JOLIETTE, 10 juin 1891.

Coram DE LORIMIER, J.

GEOFFROY v. LA CORPORATION DE LA PAROISSE DE ST. FELIX.

Conseil Municipal—Certificat de Licence—Confirmation—Mandamus.

Elzéar Geoffroy, hôtellier, de St. Félix de Valois, présenta le 4 mars 1891, au conseil de la corporation intimée, un certificat de licence et en demanda la confirmation. Le Conseil, sans spécifier aucune raison particulière, refusa à l'unanimité de confirmer le certificat.

Le requérant fit alors une requête à la Cour Supérieure demandant l'émanation d'un bref de *mandamus*, alléguant qu'il avait rempli toutes les conditions de la loi, et que le Conseil n'avait aucune raison valable pour refuser de confirmer son certificat; qu'en conséquence il avait droit à un *mandamus* ordonnant au dit Conseil de confirmer le certificat par lui obtenu des électeurs municipaux pour l'octroi d'une licence d'auberge.

La Corporation intimée s'opposa à cette demande, prétendant qu'elle avait une entière discrétion et que dans ce cas il n'y avait pas lieu à l'émanation d'un *mandamus*.

La Cour maintint les prétentions de l'intimée et renvoya la requête par le jugement suivant.

"Ayant entendu la requête du dit Elzéar Geoffroy, demandant l'émanation d'un bref de *mandamus* aux fins d'enjoindre à la Corporation intimée de lui accorder, par l'entremise de son conseil municipal, la confirmation du certificat par lui demandé pour tenir une auberge ou maison d'entretien public en la paroisse de St. Félix de Valois, entendu la dite intimée par son procureur, examiné les pièces produites et délibéré:—

"Considérant que le conseil de l'intimée a, dans sa séance du 4 mars dernier, pris en considération la demande du requérant, et a décidé à l'unanimité de refuser la confirmation de ce certificat;

"Considérant que telle décision unanime des membres du dit Conseil est suffisante et légale;

"Considérant qu'aux termes des articles 839, 840, 841 et 842 des Statuts Refondus de Québec, les certificats pour licences d'auberges doivent être — sauf pour Montréal et Québec—confirmés par une décision du conseil de la municipalité dans les limites de laquelle la maison est située, et que, sauf quant aux exceptions contenues en l'article 842 ci-dessus mentionné, la confirmation et le refus des certificats sont laissés à la discrétion des conseils municipaux;

"Considérant que si les conseils locaux pouvaient être contraints par voie de *mandamus* à accorder tels certificats, contrairement à leur décision unanime, ce serait enlever à ces conseils leur pouvoir discrétionnaire pour en investir les juges de la Cour Supérieure, ce qui est évidemment contraire aux intentions de la loi actuelle sur la matière;

"En conséquence, la dite requête est déclarée mal fondée et renvoyée avec dépens, distraits, etc."

G. A. Champagne, avocat de l'intimée.

(J. J. B.)

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*SUPERIOR COURT—MONTREAL.**

Partition—Art. 689, C. C.—Reasons of utility justifying delay—Postponement till majority of testator's youngest grandchild—After born grandchildren included.

Held:—1. That Art. 689, C.C., which provides that a partition may be deferred during a limited time, if there be any reason of utility which justifies the delay, expresses the law as it was before the Code.

2. That where a testator bequeathed his whole estate to trustees to pay an annuity to his wife and the remainder of the revenues to divide and pay to the whole of his children or their lawful issue *per stirpes*, and directed that the immovables in his estate should be divided at the majority of his youngest grandchild—there were sufficient "reasons of utility" justifying the delay, and the testator's directions would be respected by the Court.

3. That as the legacy was universal and

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

per stirpes grandchildren born after the testator's death were clearly included in the terms of the bequest, and an action for partition brought when all the grandchildren born in the testator's lifetime were of age, but before the majority of some of the after-born grandchildren, was premature. *Muir* v. *Muir*, Taschereau, J., April 24, 1891.

Procedure—Articulation of facts—Art. 208, *C. C. P.*

Held:—That an articulation of facts which does not set up specific facts in the interrogatories, does not comply with the requirements of Art. 208, C. C. P., and will be rejected from the record. *Williams* v. *Labine*, Würtele, J., May 8, 1891.

Disabilities of Corporations—Acquiring immovable property—Art. 366, *C. C.—City of Montreal—Expropriation.*

Held:—On demurrer, that a municipal corporation has a right to expropriate, or acquire by voluntary sale, such real estate only as may be required for the municipal administration, or as it may have been authorized to acquire and hold for specific purposes. A corporation cannot, without special authorization, expropriate or acquire real estate for the purpose of erecting a building thereon to be let as shops and dwellings.

2. In the absence of express authorization to the corporation, the expropriated owner of real estate taken for a public purpose, has the right, when the property is not used for such purpose, to have it restored to him, and when part only has been used for the public purpose, to have the unused portion restored to him.

3. It is immaterial whether the acquisition is made by process of expropriation or by voluntary sale, after the adoption of a resolution declaring that the property is required for a public purpose, and authorizing its acquisition. *Roy* v. *The Mayor et al. of Montreal*, Würtele, J., June 8, 1891.

Sale of goods—Latent defect—Art. 1523, *C. C.—Reasonable delay for complaint as to quality—Evidence.*

Held:—1. That sourness and unsoundness in salted salmon—defects which were discoverable by smell when the goods were opened and inspected—are not latent defects against which the seller is obliged by law to warrant the buyer.

2. Where goods are sold without warranty and subject to inspection, the buyer is bound to make an inspection of the goods within a reasonable time after delivery; and an action brought five months afterwards, complaining of the quality of the goods received by him, is not exercising due diligence.

3. Where the buyer pretended that the sale was made with warranty, and the agent of the seller immediately wrote that before the sale he had read his principal's letter to the buyer, stating that there would be no warranty, this fact, in the absence of any immediate and positive denial by the buyer, furnishes a strong presumption of the truth of the agent's statement. *Vipond et al.* v. *Findlay et al.*, Tait, J., May 29, 1891.

Canal d'égout—Garantie—Responsabilité.

En 1887 et 1888, la ville de la Côte St. Louis, municipalité limitrophe de la cité de Montréal, a construit divers canaux d'égout pour l'égoutement des rues et de plusieurs cours d'eau, lesquels canaux elle a illégalement, et sans la permission de la cité de Montréal, reliés au canal d'égout de la rue St.-Denis en la cité de Montréal. Cette connection s'était faite à la connaissance des officiers, mais sans la permission du conseil de la corporation de Montréal. Dans l'hiver et le printemps de 1890, l'égout de la rue St-Denis ne pouvant suffire à l'écoulement des eaux de la Côte St-Louis, la maison du demandeur fut inondée par le refoulement des eaux dans le canal d'égout. De là, action en responsabilité par le demandeur contre la cité de Montréal qui, à son tour, appela en garantie la ville de la Côte St-Louis.

Jugé:—1o. Que la ville de Montréal ayant laissé faire la connection entre les égouts de la ville de la Côte St-Louis et son égout de la rue St-Denis, est responsable vis-à-vis du demandeur des dommages que ce dernier a éprouvés par suite du refoulement des eaux de l'égout de la rue St-Denis.

2o. Que la ville de la Côte St-Louis, ayant fait la dite connection illégalement et sans la permission de la cité de Montréal, et dirigé toutes ces eaux dans le seul égout de la rue

St-Denis, est tenue de garantir la cité de Montréal contre la condamnation prononcée contre elle en cette cause.

3o. Le fait que les officiers de la ville de Montréal savaient que la dite connection avait été fàite, ne décharge pas la défenderesse en garantie de la responsabilité de son acte.—*Grothé* v. *La cité de Montréal, & La cité de Montréal* v. *La ville de la Cote St-Louis*, Pagnuelo, J., 19 mars 1891.

Mitoyenneté—Epaisseur du mur mitoyen—Plaidoyer—Possession annale—Bornage—Chose hors du commerce—Arts. 515-520, *C. C.*; 941-8, *C. P. C.*

Jugé:—1o. La limite d'épaisseur d'un mur mitoyen est de dix huit pouces, et le propriétaire d'un mur d'une plus grande épaisseur ne peut forcer son voisin, qui veut bâtir contre ce mur, de payer plus que la moitié du coût d'un mur de dix-huit pouces, plus la moitié du sol occupé par tel mur.

2. Toutefois le voisin, poursuivi pour la valeur d'un mur d'une plus grande épaisseur, doit plaider spécialement qu'il n'a pas besoin d'un mur de plus de dix-huit pouces, et en l'absence d'une semblable allégation, la Cour ne pourra suppléer au défaut de ce moyen de défense.

3o. Lorsque le demandeur se plaint d'un empiètement et que le défendeur est en possession du terrain en question depuis l'an et jour, la Cour ne peut décider s'il y a eu empiètement soit par le demandeur soit par le défendeur que par un bornage.

4o. Le propriétaire du mur qui doit être rendu mitoyen est, quand ce mur existe depuis plus d'un an, censé propriétaire du terrain sur lequel se trouve ce mur à moins que le contraire ne soit prouvé d'une manière régulière.

Quære—Peut-on acquérir la mitoyenneté d'une chose qui est hors du commerce comme, par exemple, le mur d'une église?—*Incumbent and Churchwardens of St. Stephen's Church* v. *Evans*, en révision, Mathieu, Wurtele, Pagnuelo, J J., Mathieu, J. diss., 30 avril 1891.

Answer to plea—New allegations of fact—Motion to reject.

Held:—1. That the only answer admissible to a negative plea, is a general replication. (Art. 148, C. C. P.)

2. That an answer to plea containing new allegations of fact, which in effect give rise to a new cause of action, will be rejected on motion.—*Harwood* v. *Fowler et vir*, Mathieu, J., June 17, 1889.

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*COURT OF QUEEN'S BENCH—MONTREAL.**

Nuisance—Asylum for the insane—Action to compel discontinuance of erection.

Held:—Where buildings are being erected for a legal and proper object, such as a hospital for the insane, and there is no proof that they are causing or likely to cause any injury to the properties of the neighbours or any diminution of their value owing to causes for which the proprietors of the asylum would be liable, adjoining proprietors have no right to ask by injunction that the erection of the buildings be discontinued. *Crawford et al. & Protestant Hospital for the Insane*, Dorion, C. J., Baby, Doherty, Cimon, JJ., March 21, 1891.

Lessor and lessee—Lease—Tacit reconduction—Notice to terminate—Art. 1067 *C. C.*

Held:—That where a lease in writing is continued by tacit reconduction the notice necessary to terminate it must be in writing. *Lacroix & Fauteux*, Cross, Baby, Bossé, Doherty, JJ., March 26, 1891.

Lessor and lessee—Change of destination of premises leased—Resiliation of lease—Art. 1624, C.C.

Where premises were leased "to be used and occupied only for the purposes of con-"certs, lectures, fairs, bazaars, clubs, socie-"ties, public exhibitions and meetings in accordance with law," and the lessee sublet to parties who used the premises for the religious meetings of the Salvation Army, an organization which was obnoxious to a large portion of the inhabitants of the locality, and windows were broken and other damage was done to the property in consequence, and insurance was refused by the insurance companies on account of the increased risk,

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* To appear in Montreal Law Reports, 7 Q. B.

held, that there had been a change of destination sufficient to entitle the lessor to obtain the rescission of the lease.—*Pignolet & Brosseau*, Cross, Baby, Bossé, Cimon, JJ. (Cross, J. diss.) March 26, 1891.

Pleading—Vagueness and insufficiency of allegations of demand—Exception to the form—Appeal.

Held: 1. Where the right of action is not denied by the defendant, but he complains of the vagueness and insufficiency of the allegations of the declaration, it is matter for an exception to the form, and not for a demurrer, or for a motion for particulars.

2. An interlocutory judgment rejecting an exception to the form in such case is susceptible of appeal, being a matter which cannot be remedied by the final judgment. *McGreevy & Beaucage*, Dorion, C. J., Baby, Bossé, Doherty, Cimon, J J., May 23, 1891.

COURT OF APPEAL.

LONDON, March 21, 1891.

Before LORD ESHER, M.R., BOWEN, L.J., FRY, L.J.

STEINMAN *v.* ANGIER LINE, (26 L.J. N.C.)

Ship and shipping—Contract of Carriage—Liability of shipowner—Exceptions in bill of lading—'Thieves of whatever kind whether on board or not or by land or sea'—Theft by servants of shipowner.

Appeal from the judgment of SMITH, J., at the trial of the action.

The action was brought to recover damages for the non-delivery of goods shipped on board the defendants' ship under a bill of lading. The goods in question, after being put on board, were stolen by stevedore's men employed to stow the cargo, the stevedore being appointed by the charterer, but paid by and in the service of the ship, and the defence was that by the terms of the bill of lading the defendants were not liable for the acts of robbers and thieves.

The exception in the bill of lading exempted the defendants from liability for loss or damage arising from (amongst other things) 'pirates, robbers, or thieves of whatever kind, whether on board or not or by land or sea.'

SMITH, J., held that the case did not come within the exception, and gave judgment for the plaintiffs.

The defendants appealed.

Their LORDSHIPS affirmed the judgment of SMITH, J. They were of opinion that if it was intended to relieve the shipowner from liability for thefts committed by persons in the ship's service, clear and explicit language to that effect should have been used, and that the mere introduction into the list of exceptions of the words 'thieves of whatever kind, &c.,' did not do so, it being the duty of the ship owner by himself and his servants to do all he could to avoid the excepted perils.

Appeal dismissed.

SUPREME COURT OF NEWFOUNDLAND.

INTERNATIONAL LAW—PREROGATIVE OF CROWN—ACT OF STATE—PERSONAL RESPONSIBILITY OF AGENT OF CROWN.

In the case of *James Baird and another* v. *Sir Baldwin Walker, Bart.*, the following judgment was on March 18, 1891, delivered by Mr. Justice Sir Robert Pinsent:

The statement of claim in this action charges the defendant with having, in June last, wrongfully entered the plaintiffs' messuage and premises, situate at Fishel's River, in Bay St. George, and with taking and retaining possession of the plaintiffs' lobster factory and of a large quantity of gear, materials, and implements appertaining to the same, and with having prevented the plaintiffs from carrying on the business of catching and preserving lobsters; and the plaintiffs claim $5,000 damages, and they pray for an injunction.

The defendant, amongst other matters, pleads in effect that he was captain of one of Her Majesty's ships employed during the last season on the Newfoundland fisheries, and was senior officer on the station; that the Lords Commissioners of the Admiralty, by command of Her Majesty, committed to him 'the care and charge of putting in force and giving effect to an agreement embodied in a *modus vivendi* for the lobster fishery in Newfoundland during the said season, which as an act and matter of State and public policy had been by Her Majesty entered into with the Government of the Republic of France.'

That the said agreement provided, amongst other things, 'that on the coast of Newfoundland, where the French enjoy rights of fishing, conferred by the treaties, no lobster factories which were not in operation on July 1, 1889, should be permitted unless by the joint consent of the commanders of the British and French naval stations.' The plea then proceeds to allege that the said lobster factory of the plaintiffs was in operation in contravention of the terms of that agreement, and that after notice to the plaintiffs, which they disregarded, he (the defendant) 'in his public political capacity, and in the exercise of the powers and authorities, and in the performance of the duties of the care and charge so as aforesaid committed to him,' entered and took possession, &c., but that the alleged trespasses 'were acts and matters of State, done and performed under the provisions of the said *modus vivendi*.' And the defendant sets out that all he had done was with a full knowledge of the circumstances, approved and confirmed by Her Majesty, and he concludes his plea in these words: 'And the defendant therefore submits that the matters set forth in his answer to the said statement of claim, and on which he rests his right to enter into and take possession of the said messuage and premises and to take possession of the said gear, material, and implements, were acts and matters of State arising out of the political relations between Her Majesty the Queen and the Government of the Republic of France; that they involve the construction of treaties and of the said *modus vivendi* and other acts of State, and are matters which cannot be inquired into by this honourable Court.'

It is admitted that if this plea can be sustained as a matter of fact, and if it be good in law, there will be an end to this action. It is assumed that the plaintiffs are British subjects, and it is hardly necessary to add that for the purposes of the present discussion the right of property in the plaintiffs in the lands and chattels the subject of the alleged trespasses, and the acts of trespass themselves, must be taken as admitted.

The reply of the plaintiffs to this plea or statement of defence, besides raising issues upon questions of fact, with which we have at present no concern, avers that 'the alleged contravention of said agreement or *modus vivendi* afforded no justification in law for the action of the defendant;' 'that the said action of the defendant was not an act of State and public policy;' 'that the alleged authority from Her Majesty, and subsequent confirmation by her, afford no justification for the action of the defendant,' and do not relieve the defendant from liability for his said acts.

No question has, on either side, been raised in the course of the argument with regard to the terms and construction of any treaty or treaties, or of any statutes in relation to them; in fact, no reference has been made to them beyond the general allegation in the pleadings. The pleadings, if any adjudication upon such points were called for, are wanting in such necessary and specific references, averments of circumstances and of connection, as would enable the Court, in the absence of proof, to pass judgment upon them (*Pulido* v. *Musgrave*, 5 App. Cas. 103). However, no such adjudication is now sought. What we are at this time asked to determine is a question *in limine*, by the finding of which in favor of the defendant the case of the plaintiffs would be out of Court. The argument has been conducted with much care and ability. A vast deal of learned industry has been expended by counsel on both sides in dealing with the proposition involved in it. They cited a large number of authorities, foreign as well as domestic, and quoted from Parliamentary debates and other sources of information, to sustain their respective positions. To many of these authorities it will be unnecessary to refer, and I shall confine myself to those which appear to me to be more particularly relevant to this inquiry. For the plaintiffs it is contended that no such thing is known to the law or to the constitution as an act of State by which in time of peace the Crown can convey authority to a public officer or any other person, to commit any act in violation or disturbance of the person or property of the subject, so as to exclude the subject from resort to the Queen's Courts of law for redress and compensation for injuries committed under colour of the authority of such act of State. This position

is contested by the other side, and it is contended that the mere fact of such an agreement having been made as that here alleged to have been entered into between the Government of Great Britain and that of the Republic of France is in itself sufficient evidence of such public necessity as will justify the sacrifice of the right of private property to the public weal, and particularly where it is alleged that such sacrifice is required in relation to pre-existing treaties; in other words, that the agreement in this case termed the *modus vivendi* is equivalent to a treaty, to the terms of which rights of private property may be subordinated. It is not averred in the pleadings that the object of the agreement was to avert hostilities between the contracting States, and we have no historic ground for the assumption that war was imminent. There is no question that the *modus vivendi* was entered into and that the acts of the defendant were committed at a time of actual peace, which still continues. The term '*modus vivendi*' in itself supposes an actual state of tranquillity, and a desire on the part of the high contracting parties to secure its continuance. The question, then, for us is this: Is there sufficient before us to enable the Court to uphold this agreement with the right claimed by the defendant of putting it in execution with legal impunity? A good deal has been said upon the meaning of the expression 'act of State.' In the broad sense of the term many lawful acts of the executive Government, and many instances of the exercise of the prerogative of the Crown might be designated 'acts of State;' but there is a narrower sense, and that in which the term is more technically, if not exclusively employed, which relates to acts done or adopted by the ruling powers of independent States in their political and sovereign capacity, particularly 'an act injurious to the person or to the property of some person who is not at the time of that act a subject of Her Majesty, which act is done by any representative of Her Majesty's authority, civil or military, and is either previously sanctioned or subsequently ratified by Her Majesty' (Stephen's 'History of the Criminal Law'). With regard to such acts, the general principle of law is that 'the transactions of independent States between each other are governed by other laws than those which Municipal Courts administer; such Courts have neither the means of deciding what is right nor the power of enforcing any decision which they may make' (*Secretary of State for India* v. *Kamachee*, 13 Moo. P. C. 75). That was the case of a seizure made by the British Government, acting as a sovereign power through its delegate, the East India Company, of the property of a native independent sovereign. 'Of the propriety or justice of that act,' said the Privy Council, 'neither the Court below nor the Judicial Committee have the means of forming, or the right of expressing, if they had formed any opinion. It may have been just or unjust, politic or impolitic, beneficial or injurious, taken as a whole, to those whose interests are affected. These are considerations into which their lordships cannot enter. It is sufficient to say that, even if a wrong had been done, it is a wrong for which no municipal Court of justice can afford a remedy.' The contention of the plaintiffs, citing this amongst other cases, is that, where the municipal law can be put in force, there can be no ouster of the jurisdiction of the Courts; and it is argued by their counsel that the doctrine, as we find it laid down in Stephen's 'History of the Criminal Law,' is sound and irrefutable. That learned author, after referring to the case above cited, proceeds: 'In order to avoid misconception it is necessary to observe that the doctrine as to acts of State can apply only to acts which affect foreigners, and which are done by the orders or with the ratification of the sovereign. As between the sovereign and his subjects there can be no such thing as an act of State. Courts of law are established for the express purpose of limiting public authority in its conduct towards individuals. If one British subject puts another to death or destroys his property by the express command of the king, that command is no protection to the person who executes it, unless it is in itself lawful, and it is the duty of the proper Courts of justice to determine whether it is lawful or not. On this ground the Courts were prepared to examine into the legality of the acts done under Governor Eyre's authority in the suppression of the insurrection in

Jamaica. The acts affected British subjects only. But, as between British subjects and foreigners, the orders of the Crown justify what they command so far as British Courts of justice are concerned. In regard to civil rights this, as I have shown, has been established by express and solemn decisions. Again, it is said, 'That no man's property can legally be taken from him or invaded by the direct act or command of the sovereign, without the consent of the subject, given expressly or implicitly through Parliament, is *jus indigenæ*, an old home-born right, declared to be law by divers statutes of the realm."'

Much other of the text-learning relating to the prerogative of the Crown has been discussed in the course of this argument, and the necessity of 'preserving the property of the subject from the inundation of the prerogative;' but, while for obvious and all-sufficient reasons of convenience and security, the personal inviolability of the sovereign is insured by the constitution, it is plain and not open to question that the prerogative itself is the creature of the constitution and is defined and limited by law, beyond the boundaries of which it cannot pass without subjecting the advisers and servants of the Crown to answer in Courts of justice to other subjects aggrieved by the unlawful exercise of the sovereign will. The point for decision here is: Was the act within the law power of the Crown? Was the authority under which the defendant justifies within the province of the prerogative? The powers of the Crown to cede British territory to a foreign state by treaty of peace, following upon the termination of war, seems to be unimpeachable, and has not been questioned at the bar; but it is said that this *modus vivendi* is not of that nature, that it does not partake of the character of a treaty, and that, if it does, no power resides in the British sovereign of entering into a compact with a foreign state in time of peace for a cession of territory, or *à fortiori* for alienating the property of a subject or of imposing upon him conditions of tenure in derogation of his ordinary rights, while he remains a subject of the Queen inhabiting British territory. Upon the question of the prerogative right of territorial cession in time of peace, it was held by the High Court of Bombay in the year 1876, in the case of *Damodhar Gordham* v. *DeoramKanji*, that it was beyond the power of the British Crown, without the concurrence of the Imperial Parliament, to make any cession of territory within the jurisdiction of any of the British Courts in India in time of peace to a foreign Power. Lord Selborne, in delivering the judgment of the Privy Council on appeal, observed that their lordships of the Judicial Committee, 'having arrived at the conclusion that the present appeal ought to fail without reference to that question, they think it sufficient to state that they entertain such grave doubts (to say no more) of the soundness of the general and abstract doctrine laid down by the High Court of Bombay, as to be unable to advise Her Majesty to rest her decision on that ground.' There are manifestly some cases, as where the grant of money is involved, in which the assent of Parliament to any treaty is practically essential. There are others involving the cession of territory in the time of peace which require the moral support of the nation as being acts of prudence and necessity, and free from the suspicion of fraud, collusion, or criminal weakness; but nevertheless, as in the acquisition of territory, so *ex converso*, in its cession the treaty-making power is in the Crown of Great Britain. Upon the argument of the case last cited, it was suggested that, if cessions in time of peace were legal, the Crown might cede any portion of territory, say Dover or the Isle of Wight, to a foreign Power; to which it was most aptly answered by Stephen, Q.C.: 'The possible extreme abuse of a power is no argument against its existence; you get beyond the tacit terms of a principle when you assume its capricious application.'

[To be continued.]

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Oct. 3.

Judicial Abandonments.

Ovide Bouchard and Joseph Elie Breton, (Bouchard & Breton), merchants, Quebec, Sept. 28.

Benjamin Boudreault, trader, L'Anse St. Jean Sept. 28.

Paul Nicoleau, hotel-keeper, Montreal, Sept. 16.

William E. Russell and the Hotel Chateau St. Louis Company, Quebec, Sept. 29.

Curators Appointed.

Re John C. Campbell, Montreal.—Kent & Turcotte, Montreal, joint curator, Sept. 26.

Re Cantin & Robitaille, Quebec.—D. Arcand, Quebec, curator, Sept. 30.

Re Louis Wilfred Gauvin.—E. W. Morgan, Bedford, curator.

Re Victoria Maillé.—Bilodeau & Renaud, Montreal, joint curator, Sept. 25.

Re Joseph Massé.—J. L. Dozois, N.P., Granby, curator, Sept. 21.

Re Richard Ready.—A. H. Plimsoll, Montreal, curator, Sept. 28.

Re Xénophon Renaud.—C. Desmarteau, Montreal, curator, Sept. 24.

Re Joseph Roy, Montreal.—Kent & Turcotte, Montreal, joint curator, Sept. 26.

Re Ludger Séguin. – C. Desmarteau, Montreal, curator, Sept. 25.

Re Paul Noé Trottier, undertaker, Beauharnois.—C. Fortin, Beauharnois, curator, Sept. 25.

Re J. E. Trottier, trader, Normandin.—H. A Bedard, Quebec, curator, Sept. 28.

Dividends.

Re J. D. Anderson, Montreal.—First dividend payable Oct. 19, W. A. Caldwell, Montreal, curator.

Re A. & P. Bourgeois.—First and final dividend, payable Oct. 19, C. Desmarteau, Montreal, curator.

Re Adélard Gravel.—First and final dividend, payable Oct. 19, C. Desmarteau, Montreal, curator.

Re F. X. T. Hamelin, N. D. de Portneuf.—Third and final dividend, payable Oct. 20, A. O. Mayrand, Deschambault, curator.

Re P. Hémond & fils.—First dividend, payable Oct. 21, C. Desmarteau, Montreal, curator.

Re Edward O'Reilly, Aylmer.—First dividend, payable Oct. 19, J. McD. Hains, Montreal, curator.

Separation as to property.

Clémence Blanchard, vs. Félix Plouffe, shoe dealer, Sorel, Sept. 17.

Virginie Girard vs. Hormisdas Bachand, trader, parish of St. Liboire, Sept. 30.

Separation from bed and board.

Olivine Brunelle vs. William Benoit, laborer, parish of St. Jacques, Sept. 17.

Commissioners to take affidavits.

F. B. Harper, solicitor, 15 Old Jewry Chambers, London, England, to receive affidavits to be used in the courts of the province of Quebec.

F. A. Belisle, advocate, Worcester, Mass., to receive affidavits in the United States, to be used in the courts of the province of Quebec.

Joint Prothonotary.

J. F. Leonard, Sweetsburg, and J. P. Noyes, Waterloo, advocates, to be joint prothonotary of the Superior Court, joint clerk of the Circuit Court, joint clerk of the Crown and joint clerk of the Peace for the district of Bedford.

GENERAL NOTES.

THE MARRIAGE SERVICE.—The clergyman who recently completed the marriage of a drunken man has been found fault with for so doing, but he pleads justification on the ground that "when the outrage occurred the ceremony, so far as regards the actual marriage itself, had already been legally completed by the declaration which pronounces M. & N. to be 'man and wife together.'" We cannot think that the reverend gentleman is technically correct as to the point of the marriage service at which the knot is legally tied. From the judgments in *Beamish* v. *Beamish*, 9 H. L. C. 274, it would seem that the part of the service at which the marriage becomes knit is "after affiance and troth plighted" between the parties, so that if the ministerial pronouncement should not happen to be given, the marriage would be complete and binding on the parties all the same. In Blunt's "Church Law," however, (2nd edit., revised by Sir W. Phillimore, at p. 154), the view is taken that the marriage itself is legally completed by declaration of the priest.—*Law Journal.*

A SOLICITOR RESTORED TO THE ROLL.—Readers of the *Law Journal* reports for the month of August will observe a case in which a solicitor on his third application was restored to the roll of solicitors from which he was struck off in 1879 at the instance of the Incorporated Law Society, after being convicted of obtaining £6 14s 4d by false pretences, and being sentenced to six months' imprisonment with hard labour. It is only fair to observe that the conviction was obtained under peculiar circumstances, and that the facts of the case do not appear to have been brought to the attention of the Court on the two former applications for restoration, which were opposed by the Law Society. The present application was strongly supported by evidence of subsequent good conduct, and was not opposed by the Law Society. The case is of importance as a distinct authority that the Court has power to restore a solicitor to the roll even after a conviction.—*Ib.*

A MARRIAGE AT SEA.—Is the captain of a ship capable of performing a legal marriage? Such is the nut which Mr. Clark Russell in his latest novel, "A Marriage at Sea," offers to be cracked. The captain in this case seemed apparently to have perfect faith in his powers to tie the marriage knot, and perhaps his faith was not so misplaced either, for though there is no statutory provision for marriage on board merchant vessels, yet the requirements of the Merchant Shipping Act, 1854, s. 282, providing for their proper registration in the diocesan registry of London, assumes that they may take place. So, too, though there do not appear to be any statutable provision for marriages entered into on board Her Majesty's ships of war, yet the Queen's regulations and the Admiralty instructions assume that such marriages may legally take place, as Article 21 provides for the making and preserving of authentic records of such marriages. Since 1849 records of such marriages have been duly forwarded for entry in the London Diocesan Registry. —*Ib.*