THE LEGAL NEWS.

Vol. IX. MONTREAL, MARCH 6, 1886. No. 10.

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Montreal:
GAZETTE PRINTING COMPANY.
1886.

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The judicial returns which appeared in the last issue of the *Quebec Gazette* show that there were 232 judgments by the Court of Queen's Bench sitting in Appeal last year. Of these 140 were confirmations, and 92 were reversals. At Montreal 142 judgments were rendered, and 90 at Quebec. There was only one Reserved Case heard during the year.

The Court of Review sitting at Montreal disposed of 203 cases, of which 141 were confirmed, 41 reversed, and 21 reformed. The same tribunal sitting at Quebec disposed of 108 cases, viz, 50 confirmed, 52 reversed, and 6 reformed.

In the Superior Court there were 2,050 judgments in contested causes. The total number of writs of summons issued was 6,451, of which 4,513 were returned. In the Circuit Court there were 27,944 writs issued, of which 10,853 were issued in Montreal.

The case of *Crawford* v. *Crawford*, the *Law Journal* believes, is the first instance of a divorce being obtained on a confession by the wife of adultery with the co-respondent and of the co-respondent being acquitted without his going into the witness-box and denying the adultery. In *Robinson* v. *Robinson*, 29 Law J. Rep. P. M. & A. 178, the case usually cited for this application of the law of evidence, and decided by no less eminent judges than Chief Justice Cockburn, Mr. Justice Wightman, and Sir Cresswell Cresswell, the co-respondent denied the adultery on oath. So it was in a similar case some three years ago before Sir James Hannen. The application of this rule of evidence, adds the *Law Journal*, is, of course, not confined to divorce cases. It equally applies to cases of conspiracy, and A. might be adjudged on his confession guilty of conspiring with B., while B. was pronounced innocent of conspiring with A.

Some of the daily journals are greatly concerned at the congested state of the roll in appeal. Their knowledge of the facts, however, is about as accurate as an English geographer's information about Canada. For instance, we saw the other day a leading article based upon the supposition that there are over three hundred appeals pending at Montreal. It is curious that the interest which inspires such labored efforts does not first prompt to a simple inquiry at the office of the Court to ascertain the real state of matters.

The letter upon judicial silence, referred to on p. 57, is so interesting that we give it entire as it appeared in the *Law Journal*. Another correspondent of the same journal relates the following, which shows that some judges have inclined to the opposite fault :— "About fifty years ago I met an old Northern solicitor, who had come up to attend a case in court and was much shocked, even then, with the incessant talking of the judge, and stated that he had attended Sir William Grant's Court on a similar occasion, and, although the case was most important, with full argument of seniors and juniors, protracted through a summer's evening, as was then the practice, the judge, although evidently paying the greatest attention and taking copious notes, uttered but one word during the whole time, and that word was 'Lights,' as the light faded."

The remedy available to the sufferers by the London riots is not clear. The *Law Journal* says : "The sufferers are not entitled to compensation under the riot act unless the rioters intended and began to demolish whole houses. *Drake* v. *Footit*, 50 L. J. Rep., M. C., 141. And even in that case the compensation is confined to the injury done to the houses, and does not extend to loss from robbery. This fragment of liability is all that is left of the ancient law, making all the inhabitants of a district responsible in damages for violence within it. The district responsible is ordinarily the hundred, of which there are six in the county of Middlesex. The houses damaged, besides those in the city, which is responsible for itself, are in the

hundred of Ossulstone, which includes Finsbury, Holborn, Kensington, the Tower, and Westminster, although it might be contended that Westminster, being legally a city, is like the city of London, solely responsible for the sins committed within its boundaries."

In *Dewar* v. *Bank of Montreal*, it has been held by the Illinois Supreme Court that if a principal clothes an agent with real or ostensible authority to deposit money in a bank, and take a certificate of deposit therefor in his own name, and to receive payment of such certificate, he cannot afterward be heard to object to such payment. If such principal did not give such authority, a subsequent ratification of such payment or acts which would lead the bank to suppose that he had so ratified it, and which lulled the bank into security until the agent had become insolvent, will bar the principal from any action against the bank.

NEW PUBLICATIONS.

CODE DE PROCÉDURE CIVILE, par Léon Lorrain, avocat, pp. 626.—Montréal, A. Périard.

This is a new work upon the Code of Procedure, giving under each article, a reference to the authorities cited by the codifiers, the judicial decisions, and the corresponding article of the French Code. There is also a collection of forms for proceedings required in practice, tariffs of fees, rules of practice, &c. The whole is followed by an alphabetical table of subjects.

CODE OF CIVIL PROCEDURE, by Thos. P. Foran, M.A., B.C.L., pp. 898.—Toronto, Carswell & Co.

This is a second edition of a work now well known to the profession. The new edition besides the matter contained in the first edition, gives a note of all the decisions of the Courts reported up to December, 1885.

CRIME AND INTEMPERANCE.

At the opening of the March Term, Court of Queen's Bench, Crown Side, Mr. Justice Ramsay made the following observations in his charge to the Grand Jury :—

"It is frequently asserted in popular writings and speeches that crime is principally caused by the excessive use of alcoholic drink. No doubt the intemperate use of strong drink has a tendency to increase crime directly and indirectly : directly by depriving the victim of intemperance of the control over his passions; indirectly, by reducing him to want, thus augmenting the temptation to steal, while at the same time, self-respect, the great guardian of personal honor, is more or less destroyed.

"However, it would be to deceive ourselves, to encourage the belief that when we have denounced drunkenness, and gone even so far as to forbid the use of alcoholic drink, owing to the peril of its over use, that we have done all, or even much, to reduce crime. There are no statistics deserving of credit to establish the doctrine favored by some to which reference has been made. On the contrary, those most familiar with the incidents of crime have not failed to observe that drink is only exceptionally the chief incentive to crime. In other words, crime is the result principally of whatever immorality is most prevalent in the community, and the intemperate use of drink rarely acquires this undesirable pre-eminence. The cases of this term afford an example of what has just been said. Of a list of the names of thirty-six persons, accompanied by their causes of detention, laid before the court, only five are crimes of violence, while the offences attributed to twenty-six are all directed against property, some of them, of course, such as house-breaking and robbery, including violence. In fact, our besetting sin for the moment seems to be not so much drink as the intemperate desire to possess ourselves of our neighbour's property—the vice of a rich and money-getting community.

This matter is deserving of public consideration. Morally, it is disastrous to arrive at the conclusion that a fierce proscription of all that leads to one kind of sin is a decent mode of compounding for others of another kind and of perhaps greater magnitude."

It is said that one of our learned judges, while addressing a graduating class in medicine recently, in drawing distinctions between lawyers and doctors, remarked that one important difference was this : "that when a lawyer loses his case, it *goes up* ; but when a doctor loses his, it *goes down*. This is almost too true.—*Washington Law Reporter.*

COURT OF QUEEN'S BENCH.

QUEBEC, Feb. 5, 1886.

Before MONK, RAMSAY, TESSIER, CROSS and BABY, JJ.

FAUCHER, appellant, and THE NORTH SHORE RAILWAY CO., respondent.

Railway Company — Responsibility to person injured while walking along track.

A line of railway running alongside of a street, and not divided by any fence from the street, is not a road on which foot passengers using it are entitled to the same protection as if they were walking on an ordinary highway. And so it was held that a person who was injured by falling over some planks lying on the track, had no action against the Company.

RAMSAY, J. This is an action of damages brought by a person who, while walking on the line of a railway, fell over some planks lying on the track. The sole question that arises is whether the line of railway, running alongside of a street, and without any fence dividing it from the street, becomes a road for foot passengers, entitling them to the same protection as if they were walking on an ordinary highway. At the hearing it was urged that the railway lay between the street and the wharves, and that persons having to go to the wharves, must cross the track. The appellant was walking along the track and not crossing it; but this, it was contended, did not alter the question. The Court below dismissed the action, and the majority of this Court is of opinion that this judgment should be confirmed. There has, however, been a dissent, which demands some notice. It is said that the jurisprudence of this Court is returning towards the modern jurisprudence and freeing itself from the influence of English ideas in the matter of damages. As an example of the new jurisprudence which we are beginning to copy, and of which the decision in this case is said to be a contradiction, we are referred to a decision of the *cour de cassation*, (No. 534, Art. 1382, C.C. annoté, Sirey) declaring it to be *faute* not having a *clôture* in a particular place. If this *arrêt* lays down the principle, that wherever a proprietor does not wall out the public, or forcibly prevent them from passing on his land, he becomes their *garant* against accident, it is a juridical absurdity. The real doctrine to which this *arrêt* refers, and of which it may be an example, is this, if a proprietor induces or invites people to pass over his property as a highway, then he becomes liable by his conduct which has mis-led his neighbour. To contend that mere tolerance, which does not take the positive form of inducement, is *faute*, is to turn the doctrine upside down. The general doctrine which governs *faute*, when considered with regard to injury arising to a person without right on the property of another, is very clearly laid down in No. 1, of Sirey's notes to article 1382. He says: "*Dans l'application de* 1382, *et pour savoir quand il y a faute, il faut se souvenir que la loi entend par là, l'action de faire, une chose qu'on n'avait pas le droit de faire.* "*Quod non jure fecit.*" (1) The simple question then is, had this railway company a right to put these planks on its own track?

The doctrine of *clôture* relied upon is startling, when we consider that our common law on this point is the *Coutume de Paris*, where there was no obligation to fence, except *dans la ville et faubourgs de Paris.*

The want of a *clôture* may be compensated for, it appears, *by affiches.* Whence this obligation to *afficher* is derived I do not know. I am inclined to believe that this idea is English, and that there *trespass* depends on a warning. I do not, however, believe that in England, the passer, though not liable as a trespasser, is watched over by the proprietor lest at any time he should stumble over a plank. In Scotland it is not trespass to go on the land of another without an interdict,

(1) The defence *qui suo jure utitur* received a remarkable illustration in the case of *Price & Geneviève* (8 Q. L. R. 67). Price repaired a plank road belonging to the municipality. Of his own authority he began to remove the planting, and the corporation brought action to forbid the removal and for damages. The judge in the Superior Court enjoined Price not to deteriorate the road, but refused the conclusion for damages. In the Queen's Bench this judgment was reversed on the ground that Price was only taking back his own. Ramsay, J., *diss.* held that having repaired a highway Price could not break it up again when he thought proper at the risk of injury to travellers on the road, and that his remedy was against the corporation for cost of repairs.

unless damage be done. But if notice of some kind not specially prescribed by law was required, the fact that he was walking along a railway track, might have served as a warning. If the doctrine now sought to be introduced were maintained, the perils of proprietorship would be enhanced in an alarming manner. The old proverb "*qui terre a, querre a*," expresses a practical inconvenience; but nothing like this.

We have also heard that the English law differs in some incomprehensible way from the law of France, as to the responsibility of the party suffering. It seems to me that the difference is not so great as is supposed. In French jurisprudence they have not precisely, and in so many words, the doctrine of contributory negligence, which throws the responsibility on the sufferer, (1) but they have the idea, as will be seen by the note in Sirey, immediately preceding the number first quoted, namely note 533.

In proof of the tendency to *revert* to this avowedly modern jurisprudence, a number of cases have been cited, and my complicity has been pointed out *nominatim*. However, so far as my opinions are concerned, I have no fear of the test, and in order that it may be more conclusive, I shall venture to add to the collection. Mr. Gray, driving along one of the streets of Quebec, at night, at the rate of about eight miles an hour, was precipitated into a large excavation, not indicated by light or otherwise protected. He suffered damages, and sued the Corporation, but his action was dismissed, and the fortunate Corporation absolved entirely on the doctrine of contributory negligence, which was, in terms, invoked by the Corporation, defendant. I dissented from this judgment. Then came the Findley Market disaster. (*Kelley* v. *Corporation of Quebec*, 10 R. L. 605). One of the planks covering the crib-work, being rotten, broke, and an old woman bruised her leg. She sued the Corporation in damages. I joined with the majority of the Court in awarding damages. On this occasion I was so fortunate as to be on the same side with the learned Judge who now dissents. In the *Glass* case, (*Dubois & Glass*, M. 16th March, 1877) I joined in the judgment which gave the plaintiff damages in an action against the owner of a house, on the roof of which a workman stumbled, and threw an axe down, which struck Mr. Glass, who was passing in the street below, and injured him. There was not the usual notice to passengers that anyone was working above. This is, it seems, in accordance with the *jurisprudence moderne*. (Sirey, code civil annoté, Art. 1382, note 535). I think it is also in accordance with the ancient jurisprudence. (1) In the case of the *North Shore Railway & Jackson*, (Q. Sep. 1884), I joined in the judgment awarding damages. The plaintiff was injured by the fall of gate-posts, on a place where it was not shown he had no right to be. The likeness of this case to the one before us is superficial. It consists in the fact that Jackson was on or near a railway track. There is no other similarity. Again, two recent cases have been referred to. One of them, *Corner & Byrd*, decided in appeal, January, 1886, was identical with *Perriam & Dompierre*, (2) which was decided in favour of defendant, on the principle that the accident was due to fortuitous occurrence, the sole motive of the judgment reversing, being that there was no proof that the injury complained of was due to any negligence of the appellant. I concurred in that judgment. In *Corner & Byrd*, a principle diametrically opposed to this was adopted. I dissented, so right or wrong, *je ne reviens pas*.

In *Evans & Monette*, (3) the absent proprietor was held responsible for injury done to a man, owing to his choosing to work in a place he knew perfectly to be dangerous. I again dissented.

My reasoning may be very much at fault, but looking back on all the cases touching this question, I fail to see that the principles I have endeavoured to follow, have varied. Of course, their application is open to greater difficulty than at first sight appears, and this accounts, to some extent, for the divergence of views among the judges; but I repudiate the idea of introducing new principles, on the presumption that Art. 1053 C. C. has in

(1) See *Desroches et al. & Gauthier*, 5 Leg. N. 404.

(1) See *Holmes & McNevin*, 5 L.C.J. 271.

(2) 1 Leg. News, p. 5.

(3) Decided in appeal, January, 1886.

any way changed the old law. It has unguardedly expressed in general terms a proposition, which, properly understood, is obviously true, and therefore unnecessary; but it is not new.

The judgment appealed from will be confirmed.

Judgment confirmed, TESSIER, J., *diss.*

COURT OF QUEEN'S BENCH.

[CROWN SIDE.]

MONTREAL, March 3, 1886.

Before RAMSAY, J.

Re WEIR, MACDOUGALL AND SULLIVAN

Petty jurors—Amendment of Panel.

Where persons entered on the panel of petty jurors, and who claim exemption by reason of their being qualified to serve as grand jurors, have not taken any steps to have the list corrected in the mode prescribed by 46 *Vict.* (*Q.*), *ch.* 16, *the Court will not entertain an application by the jurors for exemption made for the first time at the sittings on the Crown Side.*

RAMSAY, J. Applications have been made by three jurors on the panel of petty jurors to be discharged on the ground that they are not qualified as petty jurors inasmuch as they are qualified as grand jurors. The argument made on their behalf is, that by Section 2, 46 Vic., (Q.), c. 16, the qualification of a petty juror is being entered on the valuation roll of a town or city, having a certain population, as proprietor of immovable property of a total value of at least $1,200, but not more than $3,000, or as occupant or tenant of immovable property of the annual value of $100, but not more than $300. It is further said, that by section 3 it is declared that persons who are not qualified as petty jurors under the foregoing provisions of the act are disqualified as petty jurors. It is then more than an exemption,—it is not a privilege given to the juror to be exempt from serving, but a disability. That the prohibition to alter the lists of jurors excepts "the manner prescribed by this act" (sect. 9); that the Sheriff may, on affidavit, alter the extract or supplement presented to him where there is error (sect. 26); or that the Court or judge in vacation may correct these lists in certain cases (sect. 27); and that in any case, even where there has been no notice given by the juror as required by section 44, the Court may allow an exemption at any time. The dispositions of the law are extremely involved—so much so that it is very difficult to decide what is really intended by the legislature; but it appears very plainly that primarily the Sheriff's panel decides as to the persons to be jurors. That panel is made after an opportunity has been afforded to the persons named to have the extract or supplement to be sent to the Sheriff amended (48 Vic., c. 17, sect. 4). The jurors moving have not taken advantage of this provision, they have not applied to the Sheriff to correct the list before the panel is completed; they have not given him notice of their ground of exemption or disqualification; they have not applied to the Court or to a judge in vacation; and now they come before the Court requiring that the Court shall, on imperfect information, and to the possible inconvenience of the public or of particular prisoners, give them relief some how or another, either on the statute or by the general discretionary powers accorded to the Court. Under these circumstances I do not feel called upon, at the demand of a juror, to decide the question of whether being rated as a proprietor of property over the value of $3,000, or as a tenant of property over the annual value of $300, is a disqualification or not, and I shall give no discretionary order, without some substantial reason being advanced by the juror for having failed to have the extract corrected at the proper time. In a term like this where there are so many accusations of forgery and of similar offences, it is impossible to say that the public interest admits of the exemption of three jurors of the class to which, it appears by the returns, these jurors belong. If the question is raised by the Crown or by the prisoner, by challenge, another issue will arise, with which the Court may be obliged to deal. In the meantime the Court will take the panel as correct. The parties moving take nothing by their motions.

L. R. Church, Q.C., for jurors moving.

COUR DE CIRCUIT.

CHICOUTIMI, 1885.

Coram ROUTHIER, J.

TREMBLAY v. BOUCHARD, et I. TREMBLAY, témoin saisissant, et T. TREMBLAY, opposant.

Saisie—Opposition—Taxation—Frais.

Le demandeur par son action réclamait $65. La cause avait été inscrite pour le 8 octobre 1884. Le demandeur n'étant pas prêt à procéder, obtint en payant les frais du jour, la remise de la cause au 9 octobre, et ce jour-là le demandeur obtint jugement pour $20.30 et les dépens.

Il appert au dossier que les témoins, tant du demandeur que du défendeur, ont été taxés le 8 octobre. Le témoin saisissant a été taxé à $4, et le 17 décembre suivant il a fait émaner un bref d'exécution contre le demandeur pour $2, mais la saisie n'a pu être exécutée, vu la résistance du demandeur.

Le demandeur a produit une opposition par laquelle il allègue:

Que la saisie a été émanée pour satisfaire à un jugement rendu en faveur du témoin pour sa taxe; qu'aucun tel jugement et aucune telle taxation n'ont eu lieu en sa faveur le 8 octobre 1884; qu'il n'appert pas par le dossier que le 8 octobre 1884, aucun témoin ait été présent en Cour pour le défendeur et ait demandé à être taxé; que le 9 octobre 1884, jour du jugement final, le témoin a été taxé à $4, comme témoin du défendeur qui a été condamné aux dépens.

Le témoin saisissant a d'abord fait motion pour rejet de l'opposition, alléguant que la saisie n'ayant pas eu lieu, l'élection était prématurée. Cette motion a été renvoyée sans frais.

La cause a été ensuite soumise au mérite. Le demandeur a produit un certificat du greffier que tous les témoins en cette cause, tant ceux du demandeur que ceux du défendeur, ont été taxés le jour du jugement final, le 9 octobre 1884, et ce en bloc pour les deux jours.

De son côté, le témoin saisissant a produit un autre certificat du greffier, que si les témoins en cette cause ont été taxés le 9 octobre 1884, au lieu du 8, leur taxe de $4 comprend celle de $2 à eux accordée par jugement du 8 octobre, condamnant le demandeur aux frais du jour.

La Cour a maintenu l'opposition avec dépens.

Le mémoire de frais ayant été soumis au juge pour taxation, le juge l'a taxé suivant la classe d'une action de $2, montant de la taxe réclamée.

Jos. Pelletier, procureur du témoin.
J. A. Gagné, procureur de l'opposant.

THE JUDICIAL GIFT OF SILENCE.

A correspondent writes as follows to the *Law Journal* (London):—

June 13, 1885, ought to be a memorable day in legal annals. On that day fourteen judges of the Queen's Bench Division were gathered in one Court to hear a case as the Court for the consideration of Crown Cases Reserved. There was nothing novel in the number of judges assembled. Courts of fifteen judges have been known, and the gathering in itself was not remarkable; but one circumstance connected with it was absolutely phenomenal—the arguments of counsel on one side and the other were heard without interruption. To a nervous person sitting in Court the expectation of the interruption which everyone considered inevitable was at first quite painful. It was only when the continued silence showed that the judges had bound themselves not to interrupt by something—an oath, a fine of twenty shillings, or what not—that the strain was relieved, and the mind was able to turn from consideration of the expected crisis, when an incautious remark from the bench would let loose a flood of question, assertion, contradiction, and citation, by which all possibility of consecutive argument would have been swept away. There was one relief to the impressive silence, for the judges on the outskirts of the great array conversed freely and animatedly with one another. Still, out of the fourteen there was generally one here and there even of the talkers who listened at intervals, while perhaps three appeared to follow the arguments throughout. Of the arguments it is not my province to speak; but I may be permitted to say that they were highly creditable, considering how little

practice in consecutive argument the advocates can have had. Perhaps I am wrong in saying this, for it is possible that in Courts that go by the name of "inferior" there may still be judges and justices who have the gift of listening, and before such tribunals the practice of arguing may still be acquired. In the Courts that are called "superior," from Divisional Courts to the highest Courts of Appeal, listening is unknown and argument is consequently a lost art. In the serene atmosphere of the House of Lords, if anywhere, might counsel expect to be allowed to present their views in their own way and words, and in an order of their own choosing. How far this is the case will appear from some statistics gathered lately by a junior member of the bar as he sat before that august tribunal waiting for his case to come on. He found by careful note of times and by subsequent calculation that of every ten minutes expended on the hearing of the case, counsel were permitted to speak for four minutes and a-half. The rest of the time was occupied by the observations of the law lords. What is the average number of interruptions per ten minutes was an inquiry which it was difficult to keep going concurrently with the other, and we must wait for further information on this point. If this is the example set by the law lords, what wonder that their lordships of the Queen's Bench Division—all of whom, no doubt, have had briefs in the House of Lords—should have learned the lesson thus taught by the heads of the law? Wherever they learned it, at the bar or on the bench—for the most junior do not differ in this respect from the most senior—they have acquired it perfectly. For example, in a print of a case argued lately before two judges, who, though they interrupt—as who does not?—are brief and pithy in their remarks, eleven pages are devoted to argument, and of these the equivalent of four pages is taken up by remarks from the bench. This is, by comparison with other records, quite a small percentage, and these particular judges ought, perhaps, to be congratulated on their moderation. Even here, however, there is room for improvement, and I would commend to every one of Her Majesty's judges the diligent study of Lord Bacon's "Essay on Judicature." "It is no grace," wrote Lord Bacon, "to a judge first to find that which he might have heard in due time from the bar, or to show quickness of conceit in cutting off evidence or counsel too short, or to prevent information by questions, though pertinent."

To "prevent" information, both in the sense in which Lord Bacon used the word and in the other and more objectionable sense, would seem to an observer in our Courts to be the ambition of a modern judge. When two such are engaged concurrently in this occupation, each following his own line, the waste of time arising from wrong assumptions, short cuts, and premature conclusions is increased fourfold. Argument becomes impossible, accuracy unattainable, and confusion or error, or both, inevitable.

Some senior members of the bar aver that this was not always so, and some go so far as to say that at one time, before the Judicial Committee of the Privy Council, counsel were permitted to argue without interruption. It may be so, and perhaps men of Lord Kingsdown's stamp were of robuster material than their fellows of to-day. He at least, if I may judge by a passage in his "Memoirs," recognised the desirability, and indeed the difficulty, of judicial silence, for he is reported to have said that never, till he was on the bench, did he know "the energy it requires to hold your tongue." It may be difficult, but it has been done, and may yet be done, unless the judges of our time will plead an excuse that they have not the fibre of those who have gone before, and will admit themselves but feeble folk compared with their illustrious predecessors. Of one of these there is a typical story with which I will conclude, leaving my readers to draw their own moral. At a time when he was still at the bar, but on his promotion—may he long be spared to enjoy the high position he has now reached—he is said to have discussed with two friends—both destined to follow in his steps—the talking propensities of the occupants of the bench on which he would soon be sitting. Perhaps he had been reading in the essay from which we have already quoted, that "an over-speaking judge is no "well-tuned cymbal." At any rate, the story

goes that he asked to be warned should he fall into the same vice. Time, and that no long time, passed before precept and practice were at variance and a warning was not out of place, and, what is perhaps not so credible, one was given. The answer came in a note handed down from the bench, "You fool" (with Lord Thurlow's epithet), "don't you see I am trying to bring him to the point?"

OBITUARY.

Two Justices of the Superior Court for Lower Canada have died within a few days. Mr. Justice T. McCord, who died at Quebec, Feb. 19, was a son of the late Mr. Justice W. K. McCord. He was born in Montreal Oct. 17, 1828, educated at Quebec Seminary and at McGill College; studied law with the late Mr. Justice Aylwin, and subsequently with Messrs. Caron, Baillargé and Duval, and was called to the bar in 1850. He acted as counsel for the Crown at Aylmer for eight years. In 1862 he was appointed Secretary to the Codification Commission, and in 1867 law clerk to the Quebec legislature. In 1872 he was appointed to the bench of the Superior Court. He was the author of a very useful pocket edition of the Civil Code.

Mr. Justice William McDougall, who died March 3, was born in Scotland in 1831 and accompanied his parents to Canada when very young. Mr. McDougall was called to the bar of Lower Canada in January, 1854, and appointed Queen's counsel in 1873. He was an unsuccessful candidate for Three Rivers in the Canadian assembly at the general elections of 1863, was returned to the Dominion Parliament for Three Rivers in the Conservative interest in 1868 on resignation of the sitting member, was re-elected at the general elections in 1872 and 1874, and resigned in 1878 to accept a judgeship of the Superior Court.

RECENT UNITED STATES DECISIONS.

Evidence—Witness referring to memoranda.—Where the items involved in an action are numerous, and therefore difficult to be retained in the memory, the court may in its discretion permit the witness to refer to memoranda proven to be correct both as to items and their value. *Wise* v. *Phœnix Fire Ins. Co.* New York Court of Appeals. Jan. 19, 1886.

INSOLVENT NOTICES, ETC.

(*Quebec Official Gazette, Feb.* 27.)

Judicial Abandonments.

Thimothé L. Nadeau, trader, Iberville. Feb. 13.

Ovila Chagnon, cabinet-maker and trader, St. Johns, Feb. 15.

Donat Blondeau, trader, Fraserville, Feb. 8.

Pierre Cormier, navigator and trader, St. Ours. Feb. 18.

F. Thibodeau, Three Rivers, Feb. 17.

Jean-Bte. Dumesnil, Jr., trader, St. Télesphore, Feb. 25.

Curators appointed.

Re Isidore Trudeau.—C. Desmarteau, Montreal, curator. Feb. 22.

Re Pierre Gosselin, carriage-maker, Lawrenceville.—A. B. Roy, Lawrenceville, curator. Feb. 3.

Re Avila Birs Desmarteau, trader, St. Hilaire.—M. E. Bernier, St. Hyacinthe, curator. Feb. 19.

Re O. Boisvert, dist. of Richelieu.—Kent & Turcotte, Montreal, joint curator. Feb. 20.

Re Isidore Villeneuve, Warwick.—Louis Rainville, Arthabaskaville, Feb. 18.

Dividend Sheets.

Re Senécal & Scott.—First div. sheet at office of Kent & Turcotte, Montreal. Open to objection until March 24.

Re Edmond Jetté.—Final div. sheet at office of Kent & Turcotte, Montreal. Open to objection until March 24.

Re J. O. Michaud.—Final div. sheet at office of Kent & Turcotte, Montreal. Open to objection until March 24.

Re Edmond Précourt.—Div. sheet at office of C. Millier, curator, Sherbrooke. Open to objection until March 15.

Sale in Insolvency.

Re Isidore Villeneuve. Sale of lots at church door of parish of St. Médard de Warwick, 10 a.m., April 29.

Rule of Court.

Morasse v. Bruneau, dist. of Richelieu. Creditors of defendant notified to file claims.

Separation as to Property.

Jeanne Charlotte Messier *vs.* Peter Cormier, trader, St. Ours. Feb. 15.

Isabella Brown *vs.* James Walker, trader, Montreal. Feb. 23.

Alphonsine Gauvreau *vs.* Félix Brien dit Desrochers, trader, Montreal. Feb. 23.

Emma Thériault *vs.* Edmond Jetté, trader, Montreal, Feb. 25.

Separation from bed and board.

Henriette Courtemanche, St. Césaire *vs.* Octave Dalpé, absentee. Jan. 20.

La Cour d'appel d'Amiens, réunie en audience solennelle, vient de décider, sur les conclusions de M. le procureur général Melcot et contrairement au jugement qui lui était soumis, que la prêtrise ne constituait ni un empêchement prohibitif ni un empêchement dirimant au mariage contracté par un prêtre catholique. *Journal du Palais*, 2 fev.