The Legal News.

Vol. XII. APRIL 13, 1889. No. 15.

A correspondent of the *Gazette*, constituting himself the advocate of the County Court judges of Ontario, claims for them increased remuneration. We have no objection to this; but the argument put forward in support of it is quite incorrect. The writer says: "The discrepancy as to salaries between the two classes of judges is manifestly glaring. County Court judges in their several territorial jurisdictions discharge functions substantially similar to, and quite as important as, those relegated to the judges of the Superior Court in the Province of Quebec, and the minimum annual salary payable to a judge of the latter Court, under the present law, is $3,500, while the maximum to a County Court judge is only $2,400. The unfairness of this must be self-evident and should, I confidently contend, induce Parliament to include in the contemplated revision the judges of its inferior tribunals." It is totally incorrect to put the County Court judges of Ontario on the same footing as the Superior Court judges of Quebec. The latter have the same jurisdiction as the judges of the High Court of Justice in Ontario, and most of them act also as judges of appeal while sitting in Review at Montreal and Quebec. Others hold criminal terms of the Court of Queen's Bench. With reference to the alleged discrepancy of salaries, the difference is far more marked in England, where the salary of a superior judge is about four times that of a county judge. It must also be remembered that this distinction existed when the County Court judges accepted office, and was perfectly well known to them.

With reference to the petition of the General Council of the Quebec Bar, which it characterizes as a "unique production," the *Canada Law Journal* observes: "No one in Ontario has yet dared to advocate any higher examination in lieu of the 'primary' of the Law Society, than *matriculation* in arts. The day seems to be yet distant when a *degree* in arts, or an equivalent for it, will be demanded. We wish it was much nearer than it is. But we think the time will never come when a degree in arts from one of our universities will be rejected as insufficient evidence of knowledge and culture to qualify the applicant for beginning the study of the law. Are the people of Ontario and its professional men inferior in education to those of the sister Province? We certainly think not." Our contemporary can only account for the effusion of the General Council on one of three suppositions; (1) "the colleges and universities of Quebec must give an utterly superficial and useless training;" (2) "the literary and scientific acquirements demanded of beginners in the study of law must be ridiculously high, higher than in any civilized country in the world;" or (3) "the General Council of the Bar in Quebec is an assembly of egotists unduly elated and inflated with the contemplation of their own importance." With reference to the first of these suppositions we would observe that it was abundantly shown before the committee of the Legislature, that the standard for the B. A. degree at McGill University is fully as high as at Oxford or Cambridge. Moreover, many of the gentlemen coming forward for admission to study have not only taken the degree, but have passed with honors.

The Morrison case this week has yielded its strange incident, in an interview between the outlaw, whom detectives and policemen have vainly attempted to discover or arrest for a year past, and Mr. Dugas, Police Magistrate of Montreal, who, in his magisterial capacity, accompanied the expedition against Morrison. This interview, for which we are unable at present to recall any precedent, took place in a lonely building at night-fall. It was brought about by Morrison's friends, and Mr. Dugas doubtless acted from the best motives, to avoid bloodshed, to relieve the friends of Morrison from their embarrassing clansman, and to bring the expedition to a termination. But, as might have been anticipated, Morrison's demands were such as

could not be entertained, and the parties to the strange colloquy separated, Morrison once more betaking himself to his secret haunts, and the expedition resuming its hunt for him.

SUPREME COURT OF CANADA.

Ontario.]

OTTAWA, March 18, 1889.

O'BRIEN v. THE QUEEN.

Appeal—Contempt of Court—Discretion—Jurisdiction—Constructive Contempt—Interference with a judicial proceeding—Proceedings for contempt—Locus standi—Punishment—Infliction of costs.

An appeal will lie to the Supreme Court of Canada from the judgment of a Provincial Court in a case of constructive contempt. Such a decision is not an order made in the exercise of the judicial discretion of the Court making it, from which, by sec. 27 of the Supreme and Exchequer Courts Act, no appeal shall lie. Taschereau, J., *hesitante.*

Such an appeal will lie, though no sentence was pronounced against the party in contempt, but he was found guilty and ordered to pay the costs of the proceedings.

H. was elected Mayor of Toronto, and was unseated by a master in Chambers on proceedings in the nature of a *quo warranto* instituted for the purpose, the master holding that the property qualification of H., who had qualified in respect to property of his wife, was insufficient. Notice of appeal was given, but a declaratory Act having been passed by the Ontario Legislature removing the disqualification, such notice was countermanded and the appeal abandoned. In the meantime O'B., solicitor for H, had written a letter to a newspaper in Toronto, in which the following expressions occur, after a statement that the fact that the qualification condemned had always been held sufficient and had never before been questioned:—

"Chief Justice Richards, probably the best authority on such matters in Canada, had held in 1871 that under such circumstances the husband had the right we contend for in the present case. This decision has never been over-ruled, is consistent with common sense and with the universally accepted opinion on the subject.

"You may naturally ask: Why then was the decision the other way? This question I am unable to answer. The delivered judgment affords no answer. The arguments addressed were simply ignored, and the authority relied on by us, so far from being explained or distinguished, was not even referred to. This is eminently unsatisfactory to both the profession and the public—an officer of the Court over-ruling the judgment of a Chief Justice who, above all others in our land, was skilled in matters of municipal law."

Proceedings were instituted, by the original relator in the proceedings to unseat H., to have O'B. committed for contempt, and he was adjudged guilty, and ordered to pay the costs. The notice of abandonment of the appeal had been given before such proceedings were begun.

HELD:—1. That the appeal being abandoned, the *quo warranto* proceedings were at an end, and the relator had no *locus standi* in such proceedings to enable him to charge O'B. with contempt in interfering with the judicial proceeding. In such case only the Court could institute or instigate the proceedings.

2. That the publication complained of was a fair criticism of the judicial proceeding, which any person is privileged to make.

3. That the infliction of costs was a punishment for the alleged contempt in the nature of a fine, so that the appeal was not one for costs only.

Appeal allowed.

S. H. Blake, Q.C., for the Appellant.

Bain, Q.C., for the Respondent.

OTTAWA, March 18, 1889.

Ontario.]

CITY OF LONDON v. GOLDSMITH.

Municipality—Construction of Street crossing—Elevation above the sidewalks—Injury to person crossing—Liability of Municipality for.

G. brought an action against the city of L. for damages caused by striking her foot against a street crossing in said city and falling, whereby she was hurt. The principal ground on which negligence was based, was that the crossing was elevated some three or

four inches above the level of the street, which rendered accidents of the kind in question more likely to occur. The Jury gave G. a verdict with $500 damages which the Divisional Court and the Court of Appeal, the latter Court being equally divided, affirmed. On appeal to the Supreme Court of Canada:—

HELD, reversing the judgment of the Court of Appeal, Strong and Fournier, JJ., dissenting, that the fact of the street crossing being higher than the street did not make the city liable.

Appeal allowed.

W. R. Meredith, Q.C.; for the appellants.

R. M. Meredith and *Love*, for the respondent.

OTTAWA, March 18, 1889.

Ontario.]

KINGSTON & PEMBROKE RAILWAY CO. v. MURPHY

Railway Company—Expropriation of land—Description in map or plan filed—42 Vic. ch. 9.

No land can be taken for the line of a railway as originally located, or for any deviation therefrom, at any point therein, until the provisions as to places and surveys prescribed as to the original line (by 42 Vic. ch. 9, Railway Act of 1879) are complied with as to every such deviation.

Therefore, where a road had been completed, and the company having obtained additional powers from Parliament as to land they could hold in K., sought to expropriate the land of M., which was not on the map or plan originally registered:

HELD, affirming the judgment of the Court of Appeal for Ontario, that they were not entitled to such expropriation.

Appeal dismissed.

Christopher Robinson, Q. C., and *Cattanach*, for the appellant.

S. H. Blake, Q. C., and *Britton, Q. C.*, for the respondents.

OTTAWA, March 18, 1889.

Prince Edward Island.]

TRAINOR v. THE BLACK DIAMOND S.S. CO.

Bill of lading—Exceptions—Construction—Improper stowage—Negligence—Liability of shipowner.

A bill of lading acknowledged the receipt on board a steamer of the defendant company of a number of packages of fresh meat shipped in good order and condition, and which the defendants undertook to deliver in like good order and condition at the Port of St. John's, Newf., subject to the following exceptions, among others, in respect of which the defendants would not be liable for damage: "Loss or damage arising from sweating, decay, stowage, or from any of the following perils, whether arising from the negligence, default or error in judgment of the pilot, master, mariners, engineers, or other persons in the service of the ship, or for whose acts the shipowner is liable, (or otherwise howsoever)."

HELD, *Per* Strong, Taschereau and Gwynne, JJ., that the words "whether arising from the negligence, default or error in judgment of the pilot," etc., apply as well to the exceptions which precede as to those which follow them, and would relieve the defendants from liability for damage by stowage so arising.—Ritchie, C. J., and Fournier, J., *contra.*

The damage to the meat shipped was occasioned by its being taken on board during a heavy rain, stowed in uncovered hatchways, and the men stowing it trampled upon it with muddy boots, and spit tobacco juice upon it.

HELD, affirming the judgment of the Supreme Court of Prince Edward Island, Ritchie, C. J., and Fournier, J., dissenting, that the loss arose from stowage arising from the negligence of persons for whose acts the shipowners were liable, and the defendants were relieved by the exceptions in the bill of lading.

Appeal dismissed with costs.

L. H. Davies, Q.C., and *Morson*, for appellant.

Fred. Peters, for respondents.

OTTAWA, March 18, 1889.

New Brunswick.]

ELLIS v. BAIRD.

Appeal—Contempt of Court—Final judgment—Practice.

E. was served with a rule issued by the Supreme Court of New Brunswick, calling upon him to show cause why a writ of attachment should not issue against him, or he be committed for contempt of Court in publish-

ing certain articles in a newspaper. On the return of the rule, after argument, it was made absolute, and a writ of attachment was issued. E. appealed from the judgment making the rule absolute, and by the case on appeal it appeared that the practice in such cases in New Brunswick, is that the writ of attachment is issued only in order to bring the party into Court, when he may be ordered to answer interrogatories by which he may purge his contempt, and if he fails to do so, the Court may pronounce sentence; but no sentence can be pronounced until the party is brought before the Court on the writ of attachment.

The counsel for the respondent moved to quash the appeal for want of jurisdiction.

HELD, that the judgment appealed from was not a final judgment from which an appeal would lie to the Supreme Court of Canada under sec 24 (*a*) of the Supreme and Exchequer Courts Act, R. S. C. ch. 135.

Appeal quashed without costs.

L. H. Davies, Q. C., for appellant.
L. A. Currie, for respondent.

OTTAWA, March 18, 1889.

Nova Scotia.]

THE QUEEN v. CHESLEY.

Bond—Signed in blank—Execution—Certificate.

V., a government official, requested C. to sign a bond, as surety for the faithful discharge of his duty as such official. C. having agreed to do so, V. produced a blank form of bond, and C. signed his name to it, and to an affidavit of justification, and acknowledged to a third party that he had executed such bond. The third party made an affidavit of the execution before a magistrate, who gave a certificate of its due execution before him. The bond, which had been filled out for the sum of $2,000, was then sent to Ottawa to be registered as the statute requires.

In an action on the bond against C., on default by V., C. claimed that the amount of the bond was represented to him to be $500 or $1,000, that there was no seal on it when he signed it, that he had not sworn to the affidavit of justification, and that the magistrate should not have given the certificate he did.

The Court below held, affirming the judgment of the trial judge, that C. was estopped from denying the execution of the deed, but as his action was not the proximate cause of the acceptance of the bond by the Government, but that the false certificate given by the magistrate was, the Crown could not recover. On appeal to the Supreme Court of Canada:

HELD, reversing the judgment of the Court below, that the making of the bond was the real cause of its acceptance, and the defendant being estopped, the Crown was entitled to judgment.

Appeal allowed.

R. L. Borden, for the appellant.
Harrington, Q. C., for the respondent.

Nova Scotia.]

WALLACE v SOUTHER.

Promissory Note—Identity of payee—Double stamping.

A promissory note made payable to John Souther & Son, was sued on by John Souther & Co.

Held, that it being clear by the evidence that the plaintiffs were the persons designated as payees, they could recover.

It is no objection to the validity of a promissory note that it is for payment of a certain sum in currency. Currency must be held to mean "United States Currency," especially where the note is payable in the United States.

If a note was insufficiently stamped, the double duty may be affixed as soon as the defect comes to the actual knowledge of the holder. The statute does not intend that implied knowledge should govern it

The appellant claimed that he was only a surety for his co-defendant, and that he was discharged by time being given to the principal to pay the note.

Held, that the fact of time being so given being negatived by the evidence, it was immaterial whether appellant was principal or surety.

Appeal dismissed with costs.

T. J. Wallace, appellant in person.
Arthur Drysdale, for the respondent.

Nova Scotia.]

CONFEDERATION LIFE ASSOCIATION v. O'DONNELL.

Life insurance—Policy— Memo. on margin— Want of counter-signature—Effect of—Admissibility of evidence.

A policy of life insurance sued on had in the margin the following printed memo.:—"This policy is not valid unless countersigned by.....agent at. ..... Countersigned this.....day of..... .....Agent." This memo. was not filled up, and the policy was not, in fact, countersigned by the agent. Evidence was given of the payment of the premium, and rebutting evidence by the company that it had never been paid. The jury found that the premium was paid and the policy delivered to the deceased insured as a completed instrument, and a verdict was entered for the plaintiff and affirmed by the Supreme Court of Nova Scotia

Held, affirming the judgment of the Court below, Sir W. J. Ritchie, C. J., and Gwynne, J., dissenting, that the necessity of countersigning by the agent was not a condition precedent to the validity of the policy, and the jury having found that the premium was paid, their verdict should stand.

The judgment on the former appeals in this case was, on this point, substantially adhered to. See 10 Can. S. C. R. 92, and 13 Can. S. C. R. 218.

Appeal dismissed with costs.

S.H. Blake, Q.C., J. Beatty, Q.C., and *Borden*, for the appellants.

Weldon, Q.C., and *Lyons*, for the respondent.

LAW FOR LADIES.

[Continued from p. 112.]

In a certain stage of society one of the most extensive classes is that of "cousins." To the question, "Who is that downstairs, Jane?"—how promptly and universally comes the answer, "My cousin, ma'am." How important, therefore, is the query, "Who is a cousin?" The Justices in Her Majesty's Court of Appeal a couple of years ago wrestled with the question, but, alas! they differed in their decisions. Lord Justice Bowen was profound—went to the bottom—was genealogically accurate and narrowly limited the genus. He said, "I start with this: the word "cousin," being a term of which the dominant idea is consanguinity (Yea, verily, many a Betsy Ann and Eliza Jane would start too at such an idea). Harriet Cloak is not a cousin of the testatrix at all." He proceeds, "It is not accurate to say that the wife of one's cousin is, even in a secondary sense, one's cousin. . . . The ground of my decision is that the word 'cousin' cannot be used in a secondary, or even in a tertiary sense, for a person not a relation in blood, though it can be used for a more distant relation than a first cousin.' Lord Justice Fry took a more extended view, and one more in accord with the notions of "life below stairs." We do not for a moment suggest that he knew the cook, but she must have known him by name. He said, "I agree with Lord Justice Bowen as to the proper signification of the word 'cousin,' that it properly means the children of brothers and sisters (we would have called those nephews and nieces), and implies consanguinity; but I think that it is sometimes used in a loose and vague sense which does not imply consanguinity, as when the Queen addresses a nobleman, or a member of her Privy Council, as a 'cousin,' and when we speak of our 'country cousins.' I think that in popular language the word does apply to persons who are not related by consanguinity" (*Cloak* v. *Hammond*, 56 Law J. Rep. Chanc. 171; L. R. 34 Chanc. Div. 255). It must be satisfactory to mistresses to know that their helps may call all male visitors cousins, and still be consistent members of the Church, or of the Salvation Army.

No one has a right to complain that his next-door neighbour plays upon the piano at reasonable hours, nor of the cries of children in his neighbour's nursery, nor of any of the ordinary sounds which are commonly heard in dwelling-houses; but if a Ladies' Decorative Art Club take a house on a square filled with dwelling-houses, and conduct classes in the art of metal working and hammering brass, so that the unusual and disturbing noises are of a character to affect the comfort of the household of the man living next door, or the peace and health of his family, and to

destroy the comfortable enjoyment of his home, the law will declare the ladies—or rather their classes—a nuisance, and stretch out its strong arm to prevent the continuance of such injurious acts. We never cared for hammered brass anyway (*Re Ladies' Decorative Art Club of Philadelphia*, 37 Alb. L.J. 447).

One by one the beliefs of childhood's happy hours are dispelled. We used to believe in the reality of St. Nicholas, the shooting skill of Tell, the bluebeard character of Henry VIII., the greatness of Elizabeth, the goodness of Charles I., the beauty of Mary Stuart; but we don't know now. We used to think, moreover, that every woman could put any number of pins in her mouth without inconvenience; now the law papers tell us that at Greenwich (England) County Court a widow sued a baker for damages, medical fees, and loss of time, caused by a pin, which had been negligently left in a bath-bun, sticking in her throat, and the judge said, 'Of course it was an unfortunate accident for both parties, but he must give a verdict for the widow' (37 Albany L.J. 206).

Talking of pins and women, a lady in Detroit fell upon a defective sidewalk, and claimed that her right side was paralysed; on the trial, to demonstrate to the jury the loss of feeling in that side, she allowed her medical man to thrust a pin into her. The city authorities objected to the jury pinning their faith to this sort of evidence, but the Court opined that there was no objection to her showing the extent of the paralysis which had supervened by reason of the accident, and that evidence that her right side was insensible to pain certainly tended to show this paralysed condition. The pin by which the experiment was performed was shown to the jury. There was nothing which tended to show any trickery. Counsel were certainly at liberty to examine the pin, and to ascertain whether in fact it was inserted in the flesh; and having failed to exercise this privilege, the Court's opinion was that after verdict it was too late to raise the objection that the exhibition was incompetent (*Osborne* v. *Detroit*, 26 Alb. L.J. 343). The judge overlooked the possibility of the city attorney being a modest bachelor, and not accustomed to conduct cases against Phrynes.

Apparently ladies do not like to be called 'cats,' nor even to have their mothers called 'cats.' The funny newspaper reporter published an interview between the plaintiff and himself in which the plaintiff is represented as saying that her mother had been bitten by a cat and had hydrophobia, that she dreaded the approach of water. . . . that she acted like a cat, purring and mewing, and assuming the attitude of a cat in the effort to catch rats, and did other like acts, and that a wonderful cure of this disease had been effected by a certain medicine called S.S.S., sold by defendants. It was held that all this was libellous (*Stewart* v. *Swift Specific Company*, 76 Ga. 280). This seems a strange decision, because our own experience has been that girls like to be called Kitty, Pretty Kitty, Dear Kitty, or even Pussy.

It has been decided in Iowa that a wife has no right to chastise her husband, nor provoke him to retaliation by her own violence, foul abuse, and misconduct (*Knight* v. *Knight*, 31 Iowa, 451); nor has a husband now the right to correct his wife corporally, even though she be insolent to him or drunk (*Com.* v. *M'Afee*, 108 Mass. 468). The Iowa decision just mentioned accords with the laws of Manu; here we are told that 'a faithful wife who wishes to attain in heaven to the mansion of her husband must do nothing unkind to him, be he living or dead; she must always live with a cheerful temper, with good management in the affairs of the house, with great care of the household furniture, and with a frugal hand in all her expenses. Though enamoured of another woman, or devoid of good qualities, yet a husband must constantly be revered as a god by virtuous women; nor is a second husband allowed to a virtuous woman (chap. v., ss. 156, 150, 154, 162) It is evident that at some time or other the ladies in Persia must have interfered with the men while saying their prayers, now it is the law that no man may perform his devotions in the presence of any woman, who either at his side or before him is also praying; but it will be all right if there is a curtain between the two, or some object which prevents him seeing her; or if the woman is behind the man at such a distance that in prostrating herself she can-

not touch his feet. (Extract from the 'Shah in Persia and the Persians,' by S. G. W. Benjamin.) This sapient lawgiver must have had his sole tickled at some time or other.

A propos of divorces, the Koran says: 'The husband may twice divorce and twice take back the same woman; but if he a third time divorce her, she cannot again become his wife till she have married and been divorced from some other man' (*Sura* II., 230). With a little modification, this law might be useful in some of the States.

Speaking of second marriages at an early period in Vermont, by some strange perversion of legal principles, people were led to believe that whoever should marry a widow who was the administratrix of her husband's estate, and should through her come into possession of anything that the late lamented departed had purchased, would render himself administrator in his own wrong, and himself liable for the estate and debts of his predecessor. The fascinating widows, however, found a way to overcome the difficulty, and smooth the way by which number two might approach Hymen's altar, hand in hand with number one's relict. Here is how the widow of Major Peter Lovejoy married Asa Averill. 'By the side of the chimney in the widow's house was a recess of considerable size. Across this a blanket was stretched in such a manner as to form a small enclosure. Into this Mrs. Lovejoy passed with her attendants, who completely disrobed her, and threw her clothes into the room. She then thrust her hand through a small aperture purposely made in the blanket. The proffered member was clasped by Mr. Averill, and in this position he was married to the nude widow on the other side of the woollen curtain. He then produced a complete assortment of wedding attire, which was slipped into the recess. The new Mrs. Averill soon appeared in full dress, ready to receive the congratulations of the company, and to join in their hearty rustic festivities' (Hall's 'History of Eastern Vermont').

CRAM VS. EDUCATION.

A correspondent of the *Gazette* describes as follows the mode in which he obtained admission to the study of the law :—

SIR,—In connection with the recent discussion in the Quebec Legislature regarding the qualifications necessary for admission to the study of law, the experience of one, who a few years ago passed through that remarkable ordeal, may prove of interest to your readers. While yet a freshman at McGill, I determined to enter upon that course of study, which, according to no less an authority than Mr. Pagnuelo, is superior to that furnished by any of the English universities of Canada. With this object in view, I procured the services of an expert crammer, having been advised so to do by those who had previously passed that examination with high honor, and for the entire period of two months (May and June) devoted myself incessantly to the laying of the foundation for my legal career. I mastered the geometrical terms which are peculiar to French text books, lest ignorance of these should prevent me from exhibiting the mathematical knowledge which I had acquired in the common school. The difficulties of Latin syntax, which to many members of the Bar doubtless appear nearly insurmountable, were overcome easily, owing to the preparation which I had undergone for the matriculation at McGill. I reviewed primers on the history of Canada, England, France, Rome and Greece. In geography I learned the names of all the states in the Union, with their capitals; also of the European nations and of the larger capes, rivers and islands. I grappled with the intricacies of philosophy. As the text-books recommended were in Latin and French, and formed the basis for a long course of instruction at Laval and St. Nicolet, they seemed at first to present a formidable difficulty. However, as my instructor had previously written out the salient points of the works in English, it was not long before I could recite theories of Epicurus, Plato, Socrates or Aristotle, or give the ontological argument for the existence of a God.

Being thus crammed, in due season I presented myself before the Bar. It is of course needless to add that after this remarkable training I passed creditably, standing very near the head.

While an arts course at McGill would have involved many instructors, an outlay of at least $1,000, and four years of hard study, by the regulations of the Bar, which are enacted in the interests of higher education, I was enabled to get along with one expert crammer, to save $900 in money and three years and ten months of unnecessary study.

OBTAINING MONEY BY FALSE PRETENCES.

At Montreal, February 18, Mr. Desnoyers gave the following decision on a charge made by James Macfarlane against B. L. Nowell, of obtaining money by false pretences:— The prosecutor made a verbal promise to loan defendant $2,000 to be advanced in instalments. Prosecutor advanced one instalment. Before parting with the second instalment, prosecutor called on defendant and examined his books of account with him, defendant himself giving out the figures. Prosecutor wrote a statement showing the defendant with a surplus of about $300. Defendant asserted that said statement contained the true state of his affairs. On the strength of this statement a written contract was signed between the parties, and prosecutor advanced the second instalment and subsequently several other instalments, amounting in the aggregate to an amount of upwards of $1,200. Several months afterwards the prosecutor being unpaid by the defendant, the latter made a judicial abandonment of his estate, and thereupon it was proved that at the time of the first advance, as well as at the time of the several subsequent advances made by prosecutor to defendant, the latter, instead of having a surplus of $300, was indebted in a sum of several thousand dollars (about $10,000). The prosecutor swears positively that he parted with the first sum advanced to defendant on the representations that he had a good paying business on hand; but as to the second and subsequent instalments he parted with them on the representation of defendant that he had a surplus of $300. Two questions are to be considered: 1st. The moneys having been advanced in execution of a contract, can a false pretence be said to have taken place? No decision in any similar case has been quoted, and having made a careful search in the books, I have been unable to find a precedent of a case just under similar circumstances. However, in commenting upon the case of *Reg.* v. *Kenrick*, 5 Queen's Bench Reports, page 64, which has some similitude with the present case, Lord Denman is reported to have said: "The execution of a contract between the same parties does not secure from punishment the obtaining of money under false pretences in conformity with that contract." 2nd. Is the intent to defraud disclosed in the above statement of fact? It may be said that the defendant, having apparently at the time a good business on hand, may have lived in hopes to meet all his liabilities in course of time and not have intended to defraud the prosecutor of his money. However, I am not prepared to say that he had not such intent. At all events I consider that this is matter for the jury to determine, not for the examining magistrate. On the whole I believe this is a case that ought to go to a jury, and therefore am bound to commit for trial to the Court of Queen's Bench.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, March 30.

Judicial Abandonments.

Elzéar Drolet, wheel-wright, La Rochelle, March 26.

Curators appointed.

Re J. Ahern, trader, New Port.— H. A. Bedard, Quebec, curator, March 1.

Re Amable Beauvais.—Kent & Turcotte, Montreal, joint curator, March 29.

Re P. Rival dit Bellerose, St. Alexis.—Kent & Turcotte, Montreal, joint curator, March 26.

Re F. X. Dugal, trader, Petite Rivière Ouest.—H. A. Bedard, Quebec, curator, March 1.

Re John Hector Graham *et al.* ("Graham Bros.").—J. N. Fulton, Montreal, curator, March 20.

Re Alexis Grégoire. — C. Desmarteau, Montreal, curator, March 27.

Re Albert Piché.—C. Desmarteau, Montreal, curator, March 27.

Re Victor Portelance, Lachevrotière.—D. Arcand, Quebec, curator, March 22.

Re David Rea.—A. F. Riddell and C. Meredith, Montreal, joint curator, March 27.

Re Alexandre Rufiange.—C. Desmarteau, Montreal, curator, March 29.

Re C. N. Savage, Petit Pabos.—H. A. Bedard, Quebec, curator, March 1.

Re vacant estate of late James Wellington Toof.—S. N. Hunter, Frelighsburg, curator, March 18.

Dividend.

Re E. B. D. Lafleur, Bryson.—First and final dividend of 36½ p.c., payable April 10, J. McD. Hains, Montreal, curator.

Separation as to Property.

Mathilde Beauchamp vs. Lambert Gingras, cigarmaker, Montreal, March 21.

Georgiana Senécal vs. Joseph Dufour dit Latour, Joliette, March 22.

Cadastre deposited.

Parish of Ste. Angélique, lot 389.