The Legal News.

VOL. XII. FEBRUARY 9, 1889. No. 6.

With reference to the new method of execution by electricity, introduced in the State of New York, it does not seem to be clearly understood whether the object is to make death easier, or merely to substitute one form of capital punishment for another. If it be the former, it might be suggested that the idea should be carried a little further, and that the criminal should be allowed to select the mode of death most agreeable to him. It may be noticed in the case of suicides, that inclinations differ widely in this particular. The pistol, the razor, the halter, the gas blown out, and various poisons, all are adopted in turn, and the convict might ask, if you are anxious to give me the happiest despatch, why not let me have something to say in the matter? The *Lancet*, from the physician's point of view, discusses the subject as follows:—"A collar is to be put round the neck, the top of the head is to be armed with a moistened pad or cap, and finally the victim is to be strapped in a chair before the fatal switch is applied. Supposing that the fatal switch is instantly fatal, in what manner it is more humane than the guillotine, or the easy asphyxia from suspension by the neck, it were, indeed, difficult to explain. But, strangely, the promoters of this new method praise and support it, not for the wholesome dread that it may excite in the mind of the would-be murderer, but for the happy mode of despatch to which all murderers will be subjected when the chair of death comes into public service. Whichever be the right theory on this subject, we believe the use of this new instrument of death, as advanced by its advocates, to be fundamentally unsound. If it be right to have a mode of death for criminals that shall excite some terror, as many wise and logical legislators believe, then we have already the very means for exciting that wholesome alarm, a means also which long time and custom have sanctioned, and which had better not be abrogated while this form of punishment lasts. We take the opposite view, that the perfect painlessness of death by the electric shock will divest the punishment of some of its terrors. Then the mere implantation of this notion will only lead a certain class of the worst criminals to set their lives upon the cast, and to accept the more resolutely the hazard of the die. With all respect, then, to our American *confrères*, we do not think that the grounds or reasons they have entered on for a change in the mode of executing criminals are quite worthy of their vocation. We do not know that Mr. Carleton's view about the direction of the current of electricity through the head and neck, as the most fatal direction is or admits of being, proved. But, in the report of the Medico-Legal Society, and specially in a paper in the *Scientific American*, one of the ablest of periodicals of its class, there is a great deal of scientific matter which is worthy of serious study on its own merits alone. The one statement of the reporters, that the alternating current is more fatal than the continuous, is of itself, if it be confirmed by further experiment, of considerable importance, having about it some physiological bearings which are of moment."

Lord Macnaghten was called recently as a witness in an Irish case against the Bushmills Distillery Company, for permitting deleterious and poisonous matter to be discharged from their works into a tributary of the river Bush. The learned judge was exhibiting some specimens of water, and explaining with more of argumentative statement than was pleasing to the respondent's counsel, who interrupted by saying:—"I must really ask Lord Macnaghten to remember that he is a witness. He may be a lord, and a law lord, but he comes here as an expert in fishery and chemistry and water, and if he will kindly remember that and answer the questions put to him, we shall get along faster and more smoothly."

The list of causes before the Judicial Committee of the Privy Council, when the sittings were resumed after the Christmas Vacation, contained sixteen appeals, but none from this province, or from any part of Canada.

This appears to indicate that the more speedy and much less expensive appeal to the Supreme Court at Ottawa is coming into favour among Quebec lawyers. It may be remarked, however, that January is not the season usually selected by them for a trip to London.

COURT OF QUEEN'S BENCH.

MONTREAL, January 30, 1889.

Coram DORION, C.J., CROSS, CHURCH, DOHERTY, JJ.*

BRISSON v. GOYETTE, and JAMES MCSHANE, *mis en cause*; and JAMES MCSHANE, applicant for writ of appeal.

Quebec Controverted Elections Act—Judgment finding mis en cause guilty of corrupt act—Jurisdiction of Superior Court sitting in Review.

On a petition under the Quebec Controverted Elections Act, 38 Vict. ch. 8, McShane was brought into the cause (under s. 272, of 38 Vict. ch. 7), for corrupt practices during the election. The evidence against him was taken before the judge trying the election petition, and when judgment was given on the election petition by the Superior Court sitting in Review, that Court also pronounced upon the issue between the petitioner and the mis en cause, finding the latter guilty of corrupt practices. McShane applied for a writ of appeal, which was refused by the Clerk of the Court, and application that he be ordered to issue a writ was then made to the Court. The Court, under all reserves, ordered that the writ issue, in order that the parties interested might be heard upon the question whether the Court of Review had jurisdiction as respects the mis en cause.

DORION, Ch. J.—An important question is involved in this application. McShane alleges that he is aggrieved by a judgment of the Court of Review sitting in an election case, and he applied to the clerk of this court for a writ of appeal. The clerk of the court, acting in accordance with instructions which have been given for his guidance in election matters generally, refused to issue a writ. Thereupon McShane has moved for an order to the clerk to issue the writ. The question is whether the judgment of which McShane complains is a judgment on a matter arising out of the election petition or requiring the determination of the Court of Review.

An election petition was presented by Brisson complaining of the undue return of Goyette for the county of Laprairie. This Court has not all the facts before it, but it has the petition and the judgment. In the course of the proceedings the judge presiding at the trial found that there was some evidence of corrupt practices by McShane and by one Bourassa. McShane was then summoned to appear before the court to answer the charge. When the final judgment was given by the Court of Review, McShane was declared by the judgment to be guilty of two corrupt acts, one of bribery and one of intimidation, and he was condemned to pay two penalties of $200 each. It is from this judgment that he wishes to appeal. His ground of appeal is that the Court of Review had no jurisdiction whatever to give the judgment in question.

The law applicable to the case is found in chapters 7 and 8of 38 Victoria. Chap. 7 relates to elections and to the punishment of corrupt practices. Chap. 8 refers to controverted elections and the proceedings relating thereto. Section 9 of chap. 8 says: "The "Superior Court of this province shall have "jurisdiction over election petitions and over "all proceedings to be had in relation there- "to, subject nevertheless to the provisions of "this Act." So the whole matter is left to Superior Court, subject to certain provisions of this Act. Section 45 says: "Every elec- "tion petition shall be tried before a judge." Section 4 says who is a judge: "The word 'judge' "means any one of the judges of the Su- "perior Court of the province, or such Supe- "rior Court held by any one judge thereof." It is clear, therefore, that jurisdiction in matters of contested elections is given to a judge of the Superior Court, unless where otherwise provided. We find in sections 6 and 19 who may be parties to an election petition. The petition may be presented by one or more electors, or by a candidate. The respondent may be the member elected, or any candidate against whom an unlawful

* Tessier and Bossé, JJ., were also present at the hearing.

act is alleged, or a returning officer whose conduct is complained of. No other person can be made a party to an election petition. Then section 82 says: "Any party to an "election petition may, forthwith on the "conclusion of the trial, file an inscription "for hearing before the Superior Court sitting "in Review, at the office of the prothono-"tary of the district in which the petition "has been presented." So that the whole trial is to take place before the Superior Court, or before a judge thereof. The hearing in Review comes only after the trial is completed. There is another section which gives jurisdiction to the Court of Review in a particular case: it is as to preliminary objections. Sect. 41: "The judge shall then "hear the parties and their witnesses upon "such objections, and shall decide the same "in a summary manner. Such judgment, "if in favor of the petitioner, shall not be "susceptible of being reversed, until the "hearing on the merits before the Superior "Court sitting in Review; if, however, it "has the effect of dismissing the petition, "the case may be submitted to such court "upon inscription filed within the eight "days following, etc." This is the only case in which, during the trial, the Court of Review has anything to do with it. It is only a party to the election petition who can inscribe the case.

Now, section 89 says: "the Superior Court "sitting in Review shall determine (1) whe-"ther the member whose election or return "is complained of has been duly elected, or "declared elected; or (2) whether any other "person, and who, has been duly elected; "or (3) whether the election was void; and "(4) *all other matters arising out of the petition,* "*or requiring its determination.*" And section 90 says: "such judgment shall not be "susceptible of appeal," that is, the judgment of the Court of Review.

All these sections which I have cited do not speak of any charge against anyone but a candidate. In the Controverted Elections Act, the candidates are the only parties who are mentioned in connection with corrupt acts. There is nothing as to the case of a third party who has acted corruptly during an election. We have to refer to chap. 7 to see when and how a third party may be charged with corrupt acts during an election. Section 270 of chap. 7, says: "Any person "other than a candidate, found guilty of any "corrupt practice in any proceeding in which, "after notice of the charge, he has had an op-"portunity of being heard, shall, during the "seven years next after the time at which "he is so found guilty, be incapable of be-"ing elected to and of sitting in the Legisla-"tive Assembly, and of voting, etc." Now, how can a conviction take place? Sect. 292 is the general section about penalties incurred under this law. "Every prosecution con-"cerning a penalty imposed by this Act may "be brought by any person of full age, in "his own name, by action of debt, before "any court having civil jurisdiction for the "amount demanded." This is the general clause applying to all cases of corruption. Then sect. 272 says: "Whenever it shall ap-"pear to the court or judge trying an elec-"tion petition that any person has contra-"vened any of the provisions of this Act, "such court or judge may order that such "person be summoned to appear before such "court or judge, at the place, day and hour "fixed in the summons for hearing the "charge." Here it appeared to the judge of the Superior Court trying the case that certain persons had bribed. The judge issued his summons ordering them to appear before the court trying the case, that is the Superior Court. Then sec. 273 says: "If, at the time "so fixed by the summons, the party sum-"moned do not appear, he shall be con-"demned on the evidence already adduced "on the trial of the election petition, to pay "such fine or undergo such imprisonment in "default of payment, to which he may be "liable for such contravention, in conformi-"ty with section 300." Section 300 says that imprisonment may be ordered in default of payment of penalty.

Therefore, when a summons has been issued against a person to answer a charge of corruption, he has to appear before the court or judge trying such case. If he does not appear he shall be condemned. By whom is he to be condemned? Is it by the judge or the court before whom he is to appear, or by the Court of Review, which has jurisdic-

tion only in two cases? It appears to me that the jurisdiction is given to the judge who tries the election petition. If McShane had not been summoned before the Superior Court he could not have been summoned at all. When, therefore, he is summoned before the court that tries the election petition he is summoned before the Superior Court. Now, I think it cannot be denied that if the judge, upon the default of the party summoned, had entered judgment condemning him to $200 penalty, it would have been a good judgment. The judge had the right to condemn him then and there to pay a penalty.

All this would appear to be very plain, if there were not sections 89 and 92 in chap. 8. Sect. 89 says: (cited above). Then sect. 92 makes the matter still more difficult by saying: "When any charge is made in an election petition of any corrupt practice having been committed at the election, the court shall further transmit to the Speaker, together with its judgment, a report in writing, stating: (1) Whether any corrupt practice, etc. (2) The names of any persons against whom, during the examination of the petition, the commission of any corrupt practices has been proved. (3) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have extensively prevailed, etc." The Court is to report the names, and whether the corrupt practice has been proved. This report is not the judgment, but it is to accompany the judgment. The question comes to this: Is this condemnation against McShane a matter arising out of the election petition, or a matter requiring the determination of the Court of Review? If it is, there is no appeal, for there is no doubt that there is no appeal from the judgment in review. This has been held in *Mackenzie & White*, in *Cushing & Owens*, and in *Massue & Bruneau*. And the Privy council in *Landry & Theberge* would not recommend an appeal *ex gratia*.

The question is one of great difficulty, and there is a great deal to be said on both sides. The other parties interested have not been heard; no one has been heard but the applicant. The case is surrounded with such difficulty that we think we should not deprive the party of a right to appeal. We order the writ to issue under all reserves, so that both parties may be heard, and then we will determine whether an appeal can be entertained. It is a question of jurisdiction—whether the Superior Court had jurisdiction, or whether the Court of Review had jurisdiction. We do not express any opinion now. We merely express our doubt, and say that this doubt ought to be elucidated. I may observe that no fault can be found with the clerk of the court for refusing to issue the writ. The Court expressly stated in former cases, that to avoid delays he should not issue writs in election matters, so that contestations should not be unduly protracted. Security must be given within eight days. Mr. Justice Tessier has transmitted an opinion concurring in the present judgment.

J. J. Curran, *Q.C.*, and *N. W. Trenholme*, for the applicant.

EXCHEQUER COURT OF CANADA.

OTTAWA, Feb. 5, 1889.

Before BURBIDGE, J.

MAGANN v. THE QUEEN.

Tariff Act—Importation of lumber—Shaping and manufacturing.

By item (Departmental No.) 726, Schedule "C" of the Tariff Act, it is provided that the following articles shall be admitted into Canada free of duty, that is to say:—

"Lumber and timber, plank and boards, sawn, of boxwood, cherry, walnut, chesnut, gumwood, mahogany, pitch pine, rosewood, sandalwood, Spanish cedar, oak, hickory and whitewood, not shaped, planed or otherwise manufactured, and sawdust of the same, and hickory lumber, sawn to shape for spokes of wheels but not further manufactured."

The plaintiff having entered into a contract with the Grand Trunk Railway Company to supply the company with a certain quantity of white oak plank and boards and white oak lumber of specified thicknesses, widths and lengths, arranged with certain millmen in the State of Michigan to saw such plank, boards and lumber from the log in accordance with orders given to them by the plaintiff. The plank, boards

and lumber were intended to be used principally but not wholly for the construction of cars and railway trucks, and they were ordered to be sawn and were in fact sawn of such thicknesses, widths and lengths as to admit of their being used in such construction without waste of material. The lengths called for by the contract varied, the shortest being two feet two inches, and the invoices on which duty was collected and paid under protest indicated that the lumber when imported was cut to these exact lengths, but the fact as proved by the plaintiff and not denied by the defendant, no witnesses for the Crown being called, was that while the invoices disclosed the correct quantity of material imported, there being in each importation the equivalent of the number of pieces shown in the invoice, they did not show accurately the shape of the different pieces, and that, with perhaps a few unimportant exceptions, the lumber was imported in lengths in which it would be commercial or merchantable: care being taken only that the lengths would be such that the lumber could, in Canada, be sawn into the shorter and specified lengths without waste.

With reference to the lumber it was proved that after it had been cut to the specified lengths, the pieces could not be used in the construction of cars without being re-cut and fitted.

For the Crown it was contended that the sawing of the lumber from the log at the mill of such thicknesses, widths and lengths, that it could be re-cut in specified lengths so as to be used for a specific portion of a car, was a shaping of the lumber within the exception contained in the item (726) of the tariff referred to.

On the other hand the plaintiff contended that this did not amount to a shaping within the meaning of the Statute; that if, as did not appear to be denied, the lumber in question in the shape and condition in which it was would be free of duty if imported for general purposes, or for no definite purpose, it would not become dutiable because its length was such that it could be conveniently and without waste, cut up and used for a specific purpose, and that the importer in giving his order to the millman had this in view; that a piece of white oak lumber could not at one and the same time be shaped or not shaped, dutiable or not dutiable, according to the use to which it was to be put. Parliament not having enacted, as it had done in other cases, that the article should be dutiable or not, according to the use to which it was intended to be applied by the importer or his customers, as for instance, that a white oak plank 30 feet long, which being imported for no specific purpose, or for general purposes, would be free of duty, would not become dutiable because the importer intended to cut it into five pieces six feet long, each of which was adapted to and intended to be used for some specific purpose.

Held, That the plank, boards and lumber in question, in the form in which they were imported, were not shaped within the meaning of the Statute, and that they were not dutiable.

Judgment for the claimant.

McCarthy, Q.C., (with whom was *Robinson, Q.C.*, and *Muckelcan*), for the claimant.

Sedgewick, Q.C., and *Hogg*, for the defendant.

SUPERIOR COURT—MONTREAL.*

Railway—Expropriation—Award—Appeal—51 Vic., ch. 29, sect. 161—Proceedings of arbitrators.

Sect. 161 of 51 Vict. (C.) ch. 29, provides: "Whenever the award exceeds $400, any party to the arbitration may, within one month after receiving a written notice from any one of the arbitrators, or the sole arbitrator, as the case may be, of the making of the award, appeal therefrom upon any question of law or fact to a Superior Court of the province in which such lands are situate; and upon the hearing of the appeal the Court shall, if the same is a question of fact, decide the same upon the evidence taken before the arbitrators, as in a case of original jurisdiction." This Act was assented to on the 22nd May, 1888. The award in question was rendered 18th May, 1888, and served on the appellants 26th June, 1888.

Held, 1. That an award has the force of *chose jugée* between the parties only from the

*To appear in Montreal Law Reports, 4 S.C.

date of service thereof, and that the award in question having been served upon the appellants after the enactment of 51 Vict., ch. 29, they were entitled to the benefit of the appeal provided by that Act.

2. The arbitrators having proceeded under the Act then in force, which did not require that the evidence should be taken in writing, and there being no evidence of record, the Court was not in a position to revise the valuation made by the arbitrators.

3. The fact that the arbitrators and the witnesses were sworn may be established by the declaration in the award itself, setting forth that they were sworn,—more particularly where no objection was made at the time by the arbitrator who represented the party objecting to the validity of the award

4. The majority of the arbitrators having the right to make an award, the absence of the dissentient arbitrator at the time the award was signed before notary is not a ground of nullity.—*Mills* v. *Atlantic and North-West Railway Company*, Loranger, J., October 30, 1888.

Action on cheque—Consideration—Burden of proof.

Held,—That a cheque which does not show consideration on its face is not conclusive evidence of a debt due from the drawer to the payee, but the plaintiff must make proof of the consideration for which it was given. In the present case, such proof was found in the allegations of the plea, and the promises of defendant to pay.—*Dufresne* v. *St. Louis*, Johnson, J., December 15, 1888.

Sale—Price payable by instalments—Title to remain in the vendor until full payment—Right to revendicate.

Held,—That an agreement by which the title of the thing sold is to remain in the vendor until the promissory notes representing the price (payable by instalments) shall have been fully paid, is valid and effective; and that, in the event of the price not being fully paid in accordance with the terms of the agreement, the vendor may revendicate the thing sold.—*Goldie et al.* v. *Rascony*, Davidson, J., Dec. 10, 1888.

Avoidance of contract made in fraud of creditors—C. C. Arts. 1032, 1034—*Assignment of life insurance.*

Held,—1. The assignment of a policy of life insurance is governed by the law of the place where the assignment is made, and not of the place where the policy was issued or where it is payable.

2. Where a person notoriously insolvent transfers a policy of life insurance to a creditor as collateral security for a pre-existing debt, and the amount of the insurance is received by such creditor after the death of the assignor, any other creditor may bring an action in his own name against such assignee to set aside the assignment, and to compel him to pay the money into Court for distribution among the creditors generally.—*Prentice* v. *Steele*, Davidson, J., Dec. 18, 1888.

---

*DECISIONS AT QUEBEC.**

Salvage Agreement.

Held :—That while admitting the general rule of Admiralty decisions in cases of salvage, that amounts greater than what the actual services appear to be worth are allowed to the salvors as an encouragement to save life and property, where, in the opinion of the Court, a salvage agreement is exorbitant, the Court will refuse to enforce it.—*Kaine and Tweddell v. The "Ismir,"* Vice-Admiralty Court, Irvine, J., Nov. 23. 1888.

Hypothecary claim—Assignment—Arts. 1571 *and* 2127 *C.C.*

Held :—That the assignment of an hypothecary claim must be served upon the original debtor, before the assignee can bring an hypothecary action against a third party who has acquired the hypothecated immovable, even though such third party has undertaken by his deed of purchase to pay the debt.—*Grenier v. Gauvreau et vir*, Andrews, J., Nov. 22, 1888.

Refusal of witnesses to answer—Excuse for—Certiorari to produce deposition.

Held :—That on application for *Habeas Corpus* by a witness committed for refusing to give evidence at a preliminary investiga-

* 14 Q.L.R.

tion before a magistrate, a writ of *certiorari* may be ordered to bring up the deposition containing the question put to the witness, the excuse he has given for his refusal and the decision of the Justice thereon.

2. That the statement by the witness that he may be subjected to prosecution for conspiracy to defame, although he has been already convicted of libel, is sufficient ground for claiming protection, and excuse for his refusal to answer; and, if committed for such refusal, he will be discharged on *Habeas Corpus.—Exparte Maguire*, Andrews, J., in Chambers, Nov. 24, 1888.

Procédure—C.P.C. 450, 453—*Frais*.

Jugé.—Qu'une partie dont la demande ou procédure a été rejetée par le tribunal, peut recommencer avant d'avoir préalablement payé les frais encourus par la partie adverse sur la demande ou procédure rejetée. — *Leclerc v. La Cie. du Gaz de Québec*, Caron, J., 6 déc. 1888.

Responsabilité—45 *Vict., Ch.* 35, *Sec.* 60.

Jugé.—1. La 45 Vict., ch. 35, sec. 60 (Canada), ne s'applique pas aux propriétaires de quais auxquels n'accostent que des vaisseaux qui ne font pas le transport de passagers.

2. Le propriétaire d'un quai n'est pas responsable d'un accident qui arrive la nuit faute de lumières sur ce quai.—*Lefebvre & Simard et al.*, en appel, Tessier, Cross, Church, Bossé, Doherty, JJ., 6 déc. 1888.

Arrestation Illégale—Constable—Municipalité—Responsabilité.

Jugé:—Les corporations muncipales ne sont pas responsables des actes, non autorisés ni adoptés par elles, des constables, ou agents de police, que la loi les autorise à nommer et à destituer.—*Rousseau v. La Corporation de Lévis*, en révision, Casault, Andrews, Larue, JJ., 30 nov. 1888.

THE MAKING OF WIGS.

The uses of perukes and periwigs by judges and barristers as part of their professional attire dates from 1670, and has been retained to the present day, although long abandoned by the other two learned professions, and still longer by general society.

The horsehair wigs of the present day are made only of the best horsehair. It is the white qualities which are chiefly used, bought just as it is cut from the horse. Some of it comes from South America, some from France, some from China, and some from Russia. English horsehair is the best, being white down to the points. The hair is first hackled out, and sorted into lengths. It is then drawn through brushes three or four times, and next goes through the process of boiling, bleaching, baking and curling on small wooden pipes, in order to prepare it for the loom. Next it is woven into material on silks of varying degrees of fineness (this work is done by women), and picked out for the different portions of the wigs, which are made on blocks or models, of which there are nearly a couple of hundred. As a rule, very little of the hair in its raw condition is of use. Most wig-makers buy their hair in a curled state from large curlers; but others curl their own with a small hand-curling machine, which keeps the wig in a more firm condition, and prevents the hair turning to a yellow hue, as happens with inferior kinds. With this exception everything is done by hand.

Years ago, wigs had to be perpetually curled, and frizzed, and powdered. To Humphrey Ravenscroft—the grandson of Thomas Ravenscroft—the founder in 1726 of the firm of wig-makers and makers of all things belonging to lawyers' professional attire, on the same premises in Serle street, Lincoln's Inn, occupied by the present firm, occurred the idea of permanently fixing, by mechanical means, the multitudinous curls of wigs. The general use of white hair for the manufacture of wigs was precluded at that time by its enormous price, according to Diprose's "St. Clement Danes' Parish" (1876), from which many of these details are taken. In the *Weekly Journal* for 1720 it is stated that the white hair of a woman who lived to the age of 170—a misprint probably for 107—was sold, after her death, to a periwig maker for £50. After a variety of experiments he took out a patent in 1822. Its terms are these. It is a patent for "making a forensic wig, the curls whereof are constructed on a principle to supersede the

necessity of frizzing, curling, or using hard pomatum, and for forming the curls in a way not to be uncurled; and also for the tails of the wig not to require tying in dressing; and, further, the impossibility of any person untying them.' This patent contained the principle of the present 'fixed' wig, of which they are the makers. Till then, wigs had been made of human hair, but by using white horsehair with a judiciously small quantity of black hair, a wig bearing a close resemblance to the old powdered wig was produced. The proportion is about one of black to five of white. The invention was mainly introduced to enable bench and bar to evade Pitt's tax on hair-powder. The old wigs were much heavier, owing to the quantity of grease which was being continually rubbed into them. The lining was necessarily thick, and contrasted very unfavorably with the present light silk-ribbon frame. The powder was always coming off, and, with the old wigs, cleanliness was out of the question.—*Law Journal.*

MONTREAL APPEALS.

The following cases remain *en délibéré* after the January term:—Cherrier & Terihonkow; Fortin & Dupuis; Devin & Ollivon; Yon & Cassidy; Jacobs & Ransom; Dunn & Cossette; Dorion & Dorion; North Shore Ry. Co. & McWillie; Irwin & Lessard; McLean & Kennedy; Joseph & Ascher; Shaw & Perrault; Stearns & Ross; Lyons & Laskey; Evans & Lemieux; Trudeau & Viau; Martin & Labelle; Trudel & Cie. d'Imprimerie Can.; Cité de Montréal & The Rector, etc., Christ Church Cathedral; Bell Telephone Co. & Skinner (No. 161); Millette & Gibson; Baldwin & Corporation of Barnston; Vinceletti & Merizzi; Bell Telephone Co. & Skinner (No. 137).

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Feb. 2.

Judicial Abandonments.

Anaïs Paradis, wife of Louis Lambert, Ste. Julie de Somerset, Jan. 29.

William Dieterle, trader, Côte St. Antoine and Montreal, Jan. 28.

Philippe Charles Gagnon, trader, Quebec, Jan. 26.

Jean Bte. Martel, trader, St. Raymond, Jan. 24.

Robitaille & fils, boot and shoe dealers, Montreal, Jan. 30.

Curators Appointed.

Re J. Bte Dionne.—J. E. Girouard, Drummondville, curator, Jan. 23.

Re J. B. Giguère & Co.—C. Desmarteau, Montreal, curator, Jan. 30.

Re Julien Martineau.—Kent & Turcotte, Montreal, joint curator, Jan. 30.

Dividend.

Re J. E. Beauchemin, Sorel.—Dividend, payable Feb. 19, W. S. M. Desy, Sorel, curator.

Separation as to Property.

Adelina Lapointe vs. Adélard Armstrong, inn-keeper, and now farmer, parish of St. Barnabé, Jan. 25.

Minutes Transferred.

Minutes of Auguste Séguin, N.P., Ste. Thérèse de Blainville, transferred to D. LeGuenier, N.P., St. Jovite.

GENERAL NOTES.

"As Soon as Possible."—A somewhat interesting commercial case lately came before the judge of the Manchester County Court. It appeared that in September last the defendants ordered from the plaintiff certain yarn to be delivered "as soon as possible." As there was difficulty in getting the yarn, the plaintiff was not able to deliver till November. When he delivered part, very late in that month, the defendants wrote the plaintiff cancelling the order and enclosed a cheque for the account, less a certain amount, and explained that as they had to replace the order at advanced prices, the amount deducted represented ½d. per pound difference between the contract price and the price they paid in order to replace the order. For this amount (which the defendants deducted) the plaintiff sued, and the defendants set up a counter-claim for damages for non-delivery—namely, ½d. per pound difference between the contract price and the market price. The defendants admitted the plaintiff's claim, and the judge construed the words "as soon as possible" to signify within a reasonable time; and as he considered the plaintiff had not delivered within a reasonable time, the defendants were entitled to the full amount of their counter-claim, and judgment was given accordingly.—*Law Journal.*

Common Barratry.—At Liverpool recently a solicitor was summoned at the instance of a director of a company on an allegation that he had committed the offence of "common barratry," that he had urged the shareholders to raise and maintain actions against the directors and promoters. It was contended for the defendant that there had not been a case on the point for nearly three hundred years, and that the complainant had wholly misinterpreted the meaning of the term "common barratry." Coke's opinion was given to the effect that such an offence must apply not to one case only, but to a number of cases—a common exciter and maintainer of suits which were groundless. As the magistrate took this view, he dismissed the summons and declined to grant a fresh one. Two other crimes bearing a strong affinity to the foregoing are champerty and maintenance, and both of these unlawful acts were held to have taken place in the case of *James* v. *Kerr*, where it was held that a bonus payable to the defendants in the event of succeeding in litigation was void as champerty, and that a stipulation that a particular solicitor should be employed was an act of maintenance.—*Ib.*