The Legal News.

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The danger which may lie in a name was illustrated by the case of *Milwaukee Malt Extract Co.* v. *Chicago, etc. Co.* The plaintiffs manufactured an article which they called "New Era Beer," and they wished to have a consignment of it carried into the State of Iowa. The transportation of intoxicating liquors into that State being prohibited, the defendants refused to carry it. The plaintiffs, alleging that their fluid was not intoxicating, applied for a writ of *Mandamus* to compel the defendants to perform their duty as common carriers. The Supreme Court of Iowa decided against the plaintiffs, holding that as they called their manufacture "New Era Beer," the presumption was that it really was beer, and the Statute law of Iowa declared that beer was an intoxicating liquor. "The words 'New Era' added to the word 'beer' (observed the Court) indicated nothing as to the character of the product. Suppose the plaintiffs had tendered to the defendants, for transportation, any article denominated simply 'brandy;' would the plaintiffs be entitled to maintain their action for *mandamus* to compel the defendants to receive the article, upon an allegation that it was a new kind of brandy which had no intoxicating quality? We think not. The defendants would discover by the name that the article is apparently prohibited, and could not determine otherwise without resorting to chemical analysis, or some other kind of evidence. The determination would call for the exercise of a discretion as to what evidence should be resorted to, and what should be deemed satisfactory. Where an act is to be performed or omitted in the discretion of a party, the performance cannot be enforced by an order of *mandamus*. In High, Extr. Rem. the author says: 'Stated in general terms, the principle is that *mandamus* will lie to compel the performance of duties purely ministerial in their nature, and so clear and specific that no element of discretion is left in their performance, but that, as to all acts or duties, necessarily calling for the exercise of judgment or discretion, upon the part of the officer or body, at whose hands their performance is required, *mandamus* will not lie. The fact, then, that the product in question is not intoxicating, does not, in our opinion, give a right to this action. From the name of the product the defendant had a right to infer that the transportation was prohibited, and we think it was not bound at its peril to correctly analyze the product, or determine otherwise that it was not in fact intoxicating. We think that the demurrer was properly sustained."

The London *Lancet* does not share the opinion recently put forward by some morbid philanthropists, that hanging is a barbarous method of extinguishing the life of persons who are condemned to death. It says: "At length it is beginning to be recognized in France that the brain of a decapitated criminal lives, and consciousness is maintained for an appreciable time, which to the victim may seem an age, after death —an opinion we strongly expressed many years ago. This ghastly fact, as we have no doubt it is, being perceived, it is beginning to be felt that executions cannot any longer be carried out by the guillotine. Prussic acid is now proposed. If instantaneous death be desired, this is clearly inadmissible. The period taken to terminate life by poison of any kind must needs vary greatly with the individual. In not a small proportion of instances we fancy death by prussic acid would be considerably protracted, and, although long dying is not so horrible as living after death, so to say, yet it is strongly opposed to the interests of humanity to protract the agony of a fellow creature dying by the hand of justice. Electricity is another agent suggested. We doubt the possibility of applying this agent so as to destroy life instantly. We confess that, looking at the matter all round, we incline to think that hanging, when properly performed, destroys consciousness more rapidly, and prevents its return more effectually than any other mode of death which justice can employ. It is against the bungling way of hanging we

protest—not against the method of executing itself. That it is, on the whole, the best, we are convinced."

The mode in which a thief intends to dispose of the stolen property, so long as the owner is deprived of it, does not affect the character of the offence. Is it larceny if the owner is not really deprived permanently of his goods, but is only made to pay a fraudulent charge upon them? That was the question presented to the Supreme Court of Alabama in *Fort* v. *State*, June 20, 1887 (9 Crim. Law Mag. 935). Farm laborers, who were hired to pick cotton at a certain price per hundred pounds, entered a cotton-house, and removed some cotton with the intent to place it with some that they had picked, and which had not been weighed. The Court came to the conclusion that this taking, being with the intent of depriving the owner of property, and placing it where the taker could claim a lien on and hold it until the ordinary compensation for picking was paid, was larceny. The Court cited *Reg.* v. *Richards*, 1 Car. & K. 532, and some United States decisions.

COUR DE CIRCUIT.

SAGUENAY, 4 septembre 1885.

Coram ROUTHIER, J.

BOURGOING v. SAVARD.

Action d'injures—Plaidoyer de justification.

Le demandeur poursuit le défendeur pour injures et diffamation, parce que ce dernier aurait dit et répété qu'il est un malhonnête homme, un voleur, etc.

Le défendeur plaide par exception : "Que tout ce qu'il a pu dire au sujet du demandeur diffère des allégations de la déclaration en cette cause, et que tout ce qui sera prouvé avoir été dit par lui est vrai ; que les paroles qu'il a pu proférer au temps et dans les circonstances en question ne sont pas de nature à causer des dommages au demandeur, ce dernier étant connu aux endroits mentionnés en la déclaration, pour ses transactions commerciales et autres auxquelles avaient trait les paroles du défendeur."

Motion du demandeur que ces allégués de l'exception soient rejetés du dossier :

I. Parce que les allégués de la dite exception sont trop vagues et ne font pas voir sur quoi repose la défense du défendeur ;

II. Parce que l'exception ne dit pas quelles paroles le défendeur a prononcées, ni ne fait voir si les propos qu'il a pu tenir sont de nature à nuire au demandeur ;

III. Parce que la dite exception ne dit pas quelle est la réputation du demandeur au sujet de ses transactions commerciales.

A l'argument le défendeur cita : *Delisle* v. *Beaudry*, 12 L. C. J. p. 221 (1868), Beaudry, J. : "Qu'un défendeur peut plaider légalement que tout ce qu'il a dit diffère de ce que le demandeur allègue dans sa déclaration, et que tout ce qu'il a dit est vrai."

Jugement : Motion du demandeur accordée avec dépens pour les motifs y mentionnés.

Charles Angers, procureur du demandeur.

J. S. Perrault, procureur du défendeur.

(C.A.)

COUR SUPÉRIEURE.

SAGUENAY, 1886.

Coram ROUTHIER, J.

I. GAUTHIER v. R. GAUTHIER *et al.*, & le dit R. GAUTHIER, opposant, & les dit I. GAUTHIER *et al.*, contestants.

Taxation de mémoire de frais — Honoraires quand plusieurs défendeurs se défendent séparément—Frais d'expert et procureur distrayant.

JUGÉ :—1o. *Que si par une erreur de calcul en additionnant les différents items d'un mémoire de frais, l'on forme un total de* $119.00 *au lieu de* $159.00, *et que le mémoire de frais est taxé à la première de ces sommes, conformément à l'avis de taxation donné, une exécution ne peut ensuite émaner que pour cette somme de* $119.00 *à moins que l'erreur ne soit corrigée par une révision régulière ; Que sur exécutoire pour* $159.00 *sans que telle révision ait eu lieu, le montant réclamé sera réduit à* $119.00 *sur opposition à la saisie ;*

2o. *Que trois défenses séparées par trois défendeurs qui invoquent les mêmes moyens, mais qui ont comparu et plaidé par le même procureur, donnait à ce dernier droit à trois honoraires ;*

3o. *Que le procureur distrayant a droit d'inclure dans son mémoire, et de réclamer par exécu-*

tion le montant des frais d'un expert sans taxation spéciale, même quand il appert qu'il n'a point payé tel expert, ni fait de déboursés à son sujet.

Le demandeur avait poursuivi les défendeurs conjointement et solidairement, parce qu'ils auraient coupé une certaine quantité de bois sur sa propriété. Les défendeurs comparurent et plaidèrent séparément les mêmes moyens par le même procureur. Après expertise par un arpenteur, l'action fut renvoyée faute de preuve.

Le procureur distrayant des défendeurs fit préparer son mémoire, et chargea un honoraire sur chaque défense ; mais par une erreur de calcul, le total des différents items ne fut porté qu'à $119.00 au lieu de $159.00, et le mémoire fut certifié à $119. Après avis de taxation, le mémoire fut taxé à cette dernière somme. Le procureur distrayant prit un exécutoire en son nom, mais au dernier moment, s'apercevant de l'erreur de calcul commise, il fit émaner le bref pour $159.00, sans aucune formalité de révision, ni avis à la partie adverse.

Mais, dans le montant des frais réclamés se trouvait comprise une somme de $80.00, frais de l'arpenteur, expert qui avait agi dans la cause.

Le demandeur fit opposition afin d'annuler pour partie, alléguant qu'un seul honoraire devait être accordé; que l'on ne pouvait réclamer plus de $119.00 vu les raisons ci-dessus, et surtout que le procureur distrayant ne pouvait inclure dans son mémoire et réclamer par exécution les $80.00 dues à l'expert, n'ayant jamais déboursé toute ou partie de cette somme.

Et à l'appui, l'opposant disait: Le mémoire de l'expert doit être taxé séparément. C'est à ce dernier à prendre l'initiative, Ordonn. de 1667, art. 15, et les parties ont intérêt à le discuter directement avec lui. L'arpenteur ne se peut trouver en position meilleure que le Shérif qui doit faire taxer son compte avant de réclamer, Art. 705, C. proc., et qu'un tiers-saisi, 15 L. C. R. p. 152.

La saisie a été pratiquée au nom du procureur distrayant, et bien que ce soit les défendeurs qui contestent l'opposition, n'empêche pas que ce soit lui qui réclame en vertu de la distraction qu'il a obtenue. Le droit à la distraction repose sur la présomption que les déboursés ou la plus grande partie d'iceux ont en réalité été faits par l'avocat. C. proc. français, art. 133. Merlin commentant cet article, Répert. vol. 4, p. 631, col. 7, fait remarquer : Au surplus, l'article 133 du code de procédure ne permet aux avoués de demander la distraction des dépens à leur profit qu'en affirmant lors de la prononciation du jugement qu'ils ont fait la plus grande partie des avances. De là, l'arrêt, etc.

Bioche, Dict. de procéd., vol. 3, p. 98: "La distraction des dépens est le droit accordé à un avoué *de toucher ses déboursés* et honoraires sur les dépens adjugés à la partie, etc. Il y a plus, les avances ayant été réellement faites par l'avoué, etc." Pigeau, proc., vol. I., p. 419, liv. 2, part. 3, tit. 2, ch. 4, est encore plus explicite.

Comme on le voit, il s'agit toujours de protéger l'avocat ou l'avoué pour les déboursés qu'il a réellement faits et pas plus.

Il est vrai que notre code n'exige pas l'affirmation connue en France ; mais le principe sur lequel repose la distraction est le même chez nous qu'en droit français. Il est prouvé que le procureur distrayant n'a fait aucune avance à l'expert.

La raison qui engageait l'opposant à insister sur l'application rigoureuse des principes qui régissent la distraction de frais, c'est qu'il y avait des créanciers hypothécaires qui risquaient de perdre partie de leurs créances si les frais de l'arpenteur étaient colloqués par privilège au même rang que les autres frais; ce qui ne pouvait manquer d'avoir lieu, vu 33 Vict. C. 17, amendant l'art. 606 du code de procédure, et *Tansey & Bethune*, M. L. R., 1 Q. B. 28.

L'opposant faisait aussi motion pour faire réviser le mémoire et spécialement pour faire retrancher les frais de l'expert.

Les contestants répondaient :

Que l'erreur cléricale commise dans l'addition des frais pouvait être corrigée par le protonotaire, sans révision du mémoire.

Que plusieurs défendeurs ont droit de se défendre séparément, même quand leurs moyens de défense sont les mêmes.

Que sous notre code, le procureur distrayant peut inclure dans son mémoire tous les

frais taxables et dûs.—*Beauchesne & Pacaud*, et *Despré & Leclerc*, 15 L. C. R. 193.

Que le fait d'inclure dans le mémoire les frais de l'expert équivaut à la taxation spéciale à la diligence de ce dernier, que l'opposant prétendait être de rigueur.

Jugé : Que les trois honoraires devaient être accordés. La somme réclamée réduite à $119.00, et l'opposition renvoyée quant au surplus, sans frais.

La Cour faisant observer qu'il eût été plus régulier de faire taxer spécialement le compte de l'arpenteur ; que l'opposant aurait pu faire suspendre les procédés sur la saisie, pour faire taxer régulièrement ce compte, mais ne pouvait s'opposer à la saisie afin d'annuler.

Charles Angers, procureur de l'opposant.
J. S. Perrault, procureur des contestants.
(C. A.)

QUEBEC DECISIONS. *

Action par femme commune en l'absence de son mari.

JUGÉ :—Qu'une femme commune, dont le mari est absent depuis dix ans, ne peut poursuivre en son nom pour réclamer des biens mobiliers à elle spécialement donnés pendant l'absence de son mari ; ces biens tombent dans la communauté, et la femme ne peut porter une action, même autorisée de justice, avant de se faire envoyer en possession provisoire des biens de son mari absent, si elle a droit (C. C. 636). La femme, dont le mari est absent, peut être autorisée par justice à ester en jugement (C. C. 180) ; mais ce ne peut être que pour la poursuite des droits qui lui sont propres, et non de droits appartenant à la communauté qui n'est pas dissoute et dont elle n'a pas l'administration.—*Dasylva* v. *Lizotte*, Cour de Circuit, Casault, J., 28 mai 1881.

Bail—Réparations—Saisie-gagerie—Droit de suite—Frais.

JUGÉ :—Qu'un locataire avant de quitter les lieux qu'il occupe en vertu d'un bail authentique et qu'il prétend être inhabitables, doit mettre en demeure son locateur d'avoir à les réparer sous un délai déterminé, et à défaut par le locateur de se conformer à la sommation, le locataire peut se pourvoir en justice pour faire résilier le bail ;

2. Que s'il y a dans le bail une clause spéciale par laquelle il est dit que le locateur ne sera tenu à aucune réparation pendant toute la durée du bail, pas même à tenir les lieux clos et couverts, le locataire sera lui-même tenu aux réparations s'il devient nécessaire d'en faire ;

3. Que si un locataire quitte les lieux et enlève ses meubles avant l'expiration du bail, une saisie-gagerie par droit de suite pourra émaner pour la balance du loyer tant échu qu'à écheoir, et le jugement pourra condamner le défendeur à payer sans délai le loyer échu, et quant au loyer à écheoir au fur et à mesure qu'il deviendra dû et échu, et la saisie-gagerie par droit de suite sera déclarée tenante jusqu'à complète exécution du jugement ;

4. Que dans une cause de cette nature, le montant des frais sera déterminé par le montant du loyer tant échu qu'à écheoir, et non par le montant du loyer échu au moment de l'action.—*Simmons* v. *Gravel*, Cour de Circuit, Caron, J., 25 février 1884.

Abandonment of property—Joint curator.

HELD :—That although articles 763 *et seq.* C. C. P., as amended by 48 Vict., ch. 22, use the expression "a curator," there is nothing in the law to exclude a joint curatorship composed of two or more persons.

2. That the appointment of a curator is in the Court or judge, and not in the creditors, but creditors attending the meeting will be heard, and their suggestions as to the appointment will be considered by the Court. —*In re Beaudet & Chinic*, S. C., Stuart, Ch. J., September 6, 1887.

Billet promissoire—Novation.

JUGÉ :—Que la délivrance par un débiteur à son créancier du billet promissoire d'un tiers en paiement d'une dette, n'opère pas novation, à moins que l'intention du créancier qu'il y ait novation ne soit expressément et clairement exprimée.—*Lagueux* v. *Joncas*, Cour de Circuit, Caron, J., 21 mai 1886.

* 13 Q. L. R.

Criminal information—Libel—Option of remedy.

HELD:—1. That the remedy by a criminal information, for a misdemeanor of a gross and notorious kind, filed in the Court of Queen's Bench, at the instance of an individual, by the Clerk of the Crown, exists in this province;

2. That such information can only be filed by leave of the Court, the exercise of such remedy being thus placed within the discretion of the tribunal;

3. That the Court will take into consideration all the circumstances of the charge before it will lend its assistance to this extraordinary mode of prosecution;

4. That when the prosecutor has chosen another remedy, which he has not expressly renounced, he cannot obtain leave to file a criminal information.—*Ex parte O'Farrell*, Court of Queen's Bench, criminal side, Cross, J., October, 1887.

Donation, Action to revoke—Saisie-conservatoire.

HELD:—That a donor demanding the revocation of a donation for cause of ingratitude, may cause the issue of a *saisie-conservatoire*, pending the action, to attach in the hands of the donee the effects donated, and also any moveables replacing those donated. —*Cryan* v. *Cryan*, S. C., Beauce, Angers, J.

Exécuteur testamentaire—Nomination par le tribunal—Destitution—Durée de l'exécution.

JUGÉ:—1. Que la nullité de la nomination par justice d'un exécuteur testamentaire, l'échéance du temps fixé pour la durée de ses pouvoirs, et sa mauvaise administration, ne sont pas des moyens incompatibles, et qu'ils peuvent être tous les trois joints dans une action pour sa destitution et sa dépossession;

2. Que des prêts amplement garantis faits l'un à un des légataires en usufruit, pour lui permettre de faire un voyage que requiert sa santé et que lui prescrivaient ses médecins, et l'autre à la mère des légataires pour réparer une propriété appartenant à elle et à tous les légataires moins un, quoiqu'ils ne soient pas l'emploi des deniers spécifié dans le testament, ne sont pas, en l'absence d'une preuve qu'ils eussent pu être avantageusement placés de la manière voulue par le testateur, une cause de destitution;

3. Que, lorsque, dans un testament qui a reçu son exécution par la mort du testateur avant la mise en force du Code Civil, le testateur a exprimé la volonté que l'exécution du testament fut continuée jusqu'à l'arrivée d'un évènement déterminé, et que les exécuteurs sont morts sans se donner les successeurs que le testateur les avait chargés de nommer, le tribunal, ou le juge, peuvent, en vertu des pouvoirs que leur en confère l'article 924 C. C., et sans donner à cet article un effet rétroactif, nommer un exécuteur pour continuer l'exécution du testament;

4. Que l'arrivée de l'évènement indiqué par le testateur comme terme de l'exécution de son testament y met fin, lors même que les exécuteurs n'ont pas pu compléter ce dont ils paraissent avoir été chargés.—*Chouinard* v. *Chouinard*, C. S., Casault, J., 22 nov. 1886.

COURT OF APPEAL.

LONDON, Nov. 7, 1887.

Before the MASTER *of the* ROLLS *and* LORDS JUSTICES BOWEN *and* FRY.

IN RE JOHNSON.

Contempt—Interference with the administration of justice—Acts not committed in face of the Court.

This was an appeal by Johnson, a solicitor, from an order of Mr. Justice Kekewich, sitting as Vacation Judge, for committal to prison for contempt of court. It appeared that there was an action of "*Jonas* v. *Long et al.*" in the Lambeth County Court, in which a solicitor named Robinson was acting for the plaintiff, and Johnson was acting as solicitor for Harris, one of the defendants. On the 16th of August, an application was made to Mr. Justice Kekewich, sitting as Vacation Judge in Chambers, to stay proceedings under an order made by the County Court Judge in the above action pending an appeal to the High Court. Robinson and Johnson were both present before the judge, and after the application had been disposed of, it appeared, as stated in the affidavits filed on behalf of the plaintiff and Robinson, that when they got into the hall outside the judge's chambers, Johnson began to abuse

Robinson, and continued to do so until they arrived downstairs at the Temple Bar entrance to the building, when Johnson called Robinson a "liar" and a "d——d perjured scoundrel," and shook his fist in Robinson's face, without, however, actually striking him. Robinson also stated in his affidavit that while in the judge's chambers Johnson would not let him see the judge's endorsement on the summons, but snatched it from his hands, and the judge rebuked Johnson. Next day, on Robinson's application, Mr. Justice Kekewich gave leave to serve Johnson with notice of motion to commit him for contempt. This notice was not served personally, and when the motion came on in court on August 24, as Johnson did not appear, Mr. Justice Kekewich ordered the motion to stand over till August 31, and copies of the notice of motion to be sent by registered letter to Johnson's address. This was done, the affidavits in support of the motion being sent in the registered letter. Johnson did not appear on August 31, and Mr. Justice Kekewich made an order of committal, the order stating that "it appearing by the evidence that the said Johnson did within the precincts of this court threaten, assault and intimidate the said Charles Robinson, and this court being of opinion, upon consideration of the facts disclosed by such evidence, that the said Johnson has been guilty of contempt of this court, it is ordered that the said Johnson be committed to prison for his said contempt." From this order Johnson appealed, and filed an affidavit, in which he denied having used the language attributed to him or having intimidated Robinson, and stated that he was at the time suffering from personal trouble, and that he regretted his language and acts. He also denied that he was personally served with the notice of motion, and said that he had no knowledge of the notice of motion until August 23.

Mr. *Oswald* (Mr. *F. Watt* with him), for Johnson, contended that there was no contempt of court. A judge sitting at Chambers did not constitute a court, and there was no power in a judge at Chambers to fine or imprison. (*R.* v. *Faulkner*, 2 Cr. M. & R., 525.) The Judicature Acts had not enlarged his powers. There could be no "contempt of court" where what took place occurred at Chambers. Further, even if the judge at Chambers was sitting in court, there was no contempt here, what happened being mere personal abuse, and not an attempt to interfere with the course of justice. There was no insult to the judge (*Ex parte Wilton*, 1 Dowl. N.S. 805; *Republic of Costa Rica* v. *Erlanger*, 46 L.J., Ch., 375); and considering where the alleged violent language took place, the contempt, if any, was not committed within the precincts of the court. He also contended that the proceedings were irregular, as the notice of motion to commit had not been personally served, and no sufficient notice of the application had been given to the solicitor.

Mr. *Johnston Watson*, for the respondents, was not called upon to argue.

The Court dismissed the appeal.

The MASTER of the ROLLS said that he would take no notice of what took place before the judge at Chambers on the day in question, but when the solicitors left the room, Johnson began his infamous conduct (whether close to the judge's door or within a particular building was immaterial), and continued it down the stairs to the door of the building. His disgraceful conduct consisted in his using vile language to the other solicitor in connection with the proceedings before the judge, who had given a decision against him. Was that an insult to the administration of justice? No doubt it was intended to be an insult to the administration of justice and to bring it into contempt, and there could be no doubt that it was an insult to the administration of justice. The matter then came before the judge in court. His Lordship (the Master of the Rolls), having dealt with the argument that Johnson had no notice of the motion before the judge, said that he was clear that Johnson had actual notice of the application, as the notice and affidavits were sent by registered letter to his office and private address and not returned through the Post Office, and Johnson had not sworn that they did not come to his notice. The judge having made an order for his committal, the solicitor, instead of going before the judge and apologizing, appealed to this

court, and it was argued on his behalf that no contempt had been committed in the court. It did not follow, however, that there was no contempt of court. It was also argued that a judge sitting in Chambers was not sitting in court, and therefore what occurred was not a contempt of court. It was not necessary, however, that the thing should take place in court, or be a contempt of a judge who was sitting in court. All that was necessary was that it should be a contemptuous interference with judicial proceedings, the judge acting in his judicial capacity as a judge of the High Court. That was laid down by Chief Justice Wilmot, in a prepared judgment in *R.* v. *Almon*, set out at length in "Opinions and Judgments of Wilmot, C. J.," at p. 265, which judgment, however, it was not necessary to deliver. The doctrine there laid down was approved by Lord Lyndhurst in *Ex parte Van Sandau* (1 Phillip's Reports, 445). That doctrine was applicable to proceedings before a judge, where a judge was acting judicially in his office as a judge of the High Court, whether in court or in a private room; and any one who interfered with that judicial proceeding so as to bring it into contempt was guilty of contempt, not of the judge, but of the court of which that judge was a member. That doctrine applied to what was done by the judge, wherever sitting, if he was exercising his judicial functions. Moreover, it was not confined to a judge, but applied to a master of the court. That appeared from *Ex parte Wilton* (1 Dowl. N.S., 805). The act here took place immediately after the decision of the judge, and it was intended to throw contumely and insult upon what the judge had done and to interfere with the administration of justice. Whether a judge sitting at chambers was or was not a court he would not decide, but at any rate the judge was acting for the court, and the insult was a contempt of the court whose representative the judge was. The solicitor was then summoned to appear in court before the judge, and the solicitor, having notice of the application, deliberately abstained from appearing before the judge in court on the 31st of August. The judge then had power to order his committal, and the order was perfectly right.

Lord Justice BOWEN said that the law had armed courts of record with the power of preventing and of punishing *brevi manu* attempts to interfere with the administration of justice. It was upon that ground that insults to judges, witnesses, and jurors were not allowed. And it was upon that ground that persons engaged in judicial proceedings in courts of justice were protected both in going to and returning from the courts. Had that principle been broken here? At the entrance to the building the solicitor insulted and all but assaulted, if he did not actually assault, the other solicitor. Was not that a gross interference with the administration of justice? It was immaterial whether the offence was committed in the face of the court, provided it amounted to an interference with the administration of justice. It was not necessary to consider the power of the judge at chambers to commit for contempt, as the judge was sitting in court when he made the committal order, though the contempt occurred in connection with proceedings at Chambers. The protection thus afforded to persons attending the judge at Chambers would equally apply to persons attending the other officers of the court, such as the masters. The punishment inflicted by the learned judge was quite right and was richly deserved, and the appeal must be dismissed.

Lord Justice FRY was of the same opinion, and had nothing to add, except to express his surprise that an officer of the court should have brought this appeal, and it might be that other persons would have to consider the conduct of this solicitor.

FAILURE TO PAY OVER CLIENT'S MONEY.

On November 1, before Mr. Justice Manisty and Mr. Justice Charles, an application on the part of the Incorporated Law Society against Charles George Barnes, a solicitor, of Hastings, was heard. In July, 1885, he, as solicitor for one Jenner, administrator for Mary Jenner, had received various sums of money owing to the estate, amounting to £214. Various applications were made by

his clients for payment, but without effect. In July, 1886, another firm of solicitors were instructed by them to apply to him for payment, and he wrote to them making various excuses—that he was very busy, or out of town, or suffering from rheumatism, &c. Failing to obtain payment, the solicitors brought the matter before the Incorporated Law Society, who, in November last year, made a communication to him, in answer to which he wrote a long letter, the substance of which was that he had received a notice from a trustee in bankruptcy of his client not to part with the money, and he sent an account which made the balance due £126. On January 8, however, he wrote another letter, stating that the notice had been withdrawn, but nevertheless, notwithstanding repeated applications, he had not paid the money. The case had been once adjourned, at the request of the solicitor, but he filed no affidavit until, after a further indulgence to two o'clock, he filed an affidavit which ascribed his failure to pay over the money—first, to the notice not to pay it, and next to the withdrawal of a secret partner who had given a guarantee to their bankers which he in March last withdrew, in consequence of which they closed the account, which was overdrawn. Owing to this, he said, he had not been able to pay the money, which, however, he now undertook to pay within forty-eight hours.

Mr. Justice Manisty said the case was not one in which there appeared to have been a deliberate design to deprive the client of the money. Nevertheless, it was a case which could not be passed over without a sentence of some severity, though the Court did not think it a case for striking the solicitor off the rolls. The order must be that he be suspended from practice for twelve months, and also that within forty-eight hours he must pay the money due or be struck off the rolls.—*Law Journal.*

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Nov. 26.

Dividends.

Re Arsène Neveu—First and final dividend, payable Dec. 10, C. Desmarteau, Montreal, curator.

Re Joseph Parent—First and final dividend, payable Dec. 13, P. J. Bazin, Quebec, curator.

Separation as to Property.

Marie Anne Cloutier vs. Joseph Cloutier, *restaurateur*, Three Rivers, Sept. 16.

Délima Dault vs. Israël Lemay, Beauharnois, Nov. 22.

Philomène Laurendeau vs. Joseph Corriveault, Magog, Nov. 21.

Elizabeth Renaud vs. Adolphe Ethier, carpenter, Ste. Cunégonde, Nov. 4.

Quebec Official Gazette, Dec. 3.

Curators appointed.

Re Zélire Brouillette (E. Beauchamp & Co.)—C. Desmarteau, Montreal, curator, Nov. 26.

Re J. D. E. Boisvert, Drummondville.—J. McD. Hains, Montreal, curator, Nov. 24.

Re Etta Carpenter (Henry Dinning & Co.).—Thos. O'Neill, Quebec, curator, Nov. 28.

Re E. A. Emond.—H. A. Bedard, Quebec, curator, Nov. 30.

Re Harris, Heenan & Co., leather merchants.—S. C. Fatt, Montreal, curator, Nov. 29.

Re Joubert & Pepin.—C. Desmarteau, Montreal, curator, Dec. 1.

Re Théodore Pelletier.—C. Millier and J. J. Griffith, Sherbrooke, joint curator, Nov. 29.

Dividends.

Re Alice M. Swalwell *et al.*—First and final dividend, payable Dec. 20, J. M. M. Duff, Montreal, curator.

Re L. H. Lafleur, Yamaska.—First dividend, payable Dec. 22, Kent & Turcotte, Montreal, curator.

Separation as to property.

Marie Alice Boilard vs. Eugène Charles Carbonneau, clerk, township of Montminy, Nov. 26.

Flore Fauteux vs. Désiré Drainville, physician, Berthier, Nov. 14.

GENERAL NOTES.

La Cour d'assise de Moscou a jugé dernièrement une aventurière, d'un genre tout à fait extraordinaire, qui était connue sous le nom de "Main d'or."

Cette dame a passé toute sa vie à voyager en Europe et à faire des dupes. Elle s'est mariée dans différents pays seize fois, dont une seulement en Russie. Deux de ses mariages ont été contractés à Paris et trois en Allemagne. Elle vivait plusieurs mois avec chacun de ses maris et, après l'avoir dépouillé de sa fortune, disparaissait pour aller à la recherche d'une nouvelle dupe.

Il y a quelques années, la "Main d'or" avait été jugée déjà à Moscou pour escroqueries et on l'exila en Sibérie. Là, elle sut séduire le commandant de la place où elle était internée. Il l'épousa et s'enfuit avec elle à Constantinople.

La "Main d'or" abandonna encore son mari russe et revint en Russie, où, pendant deux ans, elle continua à vivre d'expédients de toute sorte. On l'arrêta enfin sur la plainte d'une nouvelle dupe qu'elle avait faite et elle échoua sur les bancs de la Cour d'assises, qui vient de la condamner encore une fois à la déportation.