The Legal News.

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The case of *Bunnell v. Stern*, before the New York Court of Appeals, shows that the extension of accommodation for customers in places of business involves increase of responsibility. The Court (Dec. 2, 1890) held that a merchant who sells ready-made cloaks at retail, and provides mirrors for the use of customers while trying them on, and clerks to aid in the process, thereby impliedly invites his customers to take off their wraps and lay them down in the store, and is bound to exercise some care over such wraps. Where the merchant provides no place for keeping wraps, and does not notify customers to look out for their wraps themselves, nor give any directions to his clerks on the subject, he is liable for the loss of a wrap laid on the counter by a customer while trying on a cloak, as the omissions above mentioned indicated that he did not exercise any care whatever. The Court said :—" The defendants kept a store, and thus invited the public to come there and trade. In one of its departments they kept ready-made cloaks for sale, and provided mirrors for the use of customers in trying them on, and clerks to aid in the process. They thus invited each lady who came there to buy a cloak to remove the one she had on, and try on the one that they wished her to purchase, because the invitation to do a given act extends by implication to whatever is known to be necessary in order to do that act. It is not perceived, that under the circumstances disclosed by the evidence, the obligation of the defendant would have been greater or in any respect different if one of their number had met the plaintiff on the street, and had not only expressly invited her to come to the store and buy a cloak, but had also requested her to take off her wrap and try on the one that he offered to sell her. The clerk who waited upon her stood in the place of the defendants as long as she was engaged in the line of her duties, and no claim is made that she at any time exceeded her authority. Therefore when she led the way to the second mirror, and stood before it holding the new garment in her hands in readiness to help the plaintiff try it on, in legal effect one of the defendants stood there inviting her to try it on, and to lay aside her wrap for that purpose. She accepted the invitation, and removed her wrap, but as she could not hold it in her hands while she tried on the other, it was necessary for her to lay it down somewhere. No place was provided for that purpose. There was not even a chair in sight. She was neither notified where to put it, nor informed that she must look out for it, as it would be at her own risk whatever she did with it. She put it in the only place that was available, unless she threw it on the floor, and as she did so, in contemplation of law, the defendants stood looking at her. Under these circumstances we think that it became their duty to exercise some care for plaintiff's cloak, because she had laid it aside upon their invitation, and with their knowledge, and without question or notice from them, had put it in the only place that she could. The consideration for the implied contract imposing that duty resided in the situation of the plaintiff and her property, for which the defendants were responsible, and in the chance of selling the garment that she had selected."

Few lawyers are able, or care, to lay up much of the treasure for which thieves break through and steal, but among the estates bequeathed by members of the profession in England during the past year there are several examples of considerable accumulations. Mr. John Clayton who attained the venerable age of 98, left in personalty £728,746, besides real estate of large value. Mr. Justice Manisty, who died at the age of 81, left personal estate valued at £122,815. Mr. David Milne Home, after living to the age of 85, left £121,226. Mr. Charles Bull left £133,358, and Mr. Hubert Martineau £104,000. Two wealthy Recorders died at a good old age. Mr. J. J. Johnson, Q.C., recorder of Chichester, lived 78 years and left £70,610. Mr. Thomas Belk, recorder of Hartlepool, attained the age of 83 and left £76,000.

*SUPERIOR COURT—MONTREAL.**

Succession—Payment of debts—Liability of universal legatees—Arts. 735, 736, 738, *C. C.*

Held:—That universal legatees may be sued for a debt of the succession though executors were appointed by the will of the deceased, and have accepted office and entered into possession of the estate. The universal legatees have a right to call upon the testamentary executors to pay the debt in their behalf, but they are not entitled to a suspension of the proceedings against them to permit them to exercise their recourse against the testamentary executors.—*Bourassa* v. *Bourassa, & Ste. Marie*, Würtele, J., September 9, 1890.

Conseils municipaux—Ponts municipaux—Entretien—Juridiction—C.M. 535.

Jugé:—1. Que les pouvoirs conférés par l'article 535 du code municipal sont du ressort particulier des conseils locaux, et que par les dispositions de la loi tous les travaux faits sur les ponts municipaux, soit en vertu de la loi,en vertu des réglements ou des procès-verbauu,sont à la charge exclusive des contribuables, propriétaires ou occupants de terre.

2. Que les conseils de comté n'ont pas le pouvoir de mettre ces travaux à la charge des municipalités locales, s'il n'a pas été passé de règlement à cet effet par le conseil de ces municipalités locales, en vertu de l'article 535 C.M.

3. Que bien que le code municipal accorde un droit d'appel à la Cour de Circuit du comté ou du district de toute décision, règlement ou procès-verbal de la municipalité locale pour cause d'illégalite, néanmoins la jurisprudence reconnait à la Cour Supérieure, le droit et le pouvoir d'adjuger sur les décisions des conseils municipaux, à raison du contrôle supérieur qu'elle possède sur les corps publics ou corporations.—*Corporation du village de Varennes* v. *Corporation du Comté de Verchères*, en révision, Gill, Tellier, Tait, JJ., 31 mars 1890.

Will—Unlawful condition—Arts. 760, 831, *C.C.*

Held:—That a condition of a will, by which the plaintiff was to have a share in the revenue of testator's estate in the event of her becoming a widow "*or of her obtaining a separation of bed and board from her husband,* so that he can have no control over her property," though not an 'impossible' condition, is one contrary to good morals within the meaning of Art. 760, C.C., and the plaintiff was entitled to the share as though the condition were not written.—*Webster* v. *Kelley*, Davidson, J., Dec. 12, 1890.

*DECISIONS AT QUEBEC.**

Absence—Faillite—Privilége du vendeur de meubles non payés—Arts. 1998, 1999, 2000, *C.C.—Art.* 780, *C.P.C.*

Jugé:—1. L'absent, aux biens duquel un gardien a été nommé en vertu de l'article 780, C.P.C., est en faillite dans le sens du dernier alinéa de l'article 1998, C.C.

2. Le privilége du vendeur d'un meuble non payé d'être préféré sur le prix est perdu par l'expiration des quinze jours qui suivent la vente, lorsque l'acheteur a fait faillite.—*Duhaime* v. *Pratt*, en révision, Casault, Routhier, Andrews, JJ., 1er mars 1890.

Code Municipal, Art. 793—*Avis.*

Jugé:—Que dans une action civile contre une corporation municipale, pour dommages réels causés par le mauvais état du chemin sous son contrôle, le demandeur, non contribuable de la municipalité, n'est pas tenu de donner l'avis, ni de fournir le cautionnement requis par l'art. 793 du Code Municipal.—*Turner* v. *Corporation de St. Louis du Ha! Ha!*, C.S., Kamouraska, Loranger, J., 18 oct. 1889.

Bornage—Garantie—Commencement de preuve par écrit.

Jugé:—Une demande de bornage faite en justice n'est que la demande de l'exécution de l'obligation résultant de la servitude légale du bornage, et en autant elle ne donne pas lieu à une action en garantie.

Le bornage n'est que la délimitation des propriétés voisines l'une de l'autre, et les lignes apparentes ne peuvent donner lieu à une action en dommage au cas où elles seraient changées par un bornage subséquent à la vente que dans les seuls cas, soit de la garantie de leur exactitude, soit de la garantie de la contenance de l'immeuble vendu.

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

* 16 Q. L. R.

Lorsque le vendeur nie avoir fait aucune promesse ou déclaration concernant l'exactitude des lignes, la preuve testimoniale de telle promesse ou garantie ne peut être faite sans commencement de preuve par écrit.—*Daveluy & Vigneau*, en appel, Dorion, C. J., Cross, Baby, Bossé, JJ., 6 mai 1890.

Insolvency—Revendication by owner of debentures illegally pledged by insolvents and redeemed by curator.

Revendication in the hands of a curator to an insolvent estate of certain debentures illegally pledged by the insolvents and redeemed by the curator.

Held:—That such curator could have no greater rights over such debentures than had the Bank pledgee; and it appearing that the full amount for which they, with other securities, had been pledged, had been more than covered from the proceeds of such other securities, the debentures must be returned by the curator to the respondent, their rightful owner.

Semble, that in any case the curator could not be held to have been subrogated in the rights of the Bank pledgee.

Quære,—When so redeeming the debentures, was the curator, in contemplation of law, acting for the insolvents or for the creditors of the estate, or in the interest of both?

An ordinary debt cannot be set up in compensation against a claim for the return of a deposit. C.C. 1190.—*Rattray & Methot*, in appeal, Tessier, Cross, Baby, Bossé, JJ., May 6, 1890.

Action en résolution de vente immobilière—Dépôt en révision—Art. 5908, *S.R.Q.*

Jugé:—L'action en résolution d'une vente immobilière, fondée sur un pacte commissoire, est mixte et non réelle, et lorsque le prix de la vente est audessous de $400, la partie qui inscrit en révision n'est tenue de déposer que $20.—*Houde* v. *St. Pierre*, en révision, Casault, Routhier, Andrews, JJ., 30 juin 1890.

Interpretation of contract—Art. 1019, C.C.—*Title to registered vessel.*

Held:—1. That under the terms of an agreement whereby the respondents took over the vessel *Cambria*, and assumed all debts due by her, they were responsible for the sum demanded, though not a privileged or mortgage claim on the vessel.

2. That such responsibility was incurred by the actual transfer and delivery of the vessel, although the title had not yet been regularly vested in respondents by registration at the shipping office.—*Samson & Ross*, in appeal, Tessier, Cross, Baby, Bossé, JJ., May 6, 1890.

Contrat de mariage—Douaire préfix—Biens les plus apparents—Interprétation—Deuil de la veuve.

Jugé: 1. La stipulation, dans un contrat de mariage, d'un douaire préfix en argent "à prendre sur les biens les plus apparents du futur époux..aussitôt après son décès," est en faveur de l'épouse. Elle ne signifie pas que la somme ne sera payée qu' après acquit des dettes de la succession du mari, mais que la femme la prendra sur les biens dont l'existence sera la plus claire et la moins sujette à discussion.

2. Le deuil de la veuve est dû par la succession du mari, quelque soit le régime sous lequel le mariage a été contracté. La femme séparée de biens y a droit aussi bien que la femme commune; et celle-ci, lorsqu'elle renonce à la communauté de même que lorsqu'elle l'accepte.—*Dessaint* v. *Ladrière*, C.S., Casault, J., 23 juin 1890.

Changement de venue—Avis de demande—District désigné par le juge.

Jugé:—1. Chaque fois que les circonstances le permettent, la partie qui demande un changement de venue doit en donner avis à la partie adverse, et celle-ci doit être entendue.

2. Il suffit qu'il paraisse au juge saisi de telle demande qu'il est préférable pour les fins de la justice que le procès ait lieu dans un autre district, pour qu'il puisse ordonner le changement de venue.

3. Le juge peut désigner un autre district que ceux qui sont adjacents, comme celui où le procès doit avoir lieu.—*Regina* v. *Martin*, B. R., Kamouraska, Cimon, J., 23 sept. 1890.

FIRE INSURANCE.

(*By the late Mr. Justice Mackay.*)

CHAPTER IX.

ALIENATION OF SUBJECT AND ASSIGNMENT OF POLICY.

[Continued from p. 15.]

§ 229. *Assignment of policy without transfer of property insured.*

Some English authors say that Fire policies are not assignable at law in England apart from the subject insured; but they are in equity, and *Lynch* v. *Dalzel*, and *Sadler's Co.* v. *Badcock* are cited.

In *Lynch* v. *Dalzel et al.*[1] it was held that a policy on a house does not attach to the realty, so as to go with it; but insurance is (in England) rather of the person of the insured against loss. The policy is not in its nature assignable, apart from the house. Here the insured parted with his property; and only afterwards executed an assignment of the policy; and this was after the fire, or loss. The policy was dated July, 1721. The insured's son and executor continued the insurance from Christmas, 1726, to Christmas, 1727. In June, 1727, the insurer sold out. A fire afterwards happened and the policy was assigned only after the fire. The insurer was held free very properly; for want of interest in the insured at the date of the fire, and his assignee having no more right than himself.

Sadler's Co. v. *Badcock*[2] merely decides this: that his interest ceasing in the subject insured, the insured cannot transfer his policy sum. The interest insured was in a house leased. It was burnt, after expiry of lease; and the policy sum was assigned after that. Certainly no insured can transfer more rights than he has. The assignment here could give no right that the original insured had not. He could have recovered nothing, for want of interest in the subject.

Assignment of policy, condition 8 of Home Insurance Company. In absence of condition suppose assignment, without subjects transferred. *Semble* the Company may well ask proof of loss by original insured. But query, is the burden of proof less on the assignee than under the operation of the Home policy? Or ought the assignee to be fixed with the burden of making semi *pleine preuve*?

In Lower Canada most of the policies in use prohibit assignment of policy without the consent of the insurers.

In France the policy passes, without assignment, upon a sale of the subject insured, as accessory to it; except where condition of policy prohibits it. But this would not be held in Quebec Province, nor is it so held in the United States,[1] nor in Massachusetts.[2]

If the insurer be a surety, can his suretyship bond to A be transferred by A to B? I think so.

Where no condition against assignment of policy is in the policy, it is in England assignable with the subject. 1 Phill. Ins. §. 78. But what if without the subject? And very often will not the subject be assigned, and yet not the policy?

It appears that in the United States there is not, in the absence of express condition in a policy, difference between marine and fire policies in regard to their assignable qualities.[3]

Some seem to be of opinion that all policies are, in their general nature, susceptible of assignment, without the consent of the insurers, *with this equitable and salutary exception however*, that whenever the contract, or the circumstances attending its execution, import that the subject is to be under the personal care of the assured, and the transfer would expose the insurers to be injuriously affected by the acts of new parties, contrary to their expectation, the assignment will render the insurance inoperative.

If the insurers desire to prohibit all assignments unless made with their consent, they can and frequently do do so by inserting a clause in the policy to that effect. The non-assignability of a policy is not incident or peculiar to fire insurance, but depends entirely upon the terms of the policy, or the peculiar circumstances attending its execution.

[1] 3 Brown's Cases in Parliament.
[2] 2 Atk. 1 Wils.

[1] *Carpenter* v. *P. Wash. Ins. Co.*, 16 Peters.
[2] 3 Metcalfe, 66.
[3] *Traders Ins. Co.* v. *Robert*, 9 Wend. *Carpenter* v. *Prov. Wash. Ins. Co.*, 16 Peters.

Where the insured made a general assignment of all his property, including "all policies of insurance," in trust for creditors, a particular policy, which at the time of the assignment was in the hands of an agent, subject to a lien, was held not to be invalidated, notwithstanding it contained a condition that it should become void by assignment without the consent of the insurers. The Court held, that the provision applied only to such policies as the insured could legally and effectually assign, and consequently did not affect the one in question which was, in a measure, out of his control.[1]

§ 230. *Consent of the Company's Secretary.*

Where assignment is prohibited unless by consent of the insurer manifested *in writing*, if the secretary in the office of the company consent upon the policy, his authority to do so and to bind the company will be presumed.[2]

If consent in writing be required, the Courts may hold this not an essential condition. Verbal consent with *commencement de preuve par écrit* and circumstances concording will do.[3]

As to who may make the endorsement on the policy, though policies of a company require to be signed by the President, the secretary in the office may endorse on a policy assignment of it, unless prohibited positively, and such endorsement will bind the company, particularly if the secretary, for the company, receive something at the same time, such as a guarantee.[4]

§ 231. *Acts not amounting to consent.*

The mere fact of issuing a policy, with notice from the insured of his desire to assign it, is not of itself, a consent of the insurers to such an assignment, where one of the conditions requisite for the assignment has not been performed; nor do the insurers by issuing the policy under such circumstances waive the performance of any condition specified as a prerequisite to the validity of the assignment.[1]

When there are two *bona fide* assignments of a policy, one accompanied by a delivery, and the other not, the former will prevail.[2]

§ 232. *Interest secretly retained will not avail.*

If the insured makes a conveyance absolute on its face, he will not be permitted to prove, in order to preserve his claim upon the insurers, that it was intended to be conditional, and that he retained an interest, when this will show an attempt on his part to conceal his property fraudulently from his creditors.[3]

A insures and transfers to B by a deed absolute,—there is a *contre lettre* stating transfer to be merely formal; no real transfer to be meant; this transfer will not vacate an insurance.[4]

§ 233. *Assignment of policy after loss.*

Assignments of policy after loss are held to be merely transfers of claims perfected, and not to require insurers' consent.[5] The case of *Mellen* v. *Hamilton F. I. Co.*[6] is to the same effect. It was an action by an assignee for the benefit of the creditors of O'Brien. The policy contained a condition that it could not be assigned without the assent of the insurers manifested in writing. After a fire O'Brien assigned the policy without any consent in writing of the insurers. Yet, per Duer, J., "the restriction in the policy refers only to an assignment during the pendency of the risk, and accompanying a transfer of the interest in the property insured. Here the assignment was no more than the assignment of a debt."

Some policies preclude the insured from assigning his right of action even after loss.[7] The authors of American Leading Cases

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[1] *Lazarus* v. *Commonwealth Ins. Co.*, 5 Pick. 76, S. C. 19 id. 81.

[2] *Conover* v. *Mut. Ins. Co.*, 1 Comst.

[3] So decided by the Cour de Cass. 19 June, 1839. See Cession de Bail, Approbation tacite du propriétaire, Journ. du Palais of 1864, p. 1044.

[4] *New England Insurance Co.* v. *De Wolfe*, 8 Pick.

[1] *Smith* v. *Saratoga Co. Mut. Fire Ins. Co.*, 1 Hill, 497; S.C. 3 *id.* 508.

[2] *Wells* v. *Archer*, 10 Serg. & Rawle, 412.

[3] *Carroll* v. *Boston Marine Ins. Co.*, 8 Mass. 515; *Dadmun Manufacturing Co.* v. *Worcester Fire Ins. Co.*, 11 Metcalfe, 429.

[4] So held by the majority of the Court of Appeal, Montreal, in *Montreal Ass. Co. & McGillivray*, 8 L.C.R. But the law of *contre lettres* is that third persons are never bound by them, but the parties are. See Merlin.

[5] *Brichta* v. *N. Y. Lafayette Ins. Co.*, 2 Hall.

[6] 5 Duer.

[7] 2 Am. Lead. Cas., p. 623.

would hold such conditions null. But query *de nullitate.*

Generally, in England, the United States, and where the English law is in force, as in Ontario, policies being no more negotiable than other choses in action, the assignee of a policy, whether the assignment be before or after a loss, must sue in the name of the assignor.[1]

§ 234. *Assignment as collateral security.*

In the United States when the assignee of the policy is not assignee also of the whole subject insured, but the assignment is made merely for the purpose of creating collateral security for a debt, as in the frequent case of assignment from a mortgagor, the action must be brought in the name of the assignor; notwithstanding the insurers have consented to the assignment.[2]

This is because the assignor is not in the least divested of interest in the policy, but the insurance is still his insurance, and on his property, and for his account. If the insurers pay the loss to the assignee, the assignor's debt is thereby discharged *pro tanto,* and if the assignor himself pays the assignee his claim against him, the policy *ipso facto* reverts solely to the assignor.[3]

§ 235. *Action upon policy assigned.*

But in *Jessel v. Williamsburgh Ins. Co.,* 3 Hill 88, it is expressly decided that the simple consent of the insurers to an assignment of the policy will not authorize the assignee to bring an action in his own name, but, that to give such right, there must be an *express* promise by the insurer to be responsible to the assignee. The same principle is incidentally recognized in some other New York cases, which seem to make the right of the assignee to sue in his own name depend entirely upon an *express* promise of the insurer to him, or on some provision in the policy, or some statute by which such right is in terms granted.[1]

When the policy contains no clause prohibiting its assignment, if it be assigned, proceedings upon it in courts of law must be in the name of the original assured, and the insurers may set off any claim against the original assured, which accrued before they had notice of the assignment. The insurers are discharged if they pay the loss to, or receive a discharge from the original insured before receiving notice of the assignment. But after notice to the insurers the assignor cannot defeat or prejudice the claims of the assignee; neither will the insurers be excused from liability to the latter by a payment to or release from the assignor.[2]

But though the authorities are all agreed that in the case of a simple assignment of a policy, the action must be brought in the name of the original insured, they differ on the question, whether the rule is the same, when the terms of the policy require, and the assignment has actually received, the consent of the insurers.

The doctrine is laid down by Shaw, Ch.J., in *Wilson v. Hill,*[3] that the consent of the insurers to the assignment of the policy, constitutes a new contract between them and the assignee, on which the latter may sue in his own name. This doctrine is reasserted by the same Judge in *Fuller* v. *Boston Mut. Fire Ins. Co.*[4] But in *Tolman* v. *Manufacturers' Ins. Co.,*[5] where the insured after loss wrote and signed upon the policy the following order, "Pay the loss under the within policy to Joseph A. Tolman," and under this order was written, "Assented to, C. W. Cartwright, Pres.," it appears by the report that Ch. J. Shaw held at the trial below, that the action against the insurers for the loss must

[1] *Traders Ins. Co.* v. *Robert,* 9 Wendell; *Conover* v. *Albany M. I. Co.,* 3 Denio; *Felton* v. *Brooks,* 4 Cush. 16 U. C. Q. B. Rep. p. 486. Yet in *Lynch* v. *Dalzell* the action was not in the name of assignor.

[2] It is quite otherwise in Quebec Province.

[3] *Traders Ins. Co.* v. *Robert,* 9 Wend. 404; *Robert* v. *Traders Ins. Co.,* 17 Wend. 631; *Conover* v. *Albany Mut. Ins. Co.,* 3 Denio 254; *Tillou* v. *Kingston Mut. Ins. Co.,* 1 Selden 405; *Carpenter* v. *Providence Wash. Ins. Co.,* 16 Peters 501.

[1] *Granger* v. *Howard Ins. Co.,* 5 Wend. 200; *Traders Ins. Co.* v. *Robert,* 9 Wend. 404; *Ferris* v. *N. Am. Ins. Co.,* 1 Hill 71; *Conover* v. *Albany Mut. Ins. Co.,* 3 Denio 254.

[2] *Andrews* v. *Beecher,* 1 Johns. Cas. 411; *Wardell* v. *Eden,* 2 Johns. Cas. 121; *Bates* v. *N. Y. Ins. Co.,* 3 Johns. Cas. 242; *Jones* v. *Witter,* 13 Mass. 304; *Lyon* v. *Summers,* 7 Conn. 393; *Traders' Ins. Co.* v. *Robert,* 9 Wend. 404 and 474; *Robert* v. *Traders' Ins. Co.,* 17 Wend. 631.

[3] 3 Metcalfe, 66.

[4] 4 Metcalfe, 206.

[5] 1 Cushing, 73.

be brought in the name of the original insured on the ground that the assignment and consent constituted nothing more than an assignment of a *chose in action*, which did not authorize the assignee to sue in his own name. This point was not examined by the Supreme Court, the case being decided for the defendant on another ground. It is difficult to reconcile the decision of the Chief Justice in this case with his remarks in *Wilson* v. *Hill* and *Fuller* v. *Boston Mut. Fire Ins. Co.*, or to see why the consent of the insurers to an assignment *after loss* is any the less a new contract with the assignee than a similar consent to an assignment *before loss*, nor does it seem that a rule can be applied to one case, which does not also govern the other, says Shaw upon Ellis.

But though the rights of the assignee of a policy are in their nature equitable, he is not obliged to resort to a Court of Equity to enforce them, but has always an ample remedy in the Courts of Law in the name of the assignor, who will be compelled to allow the use of his name, and hence a bill in Equity filed by the assignee against the underwriters must be dismissed, unless it contains additional facts showing the inadequacy of the remedy at law. [1]

Even in New York, if the charter of an insurance company provides that in case of alienation of the property insured, the policy shall be void: but that the alienee, having the policy assigned to him, may have the same confirmed "for his own proper use," by consent of the company within thirty days after alienation, and that this shall entitle him to all the rights of the first insured, it is held that an alienee, so doing, may sue in his own name, in fact that he must, and that the assignor cannot nominally even sue. [2]

In Lower Canada the insured after a loss can transfer his claim against the insurers freely, and the assignee can sue in his own name, after notification to the insurers.

LAW STUDIES.

At the close of one of Sir Frederick Pollock's Oxford lectures, recently published, the following passage occurs:—

"Instead of becoming more and more enslaved to routine, you will find in your profession an increasing and expanding circle of contact with scholarship, with history, with the natural sciences, with philosophy, and with the spirit if not with the matter even of the fine arts. Not that I wish you to foster illusions of any kind. It would be as idle to pretend that law is primarily or conspicuously a fine art as to pretend that any one of the fine arts can be mastered without an apprenticeship as long, as technical, as laborious, and at first sight as ungenial as that of the law itself. Still it is true that the highest kind of scientific excellence ever has a touch of artistic genius. At least I know not what other or better name to find for that informing light of imaginative intellect which sets a Davy or a Faraday in a different rank from many deserving and eminent physicists, or in our own science a Mansfield or a Willes from many deserving and eminent lawyers. Therefore I am bold to say that the lawyer has not reached the height of his vocation who does not find therein (as the mathematician in even less promising matter) scope for a peculiar but genuine artistic function. We are not called upon to decide whether the discovery of the Aphrodite of Melos or of the unique codex of Gaius were more precious to mankind, or to choose whether Blackstone's Commentaries would be too great a ransom for one symphony of Beethoven. These and such like toys are for debating societies. But this we claim for the true and accomplished lawyer, that is, for you if you will truly follow the quest. As a painter rests on the deep and luminous air of Turner, or the perfect detail of a drawing of Lionardo; as ears attuned to music are rapt with the full pulse and motion of the orchestra that a Richter or a Lamoureux commands, or charmed with the modulation of the solitary instrument in the hands of a Joachim; as a swordsman watches the flashing sweep of the sabre, or the nimbler and subtler play of opposing foils; such joy may you find in the lucid exposition of broad legal principles, or in the conduct of a finely-reasoned argument on their application to a disputed point. And so shall you enter into the fellowship of the masters and sages of our craft, and be free of that ideal

[1] *Carter* v. *United Ins. Co.*, 1 Johns. Chan. R. 463.
[2] *Mann* v. *Herkimer Co. Ins. Co.*, 4 Hill.

world which our greatest living painter has conceived and realized in his master-work. I speak not of things invisible or in the fashion of a dream; for Mr. Watts, in his fresco that looks down on the Hall of Lincoln's Inn, has both seen them and made them visible to others. In that world Moses and Manu sit enthroned side by side, guiding the dawning sense of judgment and righteousness in the two master races of the earth: Solon and Scaevola and Ulpian walk as familiar friends with Blackstone and Kent, with Holt and Marshall; and the bigotry of a Justinian and the crimes of a Bonaparte are forgotten, because at their bidding the rough places of the ways of justice were made plain. There you shall see in very truth how the spark fostered in our own land by Glanvill and Bracton waxed into a clear flame under the care of Brian and Choke, Littleton and Fortescue, was tended by Coke and Hale, and was made a light to shine round the world by Holt, and Mansfield, and the Scotts, and others whom living men remember. You shall understand how great a heritage is the law of England, whereof we and our brethren across the ocean are partakers, and you shall deem treaties and covenants a feeble bond in comparison of it; and you shall know with certain assurance, that however arduous has been your pilgrimage, the achievement is a full answer. So venerable, so majestic, is this living temple of justice, this immemorial and yet freshly-growing fabric of the common law, that the least of us is happy who hereafter may point to so much as one stone thereof and say, The work of my hands is there."

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Jan. 10.

Judicial Abandonments.

Dame Marie Adèle Lesieur Desaulniers, wife *séparée* of Joseph Lavigne, doing business as Lavigne & Co., Farnham, Jan. 5.

Louis Marion and Joseph Chenier, traders, Hull, Dec. 22.

Meril Ménard, St. Hyacinthe, Jan. 7.

John A. Paterson & Co., wholesale milliners, Montreal, Jan. 5.

Curators Appointed.

Re Camille Bertrand, Longueuil.—Lamarche & Frigon, Montreal, joint curator, Jan. 5.

Re H. Bourassa, Montreal.—C. Desmarteau, Montreal, curator, Jan. 5.

Re Lamalice, frère, Montreal.—Kent & Turcotte, Montreal, joint curator, Jan. 3.

Re Vaillancourt, frère.—Bilodeau & Renaud, Montreal, joint curator, Jan. 3.

Dividends.

Re Ulric Baril.—First dividend, payable Jan. 19, Bilodeau & Renaud, Montreal, joint curator.

Re Eugène Bourassa.—First and final dividend, payable Jan. 28, C. Desmarteau, Montreal, curator.

Re Evariste Gélinas.—First and final dividend, payable Jan. 27, C. Desmarteau, Montreal, curator.

Re W. H. Madden, Beauharnois.—First and final dividend, payable Jan. 28, C. Desmarteau, Montreal, curator.

Re Quebec Shoe Co.—Third and final dividend, payable Jan. 18, D. Arcand, Quebec, liquidator.

Separation as to Property.

Marie Odile Mélina Aubertin vs. Eusèbe Durocher, farmer, parish of Pointe aux-Trembles, Dec. 31.

Alphonsine Brodeur vs. Basile Massé, cabinet-maker, St. Hyacinthe, Jan. 2.

Cordélie Gervais vs. Edouard Bellerose, trader, Sorel, Dec. 29.

Georgianna Lambert vs. Damase Samson, farmer, St. Charles de Bellechasse, Dec. 24.

GENERAL NOTES.

SOLICITORS AND THE BAR.—Since the new regulation as to the admission of solicitors to the bar without keeping terms came into operation, early this year, twenty-four solicitors have given notice of their intention to migrate to the higher branch of their profession.—*Law Journal* (London).

REGULATION OF COURT DRESS.—Lord Powis's new clause to the Sheriffs Assizes Expenses Bill, to the effect that a sheriff should not be required to attend in Court dress or in uniform at the assizes, was 'by leave withdrawn,' the Lord Chancellor observing that it was beneath the dignity of the House of Lords to attempt to regulate the dress of the high sheriff, and his lordship laid down that 'it is not obligatory on that functionary to appear at the assizes either in Court dress or in uniform.' However this may be, there is no doubt that the personal attendance of a high sheriff either in full dress or uniform has hitherto been invariably accorded at assizes, and we believe that we are correct in stating that the late Mr. Justice Quain once fined a sheriff 500*l.* for not being properly dressed. —*Ib.*

PENMANSHIP.—'Observer' writes to the editor of the *Manchester Guardian*: 'Sir,—I observed in the *Guardian* a few days since a complaint from one of the judges that the writing of the clerks in Court was so illegible that he could scarcely read it. Unfortunately this does not apply to the Courts alone, but is of too general occurrence. It would seem as if illegible bad writing were fashionable, as it is practised by those who have been well educated. I am now in my eightieth year, and should feel ashamed of the bad writing I often see. I imagine that good penmanship in most of our schools is seldom taught.'