The Legal News.

Vol. X. APRIL 2, 1887. No. 14.

Another movement is being made towards an increase of the judges' salaries. Deputations of the bar of Ontario and Quebec are in communication with the Minister of Justice on the subject, and it is hoped that a measure will be introduced in the next Session of Parliament.

Baron Huddleston, in charging the grand jury at the Warwickshire Assizes last month, made some remarkable statements with reference to charges brought under the Criminal Law Amendment Act. The learned judge said there were two criminal charges in the calendar, made under a recent Act of Parliament which had given, as it was expected it would give, great trouble and anxiety to those who were entrusted with the administration of justice. He meant the Criminal Law Amendment Act, which the Legislature, prompted by many excellent persons with the best intentions, passed for the purpose of preventing, as it was alleged, outrages and crimes upon women and children. No doubt it was most desirable that severe punishment should follow upon those who were guilty of the horrible crime of immorality with little children, but he ventured to express his great doubt—a doubt arising from an experience of Courts of justice of nearly fifty years, a doubt fortified by an experience as a judge twelve years—whether it was to the advantage of the public to afford greater facilities for charges of a particular sort which were made by adult females against men. He believed he was giving the experience of his learned brothers when he said that *the majority of these charges were untrue*. Some were put forward by women for the purpose of shielding their own shame, sometimes for the purpose of extorting money, sometimes even, as he had known happen, by women for the mere purpose of getting their expenses paid and a trip to the assize town, sometimes from no conceivable motive whatever. He had in his recollection three cases in that Court in which charges were brought by women against men, in which it was proved without doubt that all those three cases were utterly false and without the slightest foundation. In one of those instances a man was convicted and sentenced to five years' penal servitude, but circumstances appeared in the course of the case which seemed to him to require investigation. Investigation took place, and the result was that the accused was liberated, but not before having been several months in prison. Such instances taught them that in these cases men wanted protection rather than women. He pointed out that it was criminal to be unduly intimate with a girl under sixteen years of age, and remarked that this part of the Act gave rise to charges of an extraordinary character. Calendars were full of them almost at every assize. He referred to a case at Exeter in which men were charged with immorality with girls under sixteen, but who looked quite thirty, remarking that he was afraid that the prosecution was taken by an over-zealous policeman, who thought it pleasant to spend a few days in the autumn at the assizes, in order to relieve him of his ordinary duties. Such cases were extraordinary when it was remembered that the Act made it a defence if the man had reason to believe the girl was over sixteen. Probably when more cases of this description were brought before Courts there might be reason to induce the Legislature to reconsider that branch of the Act.

Les journaux de Paris, annoncent la mort de M. Demolombe, l'éminent professeur et doyen honoraire de la faculté de droit de Caën. M. Demolombe était né à la Fère, en 1804; après avoir fait ses études de droit à Paris, il fut reçu docteur en 1826 ; il jouissait alors déjà d'une brillante réputation parmi ses condisciples et ses professeurs. Dès l'année suivante, M. Demolombe passait, par dispense d'âge, le concours de l'agrégation ; il était nommé professeur suppléant à la faculté de Caën. Un nouveau concours, qui eut lieu en 1831, et pour lequel le jeune professeur dut de rechef solliciter la

dispense d'âge, lui valut le titre de professeur et la chaire de code civil à la même Faculté. C'est dans cette chaire qu'il commença à se rendre célèbre en professant les cours qu'il devait plus tard publier. Cet ouvrage, qui fait autorité en jurisprudence, devait comprendre le commentaire de tout le code civil. Commencé en 1845, il fut arrêté en 1879 par suite de l'état de santé de M. Demolombe et repris depuis, sous sa direction, par M. Guillouard, professeur à Caen.

SUPREME COURT OF CANADA.

Ontario.]

OTTAWA, March 1, 1887.

BALL v. THE CROMPTON CORSET Co., et al.

Patent—Infringement of—Mechanical equivalent — Substitution of one material for another.

In a suit for the infringement of a patent, the alleged invention was the substitution in the manufacture of corsets of coiled wire springs, arranged in groups, and in continuous lengths, for India rubber springs previously so used. The advantage claimed by the substitution was that the metal was more durable, and was free from the inconvenience arising from the use of India rubber, caused by the heat from the wearer's body.

Held, affirming the judgment of the Court of Appeal for Ontario, (12 Ont. App. Rep. 738), Fournier and Henry, JJ., dissenting, that this was merely the substitution of one well known material, metal, for another equally well known material, India rubber, to produce the same result, on the same principle, in a more agreeable and useful manner, or a mere mechanical equivalent for the use of India rubber, and it is, consequently, void of invention and not the subject of a patent.

Appeal dismissed.

Cassels, Q.C., and *Akers*, for appellants.

McLellan, Q. C., and *Osler, Q. C.*, for respondents.

P. E. Island.]

OTTAWA, March 1, 1887.

SHERREN v. PEARSON.

Statute of limitations—Title to land—Possession for twenty years—Isolated acts of trespass —Not sufficient to effect ouster.

In an action of ejectment, the defence was that the land in question was a part of the defendant's lot, and, if not, that the defendant had had possession of it for over twenty years, and the plaintiff's title was, consequently, barred by the statute of limitations. In support of the latter contention, evidence was given of cutting lumber by the defendant and those through whom he claimed on the land, but these alleged acts of possession only extended back some seventeen years, with one exception, which was that of an uncle of the defendant who swore that he had cut every year for thirty-five years. The defendant, however, swore that this uncle had nothing to do with the land. The jury found for the plaintiff.

Held, affirming the judgment of the Supreme Court of Prince Edward Island, that these acts of cutting lumber were nothing more than isolated acts of trespass on wilderness land, which could not effect an ouster of the true owner and give the defendant a title under the statute of limitations.

Appeal dismissed.

Hodgson, Q.C., for the appellants.

Davies, Q.C., for the respondents.

Ontario.]

OTTAWA, March 14, 1887.

WHITING et al. v. HOVEY et al.

Company—Directors of—Assignment of property by, for benefit of creditors—Ultra vires —Change of possession—R. S. O. ch.119—Description of property assigned.

An assignment by the directors of a joint stock company of all the estate and property of the company to trustees for the benefit of the creditors of the company, is not *ultra vires* of such directors, and does not require special statutory authority or the formal assent of the whole body of shareholders.

Quære. Is such an assignment within the

provisions of the Chattel Mortgage Act of Ontario, R. S. O. ch. 119?

Where such an assignment was made, and the property was formally handed over by the directors to the trustees, who took possession, and subsequently advertised and sold the property under the deed of assignment:

Held, that if the assignment did come within the terms of the act, its provisions were fully complied with, the deed being duly registered, and there being an actual and continued change of possession as required by section 5. In such deed of assignment, the property was described as "All the real estate, lands, tenements and hereditaments of the said debtors (company) whatsoever and wheresoever, of or to which they are now seized or entitled, or of or to which they may have any estate, right, title or interest of any kind or description with the appurtenances, the particulars of which are more particularly set out in the schedule hereto and all and singular the personal estate and effects, stock in trade, goods, chattels, right and credits, fixtures, book debts, notes, accounts, books of account, choses in action, and all other the personal estate and effects whatsoever and wheresoever, &c." The schedule annexed specifically designated the real estate, and included the foundry erections and buildings thereon erected and including all articles, such as engines &c., in or upon said premises.

Held, that this was a sufficient description of the property intended to be conveyed to satisfy sec. 23 of R. S. O. c. 119. McCall v. Wolff, May 12, 1885, unreported, approved and followed.

Appeal dismissed.

Robinson, Q.C., and *W. M. Hall*, for the appellants.

Dr. McMichael, Q.C., *S. H. Blake, Q.C.*, and *H. McK. Wilson, Q.C.*, for the respondents.

Ontario.]

OTTAWA, March 14, 1887.

SHOOLBRED'S CASE.

Company—Winding up Act—45 V. ch. 23 (D)—Appointment of liquidator under Notice of appointment under sec. 24—Order set aside for want of.

It is a substantial objection to a winding up order appointing a liquidator to the estate of an insolvent company under 45 Vic. cap. 23, that such order has been made without notice to the creditors, contributories, shareholders or members of the company, as required by section 24 of the said Act, and an order so made was set aside, and the petition therefor referred back to the judge to be dealt with anew.

Per GWYNNE, J. (dissenting), that such an objection is purely technical and unsubstantial, and should not be allowed to form the subject of an appeal to this Court.

Appeal allowed.

Cassels, Q.C., and *Walker*, for appellants.
Bain, Q.C., for respondents.

Quebec.]

OTTAWA, March 14, 1887.

WILLIAM W. WHEELER et al. (Defendants in the Court below), Appellants, and JOHN BLACK et al. (Plaintiffs in the Court below), Respondents.

Actio confessoria servitutis—Building of barn over alley subject to right of access to drain—Aggravation—Art. 557 C.C.

By deed dated Aug. 22, 1843, P. D. sold to one J. B. a certain property in the town of St. John, P. Q., with the right of draining thec ellar or cellars of the said property "by making and passing a good drain through the lots the said Pierre Dubeau has and possesses . . . . . and beneath the alley now left open," "and between the several houses belonging to the said Pierre Dubeau," and the said deed of sale establishing the said servitude was duly registered by a memorial thereof, October 6, 1843.

The respondents having subsequently acquired said property, by their present action against the appellants, owners of the servient land, prayed that the said appellants' property be declared to have been and to be still subject to said servitude, and that the appellants be ordered to demolish a portion of a large barn, constructed by them over said drain, which, they claim, tended to diminish the use of the servitude and to render its exercise more inconvenient. The

appellants, on the present appeal, contended that inasmuch as the barn was built on wooden posts there was no solid floor in the barn, and the drain could be raised up and repaired just as well, if not better, as outside of the barn, there was no change of condition of the servient land contrary to law.

HELD, affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q.B. 139, that on the evidence the building of the barn in question aggravated the condition of the premises, and therefore that the judgment of the Court below ordering the appellants to demolish a portion of their barn covering the said drain, in order to allow the respondents to repair the drain as easily as they might have done in 1843, when said drain was not covered, and to pay $50 damages, should be affirmed.

GWYNNE, J., was of opinion that all appellants were entitled to was a declaration of right to free access to the land in question for the purpose of making all necessary repairs in the drain as occasion may require, without any impediment or obstruction to their so doing being caused by the barn which had been erected over the drain, and that the action for damages was premature.

Appeal dismissed with costs.

Robertson, Q.C., for appellants.

Geoffrion, Q.C., for respondents.

Quebec.]

OTTAWA, March 14, 1887.

L'ASSOCIATION PHARMACEUTIQUE DE LA PROVINCE DE QUEBEC v. WILFRED E. BRUNET.

Quebec Pharmacy Act, 48 *Vic.* (*Q.*) *ch.* 36, *s.* 8—*Construction of—Partnership contrary to law—Mandamus.*

HELD, affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q. B. 362, that section 8 of 48 Vic. ch. 36 (Q.) which says that all persons who, during five years before the coming into force of the Act, were practising as chemists and druggists in partnership with any other person so practising, are entitled to be registered as licentiates of pharmacy, applies to respondent, who had, during more than five years before the coming into force of said Act, practised as chemist and druggist in partnership with his brother and in his brother's name, and therefore he (respondent), was entitled under section 8 to be registered as a licentiate of pharmacy.

Appeal dismissed with costs.

J. L. Archambault for appellants.

C. A. Geoffrion, Q.C., for respondent.

Quebec.]

OTTAWA, March 14, 1887.

THE CORPORATION OF THE PARISH OF ST. CESAIRE v. MACFARLANE.

Municipal debentures—Conditions—Municipal code, Art. 982.

HELD, affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q. B. 160, that a debenture being a negotiable instrument, a railway company that has complied with all the conditions precedent stated in the by-law to the issuing and delivery of debentures granted by a Municipality is entitled to said debentures, free from any declaration on their face of conditions mentioned in the by-law, to be performed in future, such as the future keeping up of the road.—Art. 982 (Mun. Code) Fournier, J., dissenting.

Appeal dismissed with costs.

C. A. Geoffrion, Q.C., for appellants.

J. O'Halloran, Q. C., for respondent.

Quebec.]

OTTAWA, March 14, 1887.

FAIRBANKS et al., Appellants v. BARLOW et al. (Defendants), and O'HALLORAN (Intervenant) Respondents.

Pledge without delivery—Possession—Rights of creditors.

B, who was the principal owner of the South Eastern Railway Company, was in the habit of mingling the monies of the Company with his own. He bought locomotives which were delivered to and used openly and publicly by the Railway Company as their own property for several years. In January and May, 1883, B, by documents *sous seing privé*, sold ten of these locomotive engines to F et al., the appellants, to guarantee them against an endorsement of his notes for $50,000. B,

having become insolvent, F et al., by their action directed against B, the South Eastern Railway Company and R et. al., trustees of the Company under 43 & 44 Vic. ch. 49 Q., asked for the delivery of the locomotives, which were at the time in the open possession of the South Eastern Railway Company, unless the defendants pay the amount of their debt. B. did not plead. The South Eastern Railway Company & R et al., as trustees, pleaded a general denial, and, during the proceedings, O'Halloran filed an intervention, alleging he was a judgment creditor of B, notoriously insolvent at the time of making the agreement.

Held, affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q. B. 332, that as the transaction with B. only amounted to a pledge not accompanied by delivery, F. et al., the appellants, were not entitled to the possession of the locomotives as against creditors of the Company, and that in any case they were not entitled to the property as against O'Halloran, a judgment creditor of B., an insolvent. The action was therefore rightly dismissed and intervention maintained.

Appeal dismissed with costs.

Church, Q. C., & Nicolls for appellants.

O'Halloran, Q. C., for respondents.

COURT OF QUEEN'S BENCH, MONTREAL.*

Prescription—Promissory note—Interruption—Foreign judgment—C. S. L. C., ch. 90.

Held:—That a judgment obtained in a foreign country upon a promissory note made therein has the effect of interrupting prescription. *Almour & Harris,* Feb. 21, 1884.

Judicial sale of moveables—Irregularities—Nullity—Revendication of thing sold.

Held:—(Reversing the decision of Gill, J., M. L. R., 2 S. C. 11):—That a judicial sale of moveables may be set aside for irregularities in the proceedings as well as for fraud and collusion; and where a piano not the property of defendant was seized and sold as belonging to him, for an insignificant part of its value, and the owner had no knowledge of such seizure, and it further appeared that there was no bidder at the sale, except the person who purchased the piano, it was held that the sale was a nullity, and that the owner was entitled to revendicate the property. *Nordheimer et al. & Leclaire et al.*, Sept. 21, 1886.

Procédure—Faits nouveaux par réplique—Réméré par créancier du vendeur.

Jugé:—1. Qu'un demandeur, qui a produit une contestation à une opposition, peut alléguer par une réplique spéciale à la réponse de l'opposant, un jugement intervenu dans une autre cause entre l'opposant et le débiteur du demandeur contestant, qui règle le litige entre l'opposant et le contestant, lorsque ce jugement a été rendu depuis la production de la contestation, surtout si dans la contestation et la réponse il a été fait allusion à cette autre cause et que l'opposant ne se soit pas plaint en cour inférieure de l'irrégularité de la réplique en en demandant le rejet ou autrement par la procédure écrite;

2. Que le créancier peut exercer la faculté de réméré au lieu et place de son débiteur, et que s'il intervient un jugement entre ce dernier et l'acquéreur d'un immeuble accordant le réméré et fixant le montant payable à l'acquéreur pour obtenir la rétrocession, le créancier bénéficie de tel jugement et peut exercer les droits et se prévaloir des avantages qu'il assure à son débiteur et les opposer à l'acquéreur;

3. Que sous ces circonstances, si l'immeuble a été délaissé par l'acquéreur et vendu en justice et qu'il soit colloqué pour les sommes qu'il a payées, le créancier du vendeur peut faire réduire telle collocation au montant fixé par le jugement accordant le réméré et déterminant la somme que l'acquéreur pouvait exiger avant de parfaire la rétrocession;

4. Qu'en pareil cas, si les deniers devant la cour sont suffisants pour acquitter les réclamations de l'acquéreur, le créancier n'est pas tenu de lui faire des offres de la somme que le vendeur était tenu de lui payer pour obtenir la rétrocession de l'immeuble. *Bouchard & Lajoie*, November 27, 1886.

* To appear in Montreal Law Reports, 2 Q. B.

Imputation of payments—C. C. 1159—Account rendered yearly during series of years—Acquiescence.

HELD:—1. Where the credits for each year, in an account current, are in excess of the amount of interest charged for the year, it cannot be pretended that compound interest has been charged, inasmuch as (under C. C. 1159) payments made by a debtor on account are imputed first on the interest.

2. (CROSS, J., *diss.*) Where an account current was rendered each year during a long series of years, charging commissions as well as interest, and the debtor, being pressed to close the account, without formally admitting or denying the right to charge such commissions, continued to remit sums on account, which remittances (if commissions should not have been charged) were more than sufficient to pay the claim, it is a fair inference that the debtor acquiesced in the rate of commissions as charged, and he is obliged to settle the balance of the account on that basis. *Dudley & Darling*, May 26, 1886.

Insolvent Trader—Departure after making assignment—Saisie-arrêt—Privilege of commercial traveller.

HELD:—The fact that an insolvent trader has made a voluntary assignment of his estate, does not justify his departure from the country without the consent of his creditors. It is his duty to be present, in order to give such information as may be required for the realization of his assets, and his departure without explanation is ground for the issue of a *saisie-arrêt* before judgment.

The privilege of a commercial traveller for wages, under C. C. 2006, which was maintained by the Court below (M. L. R., 1 S. C. 191) not determined by the Court of Appeal, but doubted. *Heyneman & Harris*, June 30, 1886.

Promissory note — Evidence — Refusal to send the case back to enquête.

In an action on a promissory note for value received, the Court of appeal will not be disposed, unless for some substantial reason, to send the case back to *enquête*. And so where the defendant was in default to proceed, and finally, after the case had been taken *en délibéré*, wished to examine some witnesses, and the Court below rejected the application, the Court of appeal refused to send the case back, on the ground that the defendant had not shown any substantial grievance. *McGreevy & Senécal*, June 30, 1886.

Compensation—Notes received by Bank for Collection—Insolvency.

HELD:—(Reversing the decision of TORRANCE, J., M. L. R., 1 S. C. 225):—Where drafts and notes were placed with a bank by a debtor of the bank, not as collateral security, but for collection; that compensation does not take place until the bank has received the amounts collected by them on such notes; and in the present case, the debtor having become insolvent before any amounts were received on such notes, compensation did not take place between the amount collected by the bank and the debt due to it. *Exchange Bank of Canada & Canadian Bank of Commerce*, May 27, 1886.

NEGLIGENCE OF RAILWAY PASSENGERS IN IMMINENT PERIL.

"If I place a man in such a position that he must adopt a perilous alternative, I am responsible for the consequences." This is the rule laid down by Lord Ellenborough, in the leading English case of *Jones* v. *Boyce*,[1] where it appeared that the plaintiff had been on the top of a coach when, in consequence of the horses becoming unruly and unmanageable, there was a real danger that the coach might be upset, and the plaintiff, therefore, jumped off and was thereby injured. And so, in the leading American case of *Stokes* v. *Salstonall*,[2] where it appeared that a passenger had jumped from a stage-coach, fearing that it would overturn, it was laid down that "it is sufficient, if he was placed, by the misconduct of the defendant, in such a situation as obliged him to adopt one alternative, leap or remain in peril." We find Chief Baron Kelley laying down a like doctrine in *Siner* v. *G. W. Ry. Co.*;[3] and so, in

the Admiralty case of *The Bywell Castle*,[4] where in a collision, the libelled vessel changed her course when "in her very agony," as James, L.J., put it, it was held that, if a ship, by wrong manœuvres, has placed another ship in a position of extreme peril, that other ship will not be held to blame, if in that moment of extreme peril and difficulty she happens to do something wrong, and is not manœuvred with perfect presence of mind, accurate judgment and promptitude, "although," observed Cotton, L.J., those before whom the case comes to be adjudicated, with knowledge of all the facts, are able to see that the course adopted was in fact not the best." As it is put in the American case of *Wesley City Coal Company* v. *Healer*,[5] where a party has given another reasonable cause for alarm, he cannot complain that the person so alarmed has not exercised cool presence of mind, and thereby find protection from responsibility resulting from the alarm. So, in *Collins* v. *Davidson*,[6] it was said by McCrary, J.: "In the case of sudden and unexpected peril, endangering human life, and causing unnecessary excitement, the law makes allowances for the circumstance that there is but little time for deliberation, and holds a party accountable only for such care as an ordinarily prudent man would have exercised under similar circumstances." But, in a recent case,[7] Bramwell, L. J., objected with much force to such a phrase as "What would a prudent man do?" saying that a prudent man might jump out of a fast train, if he saw imminent danger to his wife or child;[8] and the phrase should be taken to mean, "What would a prudent man do under ordinary circumstances?" The general rule, indeed, seems to be best formulated by Field, J., thus:

"If a person, by a negligent breach of duty, expose a person towards whom the duty is contracted to obvious peril, the act of the latter, in endeavoring to escape peril, although it may be immediate cause of the injury, is not the less to be regarded as the wrongful act of the wrong doer;[9] and this doctrine has we think, been rightly extended in more recent time to 'a grave inconvenience' when the danger to which the passenger is exposed is not in itself obvious."[10]

In such a case, said Lord Ellenborough in *Jones* v. *Boyce*,[11] "the proprietor will be responsible, though the coach was not actually overturned." But an able writer in the October number of the *American Law Register* is perfectly justified in stating that the rule is subject to this limitation,—that it is necessary that the situation of peril in which the plaintiff is placed, in order to make his act while there an excusable error of judgment, must be the result of the negligence of the defendant;[12] and where, therefore, the plaintiff has, by his own negligence, placed himself in a position of known peril, or where the act of the plaintiff causing his injury resulted from a rash apprehension of danger which did not exist, then, although in the excitement and confusion he makes a mistake in his attempt to escape from impending peril, and is exposed to greater danger, the consequences of such mistake cannot be visited upon the defendant, for no degree of presence of mind nor want of it has anything to do with the case, as it was negligence to be there. On this subject, no better illustration could be presented than the Irish case of *Kearney* v. *The Great Southern and Western Railway Co.*, decided in June last by the Queen's Bench Division.

The plaintiff there was a passenger on the defendants' railway from Lismore. At six o'clock, when the train was approaching Castletownroche station, the plaintiff felt a shock, and some pebbles struck the windows of the carriage, and the carriage, as the plaintiff thought, became filled with smoke. A man in the same compartment as the plaintiff looked out of the window, and cried out that the train was on fire. The train was moving very slowly at the time; the plaintiff was greatly frightened, and jumped out of the carriage, and was in consequence injured. It appeared that the coupling rod of the engine had broken, which caused water and steam to issue from the engine, which, it would seem, the plaintiff mistook for smoke. In fact, the carriage was not on fire, nor was the plaintiff, in fact, in any danger, when the accident happened. A brake was put on, and the train had nearly stopped when the plaintiff jumped out. O'Brien, J., who tried the case, was of opinion

that there was no evidence that the injury to the plaintiff was caused by any negligence or default of the defendants, and directed a verdict and judgment to be entered for the defendants. The plaintiff, thereupon, moved to set aside this verdict and judgment, and the question for the Court was, whether the judge was right in the direction he gave. May, C.J., and O'Brien, J., held, that the injury to the plaintiff was not the result of any negligence by the defendants, and that the direction of the trial judge was right; though, of course, as regards the negligence of the defendants, the case would have assumed a different aspect had the railway carriage been in fact overturned in consequence of the defect in the machinery, or the plaintiff injured by the direct consequence of that defect, instead of by reason of rashly jumping out, without inquiry, immediately on hearing the cry of "fire." Johnson, J., agreed in the decision, but without deciding whether there was evidence of negligence on the defendants' part for the jury. But, on the question whether, assuming negligence on the defendants' part, it was by reason thereof the plaintiff sustained the injuries, he thought there was not evidence for the jury of a peril justifying the plaintiff's dangerous act of jumping out of the carriage. And after citing *Jones* v. *Boyce* and *Robson* v. *North Eastern Ry.*, he said: "In the present case there was not, in my opinion, evidence of peril or grave inconvenience within these authorities which ought to have gone to the jury. The coupling-rod of the engine broke; one end pierced the boiler; steam escaped thence, and smoke from the furnace; the train yielded at once to the action of the vacuum brake—was slowed and shortly came to a standstill. It does not appear how the engine-driver and stoker came by the serious injuries they sustained; but no passenger in the train was injured, or (except the plaintiff and the girl O'Connor) even alarmed. These two seem to have been terrified by the cry—a statement of some men being passengers in the same compartment—that the train was on fire. The defendants are not responsible for this cry or statement; it was unfounded, in fact; but the plaintiff, in panic, jumped through the carriage door, which the girl O'Connor had opened, and she was injured. The injuries, however, were, in my opinion, the result of unfortunate rashness, and not of the defendants' negligence. On this ground, therefore, I think the case was rightly withdrawn from the jury."—*Irish Law Times.*

[1] 1 Stark. 402.
[2] 13 Pet. 181.
[3] L. R. 3 Ex. 150.
[4] 4 Pro. D. 219.
[5] 84 Ill. 126.
[6] 19 Fed. Rep. 83.
[7] Lax v. Mayor of Darlington, 5 Ex. D. 28.
[8] See Lloyd v. Hannibal. etc., Ry., 53 Mo. 509.
[9] Jones v. Boyce, *supra*.
[10] Robson v. The North Eastern Ry. Co., L. R. 10 Q. B. 271.
[11] Jones v. Boyce, *supra*.
[12] See the Elizabeth Jones, 112 U. S. 514, 526.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, March 19.

Judicial Abandonments.

George Darche, trader, St. Mathias, district of St. Hyacinthe, March 10.

Pierre Georges Delisle, printer, Quebec, March 16.

C. E. Dion & Co., traders, Tingwick, March 11.

Myer Myers, Montreal, March 14.

Francois Xavier St. Laurent, trader, Richmond, March 14.

B. St. Pierre & Co., boot and shoe dealers, Nicolet, March 4.

Curators appointed.

Re Berthiaume & Co., hatters and furriers.—Seath and Daveluy, Montreal, curators, March 3.

Re Rudolph Bouthillier.—C. Desmarteau, Montreal, curator, March 15.

Re James Cullens.—Fulton & Richards, Montreal, curator, March 15.

Re Zelic Davis, cigar manufacturer.—Seath and Daveluy, Montreal, curator, Feb. 25.

Re Melodie Leclaire (A. Amyot & Co).—Henry Ward, Montreal, curator, March 9.

Re Henry Kearney, grocer.—S. C. Fatt, Montreal, curator, March 16.

Re Louis Lamontagne, Ste. Cunégonde.—Seath & Daveluy, Montreal, curator, March 10.

Re Barnett Laurence.—S C. Fatt, Montreal, curator, Feb. 4.

Re Oliver, Gibb & Co.—J. McD. Hains, Montreal, curator, Feb. 22.

Re Leopold Provencher, Ste. Gertrude.—Kent & Turcotte, Montreal, curator, March 10.

Dividends.

Re Archibald M. Allan.—Final dividend, payable April 10, Kent & Turcotte, Montreal, curator.

Re A. E. Desilets, Three Rivers.—Final dividend, payable April 10, Kent & Turcotte, Montreal, curator.

Re Marie Desautels (J. H. Lamontagne & Co.)—Final dividend, payable April 10, Kent & Turcotte, Montreal, curator.

Re Jane Mayrand(Mrs. Billy).—Final dividend, payable April 10, Kent & Turcotte, Montreal, curator.

Re Angélique Normand (A. Normand & Co.)—Final dividend, payable April 10, Kent & Turcotte, Montreal, curator.

Re Willaim Knowles, tailor.—Dividend, Seath & Daveluy, Montreal, curator.

Re Lecavalier & Frere.—Final dividend, payable April 10, Kent & Turcotte, Montreal, curator.

Re Sanders & Pelletier.—Final dividend, payable April 10, Kent & Turcotte, Montreal, curator.

Separation as to property.

Mary Hoobin vs. Michael Leahy, stevedore, Montreal, March 15.

Helcia Roy vs. Clément Phaucas *dit* Raymond, formerly of Notre Dame du Lac, March 9.

Apoline Tétreault vs. Michel Benoit, laborer, Farnham, March 10.