The Legal News.

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AWARDS OF ARBITRATORS.

In the case of *M. O. & O. Railway Co.* and *Bourgoin*, 2 Legal News, p. 131, the judgment of the Court of Queen's Bench, Montreal, has been affirmed by the Privy Council upon the main point in issue—the validity or invalidity of the award in favor of Bourgoin. In appeal here, it was held that an award, which, besides fixing an amount to be allowed as damages, ordered the payment by the party expropriating of a monthly sum until certain works should be executed, was null by reason of vagueness. This decision has been affirmed in England.

THE INSOLVENT ACT.

The feeling of hostility to the Insolvent Act has again strongly developed itself at Ottawa, and it seems probable that this session it will be powerful enough to overcome the adverse majority in the Senate, by which alone the abolition of the Act was last year prevented. Mr. Colby's bill, as read a second time, is as follows:

The Insolvent Act of 1875, and the acts amending it, passed in the 39th and 40th years of Her Majesty's reign, and intituled respectively "An Act to amend the Insolvent Act of 1875," and "An Act to amend Insolvent Act of 1875, and the acts amending the same," shall be and are hereby repealed, and no Act repealed by the said acts, or either of them, shall be revived: provided, that all proceedings under the Insolvent Act of 1875 and the amending acts aforesaid, in any case where an assignee has been appointed before the passing of this Act, may be continued and completed thereunder, and the provisions of the said acts hereby repealed shall continue to apply to such proceedings and to every insolvent affected thereby, and to his estate and effects, and to all assignees and official assignees appointed or acting in respect thereof, in the same manner and with the same effect as if this Act had not been passed.

MR. GLADSTONE ON THE LEGAL PROFESSION.

In a recent address to the students of Glasgow University, Mr. Gladstone expressed his views upon the medical and legal professions, and was able to reassure his hearers, who might be destined for one or the other, as to the stability of their avocations. These professions, he said, "are not likely to be displaced or menaced by any of the mutations of this or a future century; the demand for their services lies deep: if not in the order of nature, yet in the actual constitution of things, as the one is founded upon disease and the other on dissension—nay, the demand is likely to be a growing demand. With material and economic progress, the relations of property become more complex and diversified, and as the pressure and unrest of life increase with accelerated movement of mind and body, the nervous system which connects them acquires great intensity and new susceptibilities of disorder; and intensity, disorder and suffering giving occasion for new problems and new methods of treatment, are continually developed. As the god Terminus was an early symbol of the first form of property, so the word Law is the venerable emblem of the union of mankind in society. Its personal agents are hardly less important to the general welfare than its prescriptions, for neither Statute, nor Parliament, nor Press is more essential to liberty than an absolutely free-spoken Bar. Considered as a mental training, the profession of the Bar is probably, in its kind, the most perfect and thorough of all professions. For this very reason, perhaps, it has something like an intellectual mannerism of its own, and admits of being tempered with advantage by other pursuits lying beyond its own precinct, as well as by large intercourse with the world—by studies not only such as those of art and poetry, which have beauty for their objects, but such as history, which opens the whole field of human motive as well as an art, which is not tied in the same degree to position and immediate issues, and which, introducing wider laws of evidence, gives far more scope for expanse of judgment, or, in other words, more exact conformity or more close approximation between the mind and the truth, which is in all things its proper object. We all appreciate that atmosphere of freedom which, within the legal precinct, is constantly diffused by healthy competition. The non-legal world, indeed, is sometimes sceptical as to limitations which prevail within the profession itself. It is sometimes inclined to think that of all professions its action is in these modern times most shrouded in a technicality and a

mystery which seriously encumber the transaction of affairs, and in some cases tend to exclude especially the less wealthy classes from the benefits which it is the glory of law to secure for civilized man in the easy establishment and full security of rights. But these are questions which in more tranquil times will find their own adjustment, and while I have hinted to youths intending to follow this noble profession the expediency of tempering it with collateral studies, I congratulate them on the solidity of the position they are to hold. No change, practical or speculative, social or political, or economic, has any terrors for the profession of the law."

INTERMEDIATE APPEALS.

We have been favored by a professional gentleman in the District of Ottawa with the draft of a bill which, he informs us, was framed by himself, as one of a committee appointed at a meeting of lawyers in the District, and which bill embodies the substance of the resolutions then adopted. Our limited space will not admit of the reproduction of this bill at length. It may suffice to state that its main object is to do away with the revision of cases from the rural districts by three judges sitting in the cities of Montreal and Quebec, and to have the cases either heard in the first instance, or afterwards reviewed, before three judges of the Superior Court sitting in the district where the case arises. "Such bench," says the draft, "shall be composed of the judge resident in the district where held, or if there be none such, then of the nearest resident judge in the last mentioned districts, and the other two shall be from any of the said other rural districts, to wit, the districts other than those of Quebec and Montreal."

We are afraid that the effect of such an innovation as the above would be very different from one of the objects stated in the preamble, viz., "to produce a uniformity of judicial decisions and jurisprudence." It is one of the unfortunate accompaniments of the present system of revision at Montreal and Quebec, that the tribunal is of fluctuating composition, and that decisions precisely opposite, on a question of law or procedure, may be pronounced by it on the same day, according to the opinion of the majority of the members who compose the Court in one or the other case. To have three Judges sitting in review at a score of points all over the Province, the members in each case selected by rotation or in some similar way, would, we believe, multiply the existing evil enormously. It would be difficult even for the Judges in any one district to find out what the Judges in the other districts were deciding, and the confusion would soon be so great that these judgments would have no authority whatever. It is no doubt desirable that suitors should get their cases determined with as little expense and delay as possible, but it would confer no advantage on the public if, in consequence of the conflict of precedent and general confusion of jurisprudence, hundreds of persons should find themselves involved in litigation whose rights otherwise would not have given rise to any difficulty. We are disposed to question the wisdom of having twenty concurrent Courts of review in one Province of less than two millions of people. The change, we are inclined to think, must be in a different direction. There ought not, in fact, to be more than one intermediate tribunal between the Court of first instance and the Court of final judgment, and it is very doubtful whether the benefits accruing from the system of revision have been at all equal to the disadvantage of having a second intermediate Court of Appeal. We in this Province are unfortunately situated as regards the Supreme Court, because two thirds of the members of that Court have been trained under a different system of law. But if the Supreme Court was what it is theoretically supposed to be, and what it may some day become, we should say that no case which may be taken there should by any possibility be susceptible of more than one intermediate appeal, i. e., before the highest Court of the Province. The original scheme of a Court of Review, in fact, was found impracticable. First, the revision of interlocutory judgments was abolished, and then, the judgment in Review where it affirms the judgment below was made final. These have been improvements, but all the objections are not yet overcome, and if the rural districts, for whose benefit the scheme of revision was introduced, do not wish it continued unless a Court be held in each district, the best plan is to do away with it altogether.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

[In Chambers.]

MONTREAL, January 7, 1880.

Sir A. A. DORION, C. J.

BREWSTER, Appellant, and LAMB, Respondent.

Appeal from Court of Queen's Bench to Privy Council—Recourse of party who has failed to move for leave to appeal before the term closed.

An application was made in Chambers (Dec. 29, 1879) on behalf of the appellant, Brewster, for leave to appeal to the Privy Council. The circumstances were somewhat unusual.

The petitioner set out that on the 22nd of December, 1879, being the last day of the term, a judgment was rendered in the Court of Queen's Bench, appeal side, reforming the judgment of the Court below, but condemning the petitioner, appellant, to pay respondent Lamb a sum of $2,985.83, with interest and costs of suit in the Court below. This judgment was susceptible of appeal to Her Majesty in Her Privy Council, and petitioner was desirous of prosecuting such appeal. But in consequence of the detention of Mr. L. H. Davidson, (the counsel specially charged with the case, on behalf of appellant,) at Caughnawaga by a snow storm, he was not present at the rendering of the judgment, and no motion for leave to appeal to the Privy Council was presented before the Court adjourned. [In fact, by error, his partner filed a motion for distraction of costs.] The petitioner offered forthwith to enter security for an appeal to the Privy Council, and concluded as follows: "Wherefore your petitioner prays that your Honor will be pleased to permit him to enter his security in appeal to Her Majesty in Privy Council, and further order that this petition do stand as a Rule for the first day of the next term of said Court of Queen's Bench, and that all further proceedings in this cause be stayed until after the hearing and determination of the Rule."

The foregoing petition was supported by the affidavit of Mr. Cushing, partner of Mr. Davidson.

The petitioner submitted that nothing in the Code of Procedure or Rules of Practice requires a motion for leave to appeal to be made to the Court, and that where such motion has not been made, the party is not deprived of the right to put in security, and that the acceptance of such security should have the same effect as the granting of leave to appeal by the Court.

The CHIEF JUSTICE made the following order: "Petition allowed as to the offer of security; remainder rejected, with reserve of all rights to respondent."

Davidson & Cushing for Appellant, petitioner.

Girouard & Co. for Respondent.

COURT OF QUEEN'S BENCH.

MONTREAL, February 3, 1880.

Sir A. A. DORION, C. J., MONK, RAMSAY, CROSS, JJ.

SAUVÉ et al. (plffs. below), Appellants, and VERONNEAU et ux. (defts. below), Respondents.

Division of Aveu—An admission, whether judicial or extra judicial, cannot be divided, so as to make proof by a part thereof against the party making such admission. (See also *Christin & Valois*, 3 Legal News, 59.)

The appellants, testamentary executors of their father, the late François Sauvé, claimed from respondents $512.48, composed of a sum of $370 which it was alleged that François Sauvé had entrusted to the female respondent his daughter, about 1st January, 1872, to deposit in the Savings Bank at Montreal, and which she had deposited in her own name, and $142.48, for the interest received on the $370.

The plea was that whatever sums the female respondent had received from her father had been paid her as wages; that in July 1863, acting on her father's advice, she had refused to marry, and her father, to induce her to remain with him, agreed to pay her $3 per month wages, and $18 a year for clothing; that under this agreement she worked for her father from 7 July, 1863, until his death in May 1876, and what she received was in payment of her wages under the agreement.

Being examined as a witness, the female respondent stated that she had received $360 from her father, of which sum $42 was her share of the succession of one of her brothers, and $318 was received as wages under the agreement above referred to.

Sir A. A. DORION, C. J. Il n'y a pas d'autre preuve au soutien de la demande que les réponses de l'intimée, et la Cour inférieure, en adjugeant que ces réponses ne pouvaient être divisées, a renvoyé l'action des appelants.

Nous avons déjà jugé dans la cause de *Fulton & McNamee*, conformément à l'article 1243 C.C., que l'aveu, soit judiciaire ou extra-judiciaire, ne peut être divisé contre celui qui le fait, et ce jugement a été confirmé par la Cour Suprême (2 Supreme Court Rep. 470).

D'après cette décision et la jurisprudence invariable en matière d'aveux, le jugement de la Cour inférieure doit être confirmé.

Il y a quelques cas spéciaux où les tribunaux sont justifiables de diviser l'aveu d'une partie, mais celui-ci n'en est pas un.

TESSIER, J., who was absent at the rendering of the judgment, concurred in writing.

Judgment confirmed.

Doutre & Doutre, for Appellants.

St. Pierre & Scallon, for Respondents.

COURT OF REVIEW.

MONTREAL, February 28, 1880.

JOHNSON, TORRANCE, RAINVILLE, JJ.

ROSS v. SMITH, and CANTIN, opposant.

[From S. C., Montreal.

Vessel—Creditor cannot seize and sell mortgaged ship without consent of registered mortgagee.

This case came before the Court of Review on the inscription of the plaintiff from the judgment of the Superior Court, Jetté, J., noted at 2 Legal News, p. 362.

JOHNSON, J. This is a very important case no doubt, but I do not intend to say much about it, because another of the Judges is kind enough to express all that need be said. The judgment under review is one of very great clearness and ability, and I think is perfectly conclusive. If I say now anything in this case, it is because there have been discordant decisions, and the parties will probably remember that when this very case was first heard, it came up before me, and I was disposed to adopt the decision in *Daoust* v. *McDonald*; but I never looked closely at the grounds of that decision, because the parties withdrew the case from before me, and it was heard before Mr. Justice Jetté whose judgment is now before us. Looking into the case now, it is plain that the decision in *Daoust* v *McDonald*, (from which by the by Judge Torrance dissented,) proceeded on the assumption that the art. of the C. C. 2371 was still in force, whereas it is certain that it was repealed by the 3rd section of the Dominion Shipping Act, 36 Vic., c. 128. Our law now, therefore, is the same as the English law; and that was settled by Lord Campbell in the case of *Dickenson* v. *Kitchen*, to the effect that a creditor cannot seize and sell a mortgaged ship as against the mortgagee. I am, therefore, for confirming Judge Jetté's judgment.

TORRANCE, J. The question submitted to the Court is as to the right of a judgment creditor to take in execution a vessel, for the payment of his judgment, against the will and in opposition to an opposing mortgage creditor, holding a mortgage duly registered under the Shipping Acts in force in Her Majesty's dominions. The point has been discussed and decided by a majority of the Court of Review, in favor of the plaintiff in *Daoust* v. *McDonald, & Norris*, opposant, 1 Legal News, 218; and against the plaintiff in *Kempt* v. *Smith, & Cantin* (Sicotte, J.), 2 Legal News, 190; and in the present case (Jetté, J.), 2 Legal News, 362. The majority of the Court here think that there is no error in the judgment now under review, and confirm it. In order to save time, reference is made to the observations of Mr. Justice Sicotte and Mr. Justice Jetté, in the second volume of the Legal News.

Judgment confirmed, Rainville J., dissenting.

D. R. McCord for opposant.

T. P. Butler for plaintiff contesting.

JOHNSON, RAINVILLE, JETTÉ, J J.

TRESTLER v. DAWSON et al.

[From S. C., Montreal.

Damages caused by fall of snow from roof—Proof of force majeure.

This case came up in review of the judgment of the Superior Court, Torrance, J., noted at 2 Legal News, p. 344.

JOHNSON, J. A mass of snow fell from the roof of a church into the public street; a gentleman named Robertson was passing at the time, being driven in his sleigh, and the horse took fright, and the result was that the plaintiff was hurt, having had a rib broken, and having been laid up for several weeks. The defendants are sued as Trustees of the church; their responsibility on that score not being questioned, the contest being merely on the merits, and the plea being a plea of not guilty. The judgment dismissed

the action for want of proof by the plaintiff of negligence. We consider that judgment wrong. Under the principles of our law it cannot be admitted that parties are liable to receive injury from causes within the control of others, and are without recourse against them. We consider that the proof is clear as to the snow having fallen from the roof of the church. That proof is only encountered by the evidence of one witness whose position appears to have been that of being primarily responsible for this accumulation of snow on the roof; but Mr. Larocque, who was in the same sleigh with the plaintiff, and Johnson, another coachman, put that question practically beyond doubt, and beyond the reach of the scientific, or rather conjectural theory that was attempted to be set up. Under these circumstances, we consider that the injury being proved to have proceeded from a cause *prima facie* within the control of the defendants, it was for them to prove a *force majeure* that might exonerate them, and that they have not done so. We therefore reverse this judgment, and considering the extent of the injury, and the amount of the doctor's bill, we give $150 damages and costs.

The judgment is as follows :—

"Considering that the present action is to recover damages for injury suffered by plaintiff from causes alleged to be within the control of the defendants, who have pleaded the plea of not guilty only;

"Considering that the plaintiff has proved that the said injury was the immediate effect and consequence of a horse being driven in the public street having taken fright from the sudden fall of a mass of snow from the roof in plaintiff's declaration described, and which was under the control and management of the defendants, who have not proved *force majeure*, nor any other sufficient excuse or defence; doth adjudge and condemn the said defendants to pay and satisfy jointly and severally to the plaintiff $150 damages for his loss and suffering from the causes in the declaration mentioned," &c., with costs of action as brought.

Judgment reversed.

Geoffrion, Rinfret & Dorion, for plaintiff.

Kerr & Carter, for defendants.

JOHNSON, JETTE, LAFRAMBOISE, JJ.

THE DOMINION TYPE FOUNDING CO. v. THE CANADA GUARANTEE CO.

[From S. C., Montreal.

Judgment fixing the facts for jury trial is not susceptible of revision.

JOHNSON, J. This is a motion by the plaintiffs to reject the inscription made by the defendants, on the ground that the judgment inscribed for review is not one that is susceptible of review. The order complained of was one fixing and defining the facts to be submitted to the jury to be summoned in the cause. We are with the plaintiff. The terms of the law are express. The case that was cited was before the Code, and before any review existed. It decided that there was an appeal, and so there may be still perhaps; but the review is only given from *final* judgments, from which an appeal lies, and this is not a final judgment. At the hearing it struck me that it might be attended with some inconvenience if no review were allowed in such a case as this; because it is clear that a new trial may be had if the facts have been wrongly settled, and it seemed to me that prevention was better than cure; but this inconvenience disappears, if there is an appeal.

Motion granted.

Davidson, Monk & Cross, for plaintiffs.

J. C. Hatton, for defendants.

JOHNSON, JETTÉ, LAFRAMBOISE, J J.

EX parte CHARTRAND et vir, petitioners, and LAMBERT, respondent.

[From S. C., Montreal.

Review—An order of the Superior Court, cancelling the appointment of a bailiff, for misconduct, is not susceptible of revision.

In this case the appointment of Lambert as a bailiff of the Superior Court, had been cancelled by Mackay, J., 31 January, 1880, in consequence of improper conduct on the part of Lambert in connection with an execution.

Lambert having inscribed the above judgment in Review, the petitioner moved to reject the inscription.

JOHNSON, J. We are of opinion that the motion must be granted, and the inscription dismissed. Art. 494 C. C. P., as amended by 34 Victoria, c. 4 (Que.) is what gives the right to review. It is under par. 2 of 494 that the right

is claimed. The words are: "Upon every judgment or order rendered by a Judge in summary matters, under the provisions contained in the third part of this Code." Now, the third part of the Code consists of five titles, in none of which is the present case comprised. Apart from this, the order complained of, from its nature, does not seem to be susceptible of revision. It is an order for the dismissal of a bailiff—a domestic order on which there should not be any review. Motion to reject inscription granted.

Longpré & David for petitioners.
E. U. Piché for respondent.

COURT OF REVIEW.

MONTREAL, December 29, 1879.

TORRANCE, RAINVILLE, PAPINEAU, JJ.

CORSE et vir v. HUDSON et vir, and GORDON, mis en cause.

[From S. C., Montreal.

Lessor and Lessee—Exemption from seizure—Pleading the right of another.

The judgment brought under Review was rendered by the Superior Court, Montreal, 30th June, 1879. See 2 Legal News, p. 260.

TORRANCE, J. The plaintiff had seized by *saisie-gagerie par droit de suite* a piano as liable for rent. The defendant pleaded an agreement by which the piano was exempt from seizure. The pretension of the defendant was maintained by the Court. Hence the appeal. The defendant held the premises of the plaintiff for the period during which the present debt arose, under a lease, containing the usual clause, that the premises should be furnished sufficiently to answer for the rent. Under a previous lease the defendant signed an agreement with G. Warner & Son acknowledging to have received a pianoforte on hire from them, of date 7th December, 1874, and plaintiff was party to this agreement, by which she agreed not to hold the piano for house rent or any other claim she might have against Mrs. Hudson. The Court below held that this agreement inured to the benefit of the tenant, without the intervention of Warner & Son, or Joseph Gould who represents them. The Court here is of opinion that the agreement in question, by which the right of pledge was waived, was solely for the benefit of the owner of the piano; and for Mrs. Hudson to invoke it while she is debtor of the plaintiff is to plead the rights of another, *exciper du droit d'autrui*, and her plea should not be entertained. The judgment will, therefore, be reformed so as to maintain the seizure of the piano which had been liberated.

The judgment is as follows:—

"The Court, etc....

"Considering that the agreement of date 7th December, 1874, between defendant and G. W. Warner & Son, and to which plaintiff was a party, was solely for the benefit of G. W. Warner & Son and their assigns, and the seizure of the piano should therefore be maintained;

"Considering that there is error in that part of the judgment of the Superior Court in this cause, of date the 30th of June, 1879, which discharged the seizure of the said piano, doth in this respect reform the said judgment, and doth declare the seizure of the said piano made under the writ of *saisie-gagerie* in this cause issued, to be good and valid, and doth order the said piano to be sold in due course of law, and the net proceeds of the sale applied to the payment and satisfaction of the amount of the said judgment, to wit, the sum of $300, and interest and costs in both Courts, distraits, etc."

Judgment reformed.

Dunlop & Co. for plaintiffs.
F. O. Wood for defendants.

SUPERIOR COURT.

MONTREAL, January 31, 1880.

CHAUVEAU v. EVANS.

Sale of Insolvent Estate—Percentage to Building and Jury Fund.

JOHNSON, J. The Sheriff brings this action against an official assignee to get one per cent upon $20,000, for which the real estate of an insolvent was sold for the benefit of his creditors. The amount sued for is alleged to be due under Sec. 145 of the Insolvent Act, and under the previous statutes creating a building and jury fund, and giving the Sheriff a right of action in such cases. The defendant pleads the general issue, and also another plea setting up that time was given to the purchaser to pay, with the consent of the creditors, and that the assignee has not received the proceeds of the sale, which was a sale *en bloc* of the moveable and immoveable property, and such a sale is not

within the meaning of the Act. As to the facts, there is an admission that the sale was a sale *en bloc* by the consent of creditors and realized $36,000, included in which was the real estate of the value of $20,000. That the terms of payment were deferred as pleaded; that the defendant has received the first payment, and out of it has declared a dividend, and retained nothing, and got nothing for the jury fund. Upon these facts I shall give judgment for the plaintiff. 1st. Whether it was a sale *en bloc* or not, can make no difference if the price of the real estate be certain. 2ndly, As to the deferred terms of payment, that could only and at the utmost give a mere temporary defence to the action *quant à présent;* and 3rdly, Whether the defendant has retained the money or not, he is liable just the same. The language of the Act is "one per centum upon all moneys proceeding from the sale by an assignee, under the provisions of this Act, of any immoveable property in the Province of Quebec, shall be retained by the assignee out of such moneys, and shall by such assignee be paid over to the Sheriff," &c., &c. The assignee admits he has violated his duty by not retaining the amount as he was ordered to do by this Statute, and as he certainly could have done out of the first payment.

There is no doubt that the section I have just cited, referred to all sales by the assignee under the provisions of this statute; and with respect to sales *en bloc* special provision is made by section 38; and it is there provided that no such sale shall affect, diminish, impair or postpone the payment of any mortgage or privileged claim. The creditors have the power to order this mode of proceeding for the benefit of the estate; but that is surely no reason why the public should suffer. The plaintiff is entitled to recover one per cent on the ascertained proceeds of the real estate; and though the effect of deferred payments, if the fact warranted it, and if it was asked, might be a temporary suspension of the right of action, I must, as the case stands, give judgment for the amount demanded.

Robidoux for the plaintiff.

Macmaster, Hall & Greenshields for the defendant.

WILSON v. LA SOCIETÉ DE CONSTRUCTION DE SOULANGES, and divers *tiers saisis*.

Evidence—Subscription of Stock—Parol evidence is not admissible to prove that a subscription of stock was conditional, when the writing contains on the face of it an absolute promise.

JOHNSON, J. This case is evoked from the Circuit Court, upon the contestations of the declarations of the garnishees. The case presents a good deal of confusion because each declaration had to be separately contested, and all are not precisely the same with respect to all the facts affecting them. There is one point, however, on which they all resemble each other. They all depend upon the question whether verbal evidence is admissible to support the answers made to these contestations. The position of the parties is this: The garnishees subscribed stock in the defendant's society; and it is quite clear that this society cannot pay their debts with the money of others unless it is due to them; and they on their part, and the plaintiffs also, contend that it is due to them, and their apparent debtors, on the other hand, persist in saying that it is not. The garnishees all say substantially that the contract they made with the Society's agent was conditional, and essentially different from what is alleged by the contesting parties; and they want to prove this by parol evidence. There have been conflicting rulings in this case, one at enquête in one way, and another afterwards, on motion to revise in the Practice Court, the other way; but there is not the slightest doubt of the duty and the power of the Court now to decide finally this as well as all other points in the case. My decided opinion is, and I have so held repeatedly; and so have other judges here—particularly Mr. Justice Papineau in the case of *Compagnie de Navigation* v. *Christin*, that verbal evidence is not admissible in such cases. Abbott in his Digest of the Law of Corporations puts the point very plainly, p. 794, par. 101: "Parol evidence is not admissible to show that an instrument containing on the face of it an absolute promise for a subscription to stock in a corporation is conditional." This states the case, and I need not go further; but I see a number of country people here in this case who attach evidently great importance to it, and I will add for their

satisfaction, or if not for their satisfaction, for their instruction in future, that the evidence which was cited and commented upon at the hearing, and which is all here, does not, in my opinion, justify, even if it could avail at all, the position they have taken. Even if an agent of a company makes promises, or holds out inducements to subscribe, if those promises and inducements are not authorized, they will bind only the agent. The evidence, therefore, is rejected, and the contestation maintained with costs. In the *National Ins. Co.* v. *Chevrier*,* 30th November, 1878, I decided the same point in the same way.

Longpré & David for plaintiff contesting.
Loranger, Loranger & Beaudin for *tiers saisis.*

TABLE OF PRECEDENCE.

The following notice, signed "J. C. Aikins, Secretary of State," appears in the *Canada Gazette*:—

By a Despatch from the Right Honorable the Secretary of State for the Colonies bearing date 3rd November 1879, (see 2 Legal News, 385) certain alterations were made in the Table of Precedence, and the following is now the amended

Table of Precedence.

1. The Governor-General or officer administering the Government.
2. Senior officer commanding Her Majesty's troops within the Dominion, if of the rank of a general, and officer commanding Her Majesty's naval forces on the British North American station, if of the rank of an admiral. Their own relative rank to be determined by the Queen's Regulations on this subject.
3. The lieutenant-governor of Ontario.
4. The lieutenant-governor of Quebec.
5. The lieutenant-governor of Nova Scotia.
6. The lieutenant-governor of New Brunswick.
7. Archbishops and bishops, according to seniority.
8. Members of the Cabinet, according to seniority.
9. The Speaker of the Senate.
10. The chief justice of the Supreme Court of Canada.
11. The chief judges of the courts of law and equity, according to seniority.
12. Members of the Privy Council, not of the Cabinet.
13. General officers of Her Majesty's army serving in the Dominion, and officers of the rank of admiral in the Royal Navy, serving on the British North American station, not being on the chief command; the relative rank of such officer to be determined by the Queen's Regulations.
14. The officer commanding Her Majesty's troops in the Dominion, if of the rank of colonel or inferior rank, and the officer commanding Her Majesty's naval forces on the British North American station, if of equivalent rank: their relative rank to be ascertained by the Queen's Regulations.
15. Members of the Senate.
16. Speaker of the House of Commons.
17. Puisne judges of the Supreme Court of Canada, according to seniority.
18. Puisne judges of courts of law and equity, according to seniority.
19. Members of the House of Commons.
20. Members of the Executive Council (Provincial) within their Province.
21. Speaker of the Legislative Council within his Province.
22. Members of the Legislative Council within their Province.
23. Speaker of the Legislative Assembly within his Province.
24. Members of the Legislative Assembly within their Province.
25. Retired judges of whatever courts to take precedence next after the present judges of their respective courts.

*1 Legal News, 591.

OBITUARY.

Several members of the Montreal bar have died within the past week. Mr. Pierre Moreau, Q. C., admitted in 1829, who died on the 29th February, was the senior, with one exception, of those now on the roll of advocates for the Montreal district. Mr. Moreau was long extensively engaged in practice, and enjoyed an excellent reputation for uprightness of character.

Mr. Gonzalve Doutre, admitted in 1863, who died on the 28th ult., was a laborious student and a sincere lover of his profession. He was the author of the first commentary on the Code of Civil Procedure that was published after the work of codification was completed. He was also secretary of the bar for some time, and took an active part in framing the amended Act and by-laws respecting the bar, which were enacted about a dozen years ago. Mr. Doutre's health was never very good, and he deserves to be held in honor for all that he achieved under difficulties of a formidable character. The list of the dead is increased by the name of Mr. Bibaud, advocate, who, it is said, however, was never engaged in practice.