The Legal News.

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The September Term of the Court of Queen's Bench, at Montreal, commenced with 96 appeals on the list. This was a slight increase on the September list of last year, when the number was 87. That the list has remained pretty nearly a fixed quantity for some years, is apparent from the following:—

Sept. 1882	107	Sept. 1886	109
" 1883	106	" 1887	89
" 1884	84	" 1888	84
" 1885	93	" 1889	87

Considerable progress was made during the twelve days of the September Term, the Court rising with 31 délibérés, besides two cases in which judgment was rendered a few days after the hearing.

The trial of Birchall, for the murder of young Benwell, which terminated at Woodstock on Monday last in the conviction of the prisoner, seems to be one of those cases where circumstantial evidence is as convincing as the most direct testimony. Birchall was traced, in company with the deceased, to the scene of the crime, and it was proved that he had come away alone. Before the identification of the body, he was busy carrying out his scheme to defraud the deceased's father, and thus disclosed the motive of the crime very clearly. The cutting out of the marks on the clothing cf the deceased, was an operation which showed great coolness, and was nearly successful in destroying the chance of identification; but the act turned strongly against the accused, (who alone had an interest in preventing the identification) when the finding of a cigar holder inscribed with Benwell's name, in the snow, ten days later, put the police upon the right track. The chain of evidence was so complete, that the ingenuity of Birchall's counsel was unable to make any impression upon it, and the jury, like every one else who has followed the developments of the trial, had no hesitation in coming to the conclusion that the accused was guilty. He himself preserved a discreet silence as to his movements on the day of the murder, it being impossible to offer any explanation, of which the falsity would not have been immediately apparent.

On the subject of dog law, the *Law Journal* (London) has the following:—"It was a Scottish judge who remarked that every dog was entitled at common law to at least one worry. This *dictum* may have been considered witty at the time, assuming that its flavor was appreciated, but when the joke is handed down by one generation of judges to another, as a rule of law modified (so far as cattle are concerned) by statute, we think it is time to protest. The true principle on which the liability of the owner of a domestic animal for mischief done by such animal is ascertainable, may be shortly stated. Domestic animals are presumed to have inherited or acquired, good manners, and to be thoroughly under the control of their owners and keepers. This presumption is not always justified by the facts. Whenever, in case of injury by a domestic animal, it can be proved (1) that the animal is, in fact, of a fierce or mischievous disposition, and (2) that such fact was known to the animal's owner or keeper at the time of the alleged injury, the cause of action against the owner is complete. The gist of the action is the *scienter*. It is not unlawful to keep a mischievous horse or dog; but one who keeps it with knowledge of its mischievous propensities, keeps it at his peril, and is liable for the consequences of its misbehavior. The fact that it has kicked, or bitten, or gored, or attempted to kick, or bite, or gore, some person or animal (not cattle) on a previous occasion, is some evidence of a vicious disposition, but it is not conclusive. But a plaintiff's inability to prove a particular act indicative of ferocity, is by no means fatal to his case. An animal may have earned an evil reputation by reason of its mischievous propensities, although the plaintiff is not in a position to call witnesses to prove any overt act before the one by which he has been injured. If the owner is proved to have had notice of his animal's reputation, and the plaintiff is proved to have been wantonly attacked and injured, there is a *primâ*

facie case for the owner to answer." In this province however, "the first bite" is not admitted as a defence to an action for injury done by a dog, however good its reputation may have been previously.

COUR DE CIRCUIT.

MONTRÉAL, 21 février 1890.

Coram CARON, J.

MOORE v. WALLACE.

Droit de rétention—Pension et logement.

JUGÉ :—1o. *Qu'un maître de pension peut, après trois mois, faire vendre les effets de son pensionnaire pour ce qu'il doit de pension.*

2o. *Qu'il a ce droit, indépendamment de tout autre recours judiciaire.*

Wm. A. Moore, par voie de saisie-revendication, fit entiercer à la fin de janvier dernier (1890), des hardes et effets de toilette qu'il évalua à $91.50, et qui se trouvaient en la possession de Wm. Wallace, un maître de maison de pension.

Wallace, par sa défense, admit la propriété et ne contesta pas la valeur des effets revendiqués. Il allégua en outre, que Moore, lui devant un compte de pension, il avait un droit de rétention sur ses bagages et effets.

Moore répondit spécialement, qu'ayant cessé de pensionner chez Wallace plus de trois mois avant l'émanation du bref de saisie-revendication, et Wallace, n'ayant pas fait vendre par encan public les effets saisis dans ces trois mois, ce dernier avait perdu son privilège et le droit de rétention. Il prétendit en outre, à l'argument, que Wallace avait forfait à son droit de rétention en le poursuivant.

PER CURIAM.—Le maître de maison de pension, à défaut de paiement pendant trois mois, a droit de faire vendre par encan public les effets et bagages de son pensionnaire en suivant les formalités prescrites par l'art. 1816a C. C. Son droit de faire vendre par encan public ne naît donc qu'à l'expiration des trois mois, et Wallace n'a nullement forfait à son droit de rétention en poursuivant Moore avant l'expiration des trois mois, car l'article déjà cité lui donne le droit de faire vendre par encan public en outre de tout autre recours; conséquemment l'action prise par Wallace en recouvrement de la pension due par Moore ne lui est préjudiciable en rien du tout.

Saisie-revendication renvoyée.

L. N. Demers, avocat du demandeur.

Lavallée & Lavallée, avocats du défendeur.

(J. J. B.)

COUR DE MAGISTRAT.

MONTRÉAL, 10 février 1890.

Coram CHAMPAGNE, J. C. M.

DECARY v. LAFLEUR, & *e contra.*

Bail—Resiliation—Mise en demeure—Preuve.

JUGÉ :—1o. *Que le locateur n'est responsable des dommages encourus par le mauvais état des lieux qu'après avoir été régulièrement mis en demeure d'y faire les réparations nécessaires;*

2o. *Que cette mise en demeure peut être verbale, même dans le cas d'un bail écrit, pourvu qu'elle puisse être prouvée légalement, soit par un commencement de preuve par écrit ou par aveu ;*

3o. *Que le locataire qui n'a pas quitté les lieux, avant de demander la résiliation du bail, doit assigner son locateur pour le faire condamner à faire les réparations nécessaires ou voir résilier le bail.*

PER CURIAM :—Le demandeur réclame trois mois de loyer en vertu d'un bail écrit pour un an.

Le défendeur plaide que par suite du mauvais état des lieux loués et la négligence du demandeur de les réparer, bien que mis en demeure de le faire, il a souffert des dommages considérables qu'il offre en compensation pour autant que comporte l'action, puis il prend une demande incidente pour la balance de ses dommages, et demande, en outre, la résiliation du bail.

Le demandenr ne peut être tenu des dommages qu'après une mise en demeure de réparer les lieux. Mais cette mise en demeure, même dans un bail écrit, peut être verbale, pourvu qu'elle puisse être prouvée légalement soit par l'aveu de la partie ou par témoin avec un commencement de preuve par écrit. Dans le cas actuel, la mise en demeure est suffisamment prouvée, la preuve verbale

étant admissible par suite des aveux du demandeur.

Les dommages encourus par la faute du demandeur en privant le défendeur de jouir des lieux loués au désir du bail sont suffisants pour compenser la demande, mais pas au-delà. La demande incidente est donc mal fondée ; et avant de demander la résiliation du bail, le demandeur incident aurait dû assigner son locateur pour le faire condamner à réparer ou voir résilier le bail.

Action et demande incidente déboutées.

Autorités:—C. C. 1070, 1067 ; 1 R. de L. 348 ; Lorrain, p. 55, No. 367 ; *Boulanget & Doutre ; Marchand & Caty*, voir Lorrain, 57.

Prefontaine, St-Jean & Gouin, avocats du demandeur.

Augé & Lafortune, avocats du défendeur.
(J. J. B.)

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*DECISIONS AT QUEBEC.**

Contract—Arbitration—Engineer's certificate—Submission—Interest—Art. 1077, *C.C.*

Action for $184,241, alleged balance of contract price, and value of various works and materials executed, performed and furnished by respondents for appellants. Plea, that by the contract certain powers were conferred on appellants' engineers, who had determined all points in dispute by their final certificate, and established the balance due at $52,011, for which a confession of judgment was tendered.

The respondents (plaintiffs) prayed that the certificate be rejected and set aside as false and contrary to the agreement and to truth, to the knowledge of defendants and their engineers, and fraudulent and partial, and that the engineers be declared, by reason of alleged personal pecuniary interest, disqualified and incompetent to pronounce between the parties on the matters in dispute, or to grant a final certificate binding on the plaintiffs.

The contract contained the following stipulations: "All the accounts relating to this contract between the commissioners and the contractors must be submitted to and adjusted and settled by the engineers, and their certificate, fixing the balance due to the contractors on the completion of the works, shall be conclusive and binding on both parties without any appeal....Should any dispute arise as to the true meaning and intent of the said specifications, bills of quantities, etc., or as to the quality of materials, etc., or the due and proper execution and maintenance of the works, as to liquidated damages for non-completion of the works within the contract time, or rate of progress, or as to the measurement or valuation of the works executed, or as to alterations, deviations, additions, etc., or as to any claim....for work extra, or as to the value of any work for which the prices in the schedule do not apply, or as to accidents, damages, contingencies, or any other matter or thing whatsoever arising out of the contract, the same shall be decided by the engineers as sole arbitrators, and their decision shall be final and binding upon the commissioners and contractors absolutely, and the commissioners and contractors shall be bound to implement and fulfil such decision....And it is hereby understood and agreed....that in the event of any difference of opinion arising between the engineers and the contractors regarding the interpretation to be given to any clause or matter contained in the said supplementary tender, the same shall be decided by the said engineers."

Held, that the above stipulations and agreements, having been voluntarily entered into, were legal and binding on the parties, and in the absence of proof of fraud or collusion between the appellants and the engineers, the certificate of the latter could not be set aside.

Semble, that such certificate may be corrected or reformed by the Court in certain particulars wherein it is shown to be erroneous.

That interest on the sum so awarded will run, not from the date of such certificate, but from the date of the completion of the contract.—*Quebec Harbour Commissioners & Peters et al.*, in appeal, Dorion, Ch. J., Tessier, Cross, Baby, Church, JJ., May 6, 1890.

* 16 Q. L. R.

APPEAL REGISTER.—MONTREAL.

Monday, September 15, 1890.

Ford & Whelan.—Motion to dismiss appeal. Granted as to costs.

Wright & Muldoon.—Petition for leave to appeal. C.A.V.

Lallemand & Bank of Nova Scotia.—Petition to dismiss appeal granted.

McNaughton & Exchange National Bank.—Petition to dismiss appeal. C. A. V.

Laflamme & St. Jacques.—Petition for leave to appeal from interlocutory judgment. C.A.V.

Rhode Island Locomotive Works & Farwell et al.—*Acte* of discontinuance of appeal with costs to respondents granted.

Workman et al. & Farwell et al.—Same entry.

McKechnie et al. & Farwell et al.—Same entry.

Dominion Bridge Co. & Perrault.—*Acte* of discontiuance of appeal granted, with costs to respondent.

Hurdman & Thompson.—Petition for leave to appeal from interlocutary judgment. Petition dismissed with costs.

McBean & Blachford.—Heard. C. A. V.

Atlantic and North-West R. Co. & Judah.—Part heard.

Judah & Atlantic and North-West R. Co.—Part heard.

Tuesday, September 16.

Gillard & Moore.—Motion for leave to appeal from interlocutory judgment. Motion rejected with costs.

Atlantic and North-West R. Co. & Judah.—Hearing concluded. C. A. V.

Judah & Atlantic and North-West R. Co.—Hearing concluded. C. A. V.

Poudrette Lavigne & Poudrette Lavigne.—Part heard.

Wednesday, September 17.

Wineberg & Hampson.—Motion to quash appeal for acquiescence. Motion rejected.

Horsman & Darling. — Motion for new security granted.

Poudrette Lavigne & Poudrette Lavigne.—Hearing concluded. C. A. V.

Reburn & Ontario and Quebec R. Co.—Heard. C. A. V.

Benning & Rielle.—Heard. C. A. V.

Watson & Johnson.—Part heard.

Thursday, September 18.

Watson & Johnson.—Hearing concluded. C.A.V.

Brock & Gourley.—Heard. C. A. V.

Robillard & Dufaux. Heard. C. A. V.

Lanctot & Gundlack.—Part heard.

Friday, September 19.

Lanctot & Gundlack.—Hearing concluded. C.A.V.

Saturday, September 20.

Ex parte F. X. St. Arnault.—Petition to be admitted a bailiff granted.

Lambe & Allan et al.—Heard. C.A.V.

Turnbull & Browne.—Heard. C. A. V.

Monday, September 22.

Wright & Muldoon.—Petition for leave to appeal from interlocutory judgment rejected.

Laflamme & St. Jacques.—Petition for leave to appeal from interlocutory judgment granted.

McNaughton & Exchange National Bank.—Motion for new security rejected with costs.

Dominion Oil Cloth Co. & Coallier.—Judgment reversed; Tessier and Baby, JJ., dissenting.

McFarlane & Fatt.—Confirmed (with a modification).

Great Northwestern Telegraph Co. & Montreal Telegraph Co.—Confirmed.

McBean & Blachford.—Reversed, Tessier and Baby, JJ., dissenting.

Tait & Mantha.—Appeal dismissed, the appellant making default to appear.

Mitchell & Ewing.—Settled out of Court.

Corbeil & Cité de Montréal.—Heard. C. A. V.

Merchants Bank & Parker, (Nos. 120 and 121), *Ontario Bank & Parker*; *Molsons Bank & Parker.*—Part heard.

Tuesday, September 23.

Scott & McCaffrey.—Motion to have record completed. Motion granted.

Stanton & Canada Atlantic R. Co.—Motion for increase of amount of security rejected.

Merchants Bank & Parker; Ontario Bank & Parker; Molsons Bank & Parker.—Hearing concluded. C. A. V.

Watts & Wells (two appeals).-Heard. C.A.V.

Thompson & Dominion Salvage and Wrecking Co.; *Brown & Dominion Salvage and Wrecking Co.*—Part heard.

Wednesday, September 24.

Hagar & Seath.—Reversed; Dorion, Ch. J., and Cross, J., dissenting.

Corbeil & Cité de Montréal.—Appeal dismissed with costs of 3rd class.

Wilson et al. & Lacoste et al.—Reversed, Bossé, J., dissenting.

Hill & Ferreri.—Appellant heard *ex parte.* —C. A. V.

Guevremont & Guevremont.—Heard. C.A.V.

Thursday, September 25.

Stanton & Canada Atlantic R. Co.—Motion to have record remitted to Court below in order to apply for additional security.—C. A. V.

Wells & Burroughs.—Heard. C. A. V.

Vigeant & Poulin.—Heard. C. A. V.

Hastie & Hastie.—Heard. C. A. V.

Guevremont & Guevremont (No. 164).—Heard. C. A. V.

Friday, September 26.

Corbeil & Cité de Montréal.—Motion for leave to appeal to Privy Council granted.

Ross & Dupuis et al. & Smith, petr.—Petition to be permitted to intervene granted.

Wood & Maloney.—Petition for leave to appeal from interlocutory judgment rejected.

Ford & Whelan.—Heard. C. A. V.

Filiatrault & Cocker.—Appeal dismissed, the appellant making default to appear.

Rheaume & Trudel.—Heard. C.A.V.

Lalonde & Rozon.—Heard *ex parte.* C.A.V.

Lindsay & Chaplin—Heard. C.A.V.

Perrault & Montreal and Sorel R. Co.—Heard *ex parte.* C. A. V.

Saturday, September 27.

Stanton & Canada Atlantic R. Co.—Motion for additional security rejected.

Dandurand & Mappin.—Submitted on factums. C. A. V.

Reburn & Ontario and Quebec R. Co.—Heard. C.A.V.

The following cases were stricken from the roll, no proceedings having been taken within the year:—

Dolan & Cie. de Pret et Crédit Foncier.
Poudrette & Ontario and Quebec R. Co.
Canadian Pacific R. Co. & Paterson.
Laplante & Parenteau.
Orcutt & Mittimore.
Ontario and Quebec R. Co. & Poudrette.

McBean & Marler et al.—Motion to dismiss appeal, granted for costs only by consent.

Benning & Atlantic and N. W.R. Co.—Heard. C. A. V.

The Court adjourned to November 15.

Délibérés after September Term :—Atlantic and N. W. R. Co. & Judah; Judah & Atlantic and N. W. R. Co.; Poudrette Lavigne & Poudrette Lavigne; Reburn & Ontario and Quebec R. Co.; Benning & Rielle; Watson & Johnson; Brock et al. & Gourley; Watts & Wells, (Nos. 51 and 52); Robillard & Dufaux; Lanctot & Gundlack; Lambe & Allan et al.; Turnbull & Browne; Merchants Bank and Parker (Nos. 121 and 122); Ontario Bank & Parker; Molsons Bank & Parker; Hill & Ferreri; Guevremont & Guevremont (No. 269); Wells & Burroughs; Vigeant & Poulin; Hastie & Hastie; Guevremont & Guevremont (No. 164); Ford & Whelan; Rheaume & Trudel; Lalonde & Rozon; Lindsay & Chaplin; Perrault & Montreal and Sorel Ry. Co.; Dandurand & Mappin; Reburn & Ontario and Quebec R. Co.; Benning & Atlantic and N. W. R. Co.

FIRE INSURANCE.

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

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CHAPTER VI.

THE CONDITIONS OF THE POLICY.

[Continued from p. 312.]

Though goods (as cloth) be at the risk of A who has received them to work upon them for B, though the bailment to A be expressly at his risk till the goods be finished and accepted by B as finished; a fire destroys all in A's possession; A, who has insured "his stock of clothing, manufactured and in process of manufacture," cannot recover for B's benefit, or in any way the value of B's stuff destroyed by the fire, the policy containing the proviso: "The company are not to be liable for loss for property owned by any other party, unless the interest of such party is stated on this policy." [1]

The plaintiff was held to be uninsured,

[1] *Getchell* v. *Ætna Ins. Co.*, 14 Allen's Rep. (Mass.).

even to the extent of the value of his labor upon B's cloth, which was about $600. B. lost $2,000, value of the cloth.

§ 183. *Notice of previous or subsequent insurance.*

"Notice of all previous assurances upon property assured by this company, shall be given to them, and endorsed on this policy, or otherwise acknowledged by this company in writing, *at or before* the time of their making assurance thereon, otherwise the policy subscribed by this company shall be of no effect. And in case of subsequent assurance of property assured by this company, notice thereof must also be given to them, to the end that such subsequent assurance may be endorsed on the policy subscribed by this company, or otherwise acknowledged in writing; in default whereof such policy shall thenceforth cease, and be of no effect."

The above is a condition in most American policies.

The clause in some policies reads: "If the assured or his assigns shall hereafter make any other insurance on the same property, and shall not with all reasonable diligence give notice thereof to this company, and have the same endorsed on this instrument, or otherwise acknowledged by them in writing, this policy shall cease, and be of no further effect." (Ætna Policy.)

Such conditions will be enforced; nevertheless their words ought not to be extended. By the condition firstly above printed, the duties upon the insured are greater as regards previous insurances than as regards subsequent. As regards the former, notice is to be given to the insurers *and* endorsed on the policy, or otherwise acknowledged in writing, *at* or before the time of the policy, otherwise it shall be of no effect.

Suppose the fact of previous insurance to be forgotten till a week after the second policy; then, second insurers to be informed of it, and to endorse it on their policy, surely, if afterwards a fire happened, the second insurers could not escape by referring to the wording of the above first clause of condition, "at or before the time of their making insurance, etc." This shows that literal interpretation is unjust sometimes, and the spirit is to govern, more than the letter.

A policy was made with the usual conditions. One was that notice of all previous insurances should be given to the company and endorsed on the policy, or otherwise acknowledged in writing,—or the policy to be of no effect. Another condition was that all notices must be in writing. Another insurance was in the Gore Mutual, but not endorsed. B. claimed that he had informed the company's agent of the Gore Mutual insurance, and the company's agent promised to find out its amount, etc., and he promised to have it endorsed in writing, etc. The application was held not true, and verbal notice to company's agent, of no use.

The 13th condition of the Liverpool & London Fire & Life Insurance Company, is, that the company shall not be liable for loss by fire in any building under construction or repair, wherein carpenters are employed, unless the special consent of the company be first *obtained* and *endorsed* on the policy.

Very rarely is this endorsement made, but a receipt on a separate piece of paper is given instead, declaring reception of premium for carpenters' risk. Such receipt being given, would the above condition operate notwithstanding?

As regards subsequent insurance, notice must be given, in default whereof the policy shall cease; but no time for giving the notice is fixed, and it is to be given "to the end that" etc. According to the letter, the insurer is not freed merely because the insured has not had endorsed on his policy or acknowledged in writing, the fact of his subsequent insurance. "Qui veut la fin veut les moyens,"—the end attained all is well. As to the time for giving notice, where none is expressly fixed, a reasonable time would be allowed, and as to what was or was not a reasonable time, the jury might, fairly, decide, according to circumstances. According to the law of Lower Canada, an insured would recover in such a case though giving notice only with his particulars of loss, the end of the insurer being obtained by the late as by an earlier notice. Certainly the insured could not be repelled if he effected double insurance one day, and fire happened the day

afterwards, and before notice was given of the double insurance.

If double insurance exist, without notice, contrarily to a condition, though only for a time, and it cease to exist before loss, so that at the time of loss only one insurance (the original one) exists; yet the original insurers are free.[1] There was a time during which the evil existed that they meant to guard against, namely the temptation to fraud, while the two insurances existed.

Where other insurances are to be notified and endorsed on the insured's policy, the insured cannot recover on his policy unless such endorsement be made, though he gave notice and asked for the endorsement, and alleges neglect of the insurers to indorse.[2]

Other insurances if to be declared *à peine de nullité* must be in France. There is nothing to prevent any number of insurances in the absence of a clause to that effect. C. Com. 359, recognizes successive insurances. The first insurer has to pay, first, the whole loss if the policy be sufficient. If he only insured for partial or small amount, (less than the loss) the second policy is resorted to, and *ainsi de suite*; but companies by their policies, derogate and stipulate for contributions *pro rata* of their interests, and as if all the policies were of one date. A subsequent void policy does not hurt a person insured by an earlier insurance policy, though this read that if the insured make other insurance without consent of the insurers, the policy shall be void.

It is sufficient, too, that the second policy be merely *voidable*. So held in Iowa, (latest cases) Massachusetts, New Hampshire, Ohio, Pennsylvania, Maine, New Jersey, Illinois. Opposed to the above, are: *Bigler* v. *N. Y. C. Ins. Co.*, and English cases, and *Prov. Wash. Ins. Co.* 16 Peters, but Bigler's case was that of plaintiff suing on first policy paid on second one. Yet in Ohio they hold that a man who got second policy amount, might yet sue on first policy. *Firemans Ins. Co. of Dayton* v. *Holt*, Nov. 1879. Alb. L. J. of 1880, p. 357.

If notice be given, and demand to endorse be made, *semble*, this would be sufficient, if the company refuse or neglect to endorse. But the plaintiff ought to show that he did all he could to fulfil his obligation to get the endorsement. There may be a recovery for the loss in the Province of Quebec in such case, though the condition be not literally complied with. The defendant ought to be held barred owing to his fault.[1]

In the case of *Conway Tool Co.* v. *Hudson River Ins. Co.*,[2] the insurance was to cease, if any further insurance be effected "without having the same endorsed on the policy, or otherwise acknowledged in writing." (There was really no prior insurance, though the insured declared there were two.) Subsequent insurance was effected, and not endorsed, nor acknowledged in writing. The agent of the defendants who issued their policy was examined, to prove by parol that he authorized by parol such subsequent endorsement. His statements were held to be inadmissible.[3]

[1] *Jacobs* v. *Equitable Insurance Company*, 18 Upper Canada Queen's Bench, p. 18.

[2] *Noad* v. *Provincial Ins. Co.*, 18 U. C. Q. B. p. 584.

[1] *Carpenter* v. *Prov. Wash. Ins. Co.*, 4 Howard, 223.

[2] Supreme Court, Mass. A. D. 1853, 12 Cushing's Rep.

[3] The pretention of the insured was, that the subsequent insurance was to take the place of the prior insurances talked of.

CONFLICT OF LAWS—FOREIGN COUNTRY—AUTHORITY OF AGENT.

An interesting point on the conflict of laws in cases of agency was decided by Mr. Justice Day, on the 2nd inst., in the case of *Chatenay* v. *Brazilian Submarine Telegraph Company, Limited.* The point is an entirely new one, and raised the question whether a power of attorney given in a foreign country, but put in force in this country, is to be construed according to the law of the country where it was given, or according to the law of the country where it was put in force. Story, in his work on the Conflict of Laws, says that this point has never, so far as his researches extended, been directly decided either in America or any other country, so that there is no direct authority on the question. The case came before the court under the following circumstances:—The plaintiff, who was resident and domiciled in Brazil, executed in Brazil a power of attorney, whereby he empowered the attorney, a stockbroker in London, "specially to purchase and sell shares

in public companies and public funds, receive the dividends as they may accrue due, and give receipts in conformity with his letters of orders." Armed with this authority, the attorney sold out certain shares which the plaintiff held in the defendant company, and the present action was brought to recover the shares or their value from the defendant company. The plaintiff's right so to recover, it was admitted, depended on the question whether, under the terms of the power, the agent had power to dispose of the shares without the plaintiff's consent, and this again depended on the question whether the document was to be construed as to the powers conferred on the agent, according to the Brazilian or English law; for it was admitted that if construed according to English law, the document would have given the attorney a more limited power than if construed according to Brazilian law. No doubt, if English law had given the agent a wider authority than the Brazilian law, it would have been contended, and would probably have been held, that persons dealing with the agent in England would have been entitled to rely on the wider authority given by English law, and that the foreign principal would have been stopped from setting up the more limited authority as given by the law of his own country; but the present case was different, as it was a case where the English law gave the more limited authority, and there could not therefore be the same hardship upon persons dealing in England with the agent. Mr. Justice Day decided that the document was to be governed by English law, thus adopting the view of Story, where he says (paragraph 286): "There is no doubt that where an authority is given to an agent to transact business for his principal in a foreign country, it must be construed, in the absence of any counter-proofs, that it is to be executed according to the law of the place where the business is to be transacted."—*London Law Times.*

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Sept. 27.

Judicial Abandonments.

Zéphirin Lafrance, hotel-keeper, Quebec. Sept. 20.
Damase A. Morin, trader, Fraserville, Sept. 23.

Curators appointed.

Re Wm. Beattie, trader, Melbourne.—L. Thomas and Jas. Mairs, Melbourne. joint curators, Sept. 16.

Re Raymond Beaudoin.—C. Desmarteau, Montreal, curator, Sept. 19.

Re Bossé & Lee.—Kent & Turcotte, Montreal, joint curator, Sept. 19.

Re Joseph A. Bougie *et al.*—Millier & Griffith, Sherbrooke, joint curator, Sept. 22.

Re David Lanthier, Montreal.—Kent & Turcotte, Montreal, joint curator, Sept. 19.

Re Sévérin Marois, hotel-keeper.—J. E. Archambault and H. Champagne, St. Gabriel de Brandon, joint curator, Sept. 17.

Re Joseph Millette.—J. A. Marcotte, Montreal, curator, Sept. 23.

Re Napoléon Rousseau, baker, Quebec.—F. X. Lemieux, Quebec, curator, Sept. 24.

Re "The Stair Coal-Mine & Manufacturing Company, Limited."—G. H. Patterson, Montreal, liquidator, Sept. 15.

Re Viger & Grundler, Montreal.—Kent & Turcotte, joint curator, Sept. 19.

Dividends.

Re D. Campbell & Son.—Second and final dividend, payable Oct. 13, A. F. Riddell, Montreal, curator.

Re C. H. Craig & Co.—First and final dividend, payable Oct. 16, F. Valentine, Three Rivers, curator.

Re N. Deschamps & Co. (Eugénie Charlebois).—First and final dividend, payable Oct. 13, C. Desmarteau, Montreal, curator.

Re Laughram Adams.—First and final dividend, payable Oct. 8, G. Deserres, Montreal, curator.

Re Appolinaire Morency, tailor, Quebec.—First and final dividend, payable Oct. 13, H. A. Bedard, Quebec, curator.

Re John Reiplinger.—First and final dividend, payable Oct. 14, John MacIntosh, Montreal, curator.

Appointment.

Jules Allard, Montreal, Advocate, to be registrar for the county of Yamaska, and Clerk of the Circuit Court for the same county.

GENERAL NOTES.

EXAMPLE AND PRECEPT.—The following is from Roger Ascham's Schoolmaster.—It is a notable tale that old Sir Roger Chamloe, sometime Chief Justice, would tell of himself. When he was ancient in Inn of Court, certain young gentlemen were brought before him to be corrected for certain misorders; and one of the lustiest said: 'Sir, we be young gentlemen; and wise men before we have proved all fashions, and yet those have done well.' This they said because it was well known Sir Roger had been a good fellow in his youth. But he answered them very wisely. 'Indeed,' saith he, 'In youth I was as you are now; and I had twelve fellows like unto myself, but not one of them came to a good end. And, therefore, follow not my example in youth, but follow my counsel in age, if ever ye think to come to this place, or to these years, that I am come unto; lest you meet either poverty or Tyburn in the way.'