The Legal News.

Vol. XIII. MARCH 15, 1890. No. 11.

The vacancy in the Court of Queen's Bench caused by the death of Mr. Justice Manisty, has been filled by the appointment of Mr. R. V. Williams, Q.C., son of the late Mr. Justice Williams, of the Court of Common Pleas. The new Judge was born in 1838, educated at Oxford, and was appointed Q.C. last year. The *Law Journal* says that at the bar Mr. Williams speedily earned a name for hard work. "The Bankruptcy Act, 1869, by overturning the whole of the previous practice, afforded an opening of which he promptly availed himself, and his work on Bankruptcy, which appeared in 1870, was completely successful, and pronounced not unworthy of its dedication to the eminent writer and ex-judge, his father. Nearly twenty years of steady plodding in the interests of his clients, varied by the chief part in the labour of producing successive editions of his own work on Bankruptcy and of the standard work on Executors which is his by descent, have caused his appointment to the vacant judgeship, to be looked on by the profession as the just reward of conscientious toil."

The *Law Journal*, referring sarcastically to the mode in which cause lists are sometimes slaughtered, observes:—"There ought to be a *tertium quid* between the two extremes of painful deliberateness and speedy execution. It may perhaps be useful now and then to remind our judges that the few litigants who still resort to the regular tribunals of their country are not satisfied with having their cases disposed of, and prefer to have them tried."

THE CRIMINAL LAW OF CANADA.

Criminal Law as a substantive branch of jurisprudence is of comparatively modern growth. The early tendency of law-givers was to punish offences against the sovereign power by executive or legislative acts merely designed to meet the particular occasions which evoked them, while offences against individuals—such as homicide or theft—although endangering the public welfare, were treated as civil injuries to be requited by pecuniary damages. In the Roman Law, acts which are now regarded and punished by all civilized nations as crimes were defined as *delicts* or wrongs, and instead of being corrected by the intervention of the state, were left to the prosecution of the injured parties, or their representatives. Hence the *corpus juris civilis*, which formed so rich a store-house to the nations of modern Europe in establishing their several systems of private rights and remedies, afforded no guidance to them in formulating laws for the repression of wrongs which menaced the security of the state. The first attempt to promulge a criminal code was the "Constitutio Criminalis Carolina" of the Emperor Charles V, of Germany, which was the forerunner of the present German penal code,—"*Strafgesetzbuch für das Deutche Reich.*" It was not until 1810 that France adopted her *Code Pénal*, which afforded an exemplar long looked for by the Latin races of the continent, and which they were quick to profit by. Even so late as the year 1845 the criminal law of England was in so loose and unsatisfactory a state that an eminent legal author of that period was forced to admit that "no candid commentator could pronounce upon it a quite unmixed encomium." But there has been much accomplished in the way of legal reform since that time, and, as the utility and ethical significance of a code as applied to criminal law has now taken strong hold upon the minds of English lawyers, before very long we may expect to see a legislative adoption of the Draft Penal Code which has been under the consideration of the Imperial Parliament for some time past.

In giving us a Digest of the Criminal Law of Canada,* based upon Sir J. F. Stephen's

---

* A DIGEST OF THE CRIMINAL LAW OF CANADA (Crimes and Punishments) founded by permission on Sir James Fitzjames Stephen's Digest of the Criminal Law, by George Wheelock Burbidge, A. B., D. C. L., Judge of the Exchequer Court of Canada. Toronto, Carswell & Co., 1890.

work of a similar character as applied to the criminal law of England, Mr. Justice Burbidge has made a most valuable addition to the scanty legal literature of Canada, and that both teachers and practitioners of the law will be quick to avail themselves of the release from much irksome research which is here afforded them, goes without the saying. A digest is a systematised collection of laws, and only differs from a code in that it lacks legislative sanction and official promulgation. Only those who are obliged by their calling, to ascertain the law by delving and toiling amongst the accumulated statutes and precedents of centuries can appreciate the value of such a work as the one under consideration.

The arrangement of Sir J. F. Stephen's Digest has been as closely followed by Judge Burbidge as circumstances would permit, and upon that head, as well as with regard to such portions of his book as literally reproduce the matter of the English work, little need be said. It is true that the method adopted by the English author of explaining the law by means of illustrations is open to the logical objection against argument by example, and it is moreover true that there is a case in the books where Lord Coleridge, C. J., shows that the learned Judge Stephen in one instance at least falls into a very obvious fallacy in endeavouring to settle a legal principle upon a dialectical basis. (*The Queen* v. *Ashwell*, 16 Q. B. D., at p. 224). Yet, in the main, the illustrations in his Digest are sound in principle, and are found to be most helpful to a clear understanding of the law.

A cursory inspection of Judge Burbidge's work is sufficient to show that his labors have been far more comprehensive than those of an editor only. The scheme of his Digest carries him beyond the limit where the work of the English author furnishes him with a beaten path, and compels him to explore fields of colonial law hitherto untravelled by commentators. It is a signal tribute to Judge Burbidge's learning and research that a thoughtful consideration of those portions of the book which are peculiarly his own impresses one with the conviction that they are comparable in a high degree with the matter contained in his English model. This is particularly true of the first chapter of the book. It deals with a subject of paramount importance to the law-student, as well as to every practising lawyer in the country,—"the application of the Criminal Law." This chapter is subdivided into two articles treating of (1) the territorial application of the Criminal Law of Canada, and (2) the application of the Criminal Law of England in Canada. Although this chapter comprises only four and one-half pages of the book, yet within that limited space may be found, in text and foot-note, an exhaustive exposition of all the sources of law relating to Crimes and Punishments now in force in the several provinces of the Dominion whether by importation from the mother country at the time of conquest or settlement, or by subsequent Imperial, Provincial, or Federal parliamentary enactment. This speaks well for the power of condensation of the learned author.

Again, there are instances in abundance where our own criminal statute law is wholly different from that of England, and in dealing with them Judge Burbidge's work is, of course, entirely original, except in point of arrangement, which is uniform throughout. The copious foot-notes to the text, printed in minion, are most useful epitomes of all the important decisions of our courts bearing upon the interpretation of the statutes here referred to, and will be duly appreciated by those who have recourse to them.

Besides these estimable features of the book, wherever Judge Burbidge has adopted the text and notes of the English author he has added notes of his own which greatly enhance the value of the original matter. The index and tables of cases and statutes have been carefully prepared by Mr. Charles H. Masters, Assistant Reporter of the Supreme Court of Canada, a gentleman of experience in this department of book-making, and who recently performed a similar service for Mr. Justice Taschereau in the preparation of the 2nd edition of his well known compilation of the Criminal Acts.

Space has only permitted me to barely indicate what seem to me the salient features of a work which I venture to aver has few equals among the publications heretofore

issued by Canadian jurists. By its arrangement, it is so well qualified for the purposes of the student that it must certainly become a text-book in our law schools; and it should have a ready sale amongst the profession generally as no library will be complete without so valuable a compendium.

CHARLES MORSE.

Ottawa, 7th March, 1890.

SUPERIOR COURT—MONTREAL.*

Libel in pleading—Pertinency of allegations—Malice.

Held:—(Reversing the decision of OUIMET, J., M. L. R., 4 S. C. 424), That the pertinency of a libellous allegation in a pleading is a justification only when the allegation is made in good faith, with probable cause, and without intention to injure; and the proof of these facts is incumbent on the party making such allegation; and in the absence of evidence of the truth of the allegation, or of probable cause, malice will be presumed. And so where the plaintiff in an action to annul an election, alleged subornation of perjury and other offences against the defendant, and made no proof in support of the charges, he was condemned to pay $100 damages.—*Charlebois* v. *Bourassa*, in Review, Loranger, Wurtele, Davidson, JJ., June 8, 1889.

Contract—Right of passage—Interruption—Waiver.

Held:—That where road trustees commuted for an annual payment the tolls payable by a street railway company travelling on a certain road, and the company agreed that the trustees, or the municipalities within whose limits the road was situated, should have the right to take up the road for certain purposes, without the company being entitled to any compensation or damages therefor, that the company was estopped not only from claiming damages, but also any diminution of the annual commutation payment for loss of use.—*Trustees of the Montreal Turnpike Roads* v. *Montreal Street Ry. Co.*, in Review, Taschereau, Wurtele, Davidson, JJ., Dec. 29, 1888.

* To appear in Montreal Law Reports, 5 S. C.

Prescription—Interruption par la faillite—Arts. 2224, 2232, *C. C.—Acte de faillite* 1864.

Jugé:—Que la faillite du débiteur en juillet 1865, accompagnée d'un bilan où la créance est portée par le failli, mais avec le nom d'un créancier autre que le créancier véritable, suspend la prescription durant tous les procédés en liquidation forcée, et que le créancier véritable, ou son cessionnaire, peut en 1885, vingt ans plus tard, et vingt-deux ans après l'existence de la dette prescriptible par cinq ans comme dette commerciale, mais avant la liquidation finale de la faillite, produire valablement une réclamation qui lui permette d'être colloqué avec les autres créanciers.—*In re Stephen*, failli, *Seath*, réclamant, et *Hagar*, contestant, Pagnuelo, J., 30 déc. 1889.

Novation—Deed of composition—Art. 1169, *C.C.*

Held:—Where a creditor, whose claim does not appear to be of a commercial nature, becomes a party to a voluntary deed of composition with his debtor, by the terms of which he remits half of the debt, and the interest, and agrees to accept the remainder by instalments, with security, without stipulating that the debtor shall not be discharged until the composition is fully paid,—that novation is effected; and the creditor has no right, upon the debtor's default to pay the instalments of the composition as they become due, to issue execution *de plano* upon the judgment obtained by him for the original debt.—*Vincent* v. *Roy dit Lapensée*, et *Roy* oppt., in Review, Johnson, Loranger, Wurtele, JJ., Jan. 31, 1889.

Quebec Controverted Elections Act, s. 41—*R.S.Q.* 500—*Mis en cause—Preliminary objections—Review.*

Held:—That the *mise en cause* (whether by the answer to the petition or subsequently) of any other candidate not petitioner in the cause, is in the nature of an election petition, and is subject to the rules prescribed for such petitions; and an appeal lies to the Superior Court sitting in Review, under s. 41 of the Quebec Controverted Elections Act (R. S. Q. 500), from a judgment maintaining preliminary objections of the *mis en cause*.—*Séguin* v. *Rochon*, et *Cormier*, mis en cause, Jetté, Loranger, Davidson, JJ., June 8, 1889.

Quebec Controverted Elections Act—R. S. Q. 514—Mis en cause—Trial.

Held:—That after the *enquête* on the trial of an election petition has been closed, the respondent is no longer entitled, under R. S. Q. 514, to adduce evidence to show that any other candidate has been guilty of corrupt practice.—*Séguin* v. *Rochon*, et *Cormier*, mis en cause, Doherty, Mathieu, Tait, JJ., Oct. 3, 1889.

Quebec Controverted Elections Act—R. S. Q. 514—Trial—When concluded.

Held:—That the trial of an election petition is concluded when the *enquête* of petitioner and respondent has been closed; and it is not competent thereafter for the respondent to give notice, under R. S. Q. 514, that he intends to prove that another candidate not in the cause has been guilty of corrupt practices.—*Séguin* v. *Rochon*, et *Cormier*, mis en cause, Doherty, Tait, deLorimier, JJ., Oct. 3, 1889.

Quebec Controverted Elections Act—Preliminary objections—Service of petition—Description of electoral district—Stamps—Corrupt practice—Knowledge of candidate—Evidence.

Held:—1. A petition presented on the 7th November and served on the following day, the notice of election having been published on the 8th October—is within the delay prescribed by R. S. Q. 482.

2. The description of the electoral district, in the petition, as "the electoral district of "*the County* of Ottawa," instead of "the elec- "trict of Ottawa," is not a sufficient ground for rejecting the petition, the electoral district being in fact composed of the county of Ottawa alone.

3. In a district where the fee on filing petition is payable in money to the clerk of the Court, and has been duly paid, the absence of stamps on the petition is not an irregularity.

4. The fact that large sums were being illegally spent by the agents of a candidate, and that this circumstance must have been known to those who were engaged in promoting his election in that part of the county, is not of itself sufficient to prove knowledge by the candidate of corrupt practice, where it appears that he was not present at the place where the money was being disbursed, but was engaged in a remote part of the county. Knowledge of corrupt practice must be clearly established, and where the evidence is so contradictory as to raise a doubt, the defendant is entitled to the benefit of the doubt—*Séguin* v. *Rochon*, et *Cormier*, mis en cause, Jetté, Wurtele, Davidson, JJ., Dec. 30, 1889.

CIRCUIT COURT.

MONTREAL, March 4, 1890.

Before DOHERTY, J.

HAEFNER v. RUESS & THE WINDSOR HOTEL CO., T.S.

Workman's Wages—Art. 628, C.C.P.—Petition to quash saisie-arrêt before judgment.

Action for $48.75 money loaned, with attachment before judgment.

Defendant, who is employed as cook's fireman at the Windsor Hotel, petitioned to quash the *saisie-arrêt* before judgment, and in any event to release three-fourths of the amount seized in virtue of Section 5 of Article 628 of the Code of Civil Procedure as amended.

PER CURIAM:—The defendant is a domestic servant and consequently not entitled to the exemption claimed. Upon the other grounds defendant has failed to establish the allegations of his petition which is dismissed.

W. J. White, for plaintiff.

Carter & Goldstein, for defendant and petitioner.

COUR DE MAGISTRAT.

MONTRÉAL, 19 septembre 1889.

Coram CHAMPAGNE, J. C. M.

TORRANCE v. CURRIE.

Cour de Magistrat de district—Cour de Magistrat de la cité—Jurisdiction.

JUGÉ:—*Que la taxe des frais faits en justice doit se faire devant le tribunal où les procédés ont eu lieu, et que la Cour de Magistrat de la cité n'a pas de jurisdiction pour décider si des frais étaient dûs par aucune des parties dans une poursuite intentée devant la Cour de Magistrat du district de Montréal qui a existée, mais qui n'a plus d'existence.*

Le demandeur a institué une action devant la Cour de Magistrat du district de Montréal, avant le désaveu de la loi en vertu de laquelle cette Cour avait été établie. Après le désaveu, le 5 septembre, le demandeur a filé une discontinuation, et a pris une action devant cette Cour. Le défendeur fait motion que tous les procédés en cette cause soient suspendus jusqu'à ce que le demandeur ait payé les frais qu'il a encourus devant la Cour de Magistrat du district de Montréal.

La question est de savoir si cette Cour peut décider si des frais ont été encourus dans la Cour maintenant disparue, avant la discontinuation.

La Cour a jugé qu'elle n'avait pas de juridiction.

Motion renvoyée.

Loranger & Labine, avocats du demandeur.

Chs. Raynes, avocat du défendeur.

(J. J. B.)

COUR DE MAGISTRAT.

MONTRÉAL, 13 mai 1889.

Coram CHAMPAGNE, J. C. M.

VALLÉE v. CAUNON.

Patron et ouvrier—Salaire—Billets de travail—Convention.

JUGÉ:—*Qu'une personne qui emploie des ouvriers à l'heure et leur donne un billet marquant le nombre d'heures faites au lieu de tenir des livres, et ensuite les paie le samedi suivant les billets présentés, ne peut pas refuser le paiement du temps fait, parce que l'ouvrier aurait perdu ses billets; il en serait autrement, si l'on prouvait une convention formelle entre le patron et l'ouvrier que le paiement ne se ferait que sur présentation des billets; une entente tacite ou une coutume n'est pas suffisante.*

PER CURIAM.—Le demandeur a travaillé 24 heures à 25 centins de l'heure, au déchargement des navires pour le compte du défendeur, et demande le paiement de son salaire. Le défendeur répond qu'il ne tient pas de livres pour le temps de ses hommes, que tous les soirs il leur donne des *tickets* signés de son nom constatant le nombre d'heures de travail de chaque homme, et qu'il ne peut payer que sur la présentation de ces *tickets*, et qu'en payant le demandeur qui dit avoir perdu ses *tickets*, il s'expose à payer deux fois, dans le cas où les *tickets* seraient présentés plus tard par une autre personne. L'ouvrage et le prix sont admis. Il est prouvé que d'autres compagnies du même genre donnent aussi des *tickets* pour la satisfaction des employés, mais qu'ils tiennent en même temps des livres pour le temps des hommes. Le demandeur ne peut perdre son salaire dans la crainte que les *tickets* seront présentés par d'autres personnes, ce qui n'arrivera peut-être jamais. Ces *tickets* ne sont pas faits au porteur, ni pour valeur reçue, ce qui obligerait l'étranger qui les présenterait de prouver que le temps a été donné comme valeur de ces *tickets*. Si le défendeur n'a pas d'autres moyens de constater le temps donné par ses employés, c'est sa faute, il devrait tenir des livres pour le temps de ses hommes; il en serait autrement, si le demandeur avait accepté ces *tickets* avec l'entente qu'il ne serait pas payé s'il ne les rapportait.

Jugement pour le demandeur.

David, Demers & Gervais, avocats du demandeur.

J. Cloran, avocat du défendeur.

(J. J. B.)

DECISIONS AT QUEBEC. *

Secrétaire-trésorier des commissaires d'école—Obligation de remettre livres, etc., en cas de destitution—Pénalité—S. R. Q. 2198 et seq.

Jugé:—1o. Un secrétaire-trésorier d'une municipalité scolaire qui a été destitué de sa charge n'encourt pas la pénalité portée en l'article 2198, S. R. Q., par son refus de porter les archives et objets dont il était dépositaire chez son successeur, lorsque ce dernier demeure dans la municipalité voisine et n'a pas de bureau dans la municipalité scolaire;

2o. Mais il est tenu de remettre ces objets à son successeur, sans avis préalable, lorsque l'occasion lui en est offerte, *v.g.*, lorsque le successeur se présente chez lui après la destitution à deux reprises, comme en cette cause, et sa négligence de le faire donne ouverture à l'action en demande de remise pré-

* 15 Q. L. R.

vue par l'article 2199, S. R. Q. (*Dissentiente*, Andrews, J.);

2o. Ce dernier article permettant de conclure dans une même action à ce que le défendeur soit condamné à faire cette remise et à payer la pénalité de l'article 2198, le tribunal peut, en rejetant cette dernière partie des conclusions, accorder l'autre et statuer sur les frais en conséquence.—*Ouimet* v. *Mignault*, en révision, Casault, Plamondon, Andrews, JJ., 31 oct. 1889.

Contract—Illegal consideration—Public Policy—Fees of office.

Held:—The consideration of a contract between two persons appointed jointly to a public office, that one of them shall receive all the fees and emoluments attached to it and pay a salary to the other, is contrary to public policy and illegal, and the contract itself is therefore void.—*Remillard* v. *Trudelle*, Andrews, J., S. C., 1889.

Communauté—Droits de la femme commune en biens — C. C. Art. 1292, *Cout. de Paris, Art.* 225.

Jugé:—1o. Le mari comme chef de la communauté n'est pas simplement l'administrateur des biens qui la composent; il en est le maître absolu et peut en disposer comme bon lui semble, quelque soit leur provenance, même s'ils ont été acquis par l'industrie de la femme pendant son absence;

2o. La femme commune ne peut être considérée comme un associé; tant que la communauté subsiste son droit est informe, absorbé dans la toute puissance du mari et subordonné à l'évènement de son acceptation après la dissolution. Elle ne peut partant demander, même avec l'autorisation de la justice, la rescision de l'aliénation des biens communs faite par le mari; son seul recours, dans les cas de fraude, est la demande en séparation de biens.—*Bernier* v. *Groulx*, en révision, Casault, Andrews, Larue, JJ., 31 oct. 1889.

Steamers meeting in the river St. Lawrence—Curve in channel—Rule of the Road.

Held:—When two steamers meet in the river St. Lawrence at a place where a projection or point on the north shore has a corresponding bend in the channel, the descending vessel has no right to infer that the upward bound vessel is angling across the river, and will not pass port side to port side, from the fact that, while keeping to her own side of the fair-way, the curve causes her to show her starboard side.—*Allan* v. *Reford*, Vice-Admiralty Court, Irvine, J., Nov. 1889.

QUEEN'S BENCH DIVISION.

LONDON, Dec. 3, 1889.

REGINA v. COWPER.

Lithographed endorsement of Solicitor's name.

A plaintiff in a County Court issued a summons by his solicitor in an action for debt, the particulars endorsed thereon being 2*l*. 16*s*. 5*d*. debt, 4*s*. Court fees, and 4*s*. solicitor's costs.

The name and address of the solicitor were lithographed on the particulars, which were not otherwise signed by the solicitor. The summons was heard by the registrar, when it appeared that the defendant had on the day preceding the hearing paid into Court 3*l*. 0*s*. 5*d*. The plaintiff's solicitor therefore applied for an order for payment of the balance which the registrar held to be the amount claimed in respect of the solicitor's costs, and refused to make the order, on the ground that, the particulars not being signed, these costs could not be recovered, and referred the matter to the judge. The case was heard by the deputy-judge, who upheld the decision of the registrar, and the summons was struck out. The plaintiff thereupon obtained a rule calling upon the deputy-judge to show cause why he should not hear and determine the matter.

By Order VI., rule 10, of the County Court Rules, 1889, the solicitor must 'endorse' on the particulars his name, &c., otherwise the costs of entering the plaint shall not be allowed; and, in the scale of costs set out in the schedule, costs are only allowed where the particulars are signed by the solicitor.

The COURT (LORD COLERIDGE, C.J., and MATHEW, J.) held that the order and the schedule together provided that the particulars should be signed by the solicitor, otherwise the costs should not be allowed, and

that a lithographed endorsement was not a signature within that provision; and that, therefore, the decision of the deputy County Court judge was right, and the plaintiff was not entitled to recover.

Rule discharged.

SENTENCES ON PRISONERS.

There has been much correspondence on the method of sentencing prisoners adopted by the Recorder of Liverpool. The principle which he adopts in regulating his sentences is to proportion the punishment to the offence, and not to give outrageous sentences, which strike with horror those who hear them for the first time, but gradually become natural and tolerable to those who hear them frequently. The reason for advocating this principle was the effect that such punishments had upon the moral nature of the criminal, it being stated that a woman who had been leniently sentenced after several previous heavy terms of imprisonment had not troubled the Recorder's Court again. Sir Henry James, in commenting on lengthy sentences, endeavoured to show that the Recorder's address was in reality a call to society to arouse itself and prevent the recurrence of lengthy barbarous punishments. He stated that he was confident that the action of the Recorder would establish that even the most hardened criminals could be more influenced for good by being afforded opportunities of amendment than by receiving severe sentences, now so often imposed. It is suggested that a Court for the review of sentences should be established, and be within the reach of all. The Lord Chief Justice has also expressed concurrence with the Liverpool Recorder's views. On the other hand, the Recorder of Manchester, Mr. Yates, referring to the question of short *versus* long sentences, said he could not altogether agree with the Recorder of Liverpool in his recent remarks. In passing sentence, he (Mr. Yates) thought that the past life and conduct of the offender should be taken into consideration, whether, if previously convicted, he had tried to amend, or had committed a new crime as soon as he came out of prison. While he set his face against anything like vindictiveness, he thought, above all, the public should be protected, and the circumstances of each case carefully considered. It was easy to assume the part of critic, but those charged with the administration of the law ought not to forget that the claim of duty was the highest of all.—*Law Journal.*

Lord Chief Justice Coleridge has addressed the following letter to a correspondent who drew his lordship's attention to Judge Hopwood's address to the grand jury of Liverpool advocating light sentences to prisoners, and asserting that the meting out of justice and mercy with discretion had had most beneficial effects in reducing the violence of many prisoners and the seriousness of their crimes: '1 Sussex Square, London, W., Jan. 18. Sir,—I thank you for the paper. Without pledging myself to details, I think that Mr. Hopwood's principles of punishment are certainly right. —Your obedient servant, COLERIDGE.'

CRIMINAL LAW—VIOLENCE OF HUSBAND.

In *Reg.* v. *Halliday*, 51 L. T. Rep. (N. S.) 701, before Lord Coleridge, C. J., Mathew, Cave, Day and Smith, JJ., in order to escape from the violence of her husband, who had used threats to his wife, amounting to threats against her life, the wife got out of a window, and in so doing fell to the ground and broke her leg. The husband was convicted of having willfully and maliciously inflicted grievous bodily harm on his wife. *Held*, correct. Lord Coleridge, C. J., said: "I am of opinion that the conviction in this case is correct, and that the sentence should be affirmed. The principle seems to me to be laid down quite fully in *Reg.* v. *Martin*, 8 Q. B. Div. 54; 14 Cox C. C. 633. There this court held that a man who had either taken advantage of or had created a panic in a theatre, and had obstructed a passage, and had rendered it difficult to get out of the theatre, in consequence of which a number of people were crushed, was answerable for the consequences of what he had done. Here the woman came by her mischief by getting

out of the window—I use a vague word on purpose—and in her fall broke her leg. Now that might have been caused by an act which was done accidentally or deliberately, in which case the prisoner would not have been guilty. It appears from the case however that the prisoner had threatened his wife more than once, and that on this occasion he came home drunk, and used words which amounted to a threat against her life, saying, 'I'll make you so that you can't go to bed;' that she, rushing to the window, got half out of the window, when she was restrained by her daughter. The prisoner threatened the daughter, who let go, and her mother fell. It is suggested to me by my learned brother, that supposing the prisoner had struck his daughter's arm without hurting her, but sufficiently to cause her to let go, and she had let her mother fall, could anyone doubt but that that would be the same thing as if he had pushed her out himself? If a man creates in another man's mind an immediate sense of danger which causes such person to try to escape, and in so doing he injures himself, the person who creates such a state of mind is responsible for the injuries which result. I think that in this case there was abundant evidence that there was a sense of immediate danger in the mind of the woman, caused by the acts of the prisoner, and that her injuries resulted from what that sense of danger caused her to do." The other judges concurred.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, March 8.

Judicial Abandonments.

Narcisse Edouard Morissette, dry goods dealer, Three Rivers, March 3.

Curators appointed.

Re Théop. Alain.—C. Desmarteau, Montreal, curator, March 4.

Re Charles Beaulieu, tailor, Quebec.—H. A. Bedard, Quebec, curator, March 1.

Re Zephirin Champoux, St. Sylvère, Kent & Turcotte, Montreal, joint curator, March 1.

Re Marie Louise Picault (J. N. T. Lafricain & Co.), St. Ambroise de Kildare.—Kent & Turcotte, Montreal, joint curator, Feb. 27.

Re Ephrem Durocher et al.—A. F. Gervais, St. John's, curator, Feb. 26.

Re John Griffith, Carmel.—Kent & Turcotte, Montreal, joint curator, March 5.

Re Joseph Lavallée, founder, St. Charles.—J. Morin, St. Hyacinthe, curator, March 3.

Dividends.

Re Fraserville boot and shoe Co.—Dividend, payable March 13, F. Gourdeau, Quebec, liquidator.

Re John Burns, Montreal.—First dividend, payable March 25, W. A. Caldwell, Montreal, curator.

Re J. A. Coté, St. Wenceslas.—Dividend, payable March 26, Kent & Turcotte, Montreal, joint curator.

Re William M. Fuller, Montreal.—First and final dividend, payable March 25, W. A. Caldwell, Montreal, curator.

Re Edmond Labelle, Montreal.—First and final dividend, payable March 25, Kent & Turcotte, Montreal, joint curator.

Re M. Lepage, St. Tite.—First and final dividend, payable March 25, Kent & Turcotte, Montreal, joint curator.

Re J. O. Massicotte.—First and final dividend, payable March 25, C. Desmarteau, Montreal, curator.

Re George White McKee, Coaticook.—First and final dividend, payable March 25, W. A. Caldwell, Montreal, curator.

Re Morency & frère.—Second and final dividend, payable March 24, G. O. Taschereau, St. Joseph Beauce, curator.

Re J. P. Morin, Stanhope.—Dividend, payable March 26, Kent & Turcotte, Montreal, joint curator.

Separation as to property.

Elise Boisvert vs. Joseph Edouard Martin, saddler, Louiseville, Feb. 20.

GENERAL NOTES.

LEGACY.—The late Mr. Justice Manisty left his clerk a legacy of £2,500.

TRADE MARK.—A trader cannot, in the absence of fraud, be restrained from adopting as his trade or business name his own name if trading alone, or his own in combination with those of his partners, merely because the name so adopted may, by its similarity with that of another, make it probable that inconvenience may arise, and the goods of one trader be bought by mistake for those of the other.—(*Thomas Turton & Sons* v. *John Turton & Sons*, 58 Law J. Rep. Chanc. 677).

BACK HAND.—An English journal says:—"Lord Justice Cotton and his two colleagues in Court of Appeal No. 2 experienced grievous annoyance from the peculiar handwriting of a document placed before them for perusal on Monday last. The peculiarity consisted in the fact that the words and letters were written sloping backward to the left instead of being sloped in the usual manner. Without seeing a document so written, it is hard to realize its unpleasant effect on the eye. The strictures of the learned judges on this unusual caligraphy almost amounted to a threat of pains and penalties on the offender."