The Legal News.

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The Supreme Court of Pennsylvania, in *Com.* v. *Waldman*, decided Feb. 16, 1891, holds that the public employment of a barber on Sunday is not a work of necessity. Chief Justice Paxson observed:—"We are asked to say that shaving is a work of 'necessity,' and therefore within the exceptions of the act of 1794. It is perhaps as much a necessity as washing the face, taking a bath or performing any other act of personal cleanliness. A man may shave himself, or have his servant or valet shave him, on the Lord's day, without a violation of the act of 1794. But the keeping open of his place of business on that day by a barber, and following his worldly employment of shaving his customers, is quite another matter; and while we concede that it may be a great convenience to many persons, we are not prepared to say, as a question of law, that it is a work of necessity within the meaning of the act of 1794. We do not make the law; our duties are limited to interpreting it, and we feel ourselves bound by the construction our predecessors have placed upon the act for nearly a century."

Mr. S. W. Cooper is the writer of an article on "The Tyranny of the State," which appears in the *Popular Science Monthly*. He cites a number of instances to support his position that personal liberty and the rights of property are constantly violated, and the citizen is without redress. We have room for only a few examples. "Although the claimant has been wrongfully kept out of his own for years, and finally recovers a judgment, the United States calmly tells him that it never pays interest on its debts (*United States* v. *Bayard*, 127 U. S. 251); yet if it has a claim against a citizen who is insolvent it demands every dollar of it, with interest, before any other creditor can be allowed a cent. *Brent* v. *Bayle*, 10 Pet. 596." He refers to a recent decision of the U. S. Supreme Court, (*Powell* v. *Pennsylvania*, 127 U. S. 678) in regard to oleomargarine:—"Could a greater outrage have been inflicted on a citizen? The State passes laws that provide for the manufacture and sale of a commodity; then, after the business has been established, makes the citizen a criminal who put his capital into it at its invitation. To produce a cheap, wholesome food would seem to be deserving of commendation rather than a prison cell." * * * "Again, take the instance of a man accused by the State of crime who is innocent. All the power of the social body is exerted to make him out a criminal. He is put to enormous expense in the employment of counsel, the obtaining of evidence, and all the incidental expenses of a trial; his business may be broken up, and his hopes and happiness in life wrecked. Yet, even if he is proved innocent, the whole burden falls on him, for the State makes no compensation for mistakes." * * * "By the Constitution of the United States all citizens are to be protected against all unlawful searches and seizures; but these rights are continually violated, without redress, by the action of brutal and ignorant officers who, without authority, make police raids and do irreparable injury to innocent men."

A question of survivorship was submitted to the Court of Appeals of Maryland in *Cowman* v. *Rogers*, Jan. 22, 1891. The Court said:—"By the Roman law, if a father and son perish together in the same shipwreck or battle, and the son was under age of puberty it was presumed that he died first, but if above that age, that he was the survivor, upon the principle that in the former case the elder is generally the more robust, and in the latter, the younger. The Code Napoléon had regard to the ages of fifteen and and sixty, presuming that of those under the former age the eldest survived, and that of those above the latter age the youngest survived. If the parties were between those ages, but of different sexes, the male was presumed to have survived; if they were of the same sex the presumption was in favor of the survivorship of the younger. By the Mahometan law of India, when relatives thus perish together, it is to be presumed that they all died at the same moment; and

such also was the rule of the ancient Danish law. But the common law, which governs us, knew no such arbitrary presumptions. By that law, where several lives are lost in the same disaster, there is no presumption of survivorship by reason of age or sex, nor is it presumed that all died at the same moment. Survivorship in such a case must be proved by the party asserting it. No presumption will be raised by balancing probabilities that there was a survivor, or who it was. *Wing* v. *Angrave*, 8 H. L. Cas. 183; *Underwood* v. *King*, 4 De Gex, M. & G. 633; *Johnson* v. *Merithew*, 80 Me. 111; *Newell* v. *Nichols*, 75 N. Y. 78; 1 Greenl. Ev., §§ 29, 30; Best Ev. 304; 2 Whart. Ev., §§ 1280-1282; 2 Kent. Com. 572. It was held, therefore, that where the member of a benefit association, whose certificate is payable to his wife, or in case of her death in his life-time, to his children, or if there be no children, to his mother, and if she be dead, to his father, and failing all these, to his brothers and sisters, perishes in a flood with his wife and children, there is no presumption as to survivorship, but the widow's representative is entitled to the fund, in the absence of evidence that she predeceased her husband.

SUPERIOR COURT.

SWEETSBURG, Dec. 20, 1890.

Before LYNCH, J.

BOOTH et al. v. HUTCHINS.

Principal and agent—Sale—Action by undisclosed principal—Acceptance or receipt, Proof of—Agent acting in his own name—Art. 1716, *C.C.*

HELD: — 1. *Where goods are sold by a person acting for himself and for others whose names he does not disclose to the purchaser, the undisclosed principals as well as the one who appeared in the contract, may sue jointly in their own names to recover the price.*

2. *The acceptance or receipt of the goods, or part thereof, by the purchaser, may be proved by parol evidence.*

3. *Where the defendant offered a price for goods, which was accepted, and the goods were then shipped in his name to an address indicated by him to the vendor, possession of the goods was thereby vested in the defendant, and he will be deemed to have accepted and received the same.*

4. *The fact that the defendant gave the vendor the address of a person to whom the goods were to be shipped, and that the vendor shipped the goods as instructed, and afterwards endeavoured to obtain payment from the person to whom they were shipped, is not a sufficient disclosure of principal to relieve the defendant from personal responsibility for the price.*

LYNCH, J.:—

The plaintiffs — seven in number — as patrons of a cheese factory situated in the township of Shefford, and known as "the Willow Grove cheese factory," sue defendant to recover, in the respective proportions mentioned in their declaration, the sum of $537.94, being for the price of 86 boxes of cheese which they allege were sold by them to defendant about the 1st November, 1889, at the rate of 10½ cents per pound; that the cheese were duly delivered to defendant after being weighed and counted, — and that he specially promised to pay for them.

Defendant meets the action by a general denial, and then in a second plea alleges that he never personally bought said cheese, or represented that he was so buying them, or ever personally undertook to pay for them; that to the knowledge of plaintiffs there has existed for many years a custom, by which the large dealers in cheese in Montreal employ to buy for them, local men, who act simply as their agents; that defendant who keeps a small general country store was, to the knowledge of plaintiffs, employed in the season of 1889, to buy cheese on commission for Charles Boden & Co., of Montreal, dealers in cheese; that about the date mentioned in plaintiffs' declaration, defendant went to the cheese factory therein mentioned as the agent of Boden & Co., where he saw two of the plaintiffs, and the maker Doonan (with whom alone he had dealings), to whom he made known that he was buying cheese for Boden & Co, and not for himself,—that as the agent of Boden & Co. he agreed with Bell, Booth and Doonan upon a price for the cheese, and gave them the full address of his principal, Charles Boden & Co., in the city of

Montreal, — that he then left and had no further dealings concerning the cheese,—that the cheese was never sold to him personally, nor weighed in his presence, nor delivered to him; that about the 4th November, 1889, plaintiffs themselves delivered the cheese to Boden & Co. at the West Shefford Railway Station, to whom they sent it, and whom they thus acknowledged as the purchaser,—that plaintiffs afterwards in various ways treated with Boden & Co., as their debtor, and accepted from them a check for the cheese, which plaintiffs presented for payment,—that plaintiffs in bad faith and as an afterthought applied to defendant for payment, only after they had failed to secure their pay from Boden & Co.,—and finally that defendant never bought the cheese, received or had delivery of it, nor obliged himself personally for the payment, and that whatever he did in connection with it, was as the agent of Boden & Co. who were his principal, and all to the full knowledge of plaintiffs.

Plaintiffs answer generally, and specially that they never had any transaction with Boden & Co. in reference to the cheese, nor any knowledge of them, until long after the defendant had bought the cheese,—that defendant did not at the time mention the name of Boden & Co., but bought and shipped the cheese in his own name,—that plaintiffs never accepted Boden & Co. as their debtor —that defendant did not disclose to plaintiffs that he was an agent or for whom he was acting, but on the contrary bought for himself and promised to pay,—that it was immaterial to plaintiffs by whom they were paid; that they did not accept the check in payment; and that they did not accept any other debtor than defendant whom they have never discharged.

The pleadings, evidence, and argument of counsel raised some most important questions, which I shall proceed to consider in the order in which they occur to me as most natural to arrive at a final disposition of the whole case.

Defendant's counsel says that Bell was the only one of the plaintiffs who had anything to do with the sale of the cheese; that he, Bell, did not disclose his agency or the names of the persons for whom he was acting, and that in consequence plaintiffs have no right to the action as brought. Plaintiffs' counsel replies that if defendant had intended to attack the quality of plaintiffs, he should have done so in his pleadings.

I think a matter of this importance should have been specially pleaded, as was done in the case of *Canada Shipping Company & Victor Hudon Cotton Company*, cited at the argument (5 Leg. News, 309; 2 Q. B. Dec. 356). Defendant in one of the paragraphs of his second plea thus alludes to this pretention: "That defendant only saw or spoke to one "Booth and Richard Bell, two of said plain-"tiffs, and Doonan; and that he did not on "the occasion or on any other occasion have "any conversation or dealings with any of "the other persons named as plaintiffs in "reference to said cheese." This was perhaps sufficient to put plaintiffs on their guard that defendant intended to make use of it as one of his means of defence; and possibly it may be accepted as a sufficient compliance with Art. 20 and 144 C. P. I incline strongly to the view that the pleadings should fully disclose all that the parties intend to rely on. The question thus raised was settled by the Court of appeal in the case just referred to,—where it was held that a principal may sue in his own name to recover the price of goods sold by his agent who did not disclose the fact that he was acting for another. The opinions of the Chief Justice and of the late Judge Ramsay who dissented have always much weight; but I can find no case reported, in which effect has been given to the views they there expressed, and there are several holding the contrary doctrine; besides, there is no text of law to sustain such views. By Arts. 1716-1727, C. C., the mandator is bound in favor of third persons for the acts of his mandatary, even if the latter do not make known his quality. Why should not the reciprocal action lie in favor of the mandator unless some special and personal reason is shown to exist which induced the third party to contract with the mandatary, such as the existence of a debt which could be pleaded in compensation (2 S. C. R., p. 21). Here nothing of that kind is shown; and besides

the defendant knew well that he was contracting with one of the committee, who had by custom and agreement, the authority to sell,—it was defendant who went to Bell to buy, and not Bell to him to sell. All difficulties of this kind, and many others, would be obviated if the farmers of the province who are interested in the manufacture of butter and cheese, would take advantage of the provisions of the Act 45 Vic. ch. 65, now Art. 5477 and following of the Revised Statutes, and thus secure for themselves the advantages of a corporate existence.

Plaintiffs say that on a certain day they sold their cheese to defendant, and proceeding to prove this allegation their first witness, Doonan, is asked the following question: "Please state what took place and what was said about the cheese,"—to which defendent's counsel entered the objection that it was "illegal and inadmissible, and an attempt to prove by parol evidence a contract of more than $50." At the time I reserved the objection, and have now to pronounce upon it; because, upon the reception or rejection of this evidence, plaintiffs' case largely depends.

I shall treat this question entirely irrespective of the other, as to whether defendant bought the cheese for himself or as the agent of Boden & Co., and simply inquire whether plaintiffs have the right by law to prove the sale alleged by them by witnesses, as they have attempted to do; and if so, whether they have succeeded or not. The points involved are among the most difficult with which our Courts have to deal: but fortunately for their elucidation we have recourse not only to our own jurisprudence but to that of England and most of the American States, as well. By the Canadian Act, 10 & 11 Vic., ch. 11, sec. 8, it was provided that: "The enactments of the Act passed in England in the 29th year of the reign of King Charles the 2nd, and entituled, An Act for prevention of frauds and perjuries, are declared to extend and shall extend in Lower Canada, to all contracts for the sale of goods of the value of $48.66 2|3 (or 10 pounds sterling) and upwards." The 17th section of that Act reads thus: "No contract for the sale of any goods, wares and merchandise for the price (value) of 10 pounds sterling or upwards shall be allowed to be good except the buyer shall accept part of the goods so sold and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract or their agents thereto lawfully authorized." This provision is reproduced in Art. 1235, C. C., but altered somewhat in phraseology, and reads as follows: "In com-
" mercial matters in which the sum of money
" or value in question exceeds $50, no action
" or exception can be maintained against
" any party or his representative, unless
" there is a writing signed by the former,
" upon any contract for the sale of goods un-
" less the buyer has accepted or received
" part of the goods or given something in
" earnest to bind the bargain."

This is the law governing the disposition of this element of plaintiffs' case. It is admitted that the matter at issue is a commercial one, that the sum of money in question exceeds $50; that there is no writing signed by the defendant, that nothing was given in earnest to bind the bargain, so that plaintiffs' only hope rests on their being able to prove that defendant accepted or received the cheese (there is no question as to a part of them) for the recovery of the price of which the suit is brought. Plaintiffs' counsel contends that he is entitled to prove this by parol evidence, while on the other side it is said that a writing is absolutely requisite. For some wholly unexplained reason the Codifiers altered this particular feature of the old Statute referred to. They say in their report that "They have simply expressed the existing law as they understand it without suggesting amendments, except in a few cases, which will be noted in their order;"and they note no change in Art. 1235. The late Mr. Justice Ramsay who was then Secretary of the commission, said in rendering the judgment of the Court of Appeal in *Douglass et al. & Ritchie et al.* (18 L. C. J. 278) that this article was considered at seven sittings, and that the Codifiers did not think they were changing the law: and yet the Statute reads:

"except the buyer shall accept part of the goods so sold and actually receive the same," whereas the article puts it: "unless the buyer has accepted or received part of the goods." The disjunctive has been substituted for the conjunctive; and we shall have to see, later on, whether any substantial change has thereby been effected in the law as it bears upon this particular case. At the moment the question is: can parol evidence be admitted to prove the acceptance or receipt of the cheese by defendant. Our own jurisprudence is rather meagre in precedents on this head; the only cases at all analogous are those cited at the argument, 5 Leg. News, 196, —27 L. C. J., p. 349,—10 S. C. R., p. 512. While there is much in the reasoning of Mr. Justice Ramsay in the *Munn* case to commend itself to the judgment of those who believe, as I do, that the great object of the Statute of Frauds was to render it necessary that contracts should be reduced to writing, and to prevent verbal evidence from being admitted, thus preventing the possibility of perjuries; yet it must be conceded that there is a rapidly increasing tendency everywhere to remove all barriers to the reception of all kinds of evidence. I accept as authoritative and binding on me the ruling of the Supreme Court in the *Munn* case—that under Art. 1235, C. C., proof of acceptance or receipt may be made by parol testimony, and that proof in writing is not necessary to establish either; and consequently I admit the evidence of the witness, Doonan, and reject the objections made by defendant to its reception.

I have now to determine whether plaintiffs have established that defendant accepted or received the cheese: and this involves a somewhat wide range of inquiry. The evidence shows that on the 1st of November, 1889, defendant went to the cheese factory of plaintiffs where he examined their cheese, and thereupon offered Bell, one of the plaintiffs, 10⅛ cents per pound for it, which offer was at once accepted. He then instructed Doonan, the cheese maker, to weigh the cheese, to send him the invoice or bill of weight, to ship it the following Monday to Boden & Co., and to come to Ccwansville or Farnham the following Wednesday, when he would pay for it. On the 2nd of November Doonan, and some of the plaintiffs, weighed the cheese, boxed it, and on Monday the 4th of November it was shipped by the Central Vermont Railway, in the name of defendant as consignor, to Charles Boden & Co., Montreal, and on the same day Doonan mailed the defendant a bill of the weights and price, which defendant must have received. The following Wednesday, the 6th of November, defendant met plaintiffs Bell and Doonan at Cowansville, with reference to the payment for the cheese, when defendant informed them that he was not in a position that day to pay for the cheese. It will thus be seen that all of defendant's instructions given on the day he bought the cheese were strictly carried out. Defendant was not present either at the weighing or shipping of the cheese; and it is evident that he did not care or wish to be present. It is shown that the custom is for cheese factory people to weigh their cheese, when a sale takes place, send the weight to the buyer who accepts it as the basis of payment: and when the weight is verified, on its arrival at Montreal, the factory or the buyer is credited with any excess or debited with any deficiency, which may be found to exist. Do these facts and circumstances, accompanied by defendant's acts, sufficiently constitute an acceptance or receipt, on his part, of the cheese?

In considering the English authorities bearing upon this question, it must be remembered that a change, whether intentional or otherwise, has been made in our law. Instead of its being necessary, as formerly, to prove that the goods were accepted and actually received by the buyer, the vendor is now only required to prove that they were either accepted or received. The authors seem to make a distinction between "accept" and "receive." Lord Blackburn, in his work on sales, says: "The difference "may exist, but now that it seems to be ge- "nerally admitted that a constructive ac- "ceptance or receipt of goods is as effective "as an actual or real one, it seems useless to "waste much time in seeking to discover in "what the difference consists." *Lemonier* v. *Charlebois*, 5 Leg. News, p. 196; Parsons on contracts, vol. 2, p. 321-330; Benjamin on Sales, parag. 157, 180, 181 and 187. In Eng-

land such evidence having been admitted, the jury, under the direction of the Court, would be asked to find, whether the defendant accepted or received the cheese. I fully agree with the remarks of one of the learned Judges made, in one of the cases referred to, in the books just quoted, that the evidence of the acceptance must be "strong and unequivocal." Let us see if it is so here. Defendant, engaged in buying cheese, goes to one of the plaintiffs, who he knows is interested in the manufacture, and undoubtedly for the purpose of buying the cheese, if he finds it satisfactory, he examines it and offers a price which is accepted on the spot. Under ordinary circumstances this would be amply sufficient to constitute a sale, subject to the after weighing. Defendant then gives his instructions as to what is to be done with the cheese, weighing, etc.; and they are followed to the letter by the person (plaintiffs' employee) to whom defendant gave them. When plaintiffs shipped the cheese as directed, and defendant received the bill of weight, plaintiffs had divested themselves of the possession in favor of the defendant who had thereby actually received the goods purchased by him, not merely by words, but by acts performed in accordance with his own direction. More than that, as an act indicative of ownership on the part of the defendant, two days after the shipment he meets the parties according to agreement, in regard to the payment, and presumably having received the bill of weights; and he there raises no question as to what has been done, thus tacitly, if that were needed, ratifying and approving of the manner in which his orders had been carried out, concerning the cheese, by plaintiffs. I have no hesitation in coming to the conclusion that the defendant not only accepted but received the cheese, of course in the constructive sense laid down by the authors, and in the only manner in which such business is now carried on.

It remains for me to consider the only other important issue between the parties: and if I may say so, it is to my mind the really serious one. Defendant says he bought the cheese from plaintiffs, but that he bought it as the agent of Boden & Co., that at the time he disclosed to plaintiffs the name of his principal, that plaintiffs knew that he was such agent, that by custom, cheese is bought by agents, and not by principals, that defendant never personally promised to pay, and that plaintiffs sent the cheese to Boden & Co. whom they afterwards treated and accepted as their debtor. As to what occurred on the day of the sale I have only the evidence of one witness, Doonan. He shows a disposition to tell the truth, so far as he remembers, but is singularly unfortunate in not being able to recollect exactly all that was said. However, I only find it necessary to accept his statements in so far as they are borne out by incidents in which defendant took part. It is shown that defendant was the agent of Boden & Co. for the purchase of cheese on the 1st of November, 1889. It is not shown that he told Bell that he was such agent when he bought plaintiffs' cheese. He did give Doonan the name of Boden & Co. as the parties to whom the cheese was to be shipped. It is not shown that a custom exists which is so general as to be recognized, that agents alone buy cheese; although defendant examined five witnesses to prove such custom and plaintiffs seven to disprove its existence.

The law with reference to agency is clearly laid down in Arts. 1715-1716 and 1727, C. C., in so far as applicable to this case. Mr. Justice deLorimier, in his *Bibliothèque*, has, under these articles, pretty well grouped together the most important authorities bearing upon them. Vol. 14, pp. 18, 19, 20, 21, 22, 23, 31, 32, 44, 45, 46 and 47. Vol. 1, Q. B. Dec., p. 201.

Defendant says that he did disclose the name of his principal by giving to plaintiffs the address of Boden & Co. as the party to whom the cheese was to be shipped. This can hardly be accepted as a sufficient disclosure; it was no indication that they were the real purchasers, and defendant had not said they were. The best test is, as the authors say, to ascertain to whom the credit was given and here the question is, did plaintiffs give the credit to defendant or to Boden & Co.; *Becket* v. *Tobin*, 4 Leg. News, p. 219.

Now three days after the sale we find the

plaintiffs shipping the cheese, not in their own name, but in the name of defendant as the owner, as is shown by the bill of lading. This is, I consider, the most conclusive evidence possible, taken in connection with defendant's undertaking to pay for the cheese on the 1st and again on the 6th of November, that plaintiffs intended to give and did give the credit to defendant. It would appear that plaintiffs afterwards tried to obtain payment of their claim from Boden & Co. who by law were equally liable with defendant, but it is quite immaterial so far as defendant's liability is concerned what plaintiffs may have done with Boden & Co., so long as they did not discharge him; and there is no proof of any such discharge. It was incumbent on defendant to prove that he acted, in the purchase of the cheese, as the agent of Boden & Co., to the knowledge of plaintiffs; and he has completely failed to do so.

The case is, without doubt, one of hardship to defendant; but agents must understand the liability which they incur in contracting in their own name, without distinctly making known the name of the person for whom they act.

Judgment must go maintaining plaintiffs action.

Jno. P. Noyes, Q. C., for plaintiffs.

H. T. Duffy, for defendant.

FIRE INSURANCE.

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

CHAPTER X.

NOTICE OF LOSS.

[Continued from p. 80.]

§ 247. *Fraudulent statement of loss.*

Under the second and third clauses at the beginning of this chapter, it is ordered that if, after a fire, in the particular account or proofs, fraud or false swearing appear, the insured is to forfeit all claim, so any wilful or fraudulent false statement of the loss with a view to defraud the insurers will subject the insured to lose his total claim.

In *Wood* v. *Masterman et al.*, in which a claim was resisted, and the condition vacating the policy in case of fraud was insisted upon by the insurers, Lord Tenterden told the jury, that if they thought the plaintiff had overrated the amount or value of his loss from mere mistake or misapprehension, they would find only for such loss or damage as he had actually incurred; but if, on the other hand, they thought he had done so with a fraudulent intent, then they should find a verdict for the defendants.

In *Levi* v. *Baillie et al.*,[1] the policy required the insured to deliver in as full an account as the case would admit of, accompanied by the usual evidence, and it contained the condition that "if there should be any fraud in the claim made, or false swearing or affirming in support thereof, the claimant shall forfeit all benefit under such policy." The plaintiff carried on business in the New-cut, in the St. George's Fields, and the insurance to the amount of £1,000 was effected on his stock in trade, the 22nd of November, 1827. The premises were burnt down on the night of the 14th of February, 1830. The plaintiff made affidavit that he had sustained a loss of stock to the amount of £1,085, viz. £85 for goods which were injured in removal, and £1,000 for goods abstracted by the crowd on the occasion, and never recovered. The goods so lost were alleged to consist of four-post bedsteads, mahogany tables of various sizes, couches, chairs, stools, chimney glasses, pier glasses, carpets, and the like. The defendants contended that this claim was *fraudulent*, and called witnesses to show that it was impossible for goods so numerous and bulky to have been carried off undiscovered. These witnesses stated, that policemen were on the spot as soon as the fire broke out; that a cordon was established round the premises almost immediately; that the fire was over in about two hours, and that no article of size could be carried away. The plaintiff's witnesses denied that the blockade had been so effectual; and the chief justice left it to the jury to say whether the plaintiff had made a fraudulent demand or not. The jury having found a verdict for the plaintiff with £500 damages, a rule nisi for a new trial was obtained, on the ground that the finding of £500 damages instead of the whole amount sworn to by the plaintiff, amounted, in effect,

[1] 7 Bing.

to a verdict for the defendants, under the condition which avoided the policy if there were any fraud or false swearing; and that a claim of £1,085, where a party had lost £500, could not be otherwise than fraudulent. It was also objected that the verdict was contrary to evidence.

On cause shown, it was contended that the finding of the jury was not necessarily a proof that there had been any fraud in the plaintiff's claim; he might, by mistake, have estimated the goods lost at more than their value; that as to the probability of the loss, the evidence was conflicting.

The court made the rule absolute but *on payment of costs.*

In *Regnier* v. *La. State M. & F. Ins. Co.*,[1] plaintiff insured $4,400 on stock, and sued for $2,379. Defendants pleaded that he had set fire to his premises, and was fraudulently claiming for a loss that did not happen. [No doubt plaintiff was party to a stealing of his goods from the place in which insured and to an attempt at arson.] At the time of the fire there were not goods in the place beyond $500 to $600 value, yet the plaintiff swore to $2,266.50, and in the parish court recovered judgment for $600; but this was reversed. The Court of Appeal held that for fraudulent overvaluation and statement of loss, if for no other reason, the plaintiff was precluded from recovering.[2]

In Louisiana, Marchessault insured for $15,549. A fire happened, and in a suit against the insurers he obtained a verdict for $8,000. The insurers moved to set aside the verdict and claimed forfeiture of the policy, for fraudulent overestimation. The court held that feigned and fraudulent claims were one thing, and failure to explain perfectly the amount demanded was another. There was not proof clear of false swearing. A new trial was granted; but merely because the court did not see upon what the verdict, even for $8,000, was founded.[3]

[1] 12 La. R. by Curry.

[2] *Semble*, here the case was not left to the jury, whether there was a fraudulent demand by the plaintiff or not; but the court passed on the fraud. In the above case the policy contained a condition against fraud or false swearing.

[3] 1 Rob. R. La. 438.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Feb. 28.

Judicial Abandonments.

Joseph Latouche, doing business as Jos Chouinard & Co., grocers, Quebec, Feb. 23.

John Couturier, trader, St. Etienne de la Malbaie, Feb. 13.

Dufour & Couturier, traders, St. Etienne de la Malbaie, Feb. 20.

John Delisle, trader, Montreal, Feb. 24.

Napoléon Lebrun, manufacturer, parish of St. Wencelas, Feb. 12.

Curators Appointed.

Re Pierre Couvrette.—C. Desmarteau, Montreal, curator, Feb. 21.

Re Crepeau & Duval.—P. E. Panneton, Three Rivers, curator, July 26, 1887.

Re C. A. Liffiton & Co., Montreal.—A. W. Stevenson, Montreal, curator, Feb. 21.

Re Robt. T. McArthur, Brownsburg, township of Chatham.—G. J. Walker, Lachute, curator, Feb. 21.

Re Marshall Wallace Ralston, manufacturer, Montreal.—N. P. Martin, Montreal, curator, Feb. 19.

Re Smith & Hope, Granby.—J. McD. Hains, Montreal, curator, Feb. 21.

Re Wilson & McGinnis, Athelstan.—W. S. Maclaren and J. McD. Hains, Huntingdon, joint curator.

Dividends.

Re F. X. Bertrand & Fils.—First and final dividend, payable March 9, Bilodeau & Renaud, Montreal, joint curator.

Re Joseph Camaraire.—First and final dividend, payable March 12, J. A. Nadeau and Joseph Lavoie, joint curator.

Re Wm. Donahue & Co., Montreal.—Second and final dividend, payable March 17, A. L. Kent and A. W. Stevenson, Montreal, joint curator.

Re Joseph Gareau.—First and final dividend, payable March 13, Bilodeau & Renaud, Montreal, joint curator.

Re William Grant, trader, Chicoutimi.—First and final dividend, payable March 14, H. A. Bédard, Quebec, curator.

Re G. A. Guay, trader, Chicoutimi.—First and final dividend, payable March 14, H. A. Bédard, Quebec, curator.

Re J. Omer Parent, Drummondville.—First and final dividend, payable March 17, W. A. Caldwell, Montreal, curator.

Re Perusse & Chrétien, St. Jean-Deschaillons.—First and final dividend, payable March 9, H. A. Bédard, Quebec, curator.

Separation as to property.

Agnès Ethier vs. J. Bte. Olivier Langlois, trader and manufacturer, St. Johns, Feb. 23.

Julienne Plante vs. François Godbout, Fils, St. Aimé, Feb. 18.