The Legal News.

Vol. XIII. DECEMBER 27, 1890. No. 52.

Four executions have taken place in Canada within a few weeks, for the crime of murder. There is no reason to suspect, in any of these cases, that the verdict of the jury was founded upon doubtful evidence, or that the punishment was not due to the crime. But there is one point in connection with these cases which seems to be forced upon the attention of the most indifferent observer, and that is the necessity of imposing more stringent rules upon sheriffs and gaolers with reference to the communications which pass between convicted persons and the outside world. In almost every instance there has been a daily and hourly correspondence permitted between the prisoner and the reporters for the press, as well as others who have no immediate connection with the convict or his family. This publicity we have been accustomed to regard as an evil incident of the administration of justice in the United States, and its introduction into Canada should be strenuously resisted as tending to bring the authority of the law into contempt. The sheriff ought not to permit communication between his prisoner and anybody who chooses to make him a visit; still less ought he to permit the gaoler or turnkeys to gossip with reporters over every act and saying of the man awaiting execution. A monstrous example of the length to which the abuse has gone is afforded by the publication of the following telegram from Mr. F. X. Lemieux to Remi Lamontagne, who was executed at Sherbrooke on the 19th instant, for a murder committed in circumstances of unusual atrocity:—

"All my efforts are in vain; entertain no further hope. Men do not pardon, but God alone is truly merciful. With all my heart I wish you the courage necessary to bear the terrible trial. It is sad to die young, healthy and vigorous, *but in fifty years the judge and jury who have condemned you will in their turn be judged and will not perhaps, like you, enjoy the advantage of being ready for death.* Farewell forever, dear client, *au revoir*, in eternity. My children and myself pray to the good God for you. I wished to go and see you, but remained here to endeavor to save you. I know you will die like a Christian and a brave man. Farewell!"

We do not wish to make any comment upon this extraordinary communication. It could only have been written under the influence of excitement, and was evidently not intended for publication. But what shall be said of a system which tolerates the communication of such matter to the reporters? How are judges and juries to perform faithfully and conscientiously their painful duty if they are exposed to such attacks? The occasion seems to call for a united and energetic remonstrance from the bench and from all who are interested in the proper administration of justice, and the adoption of regulations which shall render the repetition of such a scandal impossible.

In *Grœme* v. *Globe Printing Co.*, which came before the Master in Chambers at Toronto, on the 5th of November, the question of the admissibility of the evidence of a witness under sentence of death was considered. The action was for libel growing out of a newspaper article in which, as the plaintiff charged, it was asserted that he was in some way connected with the murder of one Benwell. The article appeared subsequent to the trial and conviction of one Birchall for the murder of Benwell, and Birchall was at the time in gaol under sentence of death. The plaintiff desired to obtain the evidence of Birchall to establish that he (Birchall) had not said that the plaintiff was in any way connected with the murder of Benwell. The sentence of death was to have been executed on Birchall on the 14th of November, 1890. On the 4th of November, 1890, the plaintiff moved before the Master in Chambers for an order to examine Birchall as a witness in the case and to use his depositions at the trial, which would not take place in the ordinary course till after his execution. The defendant's counsel contended, *inter alia*, that Birchall was civilly dead, and was not a competent witness, and therefore that the order should not be made. *Regina* v. *Webb*, 11 Cox, 133, was cited. The plaintiff's counsel contended that all disabilities of witnesses are now

removed in Ontario by ss. 2 and 3 of the Evidence Act, R. S. O., c. 61. The Master in Chambers held, following *Reg.* v. *Webb*, that Birchall, being a person under sentence of death, was not a competent witness, and refused to make the order. This order, on appeal, was upheld by Chief Justice Galt, but other grounds were assigned.

COUR SUPÉRIEURE.

MALBAIE, 2 septembre 1890.

Coram GAGNÉ, J.

In re GEO. DUBERGER, failli, et DIVERS CRÉANCIERS, colloqués; et J. A. J. KANE, contestant.

Faillite—Frais privilégiés.

JUGÉ:—1. *Que les frais d'ouverture et d'administration de la faillite ne sont pas en général faits dans l'intérêt des créanciers hypothécaires, dont les droits sont assurés.*

2. *Que les frais qui ont pour objet la conservation et la liquidation des biens immobiliers peuvent seuls être considérés comme frais de justice privilégiés.*

Jugement:—

"La Cour, etc....

"Attendu que le dit curateur a, dans son bordereau de collocation, réparti le montant total des frais de la faillite sur le produit de la vente des meubles et sur celui de la vente des immeubles, au *pro rata* du prix de vente des dits meubles et immeubles, par privilége et par préférence aux créanciers hypothécaires;

"Attendu que le contestant se plaint de cette répartition alléguant qu'elle a l'effet de faire payer par les créanciers hypothécaires, non-seulement les frais de vente des dits immeubles, mais encore la plus grande partie des frais de syndicat et de faillite, et d'empêcher le dit contestant d'être colloqué de sa créance hypothécaire;

"Considérant que cette manière de répartir les frais sans tenir compte de l'objet spécial pour lequel ils ont été encourus, est illégale;

Que les frais de faillite ne sont privilégiés sur les immeubles qu'autant qu'ils ont été faits dans l'intérêt de la masse hypothécaire, et que le privilége n'existe pas pour les frais qui n'intéressent que la masse chirographaire;

Que les frais d'ouverture et d'administration de la faillite ne sont pas en général faits dans l'intérêt des créanciers hypothécaires, dont les droits sont assurés, et peuvent être exercés indépendamment de la faillite;

Que les frais qui ont pour objet la conservation et la liquidation des biens immobiliers, peuvent seuls être considérés comme frais de justice privilégiés, et que le curateur n'aurait dû colloquer que ces frais, par privilége sur le produit de la vente des immeubles;

Que le curateur n'a pas indiqué d'une manière suffisante dans son bordereau de collocation, l'objet spécial pour lequel les frais ont été encourus, et qu'il est impossible de constater d'une manière exacte quels sont les frais qui ont été faits dans l'intérêt de la masse chirographaire, et ceux qui l'ont été dans l'intérêt de la masse hypothécaire;

"Considérant néanmoins que le curateur a colloqué sur le produit de la vente des immeubles, la plus grande partie des frais généraux de la faillite, au détriment du contestant qui est créancier hypothécaire;

"Maintient la contestation, déclare irrégulier et met de côté, le bordereau de collocation préparé en cette cause, ordonne au curateur d'en préparer un nouveau, d'après lequel les frais de la faillite seront payés et colloqués sur le produit de la vente des meubles, sauf et excepté les frais de justice qui ont pu être faits au profit des créanciers hypothécaires ou dans leur intérêt, savoir, les frais et déboursés du curateur, nécessaires pour la conservation et liquidation des biens immobiliers, lesquels frais devront être détaillés suffisamment et seront colloqués par privilége et par préférence aux créanciers hypothécaires, sur le produit de la vente des immeubles, au *pro rata* du prix de vente des dits immeubles; les frais des procédures faites dans l'intérêt commun des créanciers chirographaires et hypothécaires, telles que les annonces de vente et autres s'il y en a, seront, dans les circonstances, répartis sur le produit de la vente des meubles et sur celui de la vente des immeubles, au *pro rata* du prix de vente d'iceux, et la balance du produit des biens du failli sera allouée à qui de droit—avec dépens contre le curateur."

G. A. Kane pour le contestant.

Angers & Martin pour le curateur.

(C. A.)

COUR SUPÉRIEURE.

MALBAIE, 10 septembre 1890.

Coram GAGNÉ, J.

J. COUTURIER v. J. COUTURIER, et DUFOUR et COUTURIER, opposants.

Société—Saisie de la partie indivise d'un des co-associés.

JUGÉ:—*Que les biens d'une société, ni la partie indivise d'un des co-associés, ne peuvent être saisis, pour la dette d'un des co-associés.*

Jugement—

"Considérant que les effets saisis en cette cause sont la propriété des opposants, savoir, la société commerciale "Dufour & Couturier," et qu'ils l'étaient lors de la dite saisie;

"Considérant que le jugement obtenu par le demandeur, n'a pas été rendu contre la dite société, mais contre l'un des associés seulement, savoir, le dit défendeur;

"Considérant que le demandeur ne peut faire saisir les biens de la dite société, ni même la partie indivise du défendeur dans les effets saisis;

"Maintient l'opposition en cette cause, etc."

Angers & Martin pour les opposants.

J. S. Perrault pour le demandeur.

(C. A.)

QUEEN'S BENCH DIVISION.

LONDON, Oct. 28, 1890.

THE MAYOR, ALDERMEN, AND CITIZENS OF MANCHESTER v. WILLIAMS.

Libel—Corporation—Power to Maintain Action.

Point of law set down to be disposed of before trial.

Action by the mayor, aldermen, and citizens of Manchester to recover damages from the defendant for a libel written and caused by him to be printed in the *Manchester Examiner and Times*, meaning as the plaintiffs alleged, that bribery and corruption existed in three departments of the Manchester City Council, and that the plaintiffs were either parties thereto or culpably ignorant thereof, and that the said bribery and corruption prevailed to such an extent as to render necessary an inquiry by a parliamentary commission.

The defendant objected that a municipal corporation could not sue in its corporate capacity in respect of the alleged words in the sense complained of.

The Court (DAY, J., and LAWRANCE, J.) held that the action was not maintainable, and gave judgment for the defendant.

CHANCERY DIVISION.

LONDON, Nov. 10, 12, 1890.

Before KAY, J.

RICHARDS v. BUTCHER.

Trade-mark — Special and distinctive Words used before 1875—*User as a Trade-mark—Association with other Words and Marks.*

This was a motion to expunge two trade-marks, "Monopole" and "Dry Monopole," used in connection with champagne, and registered on July 28, 1882, by Messrs. Heidsieck & Co., of Rheims, under the Registration of Trade-marks Act, 1875, s. 10, as "a special and distinctive word or words used as a trade-mark before the passing of this Act." The motion was made on the grounds (1) that the words were not special and distinctive, and (2) that the words had not been used alone, but always in association with other words or marks. The alleged user related to labels, wrappers, corks, and cases. The label on each bottle bore the words "Monopole" or "Dry Monopole" in Roman letters, with the words "Heidsieck & Co., Rheims, established 1875," underneath in a running hand. The wrapper round each bottle was substantially similar to the label. The corks were branded on the sides with the words "Monopole" or "Dry Monopole," and on the bottom with a comet with "Heidsieck & Co." around it. The cases in which the wine was sold bore on one side the brand of "Monopole," and at one end the brand of "Heidsieck & Co.," in a circular or semi-circular form, and the word "Rheims" running across an anchor.

KAY, J., said that in order to register a word or words of this kind, not being fancy words, it was necessary that they should have been used, and used by themselves, as trade-marks before the passing of the Act; that the user of the word as a trade-mark meant the impressing of that word either on the goods or some wrapper or case containing the goods in such a way as that the public

would understand that the word alone was intended to be used as a trade-mark; that in none of the alleged instances of user now before the Court had the words "Monopole" or "Dry Monopole" been so used; and made an order accordingly, expunging the trade-marks in question, with costs.

FIRE INSURANCE.

(By the late Mr. Justice Mackay.)

CHAPTER VIII.

INTERPRETATION OF THE CONTRACT.

[Continued from p. 406.]

The *proferens verba* in the Roman law (or stipulator) was the person to whom the stipulation was made. He put the question. The other answered. Burge Suretyship, p. 42. Yet words of warranty by an assured if written by the assurer, ought to be interpreted against the *writer*. (*Sed* is not the assured the writer of such?)

In *Notman* v. *The Anchor Insurance Co.*, 4 C.B. (N.S.) 476, the Court held the insurance company to be the *proferens*, and that interpretation was to be against it.

If obscurity be in an expression in a policy by the fault of the agent of the insurer, who wrote it, *semble* interpretation is to be against him, as against a seller.

"La rédaction de la police étant le fait des assureurs, les obscurités doivent être interprêtées contre eux." No. 66, Rolland de Villargues, Ass. Terr.

Query? as to this rule. It might be so as regards the obligations assumed by the assurer by the policy. But query as regards obligations such as warranties assumed by the assured, or stated in the policy to be upon him. He ought to check the writing. The agent writing may, as regards such obligations, be held agent of the assured.

Where there is a covenant in a lease not to assign without the lessor's leave in writing first had and obtained, a parol license will be in vain (2 Troplong, Louage) unless admitted.

Roe exd. Gregson v. Harrison, 2 T. R., cited in Espinasse's N. P. Ev.

Ought the above to be? Yet is it ever unfair to hold that the parties most probably meant what they expressed? that they could make that convention to have force between them as Code Civil has force for all?

In Judge Smith's case[1] it was otherwise judged. His builder was to have no claim for extras except he could produce an order, *in writing*. The builder took a parol order and asked Judge Smith on *faits et articles*, did you not order so and so? Judge Smith declined to answer, and the Court of Appeals condemned him, taking the question as answered in the affirmative, and himself liable though no order in writing was produced.

§ 218. *Suretyship.*

The contract of suretyship may be subject to a condition, so that the surety will be discharged if the condition be not performed by the creditor. In French law, interpretation is to be in favor of *cautions*. There are paid cautioners now, commonly.

Exceptiones assecuratorum, si aliquid dubii habent, non admittuntur. No. 94. 1 Disc. Casaregis.

Exceptions in policies are to be interpreted against insurance companies.[2]

Insurance is effected on wheat, corn, *or* pease in ship so and so; what is covered? Only wheat, only pease, only corn? Or all of them, in such quantities as may be? *Semble*, all; the interpretation being "whether wheat, corn, or pease."

Conditions are to be construed against those for whose benefit they are introduced.[3]

Arnould says the insured are to have the benefit of doubt.

Suppose a bond by a debtor for £500 repayable fifteen days after demand in writing upon him; surely verbal demand won't do.

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[1] *Kennedy*, appellant, v. *Smith*, respondent, 6 L.C.R., Upon a building contract though no extra work is to be allowed except upon written orders of the proprietor, verbal orders by him will bind him, if they be proved either by written order, or by oath of the proprietor. The proprietor cannot refuse to answer on oath as to the orders. Art. 1793, modern C. C. orders writing for such extras, so oath cannot be according to Troplong; but Merlin *contra*. See *Merlin*, Police et Cont. d'Assurance.

[2] *Blackett* v. *R. Exc. Ass. Co.*, 2 Cr. and Jer. *Palmer* v. *Warren Ins. Co.*, 1 Story.

[3] Catlin v. Springfield F. Ins. Co., 1 Sumner's Rep. 434.

Well, this is not a better case than is the insurer's often.

Where a lease contains a clause not to sublet but to tenants "qui conviennent au bailleur," the landlord cannot object whimsically, but must give good reasons for any objections by him, Journ. du Pal.: of 1864, p. 1044. Approbation tacit by the proprietor makes him *non recevable* to contest the validity of the *sous bail*, (Ib.) *note*.—Vo. Bail § 9, Roll. de V. Subletting not to be but by consent in writing of the landlord; writing is not a condition essential of the consent; but consent verbal and *commencement de preuve par écrit* is as good. (Ib)

This agrees with Pothier who says that contracts are to be interpreted in favor of the person who obliges himself to do anything, (yet is not the insurance company the person who obliges himself to pay?)

The insurer is a kind of *caution*. On the principle of his contract resembling suretyship, the interpretation ought to be against the insured, *à la décharge de l'assureur*. Suretyship may be *salarié*, bilateral, conditional.

§ 219. *Examples of interpretation.*

Suppose the insured to say that his house is connected with another by an opening in the wall between them, and the policy to go on to say that an iron door is to be placed there in May, (*no peine de nullité.*) Suppose the iron door to be placed only on 1st of June; fire to happen on 1st December following, in a general conflagration, *quid?* The company would have to pay.

Suppose in a policy, iron door be stated, a plan of it to be first approved of by this company, but door to be placed first, then the plan, and a letter stating that the door is placed, to be sent to the company's board of directors, who never complain, but are silent, surely the doctrine of ratification will rule, though the word "first" be in the (so-called) condition.

Bayley, J., says, in *Ritchie* v. *Atkinson*,[1] there would often be great injustice done by holding a clause a condition precedent, and *none* by a different construction.

§ 220. *Conditions in policies sometimes directory.*

May not some conditions in policies be held (like clauses in statutes) rather *directory*, than other?

In 12 Wheaton, 81, Judge Story held that some of the provisions of the Charter of the Bank of the United States were directory, rather than conditions precedent; and that what are to be deemed one and what other must depend upon a sound construction of the nature and object of each regulation, and upon apparent intention.[1]

In Frost's case[2] interpretation of statutes, (even in favor of life) will not be literal always.

Stat. of Treasons' end and object will be provided for, though its formalities will not have to be observed always. Yet in the Statute of Wills literal interpretation will be maintained.

Suppose a man to say, water on each "story"; would that include the basement or the attic? Or suppose he said, "each flat."[3] In descriptions an insurance company might sometimes charge the insured with being false, and force him into having to argue that the basement is a story; *e.g.*, if the insured were to describe a two story and basement as three stories.

Usage is admitted to explain doubtful words. See rules for meaning of words, 2 Dwarris, "ut commune vulgus."

"In case of other insurance, notice to be given and endorsed upon the policy or approved in *writing* by the insurance company, else policy to cease." The insured made other insurance, and gave written notice which the secretary of the company acknowledged, but no endorsement in writing, nor approval in writing was made; yet the assured recovered. The letter of the contract was not carried out, yet the condition was sufficiently complied with by the assured, it was held.[4]

If I effect an insurance on my two houses Nos. 105 and 106, for $4,000, does this work

[1] 10 East.

[1] P. 579, Vol. 9, (1854) La Annual R.

[2] 2 Moody C. C. Res.

[3] See 1 N. Y. Legal Observer, and 2 Parsons, pp. 48, 49, note. Dr. Johnson's Dictionary was referred to, for an explanation of the word "provisionally," 2 B. & P. New Rep.

[4] 5 Hill, 147. Suppose other insurance on one of the subjects only, and not notified; would the policy be totally vitiated?

to cover a loss of, say, $3,000 happening to No. 105; or is the insurance to read $4,000 on the two houses, to wit, $2,000 on each? The two apparently are insured as one *corps*.

Suppose a condition in an insurance policy to read, "no furnace shall be introduced into said house without leave in writing of the insurers being obtained." Would parol license be no good, as in *Roe* v. *Harrison*.[1] Suppose the reading to be "*previous* leave in writing," and leave in writing be obtained *after*; surely that would do.[2] So here are examples of, 1st, literal interpretation; 2nd, non-literal interpretation.[3]

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*SUPERIOR COURT—MONTREAL.**

Capias—Assignment by debtor in trust—Demand of judicial abandonment—Art. 798, C. C. P.—Legal attorney.

Held:—1. Affirming the judgment of *Wurtele, J.*, M. L. R., 6 S. C. 234, That where a creditor, by filing his claim with the trustee and receiving dividend, has acquiesced in a voluntary assignment in trust made by his debtor for the benefit of his creditors, such creditor is estopped from demanding, immediately after, that the debtor shall make a judicial abandonment; and therefore he is not entitled to obtain the issue of a writ of *capias* on the ground that his debtor has refused to make a judicial abandonment.

2. An attorney *ad litem*, even when he holds a power of attorney "to take all such steps by legal proceedings or otherwise as he might think necessary," is not authorized, under Art. 798, C.C.P., to make the affidavit for *capias*, the "legal attorney" referred to in the article being not the procurator *ad litem*, but the procurator *ad hoc negotium*.—*Boston Woven Hose Co.* v *Fenwick*, in Review, Johnson, C. J., Jetté, Tellier, JJ., Nov. 15, 1890.

Municipal Law—Meeting of Municipal Council—Adjournment—By-law, Publication of.

Held:—When a general meeting of a municipal council, regularly summoned, has been properly adjourned to another day, the meeting held in pursuance of such adjournment is regular and legal, although not preceded by the notice required for the original meeting, the adjourned meeting being a continuation of the original meeting, and the two forming together but one session.

2. Where a *procès-verbal* has been on the table during the deliberation of the council thereon, and the members of the council and the persons interested therein who were present knew the tenor of such *procès-verbal*, it was not necessary to read the *procès-verbal*, the examination consisting in such case of the discussion with full knowledge of its contents.

3. Where it has been decided by a resolution that a councillor is not personally interested, such resolution is final and has full effect.

4. Where the notice given by the secretary-treasurer of the passing of a by-law is irregular and insufficient, such irregularity does not entail the nullity of the by-law, but merely suspends its going into execution until duly published.—*Provost* v. *Corporation de la Paroisse de Ste. Anne de Varennes*, Wurtele, J., Sept. 1, 1890.

Railway Act—Expropriation—Indemnity to Proprietor—Trees felled near railway line.

Held:—1. The amount awarded for the right of way for a railway is compensation, under sections 146, 147 and 152 of the Railway act, 51 Vict. (D) ch. 29, not only for the land taken by the railway, but also for the damage likely to be occasioned to the proprietor during the construction of the railway.

2. Railway companies have the right, under paragraph (*e*) of section 90 of the Railway Act, to fell and remove trees which stand within six rods of the railway, and the damage which may result from the exercise of this right forms part of the damages to be covered by the compensation awarded to the person whose land is expropriated; and he has no action to recover any additional amount for the value of trees within this limit which may be cut down and removed by the railway company.—*Evans* v.

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[1] 2 T. R. 425.

[2] Yet according to the English Law of Trustees it would not. See Hill on Trustees, p. 389.

[3] If on change of name by a widow, loss of legacy is ordered by will, she does not lose the legacy if she remarry with a man of the same name, though the testator meant to prevent her marrying again.

* To appear in Montreal Law Reports, 6 S.C.

Atlantic & North West R. Co, Wurtele, J., Sept. 1, 1890.

Jurisdiction—Right of Action—Art. 114 *C.C.P.—Pleading—Costs.*

Held:—Where the plaintiff, domiciled in the district of M., revendicates as his property goods in the possession of a person domiciled in another district, and alleged to be illegally detained by him therein, the defendant should be impleaded in the district of his domicile.

2. Where the action is manifestly beyond the jurisdiction of the Court, it will be dismissed, although no declinatory exception has been pleaded.

3. A person who intervenes in the suit (the defendant making default) in order to contest such seizure, may raise the question of jurisdiction by his plea to the merits without having filed a declinatory exception within four days from the allowance of his intervention; but in such case he will not be awarded costs on the intervention.

4. The intervening party in such case is not bound by any consent to the jurisdiction which may be proved to have been given by the defendant before the institution of the suit.—*Goldie* v *Beauchemin, & Rasconi*, intervening, Wurtele, J., Nov. 17, 1890.

Married woman, separated as to property, carrying on trade—Art. 981, *C.C. P.—Registration.*

Held:—Affirming the judgment of *Taschereau, J.*, M. L. R., 5 S. C. 112, 1. In an action *qui tam*, under Art. 981, C.C.P., against a married woman separated as to property, for carrying on trade without registration as required by Art. 981, C.C.P., a general averment that the defendant carried on trade from the month of July to 30th September, 1887, is a sufficient allegation of the act of trading, and of the date: a statement of particular acts of trading is not necessary.

2. Art. 981, C. C. P., applies to women separated as to property by marriage contract as well as to those who have been judicially separated.

3. Art. 981 has not been repealed by 48 Vict. (Q.), ch 29.

4. The declaration required by Art. 981, C.C.P., must be delivered to the prothonotary of the district and the registrar of the county, at the time the wife begins to carry on trade.

5. The action *qui tam* for failure to comply with the requirements of Art. 981, C. C. P. is distinct from the action for failure to comply with the requirements of 48 Vict. (Q), ch. 29, s. 1, and the two actions may co-exist against the same person.—*Devin* v *Vaudry*, in Review, Johnson, C. J., Gill, Wurtele, JJ., Nov. 30, 1889.

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*DECISIONS AT QUEBEC.**

Vente—Résolution—Impenses—Frais de poursuite.

Jugé:—La sentence qui prononce la résolution d'une vente pour défaut de paiement du prix, en vertu d'un pacte commissoire à cet effet, doit mettre à la charge de l'acheteur, défendeur, les frais de poursuite lors même qu'elle lui reconnait le droit à des impenses au montant de la balance qu'il doit.—*Plourde* v *Brisson*, en révision, Casault, Andrews, Larue, J.J., 31 oct. 1889.

Procédure—Assignation—Huissier—Parent des parties.

Jugé:—L'assignation faite par un huissier, neveu du défendeur, est nulle, attendu que l'article 74, C.P.C., défend aux huissiers d'exploiter dans les affaires qui concernent leurs parents jusqu'au dégré de cousin germain inclusivement. Les mots, *qui concernent*, dans cet article, étendent la prohibition tant aux affaires *contre*, qu'à celles *pour* les parents, etc., et, en cela, l'article 74 diffère de l'article 66 du Code de Procédure Français qui ne défend à l'huissier d'instrumenter que "pour ses parents, etc."—*Cliche* v *Poulin*, C. S., Beauce, Pelletier, J., 13 mars 1890.

Contract—Principal and agent—Art. 1738, C.C.

Held:—A party who signs an agreement for services to a vessel stranded in the Gulf, as "agent by Capt. R's telegrams," is not liable under Art. 1738, C. C., as a factor of a foreign principal.—*Kaine* v *Gunn*, in Review, Casault, Andrews, Larue, JJ., June 27, 1889.

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* 16 Q. L. R.

Jugement en révision—Pouvoir de la Cour de l'interpréter—Rectification du registre.

Jugé:—La Cour de Révision ayant confirmé, avec dépens, un jugement rendu contre le défendeur, dans une cause dans laquelle le demandeur avait appelé son garant qui avait pris son fait et cause, peut ordonner, sur motion du garant, que l'entrée de son jugement au registre soit rectifiée de manière à donner au garant ses frais en révision. Le pouvoir d'interpréter leurs jugements que la loi reconnait aux tribunaux, doit être exercé par ceux qui les rendent et non par ceux auxquels ils sont transmis pour être exécutés.—*Lebel* v *Pelletier*, & *Lebel* v *Le Crédit Foncier*, en révision, Casault, Caron, Andrews, JJ., 28 fév. 1890.

Revendication—Procédure—Action contre Curateur aux biens.

Jugé:—Lorsque dans les biens dont un curateur prend possession comme appartenant au débiteur qui a fait cession, il s'en trouve qui appartiennent à des tiers, c'est par recours ordinaire à une action, et non par voie exceptionnelle de requête sommaire, que ces derniers doivent les revendiquer.—*St. Hyacinthe Oil & Paint Co.* v *Bédard*, C. S., Casault, J., 28 fév. 1890.

Séparation de biens—Irrégularité de l'assignation—Connivence du conjoint poursuivi—Art. 974, C.P.C.

Jugé:—Le mari assigné en séparation de biens à comparaitre un jour non-juridique, et qui consent au rapport du bref d'assignation le lendemain, est par là même de connivence dans la poursuite. Celle-ci est partant nulle, et le jugement qui l'a maintenue doit être annulé sur tierce opposition d'un créancier du mari.—*Roy* v *Duberger* et *Filion*, tiers-oppt., en révision, Casault, Caron, Andrews, J.J., 28 fév. 1890.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Dec. 20.

Judicial Abandonments.

Jules Joseph Edgar Bergevin, trader, Quebec, Dec. 13.

Madame L. Lussier, milliner, Montreal, Dec. 12.

Joseph Lecompte, boot and shoe dealer, Montreal, Dec. 16.

Basile Massé, furniture dealer, St. Hyacinthe, Dec. 15.

Curators appointed.

Re E. Beaudry *et al.*—C. Millier and J. J. Griffith, Montreal, joint curator, Dec. 17.

Re John E. Bradford, trader, Lachute.—W. J. Simpson, Lachute, curator, Dec. 12.

Re Olivier Charbonneau.—Bilodeau & Renaud, Montreal, joint curator, Dec. 18.

Re Marie Louise Chartrand.—Bilodeau & Renaud, Montreal, joint curator, Dec. 18.

Re M. J. Dayet & Co., wine merchants, Quebec.—N. Matte, Quebec, curator, Dec. 16.

Re Napoléon Desjardins, baker, La Pointe au Pic, Malbaie.—N. Matte, Quebec, curator, Dec. 15.

Re J. F. Dupré, grocer.—Bilodeau & Renaud, Montreal, joint curator, Dec. 17.

Re Joseph Aurèle Gendron.—P. Beriau and R. Stewart Farnham, joint curator, Dec. 15.

Re Jean H. Gendron.—J. T. L. Archambault and J. J. Griffith, Sherbrooke, joint curator, Dec. 11.

Re John Johnson & Co.—C. Desmarteau, Montreal, curator, Dec. 13.

Re E. F. Lavoie, Quebec.—D. Arcand, Quebec, curator, Dec. 15.

Re Victor Lesage, Pont Rouge.—H. A. Bédard, Quebec, curator Dec. 13.

Re Robert T. Manley, trader, Lachute.—W. J. Simpson, Lachute, curator, Dec. 12.

Re Francis T. McCaffrey, Nicolet.—A. Lamarche and J. Frigon, joint curator, Dec. 16.

Re Pierre Ouellett and François Ouellet, grocers, Quebec.—P. Langlois, Quebec, curator, Dec. 11.

Dividends.

Re Thomas Barry, grocer, Quebec.—First and final dividend, payable Jan. 5, N. Matte, Quebec, curator.

Re O. Bégin, & Co., Quebec.—First dividend, payable Jan. 5, N. Matte, Quebec, curator.

Re François Bourgouin, Tadoussac.—First dividend, payable Jan. 5 N. Matte, Quebec, curator.

Re Drolet & Co., Quebec.—First and final dividend, payable Jan. 5, N. Matte, Quebec, curator.

Re C. N. Falardeau, l'Ancienne Lorette.—Third and final dividend, payable Jan. 5, H. A. Bédard, Quebec, curator.

Re Z. Garneau, trader, Quebec.—First and final dividend, payable Jan. 5, H. A. Bédard, Quebec, curator.

Re Hubert A. Houde, grocer, Quebec.—First and final dividend, payable Jan. 5, H. A. Bédard, Quebec, curator.

Re Joseph L'Abbé, trader, Quebec.—First and final dividend, payable Jan. 5, H. A. Bédard, Quebec, curator.

Re Jean Bte. and Prosper Lafontaine, Chambord and Lake Bouchette.—First and final dividend, payable Jan. 5, J. B. E. Lorellier, Quebec, curator.

Re Zephirin Lafrance, hotel-keeper, Quebec.—First and final dividend, payable Jan. 5, N. Matte, Quebec, curator.

Re John McNiece.—First and final dividend, payable Dec. 30, E. H. Davis, Montreal, curator.

Re Montreal Shoe Co-operative Association.—First and final dividend, payable Jan. 5, C. Desmarteau, Montreal, curator.

Re J. W. Richards, Montreal.—First and final dividend, payable Jan. 12, Kent & Turcotte, Montreal, joint curator.

Re Alexis Therriault, Fraserville.—First dividend, payable Jan. 5, N. Matte, Quebec, curator.

Re J. B. A. Truel & Co., Montreal.—First and final dividend, payable Jan. 5, J. McD. Hains, Montreal, curator.

Re Narcisse Turgeon.—First and final dividend, payable Jan. 5, J. Goulet, Levis curator.

Re James Willis Wight, Montreal.—First and final dividend, payable Jan. 5, J. McD. Hains, Montreal, curator.

Separation as to Property.

Rose Delima Dagenais vs. Wilfrid Landry, butcher, Ste. Scholastique, Dec. 10.

FIRE INSURANCE.

TREATISE BY THE LATE

MR. JUSTICE MACKAY.

Chapter III.

Of Insurable Interest, the subject insured, and who may become insured.

GENERAL INDEX TO SUBJECTS.

VOL. XIII.

[The cases of QUEEN'S BENCH, MONTREAL, and SUPERIOR COURT, MONTREAL, which are fully indexed in the regular series, are here placed separately under those titles. For matters noticed in departments of CURRENT TOPICS, and GENERAL NOTES, see under those titles in Index. For TREATISE ON FIRE INSURANCE see p. 417 *et seq.*]