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RESPONSIBILITY OF TENANTS.

The Supreme Court of Canada, on the 18th March last, dismissed the appeal taken by Evans in the case of *Skelton et al. & Evans*, from the judgment of the Court of Queen's Bench at Montreal, reported in M. L. R., 3 Q. B. 325-347. The case was of the utmost importance to landlords and tenants—including, practically, the entire community; and the difficulty of arriving at a decision may be inferred from the fact that we find—taking the three Courts through which the case passed—four judges holding one opinion and six coming to an opposite conclusion. The decision of Mr. Justice Doherty in the Superior Court, was reversed by the majority of the Court of Queen's Bench, consisting of Chief Justice Dorion and Justices Tessier and Cross, the dissentient judge being Mr. Justice Church; and the latter decision has been affirmed by Justices Strong, Fournier and Gwynne in the Supreme Court, the dissentient Justices being Chief Justice Ritchie and Mr. Justice Taschereau. The law is now settled, unless it be overruled hereafter by the Judicial Committee of the Privy Council, that where the lease contains a clause stipulating that the lessee shall deliver up the premises at the expiration of the lease in as good order as the same shall be found in at the commencement of the lease, "*accidents by fire excepted*," the burden of proving that the fire was not an accident, but was caused by negligence or fault of the tenant, falls upon the landlord who seeks to recover from the tenant the damage caused by the fire. In other words, the insertion of such a clause in the lease is a waiver on the part of the lessor of the presumption established in his favor by Article 1629 of the Civil Code. It may be observed that this judgment overrules *De Sola* v. *Stephens*, 7 Leg. News, 172, where the lease contained a similar clause.

We append the opinions of the Supreme Court, with the exception of that delivered by Mr. Justice Strong (on the side of the majority), which has not been received:—

EVANS v. SKELTON.

TASCHEREAU, J. (*diss.*):—

I would allow this appeal.

The law of the case is clear. Art. 1053 C.C. enacts that "Every person capable of discerning right from wrong is responsible for the damage caused by his fault to another, whether by positive act, imprudence, neglect or want of skill."

Art. 1627. "The lessee is responsible for injuries and loss which happen to the thing leased during his enjoyment of it; unless he proves that he is without fault."

Art. 1628. "He is also answerable for the injuries and losses which happen from the acts of persons of his family or of his sub-tenants."

Art. 1629. "When loss by fire occurs in the premises leased, there is a legal presumption in favor of the lessor that it was caused by the fault of the lessee or of the persons for whom he is responsible; and unless he proves the contrary, he is answerable to the lessor for such loss."

The fire, therefore, is presumed to have been caused by the respondent's fault.

The words "accidents by fire excepted" in this lease have not the effect of destroying this presumption of law that the fire was caused by the lessee's fault. On him rested the onus to plead and to prove that the fire was caused by an accident. This proof he has failed to make. The contention, that I remark in the factum, that the word *accident* may be defined to be an event which is not the result of intention, is untenable. Nothing but a criminal and wilful setting on fire of these premises would make this lessee liable according to this contention. Such is not the lease. The word "fault" in Arts. 1627 and 1629 C. C. means, as in Art. 1053, not only a positive act, but also acts of imprudence or negligence.

The respondents seem to think that if they have proved that the cause of the fire is unknown, they have proved that it was an accidental fire. But the law is exactly to the contrary. If the cause of the fire is unknown, the presumption is that it was due to the lessee's fault. 2 Bourjon, p. 47; Pothier, Louage, 194; Domat, Lois Civiles, p. 181; Dalloz, 85. 2. 14; Dalloz, 81. 2. 111;

Brétonnier, 2 Henrys, 537, justly remarks that, if the burden of proving that the fire was caused by the lessee's fault or negligence was on the lessor, the lessees would hardly ever be liable, because it would generally be impossible for him to get at the evidence, as in the house there is generally only the lessee and his family.

In Ancien Denizart, Vo. Incendie, a case of Aug. 22, 1743, is cited, where a proprietor who had himself lost his house by a fire was obliged to indemnify his neighbours to whose property the fire had extended, upon the only ground that the fire had originated in the defendant's house. This judgment, says Denizart, is based on the principle that, in the event of a fire, the *cas fortuit* is not presumed, if not proved.

In another case, *loc. cit.* (Quentin's) the defendant was condemned, because the fire had originated on his premises in an unknown manner, *sans qu'on pût savoir comment.*

I need not refer specially to the authorities under Art. 1733 C. N. They may easily, almost all, be found under Art. 1733, in Sirey's Codes Annotés.

The words, " accidents by fire excepted " in this lease mean fire *not by or through his fault.* So, that, for instance, if an incendiary had caused the fire, the lessee would not have become responsible. Or, if the fire had been caused by a coal oil lamp accidentally falling from anyone's hands, or, by a rocket or firecracker fired from the street, or anything of that kind, then on the proof of any such fact, the respondents would have been exonerated. But otherwise, as I have already remarked they are liable, the presumption is that they were in fault. They had to rebut that presumption by proving that they were not in fault, that is to say that the fire was caused by an accident, by a *vice de construction ou force majeure*, or by an incendiary. They do not prove an accident when they prove that the cause is unknown, or no negligence on their part. They, in fact, contend that the words " accidents by fire" mean "loss by fire excepted." That construction is untenable.

As to the defective chimney there is nothing to help the respondents. It is a very farfetched defence. If the chimney was really defective, they should have informed their landlord of it. Then there had been no fire for over 24 hours in any of the stoves communicating with it.

As to the extra premium clause, I cannot see that it can in any way be read as removing, in any degree, from the respondents the liability which, as tenants, the law imposed upon them. The appellants were not even bound to insure at all. See cases cited No. 58 in note under Art. 1733—2 Sirey, Codes Annotés, and Dalloz, 85-2-137.

The evidence in the case as to the hot ashes in a wooden barrel, shows the grossest negligence possible on the part of the respondents, and I concur fully with Mr. Justice Church when he says, in the Court of Appeal, (M. L. R., 3 Q. B., p. 345). " The plaintiff has " shown more than he was bound to do, for, " in my opinion, he has shown gross neglect " of the commonest prudence on the part of " his tenant, and has afforded satisfactory " presumptive evidence of the cause of the " fire in the absence of any countervailing " proof."

The absence of a watchman on the premises, considering the danger that the extreme heat required in the building involved, is also evidence of negligence. It is proved that the premises must have been on fire for a long time before any alarm was given, and that consequently the fire brigade's services were of no use to save the building. Now, had there been a watchman there, not only could the brigade have been called out in time to save the building, and perhaps, confine the damage to a few dollars, but the watchman himself it may be, would have checked the fire in its origin with a bucket of water. On this point I would refer to Merlin, Rep. Vo. Incendie, par. IX; 2 Arrêts de Louet, p. 29; 6 Marcadé, p. 464, and the following passage in note 6 Boileux, 77: " On " peut d'ailleurs, en certains cas, imputer au " locataire d'avoir laissé les lieux sans gar- " dien."

Moreover, the jurisprudence supports entirely the appellants.

" A tenant, in order to free himself from " the responsibility of the burning of the " leased premises, must show satisfactorily " that the fire was not caused by his fault or " the fault of those for whom he is answer-

" able." *Belanger* v. *McArthur*, 19 L. C. J. 181.
" Where the leased premises have been in-
" jured or destroyed by fire, the legal pre-
" sumption is that the fire is caused by
" neglect or default on the part of the tenant
" or those for whom he is responsible, unless
" the contrary is proved." *Rapin* v. *MacKinnon*, 17 L. C. J. 54.

" In order to destroy the presumption de-
" clared in Art. 1629 of the Civil Code, it is
" not sufficient for the tenant to show that
" he acted with the care of a prudent admini-
" strator, and if the fire which destroyed the
" premises leased could not be accounted
" for, he must show how the fire originated,
" and that it originated without his fault."
The Seminary of Quebec v. *Poitras*, 1 Q. L. R. 185, confirmed unanimously in appeal.

" The tenant is responsible for the destruc-
" tion by fire of leased premises from the
" neglect of his servants, &c." *Allis* v. *Foster* 15 L. C. J. 13.

" And in such case the onus probandi is
" on the tenant to prove that the fire was
" not the result of neglect on the part of his
" servants when the premises are burnt
" while in their occupation." *Ib.*

See also *Pilon* v. *Brunette*, 12 Rev. Leg. 74, and *De Sola* v. *Stephens*, 7 Leg. News, 172. An unreported case of *Pouliot* v. *Turcotte*, decided by the Superior Court at Kamouraska in June, 1875, and confirmed in Review, is in the same sense.

With the hardship of the law we have nothing to do. The Code gives no new law on the subject; it does nothing but re-enact the principles of the Roman law, universally adopted in France, and always held to have been the law of the Province of Quebec.

With a constant and uniform jurisprudence as to its construction before their eyes, the legislature of Quebec has not seen fit in any way to alter the article. Under these circumstances, can we be asked to modify, or to deviate from, that jurisprudence?

Then, if there is any hardship on the tenant in that law, would there be no hardship in making the landlord bear the loss in case of the destruction of his premises when occupied by his tenant, or in putting on him the burden of proving facts which necessarily must be in the intimate knowledge of his tenant?

" La loi ne peut balancer entre celui qui
" se trompe et celui qui souffre," (says Bertrand de Grenille) " Partout où elle aper-
" çoit qu'un citoyen a essuyé une perte, elle
" examine s'il a été possible à l'auteur de
" cette perte de ne pas la causer, et si elle
" trouve en lui de la légèreté ou de l'imprud-
" ence, elle doit le condamner à la réparation
" du mal qu'il a fait."

I am of opinion that the appeal should be allowed with costs.

Sir W. J. RITCHIE, C. J.:—

I am of opinion the appeal should be allowed with costs. I agree with Mr. Justice Taschereau in this case.

FOURNIER, J.:—

L'appelant Evans a poursuivi les intimés pour les faire condamner à l'indemniser des dommages qui lui ont été causés par l'incendie d'une maison qu'il leur avait louée et qu'ils occupaient comme locataires au moment de l'incendie. L'appelant se fondant sur l'article 1629, C.C., prétend que les intimés sont responsables des conséquences de cet incendie, et réclame d'eux la somme de $2,675 comme valeur des dommages qui lui ont été ainsi causés. L'article 1529 s'exprime ainsi: " Lorsqu'il arrive un incendie dans
" les lieux loués, il y a présomption légale en
" faveur du locateur, qu'il a été causé par la
" faute du locataire ou des personnes dont il
" est responsable, et à moins qu'il ne prouve
" le contraire, il répond envers le propriétaire
" de la perte soufferte."

Les intimés ont plaidé que la présomption légale établie par cet article a été détruite par la preuve qu'ils ont faite que l'incendie en question n'avait été causé par aucune faute ou négligence de leur part, qu'au contraire, ils avaient toujours pris les précautions nécessaires pour se garantir contre les accidents par le feu; que la plus grande partie des dommages avait été causée par la construction défectueuse de la bâtisse qui l'exposait particulièrement au danger du feu, plutôt que par l'incendie même; la bâtisse s'étant écroulée peu de temps après le commencement de l'incendie; tandisque si la dite bâtisse eût été solidement construite, le feu aurait pu être éteint avant qu'il n'eut causé de grands dommages; que la bâtisse étant assurée le propriétaire appelant avait

retiré en vertu de sa police d'assurance tout le montant des dommages causés; qu'enfin il avait été convenu par le bail passé entre les parties que les intimés locataires rendraient à l'expiration du bail, les lieux loués en aussi bon état qu'ils les avaient reçus en tenant raisonablement compte de l'usage qui en aurait été fait, et en exceptant les accidents par le feu, "*reasonable wear and tear and accidents by fire excepted.*" Il fut aussi convenu que la bâtisse louée serait assurée, et que dans le cas où un taux plus élevé d'assurance serait exigé en conséquence des risques plus considérables auxquels l'industrie particulière des intimés pouvait exposer la bâtisse, ceux-ci s'obligeaient à en payer la différence, ce qu'ils firent; qu'il était particulièrement du devoir d'Evans, le propriétaire, d'assurer sa propriété pour sa pleine valeur, et que s'il lui résulte une perte en conséquence de l'insuffisance de son assurance, lui seul est tenu de la supporter.

La preuve a établi que la bâtisse était défectueuse dans une certaine mesure, et surtout en ce qui concernait la cheminée, qui n'avait qu'une seule brique d'épaisseur au lieu de deux qu'elle aurait dû avoir pour le mur de division ; de plus elle n'était pas liée au mur; les joints n'en avaient pas été tirés. Il y avait entre un des murs de côté et celui de derrière une crevasse laissant un espace de quatre pouces au troisième étage ; la crevasse se prolongeait dans trois étages ; on pouvait voir d'un côté à l'autre entre le mur et la cheminée. On voyait monter la fumée.

L'attention de l'appelant ayant été plusieurs fois attirée sur l'état de la cheminée, et ayant même été protesté par les autorités civiques, il fit quelques réparations en 1874 et en 1883, mais tout-à-fait insuffisantes d'après le témoignage de Duplessis qui avait été employé pour ces ouvrages. L'ouvrier chargé de l'ouvrage en plâtre ainsique les intimés protestèrent contre l'insuffisance de ces réparations qui ne s'étendaient qu'à une partie endommagée de la cheminée ; le reste fut laissé dans le même état qu'auparavant. Les planchers s'étaient retirés de la bâtisse adjoignant d'environ un pouce à un pouce et quart, laissant entre les planches et les plafonds dans les différents étages un espace par lequel les étincelles montant dans la cheminée pouvaient facilement se loger et y brûler lentement avant d'éclater.

Les flammes ne furent d'abord aperçues que du côté de Shorey par les fenêtres du troisième et quatrième étages. Après la chute de la bâtisse on pouvait voir la partie réparée de la cheminée qui adhérait au mur de Shorey,tandis que celle qui ne l'avait pas été, était toute tombée et laissait voir des briques noircies et brûlées sur le mur de Shorey autour de la cheminée, indiquant que le feu avait dû originer à cet endroit. Cairns, un membre experimenté de la brigade du feu auquel est faite la question suivante: "Did "you notice anything in the *débris* or in the "walls which would indicate to you where "and how the fire had commenced?" *A.*— "There was ; round where the remaining "part of the chimney, round the wall, there 'were indications on the building, as I would "say, that the fire had originated close to "that wall, by the blackened and charred "color of the brick just around that part." *Q.*—"Near the chimney?" *A.*—"Yes, just "in the vicinity of the chimney; below, it "was not blackened."

Ce témoignage est corroborré par ceux de Cowan, Mann et Nolan, tous compétents dans cette matière, qui ne laisse pas de doute que la cheminée défectueuse a été la cause de l'incendie.

Si la bâtisse eût été construite plus solidement, le feu aurait pu être éteint, avant d'en avoir causé la destruction entière. C'est l'opinion positive d'un autre membre de la brigadede feu, Harris: *Q.*—"From your experi- "ence of fires, if the building had not fallen, "could the brigade have put that fire out?" *A.*—"I have no hesitation in saying so. We "should have saved the two flats, if it had "not fallen ; we have done it with other "buildings, and we surely could have done "it with this."

Indépendamment des vices de construction de la cheminée, il est prouvé que les supports de la bâtisse étaient insuffisants ; qu'elle tremblait chaque fois qu'on y remuait des articles pésants et aussi à chaque mouvement dans la rue. Les murs de derrière et de côté avait considérablement surplombé. L'inspecteur des bâtisses de la cité avait déjà en 1874 ordonné la démolition de la cheminée

en question, " as being in a dangerous con- " dition, or repaired and made secure as " regards fire. At present such chimney " is in such a state that it endangers public " safety, etc."

Il est vrai que c'est longtemps après cet avis que les réparations dont il a été question plus haut, ont été faites. Mais on a vu aussi qu'elles l'avaient été d'une manière si insuffisante que la cheminée n'avait pas cessé d'être un danger pour la securité publique, et qu'il n'y avait qu'une démolition et une reconstruction totale, comme le disait l'inspecteur, qui pouvait mettre cette cheminée dans un état de securité conforme aux réglements de la cité. La bâtisse était connue comme dangereuse par les hommes de la brigade de feu qui sont unanimes à dire qu'ils n'ont jamais vu une bâtisse s'écrouler de cette manière. Le toit n'était pas même brûlé, et ils sont d'accord à dire qu'ils auraient pu éteindre le feu si la bâtisse ne se fut pas écroulée aussi promptement. Dans ces circonstances, si l'appelant avait quelque recours contre les intimés, il ne pourrait réclamer le montant entier de sa perte, car si la bâtisse avait été solidement construite, les dommages eussent été moins considérables, et le montant de son assurance aurait été parfaitement suffisant pour l'indemniser.

L'appelant prétend que la manière dont les cendres étaient gardés dans la bâtisse constitue un acte de négligence qui a l'effet de rendre les intimés responsables de l'incendie. Le témoignage de Donaldson prouve que les cendres, après avoir été déposées dans un baril placé sur un plancher recouvert en zinc, étaient toujours éteintes avec de l'eau. Il jure positivement qu'il en a agi ainsi le matin du 21 juin 1884. On déposait aussi dans ce baril les restes d'emploi délayé dont on s'était servi la vielle ainsi que les feuilles du thé mouillées. Donaldson dit de plus que lorsqu'il enlevait les cendres des poëles et fournaises le matin, elles étaient réfroidies et il pouvait les prendre avec ses mains. Le matin même de l'incendie à 7½ heures, près de 24 heures avant que le feu se fut déclaré, il y avait mis un plein seau d'eau dans le baril aux cendres. D'après toutes précautions prises et rapportées par Donaldson, il est impossible que le feu ait pris par les cendres.

Les intimés ne se sont pas rendus coupables d'infraction aux réglements de la cité en déposant les cendres comme ils l'ont fait. L'interpretation donnée par l'appelant au réglement n'est pas correcte ; le réglement défend bien de garder les cendres de bois enlevés des poëles dans des boîtes de bois, mais ne fait pas mention des cendres de charbon qui se réfroidissent beaucoup plus promptement, et sont beaucoup moins dangereuses pour le feu, ainsiqu'il est prouvé par plusieurs témoins. L'appelant a complètement failli dans sa tentative de prouver que les cendres avaient été la cause du feu. A défaut de preuve positive que le feu a été causé par la négligence des intimés, ils ne peuvent en être rendus responsables.

D'après la preuve le feu ne peut guère être considéré autrement que comme un accident dont ils ne peuvent non plus être tenus responsables, parcequ'en vertu de leur bail ils se sont, par convention spéciale, mis à l'abri de la présomption légale établie par l'article 1629 en stipulant qu'ils ne seraient pas responsables des accidents. Cette stipulation n'ayant rien de contraire à l'ordre public ni à la morale est parfaitement légitime et doit recevoir son exécution.

Je suis d'avis que l'appel doit être renvoyé avec dépens.

GWYNNE, J. :—

Whatever might be the result upon the construction of article 1629, and whether that article is or is not to be read in connection with article 1626, I am of opinion that, under the terms of the lease entered into between the parties, the defendants are relieved from liability to re-instate the damage done by the fire in the present case which destroyed the leased house. The fire in the present case was clearly in my judgment an accident or casualty by fire, which is the same thing, within the terms of the exception in the lease.

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*SUPERIOR COURT—MONTREAL.**

Cautionnement judicatum solvi — Demandeurs dont les uns sont absents—Procuration—Action en destitution.

JUGÉ:—1o. Que dans le cas où il y a plusieurs demandeurs dont les uns ont leur

* To appear in Montreal Law Reports, 4 S.C.

domicile dans la province de Québec et les autres en dehors de la province, le défendeur a droit d'obtenir le cautionnement *judicatum solvi*, et de faire suspendre tous les procédés de la cause jusqu'à ce que ce cautionnement ait été fourni.

2o. Qu'un procureur *ad litem* qui intente au nom d'un absent une action en destitution d'une charge d'exécuteur testamentaire et de légataire en fidéicommis (*in trust*) est tenu, s'il en est requis, de produire une procuration l'autorisant à intenter spécialement cette action.—*Howard* v. *Yule*, Papineau, J., 13 nov. 1880.

Gardien—Procès-verbal—Opposition—Motion.

JUGÉ:—Que le fait que le procès-verbal de saisie ne contient pas de nomination de gardien, ni d'indication que les meubles aient été enlevés ou sont sous la garde de quelqu'un, n'est pas suffisant pour autoriser une opposition afin d'annuler de la part du défendeur, et telle opposition sera renvoyée sur motion comme futile et évidemment mal fondée.—*Thibaudeau* v. *De Grandpré*, Malhiot, J., 4 nov. 1888.

Tiers-saisi—Dépôt du montant dû en Cour.

JUGÉ:—Que la Cour ne peut, sous les circonstances ordinaires, ordonner à un tiers-saisi, de déposer en Cour le montant qu'elle a déclaré devoir sous une saisie-arrêt avant jugement.—*Naud* v. *Lavoie, et T.S.*, Gill, J., 7 nov. 1888.

Dommage—Procédure judiciaire—Diffamation—Admission implicite.

JUGÉ:—1o. Qu'il n'y a pas d'action en dommage contre un pétitionnaire qui, dans sa pétition en contestation d'élection parlementaire, accuse le candidat élu d'avoir dans son élection induit et contraint diverses personnes à faire un faux serment, d'avoir fait faire ce qu'on appelle "supposition de personne," d'avoir tenté de violer le secret du scrutin, ces accusations étant généralement des faits pertinents aux contestations d'élections.

2o. Que le fait que le pétitionnaire n'a pas répété ces accusations dans son "articulation de faits," n'est pas en loi une admission que les accusations étaient fausses, mais ne peut être considéré que comme un abandon de ces moyens de contestation par le pétitionnaire.—*Charlebois* v. *Bourassa*, Ouimet, J., 29 déc. 1888.

Procedure—Notes taken by stenographer—Correction of errors—47 Vict. (Q.), c. 8, s. 4, (R.S.Q. 5888.)

HELD:—That the transcribed notes of evidence taken by a stenographer under the direction of the Judge, as provided by 47 Vic. (Q.) c. 8, s. 4, are like notes taken by the Judge himself, and it is not necessary that they should be read to the witnesses. Where errors are found to exist in such notes, the Judge who heard the evidence, upon application by the party interested may order the errors to be corrected, in the manner he may deem proper.—*Guimond* v. *Leblanc* (Laval Election), Johnson, Gill, Loranger, JJ., Jan. 31, 1888.

Obligation—Damages for inexecution of—Art. 1070, C. C.—Default.

HELD:—Where the defendants, by the terms of the deed of sale of a strip of land to them by the plaintiffs, undertook to construct two crossings with gates and fastenings, to enable the vendors to cross the railway, but no time was stipulated within which such crossings were to be constructed: that no damages could be claimed for inexecution of the obligation until the defendants had been put in default to make the crossings; and, in the present case, no damages after the defendants had been put in default, having been proved, the action was dismissed.—*Crevier* v. *Ontario & Quebec Railway Co.*, Johnson, J., Oct. 31, 1888.

Municipal Law—Damages—Notice—Waiver—Art. 793, M.C., as amended by 45 Vict. (Q.) ch. 35, s. 26, and by 48 Vict. ch. 28, s. 15—Costs.

HELD:—1. A municipal corporation is responsible for damages arising from the bad condition of the side-walks and streets, without proof that it had notice of the defects which led to the accident complained of.

2. That the notice of suit required by Art. 793 of the Municipal code, as amended by 45

Vict. (Q.), ch. 35, s. 26, and by 48 Vict. (Q.) ch. 28, s. 15, applies not only to actions for the penalty therein enacted, but also to actions for damages resulting from the non-execution of the *procès-verbaux* and by-laws.

3. But such notice is not a matter of public order, and may be waived by the defendants' failure to invoke the absence of notice by their pleadings, and by their admission of liability.

4. (MATHIEU, J., diss.)—In an action for actual damages, for personal injuries sustained, where the plaintiff obtains judgment for only a portion of the amount demanded, he will not, where the defendant made no tender, or an insufficient tender, be condemned to pay the difference between the costs of the contestation of an action for the amount recovered and of the action as brought.—*Charron et ux.* v. *La Corporation de la paroisse de St. Hubert*, in Review, Johnson, Taschereau, Mathieu, JJ., Oct. 31, 1888.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, May 4.

Judicial Abandonments.

Benjamin Bainbridge, Aylmer, April 23.

Albert Joseph Evans, Montreal, April 29.

Edmond Poulin, St. Ephrem de Tring, April 20.

Hormisdas Prudhomme, trader, Brompton Falls, April 25.

Curators appointed.

Re M. Bisaillon & Son, carriage makers, Laprairie.—Gauthier & Parent, Montreal, joint curator, April 24.

Re Paul Gardner & Son, Woodside.—Kent & Turcotte, Montreal, joint curator, April 26.

Re Adelard Noiseux, inn-keeper, Belœil.—J. P. M. Bedard, N.P., Belœil, curator, April 24.

Dividends.

Re Solyme Davignon, fils.—Second and final dividend, payable May 14, J. A. Nadeau, Iberville, curator.

Re Daoust & frère, Montreal.—First and final dividend, payable May 20, Kent & Turcotte, Montreal, joint curator.

Re Hould & frère.—Second and final dividend payable May 15, Bilodeau & Renaud, Montreal, joint curator.

Re Narcisse Lapierre.—First and final dividend, payable May 21, C. Desmarteau, Montreal, curator.

Re Albert Piché.—First and final dividend, payable May 22, C. Desmarteau, Montreal, curator.

Re David Rea.—First dividend (20c.), payable May 21, Riddel & Meredith, Montreal, joint curator.

Minutes of Notaries transferred.

Minutes of P. H. Larue, N.P., transferred to F. V. Lessard, N.P., St. Patrice de Tingwick, April 26.

Separation as to Property.

Adele Marie Bérée vs. Jean Jules Giroux, accountant, Montreal, July 5, 1888.

Sylvia Pepin vs. Ephrem Charbonneau, Sr., Lachine, May 2.

Margaret Wickliffe vs. James Townsend, farmer, Township of Chatham, March 27.

Quebec Official Gazette, May 11.

Judicial Abandonments.

Damase Belanger, trader, St. Etienne de Beaumont, May 1.

François Xavier Treffié Hamelin, Quebec, April 30.

Archibald McNair, New Richmond, May 2

Curators Appointed.

Re Benjamin Bainbridge, general storekeeper, Gracefield.—W. A. Caldwell, Montreal, curator, April 30.

Re J. S. Bullick & Co., wholesale leather merchant.—A. W. Stevenson, Montreal, curator, May 9.

Re Richard Duckett *et al.*, Sorel.—Kent & Turcotte, Montreal, joint curator, May 1.

Re Albert Joseph Evans, grocer, Montreal.—W. A. Caldwell, Montreal, curator, May 8.

Re Charles Landry, Three Rivers.—Bilodeau & Renaud, Montreal, joint curator, May 6.

Re Joseph Langevin.—A. M. Archambault, N.P., St. Antoine, curator, May 1.

Re J. N. Renaud, St. Janvier.—Kent & Turcotte, Montreal, joint curator, May 6.

Re Romuald St. Jacques.—J. O. Dion, St. Hyacinthe, curator, May 6.

Re J. A. Tranquille, St. Louis.—Kent & Turcotte, Montreal, joint curator, May 6.

Dividends.

Re Basile Barbeau.—First and final dividend, payable June 1, C. Desmarteau, Montreal, curator.

Re Lewis G. Brown.—First and final dividend (6½c.), payable May 28, A. F. Riddell, Montreal, curator.

Re P. J. Callahan.—First and final dividend, payable May 29, C. Desmarteau, Montreal, curator.

Re Philias Dubé.—Final dividend, payable May 28, M. Deschênes, Fraserville, curator.

Re Chancy W. Getty.—Dividend, J. E. O'Halloran, Cowansville, curator.

Re Joseph Lamarche.—First and final dividend, payable May 27, J. E. Ecrement, St. Jacques, curator.

Re Miller & Higgins.—First dividend, (8c.), payable May 28, W. J. Common, Montreal, curator.

Re The Montreal Moulding and Mirror Manufacturing Co.—First dividend, (20c.), payable May 28, A. F. Riddell, Montreal, curator.

Re Edward Murphy.—First and final dividend, payable May 28, C. Desmarteau, Montreal, curator.

Re V. Portelance, Lachevrotière.—First and final dividend, payable May 22, D. Arcand, Quebec, curator.

Re Charles Wilson, Montreal.—First and final dividend, payable May 27, Kent & Turcotte, Montreal, joint curator.

Separation as to Property.

Marie Goyette vs. Louis Baril, merchant, Iberville, April 30.

Augustine Renaud vs. David Guimond, trader, Ste. Marie Madeleine, May 6.

Quebec Official Gazette, May 18.

Judicial Abandonments.

Octave Bernard, contractor, St. Hyacinthe, May 10.

A. M. Bullock & Son, traders, Coaticook, May 8.

Edward Coveney, grocer, Quebec, May 13.

Archibald McNair, trader, New Richmond, May 5.
Charles Tellier, Joliette, May 14.

Curators appointed.

Re Polycarpe Bernard, trader, Deschambault.—H. A. Bedard, Quebec, curator, May 10.

Re Cyprien & Edouard Dessaint *dit* St. Pierre, Ste. Hélène.—P. Dessaint, Ste. Hélène de Kamouraska, May 7.

Re Henry Thomas Farley, Drummondville.—J. McD. Hains, Montreal, curator, May 16.

Re Arsène Gaudreault, trader, Les Eboulements.—H. A. Bedard, Quebec, curator, May 10.

Re Philippe H. Gélinas, Shawinegan.—Kent & Turcotte, Montreal, joint curator, May 13.

Re Charles Guimond, trader, Cap St. Ignace.—H. A. Bedard, Quebec, curator, May 4.

Re David Hambleton, bobbin manufacturer, Lachute.—W. J. Simpson, Lachute, curator, May 13.

Re H. Prud'homme, Brompton Falls.—Kent & Turcotte, Montreal, joint curator, May 13.

Re V. Roberge, Warwick.—Kent & Turcotte, Montreal, joint curator, May 15.

Re Gédéon Rousseau, Shawinegan.—Kent & Turcotte, Montreal, joint curator, May 13.

Re Lucy A. Spooner.—C. Desmarteau, Montreal, curator, May 15.

Dividends.

Re P. Rival dit Bellerose, St. Alexis.—Dividend, payable May 5, Kent & Turcotte, Montreal, joint curator.

Re Elie Brodeur.—First and final dividend, payable May 29, Bilodeau & Renaud, Montreal, joint curator.

Re Henri Dussureault, St. Narcisse. — Dividend, payable June 5, Kent & Turcotte, Montreal, joint curator.

Re Louis Doyon, St. Francois.—Dividend, payable June 5, Kent & Turcotte, Montreal, joint curator.

Re Joachim Laberge.—First and final dividend, payable June 5, Gauthier & Parent, joint curator.

Re The Montreal Moulding and Mirror Manufacturing Co.—First dividend (20c.), payable May 28, A. F. Riddell, Montreal, liquidator.

Re Toussaint & Co., grocers, Quebec.—First and final dividend, payable June 4, H. A. Bedard, Quebec, curator.

Re Laurent Toutant, Gentilly.—Dividend, payable June 5, Kent & Turcotte, Montreal, joint curator.

Separation as to Property.

Justine *alias* Odile Archambault vs. Pierre Pelletier, builder, Montreal, May 16.

Sarah Ann McCarthy vs. William G. Dumas, painter, Joliette, May 14.

GENERAL NOTES.

HABEAS CORPUS.—In Perry county, Ohio, a horse was once restored to its rightful owner under a writ of *habeas corpus* issued by a justice of the peace. A.'s horse broke into B.'s pasture, whereupon B. put it into his stable, locked the door and refused to give it up. A. secured the services of the celebrated Shep Tinker as his legal adviser. Shep knew that his client could not give the necessary bail in an action by replevin, so he decided to bring a different sort of an action. With this intent he went before a justice of the peace in old Straitsville, and took out a writ of *habeas corpus* and literally brought the horse into court. Lawyer Saunders, a most brilliant practitioner at the Logan bar, and long the prosecuting attorney of Hocking county, was called on the other side. He didn't know the nature of the case until the constable made his return upon the writ. "Why," exclaimed Mr. Saunders, with a look of blank astonishment, "this court can't issue such a writ, and no court could issue one for a horse!" Shep was more than equal to the emergency. "Your honor," he said, "a wise and just court can do anything that is laid down in the books. The writ of *habeas corpus* has been recognized as sacred for centuries. To say that this court can't issue it is to say that it is ignorant of Magna Charta." "But this court kin issue it," interposed the justice, "and it has issued it already." Mr. Saunders saw his mistake and apologized to the court for having doubted its ability to do anything it chose. It is needless to say that the horse was restored to its owner.—*Cincinnati Enquirer.*

A CODE OF EVIDENCE.—The commissioners appointed by the State of New York to prepare a code of evidence have just completed their final report and submitted it to the Legislature in the form of a statute. The commissioners were Mr. David Dudley Field, Judge William Rumsey and Judge Follett. The high legal standing of the commissioners is a guaranty that their labor has been well done, and will be satisfactory to the Legislature and the bar. The commissioners were appointed in 1887, under authority of the general laws of that year. They prepared a preliminary draft of the Code, copies of which were placed in the hands of all the lawyers and judges of the State for examination and criticism. A large number of valuable suggestions were received from them, many of which were engrafted in this Code. The commissioners say: "The Code herewith submitted is intended for practical use in the field of actual litigation. While it has been constructed in the light of the accepted logical theory of the law of evidence, it contains nothing abstruse or speculative. It is far from the intention of its authors to please a curious few by new or original views, or to impose on lawyers a special theory or novelty." It is evidently the intention of the authors of this proposed Code to embody the best portion of the statutory law of the State, with such interpretations as have been put upon it by the appellate courts, to reconcile conflicting decisions, and to prepare, as nearly as human foresight can provide, a rule or guide to every problem of evidence which may arise in actual litigation. Simplicity and lucidity are two of the most important ingredients of every law, and the commissioners have apparently attained these attributes in every section of their Code. Should New York adopt this Code, it will have taken a long stride forward in the march of legal science and set an example which the other States will doubtless not be slow to follow. The notes of the commissioners to the Code prove that they have made careful and full research for precedents, and the notes form a valuable brief to the Code. — *Central Law Journal.*