The Legal News.

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THE JESUITS' ESTATES ACT.

In replying to a deputation who presented a petition to the Governor General, at Quebec, August 2, asking His Excellency to disallow the Jesuits' Estates Settlement Act, His Lordship said:—

"Gentlemen,—I am not used to receiving such deputations as this and in such a way, but, in view of the importance of the subject, I am willing to create a precedent. At the same time it is one which I do not think should be too often followed. There is a considerable difficulty in receiving such a deputation as this, and in speaking not to lay one's self open to a charge of arguing for or against measures in which the deputation are interested, but with the sanction of my advisers I am disposed to let the deputation know what has been the aspect of the case as it has presented itself to me. I have listened with a great deal of interest to the remarks of the gentlemen who have spoken just now, and I trust it will not be considered any disrespect to those who have so ably stated their views if I express neither concurrence with nor disapproval of their remarks, lest I should drift into what might be considered as argument, however unintentionally.

"Previous to my arrival in this country, or about that time, the legislature of Quebec had passed the Act in question. The history of the Jesuits' estates is so well known that I need not here refer to it in detail. Large amounts of property had lain virtually idle because, when the provincial Government had endeavored to sell it, protests had been made by the claimants and, in fact, no one would purchase on so doubtful a title. I cannot agree with the view expressed in the second paragraph of your petition. There were two sets of claimants at least to the Jesuits' estates. It was necessary to arrange to whom compensation should be made, and ensure a division which would be accepted by all. It is true that the Pope, as an authority recognized by both sets of claimants, was to be called upon to approve or disapprove the proposed division as far as Roman Catholic claimants were concerned, but this appears to me to relate not to the action of the legislature of the province, but to the division of the funds after they had been paid over. It is arguable that as a matter of fact there is no reference to the Pope's authority at all in the executive portion of the Act. It is undoubtedly the case that the preamble to the Act—an unusually long one, by the way,—contains a recital of events which led to the introduction of the bill, and that in the correspondence so set out, authority had been claimed on behalf of the Holy See, to which, however, the First Minister did not assent. The introduction of the name of the Pope may be unusual, and very likely unpalatable to some, as Protestants, but as it appears in course of a recital of facts which had previously occurred and which, of course, legislation could not obliterate or annul, and there being, moreover, no such reference in the body of the Act, I did not consider that Her Majesty's authority was in any degree weakened or assailed, nor that I was compelled, in the exercise of my duty as her representative, to disallow the Act on that account.

"As to the question of policy, that is not one on which I feel at liberty to pronounce an opinion. I believe, and am confirmed in my belief by the best authorities whom I can consult, that the Act was *intra vires*. Then my power of interference is limited, for the Act does not appear to do more than to seek to restore to a certain society, not in kind, but in money, a portion of the property of which that society was in years gone by deprived without compensation, and it proposes to give a compensation therefor in the money of the province which had become possessed of the property and was profiting by it. As to the recognition spoken of in paragraph 4 of your petition, of the rights of the Jesuit society to make further demands, it seems to me that these Acts leave such so-called 'rights' exactly where they were. It is by no means uncommon for the Crown to recognize such a moral claim. And I can

speak from my personal experience. When I was Secretary of the Treasury, ten or twelve years ago, it constantly happened that, in cases of intestary escheats and other forfeitures to the Crown, the moral claim of other persons was admitted and remissions were made, not as a matter of legal right, for the right of the Crown was undisputed, but as a matter of grace. There are also many Parliamentary precedents to the same effect. Such cases must in each instance, it seems to me, be decided on their own merits. As to paragraphs 5 and 6, also mentioned in your petition, you will pardon my saying that I am not concerned either to admit or deny your statement. But, as a matter of fact, I do not find any evidence that in this Dominion and in this nineteenth century the Society of Jesus have been less law-abiding or less loyal citizens than any others. As to the paragraph 6, it appears to me that the legal status of the society was settled by the Act of 1887 (to which little or no objection was taken). I cannot see anything unconstitutional in that respect in the payment of the money in question to a society duly incorporated by law. The Governor-General, both by the written law and by the spirit of the constitution, is to be guided by the advice of his responsible ministers. If he disagrees with them on questions of high policy as being contrary to the interests of Her Majesty's Empire, or if he believes that they do not represent the feelings of Parliament, it is constitutionally his duty to summon other advisers, if he is satisfied that those so summoned can carry on the Queen's Government and the affairs of the Dominion. As to the first, I cannot say that I disagree with the course which, under the circumstances, the ministers have recommended, believing it, from the best authorities to which I have had access, to be constitutional. The Parliament of the Dominion, by 188 to 13, has expressed the same view. I decline to go behind recorded votes.

"Members of Parliament are elected not as the delegates but as the representatives of the people, and it is their duty to guide themselves according to that which they believe to be in the best interests of the high function which they have to discharge. Again, I would ask, do the dissentients represent the majority? I find that 188 represented 916,717 voters, whereas the thirteen members represent 77,297, and moreover the body of the constitutional Opposition appears to have voted for the approval of the allowance of the bill. I have been asked (though not by you) to disallow the Act, though otherwise advised by ministers, and though contrary to the sense of Parliament. Would it be constitutional for a moment that I should do so? If it were a question of commerce, or of finance, or of reform, or of constitution, there could be no doubt, and I cannot conceal for a moment the doubt which I feel, however careful the Governor-General may be in receiving such a deputation, there may be some risk of his being held up as a court of appeal on the question of constitutional Government, and against the Parliament with which it is his duty to work in concert. Then it has been said, why not facilitate a reference to the Privy Council? I believe that my advisers have a perfectly good answer, that, having no doubt of the correctness of their view, they have a good reason for not so doing.

"I have been asked to dissolve the House of Commons, in one of the petitions to which I am replying. A dissolution of Parliament, in the first instance, except under the gravest circumstances, and perhaps with great reservation even then, should not be pronounced except on the advice of responsible ministers. It causes a disturbance of the various businesses of the country. The expense both to the country and to all concerned is considerable, and it is a remedy that should be exercised only in the last resort, and, though I say it, I do so with great deference to those present, that, excepting in the province of Ontario and this province of Quebec, there does not appear to have been any general feeling in this matter such as would warrant the Governor-General to use this remedy. I recognize the influence of the two provinces, but I cannot leave the rest of the Dominion out of sight, and I may express the personal hope that this Parliament may exercise for some time to come a wise, constitutional influence over the affairs of this country.

"I think my answer has been made substantially to the other petitions which have been presented to me. For the reasons which I have given I am unable to hold out to you any hope that I shall disallow the Act. You cannot suppose that the course taken by my advisers and approved by me was taken without due consideration. Nothing has taken place to alter the views then entertained, nor could the Government recommend the reversal of an allowance already intimated.

"Gentlemen, I cannot conceal from you the personal regret with which I feel myself addressing a deputation and returning such an answer as it has been my duty to do to the petitions which have been presented to me, but I have endeavored to make my statement colorless. I have endeavored to avoid argument and I can only hope that I have done something towards dissipating alarm. I will only close by making an earnest appeal, an appeal which, by anticipation, has already, I am certain, found weight with you, and that is that in this question we should as far as possible act up to that which we find to be for the welfare of the Dominion. During late years we have hoped that animosities which unfortunately prevailed in former years had disappeared, and that the Dominion as a united country, was on the path of prosperity and peace. I earnestly call upon all the best friends of the Dominion, as far as possible, while holding their own opinions, to be tolerant of those of others and, like our great neighbour, to live and let live that we may in time come to feel that we have the one object of promoting the prosperity and welfare of the Dominion and the maintenance of loyalty and devotion to the sovereign."

COUR DE MAGISTRAT.

MONTREAL, mars 1889.

Coram CHAMPAGNE, J.

THOMPSON v. MAYNARD.

Acte de faillite de 1875—*Déchargé—Cautionnement pour frais.*

JUGÉ:—*Qu'un demandeur qui a fait faillite sous l'Acte de Faillite de* 1875, *et qui n'a pas encore obtenu de décharge, est encore sous l'effet de cette loi, ne peut poursuivre en justice, sans donner un cautionnement pour frais.*

Motion pour cautionnement pour frais accordée, et procédés suspendus jusqu'à ce que ce cautionnement ait été donné.

J. A. Bernard, avocat du demandeur.

J. Crankshaw, avocat du défendeur.

(J. J. B.)

COUR DE MAGISTRAT.

MONTREAL, 29 mars 1889.

Coram CHAMPAGNE, J.

MARTINEAU v. BRAULT, et BRAULT, opposant.

Mémoire de frais—Taxe—Avis de taxation—Opposition.

JUGÉ:—1o. *Que l'avocat n'est pas tenu de faire taxer son mémoire de frais contradictoirement avant de prendre une exécution pour ses frais;*

2o. *Qu'une opposition basée sur ce grief, sans se plaindre de surcharge dans le mémoire de frais sera renvoyée avec dépens.*

Le mémoire de frais de l'avocat fut taxé sans avis à la partie adverse. Après qu'il eût fait émaner une saisie-exécution et saisir les biens du défendeur, celui-ci fit une opposition afin d'annuler, alléguant le défaut d'avis de taxation du dit mémoire de frais, et offrit de payer le montant dû, mais sans frais de saisie. La Cour ne trouvant dans l'opposition aucun grief, si ce n'est le simple défaut d'avis, renvoya l'opposition.

Opposition renvoyée avec dépens.

Lebeuf & Dorval, avocats du demandeur.

J. S. Leroux, avocat de l'opposant.

(J. J. B.)

COUR DE MAGISTRAT.

MONTREAL, 17 avril 1889.

Coram CHAMPAGNE, J.

DUPUIS v. EVANS et al.

Imputation—Prescription—Mandat—Répétition de deniers.

JUGÉ:—1o. *Qu'un marchand qui reçoit, par l'entremise d'un agent, une somme d'argent à laquelle le commettant a indiqué un objet spécial, par exemple, pour remplir un ordre*

de marchandises, ne peut refuser de remplir cet ordre, et appliquer l'argent reçu au paiement d'une ancienne dette prescrite ; dans ce cas, il y a lieu à l'action en répétition de deniers ;

2o. *Que sous ces circonstances, le consentement obtenu de l'agent est nul comme n'étant pas dans les limites de son mandat.*

PER CURIAM.—Le demandeur qui est médecin à la campagne donne un ordre pour des remèdes chez les défendeurs, avec $12 en argent, à un nommé Tougas, lui disant : vous laisserez l'ordre et l'argent et vous prendrez un reçu. Les défendeurs voyant que le demandeur leur devait un compte prescrit ont appliqué les $12 au paiement de ce vieux compte, et ont donné un reçu, en conséquence, à Tougas, lui disant : acceptez ce reçu ou gardez votre argent. Tougas a accepté le reçu, et les défendeurs ont écrit au demandeur que s'il voulait des remèdes, il lui fallait envoyer l'argent au préalable. Le demandeur prétendant que les défendeurs n'avaient pas le droit d'appliquer son argent sur un compte prescrit a pris une action en répétition de deniers que, sous les circonstances, la Cour croit bien fondée.

Jugement pour le demandeur avec dépens.

Autorités : C. C. 1139, 2260, 2267, 2227.

Roy & Roy, avocats du demandeur.

Geo. U. Moffat, avocat des défendeurs.

(J. J. B.)

COUR DE MAGISTRAT.

MONTREAL, 26 mars 1889.

Coram CHAMPAGNE, J.

OWLER v. HODGSON, et THE METROPOLITAN MANUFACTURING CO, *mise en cause.*

Assignation—Saisie-gagerie—Validité.

JUGÉ :—1o. *Que la signification d'une action faite à une servante rencontrée par l'huissier dans un escalier conduisant à divers logements, entr'autres à celui du défendeur, est une assignation nulle et sans effet.*

2o. *Que l'huissier ne pouvait saisir les effets saisis en cette cause sans les voir, et ayant déclaré qu'il ne les avait jamais vus, mais qu'il s'en était rapporté à une liste d'effets à lui fournie par un tiers qui n'est partie en la présente cause, cette saisie est nulle et illégale.*

Autorités :—C. P. C., arts. 57, 841, 874, 569.

Pothier, P. C., p. 176 : " L'huissier pour saisir les meubles qui sont en la maison du " débiteur, doit se transporter en cette mai- " son."

Boitard, Leçons de P. C., vol. 2, No. 845 : " L'huissier, entré de gré ou de force, déclare " saisir et mentionne comme tels, sur le pro- " cès-verbal, les objets mobiliers saisissables " qu'il trouve au lieu de la saisie."

Exception à la forme maintenue, et action renvoyée avec dépens.

J. Crankshaw, avocat du demandeur.

C. H. St-Louis, avocat du défendeur.

(J. J. B.)

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*DECISIONS AT QUEBEC.**

Dette à terme—Hypothèque Conventionnelle—Aliénation d'immeuble hypothéqué—Arts. 1092, 2130 *C. C.*

Jugé :—1. L'hypothèque conventionnelle existe, quant aux parties, par le fait de la convention, indépendamment de l'enregistrement qui n'est requis que pour lui donner effet à l'égard des tiers.

2. Le débiteur qui aliène l'immeuble qu'il a hypothéqué au paiement d'une dette à terme diminue par là les suretés de son créancier et est déchu du droit au terme.—*Gauthier* v. *Michaud*, en révision, Casault, Andrews, Larue, J J. (Casault, J., diss.), 28 fév. 1889.

Nuisance—Salvation Army Parade—Challenge of Jurors—Verdict against evidence—Reserved Case—New Trial.

Held :—1. That a private prosecutor has the right to cause jurors to stand aside, at any trial for misdemeanour, except in cases of libel under R. S. C., ch. 174, s. 165.

2. Where it appears from the case stated by the judge who reserved, for the decision of the full bench, questions of law which arose at the trial for misdemeanour, that the verdict was contrary to the evidence, a new trial will be granted.—*Reg.* v. *Brice*, Q. B., Dorion, C. J., Tessier, Cross, Church, Bossé, JJ., May, 1889.

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* 15 Q. L. R.

DANGER EVIDENT TO A CHILD.

On July 21, before Lord Justice Fry without a jury, the case of *Stiefsohn* v. *Brooke & Co.*, was heard. It was an action by an infant eight years old, by his next friend, to recover damages for personal injuries sustained owing to the alleged negligence of the defendants in working a lift in a dangerous manner near a public highway. The defendants are tea dealers, with a warehouse fronting Castle Alley, a narrow street which runs at right angles to High Street, Whitechapel, and which can only be approached from High Street by a paved footpath under an archway. From behind, however, there is a carriage road, and the defendants are accustomed to load and unload their vans in Castle Alley, at an aperture in the wall of the warehouse. This aperture is eight feet high and six feet wide, and the sill is about three feet six inches from the ground. Inside this aperture, about two feet from the outer edge of the sill, there is a lift, and on the wall outside a notice to the effect that the place is dangerous. The plaintiff in December, 1888, climbed up on the sill and leaned over to see what was inside, when the lift descended, striking him on the back of the head and causing the injuries complained of. The question in the case was whether the defendants in working the lift in the above manner without any rail to protect it, were guilty of negligence, and the following cases were relied on by the plaintiff to show that there was negligence: *Lynch* v. *Nurden*, 10 Law J. Rep. Q. B. 460; L. R. 1 Q. B. Div. 29; *Clark* v. *Chambers*, 47 Law J. Rep. Q. B. 427; L. R. 3 Q. B. Div. 338; *Barnes* v. *Ward*, 19 Law J. Rep. C. P. 195; L. R. 9 C. P. Div. 392; *Orr-Ewing* v. *Colquhoun*, 2 App. Cas. 864.

Counsel on behalf of the defendants was not called upon to argue.

Lord Justice FRY said the question was not merely whether there was any evidence to go to a jury, but whether his lordship, as judge of law and fact, was satisfied that there was any evidence of negligence. The lift was in the warehouse of the defendants in a public street, and at the side of the aperture there was a notice that the place was dangerous; furthermore, the aperture itself seemed to give notice of the character of the business done there. The aperture was a considerable height from the cartway, and indicated that it was not intended for the access of human beings. When the plaintiff looked in he saw the rope, which indicated that the place was used for some machinery at work there. There was no invitation to the public to trespass there. A person leaning against the wall would suffer no injury, but it was only by getting on the sill by a considerable effort, which was a manifest trespass, that the plaintiff got knocked over. The danger was evident, even to a child. Assuming the facts mentioned, and, further, that the evidence was admissible, it was insufficient to make out the plaintiff's case.

Judgment for the defendants, with costs.

THE LAW OF COLOURS.

The decision of the Inter-State Commerce Commission (Second An. Rep. p. 106), in the case of *W. H Heard* v. *The Georgia Railroad Company*, is apt to influence to a great extent the mode of operating the passenger department of the railroads through the South. The facts upon which this decision was based are these: Heard, a negro, who held a first-class ticket, was compelled to ride from Augusta to Atlanta in a second-class, dirty, smoking and passenger coach, against his wishes. The commission held that passengers paying the same fare upon the same railroad train, whether white or coloured, are entitled to equality of transportation, in respect to the character of the cars in which they travel and the comforts and conveniences supplied. And that, by requiring the petitioner (Heard), who had paid a first-class fare, to ride in a half-car set apart for coloured passengers, with accommodations and comforts inferior to the car for white passengers on the same train, who paid the same fare, and without the protection against annoyances furnished to white passengers, the Georgia Railroad Company subjected him to undue and unreasonable prejudice and disadvantage, in violation of section 3 of the Act regulating commerce. The commission further holds: The separation of white and coloured passengers, pay-

ing the same fare, is not unlawful if cars and accommodations equal in all respects are furnished to both, and the same care and protection of passengers observed. Thus, by setting apart separate coaches for white and coloured passengers, the railroads may be relieved from those 'occasional embarrassments and difficulties arising in the transportation of persons of different race, social peculiarities, and characteristics.' That public 'sentiment,' as it is called, which demands a separation of white and coloured passengers, may be, and possibly is by many called unreasonable and absurd, but it is a sentiment broad and universal in the South, and one which has its foundation in the conscious superiority of the white race over the negro. The United States District Court of Maryland, in a case where a negro man, who held a first-class ticket on a steamboat, was forced to sit and eat at a table apart from the white passengers, held that this was not such discrimination against the negro as to be the ground of a legal action.—*Virginia Law Journal.*

PROFESSIONAL WITNESSES.

To the Editor of the LEGAL NEWS:

SIR,—Dr. A. O. F. Coleman, of the city of Ottawa, Ont., has consulted me recently on the following grievance, for which I desire to secure the sympathy, and obtain the aid of my old *confrères*, the readers of the *Legal News*, in providing a remedy.

Early in 1888, one Proulx was charged before the Recorder of Hull, Que., district of Ottawa, with selling a glandered horse; Dr. Coleman appeared professionally (being a veterinary surgeon) as a witness for the prosecution, and spent the best part of a day in attendance at Court. Proulx was committed to the Q. B. at Aylmer, J. S. C. Wurtele, J., presiding. My friend again appeared as an expert or professional witness, and again spent a day of his valuable time in upholding the insulted majesty of the law. At the conclusion of the trial, the Clerk of the Crown made out Dr. Coleman's *account for expenses incurred, trouble and loss of time in attending the Court as a witness on behalf of the Crown,*—allowing him the sum of one dollar for one day's board, and sixty cents for his travelling expenses from Ottawa to Aylmer and return, equal to eighteen miles. With grim humour, certifying, that *the charges contained in the account were reasonable.* I am going to shew that the reasonableness of this certified account is a legal fiction,—peculiar I hope to the laws and customs of the Ottawa district alone. Dr. Coleman applied to Judge Wurtele for increased allowance, but was refused on the ground, he thinks, that he was a witness for the Crown in a criminal and not a civil case. I wrote to the Crown Prosecutor, in July last, asking for the judge's reasons for refusing increased taxation. This lawyer answered as follows:—

"Mon cher Monsieur:—Le juge Wurtele en refusant au Dr. Coleman une taxe conforme à sa position n'a fait que suivre la coutume existant dans le district d'Ottawa depuis nombre d'années; j'étais d'avis, comme je le suis encore, que même aux assises criminelles un témoin doit être taxé conformément à sa position sociale. On juge et on décide différemment ici. Aussi un avocat ne sera pas taxé plus qu'un journalier, soit au civil soit au criminel. Quant aux raisons données, elles ne méritent certainement pas de les relater, car on dit c'est la pratique ou c'est la coutume ici."

Dr. Coleman is a graduate of the Ontario Veterinary College, and of recognized eminence in his profession, being an examiner in the Ontario and Montreal Veterinary Colleges. Now, as a veterinary practitioner holding a diploma as veterinary surgeon, he is entitled, in Ontario, to professional fees in attending any court of law as a witness in such cases as relate to the profession. (Rev. Stat. Ont., c. 39, s. 34).

In the article "Veterinary Science" in the Encyclopædia Britannica, we read:—"In some respects the Veterinary Surgeons' Act (44-45 Vict., c. 62), is superior to the Medical Act, while it places the profession on the same level as the other learned bodies and prevents the public from being imposed upon by empirics and impostors." In Johnston's Universal Cyclopædia, under title "Veterinary science," we read:—"The art of healing is the same whether applied to man or animals, and the fact that so many of our

American veterinarians are graduates in medicine who take up animal practice as a specialty, as it were, indicates the elevation of veterinary practice in this country above its position in other lands." So it must be admitted that in England, the United States and Ontario, at least, veterinary surgeons are members of the profession of medicine,—professional men, and experts in veterinary science. We can now better examine into the treatment complained of by Dr. Coleman. Here is a professional man, an expert, engaged in a very lucrative practice in Ottawa city, induced to leave his business and spend two days in convicting a disturber of the peace of Her Majesty, by means of his professional skill. *As a reasonable reward* for his services he is tendered one dollar and sixty cents. In other words, in the district of Ottawa, the judge, a member of the profession of the law, receives ten dollars for his day's work,—while a member of the profession of medicine receives but one dollar for his day's work. And we are informed that such has been the custom in this district for years past.

According to Dr. Coleman, the judge made a distinction between a Crown witness at common law and a Crown witness at criminal law. Such a distinction is not known in modern English law, which now rules that;—"When subpœnæed on the part of the Crown in criminal and other cases, a witness is allowed his travelling and other expenses according to a fixed scale of allowance, in proportion to his position in life."

The Ontario law is very similar. In England the allowance to professional men as witnesses in common law cases varies from one guinea to th ee guineas per diem, plus travelling expenses. The members in other walks in life are paid a smaller allowance. In that country the old doctrine and practice that witnesses in Crown cases cannot claim as a matter of right, the payment of their expenses (it being considered by the law to be the public duty of every citizen, to obey a call of this description), was discarded long ago, and in order to encourage the due prosecution of offenders, witnesses attending the courts of assize being members of the profession of medicine, are allowed one guinea per diem and their travelling expenses.

The consensus of the authorities in England, the United States and Ontario seems to be that, while there is a hesitation to accept the decision that "A professional witness is entitled to his costs as such, whether called to give professional or merely ordinary testimony,"—the majority agree that "Without the aid of a statute, an expert cannot be compelled to bestow his skill and professional experience gratuitously upon any party, for his skill and experience are his individual capital and property." (See Foster, Supreme Court code, p. 77. Imperial,—and Rogers' law of medical men, (p. 24, etc., Ontario).

The best service Judge Wurtele can do to the community in which he lives is to remove, at least from the laws of Quebec, the stigma of mediævalism fixed to her laws and customs by other peoples.

RICHARD J. WICKSTEED.

Ottawa, August, 1889.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, August 10.

Judicial Abandonments.

M. J. Cane & Co., Berthier, August 2.

Collette, Décary & Co., wholesale dry goods, Montreal, August 7.

John G. Darling, boarding house-keeper, Montreal, August 5.

Delia Ménard (N. Leroux & Co.), Ste. Cunégonde, August 7.

Herménégilde Potvin, Ste. Louise, Aug. 3.

Soucy & Duperré, saddlers, Quebec, Aug. 3.

Curators appointed.

Re Delphis Desjardins.—C. Desmarteau, Montreal, curator, Aug. 5.

Re Joseph Desmarais, tanner.—Joseph Bouchard, Notre Dame de Stanbridge, curator, July 27.

Re Vincent F. Lefebvre, St. Jérôme.—Bilodeau & Renaud, Montreal, curators, Aug. 6.

Re Edouard Lemieux, Chicoutimi.—Kent & Turcotte, Montreal, joint-curator, Aug. 7.

Re Alfred Normandin.—C. Desmarteau, Montreal, curator, Aug. 8.

Re Daniel Ruest.—J. A. Talbot, St. Germain de Rimouski, curator, Aug. 1.

Re C. A. Simard, furniture dealer.—G. W. Henshaw, Jr., St. Hyacinthe, curator, July 31.

Dividends.

Re Onésime Bouliane, Tadoussac.—Sixth and last dividend, payable Aug. 28, T. Lawrence, Quebec, curator.

Re H. Brulé, St. Barthelemi.—First and final dividend, payable Aug. 29, Kent & Turcotte, Montreal, joint-curator.

Re A. M. Bullock & Son, Coaticook.—First dividend, payable Aug. 29, Kent & Turcotte, Montreal, joint-curator.

Re J. B. S. Day.—First dividend, payable Aug 29, Kent & Turcotte, Montreal, joint-curator.

Re Edith M. Matthews.—First and final dividend, payable Aug. 27, J. L. Ross, Montreal, curator.

Re H. Gobeille, Drummondville.—First dividend, payable Aug. 29, Kent & Turcotte, Montreal, joint-curator.

Re P. A. Morin, Quebec.—First dividend, payable Aug. 29, Kent & Turcotte, Montreal, joint-curator.

Re Edmond Poulin.—First and final dividend, payable Aug. 21, A. Lemieux, Levis, curator.

Re H. Prudhomme, Brompton Falls.—First and final dividend, payable Aug. 29, Kent & Turcotte, Montreal, joint-curator.

Re J. & H. Taylor.—First dividend, payable Aug. 20, W. A. Caldwell, Montreal, curator.

Re N. Trahan, Nicolet.—First and final dividend, payable Aug. 29, Kent & Turcotte, Montreal, joint-curator.

Separation as to Property.

Angèle Boulé dit Dalphand vs. Magloire Masse, tanner, Joliette, July 29.

Marie Louise Bouthillier vs. Cyrille Lafortune, Montreal, Aug. 8.

Marie Julie Gougeon vs. Théophile R. Prudhomme, gardener, Coteau St. Pierre, Aug. 7.

Proclamation.

Disallowance of 52 Vict. ch. 30 (Q.) proclaimed by Lieutenant-Governor.

GENERAL NOTES.

THE REREDOS CASE.—In the St. Paul's reredos case the four inhabitants of the diocese of London have succeeded in their application for a *mandamus* commanding the bishop of London to take proceedings under the Public Worship Regulation Act. As Mr. Justice Manisty said, the question before the court was not the legality or illegality of the reredos, but simply whether the Public Worship Regulation Act conferred on the bishops power to practically decide that ornaments in a church are legal by a refusal to take proceedings in respect of them. The bishop of London based his refusal to take proceedings on the case as to the reredos in Exeter Cathedral. *Phillpotts* v. *Boyd*, 32 L. T. Rep. (N. S.) 73; L. R., 6 P. C. 435. The reredos, as is well known, is a sculptured work in high relief, the centre of which represents the Ascension. Lord Hatherly, in delivering the judgment of the Privy Council, said: "It is not suggested that any superstitious reverence has been or is likely to be paid to any figures forming part of the reredos, and their lordships are unable to discover anything which distinguishes this representation from the numerous sculptural and painted representations and portions of sacred history to be found in many of our cathedrals and parish churches, and which have been proved by long experience to be capable of remaining there without giving occasion to any idolatrous or superstitious practices." The St. Paul's reredos contains a sculptured representation of the Crucifixion and of the Virgin and Child. Of course the decision in the Exeter case does not necessarily imply, as the bishop of London seems to have assumed, the legality of the figures in the St. Paul's reredos. It was not denied that under the Public Worship Regulation Act some discretion is vested in the bishops also. Mr. Baron Pollock pointed out in his judgment that if the bishop of London did not exceed the discretion so conferred on him, a writ of *mandamus* could not lie against him, for "a discretion which is capable of review is not known to the law."—*Law Times* (*London*).

NO RECIPROCITY.—At the Court of Bankruptcy, Dublin, in the matter of an arrangement, a gentleman stated that he was an English solicitor, representing a large number of English creditors, and desired to speak on behalf of his clients, but an Irish solicitor objected, on behalf of the Irish profession, to an English solicitor being heard. The judge stated that he could not hear an English solicitor, who, however, protested that as a solicitor he had a proxy and represented his clients, and this was a meeting of creditors which he had come to attend, and he should be heard. The judge replied that he would allow him to vote, but could not listen to him as a solicitor. An Irish solicitor would not be heard in any English Court. Of course, any creditor attending in person could be heard.

PHILISTINISM AND THE SPREAD EAGLE.—Judge Seymour D. Thompson has written a paper in the *Green Bag* entitled 'Putting New Wine into Old Bottles,' describing the state of England three hundred years ago, which thus concludes: 'In fact, our ancestors of those days were barbarians, not as far advanced as the Bulgarians of our own time. When, therefore, we have a new question of law to study, why should we go back and try to find what the opinion of Lord Coke, whose infamous prosecution of Sir Walter Raleigh can never be forgotten, was on the question? Why should we try to find what Sir Francis Bacon, who sold justice, thought about it? Why, in short, should we not stop rummaging the old books, and do a little thinking for ourselves? Our ancestors in their day did their parts as well as they could, with the light they had and amid such surroundings as they had. But as compared with us, they were barbarians compared with the civilised man. In intellectual stature they were children compared with the moderns.' To this the *Harvard Law Review* replies: 'If, as Judge Thompson tells us, our ancestors of the Elizabethan period were, compared with us, "barbarians compared with the civilized man," it would certainly be unadvisable to spend too much time over their productions. But Judge Thompson's argument would be stronger if he would designate a few of the "moderns" compared with whom Lord Coke and Sir Francis Bacon were "children" in intellectual stature.' The answer comes from the *Albany Law Journal*: 'There are at least four greater lawyers on the present bench of the Federal Supreme Court. Rapallo was a greater lawyer. He is not worthy of mention in the same day with Mansfield, or Kent, or Story, or Marshall, or Comstock, or Nicholas Hill, or Cowen, either as an intellectual power or as a repository of legal learning. Parsons knew more law; so did Wharton; so does Bishop.'—*Law Journal* (London).