The Legal News.

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A very distinguished member of our bar will be installed as the Mayor of Montreal, on Monday, March 14. There has been reason to regret in the past, that municipal honors have been unwelcome to some of the most eminent citizens. The office of chief magistrate of a city of 200,000 inhabitants certainly affords scope for the exercise of talent and sagacity, and there is no reason whatever why it should not be the object of honorable ambition. The opportunities of usefulness are greater than in the local legislature or in the senate, and these offices are sometimes eagerly sought after. The Hon. J. J. C. Abbott, the mayor elect, it is true, would have seemed to be more appropriately placed, if he filled the office of Chief Justice of the Supreme Court or of the Court of appeal, in either of which positions his commanding abilities would have had the happiest influence upon our jurisprudence. Such an appointment, of course, would have involved a great pecuniary sacrifice on the part of Mr. Abbott, since the state is far from being the most generous paymaster. Our belief is however, that eminent lawyers exhibit more public spirit than merchant princes, and are less likely to be deterred from assuming important duties by selfish considerations. Mr. Abbott has shown both courage and public spirit in consenting to accept the mayoralty, and it is to be hoped that his example will promote a change which has already commenced, by which a superior order of men are coming forward as aldermen and giving their time and energies cheerfully to the service of the city.

An indictment for murder under peculiar circumstances, was tried before Mr. Justice Field at Nottingham, Febuary 4. The prisoner, John Jessop, and the deceased John Allcock, had gone to several chemists' shops and procured at each a small quantity of laudanum. They retired to a barn and took the poison between them. The prisoner recovered from the effects, but Allcock died shortly afterwards of narcotic poisoning. Jessop subsequently made several statements as to what had occurred. Among others he said, "We both got ourselves into disgrace and we did not know what to do with ourselves. Allcock proposed doing away with himself somehow. He said to me, "Shan't you die with me?" I said, "I am not particular." Allcock pulled a bottle out of his pocket with laudanum, and said this would do it if we could only get some more." The prisoner's counsel submitted that there was no evidence of murder. He referred to the case of *Regina* v. *Alison*, 8 C. & P. 418. In that case the prisoner had procured poison and persuaded the deceased to share it with him, and Mr. Justice Patteson had held that this was murder. Here, however, the evidence showed that Allcock was the leading spirit. He had announced his intention to commit suicide, and the prisoner had followed suit. There had been no definite agreement between the men to commit suicide together. The learned judge overruled the objections, and told the jury that if they considered the men had agreed together to commit suicide—and the evidence was very clear—they were bound to find a verdict of guilty. The jury convicted the prisoner, with a strong recommendation to mercy, and he was sentenced to death.

An extraordinary admission of evidence is reported in Pennsylvania. A young woman named Scott, who was far advanced in pregnancy, appeared before a justice of the peace, and charged a young man named William Bloodgood with assault. She deposed that two weeks previously, Bloodgood had entered her house and choked her until she was almost unconscious, and had also twisted her left wrist very severely. Bloodgood, who denied the assault, of which there was no witness, was held for trial. Before the case came on, the woman gave birth to a child, and at the trial appeared with her baby. Her lawyer offered to exhibit the child to the jury, and the judge permitted this to be done. On one side of the infant's throat appeared the distinct impression of four fingers, and

on the other side a similar mark of a thumb. This was not all: the baby's left wrist was twisted out of shape and swollen. On this evidence, coupled with the statement of the mother, the prisoner was convicted. As the assault took place only a month before the birth of the child, it is difficult to escape the conclusion that the marks and injuries observed by the jury had been inflicted after birth, and for the purpose of manufacturing evidence. The jury must have been very credulous indeed to imagine that they had any connection with the assault. The mystery is why the judge should have admitted such evidence.

COURT OF QUEEN'S BENCH.

QUEBEC, Oct. 8, 1886.

Before DORION, C. J., RAMSAY, TESSIER, CROSS, BABY, JJ.

RINFRET (deft. below), Appellant, and POPE (petitioner below), Respondent.

Constitutional Law — Public Health — Jurisdiction—C. S. C. ch. 38—31 *Vict.* (D.) *ch.* 63—*Quo Warranto.*

HELD:—1. (RAMSAY and CROSS, JJ. *diss.*) *that legislation concerning the public health, with the exception of quarantine establishments and marine hospitals, comes within the powers attributed to the provincial legislatures, and the Dominion Parliament had no jurisdiction to repeal the C. S. C. Ch.* 38 *which contains provisions concerning the maintenance of public health in the former Province of Canada. The Act* 31 *Vict.* (*D*) *Ch.* 63 *is therefore ultra vires.*

2. *Where a local board of health was illegally appointed by the City Council of Quebec, after the Council had ceased to have any right to make such appointment, a quo warranto might be sued out in the name of any citizen and ratepayer, to test the validity of the appointment, and such proceeding need not be brought in the name of the Attorney General.*

3. *There being no evidence that the defendant, in accepting his illegal nomination as a member of the board of health by the City Council, had acted in bad faith, or done anything prejudicial, he should not be mulcted in a fine for his action in the premises.*

The respondent's petition for a writ in the nature of a *quo warranto* was maintained in the Court below by CASAULT, J.

RAMSAY, J.—This is a proceeding under Art. 1016 C. C. P., in the nature of a *quo warranto*, calling upon the appellant to show why he occupied the office of member of the Board of Health, appointed by the Corporation of the City of Quebec.

It was contended that the respondent had no interest to raise the question. I think this proposition is untenable under the Code, Art. 1016. Respondent is a corporator of the corporation of the city of Quebec, and his interest attaches to its every act. It seems to me to be idle to say that it may do the respondent no harm. That is not the question, but whether it is unlawful, and therefore whether it may do him harm.

The petition was met by a law issue, and by a peremptory exception. By the former it was contended that chap. 38 C. S. C., had been abolished by the 31 Vic. cap. 63, a Dominion Act, that the appointment of a board of health by the Lt. Governor was therefore illegal, and that the corporation was entitled to name a board of health.

This raises a constitutional question, which we have not yet had before us, namely, whether the legislation respecting the health of the people of Canada generally is a subject for local or for federal legislation; and particularly whether chap. 38, C. S. C., is a statute regulating a matter of federal or of local concern.

By the classification of sects. 91 and 92 of the B. N. A. Act, 1867, the matter of public health is not attributed in express terms either to the legislation of Parliament or to that of the local legislatures. An endless number of subjects are not expressly attributed to one or other legislature; and it is inexact to say that everything which is not expressly attributed to the local legislature, belongs to the jurisdiction of Parliament. It is even more strikingly inexact to contend, that what is not expressly attributed to federal legislation is subject of local legislation, for the statute says the contrary. But section 92, SS. 16, attributes to the local legislatures "generally all matters of a merely local or private nature in the province." We

have therefore to enquire whether the subject matter of the public health is by its nature local or private. The argument that Sect. 91, SS. 11, has expressly attributed "Quarantine, and the establishment and maintenance of marine hospitals" to the federal jurisdiction, therefore it has transferred all other matters relating to health to the local legislatures, appears to me to be a mis-application of the doctrine of *inclusio unius* etc. To apply it in this way to the powers of Parliament, would be to ignore the introductory and concluding parts of section 91, and to place the generality of local legislation on a higher footing than the generality of the federal parliament. (1)

It seems to me, however, that there is room for distinction, and that we cannot decide the question absolutely by saying "public health" is wholly a federal matter, or that it is wholly a local matter. Many questions more or less nearly relating to health may be merely local: as, for instance, scavenging, drains, cess-pools, over-crowding of dwellings, preventing nuisances and other matters too numerous to be detailed. It seems to me, nevertheless, to be quite as clear that questions of health, which may affect the whole people of the Dominion, are matters for general and not for local legislation, by their very nature. (2.)

This is no classification made for the purposes of our federal system. All our municipal laws have recognized the former class of health regulations; while the Act before us shows that the public health of a municipality was looked upon as quite a different thing from the public health of the then Province of Canada.

The history of the legislation will make this plain. The session of the 12 Vic. (1849) was a very active one, for all matters of organization. The quarantine act was amended, chap. 7; the preservation of the public health act (origin of the 38 C.S.C.) was introduced, or rather regulated, and its quality, as a measure of general import, fixed by chap. 8. A general municipal corporation act for Upper Canada was also passed (12 Vic. c. 81), which did not attribute the preservation of the public health of the then province to the municipalities, although the Act referred to health; showing that the legislature of the old Province of Canada was attracted to the subject. It would probably be difficult to give any example in the legislations of the civilized world, of the greater organizations for the public health being left entirely to municipal control. To say that the control of the central government over matters of public health was to begin and to stop at the seashore is inconceivable.

I think, therefore, that it is by examining chap. 38 C.S.C. we must decide whether it specially is a general or a local Act. Whether we look at its terms, its history or the reason of things, it seems to me clear that the statute regulates a federal matter, and that the Parliament of Canada had a right to repeal or amend that Act, and to pass any other general law affecting the public health.

This power was fully exercised by the 31 Vic. c. 63, and the 38 chap. C.S.C. was repealed, and new provisions respecting the public health were substituted (sections 7, 8, 9, 10, 11 and 12). Later, by the 35 Vic. c. 27, sec. 11, in its turn the 31 Vic. chap. 63 was repealed, but it was expressly provided that what the 31 Vic. had repealed should not revive. Chap. 38 C. S. C. was therefore repealed, and remains so, if Parliament had jurisdiction over the matter. I don't think it necessary to go into minute detail as to

(1.) At the delivery of the judgment a new argument was advanced to answer this. It was said, S. S. 2, Sect. 92, B. N. A. Act, 1867, gives all the other powers relating to health to the local legislatures. It makes no allusion to general health. It charges the local finances with all hospitals and other eleemosynary institutions, except marine hospitals. In the next place, if establishing, maintaining and paying for hospitals has any direct relation to the laws concerning public health, it is clear sub-section 7, Sect. 92, no more exhausts the subject than does S.S. 10 of Sect. 91. This answer then is inconclusive.

(2.) It has been contended that, under chap. 38 C.S.C., the matter was made municipal. If so, it was unnecessary to refer to s.s. 7, sec. 92, for s.s. 8 gives "municipal institutions in the Province" generally. But it is inexact to say chap. 38 treats the health of the whole of Canada as a municipal matter. It proceeded on a totally contrary principle. The origin and cost of it remain with the Government, the municipal organization only being employed as an auxiliary to the direct action of Government.

the indications of the federal character of this law, as shown by many of its provisions. It is sufficient to indicate that it was passed for the whole Province of Canada, Upper and Lower; that its cost was a charge on the revenue of the old province; and that its organization was common to both Upper and Lower Canada. It may be pertinently asked, on what government would the cost now fall? (3.)

It is said that Parliament has renounced the power to deal with the preservation of public health generally, and has, by the 35 Vic., acknowledged it had not power to repeal chap. 38 C.S.C. On the contrary, the 35 Vic. has persevered in repealing chap. 38 C.S.C. But we are told that the Minister of Justice, and a Senator, had declared in the Senate that the Government meant to abandon it. The formal abandonment by the Dominion Parliament of a right to legislate in any doubtful matter would be a strong motive for deciding in any doubtful case as they had done; but it seems to me it would be necessary that the question of jurisdiction should be doubtful, and the expression of the resolution to abandon it unequivocal and authoritative. None of these conditions appear in this case. It seems to me the preservation of the health of the whole country, or any part of it threatened with any formidable epidemic, endemic or contagious disease, is, above all question, a matter of general and not of local interest. As for the opinions of members of Parliament, it is obvious they ought not to be, and are not authority. If they were to be admitted as giving a clue to interpretation, the real intentions of the legislature might be upset by the opinion of an individual. Again, these opinions, even if, as they sometimes might be, important, are not sworn to. The member may not have said what he thought, and he may be badly reported. At most, he could only be an *expert*. The Minister of Justice and the Senator don't appear in that capacity before this Court, even if we could admit legal *experts* as to a disposition of our own law. I enter more into this point than is perhaps necessary, because many people seem to think that those engaged in making laws should know more about them than other people. Experience of the parliamentary system does not support this view, however plausible it may appear to a casual observer.

Accepting the conclusion that chap. 38 is a federal law, and that it is repealed, the chief reason of respondent's objection to the proceedings of appellant disappears. His action is in conflict with no other organization, and we have not to enquire whether or not the Mayor refused to establish a board of health when first required so to do, or not.

It may, however, still be said that the corporation had no right to establish boards of health. This pretension is at once met by the Act of Incorporation of the City of Quebec, 29 Vic. c. 57 (1865). Section 7 authorizes the Council to make by-laws "for establishing boards of health," and "so soon as the corporation shall have established boards of health, such boards may take cognizance of the causes of disease, and shall have all the powers and privileges conferred upon them by the 12 Vic. chap. 116"—that is, the statute chap. 38 C.S.C. In 1875 the legislature of Quebec passed an Act, a section of which added to the Act of the 29 Vic. "a section to define and regulate the duties of health officers," and this statute recognizes the repeal of the chap. 38 C.S.C. so far that it only takes "cognizance of the causes of disease." If abandonment is conclusive, this one seems to be more formal and more authentic than the speeches of the Minister and the Senator. Again, the Act of 1886 scarcely claims a universal power in the local authorities to deal with all questions of public health. Under all reserves, I may add that, so far as I have been able to examine the provisions of this Act, it does not seem to me to be *ultra vires*, but it is possible it might become so, in part at least, by federal legislation.

From this view, I should have been pre-

(3.) It was said, in rendering judgment, that this argument was not *invincible*. It was not propounded as demonstration, but as giving reasons why a power, not specified, should not be attributed to the local legislatures. Of course, the victorious reason is that the public health of the Dominion is not attributed piecemeal to the provincial legislatures, and that it is impossible to say that it is a matter "of a merely local or private nature in the province."

pared to say that the appellant had not contravened any law; on the contrary, that his appointment was strictly in conformity to law, as the general powers of the corporation, sec. 29 s.s. 1, justified the organization of a board of health for certain purposes.

Has Dr. Rinfret and his board gone further than to exercise the simplest duties of a board of health? It seems they established an ambulance, and made arrangements to vaccinate the poor. Surely it was not these alarming preparations that disturbed the respondent.

I would reverse, with costs.

Cross, J., delivered an opinion to the same effect, the conclusion being as follows:—General powers not enumerated fall necessarily to the Dominion legislature, and are excluded from the jurisdiction of the Provincial legislatures. The exercise of general powers is appropriately applicable for the prevention or mitigation of epidemics, endemics or contagious diseases. Therefore, in repealing chap. 38 C.S.C., the Dominion legislature wiped out of the statute book the previously existing provisions for the creation of boards of health as a general system. The Lieut.-Governor's proclamation could not put in force a law that did not exist, nor could there be any usurpation of an office for the creation whereof there was no law, and Dr. Rinfret could not be compelled to desist from the exercise of functions not recognized by authority of law; and whatever ever authority he received from the City Council could not be contradicted by an authority which had no legal force. I am therefore of opinion that the proceeding in the nature of a *quo warranto* taken in this case should be quashed, and the complaint as supported and prosecuted by Pope dismissed.

The judgment of the majority of the Court was as follows:—

" La cour, etc....

" Considérant que le chapitre 38 des Statuts Refondus du Canada, contient des dispositions relatives au maintien de la santé publique dans la ci-devant province du Canada, maintenant les provinces d'Ontario et de Québec, et que toute législation sur la santé publique dans chaque Province, à l'exception des établissements de quarantaine et des hopitaux de marine, tombe dans les attributions législatives de chaque Province;

" Et considérant que le Parlement de la Puissance n'avait aucun pouvoir de rappeler les dispositions du dit chapitre 38 des Statuts Refondus du Canada, et que le statut était encore en vigueur lors des divers procédés relatés dans les plaidoiries qui ont eu lieu sous l'autorité du dit acte;

" Et considérant qu'après la proclamation émanée par le lieutenant gouverneur de la Province de Québec, publiée dans la Gazette Officielle de Québec, le 4 sept. 1885, mettant le dit acte en opération dans la Province, et la nomination d'un bureau central de santé pour la dite Province, le maire de la cité de Québec a été requis de convoquer une assemblée du conseil de la cité de Québec, pour procéder à la nomination d'un bureau local de santé pour la dite cité de Québec, ce qu'il n'a pas fait dans le délai prescrit par le statut ci-dessus mentionné;

" Et considérant qu'à défaut par le maire de convoquer une telle assemblée dans le délai ainsi fixé, le lieutenant-gouverneur était, sur certificat à cet effet, autorisé par la loi à nommer un bureau local de santé comme il l'a fait;

" Et considérant que l'appelant n'a été nommé par le conseil de ville de la cité de Québec, l'un des membres du bureau local de santé pour la cité de Québec, qu'après que le lieutenant-gouverneur de la Province de Québec ait par un ordre en conseil à cet effet procédé à la nomination d'un tel bureau de santé à défaut par le maire d'avoir convoqué une assemblée du conseil pour nommer un tel bureau de santé;

" Et considérant qu'après la nomination d'un bureau local de santé par le lieutenant-gouverneur comme susdit, le conseil de ville n'avait pas le droit de nommer un autre bureau de santé local pour agir dans la cité de Québec, en vertu des dispositions du ch. 38 des Statuts Consolidés, et que la nomination que le conseil de ville a faite de l'appelant pour agir sur tel bureau de santé est nulle et de nul effet;

" Et considérant que l'appelant, sur la présente requête de l'intimé, a maintenu qu'il avait été légalement nommé et qu'il avait le

droit d'agir comme l'un des membres du bureau local de santé pour la cité de Québec, et ce en vertu des dispositions du chapitre 38 des Statuts Refondus ;

" Et considérant qu'il n'y a pas d'erreur dans cette partie du jugement de la cour de première instance, rendu le 31 décembre 1885, qui a ordonné que le dit appelant fût dépossédé et exclu de la charge de membre du bureau local de santé pour la cité de Québec, en vertu des dispositions du chap. 38 des Statuts Consolidés du Canada ;

" Mais considérant que l'intimé n'a pas prouvé que l'appelant qui a été nommé comme l'un des membres du bureau local de santé pour la cité de Québec, par le conseil municipal de la cité, ait en cette qualité fait aucun acte qui fut préjudiciable soit à l'intimé soit au public, ni qu'en acceptant ou en réclamant le droit d'accepter la dite charge, qui est une charge gratuite, il ait agi de mauvaise foi, et que partant le dit appelant n'avait pas dû être condamné à payer une amende de $100 ;

" Cette cour, confirmant la première partie du jugement de la cour de première instance, adjuge et déclare que le dit appelant n'a pas été légalement nommé à la dite charge de membre du bureau local de santé pour la cité de Québec, en vertu du chap. 38 des Statuts Refondus du Canada, et qu'il n'a pas eu et n'a pas le droit d'exercer la dite charge, et condamne le dit appelant à payer à l'intimé les frais encourus sur la dite requête en cour de première instance, et renverse cette partie du dit jugement qui a condamné l'appelant à payer une amende de $100, et rejette cette partie de la dite condamnation, chaque partie payant ses frais en appel."

Baillairgé & Pelletier for appellant.

M. Chouinard, counsel.

Angers & Casgrain for respondent.

SUPREME COURT OF CANADA.

NOVA SCOTIA.]

OTTAWA, Feb. 15, 1887.

MARSHALL v. MUNICIPALITY OF SHELBURNE.

Action on bond—Seal—Evidence.

In an action on a bond against the sureties of a defaulting clerk of the Municipality of Shelburne, the defence raised was that the bond was not executed by them as it had no seals attached when the sureties signed it.

HELD, (Henry, J., *hesitante*) that as the plaintiffs had proved a *prima facie* case of a bond properly executed on its face, and neither the subscribing witness nor the principal obligor was called at the trial to corroborate the evidence of the defendant, who had not negatived the due execution of the bond, it being quite consistent with his evidence that it was duly executed, the onus of proving want of execution was not thrown off the defendant, and plaintiffs were entitled to recover.

Borden, for the appellants.

Sedgewick, Q. C., for the respondents.

OTTAWA, Feb. 17, 1887.

PICTOU BANK v. HARVEY.

Sale — Non-Acceptance — Possession revested in vendor.

On July 14th, 1884, H. forwarded a lot of hides from Halifax, addressed to J. L. Pictou, the bill of lading specifying that they were to be carried to Pictou station. H. had been selling hides to L. for three or four years. An invoice was sent to L. for the price of the hides at the rate previously paid, and L. sent H. a note for the amount which was discounted. The course of dealing between H. and L. was for H. to receive a note for the amount according to his own estimate of weight, &c, and if there was any deficiency to allow L. a rebate on a final settlement.

This lot of his was put off at Pictou landing and remained there until Aug. 5th. On that day, L. sent his lighter-man to Pictou Landing for some other goods, and he, finding the hides there, took them in his lighter and brought them to L's tannery with the other goods. The next day, L. on being informed that the hides were at the tannery, had them put in the store of D. L., whom he told to keep them for the parties who sent them, there being, at the time, other hides of L. in the said store. The same day, Aug. 6th, L. sent a telegram to H. as follows :—" In trouble. Have stored hides. Appoint some one to take charge of them." H. immediately came to Pictou and having learned what L. had done, expressed himself as satisfied. He did

not take possession of the hides, but left them where they were stored, on L's assurance that they were all right.

On Aug. 6th a levy was made under an execution of the Pictou Bank against L. on all L's property that the sheriff could find, but these hides were not included in the levy.

On Aug. 12th L. gave the Bank a bill of sale on all his hides in the store of D. L., and the Bank, on indemnifying D. L, took possession of the hides so shipped by H. and stored with D. L. In a suit by H. against the Bank and D. L.:

HELD, affirming the judgment of the Court below, that the contract of sale between L. and H. was rescinded by the action of L. in refusing to take possession of the goods when they arrived at his place of business and handing them over to D. L., with directions to hold them for the consignor, and in notifying the consignor, who acquiesced and adopted the act of L., whereby the property and possession of the goods became revested in H., and there was, consequently, no title to the goods in L. on Aug. 12th, when the bill of sale was made to the Bank.

Sedgewick, Q.C., for the appellants.
Borden, for the respondents.

OTTAWA, Feb. 15, 1887.

SOVEREIGN FIRE INS. CO. v. MOIR.

Insurance, Fire — Condition — Hazardous Business—Increase of Risk—Forfeiture.

A policy of insurance on the respondent's property contained the following provisions:-

"In case the above described premises shall, at any time during the continuance of this insurance, be appropriated, or applied to, or used for the purpose of carrying on, or exercising therein, any trade, business or vocation denominated hazardous or extra-hazardous . . . . . unless otherwise specially provided for, or hereafter agreed to by this company in writing, or added to, or endorsed on this policy, then this policy shall become void."

"Any change material to the risk, and within the control or knowledge of the assured, shall avoid the policy as to the part affected thereby, unless the change is promptly notified in writing to the company or its local agent."

When the insurance was effected, the insured premises were occupied as a spool factory, and it was described as a spool factory in the application. During the continuance of the policy, a portion of the building insured was used for the manufacture of excelsior, but the fact of its being so used was not communicated to the company or its local agent. A loss by fire having occurred, the company resisted payment, on the ground that the manufacture of excelsior on the premises avoided the policy under the above conditions.

On an action to recover the insurance, the plaintiff obtained a verdict, the jury finding, in answer to questions submitted on the trial, that the manufacture of spools was more hazardous than that of excelsior, and that the risk was not increased by adding the manufacture of excelsior in the building. The Supreme Court of Nova Scotia sustained the verdict.

HELD, reversing the judgment of the Court below, that as the manufacture of excelsior was, in itself, a hazardous business, the introduction of it into the building insured would avoid the policy under the first of the clauses above set out, even if the jury were right in their finding that it was less hazardous than the manufacture of spools.

HELD, also, that the addition of the manufacture of excelsior to that of spools in the said premises was a change material to the risk, and avoided the policy under the second clause above recited.

Henry, Q.C., for appellant.
Borden, for respondents.

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*SUPERIOR COURT.—MONTREAL.**

Insolvent company—Execution of judgment of Ontario court—45 Vict., (D.) ch. 23, ss. 86, 87 & 88.

HELD:—That under 45 Vict. (D.) ch. 23, s. 86, the Courts in the Province of Quebec, will enforce an order for the execution of a judgment, issued from a competent court in Ontario, in like manner as if it had been issued

* To appear in Montreal Law Reports, 2 S. C.

from a court in Quebec.—*In re Queen City Refining Co., Williamson & Calcutt*, Mathieu, J., June 16, 1886.

Dommage—Injures.

JUGÉ:—Qu'un maître de poste qui retarde injustement d'expédier une lettre à lui confiée, et qui, lorsque la personne qui lui a remise cette lettre, se plaint de ce retard, lui reproche de vouloir lui faire du chantage," et ajoute "qu'elle avait besoin d'argent et qu'elle se servait de faux prétextes pour en obtenir," peut être poursuivi en dommages, et une somme de $10.00 par lui offerte, n'est pas suffisante.—*Chartrand* v. *Archambault*, Torrance, J., 20 novembre 1886.

Prescription—Assessments—City of Montreal—C.C. 2250—Civil Fruits.

HELD:—1. That the prescription of three years, under the Act 42-43 Vict. (Q.) ch. 53, s. 10, is not applicable to arrears of assessments exigible before the passing of said Act.

2. Municipal assessments are included under the term "civil fruits," which are prescribed after five years by C.C. 2250.

3. The fact that the name of the person assessed did not appear in the books of the Corporation as owner, does not preclude a demand for assessments as owner, where it appears that he was, in fact, owner.—*City of Montreal* v. *Robertson*, Torrance, J., November 10, 1886.

Prescription—Assessments, City of Montreal—C. C. 2250—Civil Fruits—Collection under warrant—C. C. P. 15.

HELD:—1, 2 and 3, as in *City of Montreal* v. *Robertson, supra.*

4. The collection of the assessment for one year by a bailiff under a warrant is not a bar to an action for the assessment due for an anterior year.—*City of Montreal* v. *Fleming*, Nov. 10, 1886.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Feb. 19.

Judicial Abandonments.

Milton Pennington, Montreal, Feb. 11.

Germain E. Robitaille, Sherbrooke, Feb. 3.

Spenard & Bedard, Montreal, Feb. 11.

Curators appointed.

Re John O'Neill.—A. W. Stevenson, Montreal, curator, Feb. 9.

Re Narcisse Pilotte, Wotton.—Kent & Turcotte, Montreal, curator, Feb. 10.

Dividend.

Re Mulholland & Baker, Montreal.—Final dividend, payable March 9. Arch. Campbell, Montreal, assignee (under Ins. Act of 1875).

Separation as to Property.

Dame Elizabeth Paulet vs. Louis Beland, trader, Sorel, Feb. 1.

Dame Mary Elizabeth Reuter vs. Job Wallace Taylor, trader, Cowansville, Feb. 16.

GENERAL NOTES.

In *Morse* v. *Mayo* (Boston) the plaintiff recovered $150 damages against a dentist who extracted a sound tooth and left the decayed tooth in.

The shrewdness, humor and decisiveness of Vice-Chancellor Bacon were the characteristics which made his popularity with the profession. His humor was not only in his tongue and in his manner, but extended to his pen, which sometimes was unable to refrain from reproducing on the margin of an affidavit or elsewhere the features of a witness which offered provocation. If this talent had been less under control, he might have relieved the Court of Appeal of the difficulty under which they labor in deciding questions of fact upon appeal, namely, that they have not the advantage of seeing "the demeanor of the witnesses." It was supposed that a long-winded counsel would sometimes hardly escape being placed open-mouthed in the pictorial pillory of the judge's note-book, if so much may be revealed of the contents of a volume of high privilege and even of sanctity. The vice-chancellor's pen was less likely to spare the advocate if under his wig he wore a beard, which the vice-chancellor thought obstructed the voice. In any case, Vice-Chancellor Bacon did not like long speeches at the bar, and did not indulge in long judgments, although perhaps he had the fault of over-taciturn judges, that his silence sometimes induced his deciding on a ground which would have been shown to be erroneous if known to have been in his mind.—*Law Journal* (London).

Great lawyers are seldom good witnesses. When Lord Selborne stepped into the witness-box, in *Adams* v. *Coleridge*, he was asked, "Did you know that your solicitor was acting for Miss Coleridge?" And he answered, "I should prefer to state what passed." The statement was so little what the plaintiff wanted to know, that at last Lord Selborne confessed, "Perhaps I had better answer the question put to me," which a good witness would have done at first. Sir Charles Russell's lapse of memory in regard to John Baptist's Day was perhaps precipitated by the discomfort of having so accomplished a man and subtle an advocate by his side as a client. If so, the disturbing influence was its own remedy, as, no doubt, it was the distinguished defendant himself who brought back the Court to the consciousness that the day was identical with a familiar quarter-day.