The Legal News.

VOL. X. OCTOBER 8, 1887. No. 41.

In *Paul* v. *Travellers Ins. Co.*, 45 Hun, 318, the Court decided an interesting question arising under an accident insurance policy. The policy covered injury and death through "external, violent and accidental means," but excepted bodily injuries "of which there shall be no external and visible sign upon the body," and death "by the taking of poison, contact with poisonous substances, or inhaling of gas, or by any surgical operation or medical treatment." This policy was held to cover a death by the accidental inhaling of escaping illuminating gas while the insured was asleep. The Court got over the difficulty caused by the words "inhaling of gas" among the various provisions exempting the company from liability, by assuming that the words were used to designate the common uses of gas in dentistry, surgery, etc. This seems rather a violent assumption, but the Court observed, "If the language of the policy is capable of two constructions, that most favorable to the insured should be adopted. It will not do to sacrifice the substance of the contract to the letter, if such a result can be reasonably avoided." The Court also held that the accidental inhaling of escaping gas was a death through violent means.

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The New York Court of Appeals, in *Mayor etc., of New York* v. *New Jersey Steamboat Transportation Co.*, June 7, 1887, passed upon what constitutes a ferry. The Court held that a line of boats adapted to carry travellers, with their horses, vehicles and other property, running from pier 18, Hudson river, New York city, to various points on the shore of Staten Island and the New Jersey coast, and return, the round trip making about twenty-four miles, constituted a ferry between New York city and Staten Island. The distance is not so great as to preclude the idea of a ferry, and the business does not lose that character because the boats stop at points on the New Jersey as well as the Staten Island shore.

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A Ceylon correspondent of the *Law Journal*, referring to the action of the governor of the colony, in frequently pardoning natives undergoing sentences without first referring to the judges who sentenced them, asks whether it is usual for the Queen to grant free pardons to criminals without referring such cases in the first instance to the tribunals before which they were condemned. The editor replies in the negative. "In the first place, the Queen never grants a free pardon of her own motion at all. If she were to do so, and the Secretary of State disagreed with the act, it would be his duty to resign. That protest is all the sanction provided by the Constitution, and no doubt the criminal would legally be pardoned. The circumstances in Ceylon no doubt are different; but we assume in favour of the Governor that he is his own Secretary of State. The practice of consulting the judges is very much older than the present constitutional relation of the sovereign to the Secretary of State in regard to the prerogative of mercy. When questions of law were involved, the judges were from early times consulted, and the convicted person pardoned or executed according to their decision, a practice which was the origin of the Court for the Consideration of Crown Cases Reserved. We believe it to be the practice in England, that the Secretary of State never interferes with a conviction without receiving the report of the convicting tribunal, whether judge of the High Court or justice at petty sessions. The practice arises not only in the interests of justice to the convicted person, but in order that the tribunal may vindicate its action, and that there may be no weakening of the judicial authority by any apparent slight being cast on its decision. The Secretary of State is responsible for the maintenance of this practice to Parliament, but in Ceylon the duty exists although there is no mode of enforcing it except by complaint at the Colonial Office."

The names of the members of the commission for the revision of the Code of Civil Procedure, have been published in the daily papers. If the list be authentic, which seems to be doubtful, the most noticeable fact is the large number of members, nine names being mentioned. This is to be regretted, for the work could be done better by a smaller committee, and the real work must devolve upon a few. Of the names mentioned there can be no question as to the eminent fitness of Mr. Justice Jetté. Some of the others names are able lawyers, but not every able lawyer possesses the peculiar qualifications required for a codifier of the law of procedure.

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Chief Justice Wilson, of the Court of Queen's Bench, Ontario, who, it was stated, declined the honor of Knighthood at the time it was conferred on the late Chief Justice Cameron, now accepts it. Sir Adam Wilson has been twenty-four years on the bench, and proposes, it is said, to retire at an early date.

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The office of judge of the Exchequer Court of Canada, created by the Act of last Session, has been filled by the appointment of Geo. Wheelock Burbidge, Q.C., heretofore deputy minister of Justice.

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The place of Mr. Justice Monk, in the Court of Queen's Bench, is to be filled temporarily by Mr. Justice Doherty, of the Superior Court, who is appointed assistant judge until Dec. 13.

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## SUPREME COURT OF CANADA.

ONTARIO.]

PLUMB v. STEINHOFF.

*Title to land—Old grant—Starting point to define metes and bounds—How ascertained.*

In an action of ejectment, the question to be decided was whether the *locus* was situated within the plaintiff's lot No. 5, in concession 18, or within defendant's lot adjoining, No. 24, in concession 17. The grant through which the plaintiff's title was originally derived, gave the southern boundary of lot 5 as the starting point, the course being thence 84 chains, more or less, to the river. The original surveys were lost, and this starting point could not be ascertained.

HELD:—affirming the judgment of the court below, Strong and Taschereau, JJ., dissenting, that such southern boundary could not be ascertained by measuring back exactly 84 chains from the river.

*Moss, Q.C.*, and *Scott, Q.C.*, for the Appellants.

*Atkinson, Q.C.*, for the Respondents.

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ONTARIO.]

ST. CATHARINES MILLING CO. v. THE QUEEN.

*Indian lands—Reserves—Surrender—Title of Crown.*

HELD, (affirming the judgment of the Court of Appeal, 13 Ont. App. R. 148,) Strong and Gwynne, JJ., dissenting, that the land surrendered by the Indians to the Dominion Government in 1873, by what is known as the N. W. Angle treaty, were not, previous to such surrender, lands reserved for the Indians within the meaning of sec. 91, item 24, of the B. N. A. Act, but were public lands under sec. 92, item 5, and passed to the Province of Ontario, absolutely on such surrender. Only lands specially set apart for the use of the Indians are reserved under sec. 91, item 24.

*McCarthy, Q.C.*, for the Appellants.

*Cassels, Q.C.*, and *Mills*, for the Respondents.

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NOVA SCOTIA.]

MOTT v. BANK OF NOVA SCOTIA.

*Insolvent Bank—Winding up proceedings—45 Vic. cap.—47 Vic. cap. 137—Bank already insolvent placed in liquidation—Proceedings under what statute.*

The Bank of Liverpool was placed in insolvency in 1879, under the Insolvent Act of 1875, and the Bank of Nova Scotia appointed assignee. In 1884, the assignee applied to have the insolvent Bank placed in liquidation under 45 Vic. cap. 23 and 47 Vic. cap. 39. The Chief Justice of Nova Scotia granted

the petition and appointed the Bank of Nova Scotia liquidator, holding that sections 2 & 3 of the act of 1884 applied to banks. The Supreme Court of Nova Scotia affirmed this order. On appeal to the Supreme Court of Canada:

HELD, Strong & Gwynne, JJ., dissenting, that these sections do not apply to banks, but an insolvent bank must be wound up with the same formalities as in the case of a bank not insolvent according to sections 99 to 102 inclusive of the Act of 1884, and three liquidators must be appointed in the manner therein provided.

*Henry, Q.C.*, for the appellants.

*Sedgewick, Q.C.*, and *Borden*, for the respondents.

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BRITISH COLUMBIA.]

SEA v. MCLEAN.

*Sale of Land—Sale by executors—Powers under Will—Advertisement—Description—Words "more or less"—Breach of trust.*

By the terms of the testator's will, executors were empowered to sell so much of the real estate as might be necessary to pay off a mortgage thereon, and any other debts that the personal estate was insufficient to discharge. The executors offered for sale land described in the advertisement as "some 60 acres (more or less) etc., Victoria District." The advertisement stated that the property to be sold adjoined M. Rowland's land and had a frontage on the Burnside Road, and on the road known as "Carey's road."

At the sale, a plan was annexed to the advertisement, showing a lot coloured pink, bounded by the above named roads. The auctioneer stated that the quantity was not known, but would have to be determined by a survey, to be made at the joint expense of vendor and purchaser. The land was offered for sale by the acre, and knocked down to one S. at $36 per acre.

After the sale, a survey was made and the land was found to contain 117 acres. S. claimed the whole quantity and tendered the price and a deed for signature to the executors. They claimed, however, that they only intended to sell 60 acres measured on the side adjoining Rowland's land, and to sell more would be a breach of trust on their part, as they only wanted some $2,000 to pay the mortgage and debts of the estate. S. brought a suit for specific performance.

HELD, (reversing the judgment of the Supreme Court of British Columbia,) Gwynne, J., dissenting, that S. was entitled to the 117 acres.

*Robinson, Q.C.*, and *Eberts* for the appellant.

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ONTARIO.]

GRAND TRUNK RAILWAY CO. v. BECKETT.

*Railway Co—Negligence—Death caused by Running through town—Contributory negligence—Insurance on life of deceased—Reduction of damages for.*

In an action against the G. T. R. Co., for causing the death of the plaintiff's husband by negligence of their servants, it was proved that the accident occurred while the train was passing through the town of Strathroy; that it was going at a rate of over thirty miles an hour, and that no bell was rung or whistle sounded, until a few seconds before the accident.

HELD, (affirming the judgment of the Court of Appeal, 13 Ont. App. R. 174,) that the company was liable in damages.

For the defence, it was shown that the deceased was driving slowly across the track with his head down, and that he did not attempt to look out for the train until shouted to by some persons who saw it approaching, when he whipped up his horses and endeavoured to drive across the track and was killed. As against this there was evidence that there was a curve in the road which would prevent the train being seen, and also that the buildings at the station would interrupt the view. The jury found that there was no contributory negligence.

HELD, per Ritchie, C. J., and Fournier and Henry, JJ., that the finding of the jury should not be disturbed. Strong, Taschereau & Gwynne, JJ., *contra*.

The life of the deceased was insured and on the trial the learned judge deducted the amount of the insurance from the damages assessed. The Divisional Court overruled

this and directed the verdict to stand for the full amount found by the jury. This was affirmed by the Court of Appeal.

HELD, that the judgment in this respect should be affirmed.

*Osler, Q.C.*, for the appellants.

*Blake, Q.C.*, and *Folinsbee*, for the respondent.

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QUEBEC.]

BRADY v. STEWART.

*Litigious rights—Sale of—Arts.* 1582-83 *C.C.*

B. became holder of 40 shares upon transfers from D. & al., in the capital stock of the St. Gabriel Mutual Building Society. At the time of the transfers the shares in question had been declared forfeited for non payment of dues. Subsequently by a judgment of a Court rendered in a suit of one C., whose shares had also been confiscated for similar reasons, the shares were declared to be valid and to have been illegally forfeited. Thereupon B., by a petition for writ of mandamus, asked that he be recognised as a member of the society and be paid the amount of dividends already declared in favour of and paid to other shareholders. B's action was met, amongst other pleas, by one, setting forth; that B had acquired under the transfers in question, certain litigious rights and that, by law, he was only entitled to recover from the respondents the amount he had actually paid for the same, together with legal interest thereon and his cost of transfers.

HELD, (affirming the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q. B. 272) Fournier & Henry, JJ., dissenting, that at the time of the purchase of said shares, B was a buyer of litigious rights, and under Art. 1583, C.C., could only recover the price paid with interest thereon.

Appeal dismissed with costs.

*Doherty, Q.C.*, for appellant.

*Curran, Q.C.*, for respondent.

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QUEBEC.]

PION v. NORTH SHORE RAILWAY CO.

*Navigable river—Access to by riparian owner—Right of—Railway Company responsible for obstruction — Damages — Remedy by action at law—When—*43 *Vic.* (*P.Q.*) *ch.* 43, *sec.* 7, *s.s.* 3 & 5.

HELD, (reversing the judgment of the Court of Queen's Bench, Quebec, 9 Leg. News, 218), Taschereau, J., dissenting, that a riparian owner is entitled to damages against a railway company, although no land is taken from him, for the obstruction and uninterrupted access between his property and the navigable waters of a river, and the injury and diminution in value thereby occasioned to the property.

2. That the railway company in the present case not having complied with the provisions of 43 & 44 Vic. (P.Q.) ch. 43 sec. 7, ss. 3 and 5, the appellant's remedy by action at law was admissible.

Appeal allowed with costs.

*Langelier, Q.C.* for appellants.

*Irvine, Q.C., & Duhamel, Q.C.*, for respondents.

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QUEBEC.]

ROBINSON v. CANADIAN PACIFIC RAILWAY CO.

*Damages— Misdirection as to solatium— New Trial—Art.* 1056 *C.C.*

In an action for damages against a railway company brought by the widow of a servant of the company killed in the discharge of his work, the learned judge at the trial directed the jury that in assessing the amount of damages if they found for plaintiff they might consider the nature of the anguish and mental sufferings of the widow and child of the deceased.

HELD, (reversing the judgment of the Court of Queen's Bench, Montreal, M. L. R., 2 Q.B. 25) that there was misdirection. Effect of Art. 1056, C.C., considered. (See 10 Leg. News 241).

Appeal allowed with costs and new trial ordered.

*Scott, Q.C. & H. Abbott*, for the appellants.

*J. C. Hatton, Q.C.*, for the respondents.

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QUEBEC.]

LEGER v. FOURNIER.

*Sale à réméré—Term—Notice—Mise en demeure —Chose Jugée—Improvements.*

HELD, (affirming the judgment of the Court

of Queen's Bench, Montreal, M.L.R., 3 Q.B. 124) where the right of redemption stipulated by the seller entitled him to take back the property sold within three months from the day the purchaser should have finished and completed houses in course of construction on the property sold, it was the duty of the purchaser to notify the vendor of the completion of the houses, and in default of such notice, the right of redemption might be exercised after the expiration of the three months.

2. The exception of *chose jugée* cannot be pleaded where the conclusions of the second action are materially different from those of the first, and so, although the present respondent attempted to exercise his right of redemption in a prior action for a less sum than stipulated, it was held that the dismissal of the first action was not *chose jugée* as regards the present action offering to pay the amount on conditions stipulated.

Taschereau & Gwynne, JJ., were of opinion in this case that appellant was entitled to $302 for improvements over and above the stipulated price instead of $40 allowed by the Court below.

*DeLorimier*, for appellant.

*Laflamme, Q.C.*, for respondent.

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## *THE PRIVILEGE OF COMMUNICATIONS TO SUITORS AND THEIR ADVISERS.*

The case of *Young* v. *Holloway*, 56 Law J. Rep. P. D. & A. 81, reported in the September number of the *Law Journal Reports*, decides a point of considerable interest and importance in professional practice, and marks an advance in the application of the principle that communications made to professional advisers are privileged from disclosure to the other side. It arose upon certain anonymous letters which were written to the plaintiff and to her solicitor and counsel retained in a probate action, claiming revocation of a grant of probate of the will of the plaintiff's brother, on the ground that the testator was not of sound mind, and that the execution of the will was obtained by undue influence. Nothing turned on the point that the letters were anonymous. But the fact that out of the four letters three were signed in the names of the 'friends' of the respective families concerned, illustrates the growth of the practice of writing anonymous letters. Whether the writing of an anonymous letter is to be justified at all is a question of conscience with which the professional man has nothing to do. If anyone has information to give him he would rather have it in an anonymous letter than not at all, but of course it is more useful to him if it comes with the name and address of his correspondent. As direct evidence it is, of course, valueless; but it may put the solicitor on inquiry, the result of which will be valuable, and by not signing the letter, the correspondent takes back again half of the benefit he apparently intends to confer.

The question in the case arose out of the affidavit of documents in pursuance of the usual order obtained by the defendants, the executors and legatee of the will. In her answer the plaintiff claimed privilege for documents described in the schedule merely as 'certain anonymous documents,' on the ground that they were privileged as being communications to her solicitor and counsel from witnesses in support of her claim, containing evidence in support of it, and obtained for the purposes of the action. On so vague a description, an order for a further affidavit was inevitable. This produced an identification of the four documents, each by their signatures and addressees. One of the signatures, that is of the letter addressed to counsel, represented the writer's own name, and of the anonymous letters, two were addressed to the plaintiff herself and the other to her solicitor. Mr. Justice Butt ordered all four to be produced. The Court of Appeal divided them into the two classes of letters written to the party and letters written to her confidential advisers, and they excluded the first class from the privilege and included the second. The only difficulty in holding the second class privileged which occurred arose from the vagueness of the affidavits, which did not state plainly that the letters were sent to the professional advisers in their professional capacity. The judges, however, rightly drew the inference that such was the fact. Then the question

arose whether the privilege extended to documents volunteered to the professional adviser, and not produced as the result of inquiries by him or otherwise by his own intervention. The Court properly declined to draw any distinction between the two cases, and it would undoubtedly be a difficult matter in many instances to decide whether evidence was properly volunteered or whether it was not more or less indirectly due to the operations of a solicitor or a counsel. For example, counsel might make a speech in which he suggested the possibility of the existence of certain facts, and a correspondent might volunteer information in regard to it. This would be to some extent obtained by the counsel, and similarly a solicitor might make inquiries of one man and another might hear of it and volunteer information. The rule, therefore, laid down embraces all documents sent to a professional adviser in his professional capacity, but it excludes documents sent to the party himself. Such documents do not seem to come within the principle of the privilege. When they are sent to the party himself, they are not part of the fighting apparatus of the cause, but are part of the facts of it, and the action taken by the party on such a communication might be very material to the issue in the cause. It may be said that the distinction is somewhat fine, and asked whether, if a man acts as his own solicitor, he has the privilege? The answer is that he has not, as the privilege only arises when there is the relation of solicitor and client which it is the object of the law to protect. If a party should make himself a sort of assistant to his solicitor for the purpose of obtaining evidence, in such a case there would be privilege, especially if the solicitor acted for several parties.

The moral to be drawn from the decision is, in the first place, that the affidavit supporting a claim of privilege for letters of this class should set out facts showing that the communication was made to the adviser in his professional capacity; secondly, persons who have information to give in regard to pending suits may feel that their information, if sent to the proper quarter, will be confidential, and will not immediately be exposed to the gaze of the opposite party. This state of the law cannot fail to encourage persons possessing information to give it, and it may encourage them so far that when they give it they add their names. The decision seems therefore to do something in a small way for the elucidation of truth and the advancement of justice.—*Law Journal.*

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## *CONTEMPT OF COURT.*

On August 31, in the case of *Jonas* v. *Long*, a motion was made to commit Mr. George Johnson, a solicitor, of 16 Union Court, Old Broad Street, for assaulting a solicitor within the precincts of the Court. It was stated that a summons was heard on August 16, and, after leaving the judge's room, Mr. Johnson, in the passages of the Royal Courts, used strong language to Mr. Robinson, the solicitor on the other side, and put his hands up to him in a threatening attitude. Two acts of contempt were complained of—namely, an assault or improper conduct in the presence of the judge, and conduct to intimidate and obstruct the course of justice within the precincts of the Court. *Kirby* v. *Webb*, a case before Mr. Justice Chitty, referred to in these columns on July 16; *The Republic of Costa Rica* v. *Erlanger*, 36 L. T. 333; and *Ex parte Wilton*, 1 Dowling, N. S. 805, were referred to.—Mr. Justice Kekewich said that the acts that constituted the contempt should appear on the face of the order. The order would recite the particular facts in the affidavit, and would go on, "the Court being of opinion that these facts constitute a contempt of Court," &c. The applicant was, in his lordship's opinion, entitled to the order in the absence of the respondent; if he had anything to say he could move to discharge it.—*Law Journal*, (London.)

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## *BIGAMY AND ONUS OF PROOF.*

At Liverpool, on August 10, before Mr. Justice Day, the case of *Regina* v. *Macguire*, was tried. It appeared that in August, 1885, the prisoner made the acquaintance of Amelia Boadicea Gillmore, who was a widow,

and, after a short courtship, during which he represented himself to be a bachelor, they became engaged, and were married at Christ Church, Kensington, Liverpool, in December, 1885. They lived together for some time, but in July, 1887, the second wife discovered that her supposed husband had in 1860 married a girl called Mary Ham at the Roman Catholic Church at Newton Forbes, county Longford, and that this first wife was still alive. The prisoner before the magistrates made the following statement: 'I left my wife ten years ago, and I have not seen or heard of her since. I thought she was dead.' Counsel for the prosecution admitted that he had no evidence to show whether the prisoner had left his wife or not, or whether the prisoner knew at any time during the last seven years that she was alive. —The learned judge held that the prisoner must prove continual absence from his wife for seven years, and that then it would be for the prosecution to satisfy the jury that he knew at some time during the last seven years that his wife was alive.—A witness was called for the defence, who said that he had been a fellow workman of the prisoner's during the last eight years in Liverpool, and that he had never heard the prisoner mention his first wife during that time.—Upon this his lordship directed the jury to acquit the prisoner.

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## *THE NATIONAL LEAGUE PROCLAMATION.*

In the House of Lords, on August 9, the Marquis of Salisbury said: 'My lords, it may be convenient to your lordships that I should announce that the Lord-Lieutenant of Ireland, by and with the advice of the Privy Council, has to-day by proclamation declared the National League to be a dangerous association under section 6 of the Crimes Act, and has thus taken power under that statute to prohibit and suppress that association by order in any district where such a step may be required to prevent intimidation and interference with the administration of the law. The proclamation, which I will lay on the table, is in the following terms: "By the Lord-Lieutenant and Privy Council in Ireland. A Special Proclamation. Whereas we are satisfied that there exists in Ireland an association known by the name of 'The Irish National League,' and that the said association in parts of Ireland promotes and incites to acts of violence and intimidation, and interferes with the administration of the law. Now we, the Lord-Lieutenant-General, and General Governor of Ireland, by and with the advice of the Privy Council, by virtue of section 6 of the Criminal Law and Procedure (Ireland) Act, 1887, and of every power and authority in that behalf, do by this our special proclamation, declare from the date hereof the said association known as the Irish National League to be dangerous. This proclamation shall be promulgated by the same being published in the *Dublin Gazette*, and by a printed copy thereof being posted at every police station or barracks, and every place in which Divisional Police Courts or petty sessions are held respectively in Ireland. Given at the Council Chamber, Dublin Castle, this 19th day of August, 1887. God save the Queen."' A similar announcement on the same day was made by the secretary to the Lord-Lieutenant of Ireland in the House of Commons.

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## *DAMAGES AGAINST A BANK CLERK.*

On August 18, at the Middlesex Sheriff's Court, Red Lion Square, before Mr. Under-Sheriff Burchell and a special jury, the case of *The London and Brazilian Bank* (*Lim.*) v. *Kester Wilson Sefton* came on for hearing. Judgment had been allowed to go by default, and the case was heard for the assessment of damages.—Mr. C. T. Gyles, barrister, who appeared for the plaintiffs, stated that the defendant entered into the service of the bank under an agreement for three years from November 1, 1884, at a salary of 360*l.* a year, together with his expenses to Rio, where he was employed, amounting to 40*l.* Although the defendant had his salary voluntarily raised by the bank to 450*l.*, he suddenly left without notice or permission on December 22, 1886, ten months before the expiration of the agreement, and forthwith went into the service of the International

Bank, an opposition firm.—Mr. Gordon, manager of the plaintiffs, proved these facts in evidence. He said that the defendant was a very valuable servant, and the bank were put to great inconvenience by his leaving.—The jury, after a brief retirement, found a verdict for the plaintiffs, damages 111*l*.

## *INSOLVENT NOTICES, ETC.*

*Quebec Official Gazette, Oct. 1.*

*Judicial Abandonments.*

Louis Bonville, Ste Cunégonde, Sept. 17.

Zotique Deschamps, saddler, Montreal, Aug. 15.

Louis Collin & Frère, dry goods, St. Sauveur de Québec, Sept. 30.

Joseph Perreault, Montreal, Sept. 27.

Olivier Seguin, tailor, Montreal, Sept. 6.

Jacques Villeneuve, trader, Montreal, Sept. 23.

*Curators appointed.*

*Re* Bessette, Lefort & Co.—Kent & Turcotte, Montreal, curator, Sept. 27.

*Re* Dery & Larue, traders, St. Charles.—H. A. Bedard, Quebec, curator, Sept. 26.

*Re* Zotique Deschamps, saddler, Montreal.—Henry Ward, Montreal, curator, Aug. 23.

*Re* Elliott, Finlayson & Co., Montreal.—Kent & Turcotte, Montreal, curator, Sept. 10.

*Re* J. A. Giard.—C. Desmarteau, Montreal, curator, Sept. 27.

*Re* Hogle & Co.—H. A. Odell, Sherbrooke, curator, Sept. 19.

*Re* Frederick Keasey, grocer.—Hy. Ward and Alex. Gowdey, Montreal, curators, Aug. 12.

*Re* Jean-Bte. Leblanc, St. Sauveur de Québec.—H. A. Bedard, Quebec, curator, Aug. 19.

*Re* Hermenegilde Morin, saloon keeper.—H. Ward and Alex. Gowdey, Montreal, curators, Sept. 19.

*Re* Arsène Neveu.—C. Desmarteau, Montreal, curator, Sept. 29.

*Re* L. J. Rhéaume, St. Henri.—Kent & Turcotte, Montreal, curator, Sept. 27.

*Re* Louis Robinson, tailor.—A. W. Stevenson, Montreal, curator, Sept. 27.

*Dividends.*

*Re* Zotique Deschamps, saddler.—First and final dividend, Henry Ward, Montreal, curator.

*Re* Louis Phillippe Gagnon, St. Roch des Aulnets.—First and final dividend, payable Oct. 15, H. A. Bedard, Quebec, curator.

*Re* C. E. Kapps, Chute aux Iroquois.—First and final dividend, payable Oct. 18, Kent & Turcotte, Montreal, curator.

Re Max Kert.—Dividend, W. A. Caldwell, Montreal, curator.

*Re* Louis Laberge.—First dividend, payable Oct. 18, Kent & Turcotte, Montreal, curator.

*Circuit Court, Ottawa Co.*

Special term ordered, to be held at Hull, from 12th to 15th October.

*Notice.*

To incorporated companies to make declaration of corporate name, &c., under penalty imposed by 45 Vic. ch. 47.

*Canada Gazette, Oct. 1.*

*Procedure in Criminal Cases.*

Sections 1 and 2 of 50 & 51 Vict. ch. 50, to come into force Oct. 1.

*Thanksgiving Day.*

November 17 appointed.

## *GENERAL NOTES.*

'RES GESTÆ.'—The declarations made by one of the defendant's servants while assisting another in enforing its regulation as to deck passengers held admissible in evidence as part of the *res gestæ* (*The New Jersey Steamboat Company* v. *Brockett*, Sup. Ct. U.S. 19 Ch. Leg. N. 299).

WITH the five cases disposed of according to the House of Lords Register this week, the House has decided twenty-six appeals in the course of the year from the Court of Appeal, and has overruled that Court twelve times. The average of reversals has been increased by the four cases in which the appeal has been allowed during the week.—*Law Journal.*

IN *Blackburn, Low & Co.* v. *Vigors* (55 Law J. Rep. Q.B. 347), the House of Lords reversed the Court of Appeal, and upheld the view of the Master of the Rolls that information affecting the risk possessed by an agent who had been employed with a view to the insurance, but through whom the insurance in question was not made, was not information which can be imputed to the principal.—*Ib.*

THE degradation of words in common speech gave countenance to the contention in *Crofts* v. *Taylor*, that dilution necessarily means mixing with water. A man dilutes his claret with water, but shandygaff is not ordinarily called a dilution, and a mixture of two wines is called not dilution, but, by a horrible misapplication of a good word, a '*blend*.' In an Act of Parliament, the word has of course its proper meaning—that is, any mixture of stronger with weaker liquids, the effect of which is to wash away a part of the strength of the stronger. To mix Barclay's beer with small beer is, therefore, obviously dilution.—*Ib.*

ONE of the morals to be drawn from the Lipski case is that, if the practice of respiting persons condemned to death for the purpose of allowing further inquiry to be made by their professional advisers is to be generally adopted, the one great advantage of the present system—namely, the reasonably expeditious disposal of criminals—will be prejudiced. That system consists of magisterial inquiry, the grand jury's inquest, the summing-up of a judge, the verdict of a jury, and if appealed to, the decision of the Home Secretary. The last stage should be the shortest of all, and should not be lengthened out by introducing into it functions which properly belong to a much earlier stage—namely, the exhaustive investigation of the facts by the convict's solicitor.—*Ib.*