The Legal News.

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SUPERIOR COURT.

SHERBROOKE, October 31, 1887.

Before BROOKS, J.

THE CORPORATION OF THE TOWNSHIP OF CLIFTON v. THE CORPORATION OF THE COUNTY OF COMPTON.

Action—Interest—Verification of Payment.

HELD:—*That if A pays a debt which he owes to B, and takes from B a receipt sous seing privé, and the latter afterwards deny that such a payment has been made, and dispute the genuineness of the receipt, A may bring an action against B for the purpose of having the receipt verified.*

Plaintiffs alleged, that they are a municipal corporation within the County of Compton, that a certain by-law had been passed by the county council of the defendant corporation, whereby the County of Compton took certain shares in the capital stock of the International Railway Co. That the said County of Compton issued debentures to pay for its said shares; and that to meet the interest and sinking fund of the said debentures, there had been imposed upon the plaintiffs in common with the other municipalities then within the said county, a certain annual tax. That plaintiffs had paid the said tax for the year 1882 to the secretary-treasurer of the said Corporation of the County of Compton, and taken in acknowledgement of said payment the *sous seing privé* receipt of the said secretary-treasurer. That notwithstanding such payment and the giving of such receipt, defendants had denied that the said tax had been paid, and declared that the said receipt was a forgery. And plaintiffs asked that the judgment declare the receipt to be verified, and that defendants be ordered to direct their secretary-treasurer to credit plaintiffs with the payment of the tax in question on the books of the Corporation of the County of Compton.

Defendants among other pleas, filed a demurrer, alleging that the plaintiffs disclosed by their declaration no such interest as would entitle them to bring their action, and that the conclusions of the declaration did not flow from the allegations.

At the argument, it was argued on behalf of defendants, that they could not be called upon to direct their secretary-treasurer to make the entries in the books of the corporation, as asked for by plaintiffs; because the secretary-treasurer, is, as regards the manner in which he must keep the books of the corporation, the servant of the Provincial Secretary; and article 162, M. C., was cited in support of this pretension. The court, however, was of opinion that the article cited formed no obstacle to the granting of plaintiffs' conclusions.

The sole question to be determined, in the opinion of the court, was that of plaintiffs' interest. Supposing the allegations of the declaration to be proved; had plaintiffs such an interest as would support their action? The court thought they had. If forced to wait till defendants brought an action, they might be unable to make their proof, on account of the death or absence of necessary witnesses. Interest and right of action are co-extensive, and an action may be brought when the right arises. Ramsay's appeal cases, 16 and 20. It had been objected that the secretary-treasurer's signature had never been formally denied in the manner provided by article 145, C. C. P., but this article applied only to the procedure in cases before the courts. It had been further argued that the denial of payment and receipt, to give plaintiffs a right of action, would have to be made by resolution of the county council, and no such resolution had been alleged. The corporation could not be bound by what individual councillors might have said. This question, the court said, might arise, after the proof had been made, but the denial (though the plaintiffs might fail to prove it) had been sufficiently alleged. The demurrer must be dismissed.

The following is the written judgment of the court:—

"The Court . . . . . considering that the plaintiffs have disclosed in their declaration

a right of action, to have the alleged receipt and payment set up in their declaration as made by them to defendants' officer, to wit, their secretary-treasurer, and which plaintiffs allege that defendants deny, pretending the said receipt to be a forgery, verified and declared genuine; and that as against the allegations of plaintiffs' declaration, the *défense en droit* of defendants is unfounded; doth dismiss the said *défense en droit* with costs."

Demurrer dismissed.

Camirand, Hurd & Fraser, for plaintiffs.
Ives, Brown & French, for defendants.
(D. C. R.)

COUR DE CIRCUIT.

MONTRÉAL, 10 novembre 1887.

Coram TASCHEREAU, J.

CAUMARTIN v. ARCHAMBAULT ET AL.

Succession—Renonciation—Frais.

JUGÉ:—*Que des héritiers peuvent renoncer à une succession même après enquête et audition au mérite, dans une cause où ils sont poursuivis comme tels, mais que tous frais seront à leur charge.*

Le 5 septembre dernier (1887), M. Edmond Caumartin poursuivit les défendeurs pour la balance d'un compte de pain ($31.25) à lui due par feue Dame Adéline Senécal, la mère des défendeurs.

Le demandeur alléguait que les défendeurs Ludger Archambault, Marie-Louise Archambault, Caroline Archambault et Azélie Archambault, étaient issus du mariage de feu Alexandre Archambault et de feue Adéline Senécal; que ces deux derniers étaient décédés *ab intestat:* le père depuis une douzaine d'années, la mère le 27 mars 1885; que les défendeurs demeuraient avec leur mère à son décès; qu'il avait fourni le pain nécessaire à la subsistance de la famille durant une couple d'années avant mars 1885; qu'à cette date feue Adéline Senécal lui devait le montant réclamé par l'action, et que les défendeurs refusaient de le payer malgré qu'ils fussent les héritiers apparents de la dite Dame Adéline Senécal, leur mère, et qu'ils fussent restés en possession de tous ses biens; que de plus ils avaient fait des actes d'addition d'hérédité et qu'ils devaient être condamnés à lui payer la balance de son compte.

Les défendeurs plaidèrent qu'ils n'avaient jamais accepté la succession de leur mère et conclurent au renvoi de l'action.

A l'enquête il fut prouvé que feue Adéline Senécal tenait avant son décès une maison de pension sur la rue St-Hubert, mais que tous les meubles qui garnissaient la maison appartenaient aux trois défenderesses, à titre de donation entre-vifs faite par une de leurs tantes qui de plus avait payé pour leur éducation et avait continué après leur sortie du pensionnat à payer leur pension à feue Adéline Senécal jusqu'au décès de cette dernière; que la dite feue Adéline Senécal n'avait jamais contribué en aucune façon à l'ameublement de la maison, et qu'elle ne possédait que ses hardes et linges de corps, qu'un de leurs beaux-frères s'était approprié pour s'indemniser de ses déboursés pour frais funéraires et de dernière maladie.

Le demandeur ayant failli dans sa preuve quant à son allégation d'addition d'hérédité, les défendeurs demandèrent à renoncer en justice, ce qui leur fut accordé par la Cour dans les termes suivants:

"La Cour donne acte aux défendeurs de leur déclaration judiciaire qu'ils renoncent à la succession de leur mère, et renvoie l'action quant au montant réclamé, mais condamne les dits défendeurs aux frais, attendu qu'ils n'ont pas renoncé avant l'action, distraits à MM. Lavallée et Olivier, avocats du demandeur."

Lavallée & Olivier, pour le demandeur.
Duhamel, Rainville & Marceau, pour le défendeur.
(L. A. L.)

*SUPERIOR COURT—MONTREAL.**

Transfer of debt—Action of transferee—Signification—C. C. 1571.

HELD:—That service of an action by the transferee of a debt, setting up the transfer, is equivalent to signification of the transfer. *Nicholson* v. *Prowse*, Doherty, J., March 9, 1887.

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*To appear in Montreal Law Reports, 3 S. C.

Reddition de compte—Forme—Charges du notaire — Pension — Prescription — Preuve testimoniale—Legs particulier—Intérêt.

JUGÉ :— 1o. Qu'une personne tenue de rendre compte de son administration, peut faire son compte sous seing-privé, en brevet ou portant minute devant un notaire, à son choix, et en charger le coût dans son compte;

2o. Que les charges de $75.00 pour un inventaire et $75.00 pour une reddition de compte portant minute, dans une succession où le montant en partage est minime, mais où les actes ont été longs et détaillés, ne sont pas exorbitantes et n'excèdent pas ce que permet de charger le tarif des notaires;

3o. Que lorsqu'une personne pensionne pendant plusieurs années chez une autre sans ne lui rien payer, mais dans son testament met un legs de $6.00 par mois pour sa pension, déclarant d'ailleurs qu'il n'entend payer sa pension qu'à sa mort, les héritiers de ce pensionnaire défunt ne peuvent plaider prescription à une action en recouvrement de cette pension;

4o. Que l'on peut prouver par témoins le paiement de diverses sommes d'argent au-dessous de $50.00 chacune, payées à diverses époques quoique le total excède $50.00;

5o. Que les héritiers ont droit aux intérêts que produisent les legs particuliers tant qu'ils n'ont pas été acquittés par l'exécuteur testamentaire. *Mayer et al.* v. *Léveillé*, Papineau, J., 17 oct. 1887.

Vente pour argent comptant—Défaut de paiement —Livraison— Saisie-revendication.

JUGÉ :—1o. Que dans une vente pour argent comptant, si l'acheteur refuse de payer comptant et n'offre que des valeurs commerciales, la vente est en loi sans effet;

2o. Que dans le cas où, sous ces circonstances, l'objet vendu a été livré, le vendeur restant propriétaire peut le faire saisir-revendiquer. *Pominville* v. *Deslongchamp*, Ouimet, J., 30 sept. 1887.

Locateurs et locataires — Baux de meubles — Juridiction.

JUGÉ :—Que les procédures spéciales permises par l'article 887 du Code de Procédure Civile entre locateurs et locataires ne s'appliquent qu'aux baux d'immeubles et non à ceux de meubles. *Lusignan* v. *Rielle et vir*, Gill, J., 3 juin 1887.

Maître et ouvrier—Responsabilité—Echafaudage.

JUGÉ :—1o. Que le maître est responsable du dommage causé par son ouvrier à un autre ouvrier, dans l'exécution des fonctions auxquelles il est employé;

2o. Que par suite, il est responsable du dommage causé à un de ses employés, par l'écroulement d'un échafaud construit par un autre de ses ouvriers, sur son ordre. *Bélanger* v. *Riopel*, Mathieu, J., 19 oct. 1887.

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*COURT OF QUEEN'S BENCH — MONTREAL.**

Account — Settlement between Principal and Agent—Action en réformation de compte.

HELD :—That where a principal, during a long course of years, has accepted without any objection the accounts rendered by his agent of his administration, he is not entitled to sue for a complete account of the entire period of administration. Where errors in the accounts rendered are discovered subsequently, the proper preceeding is an action *en réformation de compte*, asking that such errors be corrected, and that the balance due be paid. *Stephens & Gillespie*, Dorion, Ch. J., Monk, Ramsay, Cross, JJ., Nov. 23, 1885.

Constitutional Law—37 Vict. (Q.), ch. 51—39 Vict. (Q.), ch. 52—Taxation of Ferry Boats —Jurisdiction of Harbour Commissioners.

HELD (affirming the judgment of Loranger, J., M. L. R., 2 S. C. 18):—1. The Acts 37 Vict. (Q.), ch. 51 and 39 Vict. (Q.), ch. 52, in so far as they authorized the levying of a tax upon ferry-boats, including steamboats, carrying passengers between Montreal and places distant not more than nine miles, are not *ultra vires* of the local legislature, ferries within a province being a subject of exclusive provincial legislation, and being also a matter pertaining to municipal institutions, and of a local nature in the province, and

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* To appear in Montreal Law Reports, 3 Q. B.

moreover, the power to tax ferry-boats being possessed by the city before Confederation.

2. The jurisdiction of the Harbour Commissioners of Montreal within certain limits, does not exclude the right of the city to tax and control ferry-boats within such limits.

4. An Act consolidated in similar terms by a subsequent Act is not repealed by such consolidation, but is continued in force thereby. *La Compagnie de Navigation de Longueuil & La Cité de Montréal*, Dorion, Ch. J., Tessier, Cross, Baby, JJ., (Cross, J., *diss.*), March 26, 1887.

Action—Property registered in name of owner's agent— Costs.

HELD:—That while a creditor has a right of action against the agent of his debtor, in whose name real estate of the debtor is registered, to have it declared that such property really belongs to the debtor, yet where it appears that the action is unnecessary, the judgment maintaining it will be confirmed without costs in either Court. *Schwob & Baker et al.*, Monk, Ramsay, Tessier, Cross, Baby, JJ., June 30, 1886.

SERVANTS' WAGES DURING ILLNESS.

A recent decision of the courts reversing a decision of a magistrate, where an apprentice, who had been disqualified by illness from work, was held, nevertheless, entitled to claim the usual wages during this disability, shows that justices are apt to go wrong on this point. And as the subject is of great practical interest and the circumstances must be of frequent occurrence, it will be useful to notice some of the authorities, so that justices may be able more accurately to discriminate the important elements of the question. In the case of domestic servants, the difficulty caused by illness is mitigated by this circumstance, that owing to the ready way of determining the contract by a month's notice, the loss can seldom be very serious if deemed irksome; but as a rule, the master requires to determine the contract altogether, in order to escape the duty of paying the usual wages while the servant is disabled, for as an old case expresses it, "the master takes his servant for better and for worse, for sickness and for health." Common charity has not allowed this point to be often contested in the case of domestic servants, but in the case of workmen and apprentices and skilled artists, there have been occasional litigations, and some of them attended with nicety. Again, there are peculiar contracts where it is necessary for a court to consider whether the good health of the contracting party was not necessarily assumed as a condition of the contract or a basis on which the whole contract was founded. The simplest of the cases may however first be looked at.

In *Harmer* v. *Cornelius*, 5 C. B. (N. S.) 236, the question arose whether an artisan who has been engaged for a term to work in his art, and proved incompetent, could be discharged on that account, and the right to dismiss servants for illness, and the relations between master and servant were carefully considered by judges of great insight. A scene painter had been employed at wages of £2 10s. per week, to work at Manchester. An advertisement had been put in a theatrical newspaper asking for two first-rate panorama and scene painters, and the plaintiff was engaged and was set to paint some scenes, but in a short time was dismissed as incompetent. He then sued the employer for damages. After time taken to consider, Willes, J., delivered the judgment of the court to the effect, that when a skilled laborer, artisan, or artist is employed, there is on his part an implied warranty that he is of skill reasonably competent to the task he undertakes. If there is no general and no particular representation of ability and skill, the workman undertakes no responsibility. Here the correspondence showed that there was an express representation that the plaintiff did possess the requisite skill. So the plaintiff lost his cause.

This decision paved the way to another, more closely bearing on the subject of a servant's illness, namely, *Cuckson* v. *Stone*, 1 E. & E. 248. In that case, the plaintiff had entered into an agreement to serve the defendant for ten years in the capacity of a brewer, at weekly wages of 50s. with dwelling-house

and coals in addition. During the service, he was taken ill at Christmas, 1857, was confined to his bed until March following, and was unable to attend to work till June 19 following, when he tendered his services and was again employed as before; but the employer refused to pay the wages during his illness, and for this sum, the servant sued. It was admitted that the contract had never been rescinded. Lord Campbell, C. J., said the court agreed with what Willes, J., said in *Harmer* v. *Cornelius*, and if the plaintiff, from unskilfulness, had been wholly incompetent to brew, or by the visitation of God, he had become, from paralysis or any other bodily illness, permanently incompetent to act as brewer, the employer might have determined the contract. He could not be considered incompetent by illness of a temporary nature. But if he had been struck with disease, so that he could never be expected to return to his work, the employer might have dismissed him, and employed another brewer in his stead. Instead of being dismissed, the servant returned to the service, and was employed as before. The contract accordingly being in force, and never rescinded, there was no suspension of the weekly payments by reason of the plaintiff's illness and inability to work. It is allowed that under this contract there could be no deduction from the weekly sum in respect of his having been disabled by illness from working for one day of the week; and while the contract remained in force, there was no difference between his being so disabled for a day, or a week, or a month. Hence the servant succeeded in recovering his wages.

In the case of an apprentice becoming disabled, something obviously turns on the language of the indenture. In one remarkable case of *Boast* v. *Firth*, L. R., 4 C. P. 1, the father of the apprentice had covenanted that the apprentice would honestly remain with and serve the plaintiff as his apprentice during all the term agreed upon. And the master sued the father on the ground that this covenant was broken. The defence was that by the act of God, the apprentice had become permanently ill, and the father thereby was excused from performance of his covenant. The question raised was whether permanent illness caused by the act of God, and which commenced after the making of the indenture, was an answer. The court said that the whole contract was of a personal nature, and it must be taken that permanent illness or death must have been within the contemplation of the parties, and would override the liability of the parties under the covenant. A condition was obviously implied that the apprentice should continue in such a state as to be able to perform the service. And on that footing the father was held to be excused.

A case of a similar contract occurred in *Robinson* v. *Davison*, L. R., 6 Ex. 269. The plaintiff was a contractor for musical entertainments, and had agreed to pay £20 to the husband of Arabella Goddard so that she would perform on the piano with other artists, but she failed to appear at the appointed time. The reason was that she was too ill to perform. The plaintiff sued for damages for breach of the agreement. The defendant accordingly set up this excuse as an answer to the action. The question again was, whether illness was an excuse, and the point was argued at length. Kelly, C. B., in giving judgment, quoted another decision in *Hull* v. *Wright*, E. B. E. 746, where it was laid down as law that all contracts for personal services which can be performed only during the life-time of the party contracting, are subject to the implied condition that he shall be alive to perform them; and should he die, his executor is not liable to an action for the breach of contract occasioned by his death. So a contract by a painter to paint a picture within a reasonable time would be deemed subject to the condition that if the painter became paralytic, and so incapable of performing the contract by the act of God, he would not be liable personally in damages any more than his executors would be if he had been prevented by death. So in this case of the artist engaged to play the piano, the parties must have known their contract could not be fulfilled unless the defendant's wife was in a state of health to attend and play at the concert on the day named. The court at the same time held that it was the duty of the lady to give early notice of her

inability, so as to lessen the loss that might fall on the plaintiff.

Thus the servant is, as a rule, entitled to the wages during illness, and if sued, can set up illness as an excuse for performance. Here again arises a distinction that might occur to most people, namely, whether if the illness is caused by the servant's imprudence or misconduct, the same consequence follows. This very point was decided in *R.* v. *Raschin*, 38 L. T. (N. S.) 38. The plaintiff was a merchant's clerk engaged at a salary of £120 a year. He became unwell on 30th of July, and obtained permission to be absent from work till 6th August following. He remained away, and was under medical treatment and unable to return till the first week in September, when he tendered his services, which were declined. The employer had meanwhile, on 20th August, given him notice terminating the employment from that date. He claimed wages from 1st August to 20th September, during the absence; but the employer declined, on the ground that the clerk had by his own misconduct (which was proved at the trial) rendered himself incapable of performing his duties. The plaintiff being nonsuited, leave was given to enter a verdict for the plaintiff, and after argument, the court held the plaintiff to be entitled. Cleasby, B., said that the question was, whether or not illness was such an excuse as to disentitle him to recover wages during his absence from the employment in consequence of it. *Prima facie* illness is to be attributed to the act of God, and the court is not justified in going back for any length of time and entering into an investigation as to what may have been the cause of it. The effect of disability from illness is not to be extended. The illness which rendered the plaintiff unable to perform his duties for a time came upon him unexpectedly, and the court cannot go back to first causes and into the question of how it arose. The maxim, *causa proxima non remota spectatur*, is applicable. As to how precisely the disease arose there may be different opinions and the greatest uncertainty. It was merely a misfortune which could not have been foreseen at the time the contract was made, and the servant was entitled to wages.

The case of *Carr* v. *Hadrill*, 39 J. P. 246, may also be referred to as confirming the previous cases. A biscuit baker had been employed on the terms of a week's notice. One day he sent word that he was ill and unable to attend, and on inquiry this was found to be correct. After an absence of five weeks he returned, when the master refused to allow him to resume work. No notice had been given by the master to quit the service. The Court of Queen's Bench held that the contract was not discharged by the servant's absence from illness, and being still a servant, was entitled to his wages, and to return to work till he got a week's notice to leave.

The same doctrine was fully confirmed in the case of *Poussard* v. *Spiers*, 1 Q. B. D. 410. The plaintiff agreed to sing and play in a female part in a new opera at a weekly salary of £11 for three months. The first performance was to be on the 28th November. She attended several early rehearsals, but the final rehearsal had not arrived when the plaintiff was taken ill. She continued unwell and unable to attend the rehearsals for the first performance on 28th November, so that another artist had to be engaged temporarily. On the 4th December, the plaintiff was well enough to perform and tendered her services, but these were declined. The question of importance was whether the employer was entitled to rescind the contract when it was discovered that the plaintiff was so ill as to endanger the success of the opera. And the court held that as the inability to attend the first performance went to the root of the matter, it entitled the employer to rescind the contract.

The recent case of *Patten* v. *Wood*, was scarcely needed in order to ascertain the law bearing on these matters, but as the magistrate made a mistake, it obviously requires to be borne in mind how the law stands. The appellant, a plumber, had taken as apprentice the respondent, and the deed covenanted that he should pay the apprentice, after a certain date, 14s. a week. During that year, the apprentice had a tumor in his right hand, and it required him to go to a hospital to be treated, and he became an in-patient for a fortnight and underwent an operation. For

the next fortnight he was an out-patient. The apprentice claimed wages during his absence, and the master refused, whereupon the application was made to justices under 38 & 39 Vict., ch. 90, for an order on the master to pay these. The magistrate refused, and held that the master was not liable. The court however held that the magistrate was wrong, and that the series of cases which had established the right of the servant had been overlooked. Such a point can scarcely indeed be argued when the authorities are properly understood and applied.—*Justice of the Peace.*

PRESUMPTIONS AND THE DATE OF DEATH.

The case of *Rhodes* v. *Rhodes*, 56 Law J. Rep. Chanc. 825, reported in the October number of the Law Journal Reports, deals with a very interesting question of domestic law. In the year 1850 Alfred Rhodes emigrated to South Australia, and was last heard of in 1873. Administration to his personal estate was taken out some time after 1880, and it appeared that the persons who would be his next-of-kin if he died in 1873 were altogether a different set of persons from his next-of-kin if he died in 1880—that is to say, no one person filled the character of one of the next-of-kin at both dates. Again, the persons who filled the character of next-of-kin in 1880 would not have filled that character in, say, 1875, or if they filled it they would have taken a different proportion of his personalty at that date. The case, which arose before Mr. Justice North under an originating summons, consisted of claims by the next-of-kin in 1873 and claims by the next-of-kin in 1880, and he decided that he could give the property to no one of those persons, because it was impossible to say that the presumption of law was in favor of the deceased having died immediately after his being last heard of, and equally impossible that it should exclude all persons who were next-of-kin at dates between the termini at any one of which the deceased might have died. The facts were perhaps rather exceptional, but they suggest some interesting questions in regard to this branch of the law of presumptions.

In the first place it may be as well to get rid at once of the idea that the law presumes the death to have taken place at the *terminus a quo*. The suggestion has really only been thrown out as a *reductio ad absurdum* of the notion that there is a presumption in favor of the death at the *terminus ad quem*. Lord Justice James is, we believe, responsible for the suggestion when he said, in the case of *In re Lewes' Trusts*, 40 Law J. Rep. Chanc. 602, that "if anything is to be presumed it would be that the death took place on the the first day of the seven years," as to which Mr. Justice North says truly, "I do not think that was the opinion of the Lord Justice." It is impossible to say that the law presumes that because a man has been unheard of for seven years he died at the very moment when he was last heard of. The other view, which was actually taken by Vice-Chancellor Malins in the unreported case of *Re Westbrook's Trusts*, that the date is at the end of the seven years, is more plausible. The argument is that, as the law does not presume him dead till seven years are passed, he must be taken to have died at the end of the seven years. This, however, is a confusion of one date with another. It is not correct to say, as is sometimes said, that the law does not presume that he died at any particular date. It presumes that he died at a date represented by, say, 1877-1883, which is as much a date as November 1. It is not so detailed a date, but the same difficulty might arise in regard to the hour of a man's death. Suppose, for instance, a man is missed on a Wednesday, and is found dead early on Thursday morning, and it is material whether he died on the one day or the other, the law has no presumption on the subject; and if a succession to property depended on the fact, and there was no reasonable evidence one way or the other, the law falls back on its ultimate resource *ei incumbit probatio qui dicit*,' and the party who has to prove the fact fails. Similarly in regard to two persons being drowned in the same shipwreck, although other systems of law have artificial distinctions in regard to age and sex, the English law has

none. Sometimes, of course, the period of seven years is a sufficiently close date for the purposes of the succession to the dead man. If his heir was the same person at the beginning of the seven years as at the end, he must have been his heir when he died, because the law presumes that he died during that period. If his wife was alive during the whole of the seven years she would have her half share, because, whenever he died, as it is presumed he did, she must have been his widow, although, if no one of the next-of-kin occupied that potential position during the period, the other half would go to the Crown.

The law, in fact, was fully settled in the case of *Doe* v. *Nepean*, 7 Law J. Rep. Exch. 335, by the decision of the Exchequer Chamber. It disposes by anticipation of the view of Vice-Chancellor Malins by saying: "Of all the points of time the last day is the most improbable," which is no doubt true. If the considers a man dead after a silence of seven years, it is because of an experience that a man does communicate with his friends once in seven years, and the nearer the seven years are to elapsing, the more likely is it that he would have communicated if he were not already dead. Lord Justice James's proposition that "if anything is to be presumed it would be that the death took place on the first day of the seven years" was evidently intended to clinch the proposition that the last day is the least probable, but it is more epigrammatic than true, because it cannot even be said that the first day is the most probable. All that can be said is that the probabilities are in favor of the date being in the course of the first year, but even that would depend on the habits of the deceased in writing home. The law, however, does not encourage speculations of this kind. Other systems of law, desiring to be universal, invent ingenious tests to decide the survivorship of commorientes and the like, but the English law does not pretend not to have gaps, and is content in many cases, when there is no reasonable evidence or presumption one way or the other, to leave legal rights as they stand.—*Law Journal (London).*

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Nov. 5.

Curators Appointed.

Re Alphonse Lafontaine, hotel keeper, Montreal.—J. A. Porlier, Montreal, curator, Oct. 27.

Re Damase Moineau, trader, Montreal. — W. A. Caldwell, Montreal, curator, Oct. 27.

Dividends.

Re Dery & La Rue, St. Charles.— First and final dividend, payable Nov. 19, H. A. Bedard, Quebec curator.

Re Irving & Sutherland, Montreal.—First and final dividend, payable Nov. 23, A. W. Stevenson, Montreal, curator.

Re Ferdinand Jobin.—First and final dividend, payable Nov. 26, Ed. Begin, Quebec, curator.

Re Pinkerton & Turner. Montreal. — Second and final dividend, payable Nov. 23, A. W. Stevenson, Montreal, curator

Re Sharp & McKinnon, Montreal. — Second and final dividend, D. L. McDougall and David Seath, Montreal, joint curators.

Re Chas. A. St. Pierre.—First and final dividend, payable Nov. 26, Ed. Begin, Quebec, curator.

Quebec Official Gazette, Nov. 12.

Judicial Abandonments.

Eugène Pommier, St. Chrysostome, Nov. 3.

Curators appointed.

Re Audet & Robitaille.— W. H. Brown, Quebec, curator, Nov. 2.

Re F. J. Cross.—James Alexander, Richmond, curator, Nov. 8.

Re Marie Barlow, widow of F. Beauchemin, Becancour.—Kent & Turcotte, Montreal, curators, Nov. 2.

Dividends.

Re Louis Collin & Frère, dry goods, Quebec.—First dividend, payable Nov. 25, H. A. Bedard, Quebec, curator.

Re A. T. Constantin & Co., dry goods Quebec.—Third dividend, payable Nov. 25, H. A. Bedard, Quebec, curator.

Re S. Desormeau, Buckingham. — First and final dividend, payable Nov. 25, John McD. Hains, curator.

Re McDougall, Lonie & Co.—First dividend, payable Nov. 29, A. F. Riddell, Montreal, curator.

Re McKenzie & Co, Buckingham.—First and final dividend, payable Nov. 17, J. McD. Hains, Montreal, curator.

Re James Murray & Co.—First and final dividend, payable Nov. 17, J. McD. Hains, Montreal. curator.

Re L. F. Rhéaume.—First dividend, payable Nov. 30, Kent & Turcotte, Montreal, curator.

Re Jacques Villeneuve.—First and final dividend, payable Dec. 1, C. Desmarteau, Montreal, curator.

Separation as to property.

Elizabeth Chrétien vs. Joseph Rivais, farmer, St. Norbert, Oct. 31.

Marie Louise Gagné vs. Louis Philippe Pleau, merchant, Three Rivers, Sept. 21.

Catherine Smith vs. James Farrell, clerk, Montreal, Sept. 17.

Appointment.

Edwin Ruthven Johnson, advocate, to be registrar of Sherbrooke *vice* Daniel Thomas, Nov. 9.