The Legal News.

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In bringing to a close the last issue of the year, which is also the last of the decade, we have to record our obligations to a very large number of correspondents, who have contributed valuable assistance to the current volume. In no year since the commencement of the work have we received so many interesting contributions from all parts of the Province.

The appointment of Mr. Benjamin Globensky, Q.C., as judge of the Superior Court, is announced in the *Canada Gazette* of Dec. 17. Mr. Globensky has been long associated with the Hon. Mr. Lacoste, Q.C., in a firm with a very extensive *clientèle*, and has enjoyed unusual opportunities of becoming thoroughly conversant with every department of professional business.

DISALLOWANCE — MANITOBA AND THE NORTH-WEST.

The Disallowance Question in Manitoba has been much written about in newspapers and periodicals, but a few words on some points from their legal aspect, not generally adverted to in articles on this most important question, may be useful to a right understanding of the subject. In the Act respecting the Canadian Pacific Railway, 44 Vict., chap. 1 (1881), it is recited in effect that the construction of the railway (C. P. R.) was stipulated by the terms of the admission of British Columbia into the Union,—that Parliament preferred its construction and operation by an incorporated company rather than by the Government,—that the greater portion was still unconstructed,—and that in conformity with the expressed desire of Parliament, a contract had been entered into for its construction and permanent working, a copy whereof was annexed to the Act and submitted to Parliament for its approval; and the first section of the Act approves and ratifies this contract and authorizes the Government to carry out its conditions according to their purport. It is enacted that the company shall have the right to build and work branches on any point on the main line to any point or points within the Dominion; that for twenty years from the date of the contract (21st October, 1880) no line of railway shall be authorized by the Dominion Parliament to be constructed south of the Canadian Pacific Railway from any point at or near the Canadian Pacific Railway, except such as shall run south-west or to the westward of southward, nor to within fifteen miles of latitude 49; and that in the establishment of any new province, provision shall be made for continuing such prohibition after such establishment until the expiration of the said period.

The Governor is then authorized to grant a charter of incorporation to the contracting company in the form appended to the contract and to the Act, and granting them the franchises, privileges and powers embodied in the contract, which being published in the *Canada Gazette*, shall be held to be an Act of incorporation of the company, and have effect as if it were an Act of the Parliament of Canada. Under this contract so confirmed, the company have acted and are acting, and claim the exclusive privilege therein stipulated for twenty years from its date, and the right of constructing branches as therein provided at any time, under the conditions mentioned in the contract: and the words "The Canadian Pacific Railway" are declared by the contract to be intended to mean the entire railway as described in the Act 37 Vict., c. 14, *i.e.*, from a point near to and south of Lake Nipissing, to its terminus at some point in British Columbia on the Pacific Ocean. This provision as to branches does not exclude the construction of other railways by other companies as the twenty year monopoly clause does, though it has been objected to as being too extensive, and as in some cases virtually preventing their construction.

The twenty year monopoly clause has given rise to much difficulty. The Manitoba Legislature, holding that it did not apply to that province as originally constituted and bounded, passed an Act authorizing the construction of a railway from Winnipeg to the southern Provincial boundary; and this Act was disallowed by the Governor under the

B. N. A. Act. The Manitoba Government undertook to make the railway under their Provincial Public Works Act, or of their own right. Exceedingly unpleasant litigation and bad feeling have been and are the consequence; and the Dominion Government has been violently abused for the disallowance, and I think improperly and unjustly. The Provincial Act seems to have been beyond the powers of the Provincial Legislature under sec. 92 of the B. N. A. Act (*a*), as relating to a railway "extending beyond the limits of the province," if not according to the *letter*, certainly according to the spirit of the said sec. 92, which expressly applies to railways connecting one province with another, and could hardly be intended not to apply to a railway connecting, as this was avowedly intended to do, a province with a foreign country. Sec. 91 of the B. N. A. Act expressly subjects ferries between a province and any foreign country to the *exclusive* jurisdiction of the Dominion Parliament; and for good reason, any such ferry (and *a fortiori* any such railway as that in question) requiring attention and regulation by the Dominion Customs Department as a port of entry. At any rate, if there be doubt, the unquestionable duty of the Dominion Government was to use its power of disallowance, as well as others it might possess, to give effect to the contract between Parliament and the Canadian Pacific Railway Company, and to keep the faith and honour of Canada intact. And this duty will devolve also on any other Government succeeding that in power when the contract was made, or Canadian bonds will become of small account on the world's exchanges. Whether the contract was good and wise or not, does not affect this point. The contract must not be broken without the consent of the Canadian Pacific Railway Company or its failure to perform the conditions it undertook. What any member or minister may have said in the House or out of it matters not; there is no doubt that Parliament, by the said Act, grants, and must have intended to grant, the twenty year monopoly, and it was part of the consideration for which the company undertook to make the railway, and made it.

G. W. W., *Ottawa.*

NEW PUBLICATION.

A TREATISE ON THE LAW RELATING TO THE CUSTODY OF INFANTS, by Lewis Hochheimer, of the Baltimore Bar. Baltimore, John Murphy & Co.

This is a work of some proportious upon a very interesting branch of the law. The author states that he has sought to cover the whole ground of the law relating to the custody of infants,—to collect and cite, in their proper places, all the important reported cases upon the subject that have been decided in the United States and Great Britain,—to arrange, in their proper sequence and relation, all the doctrines relating to the subject,—and above all, to set forth and emphasize, at every turn of the discussion, the true underlying principles that govern the subject. The chapters, ten in number, treat (1) of the nature and limitations of the right of custody; (2) Interference of Courts of Chancery in questions of custody; (3) & (4) Interference of the Courts upon writs of *habeas corpus;* (5) The remedy by *habeas corpus;* (6) Probate and testamentary guardians; (7) Disposal of the custody upon applications for divorce; (8) Illegitimate children; (9) Apprentices; (10) Juvenile institutions. About four hundred cases are cited, some of them very fully. The work appears to have been very carefully planned and executed, and cannot fail to be of service to the profession in their examination of questions arising under this branch of the law.

ELECTORAL DISTRICT OF OTTAWA.

AYLMER (Dist. of Ottawa), Sept. 28, 1887.

Before WURTELE, J.

Ex parte CHARTIER, applicant.

Quebec Election Law—42-43 *Vict.* (*Q.*) *ch.* 15—*Recount—By Whom Asked For.*

HELD:—*That a recount of votes need not necessarily be asked for by a candidate, but that it may be asked for either by a candidate or by any elector of the electoral district.*

An election for a member to represent the electoral district of Ottawa in the Legislative Assembly, took place on the 14th of Septem-

ber, 1887, at which Narcisse E. Cormier and Alfred Rochon were candidates, and on the final addition of the votes cast, the returning officer found that Mr. Rochon had a majority of the votes.

Within the four days prescribed by the Quebec Election Law, an application was made for a recount, by Léon Chartier, a duly qualified elector of the electoral district.

On the day appointed for the recount, when the returning officer produced the parcels containing the ballots, Mr. Rochon objected to the recount, on the ground that it had not been asked for by the other candidate, and that only a candidate had the right to demand a recount; and he moved that the judge declare himself incompetent to proceed.

PER JUDICEM. The amendment to the Quebec Election Law, which provides for a recount (42–43 Vict., cap. 15), does not specify by whom the application must be made; it merely provides that on the production of the affidavit of any credible witness, and on the deposit by the applicant of the sum of $50, within four days after that on which the final addition of the votes has been made, the judge shall appoint a time for a recount of the votes.

A recount is granted when it is affirmed that any deputy returning officer, in counting the votes, has improperly counted or rejected any ballot-papers, or that the returning officer has improperly summed up the votes. The application for a recount is a contestation of the regularity of some of the proceedings at an election, and of the declaration of the returning officer, and a demand for a revision of such proceedings and for the rectification of the declaration. It is of the nature of the contestation of an election, although a summary and not a final proceeding. All persons qualified to contest an election and present an election petition, have, therefore, the same interest and consequently, in the absence of any provision of law to the contrary, the same right to demand a recount.

Under the Controverted Elections Act, an election may be contested, either by one or more electors who were duly qualified to vote at the election questioned, or by one or more candidates at such election; and I am of opinion that any elector whose name is duly entered on the list of electors which availed at an election, is likewise entitled to demand a recount.

As the applicant, Léon Chartier, appears to be a duly qualified elector, I therefore over-rule the objection taken; and I will proceed to make the recount.

Recount proceeded to.

Henry Aylen, for applicant.

L. N. Champagne, for candidate declared elected.

SUPERIOR COURT—MONTREAL. *

Costs—Distraction—Action by client who has paid costs to attorney—Prescription—Company—Authority of managing director—Unlawful acts—Malicious seizure—Probable cause.

HELD:—1. That an attorney, to whom distraction of costs has been awarded, is the personal creditor for such costs, and if his client pays them and obtains a transfer, the transfer must be served upon the debtor before action can be brought therefor.

2. Prescription of any right of action which may arise out of a pleading does not run from its date, but from its disposal by the Court.

3. Unlawful acts of the managing director of a company, designed to bring about the ruin of a copartnership firm, do not bind the company or make it responsible for damages, unless approved or ratified by the company.

4. Where the stock and machinery of a firm were already under seizure at the instance of another creditor, upon an affidavit charging insolvency and fraudulent secretion, and one of the partners had declared himself insolvent, and had attempted to make an assignment in the name of the firm, that the defendants, overdue creditors and unpaid vendors, had reasonable and probable cause for making a seizure in revendication of their own goods.

5. The allegations of the declaration in this case make the action one of damages for malicious proceedings, and not for libel or slander.—*Bury* v. *The Corriveau Silk Mills Co.* Davidson, J., Nov. 15, 1887.

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

COUR D'APPEL DE TOULOUSE.

16 mai 1887.

Présidence de M. FABREGUETTES, premier président.

DELCAMP et al. v. ARNOUX ET CIE D'ASSURANCE LE LANGUEDOC.

Louage— Incendie — Locataire — Propriétaire occupant l'immeuble — Responsabilité — Preuve.

Sous l'empire de la loi du 5 janvier 1883, *modificative de l'art.* 1734 *C. civ., comme sous l'empire de la législation antérieure, la présomption de faute établie par l'art.* 1733 *contre le preneur, en cas d'incendie de l'immeuble loué, ne peut être invoqué par le propriétaire, qui s'était personnellement réservé l'usage et la jouissance de certains locaux dépendant du dit immeuble. La responsabilité du premier est subordonnée, en ce cas, à la preuve, qui incombe au propriétaire, que l'incendie n'a pas commencé dans la partie de l'immeuble qu'il s'était réservée.*

Il en est ainsi spécialement au cas où le propriétaire s'est réservé dans l'immeuble un réduit, servant de magasin pour les matériaux divers, propres aux réparations locatives que comporte le dit immeuble, et que le concierge, qui y dépose les provisions de ménage, a l'occasion de visiter fréquemment.

LA COUR,

Attendu que le sieur Arnoux, assuré à la compagnie le Languedoc, est propriétaire à Toulouse, rue Saint-Antoine-du-T, d'un très vaste hôtel, dont l'un des corps de bâtiment, se composant de trois étages, a été incendié dans la soirée du 10 août 1885 ;

Attendu qu'il résulte du rapport des experts commis, ainsi que des témoignages par eux recueillis, que l'incendie n'a pris naissance et ne s'est manifesté qu'au troisième étage ; que ce troisième étage divisé par un corridor longitudinal était occupé par Delcamp, Laynevèze, Vallier et Arnoux le propriétaire, lequel s'y était réservé un réduit servant de magasin pour les matériaux divers, propres aux réparations locatives que comporte son important immeuble ; qu'il faut aussi préciser que le concierge, préposé du propriétaire, faisant dépôt, dans ce réduit, de certaines de ses provisions de ménage, avait par conséquent fréquemment l'occasion de le visiter ;

Attendu, d'autre part, qu'il est établi que ce troisième étage affecté à des galetas et formé de doubles cloisons en planches dont l'intérieur était garni de copeaux de bois, présentait une surface à ce point combustible que le feu, commençant sur un point quelconque de son étendue, devait se développer avec la plus grande rapidité jusqu'aux extrémités : que les premier, deuxième et troisième témoins ont vu les premières flammes sortir du côté de la rue Dutemps, par la fenêtre A près de laquelle se trouve le réduit du propriétaire ; que les secondes flammes aperçues par les premier et deuxième témoins ont jailli de la fenêtre B, pratiquée dans le réduit même du propriétaire ; que l'embrasement s'est immédiatement après manifesté au dehors, dans toute la partie comprise entre le logement d'Anna Labat situé dans un deuxième corps de bâtiment et la rue de Phalsbourg (déposition des cinquième, sixième et septième témoins) ; que le vent du sud-sud-ouest, qui soufflait avec violence au moment de l'incendie, a projeté naturellement les flammes par les fenêtres A et B et qu'il est impossible dès lors, de déterminer sur quel point le feu s'est déclaré ;

Attendu que, pour considérer le grenier Laynevèze comme point initial de l'incendie, le Tribunal se fonde, avec les experts, sur ce que : 1° le plancher du deuxième étage n'a été brûlé que sur la partie correspondant au grenier ; 2° les murs du deuxième étage, à peu près intacts sur tous les autres points où ils ont conservé partie de leurs tapisseries, sont complètement dégradés en cet endroit ;

Attendu qu'il résulte des renseignements fournis et des photographies produites : 1° que les papiers des tentures sont, au contraire, beaucoup mieux conservés sur ce point que sur les autres ; 2° que les poutres qui recouvraient le grenier Laynevèze et n'étaient situées qu'à un mètre 60 centimètres au-dessus du plancher, subsistent encore, tandis que partout ailleurs elles ont disparu ; qu'au reste, conclure de l'intensité des ravages sur un point à la durée de l'incendie, c'est émettre une conjecture hasardeuse, puisque la force, l'intensité du feu,

peuvent tenir non à sa durée, mais plutôt à la nature et à la qualité des matières qu'il a eu à dévorer ; que c'est le cas dans l'espèce, puisque le grenier dont s'agit servait au dépôt des meubles et d'objets d'ébénisterie dont Laynevèze fait un commerce important ;

Attendu que les intimés soutiennent, sans en rapporter aucune preuve, que l'incendie serait dû à un vice de construction résultant de l'existence d'une ventouse pratiquée dans la cloison en briques simples, séparant la cuisine d'Anna Labat du grenier Laynevèze et ouverte à tort du côté de ce grenier ; qu'ils prétendent que, par l'effet de cette disposition vicieuse, une étincelle a pu et dû pénétrer dans le galetas Laynevèze ;

Attendu que tout démontre que, du côté de Laynevèze, cette ventouse était complètement obturée et qu'elle n'a cessé de l'être que par l'effet de l'incendie qui a désagrégé le mortier et fait tomber l'obtacle ; qu'en effet : 1° les angles extérieurs de la brique ont été abattus avec un marteau de maçon dans le but évident de permettre plus facilement et plus sûrement la prise du mortier qui scellait la brique de fermeture ; 2° les débris de ce mortier existent encore d'après les constatations faites, et il n'a pu être employé qu'à la clôture de la ventouse ; 3° l'épaisseur de la brique formant les lèvres de la ventouse du côté de Laynevèze n'a subi aucun contact de fumée et a conservé sa couleur naturelle, tandis que l'intérieur de la ventouse est rempli de suie ; 4° un fragment de brique trouvé dans la ventouse n'est revêtu de suie et noirci de fumée que dans la partie regardant l'ouverture de la ventouse dans la cheminée d'Anna Labat ; 5° le grenier de Laynevèze n'a jamais été envahi par la fumée ;

Attendu que les experts affirment, contre toute raison, que les briques du côté de Laynevèze ont pu être lavées par un courant d'eau fourni soit par les pompes, soit par les tuyaux de l'eau de la ville ; que cette hypothèse ne supporte pas l'examen ;

Attendu, d'autre part,—à supposer que la ventouse ne fût point fermée,—que cette ventouse qui avance de dix-sept centimètres dans la cheminée n'a qu'une ouverture de trois centimètres, qui s'élargit au milieu du canal seulement, pour atteindre douze centimètres ; qu'il faut donc supposer qu'une étincelle, au lieu de monter verticalement dans le canon où se produisait le tirage actif, aurait rétrogradée de dix-sept centimètres pour s'engager dans un orifice fort étroit, obstrué en partie par une brique ; qu'elle aurait, évitant cette brique et pénétrant dans le grenier Laynevèze, couvé depuis midi (seul moment de la journée où Anna Labat a allumé un sarment) jusqu'à neuf heures du soir où l'incendie a éclaté ;

Attendu, en cet état de faits, qu'il faut donc revenir à cette constatation que l'incendie a éclaté au troisième étage, sans que l'on sache avec certitude où il a pris naissance et par quelle cause il a été occasionné ;

Attendu, par suite, qu'Arnoux et son assureur le Languedoc ne peuvent invoquer les art. 1733 et 1734 du C. civ. qu'en prouvant que l'incendie n'a pu s'allumer dans le réduit occupé par Arnoux ; que cette preuve, loin d'être faite, serait dans une certaine mesure démentie par les inductions à tirer des dépositions des 1er, 2e et 3e témoins ;

Attendu que la loi du 5 janvier 1883 n'a en rien affirmé la jurisprudence formée sous le Code civil de 1804 ; que vainement on voudrait prétendre que, d'après le rapporteur de la commission du Sénat : " La part de la " maison occupée par le propriétaire est assi- " milée à la part qu'occuperait un autre loca- " taire " ; qu'il résulte, au contraire, expressément des rapports de MM. Batbie et Durand, que la loi nouvelle n'a été faite que pour supprimer la solidarité entre locataires (V. d'ailleurs Batbie, Revue critique, 1884, p. 736 et suiv.) ;

Attendu que, dans l'incertitude des lieu et cause de l'incendie, les locataires n'ont aucune action contre le propriétaire et qu'ils n'établissent pas, dans les termes de l'art. 1382 C. civ., une faute quelconque à la charge d'Arnoux ;

Attendu, en ce qui concerne la Société d'agriculture, qu'à tort elle avait été mise en cause en première instance et appelée devant la Cour ; qu'en effet, elle n'était locataire qu'aux premier étage et rez-de-chaussée du bâtiment incendié, alors qu'il était certain, avant tout litige, que l'incendie ne s'était produit qu'au troisième étage ;

Par ces motifs,

Infirmant le jugement rendu par le Tribunal civil de Toulouse, à la date du 30 novembre 1886;

Dit que l'incendie qui a éclaté le 10 août 1885, à 9 heures du soir, dans une aile de l'hôtel Arnoux, rue Saint-Antoine-du-T, s'est produit au troisième étage de ce corps de bâtiment dans lequel le propriétaire occupait un réduit constituant une véritable cohabitation de sa part;

Déclare que cet incendie n'a ni cause connue ni lieu d'origine établi et qu'il ne peut être attribué à aucun vice de construction; quoi faisant, rejette comme irrecevable l'action d'Arnoux et du Languedoc contre Delcamp, Laynevèze et Vallier.

NOTE.—La jurisprudence admet sans difficulté, depuis la loi du 5 janvier 1883, comme sous l'empire de la législation antérieure, que le bailleur, en communauté d'habitation avec le locataire dans l'immeuble incendié, ne peut invoquer contre le dit locataire la présomption de faute établie par les art. 1733 et 1734 C. civ. V. en ce sens: 5 février 1887 et la note de M. May (Gaz. Pal. 87. 1. 338: Bordeaux 4 janvier 1887 (Gaz. Pal. 87.2.406); Pau 11 juin 1887 (Gaz. Pal. n° des 12-13 octobre 1887). Mais la communauté d'habitation, nécessaire pour faire disparaître la présomption de faute qui pèse sur le locataire, résultait-elle suffisamment des circonstances relevées par la Cour de Toulouse dans l'espèce ci-dessus? Nous sommes très sérieusement portés à en douter. Sa décision nous paraît, en tous cas, incompatible avec celle d'un arrêt de la Chambre civile de la Cour de cassation en date du 26 mai 1884 (Gaz. Pal. 85.2. supp. 98), qui décide dans une espèce, présentant avec l'espèce actuelle la plus grande analogie, que la seule circonstance de l'occupation d'un grenier dans l'immeuble loué par le propriétaire ou le concierge, son préposé, est insuffisante pour faire écarter, en faveur d'un locataire, l'application des art. 1733 et 1734 C. civ. Comp. également en ce dernier sens: Chambéry 9 décembre 1884 (Gaz. Pal. 85.1.602); Cass. 20 octobre 1885 (Gaz. Pal. 85.2.565) et les notes.—*Gaz. Pal.*

COUR D'APPEL DE PARIS.

11 novembre 1887.

Présidence de M. LEFEBVRE DE VIEFVILLE.

SOCIÉTÉ DU PETIT JOURNAL v. LE PETIT JOURNAL FINANCIER.

Journal—Titre—Propriété—Enseigne commerciale—Modification—Confusion.

Le groupement des mots qui forment le titre d'un journal constitue l'enseigne commerciale de ce journal.

Par suite, les tribunaux peuvent ordonner la modification, dans le titre d'un journal, de la partie de ce titre qui pourrait faire supposer que ce journal est une publication annexe d'un journal préexistant.

Le 29 mai 1886, le Tribunal de commerce de la Seine avait rendu le jugement suivant:

"Attendu que la Société demanderesse justifie qu'elle est propriétaire du titre *le Petit Journal*;

"Attendu que de Grammont publie une feuille périodique à laquelle il a donné le titre *le Petit Journal financier*;

"Attendu que la société demanderesse demande que le défendeur soit tenu de supprimer de son titre le mot "Petit," et de le supprimer également de tous numéros, exemplaires, affiches, insertions, imprimés et papiers de commerce;

"Attendu qu'il est établi que le journal dont de Grammont est le gérant présente par son titre toutes les apparences d'un journal qui constituerait une publication annexe au *Petit Journal*;

"Attendu que la désignation donnée au *Petit Journal*, lors de sa fondation, est devenue pour cette feuille une dénomination commerciale et, par l'usage, sa véritable propriété; que le groupement des mots constituant son titre est aujourd'hui sa véritable enseigne commerciale; que le titre "Petit Journal" est de nature à amener une véritable confusion avec le véritable *Petit Journal*; que la société demanderesse est donc fondée à réclamer la cessation de cette confusion;

"Attendu toutefois qu'il n'est justifié ni de mauvaise foi de la part de Grammont, ni d'un préjudice appréciable;

"Par ces motifs,

"Dit que, dans la huitaine de la signification du présent jugement, de Grammont sera

tenu de supprimer le mot "Petit" du titre de son journal, ainsi que de ses enseignes, affiches, insertions, imprimés et papiers de commerce;

"Dit que, faute par lui de ce faire, dans le dit délai et icelui passé, il sera fait droit;

"Déclare la société demanderesse mal fondée en sa demande en paiement de dommages-intérêts, l'en déboute;

"Et condamne de Grammont par les voies de droit aux dépens."

Appel, arrêt:

La Cour,

Adoptant les motifs des premiers juges;

Confirme.

TRIBUNAL DE COMMERCE DE LA SEINE.

15 novembre 1887.

Présidence de M. Raffard.

Webb v. Norbert Estibal.

Obligation—Cause illicite—Prix d'une distinction honorifique—Nullité.

Est nulle comme contraire à la morale publique, par application de l'art. 1133 *C. civ., l'obligation de verser une somme d'argent comme prix d'une distinction honorifique (dans l'espèce la croix de commandeur d'un ordre étranger).*

Le Tribunal,

Reçoit Webb opposant en la forme au jugement par défaut contre lui rendu le 15 février 1887, et statuant sur le mérite de l'opposition;

Attendu que, sans qu'il y ait lieu d'examiner les moyens de fond opposés par le colonel G. Webb, il ressort des documents versés au procès et notamment de l'engagement souscrit par ce dernier, lequel document sera enregistré avec le présent jugement, que le défendeur a contracté l'obligation de payer à Norbert Estibal la somme de 3,500 fr., contre la remise du brevet d'Isabelle la Catholique au grade de commandeur;

Attendu qu'une pareille convention doit être considérée comme contraire à la morale publique; que, dès lors, la cause de l'engagement souscrit par Webb est illicite, dans les termes de l'art. 1133 du C. civ., et qu'aucun Tribunal ne saurait donner de sanction à un contrat de cette nature;

Par ces motifs,

Annule le jugement du dit jour 15 février 1887, auquel est opposition;

Et statuant par disposition nouvelle:

D'office déclare Norbert Estibal non recevable en sa demande, l'en déboute;

Et le condamne en tous les dépens.

Note.—Il a été jugé dans le même ordre d'idées, et par application de l'art. 1133, qu'il faut considérer comme nulle l'obligation contractée pour prix des sollicitations et du crédit employé par une personne auprès d'une administration à l'effet de faire obtenir une place du gouvernement. V. Colmar 25 juin 1834; Trib. civ. Lille 10 janvier 1834 (Dalloz, Vo. Obligations, No. 643); qu'il en est de même de la convention par laquelle une personne s'engage envers un industriel à user de l'influence d'un tiers auprès d'une administration publique pour lui procurer des commandes de la part de cette administration: Paris 19 avril 1858 (D. 58.2.160).

D'après Merlin (Questions de droit, Vo. Cause, § 2), il ne faudrait pas mettre au rang des obligations fondées sur cause immorale les traités que des particuliers feraient entre eux pour que l'un sollicite au profit de l'autre une grâce du gouvernement. Il nous paraît difficile de souscrire à cette opinion.

Comp. Cass. 1er mai 1855 et le très remarquable rapport de M. le conseiller Laborie (S.55.1.337); Paris 3 février 1859 (S.59.2.295); Paris 8 février 1862 (S.62.2.377); Nimes 22 juin 1868 (S.68.2.270); Larombière, Obligations, t. I, No. 11, p. 326.—*Gaz. Pal.*

APPEAL REGISTER—MONTREAL.

Thursday, December 22, 1887.

Webster et al. & Taylor & Noyes et al.—Petition to take up *instance* granted.

Dompierre & Baril.—Motion for dismissal of appeal. Granted for costs by consent.

Gilman & Exchange Bank of Canada.—Judgment reversed without costs. Tessier, J., dissenting as to the adjudication of costs, being of opinion that the judgment in first instance and the judgment in Review should be set aside with costs as well in Review and in appeal.

Lowrey & Routh.—Judgment reversed with costs, Baby and Doherty, JJ., dissenting.

Brosseau & Forgues.—Judgment reversed with costs.

Beckett & Merchants Bank of Canada.—Judgment reversed with costs.

Guevremont & Guevremont.—Judgment confirmed.

Galarneau & Guilbault.—Judgment confirmed.

Senécal & Rouillard.—Judgment reformed with costs in favor of the appellant.

Gilman & Gilbert.—Judgment reversed, Baby and Church, JJ., dissenting.

Smith & Wheeler.—Judgment confirmed. Motion for leave to appeal to the Privy Council. Rule *nisi* for next term.

Dubeau & Robillard.—Motion for dismissal of appeal. Rejected without costs.

The Court adjourned to Jan. 16, 1888.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Dec. 17.

Judicial Abandonments.

Elmire Létourneau (S. St. Michel, fils), Montreal, Dec. 13.

Curators appointed.

Re Aldéric Maillé.—C. Desmarteau, Montreal, curator, Dec. 9.

Re J. B. Scott.—C. A. Sylvestre, Nicolet, curator, Dec. 10.

Dividends.

Re Zoël Bessette.—Dividend, J. L. Dozois, Granby, curator.

Re Thos. Dufresne & Co., Yamachiche.—Final dividend, payable Jan. 10, 1888, at office of F. X. O. Lacoursière, Louiseville.

Re M. Fournier, Scotstown.—Dividend, payable Jan. 10, 1888, Kent & Turcotte, Montreal, curator.

Re William Skinner Thompson.—First and final dividend, payable Jan. 4, 1888, J. M. M. Duff, Montreal, curator.

Separation as to Property.

Elizabeth Ann Garraty vs. Thomas Webster, tailor, Montreal, June 16.

Zéphirine St. Pierre vs. François Xavier Wilson, farmer and trader, St. Raphaël de l'Isle Bizard, Oct. 5, 1885.

Mathilde Vien vs. Joseph Couture, hotel-keeper, Stanbridge, Nov. 26.

APPOINTMENTS.

Messrs. Sévère L. de Lottinville and Alfred Désilets, appointed joint Prothonotary Superior Court, Clerk of the Circuit Court, and Clerk of the Crown, for the District of Three Rivers.

Alfred Morin, l'Anse aux Griffons, appointed joint Coroner, *vice* J. A. Lebel, resigned.

Court Terms Altered.

District of Chicoutimi:—Court of Queen's Bench, criminal term to begin Feb. 6. Superior Court, from 31st Jan. to 4th Feb. Circuit Court, 7th to 9th Feb. County Chicoutimi, at Hebertville, 27th and 28th January.

District of Saguenay:—Superior Court, 13th to 20th Feb. Circuit Court, 21st to 23rd Feb. County of Charlevoix, at Baie St. Paul, 27th Feb.

Notarial Minutes Transferred.

Minutes of Joseph H. Lefebvre and Thomas Brassard, Waterloo, transferred to Louis Tremblay, N.P., Waterloo.

Minutes of Louis Rainville, Arthabaskaville, transferred to Louis Lavergne, N. P., Arthabaskaville.

GENERAL NOTES.

A man had a right of pasturage on Liston common, and put on two cows to graze. Another man had a like right, and he put on two calves. The calves sucked the cows to such an extent that they yielded only a pint instead of seven or eight quarts. The cow man sued and recovered damages.

A MANX TRIAL.—In a lately published tale, "Green Hills by the Sea," the scene of which is laid in the Isle of Man, a strange Manx custom is described. It appears that up to 1845, and perhaps still, in a capital trial the bishop and archdeacon were required to appear upon the bench. The question put to the jury was, not as in England, "Guilty or not guilty," but "May the man of the chancel continue to sit?" The answer was plain "yes" or "no." In the latter case the departure of the clergy was followed by a sentence of death.—*Criminal Law Magazine.*

THE relations between the Lord Chief Justice of England and the Court of Appeal may fairly be said to be strained. The former is very sore at what he conceives to be the interference of the latter with his discretion on two points: (1) referring causes; (2) depriving of costs. His Lordship believes the Court of Appeal have officiously and improperly interfered in cases "about which they know nothing." He has determined never again to refer a case. This is a distinct gain, but the public expression of irritation with a superior court is much to be deprecated. The public don't understand it.—*Law Times.*

La Cour d'assises de Bône a condamné Isaac Guily, employé de l'enregistrement, à cinq ans de travaux forcés, pour faux en écritures publiques.

Cet individu a réussi, durant l'espace de quatre ans, à détourner la somme de 207,839 francs en établissant de fausses taxes pour frais judiciaires.

Son frère David Guily, et sa maîtresse, Marie Crochet, ont été condamnés, le premier à cinq ans de réclusion, la seconde à trois ans de prison, comme complices et recéleurs.

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