issued by Canadian jurists. By its arrangement, it is so well qualified for the purposes of the student that it must certainly become a text-book in our law schools; and it should have a ready sale amongst the profession generally as no library will be complete without so valuable a compendium.

CHARLES MORSE.

Ottawa, 7th March, 1890.

SUPERIOR COURT—MONTREAL.*

Libel in pleading—Pertinency of allegations—Malice.

Held:—(Reversing the decision of OUIMET, J., M. L. R., 4 S. C. 424), That the pertinency of a libellous allegation in a pleading is a justification only when the allegation is made in good faith, with probable cause, and without intention to injure; and the proof of these facts is incumbent on the party making such allegation; and in the absence of evidence of the truth of the allegation, or of probable cause, malice will be presumed. And so where the plaintiff in an action to annul an election, alleged subornation of perjury and other offences against the defendant, and made no proof in support of the charges, he was condemned to pay $100 damages.—*Charlebois* v. *Bourassa*, in Review, Loranger, Wurtele, Davidson, JJ., June 8, 1889.

Contract—Right of passage—Interruption—Waiver.

Held:—That where road trustees commuted for an annual payment the tolls payable by a street railway company travelling on a certain road, and the company agreed that the trustees, or the municipalities within whose limits the road was situated, should have the right to take up the road for certain purposes, without the company being entitled to any compensation or damages therefor, that the company was estopped not only from claiming damages, but also any diminution of the annual commutation payment for loss of use.—*Trustees of the Montreal Turnpike Roads* v. *Montreal Street Ry. Co.*, in Review, Taschereau, Wurtele, Davidson, JJ., Dec. 29, 1888.

* To appear in Montreal Law Reports, 5 S. C.

Prescription—Interruption par la faillite—Arts. 2224, 2232, *C. C.—Acte de faillite* 1864.

Jugé:—Que la faillite du débiteur en juillet 1865, accompagnée d'un bilan où la créance est portée par le failli, mais avec le nom d'un créancier autre que le créancier véritable, suspend la prescription durant tous les procédés en liquidation forcée, et que le créancier véritable, ou son cessionnaire, peut en 1885, vingt ans plus tard, et vingt-deux ans après l'existence de la dette prescriptible par cinq ans comme dette commerciale, mais avant la liquidation finale de la faillite, produire valablement une réclamation qui lui permette d'être colloqué avec les autres créanciers.—*In re Stephen*, failli, *Seath*, réclamant, et *Hagar*, contestant, Pagnuelo, J., 30 déc. 1889.

Novation—Deed of composition—Art. 1169, *C.C.*

Held:—Where a creditor, whose claim does not appear to be of a commercial nature, becomes a party to a voluntary deed of composition with his debtor, by the terms of which he remits half of the debt, and the interest, and agrees to accept the remainder by instalments, with security, without stipulating that the debtor shall not be discharged until the composition is fully paid,—that novation is effected; and the creditor has no right, upon the debtor's default to pay the instalments of the composition as they become due, to issue execution *de plano* upon the judgment obtained by him for the original debt.—*Vincent* v. *Roy dit Lapensée*, et *Roy* oppt., in Review, Johnson, Loranger, Wurtele, JJ., Jan. 31, 1889.

Quebec Controverted Elections Act, s. 41—*R.S.Q.* 500—*Mis en cause—Preliminary objections—Review.*

Held:—That the *mise en cause* (whether by the answer to the petition or subsequently) of any other candidate not petitioner in the cause, is in the nature of an election petition, and is subject to the rules prescribed for such petitions; and an appeal lies to the Superior Court sitting in Review, under s. 41 of the Quebec Controverted Elections Act (R. S. Q. 500), from a judgment maintaining preliminary objections of the *mis en cause*.—*Séguin* v. *Rochon*, et *Cormier*, mis en cause, Jetté, Loranger, Davidson, JJ., June 8, 1889.