COUR DE MAGISTRAT.

MONTRÉAL, 11 novembre 1889.

Coram CHAMPAGNE, J. C. M.

DAGENAIS v. TRUDEAU.

Minorité—Responsabilité—Choses nécessaires—Lésion.

JUGÉ:—*Qu'un mineur peut être poursuivi pour le coût d'habillements qui lui ont été vendus et livrés, sauf son droit de prouver qu'il a été lésé.*

L'action était sur compte pour le prix de deux habillements que le demandeur aurait vendus et livrés au défendeur, à sa demande.

Le défendeur plaida qu'il était mineur et qu'il avait été lésé.

La preuve n'établit pas la lésion plaidée par le mineur, et la Cour jugea que les habillements étant des choses nécessaires à la vie le mineur pouvait être poursuivi pour le recouvrement du prix qu'il était convenu de payer pour ces marchandises.

Jugement pour le demandeur.

Autorités:—Gagnon v. *Sylva*, 24 L. C. J. 251; *Thibaudeau* v. *Magnan*, 4 L. C. J. 146; 20 L. C. J. 131.

O. Robillard, avocat du demandeur.

Archambault & Pélissier, avocats du défendeur.

(J. J. B.)

COURT OF APPEAL.

LONDON, April 21, 22, 1890.

Before LINDLEY, L.J., and BOWEN, L.J.

VANDALA & Co. v. LAWES.

Action to enforce Foreign Judgment—Defence that Judgment was obtained by Fraud—Power of Court to go into Merits.

To an action brought on a foreign judgment in respect of certain bills of exchange, the defence was set up that the transactions between the plaintiff and one L. Reynold were not commercial transactions, but mere Stock Exchange gambling, and that the plaintiff concealed the fact from the foreign Court. At the trial, counsel for the defendant proceeded to cross-examine the plaintiff as to certain payments to show that they were made in respect of gambling transactions. CHARLES, J., stopped the cross-examination on the ground that the foreign Court had already determined the point, and that it was not open to the defendant to prove the fraud alleged.

On an appeal by the defendants a Divisional Court (DENMAN, J., and WILLS, J.) held that the cross-examination ought to have been allowed.

The plaintiff appealed from this decision.

Their Lordships said there were two clear rules with regard to proceedings to enforce foreign judgments: (1) That the foreign judgment could be impeached on the ground of fraud; (2) that a Court in this country cannot go into the merits which have been tried by the foreign Court. The question then arose what ought to be done when the question of fraud cannot be decided without going into the merits. There had been great difficulty on that point. But the point had been decided in *Abouloff* v. *Oppenheimer*, 52 Law J. Rep. Q. B. 1: L. R. 10 Q. B. Div. 295, where it was held that a foreign judgment obtained by the fraud of a party to the suit in the foreign Court, could not afterwards be enforced by him in an action brought in an English Court, although the question whether the fraud had been perpetrated had been investigated by the foreign Court, and their Lordships dismissed the appeal, with costs.

FIRE INSURANCE.

(*By the late Mr. Justice Mackay.*)

CHAPTER VI.

THE CONDITIONS OF THE POLICY.

[Continued from p. 327.]

Where a policy required the insured to give notice to the insurers of any other insurance in force upon the same property, it was held that notice to that effect, given to a travelling agent, was sufficient, though it never reached the insurers themselves, it appearing that the business of the agent was to solicit insurances, make surveys and receive applications, and that he was notified while actually engaged in preparing an application for the policy in question.[1]

[1] *McEwen* v. *Montgomery Co. Mut. Ins. Co.*, 5 Hill, 101. See also *Masters* v. *Madison Co. Mut. Ins. Co.*, 11 Barbour (N. Y.) R. 624.