

**SUPERIOR COURT—MONTREAL.\***

*Acte des chemins de fer, Québec—Paiement de la sentence arbitrale sur dépôt—Prolongation de délai.*

Jugé:—1o. Que d'après l'Acte des chemins de fer de Québec, un propriétaire exproprié de son terrain a droit, après que la sentence arbitrale a été signifiée, de s'en faire payer le montant à même le dépôt fait par la compagnie, quand même cette dernière aurait exercé quelque recours contre la sentence arbitrale, et notamment qu'elle aurait intenté une action pour la faire annuler.

2o. Que lorsque le délai dans lequel devait se rendre la sentence arbitrale, sous l'acte susdit, a été prolongé du consentement des arbitres et des parties, aucune des parties ne peut se plaindre que la sentence a été rendue après le délai originellement fixé. *La Compagnie de Chemin de Fer de Québec et Ontario v. Les Curé, etc. de Ste. Anne de Bellevue, Taschereau, J., 16 juillet 1887.*

*Election municipale—Mandamus—Serment d'office—Entrée dans les minutes.*

Jugé:—1o. Que lorsqu'une corporation municipale déclare illégalement que le siège d'un conseiller est vacant, le remède de ce dernier est un *mandamus* contre la corporation.

2o. Que la prestation du serment d'office par un conseiller municipal est une chose essentielle, mais que la disposition du Code municipal qui veut qu'une entrée de la prestation du serment soit faite dans le livre des délibérations du conseil n'est que directoire et n'est pas à peine de nullité. *Savarina v. La Corporation de la Paroisse de Varennes, Würtele, J., 5 août 1887.*

**DOMICIL AND MARRIAGE CONTRACTS.**

The case of *In Re Cooke's Trusts*, 56 Law J. Rep. Chanc. 637, reported in the August number of the *Law Journal Reports*, illustrates the working of the law of domicile in an interesting way, and marks a stage in the controversy on the question whether the

domicil of parties is the test of their capacity to contract or whether it depends on the law of the place of the contract. It will be remembered that in *Sottomayor v. De Barros*, 47 Law J. Rep. P. D. & A. 23, the Court of Appeal, consisting of Lords Justices James, Baggallay, and Cotton, held that the capacity to contract a marriage depended on the law of the domicile of the parties when they both had the same, and not on the law of the place. This decision, it appeared, was based on a mistake in fact, for on the case coming before Sir James Hannen on a second occasion (49 Law J. Rep. P. D. & A. 1) he found that the parties had different domicils, and that the law of the place applied in such a case, at the same time taking the opportunity of showing that the previous decision did not commend itself to his private judgment, especially as it went so far as to include contracts of all kinds. Besides this decision there is *Brook v. Brook*, 9 H. L. Cas. 227, the well-known case in the House of Lords, which holds that domiciled British subjects in the relation of deceased wife's sister and deceased sister's husband to one another cannot construct a valid marriage in a country in which it is legal. Of this case Lord Justice Cotton said: "The judgment in that case only decided that the English Courts must hold invalid a marriage between two English subjects domiciled in this country who were prohibited from intermarrying by an English statute, even though the marriage was solemnised during a temporary sojourn in a foreign country." Thus domicile, citizenship, and place of contract combine to complete the complication of this subject.

The facts of the present case were of a somewhat romantic kind. It arose out of a petition presented by Mr. W. Briggs for payment to him as residuary legatee of a lady whose maiden name was Nicholson of a moiety of a residuary estate left to her by the will of Mr. H. P. Cooke. Miss Nicholson was born in England of English parents. In 1839, being a minor, she married a French viscount at Boulogne, and previously to the marriage a notarial contract was entered into between them, by which a separation of goods took place, and the intended wife was to have free enjoyment and disposition of

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