

bonnes mœurs, doivent être reconnues valables, et qu'en vertu d'icelles dispositions le sus-nommé Joseph Roy, fils, avait le droit de disposer des biens meubles et immeubles, délaissés par Pierre Roy, et que Joseph Roy, par son testament reçu par Brault, N. P., le 2 septembre 1848, à Montréal, avait légué aux appelants, ses petits neveux, le terrain mentionné dans l'acte de donation, (moins les deux emplacements qu'il avait légués) pour, par eux, ses dits deux petits neveux, Joseph et Marguerite Dufaux, en disposer en toute propriété, à compter de la majorité du plus jeune des deux qu'il avait légué, en outre, un autre terrain aux appelants, et que quant à tout le reste de ses biens, il en avait donné la moitié aux appelants, et l'autre moitié en jouissance à l'intimée, et la propriété à ses enfants, et qu'il avait déclaré que ces legs, ainsi faits en jouissance à l'intimé, était pour servir d'aliment à ses enfants, et qu'ils ne pourraient être saisis ni aliénés sous quelque prétexte que ce fût; qu'il avait de plus ordonné que si quelque un de ses petits neveux décédait sans enfants, sa part accroîtrait à ses frères et sœurs :

Considérant qu'en vertu des dispositions contenues tant dans le dit acte de donation, le testament et le codicile du dit Pierre Roy que dans le testament du dit Joseph Roy, la demanderesse Marie Louise Herse n'a droit à aucune partie des conclusions de sa déclaration, et en conséquence infirme le jugement prononcé par la Cour Supérieure, &c.

Judgment reversed and action dismissed, DRUMMOND, J., dissenting.

Dorion & Dorion, for the Appellants.

E. Barnard, for the Respondents.

POITEVIN (plaintiff in the Court below), Appellant; and MORGAN (defendant in the Court below), Respondent.

Action for Slander—New Trial.

This was an appeal from a judgment of the Superior Court rendered by *Badgley, J.*, on the 28th of February, 1866. (See Vol. 1, L. C. Law Journal, pp. 120, 121.) The action had been instituted by a clerk for \$10,000 damages for verbal slander against his employer. The plaintiff had been dismissed from the service of the defendant for improper con-

duct and dishonesty, in sending goods out of the defendant's store to a confederate, without charging them in the books. The case was tried before a special jury, and the plaintiff obtained a verdict for \$300 damages. It was from the judgment setting aside this verdict, and ordering a new trial, that the plaintiff instituted the present appeal.

DUVAL, C. J., said there were some cases of which the less said the better. It was difficult to understand why the plaintiff should have thought proper to bring his case before that Court. The judgment ordering a new trial must be confirmed.

MEREDITH, C. J. (S. C.) DRUMMOND, and MONDELET, J. J., concurred.

Chapleau & Rainville, for the Appellant.

John Monk, for the Respondent.

LEPROHON, *et al.*, (defendants in the Court below), Appellants; and VALLEE (plaintiff in the Court below), Respondent.

Will—Propre fictif.

This was an appeal from a judgment rendered by *Smith, J.*, in the Superior Court at Montreal, on the 30th of April, 1863, granting the conclusions of the plaintiff's declaration, and condemning the defendants to pay the sum of £685.

The facts of the case are as follows:—Edouard Martial Leprohon, by will, made the 24th March, 1856, left £2000 to each of his six children, and in the will stated the amount which each had received *en avancement d'hoirie*, which was to be deducted from the £2000, the balance to be paid after his wife's death. The balance coming to Marie Louise Leprohon, one of the daughters, was £685. In the event of the death of any child of the testator before him, the legacy made to such child was to go to his or her children to be *propre* to such children. Marie Louise Leprohon died in 1858, leaving a minor child, Louis Gregory, by her marriage with John U. Gregory. The testator died in 1859, and Louis consequently took his mother's legacy. This child died subsequently at the age of three, and the question then arose as to who were his heirs with respect to the sum of £685, balance of the legacy of £2,000. The father, John U.