

Deposit by mother of minor—Construction of receipt—Right to recover deposit—Absence of husband—Effect of, in relation to marriage—Art. 108, C. C.—Pleading.

The depository of a sum of money gave a written acknowledgment that the money had been placed in his hands by the plaintiff; but it was added: "It is understood that the money belongs to plaintiff's minor son, aged 7, and that I shall pay him the same when he comes of age, on his own demand; until that time, I shall pay interest at 7 per cent., to the person who takes charge of him." The mother having sued the depository (who had not made default to pay interest) to recover the deposit:—

Held:—1. That the son alone was entitled to claim the money.

2. That the plaintiff could not, by special answer, raise the pretension that the terms of the receipt implied a donation by the mother to her son, which was null for non-acceptance by the minor; and, in any case, that the receipt did not mark the existence of a donation.

3. That the absence of plaintiff's first husband for twenty years, coupled with information that he had been drowned, was sufficient to establish his death.—*McKercher v. Mercier*, Davidson, J., June 28, 1888.

Liberté de conscience—Donation—Condition contraire à l'ordre public.

Jugé:—1o. Que la liberté de conscience est un principe fondamental de notre législation coloniale et de notre droit civil, et est, par conséquent, d'ordre public.

2o. Qu'en vertu de ce principe, une condition mise dans un testament créant une substitution en faveur des enfants du testateur, que ceux là seuls qui professeront la religion protestante pourront recueillir, est nulle comme contraire à l'ordre public.—*Kimpton v. La Cie. du Chemin de Fer du Pacifique Canadien*, Mathieu, J., 1 sept., 1888.

Gardien d'entrepôt—Saisie et vente des marchandises reçues dans un entrepôt—Quand elles peuvent être opposées.

Jugé:—Que bien qu'un gardien d'entrepôt qui a donné un reçu pour les marchandises qu'il a reçues dans son entrepôt, peut s'opposer à la saisie et vente de ces marchandises, néanmoins, il lui faut un intérêt pour faire cette opposition; et lorsque le porteur du reçu d'entrepôt aura déjà fait une opposition afin de conserver, le gardien d'entrepôt ne sera pas recevable à faire une opposition afin

d'annuler.—*Straas v. Kerouack*, Tellier, J., 12 déc., 1888.

Slander—Words uttered in foreign language—Averments of declaration—Arts. 20, 144, C. C. P.

Held:—1. Reversing the decision of Brooks, J., 11 Leg. News, p. 2, that in an action of slander, where the injurious words complained of were uttered in a foreign language, it is not necessary to set out the words in the language in which they were spoken. It is sufficient to state the words in the language of the declaration, and to establish that they were uttered in the hearing of persons who understood their meaning, and that plaintiff suffered damage in consequence thereof.

2. To charge against a minister that he had retained for his own use the whole or part of collections made by him for foreign missions is actionable, and \$150 damages were allowed.—*McLeod v. McLeod*, in review, Jetté, Taschereau, Mathieu, J. J., May 12, 1888.

Separation from bed and board—Grounds for—Adultery of husband—Arts. 188, 189, 190, C. C.

Held:—That the right of the wife to demand separation from bed and board on the ground of her husband's adultery, is absolute only when he keeps his concubine in their common habitation. When the husband is not guilty of this, his adultery is ground for separation only when by its publicity and other attendant circumstances, it constitutes a grievous insult to the wife. The adultery of the husband, when committed only after the wife has abandoned the conjugal domicile, has not the gravity which would attach to the act if committed while his wife is living with him. So, where the wife did not prove any act of adultery by her husband before she left the common habitation, and his acts of adultery committed subsequently were not attended with notoriety, or such circumstances as constituted a grievous insult to his wife, her demand for separation was refused.—*Tudor v. Hart*, Taschereau, J., April 14, 1888.

Quebec Controverted Elections Act.—Corrupt act—Evidence.

Held:—Where the uncorroborated statement of a person who alleged that he had been bribed, was positively denied by the person charged with the corrupt act—the evidence of the latter being the more credible and trustworthy,—that the charge should be rejected; and especially as this was the sole case by which the allegation of corrupt practices in the election was supported.—*The Jacques Cartier Election Case*, *Preston v. Boyer*, Johnson, Taschereau, Gill, J. J. (Gill, J. diss.), May 23, 1888.