

mont Ry Co., R. J. Q., 13 C. S., 2.—*Loranger, J.*, 1898, *same parties*, R. J. Q., C. S., 467; 4 *id. de J.*, 449; 1 R. J. Q., 51.

32. Action by the widow and children of one D., an employee of defendants, claiming \$30,000 damages for his death, caused by the fall of a derrick on board the steamer "Muriel", a British ship, registered in England. The company defendant was incorporated by Statute of Canada, with its head office in the city of Quebec, where the contract of hiring D., a British subject, was originally entered into. The Superior court dismissed the action, holding that the law of Trinidad, which denies such an action, governed, because the action was in tort, and by international law such actions must be decided by the law of the country in which the tort was committed, and even if the action were deemed to be based on the contract of hiring, the case would be governed by the law of the place where such contract was made, because it was not to be executed there, but in the West India Islands.

33. *Held*.—That the ship was then a part of the territory of England, and those, then and there, on board of her were not subject to the laws of the Island of Trinidad in respect to their mutual rights and liabilities connected with her loading and navigation, and therefore the doctrine of "common employment", or the maxim *actio personalis moritur cum persona*, if in force on said Island, could not be set up in order to defeat plaintiff's action.

34. Even if, by reason of the assent of D. to certain changes in some of the terms of his engagement with defendants having been given by him in New York, it could be held that his contract of hiring was made in the latter city, this would be unimportant in the present case, there being no allegation or proof of any difference between the law of New York and that of this province, and such difference cannot be presumed.

35. The rules of international law are based on reason and justice, on a sort of moral necessity to do justice in order that justice may be done to us in return; its rules are flexible, and the circumstances of each particular case have to be carefully considered and taken into account; and under the circumstances of the present case, only the most positive, clear and undisputed rule of international law would warrant the court in applying the law of Trinidad to enable defendants to defeat the claim of deceased's widow and children, pronounced by the law of this province to be a just one. No such rule existed, and, *scilicet*, even if the law of Quebec could not justly be applied, there was more authority for choosing the law of England than that of Trinidad.

36. The law to be applied in the case of responsibilities for an accident which happened on board a British ship, registered in England, belonging to a Canadian company, with its head office in Quebec, where the engagement of the deceased was made, the accident having taken place in the Island of Trinidad, Spain,

was that of the Province of Quebec. It could not be presumed to have been the intention of either D. or the defendants that the terms of his engagement with them or their mutual rights and liabilities connected with such engagement, or the services to be performed under them, should be interpreted or affected by any law other than that of this province, and it would be unreasonable and unjust to apply any foreign law to the decision of this cause so as to read into the contract of hiring the doctrine of "common employment", viz.: an implied consent by the party hired to take the risk of accident caused by the acts and defaults of his fellow employees, a consent which plainly defendants never intended to exact or said D. to give:—*C. R.*, 1896, *Dupont vs Quebec Steamship Co.*, R. J. Q., 11 C. S., 188.

37. La qualité de père et d'enfant légitime est irrévocablement régie par les statuts personnels du temps où elle a été acquise, et ces statuts régissent aussi le mode par lequel cette qualité peut être prouvée:—*Tellier, J.*, 1894, *Lefebvre vs Digman*, 3 R. de J., 194.

38. In the present case, the pretended right of the wife, to the ownership of \$3,000, involves a question of her status and capacity to contract, and is therefore governed by our Law under article 6, C. c.:—*White, J.*, 1897, *McNamara vs Constantineau*, 3 R. de J., 483.

39. Les mots "droits de gage" dans le deuxième alinéa de l'art. 6 du Code civil, s'entendent du nantissement dont il est question aux articles 1968 et suivants, et non du gage que l'article 1981 accorde au créancier sur les biens de son débiteur:—*Loranger, J.*, 1898; *Barker vs The Central Vermont Ry Co.*, R. J. Q., C. S., 467.

40. The rights and liabilities of alleged heirs domiciled in a foreign country in relation to immovables situate in this province are governed by the law of Quebec:—*Davidson, J.*, 1898, *Page vs McLennan*, R. J. Q., 14 C. S., 392; *R. J. Q.*, 7 C. S., 368; *R. J. Q.*, 9 C. S., 193.

41. La capacité d'un mineur, même commerçant, doit s'apprécier d'après les lois de son domicile:—*Jetté, J.*, 1895, *Jones vs Dickinson*, R. J. Q., 7 C. S., 313.

42. A daughter-in-law has no claim for maintenance against a father-in-law, where it appears that the latter was only temporarily within the province of Quebec when served with the writ of summons, and that by the law of his domicile, which was also the place of plaintiff's marriage to his son, no obligation is imposed on a father-in-law, to maintain or contribute to the support of children-in-law:—*Doherty, J.*, 1894, *Barnes vs Brown*, R. J. Q., 7 C. S., 287.

IV.—*Procédure*.—43. Les formalités de justice sont réglées par la loi du pays où la demande est formée:—*Loranger, J.*, 1885, *Giles vs Giroux*, 13 R. L., 652.

44. The action upon a promissory note is a matter of procedure, and it is governed by the