

versy, upon an appeal by the defendant, has not been established by the judgment appealed from. Supreme and Exchequer Courts Act, sec. 29.

Appeal quashed with costs.

F. X. Archambault, Q.C., for respondent.

H. Abbott, Q.C., contra.

COURT OF QUEEN'S BENCH—MONTREAL.*

Voiturier—Responsabilité—Dommages—Preuve.

Jugé :—10. Qu'un voiturier est responsable des avaries et dommages que souffrent les marchandises confiées à ses soins, lorsqu'il ne peut prouver qu'ils sont imputables à force majeure ;

20. Que la preuve de la force majeure et celle du vice de la chose même, si le voiturier l'invoque, incombe à ce dernier ;

30. Qu'un voiturier qui fait un contrat pour transporter des marchandises à un endroit éloigné, et qui en reçoit le prix, est responsable de ces marchandises jusqu'au lieu de leur destination, nonobstant qu'à moitié chemin, il aurait délivré ces effets à un autre voiturier pour les rendre au lieu convenu, du consentement du propriétaire.—*Ouimet & The Canadian Express Co.*, Tessier, Cross, Church, Doherty, JJ., (Church, J., diss.), 19 janvier 1889.

Uncertain bounds—Claim for trees cut—Evidence.

Where persons are occupying lands which have never been marked off by a regular survey, and one of them, instead of bringing an action *en bornage* to settle the limits of his property, sues a neighbour for the value of trees alleged to have been cut by him upon plaintiff's land, it is incumbent on the plaintiff to make it clear by positive testimony that the trees were in fact cut upon his land ; and if, upon the reports of surveyors, uncertainty exists as to the limits of the respective properties, the doubt must be interpreted against the plaintiff. In the present case, moreover, the weight of evidence was in favor of the defendant.—*Milliken & Bourgel*,

* To appear in Montreal Law Reports, 5 Q. B.

Dorion, Ch. J., Tessier, Cross, Bossé, Doherty JJ., January 19, 1889.

Tutor and minor—Release and discharge by minor on attaining age of majority—Prescription—C. C. 2258.

Held :—Where a minor on attaining the age of majority, gives her tutrix a release and discharge from all claims arising from her administration as tutrix, that the action of the minor for an account of the tutorship, is prescribed by the lapse of ten years from the date of such discharge ; and this rule was held to apply where the discharge was not given immediately and expressly to the tutrix, but to the trustees in whom the estate had been vested by the tutrix on her second marriage, the minor (then of age), however, declaring that she had received her share, and that she discharged the trustees and all others from all further accountability, and in a letter to the tutrix, fifteen years afterwards, expressly disclaimed any intention of disturbing the settlement.—*Watt et al. & Fraser*, Dorion, Ch. J., Tessier, Cross, Baby, Bossé, JJ., November 27, 1889.

Election law—38 Vict. (Q.) s. 266 (R. S. Q. § 425)—Promissory note—Promise referring to an election fund.

The respondent made his promissory note payable to his own order, and endorsed and delivered the same to appellants, who got it discounted ; and the proceeds were applied to an election fund of which the respondent was treasurer, the fund being used in promoting the election of members of the provincial legislative assembly. There was an understanding that the appellants would take up the note at maturity, as their contribution to the election fund. The appellants having failed to take up the note, it was paid by respondent. In an action by the latter against appellants :

Held :—That the respondent had no right to recover the amount of the note from the appellants, a promise or undertaking in any way referring to an election fund being void under 38 Vict. (Q.) s. 266, now R. S. Q. § 425.—*St. Louis & Sénécal*, Dorion, Ch. J.,