

according to the evidence.—Under such circumstances, the Court will declare the plaintiff to be the proprietor of the things revendicated, will order the defendant and the guardian, upon payment to them of the expenses incurred in preserving the objects, to deliver them up to plaintiff, but will condemn the plaintiff to pay the defendant's expenses and costs. *Lecours v. Price Brothers Co.* (1908), 16 R. de J. 441.

**Sale of goods** — *Failure of purchaser to complete payment*—*Revendication of goods* — *Obligation to tender back amount paid*—*Set-off of cost of installation*.—The obligation of the vendor, who revendicates an article, in default of payment of the price, to reimburse the purchaser or offer to pay him what has been paid on account, may be extinguished by set-off of the cost of installing the article, at the time of delivery, and, the case failing, he has the right to revendicate *de plano*. *Beland v. Malo*, 35 Que. S. C. 251.

**Sale of timber** — *Unpaid vendor* — *Condition—Entirety—Practice* — *Contestation of procsa-verbal—Time*.—1. A motion for leave to contest the truth of a *procsa-verbal* of seizure under Art. 236, C. C. P., should be made at the earliest possible moment after its alleged falsity becomes known, and the delay of 3 days prescribed in the 73rd rule of practice, touching irregularities, is a reasonable delay therefore.—2. The right of the unpaid vendor to revendicate the thing sold, provided in Arts. 1908 and 1909, C. C., is subject to the condition that it be still entire and in the same state as when sold. Timber sold to a dealer and delivered in his yard, though mixed in piles with his other stock, may still be entire and in the same condition as at the time of the sale. *Pariseau v. Desmarceau*, 30 Que. S. C. 48.

*See BANKRUPTCY AND INSOLVENCY—CONTRACT—EASEMENT—HUSBAND AND WIFE—PLEADING—REFLEX—SALE OF GOODS—SUBSTITUTION—VACATION—WARRANTY.*

## REVENUE.

**Amount payable by half-sister of testator.**—The words "sister of the deceased" in s. 8, 4 of s. 2 of the Succession Duty Act Amendment Act of 1899, include a half-sister. *In re Oliver*, 21 C. L. T. 364, 455, 8 B. C. R. 91.

**Bank shares** — *Mobilia Sequuntur Personam*.—The appellant, as collector of provincial revenue, sued the respondent as executor of the last will of Allan Gilmour, claiming that, although the deceased had died domiciled in the Province of Ontario, the Province of Quebec was entitled to succession duties upon 626 shares of the stock of the Merchants Bank of Canada and 4,275 of the Canadian Bank of Commerce, which were registered at the offices of the respective banks in Montreal, and also upon a certain loan made to a person domiciled in Quebec.—*Held*, that the succession devolved in Ontario and thus movable property, although locally situated in Quebec at the

time of the death of the testator, was constructively situated in Ontario according to the rule "*Mobilia sequuntur personam*," and therefore the Province of Quebec was not entitled to any succession duties thereon. *Lambe v. Manuel*, 21 C. L. T. 226, 18 Que. S. C. 184.

**Canners—Tackle furnished fishermen.**—Where canners furnish fishermen with fishing apparatus, but there is no agreement binding the fishermen to sell their catch to the canners, the latter are not liable for the revenue tax in respect of such fishermen. *Campbell v. United Canneries*, 21 C. L. T. 456, 8 B. C. R. 113.

**Chinese immigration—Breach of Customs Act—Entry of Chinaman into Canada without paying tax** — *Effect of—Indictable offence—Conviction*. *Rez v. Sam Chak*, 4 E. L. R. 381.

**Chinese Immigration Act, R. S. C. c. 95, ss. 7, 30—Evading payment of tax—Conviction—Invalidity.**—The defendant was tried and convicted before the County Court Judge for district No. 7 for violating the provisions of R. S. C. c. 95, ss. 7, 30 (respecting Chinese immigration), in that he, being a person of Chinese origin, did enter Canada without paying the tax required by s. 7 of the said Act. The Judge reserved several questions for the opinion of the Court, including the following: "Does the accusation sufficiently charge the defendant with an indictable offence under ss. 7 and 30 of c. 95 of the Revised Statutes of Canada, 1906?"—*Held*, that the statute imposes a tax upon persons of Chinese origin entering Canada, with certain exceptions, and provides machinery for the collection of the tax; it does not make the entering Canada by such persons without payment of the tax a criminal offence; and that, the defendants not being charged with any criminal offence, his conviction was unwarranted and must be set aside, and that he was entitled to his discharge. *Drysdale, J., dissented*. *Rez v. Sam Chak* (No. 2), 42 N. S. R. 374, 4 E. L. R. 381.

**Customs** — *Importation in original packages—False entry* — *Burden of proof*.—Where a seizure is made of goods imported into Canada, on the ground that, while the goods were stated in the entry papers to be imported in the original packages, they were not so imported in fact, if the claimant declines to accept the Minister's decision confirming the seizure, and obtains a reference of his claim to the Court, the burden of proof is upon the claimant to show the *bona fides* of the entry in dispute. *Crosby v. The King*, 11 Ex. C. R. 74.

**Customs** — *Infringement by importation of cattle without payment of duty* — *Intention to infringe—Exercise of ownership in Canada*.—Where cattle are liable to the payment of duty upon importation into Canada, the bringing of such cattle to a point within two or three miles of the boundary line between Canada and the United States constitutes an element in the offence of smuggling.—2. Where cattle are brought to Canada for pasturage, or to a point from which they themselves may drift into Canada for pasturage, if the owner in