

Jessie Ross, (Mrs. Kerby) and sole executrix of the will of the late John Ross, is appellant from the judgment of the Superior Court removing her as executrix owing to mal-administration. The Respondent moves to have a sequestrator to the estate appointed. She relies entirely on the judgment of the Court below.

The COURT refused the Respondent's petition. A sequestrator is only appointed on special cause. The judgment is not cause, even if the Court of Appeals has original jurisdiction in the matter, when the application is grounded on facts within the knowledge of the moving party prior to the judgment in the Court below.

Motion refused.

Ritchie, Q. C., and *Carter, Q. C.*, for appellant.
Kerr, Carter & McGibbon for respondent.

COURT OF QUEEN'S BENCH.

MONTREAL, January 27, 1882.

MONK, RAMSAY, TESSIER, CROSS & BABY, JJ.

TRACEY et vir et al., Appellants, and LIGGETT et al., Respondents.

Appeal—Interlocutory Judgment.

Motion for leave to appeal from interlocutory judgment. The action is to set aside a donation by a father to his daughter and her future husband by marriage contract, as being in fraud of creditors. The husband, Killoran, is sued to authorize his wife, and not in his own name. He appeared and pleaded with his wife. The case being inscribed on the merits, the judge discharged the *délibéré* in order that the husband should be called in personally, as he had an individual interest, and that time should be given to sell the real estate of the donor, then under seizure.

The COURT was of opinion that the order to call in Killoran was proper, but that the order to discuss the donor before giving judgment, or to refuse to give judgment until something was done which was not within the control of either of the parties, was irregular.

Leave to appeal granted.

Erratum.—In *Lord et al. & Elliott et al.*, ante, p. 124, 15th line of head note, for "delay attributable to the master or crew" read "delay attributable to the appellants." [An appeal has been taken in this case to the Privy Council.]

RECENT DECISIONS AT QUEBEC.

Foreign vessel—Suit for wages.—In a suit for wages brought in the Vice-Admiralty Court at Quebec, by seamen of a United States ship, the U. S. consul, upon receiving notice of suit, made a representation in writing to the Judge, accompanied by accounts showing the promoters to be indebted to the ship, and requested that the case should not be entertained. *Held*, that the jurisdiction of the Court over actions of this nature being discretionary, the court, would under the circumstances, decline to proceed with the suit.
—*The Bridgewater*, 7 Q. L. R. 346.

Mutual Insurance Company—Action against policy-holder after cancellation of policy.—The cancellation of a policy by a Mutual Insurance Company is sufficient ground to defeat an action brought against the policy-holder for a call made one month after the cancellation, unless it be shown that the call was made to meet losses anterior to the cancellation.—*Hochelaga Mutual Insurance Co. v. Girouard et al.* (Court of Review), 7 Q.L.R. 348.

Contract for towage.—An agreement was made on the Lower St. Lawrence with the owners of three powerful tugs, to tow a vessel to Quebec, and thence to Montreal, and back to Quebec.—*Held*, that the promoters, having towed the ship to Quebec and Montreal, could not substitute an inferior tug (which had two other vessels in tow), for the completion of the contract.—*The Euclid* (Vice-Admiralty Court), 7 Q. L. R. 351.

Water-course—Mill.—Le propriétaire d'un moulin qui fait marcher les eaux d'une rivière non flottable, a une action pour les dommages que lui cause la retenue des eaux, par éclusées, pour les besoins d'un moulin de construction plus récente en amont de la même rivière.—*Proulx v. Tremblay* (C.R.), 7 Q.L.R. 353.

Procedure—Service.—A witness who, in obedience to a writ of subpoena, comes into a district in which he is not domiciled, may be validly served therein with a writ of summons in a suit in such district.—*Bruneau v. McCaffrey* (In Appeal), 7 Q. L. R. 364.

Appeal.—A party obtaining leave to appeal from an interlocutory judgment forfeits such right if security be not given within the delay fixed by the Court.—*Id.*