

the judgment appealed from the particular legatee was held liable for such debt. The conclusion of the honorable judge in the Court below was as follows:—"Nous concluons donc que la seule interprétation raisonnable à donner à l'article 889 de notre Code, est que le légataire particulier, règle générale, est personnellement responsable de la dette hypothécaire qui frappe l'immeuble qui lui a été légué."

In appeal,

TESSIER, J., and CROSS, J., (dissenting) were of opinion to reverse the judgment, and to hold the universal legatee responsible for the hypothec on the immoveable bequeathed to the particular legatee.

DORION, C. J., RAMSAY, J., and BABY, J., constituting the majority of the Court, held that the particular legatee is bound to pay the hypothec on the immoveable bequeathed to him, and therefore the judgment of the Court below was correct. In the will was the ordinary provision that all the testator's just debts, funeral and testamentary expenses be paid by his executors as soon as possible after his death. The Court held that this was not such an order or direction as would exempt the particular legatee from paying the hypothec on the immoveable bequeathed to him, to the exoneration of the testator's general estate.

Judgment confirmed

Doutre & Joseph for Appellants.
Robertson & Fleet for Respondents.
S. Bethune, Q. C., Counsel.

COURT OF QUEEN'S BENCH.

MONTREAL, March 24, 1882.

DORION, C. J., RAMSAY, TESSIER, CROSS, and
BABY, JJ.

BICKERDIKE (def. below), Appellant, and MURRAY
(plff. below), Respondent.

Freight—Bill of Lading—Animals lost on the voyage.

The appeal was from a judgment of the Superior Court, Montreal, (Johnson, J.) maintaining an action by the master of a steamship (the respondent) for freight, for the conveyance of cattle and sheep on his ship from Montreal to Glasgow. (See 3 Legal News, p. 47, for report of the judgment in the Superior Court. The appellants resisted the action, alleging that the live stock had been swept overboard, and that

no freight was due. On the 11th September, 1878, the following letters were exchanged between Messrs. Robert Reford & Co., merchants, of Montreal, and the appellant, Mr. Bickerdike:—

"MONTREAL, 11th September, 1878.

"MESSRS. ROBERT REFORD & CO.

"SIRS,—I hereby engage to ship per steamer Colina, to sail hence for Glasgow on or about the 25th Sept. inst., all the cattle and (or) sheep and (or) hogs which she can conveniently carry on her upper deck at the rate of four pounds sterling per space of two feet nine inches in width by the usual length (surface of deck), sheep to be estimated as twelve (12) and hogs as ten in number to that space in lieu of cattle—you to supply all fittings, and ship to supply water only, and not to be responsible for loss of cattle, sheep or hogs from any cause whatever.

"Yours truly,

ROBERT BICKERDIKE."

On the same day Robert Reford & Co. answered the said letter in the following terms:—

"MONTREAL, 11th Sept., 1878.

"ROBERT BICKERDIKE, Esq., (Montreal).

"SIR,—We hereby engage to take for you per steamer Colina, to sail hence for Glasgow on or about the 25th Sept. inst., all the cattle and (or) sheep and (or) hogs which she can conveniently carry on her upper deck, at the rate of four pounds sterling per space of two feet nine inches in width by usual length (surface of deck), sheep to be estimated as twelve (12) and hogs at ten (10) in number to that space in lieu of cattle—you to supply all fittings, and ship to supply water only, and not to be responsible for loss of cattle, sheep or hogs from any cause whatever.

Yours truly,

ROBERT REFORD & CO.

On the 27th September, an agreement having been made by Mr. Bickerdike with a Mr. Head, with the consent of Reford & Co., that Mr. Head should furnish the cattle, &c., for a portion of the space so chartered, the appellant Bickerdike placed on board the steamship 81 head of cattle and 118 sheep, and thereupon Reford & Co. delivered a bill of lading. Among the exceptions in this bill of lading is found "jettison;" and the document (which was in fine type) also contained the following clause:—"Freight on live stock payable on the number of animals embarked, without regard to and irrespective of the number landed; and the owners of the vessel are not to be responsible for accidents, injury or death arising from any cause whatsoever." The following clause also appeared at the end of the document:—"In accepting this bill of lading, the shipper or other agent of the owner of the property carried, expressly accepts