

Negligence—Child killed on street railway.

HELD :—Reversing the judgment of *LORANGER, J., M. L. R., 7 S. C. 10*, where a child, two years of age, through the negligence or want of vigilance of its parents, is allowed to leave its residence and get on the track of a street railway, and is killed there by a car of the railway company, without any fault on the part of the employees of the company, an action of damages by the father of the child will not be maintained.—*Cie. de Chemin de Fer à Passagers de Montréal & Dufresne, Baby, Bossé, Doherty, Cimon, J.J., (Doherty, J. diss.) June 25, 1891.*

Procedure—Husband and wife—Wife erroneously described as separated as to property—Exception to the form—Amendment—Husband summoned only to authorize his wife—Cannot be made a party personally on motion to amend.

HELD :—1. The fact that the wife has assumed the quality of separated as to property, in a deed of lease to her, does not debar her, in an action against her in that quality, from pleading by exception to the form, and proving, that she is common as to property with her husband.

2. The plaintiff, under such circumstances, will be allowed to amend the writ and declaration by describing the wife as common as to property.

3. Where the husband has been summoned merely for the purpose of authorizing his wife (defendant), the plaintiff will not be allowed, on a motion to amend the original writ and declaration, to make the husband a party to the action personally, without summoning him in his personal capacity.—*O'Connor & Inglis, Lacoste, Ch. J., Bossé, Blanchet, Wurtele, Tait, J.J., Nov. 27, 1891.*

Writ of error—Plaintiff in contempt.

HELD :—That where the plaintiff in error, who had been convicted of a misdemeanour, was liberated on bail to appear at the ensuing term of the Court of Queen's Bench sitting in appeal and error, and on his default to appear his bail was declared forfeited, he is not entitled to be heard by counsel on the merits of the case, in his absence.—*Woods v. Reginam, Lacoste, Ch. J., Bossé, Blanchet, Wurtele, Tait, J.J., Nov. 21, 1891.*