

Louisiana it has been held that it cannot be done. In an ordinary action of *assumpsit* I would not be so strict in preventing a receipt from being put in. But in a case like this, where the plaintiff is a widow suing for rights of succession, and for the balance of a *prix de vente*, I do not think the *quittance* can be produced under the general issue pleaded. Moreover, the *quittance* is merely certified by Ryland, Deputy Registrar, as a true copy of a discharge before Brunet, notary, deposited in the Registry office, 28th of June, 1878. It is not certified by the notary, Brunet. I observe, too, that the plaintiff in his motion makes a serious charge against Brunet. This discharge should have been pleaded in order to prevent surprise of the plaintiff, and at this stage the defendant cannot be allowed to file the *quittance* without amending his plea.

Motion granted, "considering that payment, if meant to be urged by defendant, ought, in such case as this, to have been pleaded in order to prevent surprise of plaintiff; that defendant, in the present case, without amending his plea of record, ought not to be allowed to file a receipt such as tendered."

*Thibault & McGoun*, for plaintiff.

*J. E. Robidou*, for defendant.

PRIVÉ v. DILLON, and BEARD, intervening.

*Payment into Court—Motion for Deposit—Art. 543, C. C. P.*

The plaintiff under Art. 543, C. C. P.. moved that the Prothonotary be ordered to pay over the money deposited in Court by the intervening party. The intervening party by his intervention prayed that twenty tons of coal be declared to be his property, and he stated that he had always been ready to pay the balance of freight due thereon. He, therefore, tendered said balance and paid it into Court, declaring his willingness that the amount should be paid over to defendant "upon the release of the said attachment, and upon his, the said intervening party, receiving the said coal."

MACKAY, J. It is plain that Art. 543 C. C. P. does not apply here, because the consent is conditional. The plaintiff will take nothing by motion; no costs.

*Longpré & David*, for plaintiff.

*H. Abbott*, for intervening party.

EVANS et al. v. LIONAIS es qual., and J. D. E. LIONAIS et al., intervening.

*Intervention—Pleading.*

The action being brought on notes against the executor and administrator of the late Dame Henriette Moreau, and the defendant not having pleaded, an intervention was filed by three children of deceased, setting up that they are of age, that they are the universal legatees under her will, and that they have an interest in the conservation of the estate and a right to watch over its administration. They alleged that the estate had never received any value for the notes sued on.

The plaintiff having contested this intervention on grounds such as would be urged if the intervention had been a plea to the merits of the principal action, the intervening parties filed a *réponse en droit* to the contestation, among other grounds, "because the reasons invoked in the contestation could not be pleaded against the right of the intervening parties to intervene in the present cause."

The Court maintained the answer in law on the ground above stated, "seeing a *prima facie* right in the *intervenants* to file an intervention, and seeing that they have not yet pleaded to the *instance principale*, and are not by reason of any matter or thing cut off from right to urge yet what *moyens* they please against the said *instance principale*."

*J. O. Joseph* for intervening parties.

*Barnard, Monk & Beauchamp* for plaintiff contesting.

TRUST & LOAN CO. v. C. G. JONES, and R. A. A. JONES, Petitioner.

*Sheriff's Sale—Petition to be put in possession—Art. 712 C. P.—Property in possession of a third party.*

The petitioner set up that he became purchaser at a Sheriff's sale of certain tracts of land in the District of Bedford, and that a deed of purchase of such land had been duly executed by the Sheriff to petitioner; but that one A. E. Gould, a farmer, was in possession of the land in question, and refused to deliver it up to petitioner. He, therefore, prayed that the Court do order the Sheriff of the District of Bedford to give the petitioner possession, and that the Sheriff "take whatever means he will deem