and appellant became liable for the debts of the business.—*Davie & Sylvestre*, Tessier, Cross, Baby, Church, Bossé, JJ., Sept. 23, 1889.

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*Tutor and minor—Loan to minor—Arts. 297, 298, C. C.—Obligation void for violence and fear—Arts. 994-996, C. C.*

*Held*:—1. (Affirming the decision of the Court below), That a person lending money to a minor is bound at his peril to see that the authorization to borrow is regular on the face of it; and where no proper summary account was submitted by the tutor, as required by Art. 297, C.C., and the sub-tutor was moreover the agent and son of the lender, and was bound to know that in fact the loan was not required by the minor, but was being improperly obtained by the tutor for his own purposes, the obligation so given was held null and void.

2. (Reversing the judgment of the Court below), That threats to a woman in a weak state of health, and feeble bodily and mentally, that she would be turned out of her property, unless she signed an obligation and hypothec, constituted violence and fear within the meaning of Arts. 994, 995 C. C., and were a cause of nullity in the obligation executed in such circumstances, and without consideration.—*Kerr & Davis*, and *Davis & Kerr*, Tessier, Cross, Church, Bossé, Doherty, JJ., (Tessier and Bossé, JJ., dissenting on appeal of Kerr, and Tessier, J., diss. on cross appeal), May 28, 1889.

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*Servitude—Moulin banal—Obligation of riparian owners—Right of Co-proprietorship.*

*Held*:—1. The *droit de banalité* under the old law was a servitude which imposed on riparian owners the obligation of permitting on their land the construction of the dam (*chaussée*) necessary for the working of a *moulin banal* of the seigniory; and when the seigniorial tenure was abolished, the seignior remained sole owner of the mill and the dam.

2. While every riparian owner has the right to use the water of a stream adjoining his land, on condition of returning it to the stream at its exit from the land, he is not entitled to draw off water from a dam belonging to another, for irrigation or manufacturing purposes.

3. Joint use of a thing where one of the parties enjoys the use under a title obliging him to pay an annual sum for such use, cannot confer a right of co-ownership, however long such joint use may have lasted.

4. The right of the owner of the saw-mill in the present case was limited to the use of the surplus water not required for the operation of the *moulin banal*; but the plaintiff having wholly denied his right to use the water, the action was dismissed, the Court reserving to plaintiff the right to establish the limitation.—*Archambault & Poitras*, Tessier, Cross, Bossé, Doherty, JJ., Jan. 23, 1889.

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*Executrix—Liability for misappropriations of agent.*

*Held*:—(Affirming the decision of Johnson, J., M.L.R., 4 S.C. 92), That while an executrix who is also appointed administrator of the estate for a long term of years, has power to substitute another person for the management of the affairs of the estate, the executrix is bound to exercise supervision over the acts of the person so appointed, and cannot divest herself of her personal responsibility if she fails to take all due precautions.

2. An executrix cannot escape liability for the misappropriations committed by her agent, by simply establishing that such agent was a notary of excellent standing in the community; and the immunity granted to the mandatary empowered to substitute (under Art. 1711, C.C.) does not apply to a testamentary executrix.

3. In the present case the executrix had acted carelessly and without due precaution in making cheques payable to her agent instead of to the borrowers on the proposed mortgages, and in signing deeds without sufficiently examining their contents.—*Low & Gemley*, Tessier, Baby, Church, Bossé, JJ., Nov. 23, 1889.

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## *SUPERIOR COURT—MONTREAL.* *

*Review—Town Corporations—Judgment on petition to annul resolution of County Council—R. S. 4376, 4614.*

* To appear in Montreal Law Reports, 5 S.C.