

to law. He does not withdraw nor discontinue his seizure of the property in question. If Mrs. Kilby, through her neglect, has lost her rights, they cannot be lost for everybody. Who, then, acquired these rights if not the defendant? Or did not the defendant continue to exercise these rights, "he who was and remained the ostensible and registered proprietor and openly in possession of the property mortgaged \* \* \* he who was and is by law the presumed legal owner thereof, and who used the complainant's money to improve the said mortgaged property," as the whole appears in and by the contestation itself. If the said contestation and the seizure be maintained, then the mortgage will be declared to have been properly given. Can it be pretended that if, the seizure and consequently the mortgage be declared valid, that the defendant could be guilty of false pretences? Certainly not.

Seeing that the question now debated here is actually pending in the civil court, and using the discretion which the law confers upon me, I believe it right to withdraw and suspend the present examination until such time as the civil court shall have adjudicated in the first instance at least upon the contestation entered into between the complainant and Mrs. Kilby, and I rest my ruling upon the following decisions:—*R. v. Ashburne*, 8 C. P. 50; *R. v. Ingham*, 14 Q. B. 396.

*C. P. Davidson, Q. C.*, for Mr. Burland.  
*Joseph Doutre, Q. C.*, for Mr. Judah.

#### RECENT U. S. DECISIONS.

*Judgment of State Courts—Divorce—Jurisdiction.*—The Federal Constitution requires full faith and credit to be given by each State to the records and proceedings of the other States; but cases wherein the court had no jurisdiction—and this fact may always be shown—are not within the Federal protection, and, there being no authority to make the record, the proceedings are not judicial.

Where a husband leaves the State in order to avoid service of legal papers upon him, and remains awhile in another State for the mere purpose of securing a divorce, and has testimony secretly taken in the State where his wife continued to reside, and he himself returns after procuring the divorce, he does

not acquire residence in the foreign State, and as the laws of one State do not pretend to divorce citizens of another State, the decree thus fraudulently obtained is without authority and does not bind the wife. *Reed v. Reed*, Sup. Ct. of Michigan, Dec. 1883—13 Amer. Law Record, 74.

*Partnership—Liability of Partner—Estoppel.*—A person sued as a partner, and whose name is shown to have been signed by another person to the articles of partnership, may prove that before the articles were signed, or the partnership began business, he instructed that person that he would not be a partner. A person who is not actually a partner, and who has no interest in the partnership, cannot, by reason of having held himself out to the world as a partner, be held liable as such on a contract made by the partnership with one who had no knowledge of the holding out. *Thomson et al. v. First National Bank of Toledo*. (Supreme Ct. of U. S. May, 1884.—13 Amer. Law Record, 129).

#### GENERAL NOTES.

The refusal of the students in the Faculty of Law of Laval University to obey the order of the rector, Rev. Father Hamel, in regard to the gown question and the troubles that have arisen therefrom, took a definite form yesterday morning when, at the usual hour for the Hon. Justice Jetté's lecture, Rev. Father Hamel entered, and, after referring to the nature of the troubles, asked the students directly whether they would submit to the regulations of the University or not. Only six answered in the affirmative, the majority remaining steadfast in their determination. The latter were then publicly expelled and their names struck off the list. The expelled students talk of entering the McGill law classes, and the question of opening a law faculty in connection with Victoria University is also being discussed.—*Gazette*, Nov. 11.

The Hon. L. R. Masson has been appointed Lieutenant-Governor of Quebec in the place of Mr. Robitaille whose term of office had expired. The *Montreal Gazette* makes the following reference to an incident which has caused some discussion:—"It is said that the Hon. Mr. Masson declined to take the oath which has hitherto been taken by all persons on their acceptance of the office of Lieutenant-Governor. The oath, we are bound to say, is an extraordinary one for a Lieutenant-Governor, and if this incident shall result in its being changed, it will not have been without its use. The particular phrase which, we presume, was objected to is as follows: 'And I do declare that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm.' It is quite clear that no Roman Catholic could subscribe to this oath, which is a denial of the spiritual or ecclesiastical authority of the Pope of Rome. In this country where we have formally declared the separation of church and state, where all forms of religious belief are equal in the eyes of the law, such an oath ought not to be imposed upon a Canadian official, and Mr. Masson is to be congratulated upon having refused to take it."