

QUEBEC NOTES OF CASES.—LAW STUDENTS' DEPARTMENT.

MASSE et al., v. ROBILLARD.*Clerical influence in elections.*

A priest or clergyman may take the side of a candidate in an election, and support it by all lawful means, even from the pulpit. But if a priest does any unlawful act, such as using intimidation by refusing the sacraments to a person who will not vote as he wishes, he will be deemed the agent of the candidate, and the fact that he has committed the unlawful act in the exercise of his priestly office, will not protect the candidate from the consequences of such unlawful act on the part of an agent.

DARLING et al. v. BARSALOU et al.*Trade mark—Resemblance.*

B. & Co. registered a trade mark for the laundry soap made by them, the mark consisting of the imprint of a horse's head, with the words "The Imperial Laundry Bar" stamped on the face of each piece, and the words "J. Barsalou & Co., Montreal," on the opposite side. D. & Co. subsequently manufactured a soap with the imprint of the head of a unicorn and the words "A. Bonin, 115 St. Dominique street, Very Best Laundry" on the face (without any words on the opposite side).

Held, that there was no resemblance or similarity between the marks which could deceive persons of ordinary intelligence, and D. & Co. could not be restrained from continuing the manufacture of thir soap.

EX PARTE ZINC.

Extradition.

A warrant of commitment for extradition should in its terms conform to the requirements of sect. 1, 31 Vict. (Can.) c. 94, in directing the person accused to be committed until surrendered on the requisition of the proper authority or duly discharged according to law. The judge is required to decide whether he deems the evidence adduced before him sufficient to justify the apprehension and commitment for trial of the person accused if the crime had been committed in Canada. If he finds in the affirmative he should so state it in his commitment, and certify the fact to the proper executive authority. His functions do not extend to determining whether the accused should be extradited; that rests with the Governor General after the evidence has been reported to him. If the judge fails to state in the commitment that he deems the evidence sufficient, the commitment will be held defective and insufficient.

Where a person charged with a crime is committed in pursuance of a special authority,

the commitment must be special and must exactly pursue that authority. If the commitment does not on its face show that the case of the accused falls within the terms of the extradition treaty and the statutes authorizing the proceedings in extradition, or fails to contain the proper statutory conclusions, no sufficient cause of detention will have been shown, and he will be liberated on *habeas corpus*.

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EXAMINATION QUESTIONS.

SECOND INTERMEDIATE.

Common Law.

1. Define and illustrate "Estoppel by Matter of Record."
2. Distinguish between a *good* and a *valuable* consideration, and point out cases in which the distinction is material.
3. What is necessary to constitute a valid contract for the sale (a) of growing potatoes, and (b) of growing grass? Give reasons for your answer.
4. When is a deed requisite to the validity of a contract *at common law, i. e.*, apart from statutory enactment?
5. What is the liability, in general terms, of a banker paying a cheque, the amount of which has been altered?
6. What is distress damage feasant?
7. Define trover, detinue, and replevin respectively.
8. What summary method is provided by statute for setting aside fraudulent conveyances at the suit of a judgment creditor?

CERTIFICATE OF FITNESS.

Smith on Contracts—Pleading and Practice.

1. What must appear in a contract required by the Statute of Frauds to be in writing? What exception has been created by a subsequent Statute?
2. What are the matters usually provided for in partnership articles?