surviving executor of her will, whereby she bequeathed all her estate to her husband and her children, share and share alike. The only point is whether the children were vested with this property by the marriage contract, so as to prevent the operation of the will, subsequently made, to their prejudice. I see the parties have expressly admitted that at the time of the marriage contract, the laws of England were in force in the R.R. Settlement; but as they have not admitted what is the law of England, and as I cannot take judicial cognizance of it without proof, I am thrown back on the rule that in the absence of such proof the Court must presume the laws of another country to be the same as its own. Articles 819 and 823 directly apply. Art. 821 contains the exception, and applies to gifts *inter vivos*, requiring acceptance in those cases only. The settlement upon the children by the contract of marriage vested the property in them, without any form of acceptance, and as long as the money is the same (which is admitted) it can make no difference whether Sir George Simpson bought the shares as her attorney or as her trustee. It is the same property, and it belongs to the children, and could not afterwards be given by will or otherwise to the husband; and by Art. 1823 the donor was prevented from revoking her gift. The order, therefore, is in favor of Simpson who, by the statute, has to pay the costs of the Bank's petition.

Ritchie & Ritchie for Petitioner.

Bethune & Bethune for Hopkins.

Ritchie & Ritchie for Simpson.

SUPERIOR COURT.

MONTREAL, April 15, 1882.

Before JOHNSON, J.

LARIN V. KERR.

Contract—Sale—Time for delivery.

PER CURIAM. This is an action for damages for non-execution of the following contract:—"Montreal, October 26, 1880. I agree to deliver 50 tons first-class merchantable hay, at $13 per ton, to Mr. Charles Larin, on his yard, delivered as required, till the 1st of May, 1881." The plaintiff declares upon this that the defendant was often required to deliver; but he never got more than 23 and one-third tons, which he paid for; and that on the 23rd May he protested, and required delivery of the rest. Then he says that at the stipulated time of delivery (1st May, 1881), hay was worth $16 a ton, so that he lost the chance of making $3 a ton, and he sues for that difference on the 26 tons not delivered, making, with the cost of his protest, $84, which of itself would not give jurisdiction to this court; but he adds to his demand, besides damages for non-execution of the contract, a prayer that it may be set aside as to the balance: *i. e.*, that he may have the benefit of it to the extent of giving him damages, and be relieved from the rest.

The defendant pleads to the merits, and he says that he offered hay, as it was required, before the 1st May, and the plaintiff refused to receive it, or to pay for it, when it was offered. And he further pleads that the plaintiff has suffered no loss.

Now what is the meaning of this contract? I think it means that the defendant's obligation extended only to the 1st May. The rule is stated in Benjamin on Sales, p. 480, to be that the Court seeks only to discover what the parties really intended; and if time appear, on a fair consideration of the language and the circumstances, to be of the essence of the contract, stipulations in regard to it will be held to be conditions precedent. It appears to me that the defendant here, undertaking to deliver when required, within a certain time, and at a certain price, must be held to have contemplated being able to buy below that price, (so as to make a profit,) up to that time, and no longer. Therefore the demand made by the plaintiff on the 23rd was made too late. Besides this, in order to prove his damages, the plaintiff was bound to show the increased price of hay at the time of the breach, which was the 1st of May; and he only shows the price on the 23rd. Though I have doubts of the jurisdiction, I dismiss the case on its merits—as both parties have gone to proof.

Longpré & Cie. for plaintiff.

Kerr, Carter & McGibbon for defendant.

SUPERIOR COURT.

MONTREAL, May 15, 1882.

Before MACKAY, J.

DENIS dit VERRONEAU V. THEORET.

Slander—Publication.

PER CURIAM. The plaintiff sues for $500 damages for slander. It appears that the defen-