

de pure obligeance et tout à fait désintéressé de la part du défendeur.

A l'audience, le demandeur soutint que le dépôt en question était un dépôt nécessaire dont le défendeur ne pouvait éviter la responsabilité; et au soutien de ses prétentions il invoqua les arts. 1804 et 1814 du C. C. Il cita de plus 15 Dalloz, Jurisprudence Générale, vo. Dépôt-Séquestre, p. 493, No. 182. Et le même auteur, vo. Dépôt-Séquestre, p. 486, No. 160, qui s'exprime comme suit: "Il a été jugé à cet égard, "1o. que l'aubergiste est responsable "des effets placés dans la cour de son auberge "par un voyageur qui ne loge pas chez lui, "même quand cette cour est assujettie à un "droit de passage au profit d'un tiers. 2o, "Que si l'aubergiste prétendait avoir reçu du "voyageur ses effets à un autre titre que "celui de dépôt, ce serait à lui à prouver son "allégation...."

De son côté, le défendeur cita 27 Laurent, Nos. 98 et 99. 15 Dalloz, Jurisprudence Générale, vo. Dépôt-Séquestre, p. 487, Nos. 163 et 180, et l'art. 1200 du C. C.

Et la Cour, après avoir délibéré, déclara que le dépôt en question était un dépôt volontaire, fait aux risques et périls du demandeur, et, en conséquence, renvoya son action avec dépens.

Action renvoyée.

*Préfontaine & Lafontaine*, procs. du demandeur.

*Duhamel, Rainville & Marceau*, procs. du défendeur.

(J. G. D.)

#### RECENT U. S. DECISIONS.

*Hotel-keeper—Guest—Small-pox—Negligence—Liability.*—A hotel-keeper who, with knowledge of the prevalence of small-pox in his hotel, keeps it open for business, and permits a person to become a guest without informing him of the presence of the disease, will be liable for any damages caused by the guest's contracting the disease without any contributory negligence on his part. Supreme Court of Iowa—*Gilbert v. Hoffman*.—23 N. W. Rep. 632.

*Railroad—Negligence.*—The duty of a railroad to transport passengers and its liability for a breach thereof, arising from the negli-

gence of its servants, does not arise alone from the consideration paid for the service, but is imposed by law, even where the service is gratuitous. A gratuitous bailee must answer for goods left in his charge if lost through gross negligence. It is enough to fix the liability of a railroad for injuries occasioned by the negligence of its servants, that the passenger be lawfully on the train, whether by reason of having paid his passage money or by permission or invitation of officers or agents of the company. Question of liability does not depend upon the uses to which the train is usually devoted; and, where there are no rules of the company prohibiting it, or even if there be such rules, and the officers making such rules relax or dispense with them in a particular instance, and passengers are taken on trains or cars not generally used for their transportation, or with the expectation of paying fare when demanded, they are lawfully upon the train, and the company owes them the duty of safe transportation. The petition alleging that hand-cars were sometimes used by the company to transport employees, and that plaintiff, with others, took passage on one, at the invitation of the company's agent, to go to a place where the corpse of a man had been found on the railroad track, plaintiff being one of the jury of inquest, and that, by the negligence of the company's servants in the management of said car, he was injured, stated a good cause of action, not subject to demurrer.—*Prince v. I. & G. N. R. R.*, Sup. Ct., Texas; *Chi. Leg. News*, June 6.

#### GENERAL NOTES.

The Supreme Judicial Court of Massachusetts holds, in *Cowan v. Cowan*, that a libel for divorce may be maintained by the guardian of an insane person, provided sufficient cause be shown. The action was by the guardian of the wife, and the cause alleged and proved was desertion by the husband. This was held sufficient, and a divorce was decreed.

A correspondent points out that the Statute 47 Vict. c. 8, s. 3, merely states that "the courts cannot sit between the 30th June and 1st September," and that delays run as usual for procedure. This is quite true. Art. 463 of the Code of Procedure has not been repealed, and so, intentionally or otherwise, there is one vacation for judges and another for lawyers. We may add that in Montreal all pleadings, &c., presented are being received at the prothonotary's office up to the 9th inclusive.