

contrary to law, and for purposes of prostitution, and the defendants never having authorized the construction thereof by the plaintiff, whose occupancy, moreover, was not proved.—*Bacon v. The Canadian Pacific Ry. Co.*, Torrance, J., Sept. 13, 1886.

Dilatory Exception—Parties to a promissory note—Action en garantie.

HELD:—That the maker of a promissory note cannot by dilatory exception stay the suit of the holder in order to call in the payee *en garantie*.—*Block v. Laurance*, Jetté, J., Oct. 8, 1886.

Evidence—35 Vict. (Q.) c. 6, s. 9—Examination of Consort—Action by Transferor.

HELD:—That under 35 Vict. (Q.), ch. 6, sect. 9, the right to examine a consort as a witness is conferred upon the adverse party only, and the evidence of the husband of the transferor of a claim is inadmissible in an action by the transferee, on the part of the plaintiff.—*Lajeunesse v. Price*, Torrance, J., June 16, 1886.

Exception déclinatoire—Evidence—Onus probandi.

Where the defendant is sued in a jurisdiction within which he comes solely by virtue of a particular fact alleged in the declaration (e.g. that goods were sold to him in the district wherein the action is brought), and the defendant, by declinatory exception, denies such fact, the proof of the fact rests upon the plaintiff.—*Shaw v. Cartier*, In Review, Doherty, Papineau, Loranger, JJ., May 31, 1886.

48 Vict. (Q.), ch. 29—*Evidence of non-registration—Index.*

HELD:—In an action to recover a penalty, under 48 Vict. (Q.), ch. 29, for non-registration, the plaintiff is bound to establish not only that the defendant carried on business under a name indicating a plurality of members, but also that he failed to register the declaration in the mode and within the time prescribed by the statute.

As to failure to register within sixty days after the passing of the statute, the plaintiff

proved that defendant was carrying on business under a firm name after the sixty days, and further called a clerk in the *tutelle* office, who deposed that he had examined the index of the registers in that office, and that the only person of defendant's name and business therein mentioned, was registered after the expiration of the sixty days.

HELD:—That this evidence was inconclusive; that it is necessary to prove absence of registration in any of the books of the *prothonotary's* office, and that an examination of the index alone was insufficient. Moreover, the best evidence in such cases is a certificate of the *prothonotary*.—*Pringle v. Martin*, In Review, Doherty, Papineau, Loranger, JJ., May 31, 1886.

Execution—Saisie Arrêt—Moneys of Employer in possession of clerk—Deposit in bank—C. C. P. 612—Third Person.

HELD:—That a clerk or employee is not a "third party" within the meaning of Art. 612, C. C. P. His possession of his employer's moneys is not distinct from that of his master, and such moneys cannot be seized in the hands of the clerk by garnishment.

The fact that the clerk may have deposited such moneys in a bank in his own name "in trust," does not affect the case.—*Ontario Car Co. v. Quebec Central Ry. Co., & Anderson*, In Review, Johnson, Papineau, Loranger, JJ., May 31, 1886.

Procedure—Answers to faits et articles—Service.

HELD:—1. That a judge in vacation has discretionary power to compel a defendant to answer interrogatories *sur faits et articles* at the *prothonotary's* office during vacation.

2. The order therefor may be served in Ontario.—*Stanton v. Canada Atlantic Ry. Co.*, Jetté, J., Sept. 27, 1886.

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And this brings me to a not unimportant consideration: that the invaluable habit of first-hand work and constant verification can be formed and exercised in a limited field no less than in an unlimited one, and for the beginner, even better so. We no longer