

as that on page 5 of the deposition of Sophie Perrier going to prove as against the plaintiffs that the female plaintiff made *reconnaissance* and declaration in favor of defendant Hyacinthe Charlebois as stated by her, Sophie Perrier, is of no force against plaintiffs, but illegal; and that defendant's plea of such a *reconnaissance* having been, fails."

We cannot agree with the learned judge on this point. It is the plaintiff, and not the defendant, who seeks to prove beyond the deed. She is only permitted to do so because she has alleged fraud and error. But she having the right to prove fraud, by parol, how is it possible to say that she shall be debarred from repelling it by the same sort of evidence?

The other more general accusations are disproved as completely as can be expected at this distance of time. The clerks who really took stock of the goods of the grocery business, on which the inventory is to some extent based, formally deny the imputations of respondent.

We are, therefore, of opinion that the judgment in case 123 must be reversed and the action dismissed. The other case (449) has not been joined to this case, and therefore we cannot formally take notice of it in giving judgment in this case; but from a deed there filed, we learn that appellant has agreed to pay all costs in this appeal, and therefore using our discretion as to awarding costs, we dismiss this appeal without costs.

The case No. 449 is an action by Jane Charlebois to set aside a deed by which she sold all her rights in the succession of her brother Arsène to Hyacinthe. She seeks to have this deed set aside for *crainte*, error and fraud. She contends that she was intimidated by her husband, who was on the point of leaving the country with another woman, into passing this deed with the object on his part of procuring for him the money to run off with this other person; and she affirms that the money was never paid to her but to the husband.

Without entering into any general consideration of the evidence of the respondent's story, the Court is of opinion that she cannot succeed. The alleged fact that she did not get the money, but that her husband got it, is disproved. She got the money and gave it to her husband. This being the case, she cannot have the deed set aside without bringing back all she received

under the terms of the deed. We think, therefore, that this action must also be dismissed, and with costs against respondent.

Judgment reversed.

*St. Pierre & Scallon* for Appellant.

*Geoffrion*, counsel.

*Laflamme & Laflamme* for Respondent.

#### RECENT UNITED STATES DECISIONS.

*Compromise of suit by attorney.*—The American law, unlike the English, does not empower an attorney at law to settle a pending suit without the knowledge and assent of his client. Courts in this country however are inclined to favor a compromise fairly made by an attorney, and will uphold it if good reasons can be found for it. Hence this court refused to disturb a compromise made by an attorney, with the assent of the party in interest, but without the knowledge of the plaintiff of record, the attorney's client, when the compromise was reasonable and appeared advantageous.

A. sued, as trustee of his wife, who, under the Rhode Island statutes, could at any time by her sole act assign the claim sued. A.'s attorney, without his knowledge, but with the wife's assent, compromised the suit. A waited nearly a year and then filed his petition for a trial of the case, the wife claiming to have been coerced into giving her assent, but the coercion rose only from a mortgage executed by A. and his wife:

*Held*, that the petition must be dismissed.—*Whipple v. Whitman*, (Supreme Court of Rhode Island) 13 Rhode Island Reports.

#### JUDICIAL CHANGES.

The letter transferring Mr. Justice Doherty to the District of Montreal is as follows:—

OTTAWA, 17 October, 1882.

SIR,—I have the honor to inform you that His Honor the Deputy of the Governor-General-in-Council has been pleased, by Order in Council, to transfer you from the District of St. Francis to the District of Montreal, and that the District assigned to you be the District of Montreal, in place of Mr. Justice Mackay, resigned, such transfer to take effect from the 2nd day of November next.

I have the honor to be,

Sir,

Your obedient servant,

ED. J. LANGEVIN,

*Under Secretary of State.*

The Honorable Mr. Justice DOHERTY,  
Sherbrooke, Quebec.