

*per stirpes* grandchildren born after the testator's death were clearly included in the terms of the bequest, and an action for partition brought when all the grandchildren born in the testator's lifetime were of age, but before the majority of some of the after-born grandchildren, was premature. *Muir v. Muir*, Taschereau, J., April 24, 1891.

*Procedure—Articulation of facts—Art. 208, C. C. P.*

*Held*:—That an articulation of facts which does not set up specific facts in the interrogatories, does not comply with the requirements of Art. 208, C. C. P., and will be rejected from the record. *Williams v. Labine*, Würtele, J., May 8, 1891.

*Disabilities of Corporations—Acquiring immovable property—Art. 366, C. C.—City of Montreal—Expropriation.*

*Held*:—On demurrer, that a municipal corporation has a right to expropriate, or acquire by voluntary sale, such real estate only as may be required for the municipal administration, or as it may have been authorized to acquire and hold for specific purposes. A corporation cannot, without special authorization, expropriate or acquire real estate for the purpose of erecting a building thereon to be let as shops and dwellings.

2. In the absence of express authorization to the corporation, the expropriated owner of real estate taken for a public purpose, has the right, when the property is not used for such purpose, to have it restored to him, and when part only has been used for the public purpose, to have the unused portion restored to him.

3. It is immaterial whether the acquisition is made by process of expropriation or by voluntary sale, after the adoption of a resolution declaring that the property is required for a public purpose, and authorizing its acquisition. *Roy v. The Mayor et al. of Montreal*, Würtele, J., June 8, 1891.

*Sale of goods—Latent defect—Art. 1523, C. C.—Reasonable delay for complaint as to quality—Evidence.*

*Held*:—1. That sourness and unsoundness in salted salmon—defects which were discoverable by smell when the goods were opened

and inspected—are not latent defects against which the seller is obliged by law to warrant the buyer.

2. Where goods are sold without warranty and subject to inspection, the buyer is bound to make an inspection of the goods within a reasonable time after delivery; and an action brought five months afterwards, complaining of the quality of the goods received by him, is not exercising due diligence.

3. Where the buyer pretended that the sale was made with warranty, and the agent of the seller immediately wrote that before the sale he had read his principal's letter to the buyer, stating that there would be no warranty, this fact, in the absence of any immediate and positive denial by the buyer, furnishes a strong presumption of the truth of the agent's statement. *Vipond et al. v. Findlay et al.*, Tait, J., May 29, 1891.

*Canal d'égout—Garantie—Responsabilité.*

En 1887 et 1888, la ville de la Côte St. Louis, municipalité limitrophe de la cité de Montréal, a construit divers canaux d'égout pour l'égoutement des rues et de plusieurs cours d'eau, lesquels canaux elle a illégalement, et sans la permission de la cité de Montréal, reliés au canal d'égout de la rue St.-Denis en la cité de Montréal. Cette connection s'était faite à la connaissance des officiers, mais sans la permission du conseil de la corporation de Montréal. Dans l'hiver et le printemps de 1890, l'égout de la rue St.-Denis ne pouvant suffire à l'écoulement des eaux de la Côte St.-Louis, la maison du demandeur fut inondée par le refoulement des eaux dans le canal d'égout. De là, action en responsabilité par le demandeur contre la cité de Montréal qui, à son tour, appela en garantie la ville de la Côte St.-Louis.

*Jugé*:—1o. Que la ville de Montréal ayant laissé faire la connection entre les égouts de la ville de la Côte St.-Louis et son égout de la rue St.-Denis, est responsable vis-à-vis du demandeur des dommages que ce dernier a éprouvés par suite du refoulement des eaux de l'égout de la rue St.-Denis.

2o. Que la ville de la Côte St.-Louis, ayant fait la dite connection illégalement et sans la permission de la cité de Montréal, et dirigé toutes ces eaux dans le seul égout de la rue