

with a direction that their children should be suitably maintained and educated. The will then provided "that should my said wife die leaving any of my said property or rights in her possession or not disposed of that upon her said decease the same should be divided among our said children" in the manner specified.

*Held*, affirming the judgment of the Court of Review (Q.R. 40 S.C. 139, sub nom. *Shearer v. Forman*) that this provision did not empower the wife to dispose of the residue by will but created a substitution in favour of the children.

*Appeal dismissed with costs.*

*Dr. L. H. Davidson*, K.C., for appellant. *W. H. Lighthall*, K.C., for respondents.

Que.] OUMET v. BAZIN. [May 7.

*Constitutional law—Quebec Sunday Act—7 Edw. VII., c. 42, amended by 9 Edw. VII., c. 51—Prohibition of theatrical performances—Penalty.*

The provision in the Quebec Sunday Act, 7 Edw. VII., c. 42, as amended by 9 Edw. VII., c. 51, which prohibits every person from giving or attending theatrical performances on Sunday, on pain of fine and imprisonment for default in payment thereof, is a measure dealing with criminal law and ultra vires of the legislature.

*Appeal allowed with costs.*

*Aimé Geoffrion*, K.C., and *J. O. Lacroix*, K.C., for appellant. *Lafleur*, K.C., and *Donat Brodeur*, K.C., for respondent.

N.S.] SYLVESTER v. THE KING. [May 7.

*Criminal law—Speedy trial—Charge other than that for which prisoner was committed—Consent of judge—Translation of Evidence—New Trial.*

By sec. 834 of The Criminal Code relating to Speedy Trials as amended by 8 and 9 Vict., c. 9, a prisoner may, with the consent of the judge, be tried for an offence other than that for which he was committed although such new charge is not set out in the depositions.

*Held*, that the consent of the judge in such case need not be formally announced but will be assumed by his proceeding with the trial.