put in issue by defendant, the plaintiff cannot succeed, if it appears that they had not legally accepted, i.e. with the previous authorization of a family council.

PER CURIAM :—

This is a suit for $250, amount of an obligation given by defendant to the late Jas. W. Wiggett, brought by the widow as tutrix to her minor children, alleging the death of Wiggett, the renunciation of plaintiff personally of the community, and the acceptance by minors of the succession of their late father, James W. Wiggett, represented by her. That on the 8th June 1885, said plaintiff renounced to the community of property existing between her and said late James W. Wiggett, and said minors are the lawful heirs and legal representatives of their said late father, and entitled to claim from defendant the amount sued for. That the survivors (one having died) have accepted the succession of the late James W. Wiggett, and are entitled to recover.

The defendants filed three pleas :—

1st. An assignment in insolvency before his decease by said James W. Wiggett as member of the firm of Wiggett Bros. & Co. to one Sam. Farwell.

2nd. A special denial of plaintiff's authority to sue; that the minors had never accepted the succession and could give no discharge.

3rd. General issue.

The first question that arises is, can plaintiff sue for minors who have not accepted the succession ?

The legal representatives may accept or renounce. If they accept they may enforce claims, and this is what they allege they have done. Our law has been changed by the code to make it conform to the French Code, art. 461, in this particular. See Projet, Code civil, vol. 1, p. 217.

"According to the old law the tutor might by himself accept or repudiate the succession fallen to the minor, but the latter could always be relieved. But the commissioners have preferred the new rule introduced by the Art. 461 of C. N., which says that the tutor shall not do any such act without being authorized thereto by the family council, and that acceptance can only be made under benefit of inventory, consequently an article has been prepared and is submitted as an amendment to the law in force, which requires for the validity of acceptance or repudiation by the tutor, previous authorization by the judge and the advice of the family council." See change suggested by amendment. 301 C. C. P. is suggested in the place of the old law which was: "The tutor may accept or renounce the succession which falls to the minor, but the minor may be released from such acceptance or renunciation." C. C. 301 is now almost identical with C. N. 461. See Marcadé et Pont vol. 2, p. 264. See *Rolland* et al. v. *Michaud*, Q. B. 1876, Rev. Leg. vol. 9, p. 19, *et seq.*

Let us reverse the case and say that in a certain case minors are sued, would it not be a good defence to show that they had not accepted? Defendant has an interest that the proper representatives should give him a discharge. Would he have it if given by plaintiff? I think not.

Sirey & Gilbert, vol. p. 239, note 7.

"Du reste les successions échues à des mineurs ne peuvent être acceptées dans leurs intérêts que sous bénéfice d'inventaire et avec l'autorisation du conseil de famille. Il s'ensuit que la possession par eux prise ou par leur tuteur des biens de la succession sans cette autorisation ne peut avoir l'effet de les rendre héritiers purs et simples."

Plaintiff's action dismissed with costs.

Hall, White & Cate, for plaintiff.

Bélanger & Genest, for defendants.

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*COURT OF QUEEN'S BENCH—MONTREAL.**

Prohibition—Powers of Provincial Legislature—Brewer's License—Quebec License Act, 41 Vic., ch. 3.

The appellants caused a writ of prohibition to be issued out of the Superior Court, enjoining the Court of Special Sessions of the Peace from further proceeding with a summons and complaint issued by M. C. Desnoyers, police magistrate, against the appellant Ryan, upon the complaint of res-

* To appear in Montreal Law Reports, 2 Q. B.