

He denied this. He said he had seen the book in the hands of M. Turcotte, who went to the Bank to draw the money. He is asked if he had not given the deposit book to Mlle. Leonard, and denies it. He also denies having given the book and \$6 for interest to Mlle. Leonard. He said Mlle. Jobin gave him \$6 to pay Mlle. Montpetit for wages. He said Mlle. Jobin gave him \$6 to give Mlle. Montpetit, and he had kept it, because he had an account of his own against her nephew, M. Montpetit. He says he did not speak of wages before Mlle. Leonard. The next witness examined was Mlle. Leonard, who says that Mlle. Jobin did not pay wages to Mlle. Montpetit. The book was given her by Peladeau, and \$6 in 1877 for interest. He told her that Mlle. Jobin sent her the book to keep it safe. In 1878, he gave her the book, with the remark that he did not give the \$6, because Michel Montpetit owed him. Mlle. Denault is next examined. She denies that Mlle. Jobin paid Mlle. Montpetit any wages. She was present at a conversation between Mlle. Jobin and Peladeau, and Peladeau then said he knew the money did not belong to Mlle. Jobin, but to M. Montpetit, and that it was correct in the Bank. Michel Montpetit was the last witness examined. He denied that he owed \$6 to Peladeau, and speaking to Peladeau about it, the latter said it was not true he had said so. Montpetit told him that Mlle. Montpetit was going to sue him, and he said, let her not put costs upon me and I shall get money from Mlle. Masson. Peladeau had also admitted to Montpetit the letter produced as coming from him. Peladeau in his examination had denied any knowledge of the letter. The establishment of the charge against Peladeau depends largely upon the admissibility of parol testimony against him—taken in connection with his admissions under examination in the witness box. We have first to notice his plea, which is the general issue simply. In the witness box, he admits receiving the money from Mlle. Jobin, and at first says he deposited it in her name in the Bank. But later on he corrects himself, and says that the deposit was in his own name in his own account. This is a variance which may have some significance. Then we have the curious fact of the withdrawal of the money the day after the deposit. The excuse was

that Mlle. Jobin wanted it again. Is it likely that Mlle. Jobin, living at Isle Perrot, 20 miles from town, after giving Peladeau the money to be deposited in her name in the Bank, would ask for it immediately? Next, there is the surrender by Peladeau of his own deposit book to Mlle. Jobin, as representing the deposit, and as if he had nothing to do with it. Why should he give her the book if he had already returned the money? Further, there is the payment of interest proved by Mlle. Leonard, and the entries in his deposit book showing the payments. There are lastly the contradictions between his statements and those of Mlle. Denault, Mlle. Leonard and Michel Montpetit, who were without interest in the suit. The Court was witness of the manner and expressions of Peladeau under examination, and draws its own conclusions as to his veracity and truthfulness. It has no hesitation in saying that no reliance is to be placed upon the statements of Peladeau. Further, that he has committed wilful and corrupt perjury in the case. The rules which apply to a case like the present are simple. C. C. P. 231 says: "The answer of any party to a question put to him may be divided in the following cases, according to circumstances, and in the discretion of the Court: 1o * * * 2o When the part of the answer objected to is improbable or invalidated by indications of fraud or of bad faith, or by contrary evidence. Further, I would refer to the case of *Goudreault vs. Poisson et al.*, 13 L. C. J. 235, where the Court of Appeals held that in such cases the admission could be divided, and also where the statement under oath did not agree with the pleading. Looking at all the circumstances of the case, and endeavouring to use a careful discretion, the conclusion of the Court is to condemn the defendant as a *dépositaire infidèle* and as the holder of the plaintiff's money.

S. Pagnuelo, Q. C., for the plaintiff.

H. St. Pierre for defendant.

SUPERIOR COURT.

MONTREAL, March 17, 1881.

Before JOHNSON, J.

LA BANQUE NATIONALE v. LESPÉRANCE et al.
Guarantee Insurance—Deficiency in Accounts of Bank Teller.