

The Legal News.

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The exclusive jurisdiction conferred on the Minister of Agriculture, or his deputy, in questions affecting the validity of patents, is so abnormal that notwithstanding the positive terms of the statute, the existence of the authority has been challenged in almost every case of importance. This great power, we presume, was conferred under the impression that cases of this class should be entrusted to an officer conversant with the points likely to be raised, and who could devote the time necessary for their trial and investigation. The work appears to have been well and carefully done, and no complaint is urged so far as the ability or conscientiousness of the officers performing it is concerned. Nevertheless, the feeling exists that interests which are often of the greatest magnitude and importance, should not be left to the final disposal of a single arbiter who has not even power to compel the attendance of witnesses, or the production of documents. The law has carefully guarded the rights of suitors in other matters, by providing for an appeal from Court to Court. For example, a recent case touching the removal of an executor, has passed through four courts, and been examined by at least a dozen judges. Why should the question of forfeiture of a patent, involving perhaps hundreds of thousands of dollars, be finally disposed of by an officer sitting alone? The demand for some mode of revising these decisions seems perfectly natural and well founded.

The business of the Court of Exchequer is assuming large proportions, and many of the questions coming before it are of general interest. It seems desirable that the provision made by order of Council for placing early notes of the decisions of the Supreme Court before the profession, should be applied also to the Exchequer cases; and in the interest of the bar throughout Canada we

would suggest that the extension be made at an early date.

The Government of Canada was put upon its defence for not disallowing the Jesuits' Estates Settlement Act, 51-52 Vict. (Q.) ch. 13, but the votes in favour of disapproval—13 out of 201—make a very insignificant figure compared with the vehemence of the attack. The discussion seems to have had a good effect upon the whole, for it has resulted in almost perfect unanimity of judgment by the lawyers of both sides of the house, that the Government acted wisely in not interfering with the bill. Much, in fact, that was urged against the bill might have been conceded without bringing its opponents any nearer to success in their effort to establish that the measure was not within provincial rights.

COUR DE CIRCUIT.

Coram JETTÉ, J.

MONTRÉAL, 19 février 1889.

MALLETTE V. LATULIPPE.

Aliments—Belle-fille.

JUGÉ:—*Que la dette alimentaire ne peut être réclamée de la belle-fille, après le décès de son mari, sans enfants, alors même que cette dette avait pris naissance et été réglée par contrat du vivant du mari.*

La défenderesse avait épousé Victor Bré-gau, fils de la demanderesse. Cette dernière étant pauvre et dans le besoin, poursuivit son fils pour pension alimentaire. Sans attendre un jugement sur cette poursuite, le fils s'oblige à payer à sa mère \$2 par mois.

Le 26 avril 1888, le fils est décédé, sans enfants, instituant par testament, la défenderesse, sa femme, légataire universelle.

La mère, demanderesse, poursuit maintenant sa belle-fille, en vertu de l'écrit que lui a consenti son fils, et soutient que la dette alimentaire étant née du vivant du fils, elle est passée à la défenderesse, son héritière.

JETTÉ, J.—Bien que la prétention de la demanderesse ait été soutenue par un certain nombre de jurisconsultes, entre autres:—1 Murlon, No. 752; 1 Marcadé, No. 718; 6 Aubry & Rau, p. 100, Note 10; le senti-

ment contraire a fini par prévaloir en doctrine et en jurisprudence.

Demolombe s'est le premier prononcé contre la transmissibilité de la dette à l'héritier du parent qui produisait l'affinité et son opinion, fortement raisonnée, ne paraît plus contestée.

L'action de la demanderesse doit donc être renvoyée.

Mirault, pour la demanderesse.

Laurendeau, pour la défenderesse.

Autorités : C. C. art. 167 § 2.

4 *Demolombe*, No. 40.

1 *Massé & Vergé*, p. 222, Note 10.

Dalloz, Verbo Mariage, No. 652.

3 *Laurent*, No. 48.

Sirey 1856, 2, 385.

" 1857, 1, 809.

" 1866, 2, 364.

" 1880, 2, 299.

PATENT CASE.

Before THE DEPUTY COMMISSIONER OF PATENTS.

Ottawa, Feb. 26, 1889.

THE ROYAL ELECTRIC CO. OF CANADA V. EDISON
ELECTRIC LIGHT CO.

*Patent—Exclusive jurisdiction of Minister of
Agriculture—Failure to manufacture in
Canada.*

[Continued from p. 93.]

THE DEPUTY COMMISSIONER :—

The evidence adduced by the petitioners established in substance; that the patent was granted to Thomas A. Edison, on the 17th November, 1879; that on the 16th November, 1881, an extension of three months time within which to manufacture was granted; that on the 12th February, 1880, Edison assigned the patent to "The Edison Electric Light Co.," and on the 30th December, 1886, the latter assigned to "Edison Electric Light Co.,"—the respondents. The lamp consists of a glass globe or bulb, glass tubing, inside pieces of glass, platinum and copper wires, carbon filament, and brass bottom; all these articles were imported from the United States, from the time the patentee and his assignees began to make the lamps in Canada, and still continue to be imported; that the process of making the lamp from these

imported articles consisted of several operations, such as attaching the carbon filaments to the leading-in wires—the leading-in wires having been previously let into the glass and sealed in; the glass bulb and tube attached to it, the air exhausted from the bulb, and connection made with the brass cap or base to attach it to the socket, to connect with the circuit, supplying the electric current. On the 14th November, 1881, The *Edison Electric Light Co.* started a small factory in Montreal, worked by two men, and the outfit consisted of a small dynamo, several pumps for producing the vacuum in the globes, several small, glass blower's fires, gas fires, altogether of the value of about \$2,000, and commenced the manufacture of the lamps from the materials imported from the United States as above stated; and on the 17th had completed two lamps; the carbon filaments were put into the lamps in the condition they were brought in from the United States, and were not subjected to any further treatment or process of carbonization after their arrival in the factory in Montreal. The carbon filaments are made of bamboo, imported into the United States from Japan, in the crude or natural state, in strips, and on arrival at the factory in the United States, they were further split into smaller strips, the pith removed, and then by knives or dies, further reduced to the proper size of the filament; these filaments were then put on a block or mould packed with carbon, then put into a furnace and baked or carbonized; this process requires great skill and labor, and is very difficult, and can only be done by skilled workmen; they tried to carbonize the filaments in Montreal but could not succeed, as the men were not skilled in the work. The glass bulbs were made in the United States from pot glass, the glass blowers there blowing them by several processes into the size and shape required. These bulbs were made expressly for use on the incandescent lamps, and must have the same expansion as the platinum, and are not ordinary articles of commerce; the glass tubing also must be made from the same quality of pot glass as the bulbs, so as to have the same expansion; the platinum wire also was specially prepared in the

United States for use in the lamps. The employees were instructed not to sell the lamps to any who did not use the Edison dynamos or plant, and they accordingly did not so sell them, and refused to sell to any not using the Edison plant; that it was the policy of the Company to do this, as the sale of the plant was more profitable than the sale of the lamps, the proportion being that where 800 lights were installed, the total price was \$12,000, while the cost of the lamps at \$1 each, was only \$800, and this had practically the effect of creating a monopoly for the Edison plant. The first sale of lamps in Canada was made to the *Canada Cotton Co.*, at Montreal, in December, 1882. The capital stock of "*The Edison Electric Light Co.*" in November, 1881, was \$720,000 or \$780,000, the par value of the shares being \$100, but they were then quoted and selling at from \$1,000, to \$1,200 per share, or a premium of \$1,000 to \$1,100 above par. In January, 1883, the factory in Montreal was closed, and the business transferred to Hamilton, and there increased and more men employed, but there was no change in the manner of getting out the lamps; the same articles were imported, but in larger quantities, the same steps of assembling all the parts and putting them together to complete the lamp, were gone through at Hamilton, as in Montreal; at this time there were about 3,800 lamps in use in Canada, and the annual output was from 8,000 to 10,000 lamps, and was gradually increasing; the proportionate cost of labor bestowed in the United States on the articles sent into Canada, to be used in the making of the lamps, is \$32.50 on every 100 lamps made; while the proportion of the cost of labor bestowed on the lamps in Canada, after the importation of the articles composing it, is \$21.80 per \$100 worth of lamps made.

The respondents admitted the importation of the glass bulbs, the glass tubing, the platinum and copper wires, and the carbon filament, and that the importation continues still, and the evidence they adduced went to show, that these were all raw material; that they were all ordinary articles of commerce, and could be used for any other purpose besides incandescent lamps; that the carbon

filaments as imported, were only partly manufactured in the United States, and the carbonization was completed in the Canadian factory, by the passing of an electric current through them while a high vacuum was maintained in the lamp bulbs, thereby reducing them to a pure carbon, and that this process of final carbonization was necessary to make a serviceable commercial lamp; that the glass bulbs and tubes, after they were imported, passed through several processes in the factory in Canada to render them fit for use in the lamp; that the platinum was obtained in the United States, and before being sent into Canada for use in the lamps was re-melted from the crude material, and then drawn out into wire, and slightly alloyed with iridium, so as to make it a little harder; and the wire was attached to the carbon and fitted into the glass bulbs in Canada; that if the Company had been compelled to manufacture the carbons in Canada, it would have ruined the business in Canada; that the platinum wire would have cost two hundred fold more in Canada, as it requires a special furnace to prepare it; that the cost of material in the United States, as imported into Canada, would be in the proportion of one-third, and the labor in Canada, two-thirds.

Counsel for the petitioners argued, that the evidence clearly showed, that the patentee and his assignee, had not complied with the provisions of *The Patent Act*; that they did not commence or carry on in Canada, the manufacture of the invention, within the time prescribed by law; and that they had imported it after the time allowed by law, and in addition thereto, had refused to sell the invention, as they were bound by law to do; that they showed bad faith, and no intention to comply with the law from the beginning, as they only started their factory, and began making the lamps on the 14th November, 1881, a few days only before the limit prescribed by *The Patent Act*; then again it is proved, that at this period, when they applied for and obtained an extension of time, within which to manufacture, on the ground or pretension of the large capital necessary to carry on the manufacture, the capital stock of *The Edison Electric Light Co.*,

the then holders of the patent, amounted to over \$700,000, the par value of the shares being \$100, and their market or selling price was quoted in the newspapers at \$1,000 or \$1,200, or a premium of from \$1,000 to \$1.100 above par; while it is proved that the whole capital or plant they had in Canada, at this time, was only \$2,000; this showed their utter want of good faith, and the misrepresentation amounting to fraud, practised upon the Minister of Agriculture, to obtain an extension of time; that they refused to sell their lamps unless in connection with their own plant, thus creating a monopoly for their dynamos or plant, which they had no right to do by law, which does not authorize or justify the imposing of conditions or restrictions upon the purchaser, as to the use of the invention when purchased by him; that the subsequent process of carbonizing the filament, after it was put into the globe and subjected to the passage of an electric current while a high vacuum was maintained, was no part of the patent, and could not be claimed for it; that the labor expended in the United States upon the articles before they were imported into Canada amounted, on the 66,500 lamps proved to have been made up to the present time, according to the proportions of cost proved, would amount to \$30,000, which was so much loss to the Canadian laborer; and the manufacture of these lamps was increasing from year to year.

For the respondents it was contended, that the patentee and his assignees, had in every respect complied with the terms of *The Patent Act*; they had commenced the manufacture within the time prescribed by the Act, and had only imported the component parts of the lamp in the raw state or as raw material, and ordinary articles of commerce; that there was no absolute proof that they had refused to sell, except in connection with the Edison plant, and even if this were proved, it was no violation of the Act, as the law did not, and could not, reasonably be construed, to compel them to sell their lamps to opposition companies, who would run them on the arc or other plant, not suited to the Edison incandescent lamp, and thereby injure or destroy the reputation of the lamp;

they were always willing and ready to sell to those who would do justice to the lamp, and act fairly and honestly, in giving it a fair trial; with regard to importation, it is proved that the glass globes and carbon filaments could not be made in Canada, and even if they could be made, it would be at such a ruinous cost and expense, that the business of manufacturing the lamps in Canada would have to be abandoned; that the law did not contemplate any such unreasonable and unjust condition as this; that in any case, the importation of these articles was a small matter in comparison with the cost of the labor expended on the manufacture of the lamps in Canada; that, moreover, they were merely ordinary articles of commerce, and not the invention or subject of the patent, that in two cases recently decided in the Supreme Court, and not yet reported, the *Ayer* case and the *Grinnell* case, in which the defendants were sued under the *Customs Act*, on the ground that they imported certain ingredients or articles, and afterwards assembled or put them together, and manufactured an article upon which a higher duty was payable, the Customs authorities claiming that they were liable for the higher duty, the Supreme Court decided that the articles or ingredients were what they were when they crossed the boundary line, and were not liable for the higher duty on the article into which they were manufactured after their entry into Canada; that the imported articles in the present case, could not be held to be the invention patented, and the patent could not, therefore, be declared void for contravention of *The Patent Act*.

DECISION.

The preliminary plea of the respondents again raises the question of the jurisdiction of this tribunal, on the ground that, by the 33rd and 37th sections of *The Patent Act*, above quoted, the ordinary courts of justice have concurrent jurisdiction with the Minister of Agriculture, and the Superior Court for Lower Canada, at Montreal, having been first seized of the matter in dispute between the parties here, the petition should not and could not be entertained, the Superior Court, in which the proceedings originated, being the proper tribunal to adjudicate therein.

Upon reading these two sections of the Act concurrently, the meaning and intention of the law seem plain, consistent and comprehensible, and admit of the sole interpretation and conclusion, that in an action at law for infringement of a patent, the defendant may plead in defence, any fact or default which may render the patent void, and if the defence invoke the invalidity of a patent on the ground of illegal importation or non-manufacture, this must be done by pleading the only fact which, by the 37th section, establishes it—the decision of the arbiter therein specified, the Minister of Agriculture or his Deputy, whose decision being final, no other tribunal can establish such fact or default. This view was held by Mr. Taché in the decisions rendered by him, and referred to at the argument, and in which he declared the jurisdiction of the Minister of Agriculture in this matter to be exclusive; and this view or finding has been sustained by all the judicial tribunals that have had occasion to refer to it. In the case of *Smith v. Goldie* in the *Supreme Court*, the summary at the head of the report, if not to be considered as of the substance and part of the report, must assuredly be accepted as a correct and accurate interpretation thereof, contains the following words in paragraph 3:—“The Minister of Agriculture, or his Deputy, has exclusive jurisdiction over questions of forfeiture under the 28th (now 37th) section of *The Patent Act*;” and Henry, J., in rendering judgment in the case, upon referring to Dr. Taché’s decision in *Barter v. Smith*, says:—“Having well considered the case as presented before him, I would have come to the same conclusion as he did. I think the law as laid down and explained by him, in his exhaustive, and I will add, able judgment, cannot properly be questioned. I fully concur in his conclusions, as I do also in his reasons.” Again by the Superior Court at Montreal as reported in *Mitchell v. Hancock Inspirator Co.* (9 Leg. News, 50,) where proceedings had been instituted for infringement of the patent in that Court, and the special pleading was met by demurrer to the effect, that the nullity caused by violation of the 28th (now 37th) section of *The Patent Act*, cannot be tried by any other

court than that of the Minister of Agriculture, upon which a stay of proceedings was asked for and granted, in order to obtain the decision of this tribunal. Again in this present case, the Superior Court, at Montreal, has granted a stay of proceedings until the decision of this tribunal shall have been obtained, on the question at issue.

I, therefore, hold, that the Minister of Agriculture, or his Deputy, has exclusive jurisdiction as to the question of the validity of the patent under the 37th section of *The Patent Act*, and cannot divest himself of it by relegating it to any other tribunal whatever.

Having thus disposed of the preliminary plea, I will now consider the case on its merits.

The first consideration which presents itself is, to ascertain the nature of the invention claimed by the patent, the claims of which are:—

First. “An electric lamp for giving light by incandescence, consisting of a filament of carbon of high resistance made as described, and secured to metallic wires as set forth.”

Second. “The combination of carbon filaments within a receiver made entirely of glass through which the leading wires pass, and from which receiver the air is exhausted for the purpose set forth.”

Third. “A coiled carbon filament or strip arranged in such a manner that only a portion of the surface of such carbon conductor shall radiate light as set forth.”

Fourth. “The method herein described of securing the platina contact wires to the carbon filament and carbonizing of the whole in a closed chamber, substantially as set forth.”

It is manifestly clear that the essential feature or element of the invention, as particularly described in the first and second claims is—a carbon filament of high resistance; this is the novelty which the inventor has contributed to the art of incandescent lighting, and it cannot be disputed by anyone having the slightest acquaintance with patent law, that the carbon filament as imported by the patentee and his representatives, the respondents, and which they still continue to

import, is claimed in and covered by the patent; or that anyone who should use it, without the permission or consent of the respondents, would render himself liable to them in an action for infringement of the patent.

The process of further carbonizing the filament after it is introduced into the bulb, by passing an electric current through it while a high vacuum is maintained, as described by some of the witnesses for the respondents, as well as by Mr. Edison himself, is not anywhere described or claimed in the patent, and forms no part of it; on the contrary, it is the subject of another patent, obtained subsequently, by the same inventor, Mr. Edison, on the 5th July, 1881, under the number 13057, the fourth and fifth claims of which are as follow:—

Fourth. "The method of treating carbon conductors for electric lamps, consisting in enclosing the conductor in a glass case or globe, exhausting the air therefrom, heating the conductor by an electric current, and then hermetically sealing the glass case or globe."

Fifth. "The method of treating carbon conductors for electric lamps, consisting in enclosing the conductor in a glass globe, or exhausting the air therefrom, heating the conductor by an electric current to a higher degree than that at which it is intended to ordinarily raise the conductor in use, and then hermetically sealing the glass case or globe."

Here then the process is fully and explicitly described and claimed, and the use or employment of it cannot be invoked or relied on by the respondents, to sustain the patent now in controversy.

The next feature of importance, after the method of securing the platina contact wires to the carbon filament, as set forth in the *fourth* claim of the patent in contestation, is the glass globe or bulb referred to in the *third* claim, and is abundantly proved, and admitted by the respondents, that they have always, and still continue to import these, and have never manufactured them in Canada.

Some of the witnesses for the respondents state, that the carbon filaments and the glass

bulbs, are exceedingly difficult to manufacture, requiring great skill and judgment, and that they cannot be made in Canada, and that there is only one factory in the United States where they can be made to the satisfaction of the respondents, but this seems irreconcilable with the statement of these same witnesses in calling these articles raw material. Mr. Edison himself, in his affidavit, referring to the glass bulbs, says: "They are strictly of the character of raw material;" and in view of the fact also, that the records of the Patent Office show, that on the 23rd November, 1882, Mr. Edison obtained a patent for the process of manufacturing glass bulbs for incandescent lamps from pot glass. The allegation of inability to manufacture in Canada is no plea in defence of a Canadian patent, and it would be a singular misconception of the spirit of the law, if a patentee, probably holding a patent for his invention in the United States, or other foreign country, should suppose he could hold to his Canadian patent, declare his inability to manufacture it in Canada, ignore the fact he was thereby preventing any one else from engaging in the industry, and defeating the very object and intention of *The Patent Act*, enacted to encourage and protect home labor and manufacture.

The bamboo cane was, and continues to be, imported from Japan into the United States, by the respondents, in its natural state, and was there, by a series of manipulations or processes, reduced to a filament of required size and proportion, and was then further subjected to the very difficult and delicate process of carbonization, and in this state was imported into Canada expressly for use in the lamps.

The platinum, another component part of the invention, was, and still is, imported into the United States from Russia, by the respondents, and was there melted and alloyed with iridium, drawn into wire, and otherwise specially prepared, and then imported into Canada for use in the lamps.

I find that every essential feature, element, and component part of the invention was, and still continues to be, imported into Canada by the respondents, in a manufactured state, for the especial purpose of assembling

or putting them together, so as to make an incandescent electric lamp, such as that described and claimed in the patent held by them and now in dispute.

The two cases of *Ayer* and *Grinnell* in the *Supreme Court*, referred to at the argument, but not yet reported, do not apply to the present case, as those two suits were brought under the *Customs Act*, in virtue of which the defendants had a perfect right to import the articles separately, and if afterwards, by compounding or combining these together, they manufactured an article, or commodity, of greater commercial value, subject to a higher tariff duty, they contravened no section of the *Customs Act*, giving them the exclusive right to manufacture, on condition that they should not import, such as that in *The Patent Act*, which gives the inventor the exclusive right to manufacture his invention, on condition that he shall not import it; there is, therefore, no analogy between those two cases, and the one now under consideration.

I therefore hold, that the patentee and his representatives have imported into Canada, since the 17th of November, 1880, and still continue to import, the various elements and parts comprising the invention claimed in the patent No. 10654, in a manufactured state; and that they have not, at any time since the date thereof, manufactured the invention in Canada.

In view of the above, I do not consider it necessary to do more than refer to the other point raised in this case—that of refusal to sell, and even if I had to pronounce upon this point, it is more than probable I would entertain a view adverse to that ably contended for by the respondents.

Considering that the Commissioner of Patents is presumably the parent and natural protector of patents, and should extend a liberal interpretation to matters urged in their defence, consistently with a just appreciation of public interests, and in view of the importance of this case, and the large interests involved, I have bestowed upon it all the care, study and consideration which my time and ability permitted, in the endeavor to arrive at a sound, just and equitable conclusion.

I accordingly decide that the Patent granted to Thomas Alva Edison, on the 17th November, 1879, under the number 10654, for the *Edison Electric Lamp*, has become null and void, under the provisions of the 37th section of *The Patent Act*.

Patent annulled.

Z. A. Lash, Q.C., (Toronto), *R. D. McGibbon* (Montreal), *L. E. Curtis* (New York), and *T. B. Kerr* (Pittsburg), counsel for Petitioners.

Hector Cameron, Q.C., (Toronto), *D. Macmaster, Q.C.*, (Montreal), and *R. N. Dyer*, (New York), counsel for Respondents.

SUPERIOR COURT, MONTREAL.

Quebec Controverted Elections Act—Mise en cause—Jurisdiction.

Held:—That where a person has been brought into an election case, under the provisions of 38 Vict. (Q.) ch. 7, s. 272, and the evidence on the charge against the *mis en cause* has been taken before the trial judge, that the determination of such matter is within the competence of the Court sitting in Review upon the merits of the petition.—*The Laprairie Election Case, Brisson v. Goyette, and McShane, mis en cause, Loranger, J.*, February 6, 1888.

Composition—Authority to accept—Clerk—Novation.

Held:—1. That the authority of a clerk to bind his employer to agree to a composition with a debtor must be of an express and unequivocal character. A clerk attending a meeting of creditors on behalf of his employer will not be assumed to possess such power.

2. The assent of a creditor, at a meeting of creditors, to a composition, even if proved, would not bind him to accept the terms of a deed of composition and discharge by which the original claims of the creditors are novated, and replaced by composition notes.—*Vineberg v. Beaulieu et al.*, Davidson, J., June 28, 1888.

* To appear in Montreal Law Reports, 4 S.C.

Deposit by mother of minor—Construction of receipt—Right to recover deposit—Absence of husband—Effect of, in relation to marriage—Art. 108, C. C.—Pleading.

The depositary of a sum of money gave a written acknowledgment that the money had been placed in his hands by the plaintiff; but it was added: "It is understood that the money belongs to plaintiff's minor son, aged 7, and that I shall pay him the same when he comes of age, on his own demand; until that time, I shall pay interest at 7 per cent., to the person who takes charge of him." The mother having sued the depositary (who had not made default to pay interest) to recover the deposit:—

Held:—1. That the son alone was entitled to claim the money.

2. That the plaintiff could not, by special answer, raise the pretension that the terms of the receipt implied a donation by the mother to her son, which was null for non-acceptance by the minor; and, in any case, that the receipt did not mark the existence of a donation.

3. That the absence of plaintiff's first husband for twenty years, coupled with information that he had been drowned, was sufficient to establish his death.—*McKercher v. Mercier*, Davidson, J., June 28, 1888.

Liberté de conscience—Donation—Condition contraire à l'ordre public.

Jugé:—1o. Que la liberté de conscience est un principe fondamental de notre législation coloniale et de notre droit civil, et est, par conséquent, d'ordre public.

2o. Qu'en vertu de ce principe, une condition mise dans un testament créant une substitution en faveur des enfants du testateur, que ceux là seuls qui professeront la religion protestante pourront recueillir, est nulle comme contraire à l'ordre public.—*Kimpton v. La Cie. du Chemin de Fer du Pacifique Canadien*, Mathieu, J., 1 sept., 1888.

Gardien d'entrepôt—Saisie et vente des marchandises reçues dans un entrepôt—Quand elles peuvent être opposées.

Jugé:—Que bien qu'un gardien d'entrepôt qui a donné un reçu pour les marchandises qu'il a reçues dans son entrepôt, peut s'opposer à la saisie et vente de ces marchandises, néanmoins, il lui faut un intérêt pour faire cette opposition; et lorsque le porteur du reçu d'entrepôt aura déjà fait une opposition afin de conserver, le gardien d'entrepôt ne sera pas recevable à faire une opposition afin

d'annuler.—*Straas v. Kerouack*, Tellier, J., 12 déc., 1888.

Slander—Words uttered in foreign language—Averments of declaration—Arts. 20, 144, C. C. P.

Held:—1. Reversing the decision of Brooks, J., 11 Leg. News, p. 2, that in an action of slander, where the injurious words complained of were uttered in a foreign language, it is not necessary to set out the words in the language in which they were spoken. It is sufficient to state the words in the language of the declaration, and to establish that they were uttered in the hearing of persons who understood their meaning, and that plaintiff suffered damage in consequence thereof.

2. To charge against a minister that he had retained for his own use the whole or part of collections made by him for foreign missions is actionable, and \$150 damages were allowed.—*McLeod v. McLeod*, in review, Jetté, Taschereau, Mathieu, J. J., May 12, 1888.

Separation from bed and board—Grounds for—Adultery of husband—Arts. 188, 189, 190, C. C.

Held:—That the right of the wife to demand separation from bed and board on the ground of her husband's adultery, is absolute only when he keeps his concubine in their common habitation. When the husband is not guilty of this, his adultery is ground for separation only when by its publicity and other attendant circumstances, it constitutes a grievous insult to the wife. The adultery of the husband, when committed only after the wife has abandoned the conjugal domicile, has not the gravity which would attach to the act if committed while his wife is living with him. So, where the wife did not prove any act of adultery by her husband before she left the common habitation, and his acts of adultery committed subsequently were not attended with notoriety, or such circumstances as constituted a grievous insult to his wife, her demand for separation was refused.—*Tudor v. Hart*, Taschereau, J., April 14, 1888.

Quebec Controverted Elections Act.—Corrupt act—Evidence.

Held:—Where the uncorroborated statement of a person who alleged that he had been bribed, was positively denied by the person charged with the corrupt act—the evidence of the latter being the more credible and trustworthy,—that the charge should be rejected; and especially as this was the sole case by which the allegation of corrupt practices in the election was supported.—*The Jacques Cartier Election Case*, *Prevost v. Boyer*, Johnson, Taschereau, Gill, J. J. (Gill, J. diss.), May 23, 1888.