

1932

*Nov. 7.

*Nov. 23.

PANNETON v. PANNETON

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL SIDE,
PROVINCE OF QUEBEC

Community of property—Death of one consort—Failure to make inventory—Continuation of the Community—Art. 1323 C.C., abrogated in 1897 by 60 Vict., c. 52.

APPEAL from the decision of the Court of King's Bench, appeal side, province of Quebec (1), reversing the judgment of the Superior Court, Fortier J., and dismissing the appellants' action.

The appellants were the respondent's sons by previous marriage and brought an action against him to have it declared that there had been a continuation of the community between their mother and the respondent and that the latter be ordered to make an inventory of the community and to account to the appellants.

The trial judge held that the community had continued and, the respondent having failed to make inventory, the action ought to be maintained.

The appellate court reversed that judgment, holding that, according to the evidence, the estate was insolvent at the time of the death of the appellants' mother and that, accordingly, the respondent was not bound to make inventory. *King v. McHendry* (2) and *Laroche v. Laroche* (3) were followed.

On the appeal to this Court, after hearing argument of counsel, the Court reserved judgment, and on a subsequent day delivered judgment dismissing the appeal with costs.

Appeal dismissed with costs.

Jos. Barnard for the appellants.

C. Bourgeois K.C. for the respondent.

*PRESENT:—Rinfret, Lamont, Smith, Cannon and Crocket JJ.

(1) (1931) Q.R. 53 K.B. 113.

(2) (1900) 30 Can. S.C.R. 450.

(3) (1916) Q.R. 24 K.B. 138; 52 Can. S.C.R. 662.