

collusive, and in reality was made for the purpose of paying his own debts.

Judgment confirmed.

*Brooks, Camirand & Hurd*, for Appellant.

*Ritchie & Ritchie*, for Respondent.

### SUPERIOR COURT.

MONTREAL, April 19, 1881.

Before TORRANCE, J.

TAVERNIER v. ROBERT et al.

*Quebec Election Act—Action for Penalty—Electoral List—Demurrer.*

This was an action to recover from the Mayor and Secretary-Treasurer of the Municipality of the Parish of St. Joseph de Chambly, the sum of \$200 each, for alleged violation of the Quebec Election Act. The electoral list was in duplicate (section 12), and one duplicate was to be kept in the archives of the municipality, (section 38); the other duplicate should be transmitted to the registrar of the registration division in which was situated the municipality, within eight days following the day upon which such list should have come into force, by the Secretary-Treasurer, or by the Mayor, under a penalty of \$200, or of imprisonment of six months in default of payment, against each of them, in case of contravention of this provision. It was charged against the Mayor and Secretary-Treasurer, that in 1880, they had omitted to transmit to the registrar, within the eight days required, the duplicate in question, whereby the penalty of \$200 against each was incurred.

By section 39, in place of the duplicate required by the preceding section, a certified copy of the list had been transmitted to the registrar, such copy should be deemed to be the duplicate required, and should have the same effect as if the duplicate itself had been transmitted.

The declaration did not allege any contravention of this clause.

The defendants demurred to the declaration *in der alia* on the ground that it did not follow that the defendants were liable to the penalty by non-transmission of the duplicate list, because they had the right of transmitting, with the same effect, the copy mentioned in section 39.

PER CURIAM.—The Court is with the defendants on this demurrer. It was incumbent

upon the plaintiff to show by his declaration not only that the duplicate referred to in section 38, had not been transmitted, but also that the copy mentioned in section 39 had not been transmitted. This has not been done by the declaration, and the demurrer should therefore be maintained for the seventh reason.

Demurrer maintained.

*Lacoste, Globensky & Bisailon* for plaintiff.

*Prevost & Prefontaine* for defendants.

### SUPERIOR COURT.

MONTREAL, April 20, 1881.

Before TORRANCE, J.

CLUB CANADIEN v. BEAUDRY et al., and SYMES et vir, opposants.

*Succession—Seizure of immoveable of succession as the property of one of the heirs—Seizure held good for the share of said heir.*

The opposants opposed the seizure and sale of land in this matter as the property of the defendant Marie Emma Alphonsine Beaudry. They set up that by a deed of obligation the late Joseph Ubalde Beaudry acknowledged himself to be indebted to opposants in the sum of \$5,000, and as security therefor specially hypothecated the land in question: that he died on 11th January, 1876, leaving as his heirs at law his five children issue of his marriage with Dame Marie Alphonsine Caroline Beaudry his wife; that said late Joseph Ubalde Beaudry was *commun en biens* with his said wife; that opposants obtained judgment against said Dame Beaudry and said five children for the recovery of the amount of said obligation on the 19th January last: that said defendants have been in possession as proprietors of said land ever since the death of said Joseph Ubalde Beaudry, and the said Marie Emma Alphonsine Beaudry of only a tenth thereof; that the seizure of said land as belonging to Marie Emma Alphonsine Beaudry alone was and is illegal, null and void, she being only owner of one tenth. The opposants concluded that the seizure be declared null.

Plaintiff declared that he admitted the opposition as to nine undivided tenths of the immoveable, by him seized on the defendant Dame Marie Emma Alphonsine Beaudry, and contested the opposition as to one undivided tenth of the land seized, and for contestation