

and the Judgment therein given in the Court below, from which present Appeal hath been instituted, as the matters by the said Charles Blake Radenhurst, the Appellant for error and reasons of appeal assigned, and the same being fully understood, and having heard the parties by their counsel respectively; and mature deliberation, on the whole being had, considering that the causes of action of the said Andrew Macfarlane the Respondent, in his declaration in this cause in the Court below set forth, were in the said Court, fully proved, and established, as appear in this cause of record.

And considering also that the said Respondent at the time of the making of the deed of composition, whereof mention is made in the Plea of Peremptory Exceptions of the said appellant in this cause in the Court below, made and filed, was not among the number of the creditors of the said appellant, who had been allowed to prove, and had proved their debts under the Commission of Bankrupt in the said Plea of Peremptory Exception mentioned, and that the deed of composition in the said Plea of Peremptory Exception pleaded in bar of the action of the said Respondent, was not therefore binding on the said Respondent, and that the said Plea of Peremptory Exception contains no legal bar to the said action of the said Respondent. It is by the said Court now here adjudged, (two of the members of the said Court now here, namely: the honorables Philippe Panet and Elzéar Bedard, Esquires, severally dissenting, that the said Judgment of the Court below, now appealed from, namely the Judgment of Her Majesty's Court of Queen's Bench, for the District of Montreal, in this cause rendered on the 29th September 1845, be, and the same is hereby in all things affirmed, with costs to the said Respondent, against the said Appellant. And it is by the said Court, now here ordered, that the Record in this cause be remitted to the said Court of Queen's Bench, for the District of Montreal.

Certified,

STEWART SCOTT,

C. C. R.