

DELINELLE (opposant in the Court below,) Appellant, and ARMSTRONG et al. (plaintiffs below), Respondents.

Opposition to venditioni exponas—Art. 664 C.C.P.

The appeal was from a judgment of the Superior Court, Montreal, 15 April, 1878, dismissing an opposition on motion. The opposant was the wife of the defendant Gareau, and the opposition claimed certain effects which had been seized in the possession of Gareau. The motion to dismiss the opposition invoked Art. 664 C.C.P., and the amendment 34 Vic. (Quebec,) c. 4, s. 8 (1870), which made the article in question apply to moveables. The opposition was not allowed by a judge.

The appellant submitted that Art. 664 did not apply, because it is only for cases "where all the advertisements and publications required by law upon the first writ have been duly published and made," and it was denied that they had been made in this case.

CROSS, J., said the opposant contended that it was impossible the publications could have been made, because the first opposition was filed the very day after the execution issued. An execution *de bonis* issued 30th November, 1877, and on the 1st December Gareau filed an opposition *afin d'annuler*, which had the effect of suspending all proceedings on the execution. In answer to this it might be said that the *venditioni exponas* showed proceedings perfectly regular, and the publications must be presumed to have been regularly made, because there was nothing to show that they had not been made. Art. 664, no doubt, applies to cases where all the publications required by law upon the first writ have been duly made, but it was for the opposant to show that they had not been made to entitle her to come in *de plano*, without a judge's order for the second opposition. It was likely that no injustice had been done, seeing that the opposant was the wife of the defendant, and must have been aware of what was going on. The judgment of the Court below must be affirmed.

A similar judgment was rendered in the case of Gareau, appellant, and Armstrong, respondent, in which the appellant was the son of defendant Gareau.

Ouimet, Ouimet & Nantel for appellant.

H. W. Austin for respondent.

There were five other judgments rendered the same day, unanimously affirming the appeals in *Mann & Macdonald, Murphy & Windsor Hotel Co., Ryland & Austin, Gareau & Major and Gareau & Letourneux*. None of these cases require any remark. Questions of law were raised by the pleas in *Murphy & The Windsor Hotel Company*—an action for calls on shares—but the Court, holding that the averments of facts in the pleas were not proved, did not find it necessary to dispose of the questions of law raised on the part of the defence.

STAMPS ON BILLS AND NOTES.

The Act assented to on the 15th instant, "to amend and consolidate the laws respecting duties imposed on Promissory Notes and Bills of Exchange," contains 28 sections, and fills seven pages of the *Canada Gazette*.

Sec. 1 repeals 31 Vict. c. 9, 33 Vict. c. 13, 37 Vict. c. 47, except sec. 1, and 41 Vict. c. 10; provided that all proceedings commenced under the above Acts may be continued and completed under this Act, which shall not be construed as a new law, but as a consolidation and continuation of the repealed enactments, with and subject to the amendments hereby made.

Sec. 2 defines the signification of "Bank," "Broker," and "Instrument" in the Act, the latter word including "any promissory note, bill of exchange or part thereof, draft or order upon which a duty is payable under the Act."

Sec. 3. Duties imposed by the Act form part of the Consolidated Revenue Fund of Canada.

Sec. 4 imposes the following duties:—

On each promissory note, and on each draft or bill of exchange drawn or accepted in Canada, a duty of one cent, if such note, bill or draft amounts to but does not exceed \$25; a duty of two cents if the amount thereof exceeds \$25 but does not exceed \$50; and a duty of three cents if the amount thereof exceeds \$50 but is less than \$100;

On each promissory note, and on each such draft or bill of exchange for \$100 or more, executed singly, a duty of three cents for the first hundred dollars of the amount thereof, and a further duty of three cents for each additional hundred dollars or fraction of a hundred dollars of the amount thereof;

On each such draft or bill of exchange executed in duplicate, a duty of two cents on each