

The Queen
vs.
Dunlop.

The jury returned a verdict of guilty on both counts of the indictment against the defendant, and the Court recorded a judgment as follows:

"The Court, &c., considering that the defendant not having established before this Court that he had abated and prostrated, but on the contrary, he having neglected to abate and prostrate the nuisance complained of, and declared by the verdict of the Jury, it is hereby declared and adjudicated, that the defendant should pay, and he is hereby condemned to pay to Her Majesty a fine of £50, and to be imprisoned until the said fine be paid; and it is further ordered that the Sheriff do forthwith abate and prostrate the said nuisance, and he is by this Court ordered and authorized to employ and use all such means as will enable him to abate and prostrate, altogether, fully and completely, the said nuisance by the immediate destruction of the gunpowder contained in the defendant's powder magazine, found to be a nuisance by the verdict of the jury."

Judgment for the Crown.

E. Carter, Q. C., for private prosecution.

R. Mackay, for defendant.

(F. W. T.)

* A writ of error was allowed to defendant from above judgment; the defendant contending, among other things, that whereas the nuisance was susceptible of being abated by removal of powder there was not need to order the destruction of the powder, and that the judgment ought not to have done more than order the sheriff to abate the nuisance.

This writ of error was quashed June Term, 1867, upon objection taken by the Court to Mr. Ramsay's signing the Attorney General's name per procreation to the allowance of the writ. Another writ has since been allowed to defendant, and is now pending.

(F. W. T.)

July, 1867.

SUPERIOR COURT, 1866.

MONTREAL, 30TH APRIL, 1866.

Coram BADGLEY, J.

No. 91.

Connolly vs. Bonneville et al.

Held:—That where a female has been sued as a widow, but is in reality the wife of the other defendant who has been sued in his quality of executor of a will, and the return of service establishes that the copy of the writ and declaration for the female defendant was left with the male defendant personally, the plaintiff may amend the writ and declaration so as to describe the female defendant correctly.

This was a motion by the plaintiff to amend the writ and declaration.

One of the defendants was sued as a widow, and the copy of writ and declaration for her had been handed to the other defendant, who was sued as an executor, and who was also, in reality, the husband of the female defendant.

The female defendant, assisted by her husband, filed an exception *à la forme*, on the ground that the suit, having been instituted against her as a widow, whereas she was a married woman, was null and void.

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