

CASE FROM LOWER CANADA REPORTS.

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SUPERIOR COURT, QUEBEC.

Before BOWEN, Chief Justice, DUVAL and MEREDITH, Justices.

1594 } LANGLOIS,
of }
1852 } MARTEL,

vs.

Plaintiff.

Defendant.

Held that the *arrêt* of the King of France, of the 6th of July, 1711, can only be made to apply to cases where the Seigneur has refused to grant his unconceded lands; that the *arrêt* of the 17th March, 1732, merely enjoins the clearing of forest-lands, interdicting the sale of such lands; but that these two *arrêts* afford no remedy to a Censitaire who complains that the rate of *rentes* is too high; that there is no positive law limiting the rate of *cens et rentes*; that a deed of concession imposing one *sol* of *cens et rentes* and seven *sols* of *rente constituée* is not a deed of sale; and is not consequently void or voidable; and that in the case submitted, the Court has no power to reduce the rate of *cens et rentes*.

TRANSLATION.

Judgment 13th January, 1852.

This was an action brought by a Seigneur against his Censitaire to recover the arrears of a constituted ground rent (*cens et rentes foncières et constituées*), due under a deed of concession.

The plaintiff's declaration alleged "that by a deed executed before Panet, Notary, on the 10th September, 1839, the Plaintiff, Seigneur of part of Bourg Louis or New Guernsey, did concede to the Defendant subject to the payment of *cens*, irredeemable ground rents and constituted rents, (*à titre de cens, de rentes foncières non rachetables et rentes constituées*), a land" described in the said deed.

"That the said concession was made subject to the payment, for each arpent in superficies of the land so conceded, of one *sol* or half-penny currency, of perpetual and irredeemable Seigniorial *cens et rente*, and seven *sols* or three pence half-penny currency annual and constituted rent, at the rate of six per cent per annum, redeemable at pleasure, forming in the whole eight *sols* or four pence currency of *cens et rentes*, foncière et constituée for each arpent in superficies."

That the arrears amount to £16, and the Plaintiff prays that the Defendant be condemned to pay the said sum.