

Judgment appealed from reversed and a new trial ordered; TASCHEREAU, C.J., being of opinion that a judgment should be entered in favour of the plaintiffs.

Per TASCHEREAU, C.J. An employee who has left the service of the common master cannot be regarded as a fellow workman of servants engaged subsequently.

Appeal allowed with costs.

J. Travers Lewis, for appellants. *Davis, K.C.*, for respondents.

Que.]

[Dec. 11, 1903.]

ATTORNEY-GENERAL FOR QUEBEC AND CITY OF HULL *v.* SCOTT.

Appeal—Time for bringing appeal—Delays occasioned by the court—Jurisdiction—Controversy involved—Title to land.

An action au pétitoire was brought by the city of Hull against the respondents claiming certain real property which the government of Quebec had sold and granted to the city for the sum of \$1,000. The Attorney-General for Quebec was permitted to intervene and take up the fait et cause of the plaintiffs without being formally summoned in warranty. The judgment appealed from was pronounced on Sept. 25, 1903. Notice of appeal on behalf of both the plaintiff and the intervenant were given on November 3rd, and notice that securities would be put in on Nov. 10, 1903, on which latter date the parties were heard on the applications for leave to appeal and for approval of securities before WURTELE, J., who reserved his decision until one day after the expiration of the sixty days immediately following the date of the judgment appealed from and, on Nov. 25, 1903, granted leave for the appeals and approved the securities filed.

Held, that the appellants could not be prejudiced by the delay of the judge, in deciding upon the application, until after the expiration of the sixty days allowed for bringing the appeals and, following *Couture v. Bouchard*, 21 S.C.R. 281, that the judgment approving the securities and granting leave for the appeals must be treated as if it had been rendered within the time limited for appealing when the applications were made and taken en délibéré.

Held, also, that as the controversy between the parties related to a title to real estate, both appeals would lie to the Supreme Court of Canada notwithstanding the fact that the liability of the intervenant might be merely for the reimbursement of a sum less than \$2,000. Motion to quash dismissed with costs.

Aylen, K.C., for motion. *Belcourt, K.C.*, contra.