

signature of the maker, and that the change in the law contained in the articles referred to, only relates to the proof of promissory notes and other private writings which bear the manual signature of the party against whom they are set up. The rules respecting the effect of a promissory note remain the same, whether it bear the signature of the maker or is signed with a cross; but a change in the rule of evidence has been made in the first case and not in the second. As heretofore, therefore, the signature with a cross must be proved.

I therefore discharge the inscription for judgment, in order to allow the plaintiff to proceed to proof.

Inscription discharged.

*Rochon & Champagne*, for plaintiff.

#### SUPERIOR COURT—MONTREAL.\*

*Procedure—Judgment by default—Opposition—Proof—Action by transferee—Signification.*

HELD:—1. A deposition filed in a case in order to obtain judgment by default, will not avail to prove the plaintiff's case on his contestation of the opposition to judgment made by defendant.

2. In an action instituted by the transferee of a debt without signification of the transfer, the service of the action is not equivalent to signification of the transfer where such transfer is not alleged in the declaration. *McLachlan v. Baxter*, Papineau, J., Dec. 20, 1886.

*Contrainte—Service of rule upon person in custody.*

HELD:—That the service of a rule for *contrainte* upon a person while he is in custody and restrained of his liberty under a previous order of the court in the same cause, and not made by personal service between the wickets, as required by C. C. P. 70, is null and of no effect. *Lamoureux v. Gilmour*, in Review, Torrance, Taschereau, Gill, JJ., Nov. 30, 1886.

*Montreal, City of—Statute Labor Tax—Water rate.*

HELD:—That a person who pays water rate in the city of Montreal, thereby contri-

butes to the municipal revenue, and is exempt from the payment of statute labor tax. *Dechene v. Fairbairn et al.*, Caron, J., Feb. 18, 1886.

*Mandamus—Board of Revisors—Failure to perform duty within statutable time—Powers of the Court.*

HELD:—That the Court has power to compel the performance of a public duty by public officers, though the statutable time for performing the duty has passed; consequently the board of revisors was ordered to place names on the list of municipal electors, after the statutable time for performing the duty was passed. *Dechene v. Fairbairn et al.*, In Review, Johnson, Papineau, Loranger, JJ., May 31, 1886.

*Montreal, City of—Board of Revisors—Statute Labor Tax—Water Rate.*

HELD:—That the discretion of the Board of Revisors extends merely to matters of fact, such as the verification of names and residences of voters, and not to matters of law, and if they decide a question of law, the Court by mandamus may interfere to prevent such illegal exercise of discretion.

2. The water rate imposed in the City of Montreal is in the nature of a tax, and not the price of a commodity sold, and those who pay such water rate are exempt from the payment of the Statute labor tax, which is due only by those who do not otherwise contribute to the municipal revenue. *Glaton et al. v. Fairbairn et al.*, In Review, Taschereau, Gill, Loranger, JJ., Nov. 9, 1886.

*Pledge—Illegal sale—C. C. 1487—Lien de droit—C. C. 1975—Action of pledgor against transferee of pledgee.*

An obligation having been transferred merely by way of collateral security for a debt, the pledgee sold the obligation so transferred, to the defendant, who, with knowledge of all the facts, collected the full amount thereof from the debtor.

HELD:—That the sale by the pledgee was a nullity under C. C. 1487, and that the pledgor might maintain an action against the defendant to recover the amount received by

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