

nishees. The garnishees entered into possession of his assets and realized, from the sale of such assets, \$2,200.71. The defendant's pretensions are that they sacrificed his assets: he claims that they sold, to one Alphonse Turcotte, for \$1,690, his stock in trade, which was worth \$2,825.42; and that, to the same person, they sold for \$500: (1) A building lot with a dwelling and a store upon it. (2) A hypothecary debt for \$182. (3) Promissory notes, to the amount of \$718.20.

The plaintiff in this case, a creditor of the defendant, for \$185, became dissatisfied with the trustees' management of the defendant's estate, sued the defendant, in the Circuit Court, at Three Rivers, for that sum and, on the defendant's confession, obtained judgment. The plaintiff then placed, in the hands of the trustees, a garnishment-seizure.

The garnishees separately, on oath, made declarations, identical in their terms; the plaintiff in this case contested the declaration of each of the garnishees. Issue having been joined on the contestations, the parties proceeded to proof and hearing; and, upon the 8th February, 1883, the Circuit Court dismissed the present plaintiff's contestations of those declarations and adjudged that the trustees, as garnishees, had rendered a satisfactory judicial account of their management of the defendant's estate.

In the Court of Review in this case, it was

HELD:—10. *That the Circuit Court had no jurisdiction in the subject matter of the litigation, since it involved an amount exceeding \$200; and that, on that ground, the judgment should be reversed;*

20. *That the plaintiff, having selected a tribunal without jurisdiction to try such contestations of the garnishees' declarations, involving an amount exceeding \$200, should be condemned to pay the costs of such contestations;*

30. *That, since the garnishees had not invoked, either in the Circuit Court or in Review, the question of jurisdiction, each party should be condemned to pay his own costs in review.*

The following is the text of the judgment:

"Considérant que la contestation de la dé-

claration d'un tiers-saisi est une instance spéciale, séparée et distincte, un procès, où le tiers-saisi devient partie et défendeur; et que le code de procédure et, avant lui, un statut spécial, en donnant pour les contestations de déclarations de tiers-saisis, au tribunal d'où a émané la saisie-arrêt, juridiction ratione personae, n'a pas étendu sa juridiction ratione materiae;

"Considérant que la demande formulée contre les tiers-saisis, par la contestation de leur déclaration, excède de beaucoup la juridiction de la Cour de Circuit, où elle a été faite; mais que les tiers-saisis n'ont invoqué ce moyen, ni en première instance, ni en révision, le jugement, prononcé le 8 février 1883, par la Cour de Circuit, siégeant dans et pour le district de Trois-Rivières, est infirmé et mis à néant, et les parties à la dite contestation des déclarations des tiers-saisis sont mises hors de cour, avec dépens en première instance contre le demandeur, chaque partie payant ses frais en révision."

L. P. Guillet for the plaintiff.

Ed. Gérin for the garnishees.

(J. O'F.)

SUPERIOR COURT.

AYLMER (district of Ottawa), Sept. 16, 1886.

Before WURTELE, J.

THOMPSON v. MARKS.

Judicial Hypothec.

Judicial hypothecs arising between the 31st December, 1841, and 1st September, 1860, only affect such immovable property as the judgment debtor possessed at the time when the judgment was rendered.

PER CURIAM. *The plaintiff sets up a judgment rendered on the 28th of January, 1856, against the defendant's author, and he prays that the property of the defendant described in the declaration be declared hypothecated by the judicial hypothec resulting from the above mentioned judgment.*

With respect to judicial hypothecs, there are four periods, and during each of these periods a different rule governs. The first period extends to the 31st Dec. 1841, and judgments rendered during this period affect