

damage exceeds £1000, independent of the gain he would have realized if the La Croix's had been *Seigneurs Primitifs*. Vide evidence of Mr. Hrebaut,

As to the defence set up that this was a *Droit Litigieux*, Pothier and other authors say that to constitute the sale of a debt, a *droit litigieux*, it must have been litigated at the time of the assignment or there must have been reason to apprehend that it would be litigated, and further that the assignment should contain a condition that the purchaser must enforce payment of the debt at his own costs, and without warranty. Now the transfer in question does not come within the spirit or letter of this definition; for the debt was not litigated in 1796, nor inasmuch as the Judgment of the Court of Common Pleas was rendered three years before, could it have been foreseen that it would have been litigated, moreover there is no condition that the debt was to be recovered at the expence of the appellant, and without guarantee of the Widow and Heirs. Of course they are held by the *garanti de Droit*, to indemnify the appellant for the damage he has sustained by their fraud and deceit.

Vide traité du contrat de vente Nos. 588 581, 586 and 587; vol. 1. p. 692.

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The Appellant humbly submits that in seeking a reversal of the Judgment of the Court of King's Bench at Montreal, and a decree for such actual damage as he has sustained, he is supported by reason, justice and law.

Copy of the Declaration & Retrait offered

Thomas Jacob
Demandeur
Pierre Hrebaut
Défendeur
Jug. après la Cour
appellants
Le Roy Intervenant

Scudi 15 Janvier
1809
Mons: Paul de
Croy est présente
en Cour et de la
part qui faisant
sans pour lui que
pour les autres
Mention de la Dec.

ception de la Cour dont il a la Procuration qu'il
Jeli, quel a présente requête a son Excellence
Le Gouverneur en Chef surmettant tous ses droits
opérations continue dans son Opposition dans
cette cause a la décision de son Excellence et
que ni lui ni les dits Hrebaut se veulent
résister dans leur dite opposition, mais