

served upon the secretary-treasurer of the petition was not sufficient; that the notice should also have been addressed to the Corporation. I am quite satisfied with the manner and form of the notice given. It is in strict compliance with the statute. It further appears that the corrections and amendments were made after the thirty days, namely, on the 7th April. The prayer of the petition must therefore be granted, and the list restored to the condition in which it was before the 7th April and after the 1st March.

Geoffrion, Rinfret & Dorion for the petitioners.
Mousseau & Archambault for J. N. A. Archambault, secretary-treasurer.

SUPERIOR COURT.

MONTREAL, July 22, 1879.

MARCHAND V. CATY et vir.

Landlord and Tenant—Repairs—Recourse of Tenant when Landlord neglects to make repairs.

The plaintiff complained that he had leased from the female defendant by verbal lease, a house and premises in Sanguinet street for one year, beginning the 1st May last, at the rate of \$12 per month, the lessor undertaking to make certain reparations, and to keep the drains in good condition in the cellar and yard, so as to make the premises habitable. That the defendant had always failed in her undertakings, by which the plaintiff had suffered damages; that the drains were in a very bad state and sent forth in the house an infectious odor altogether prejudicial to the health of the plaintiff and his family, consisting of a wife and young children whom he had been in consequence obliged to send to the country; that Doctors Durocher, Larocque and others had visited the house, and all had declared it to be uninhabitable, and fit to cause grave prejudice to the health of the plaintiff and his family, and advised him to leave the premises in order to escape nauseous and infectious odours arising from the state of the drains. That defendant had always neglected and refused to make the necessary repairs to the drains. That the Board of Health had also declared the house unhealthy and uninhabitable,

and notified defendant to make repairs without delay. That plaintiff, on the 16th June, served a protest upon the defendant, requiring her to make the necessary repairs, without result, whereby plaintiff suffered damages which he reduced to \$50. The prayer of the plaintiff was that the lease in question be declared annulled from this day (20th June), and the parties be replaced in the same condition in which they were before the lease, without prejudice to the damages mentioned above, which plaintiff submits to the discretion of the Court.

The defendant pleaded that she had made all the reparations promised, and as to the drain, plaintiff did not complain until three or four days before the action, and by the protest of the 16th of June. That defendant requested Joseph Brunet to make a new drain, which he did with all despatch, to the satisfaction of the Inspector of the city. That, therefore, plaintiff had no reason to complain of the state of the premises, nor of the diligence used by defendant to make the repairs.

TOBRANCE, J. This cause has been tried before me, and I have had the advantage of hearing the witnesses. The evidence shows that Dr. Durocher visited the premises on the 12th of June, and he says:—"J'ai conseillé à la famille de laisser la maison pour le moment, parce qu'elle n'était pas habitable, et j'ai dit de laisser la maison où des réparations soient faites." Dr. Larocque, the Health Officer of the city, visited it on the 14th, and says it was not then habitable in the state in which he saw it. On the 3rd July Dr. Lachapelle says it was quite habitable. The repairs had been made. The protest summoned the defendant to make the repairs in three days. This protest was on the 16th June, and on the fourth day afterwards, namely the 20th, the action was taken out, and served on the following day, the 21st. Mr. Huot, the husband of the defendant, called on his contractor, Joseph Brunet, on the 18th, and did not see him till the 19th, and then gave the necessary orders. Brunet said he would find the level of the drain from the corporation, and give him an answer the following day (Friday). Brunet then said there was no use beginning at the end of the week, but he began on the Monday following, namely, on the 23rd, and the work was