

rendered by the Superior Court, in insolvency, Jetté, J., dismissing petition of Stanley, claimant; see 2 Legal News, p. 348.

TORRANCE, J. The sole question is whether the claimant has proved his status as creditor. The Insolvent Act, Sec. 2, Sub. Sec. 4 and Sec. 104, provides that the proof is to be made in the usual way. The claimant bases his claim upon an account produced by him, showing a debtor and creditor side, and an alleged balance in his favour. I need not here say how that balance should be proved in an ordinary suit. The claimant says that his status has been recognized. I see no such proof. The Court below so held, and we find no error. Judgment confirmed.

Davidson & Cushing for claimant.

John L. Morris for assignee, contesting.

SUPERIOR COURT.

MONTREAL, January 31, 1880.

TRUTEAU V. THE CITY OF MONTREAL.

Action—Interest of plaintiff contingent on future action of legislature.

JOHNSON, J. The object of the present action is to set aside a resolution of the City Council, passed on the 21st February, 1879, and adopting a report of a special committee on railways. The grounds on which this is asked I will not now enter upon at length; but will only say generally that the *raison d'être* of the plaintiff's action is alleged to be that the resolution now complained of virtually abrogated what is known as the million by-law, with all the benefits incident to it, which of right are said to have been vested in the people of this city.

The report of the committee is dated the 7th February of the same year; and it dealt with the difficulties that had intervened since the legislative sanction of the terms of the million by-law, and the modifications rendered necessary of the conditions originally stipulated, and especially with the one relating to the point of junction of the Ottawa and the Quebec lines; and they made certain recommendations as to new terms that in their judgment should be made with the Government. But assuming for a moment that the plaintiffs correctly represent the effect of this report and of its

adoption to have been what they say it was—a thing which, I think, can by no means be assumed, except for the purpose of seeing the answer that the defendants make to it, (because it is certainly not clear that the Council in adopting this report adopted anything but an opinion that negotiations with the Government were to be entered upon)—but, I say, assuming the plaintiffs are right as to the effect of all this, the defendants answer at once by a peremptory exception, that before the present action was brought, viz., on the 2nd June, 1879, the Council passed another resolution to the effect that whatever objection there might be to the report or to its adoption, they would apply to the Provincial Parliament to confirm their proceedings. This last resolution evidently means that the whole thing is to be ratified by the Legislature, and practically suspends the operation of the report, and makes it a thing that can never have any effect until the law says it may—a purely eventual fact that may or may not happen: so that the proceedings of the committee and of the Council are not now executory, or to be set aside as if any present interest existed for resisting them.

As to the second plea of the defendants, I do not enter upon it. It seems to me to deal with important facts of which I have no information in the record. There is no evidence or *enquête* that I can see, and I know nothing about the matters alleged beyond common report. The action is dismissed on the first plea.

Trudel & Co., for plaintiff.

R. Roy, Q. C., for defendants.

OBITUARY.—Within a brief space several officials connected with the Courts of Quebec have died. Mr. Holt, a member of the Quebec bar, who occupied for a short time the position of Judge of Sessions of Quebec, died about two months ago, and his place has been filled by Mr. Chauveau, who was formerly Solicitor-General in the Joly administration. Mr. Brehaut, for many years Police Magistrate at Montreal, and afterwards Clerk of the Crown, died suddenly about three weeks ago. This week the list is increased by the death of Mr. A. M. Delisle, a retired official, for many years Clerk of the Crown at Montreal, and afterwards Sheriff.