

*En revision:*

*Mr. Justice Lane* [after having recited the facts].—Defendant inscribed in Review from that judgment as well as from a judgment rendered by Mr. Justice Bruneau presiding in the Practice Court which dismissed a requête civile.

The first point his counsel urges is that they were forced to proceed before the first Court in the absence of their client. His adversary insisted on proceeding and the Court forced them on.

We have nothing before us to show if defendant and his counsel had made diligence and that defendant was prevented from some unforeseen and unpreventable circumstances from being present at the trial. He should have known of its coming up, and made his provision to be present and have his witnesses, if he had any, in Court.

As this Court has not been show why he did not do so, (unless it be a telegram dated the day before the trial produced with the requête civile from his manager, saying he was in the wood, which is not sufficient), it is a fair presumption that the first Court was not further enlightened on the subject, or, if so enlightened, that the reason whatever it was, was not a valid reason for postponing the trial.

It appears from the record that notice of the day for the trial was served on the defendant's attorneys on the 5th of April 1917, which was about three weeks before trial. They had therefore more than abundant time to advise their client of the date. There is no proof of when the defendant's attorneys advised him of the date of the trial, but presumably they would notify him on the fifth of April, when they received the notice, on the day following, or at least should have done so. If when he did