

Quebec, March 4, 1878.

Present: DORION, C. J., MONK, RAMSAY, TESSIER
and CROSS, JJ.

O'FARRELL, appellant; and BRASSARD, respondent.

Appeal to Privy Council—1178 C. C. P.

A motion was made on the part of Brassard to be allowed to appeal to the Privy Council, on the ground that the judgment (ante, p. 25) bound the future rights of the bar.

Leave to appeal was refused. The Court held that it had no power to grant leave to appeal beyond the cases mentioned in art. 1178 C. C. P. This case was not within any of them. It bound no future rights of Brassard, and the bar was not a party. The only remedy was for Brassard to apply to the Privy Council for special leave to appeal.

GLEASON and VAN COURTLAND; and MARQUIS
and D'ANJOU, T. S

Seizure by Garnishment—617, 624, C. C. P.—
Appeal.

Marquis had his domicile in the district of Rimouski. The writ issued in the district of Arthabaska. The *tiers saisi* made his declaration in his own district within the proper delay (Art. 617 C. C. P.), but it was not duly forwarded to the court at Arthabaska. On application the court condemned the *tiers saisi* personally to pay the whole debt unless he made a new declaration and paid all the costs of the *tierce saisie*. The T. S. moved for leave to appeal from this interlocutory judgment.

The motion was granted.

D'Anjou made a similar motion, but he had not made his motion within the delay, and consequently the declaration he made before the prothonotary at Rimouski was invalid. The judgment was therefore in conformity with Art. 624 C. C. P., and leave to appeal was refused.

DOUCET and CORPORATION OF THE PARISH OF
ST. AMBROISE.

Prohibition—Appeal.

This was an appeal by the Judge of Sessions at Quebec against a judgment on a prohibition directed against him, and prohibiting him from proceeding in a certain case. The party complainant took the case to Review, and was

unsuccessful. Mr. Doucet did not go to Review.

The Court reserved the motion to be decided with the merits.

METHOT and BURKE.

Action of Damages—Tille.

An action of damages for an assault. The judgment was confirmed, but the motives of the judgment of the Court below, which appeared to decide a question of property with regard to a wharf where the assault took place, were omitted.

BOUDREAU and VADEBONCOEUR.

Judgment confirmed.

KINGSBOROUGH and POUND.

An action *en déclaration de paternité*. The conclusions of the declaration did not ask for arrears. No notice of this was taken at the argument, and therefore the judgment was reformed with regard to this point only, with costs.

OUELLET and DUTREMBLE.—Confirmed.

LA CORPORATION DE LA VILLE DE ST. GERMAIN
DE RIMOUSKI and RINGUET.

Illegal By-Law—Action to recover money paid
thereunder.

Action to recover back money paid for licenses. It was not denied that the charge was illegal (34 Vict., Que., C. 2, S. 128,) but it was said that the by-law was not set aside, and could not be attacked incidentally (705 C. M.). The Court held that, even if this article applied to the municipality appellant, the article of the Municipal Code could not be interpreted to say that a by-law in direct opposition to the law must be set aside within three months or thirty days as provided by the statute.

This decision was held not to be in contradiction to the decision in the case of *Parent & La Corporation de la Paroisse de St. Sauveur*, 2 Q. L. R. 258.

Montreal, Jan. 28, 1878.

Present: DORION, C. J., MONK, RAMSAY, TESSIER
and CROSS, JJ.

BECKHAM, (plff. below), Appellant, and FARMER,
(def. below), Respondent.