

PROVINCE OF CANADA, }  
District of Quebec. }

IN THE QUEEN'S BENCH.  
APPEAL SIDE.

Ann Cecilia Maguire *et al.*,

APPELLANTS,

and

Havilland L. Routh,

RESPONDENT.

RESPONDENT'S CASE.

THE present Respondent, Plaintiff in the Court below, recovered judgment on the 13th September 1858, against Denis Maguire, junior, a ship chandler in Quebec, for the sum of £53 3s. 8d. with interest and costs. On the 27th February 1860, a writ of execution was issued to enforce this judgment and the stock in trade of a ship chandlers shop supposed to have been kept by the Defendant was seized. To this seizure an opposition *afin d'annuller* was filed by the present Appellant Ann Cecilia Maguire, the Defendants wife, he being also a party to the opposition, in which it was alleged that she was *séparée de biens* from her husband by a judgment of the Superior Court at Quebec rendered on the 5th February 1858, that she carried on business at Quebec under the name of "Maguire, Junior & Co." and that the effects which had been seized in the cause belonged to her. This Opposition was contested by the Plaintiff who pleaded the general issue and the following plea of Perpetual Exception.

And the said Plaintiff by this his perpetual *Exception péremptoire en droit* to the opposition *afin d'annuller* of the said Ann Cecilia Maguire and her said husband in this cause, not confessing or acknowledging any of the matters or things in the said Exception alleged to be true, saith that the said opposants cannot at any time maintain the conclusions of their said opposition because he saith that the said pretended separation as to property between the said opposants and the judgment ordering such separation is illegal, null and void and of no effect whatever against the said Plaintiff and the other creditors of the said Defendant, because the said Plaintiff doth allege and say that the said Ann Cecilia Maguire had not at the time of the said demand *en séparation de biens* or at the time of the rendering of the said judgement *en séparation* or at any time before any property or effects whatsoever which she had brought into the community existing between her and her husband, and her right to which was endangered in consequence of the insolvency of the said Denis Maguire, Junior, and that the said Ann Cecilia Maguire was not skilled in any trade or calling, and had not exercised or carried on any business by her own skill or industry her gains in which would be lost in consequence of the said insolvency of her husband. And that the said Ann Cecilia Maguire had in consequence no interest in demanding the said separation and the said Plaintiff further saith that the said separation has never been registered or *insinuée* in conformity with the requirements of law in such case.

And the said Plaintiff further saith that the goods, chattels and moveable property seized in the present cause form part of the stock in trade of a certain ship-chandlers