As already mentioned, the petition for injunction was presented to Judge Brooks without previous notice to defendants, and upon his declaration before mentioned, plaintiff, without any notice to defendants, went before Judge Plamondon, who happened to be there, and he gave the order to appear before him in Arthabaskaville. It was only when Judge Plamondon had become seized of the case, that the petition and Judge Brooks' declaration were served upon defendants together with the order to appear at Arthabaskaville, which defendants did apparently under protest. The plaintiff did not evidently question Judge Brooks' declaration, but acquiescing in it, was no doubt glad, in a case like this requiring despatch, to avail himself of the presence of Judge Plamondon. That Honorable Judge remained seized with the case till he rendered judgment on the 2nd July, ordering the writ to issue. I would only be too happy if I could hold that he is still seized with it, either at Arthabaskaville or Sherbrooke. It is impossible of course to hold that the case is pending at Arthabaskaville, for the learned Judge of that district only heard the argument there as a matter of convenience, — the case was before him as a judge acting for St. Francis district in which he received the petition and rendered his judgment. Nor do I think the contention that he is seized with the case at Sherbrooke well founded. While there temporarily he was seized with it, to determine an incident connected with it, but that did not seize him with it to final judgment. His duty was performed when he determined the question before him, and if any other view were adopted it would bring the administration of justice into the greatest confusion. How could that Honorable Judge be required to leave his district whenever the parties required his presence at Sherbrooke? In the matter of injunctions section 7 of the Injunction Act has, in order to avoid any doubt, expressly provided that in any proceedings commenced under the Act, *any judge* of the Superior Court shall at any stage of the proceedings, have the same power to act therein as the Judge before whom such proceeding was commenced. There seems to be something contradictory about the position taken by the plaintiff in saying on the one hand that the Hon. Mr. Justice Plamondon is seized with the case, and on the other that the proceedings in recusation are null and void, for if the latter pretention is correct Judge Brooks, as the resident judge of the district, is the proper judge to try the case.

The really important questions are, whether I should order the record to be returned because (1) the defendants did not within the delay of eight days from the date when they were served with Judge Brooks' first declaration take proper steps to recuse him as required by Art. 181; and because (2) plaintiff was not served with the petition in recusation before it was communicated to Judge Brooks and filed. Now what strikes me at the outset is, that here is an important case to be tried which is pending in a district where there is but one resident judge, who has performed his duty by declaring from the first moment the case was brought before him certain grounds of disqualification. Both parties have by their proceedings practically acknowledged the force of the grounds given by the learned Judge. The plaintiff immediately on the grounds being made known to him took the case before another judge and does not now pretend that Judge Brooks should hear the case, while the defendants have actually taken proceedings in recusation. If I send the case back it must be because I think Judge Brooks should try it as he is not properly recused,—or because I think another judge should be provided to try it at Sherbrooke. I do not consider I should be justified in adopting either of these reasons under the circumstances of this case, even if the procedure preliminary to the petition in recusation does not come up to the precise standard required by the Code of Procedure, which is itself indeed, not as clear as it might be.

The plaintiff claims that the declaration made by Judge Brooks on the petition for injunction, on the 15th June, is to be considered as a declaration of disqualification under Art. 179 C. C. P., and that the defendants are not within the delay of eight days mentioned in Art. 181, nor had the delay been extended by the Court as required by that