

purely a civil matter is governed by our Provincial laws. As the legislature, therefore, gave authority to the defendants to get money on its debentures in the manner they did in this instance, the contract was, under the circumstances, perfectly legal, and binding on the defendants, and there is judgment against them for the sum demanded.

Bethune & Bethune for plaintiffs.

Lunn & Cramp for defendants.

SUPERIOR COURT.

MONTREAL, April 30, 1880.

Ex parte DELIMA LAVIOLETTE, petr., and TRUDEL and CAZELAIS, Justices, respondents.

Certiorari—*Lapse of time without proceedings*—*The Crown may waive the objection arising from failure to proceed within the six months.*

This was the merits of a certiorari under which a conviction of petitioner for having kept a house of prostitution in the town of St. Henri was brought up. It was agreed that the two Justices who had sat in the case were without jurisdiction. Jurisdiction was only given to them sitting at the *chef lieu* of the district, 32-33 Vic., cap. 32, and C. S. Can., cap. 105, sec. 31.

The facts of the case were peculiar. The conviction was made on the 18th June, 1878. Notice of an application for the certiorari was given on 19th December, 1878, for the 27th of same month. On the 21st January, 1879, the Attorney-General gave his consent to the application by petitioner, and on the 28th January, 1879, the writ was ordered to issue. On the 6th September, 1879, the writ did issue.

Husmer Lanctot, for respondents, moving to quash the certiorari, said the application came too late—after six months; *Ex parte Boyer*, 2 L. C. J., 188; *Ex parte Lareau*, 2 L. C. J., 189; *Ex parte Houghton et al. & Corporation of Quebec*, 5 Quebec L. R., p. 314. Further, magistrates could not be condemned to pay costs; *Ex parte Leonard*, 1 L. C. J. 255; *Ex parte DeBeaujeu*, 1 L. C. J. 15.

Globensky, for petitioner, cited *Reg. v. Spencer*, 9 Ad. & El. 485; *Paley*, Convictions, 411, 412, 420, 423, as to costs. As to jurisdiction, 32-33 Vic., c. 32, s. 15, Con. S. Can., cap. 105, s. 31; *Clarke*, Crim. Law, 567.

TORRANCE, J. It would appear from the

authorities that the Crown could waive the objection as to lapse of time. As to costs, they are in the discretion of the Court. Conviction quashed without costs.

Christin & Globensky for petitioner.

Husmer Lanctot for Justices.

MENZIES V. BELL et vir.

Jurisdiction—*Action in Ejectment.*

An action in ejectment is a personal action, though a promise of sale be stipulated in the lease in favor of the lessee.

This was an action in ejectment under the Lessors Act. Plaintiff had leased to the female defendant premises at Calumet, in the district of Terrebonne. She was now resident at Montreal, where she was served with process to appear in the Lessor Court at Montreal. The lease contained a promise of sale.

Defendant put in an exception *déclinatoire* on the grounds: 1st, that she was in possession under a promise of sale, and she could not be impleaded in the Lessor Court; 2nd, that her right was a real right, and she should only be impleaded where the property was, namely, in Terrebonne.

Butler, for defendants, cited *Close v. Close*, 3 L. C. J. 140; *Senauer v. Porter*, 7 L. C. J. 42; *Lepine v. Jacques Cartier Building Society*, 20 L. C. J. 300.

Maclaren, for plaintiff, cited C. C. P. 34 and 38; *Scriver v. Stapleton et al.*, 2 Legal News, p. 190; 3 Delvincourt, notes, &c. (p. 93), p. 185 Lib. Ed.; 1 Poncet, No. 124; 3 Toullier, No. 388, and 12 do., No. 105, 4 Duranton, No. 73; 2 Marcadé on Art. 595, 1 No. 496; 9 Demolombe, No. 493; Cass., 6 Mars, 1861; S. V. 61, 1, 713; *Journal du Palais*, 1861, p. 1132; 7 Boncenne & Bourbeau, No. 452.

TORRANCE, J. The Court has jurisdiction. The right against the lessee is personal according to the authorities cited by plaintiff. Exception dismissed.

Trenholme, Maclaren & Taylor for plaintiff.

Butler for defendants.

MONTREAL, December 10, 1879.

LÉGGE V. LÉGGE, Jr., and SIMPSON, plaintiff *par reprise.*

Curatelle—*Curator must be resident within the jurisdiction.*

The case came up on demurrer to plea.