

Early Notes of Canadian Cases.

SUPREME COURT OF CANADA.

Quebec.]

[April 4.

GRANT v. THE QUEEN.

Petition of right (P.Q.)—R.S.C., Art. 5976—Sale of timber limits—Licenses—Plan—Description—Damages—Art. 902 C.C.

Where the holder of a timber license does not verify the correctness of the official description of the lands to be covered by the license before the issue of the license, and after its issue works on lands and makes improvements on a branch of a river which he believed formed part of his limits, but are subsequently ascertained by survey to form part of adjoining limits, he cannot recover from the Crown for losses sustained by acting on an understanding derived from a plan furnished by the Crown prior to the sale (FOURNIER, J., dissenting).

PATTERSON, J., was of opinion that the appellant's remedy should have been by action to cancel license under Art. 992 C.C., and with a claim for compensation for moneys expended.

Appeal dismissed with costs.

Hutchinson, Q.C., for appellant.

Bedard for respondent.

LACOSTE v. WILSON.

Donatio inter vivos—Subsequent deed—Giving in payment—Registration—Arts. 806, 1592 C.C.

The parties to a gift *inter vivos* of certain real estate, with warranty by the donor, did not register it, but by a subsequent deed, which was registered, changed its nature from an apparently gratuitous donation to a deed of giving in payment.

In an action brought by the testamentary executors of the donor to set aside the donation for want of registration,

Held, affirming the judgment of the court below, that the forfeiture under Art. 806 C.C. resulting from neglect to register applies only to gratuitous donations, and as the deed in this case was in effect the giving of a thing in payment (*dation en paiement*), with warranty, which under Article 1592 is equivalent to sale,

the testamentary executors of the donor had no right of action against the donee based on the absence of registration of the original deed of gift *inter vivos*.

Appeal dismissed with costs.

Lajoie for appellant.

Geoffrion, Q.C., for respondent.

BALL v. MCCAFFREY.

Appeal—Acquiescence in judgment—Jurisdiction—36 Vict., c. 81 (P.Q.)—Charges for boomage—Agreements—Renunciation to rights—Estoppel by conduct—Renunciation tacite.

In an action in which the constitutionality of 36 Vict., c. 81 (P.Q.), was raised by the defendant, the Attorney-General for the Province intervened, and the judgment of the Superior Court having maintained the plaintiff's action and the Attorney-General's intervention, the defendant appealed to the Court of Queen's Bench (Appeal side), but, pending the appeal, acquiesced in the judgment of the Superior Court on the intervention and discontinued his appeal from that judgment. On a further appeal to the Supreme Court of Canada from the judgment of the Court of Queen's Bench on the principal action, the defendant claimed he had the right to have the judgment of the Superior Court on the intervention reviewed.

Held, that the appeal to the Court of Queen's Bench from the judgment of the Superior Court on the intervention having been abandoned, the judgment on the intervention of the Attorney-General could not be the subject of an appeal to this court.

F.McC. brought an action against G.B. for \$4464 as due to him for charges which he was authorized to collect under 36 Vict., c. 81 (P.Q.), for the use by G.B. of certain booms in the Nicolet River during the years 1887 and 1888. G.B. pleaded that under certain contracts entered into between F.McC. and G.B. and his *auteurs*, and the interpretation put upon them by F.McC., the repairs to the booms were to be and were in fact made by him, and that in consideration thereof he was to be allowed to pass his logs free; and also pleaded compensation of a sum of \$9620 for use by F.McC. of other booms and repairs made by G.B. on F.McC.'s booms, and which by law he was bound to make.

Held, reversing the judgment of the court