

COURT OF REVIEW.

Criminal Law.—Illegal arrestation.—Damages.—Amendment.—Responsibility.—Indictment—True Bill.—Counsel. Termination of prosecution.—Quashing.—Arrest of judgment.—*Nulli prosequi*.

MONTREAL, 18th march 1914.

DE LORIMIER, MARTINEAU, GREENSHIELDS, JJ.

LEON RICHARD & uxor vs. EMILE GOULET

HELD: 1o That were in an indictment, under section 536 (b) cr. Co. the word "animaux" is used instead of "bestiaux," an amendment may be permitted on a motion to quash.

2o That in a case where the magistrate committed after contradictory proof was given, and after a true bill was found by the Grand Jury upon a bill of indictment, a meagre proof a reasonable and probable cause in the absence of proof of express malice, is a complete bar to an action in damage for false arrestation.

3o Where a party before taking a criminal action against another procuring is arrestation did consult his counsel in law, and if evidence commits the defendant for trial and the Grand Jury find a true bill the complainant is justified in his prosecution.

4o That the fact that the prosecuting party did consult counsel is an important element in considering the state of mind that a reasonable person would have in the presence of the facts as presented to his counsel before the information laid.