

evidence, as the Circuit Court is exempted in non-appealable cases, C. C. P. 1101. In the case of justices of the peace in England making summary convictions, the justices are expected and enjoined to take notes of evidence: Chitty's Burn's Justice vo. Conviction 833 and 840, edition of 1831: Paley, Convictions, p. 117, ed. 1866: Kerr's Magistrates' Acts, p. 181.

Next as to costs: The question of costs is in the discretion of the Court. At the trial in the Commissioners Court, the defendant does not appear to have recused the judge. The debt is probably due to the plaintiff, Beaudry, who may still claim it, and the Court thinks here that the plaintiff should not be condemned in costs.

Judgment annulled.

Geoffron & Co. for petitioner.

Judah & Branchaud for Beaudry.

SUPERIOR COURT.

MONTREAL, Sept. 19, 1881.

Before TORRANCE, J.

PERRAS V. GOYETTE, père.

Writ of Summons—Amendment.

The Court will allow a writ, which, by inadvertence, was not signed by the prothonotary, to be amended by adding the signature of that officer, after an exception à la forme has been filed.

This was a motion by plaintiff to amend the writ of summons and declaration after the filing of an exception à la forme by defendant. The writ served upon the defendant and the original were by inadvertence given out of the office of the prothonotary, without the signature of the prothonotary. The defendant availed himself of this informality by filing an exception à la forme, relying upon C. C. P. 46, 51, which require the formality of the signature on pain of nullity. The plaintiff moved for an order upon the prothonotary to affix his signature, on payment of costs of exception, and that plaintiff be permitted to serve upon defendant a correct copy of writ and declaration.

The COURT, after conference with Caron, Rainville, Papineau and Jette, J.J., granted the motion subject to the payment of costs.

C. A. Cornellier for plaintiff.

Préfontaine for defendant.

SUPRIOR COURT.

MONTREAL, Sept. 17, 1881.

Before TORRANCE, J.

CHEVALLIER V. CUVILLIER et al.

Costs—Demurrer maintained as part of demand.

Where a demurrer is maintained as to part of the demand, the attorney is entitled to the same fee as on demurrer dismissed.

This was a motion by plaintiff to revise the taxation of a bill of costs in favor of defendants.

The defendants had demurred to a large portion of the demand of plaintiff, (over \$150,000) and the demurrer had been maintained to this portion with costs. The prothonotary had allowed a full bill of costs on the demurrer as if the action had been dismissed. The tariff had made no provision for this particular case, in which after the demurrer was maintained a portion of the demand remained intact. There was no fee mentioned in the tariff for the case of a demurrer maintained, though there was for a demurrer dismissed, apart from the case of an action dismissed.

The JUDGE reduced the fee to \$8, being the amount allowed for a demurrer dismissed, seeing the judgment gave costs, and the action was not dismissed.

Doutre & Joseph for plaintiff.

Barnard, Beauchamp & Creighton for defendants.

NEWSPAPER ARTICLE ENCOURAGING MURDER OF FOREIGN POTENTATES.

CROWN CASES RESERVED. JUNE 13, 1881.

REGINA V. MOST, 44 L. T. Rep. (N.S.) 823.

The defendant wrote and published an article in a newspaper in London, which was sold to the public and also circulated among subscribers, which article the jury found was intended to and did encourage, and was an endeavor to persuade persons to murder foreign potentates, and that such encouragement and endeavoring to persuade was the natural and reasonable effect of the article. *Held*, that the defendant was guilty of a misdemeanor within section 4 of the 24 and 25 Vict., ch. 100, which makes it a misdemeanor to endeavor to persuade a person to murder any other person.

Case reserved for the opinion of this court by Lord Coleridge, C. J.

Johann Most was tried before me at the Central Criminal Court on the 25th May, on an indictment containing twelve counts. The first two counts contained charges of publishing a