

District of Quebec, district court of St. Thomas.—TALON, plaintiff, vs. CLOUTIER. defendant.—July 1842.—Before Mr. Morin, district judge.

---

Held that the district court, established by the 4th & 5th Vict. cap. 20, had no jurisdiction in hypothecary actions.



This was an hypothecary action brought by the plaintiff against the defendant for the sum of £12 17 6.

The plea on behalf of the defendant was that the action, being directed against an immoveable property in order to procure the judicial sale of such property, and to be paid an hypothecary claim, the district court had no jurisdiction.

The ground on which the defendant contended that the court had no jurisdiction were :

1stly. That the district court had only jurisdiction in personal actions, where the sum of money or the value of the thing was under twenty pounds sterling.

2ndly. That the hypothecary action having for its object the sale of the mortgaged property, it could not be said that it was limited to a sum under £20 strg.

3rdly. That the district court had not the power of causing immoveable property to be sold, and that the judgment to be rendered could only be executed through the court of King's Bench.

This plea was maintained and the action dismissed with costs.