

COURT OF QUEEN'S BENCH—MONTREAL.*

Incorporated City—C.S.C. ch. 85, s. 3—Damages resulting from neglect to maintain road—Limitation of three months need not be pleaded.

Held:—1. Section 3 of C.S.C., ch. 85, (R.S.Q. 4616, § 3) applies to the City of Sherbrooke; and no action of damages thereunder can be maintained unless brought within three months after the same have been sustained.

2. The Court is obliged to apply the prescription though not pleaded by the defendant.—*Corporation of the City of Sherbrooke & Dufort*, Dorion, Ch. J., Tessier, Cross, Church, Bossé, J.J. (Tessier, J. diss.), Nov. 20, 1889.

Fraud—Sale of insolvent estate by assignee—Collusion between persons who had tendered—Remedy of creditors—Distribution of amount recovered as damages.

Held:—1. Where a person who had tendered for the purchase of an insolvent estate, and who had put in two bids, and acting in collusion with the insolvent, bought off a higher bidder in order that his own lowest tender might be accepted; that this artifice was a fraud upon the creditors of the estate, and they, or any one of them, might recover from such bidder the amount of damage caused thereby to the estate.

2. That two or more independent firms, creditors of the insolvent, may unite in such action, and claim one money condemnation.

3. But the amount recovered in such action is an asset of the estate, and must be distributed as such, and cannot be wholly paid to the creditors who instituted the suit.—*Jacobs & Ransom*, Dorion, ch. J., Tessier, Cross, Church, Bossé, J.J., Feb. 26, 1889.

SUPERIOR COURT—MONTREAL.*

Declinatory Exception—Completion of cause of action in contract for sale—Contract by telegram and delivery.

Held:—That where a merchant domiciled at S., asks by telegram from a merchant

domiciled at M., for a quotation of certain goods to be delivered at S., to which the merchant at M. telegraphs in reply offering certain quantities at certain prices, and the merchant at S. thereupon responds accepting the prices but changing the quantities, upon which the merchant at M. ships in accordance with the last telegram, no complete right of action arises in the District of M., and an action brought in such District is dismissed.—*McFee v. Gendron*, Pagnuelo, J., Oct. 9, 1889.

Certiorari—Judgment of inferior jurisdiction—Arts. 1220, 1221, C.C.P.—Mens rea.

Held:—Where a magistrate dismissed a charge of selling intoxicating liquor to minors, on the ground that the complainant had not proved that the defendant knew the persons to be minors; that this was not a case for the issue of a writ of certiorari under § 1 or 3 of Art. 1221, C.C.P., there being neither want or excess of jurisdiction, nor any gross irregularity in the proceedings.—*Ex parte Hamilton*, Tait, J., Feb. 27, 1889.

CIRCUIT COURT.

MONTREAL, Sept. 30, 1889.

Coram PAGNUELO, J.

BOILEAU v. LA CORPORATION DE LA PAROISSE DE STE. GENEVIEVE.

Municipal law—Revision of valuation roll—Farmers' sons—Appeal to Circuit Court—Petition.

HELD:—1. *Inasmuch as, under R. S. Q. 177, as amended by 52 Vict. (Q.), ch. 4, the list of parliamentary electors must be prepared each year "according to the valuation roll then in force in the municipality," every parliamentary elector has an interest to ask that the names of persons who are electors be added to the valuation roll; and such demand may be made, not merely when the triennial roll is prepared, but also in each of the other two years when the roll is revised and corrected.*

2. *The Act 52 Vict. (Q.), ch. 4, having extended the right of suffrage to farmers' sons, and sons of owners of real property, the*

* To appear in Montreal Law Reports, 5 Q.B.

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