

corporation of Jacques Cartier Square, the annulling of the deed of donation, would not determine the right of each person who desired to pass that way; and as the corporation holds not only by its deed of donation but by its representative character, it appears to me manifest that this action cannot be maintained. It is possible that there may be an action of damages against the corporation, but this question is not before us on this appeal, and I have no opinion to express upon it. I am to confirm.

Judgment confirmed.

Lacoste, Globensky & Bisailon, for Appellant.

R. Roy, Q.C., for the Respondent.

THE CASE OF BETTY JOHN.

From a scarce and singular volume by W. Hutton, containing decisions of the Court of Requests at Birmingham, we extract the following unique case for the entertainment of our readers:—

A plaintiff wished to sue a person in this court, but, not knowing whether the party was male or female, was at a loss by what name to begin. The defendant had been many years known in Birmingham, in the dress and character of a woman called Elizabeth, and had been many years known in the dress and character of a man, who answered to the name of John. The plaintiff after fruitless inquiries, determined to trap the person, let the sex be what it would, and, therefore, filled up the summons with *Elizabeth alias John Haywood*.

Whatever was the gender, the animal appeared in court in a female habit, was rather elegant, of a moderate size, tolerably handsome, about thirty-two, had a firm countenance, and manly step, no beard, eyes susceptible of love, a voice tending to the masculine, with manners engaging, and was rather sensible. A husband was pleaded in bar, and that the court had no power over a wife. The trial continued three or four days, during which the defendant acquired the appellation from the people of *Betty John*. As it attended the court in female dress, I shall take the liberty of treating it with a feminine epithet.

It appeared, from undoubted evidence, that, while she dressed like a man, she was suspected to be a woman; but in both dresses was

strongly suspected to be a man. The common opinion of the ignorant was that she was an hermaphrodite, partaking of both sexes. When she carried a male dress, she spent her evenings at the public house with her male companions, and could, like them, swear with a tolerable grace, get drunk, smoke tobacco, kiss the girls, and now and then kick a bully. Though she pleaded being a wife, she had really been a husband, for she courted a young woman, married her, and they lived together in wedlock till the young woman died, which was some years after and without issue. She afterwards, like people of higher rank, kept a mistress, and ran away with her.

Forcible evidences like these were sufficient to convince the wisest head upon this bench, or any other, that a man in disguise stood before them. Her wife living peaceably with her all her days without one complaint of a breach of the marriage covenant, evinced there was no defect. Neither would a girl sacrifice her reputation by becoming a mistress to a woman in breeches. Besides, a woman receives very little more pleasure in saluting a living woman than a dead one; whereas, a man, like the figure before the bench, seemed to receive a pleasure inexpressible. Her being versed in the art of kicking further proved she was a man, because it is an art never thoroughly understood by the beautiful part of creation, nor has it been practiced since the days of Queen Elizabeth. Again, she spoke but little, which was no indication of her being a woman.

The court, not satisfied she was a wife, and no further evidence arising, entered an order against her. On her neglecting payment she was served with an execution, and committed to prison. Two days after, it appeared from incontestible proof that she was a real woman, and a real wife.—*Soule & Bugbee's Legal Bibliography*.

APPOINTMENTS.—The following appointments have been gazetted:—John Anderson Ardagh, junior judge of the county court of the County of Simcoe, to be judge of the same court, *vice* James Robert Gowan resigned; Hon. M. W. T. Drake, and A. E. B. Davie, of Victoria, B. C., to be Queen's Counsel; Right Hon. Sir J. A. Macdonald, K. C. B., to be President of the Queen's Privy Council for Canada, and Superintendent General of Indian affairs; Hon. D. L. Macpherson to be Minister of the Interior; Hon. Wm. Miller to be Speaker of the Senate of Canada.