

direct taxation? Its prominent feature is that it is exigible from, and is to be borne by, him who immediately pays it; a tax which the person first paying it may charge over to or against any other is an indirect tax. Stamp duties on law papers and proceedings are expressly called indirect taxes by almost all the writers on political economy, by all, in fact, except one, Mr. Craig, in so far as I have been able to discover. He wrote seventy odd years ago. Had plaintiff paid this ten cents tax he could tax it against defendant on getting judgment. It has been said for the Attorney-General that the local legislature charged with the administration of justice can impose any tax in order to provide for that administration. But it is not so; for, as said before, the local legislatures can only tax as by the British North America Act. The framers of that act knew the import of words. They knew what the power of taxation was and means. They give power to tax "by any mode or system," to the Dominion Parliament. Our condition would have been intolerable had like power been conferred upon the local legislatures. So the power of these is limited designedly, as I have said before. It has also been said that this stamp tax might have been imposed by an order-in-council under Cons. Stat. L. C., ch. 109, sec. 32, entitled, "An Act respecting Houses of Correction, Court Houses and Gaols." But it has been imposed, not by the Lieutenant-Governor-in-Council, but by another body, the Legislature, and its proceeds are to go, not to the Building and Jury Fund, but to the Consolidated Revenue Fund! The question before me is as to the power of the Legislature, not of the Governor-in-Council. I hold the stamp duty in question to involve, not direct, but indirect taxation, and that the Legislature of Quebec in imposing it has exceeded its powers. This stamp duty does not answer the description given of "direct taxation," and is no more such than was the one on policies of insurance under 39 Vic. ch. 7 of Quebec; so the rule taken by the plaintiff must be made absolute, and the intervention is dismissed.

*Maclaren & Leet* for plaintiff.  
*Lacoste, Globensky & Bisailon* for *mis en cause*.  
*Loranger, Attorney-General*, for Quebec Government.

SUPERIOR COURT.

MONTREAL, March 15, 1882.

*Before TORRANCE, J.*

BEAUDRY v. LEPINE, and LORA COWAN, garnishee.

*Pawnbroker—Attachment.*

*A pawnbroker is entitled to security that the pledge seized in his hands shall, if sold, produce enough to indemnify him.*

The plaintiff had lodged an attachment in the hands of the garnishee, a pawnbroker, who declared that she had certain articles in her possession belonging to the defendant, and these she held as security for the payment of \$124 and interest, and would give them up on payment of the debt due her. The plaintiff inscribed for judgment on this declaration.

PER CURIAM. The garnishee must have security that the articles if sold shall produce enough to indemnify the garnishee. Roger, Saisie-arrêt—No. 243.

The judgment was recorded as follows :

"La Cour \* \* \* \* \*

"Attendu qu'il n'était aucunement prouvé que le gage en question fût d'une valeur supérieure au montant de la créance de la tiers-saisie, attendu que le demandeur n'a pas offert de dés-intéresser la tiers-saisie; renvoie la demande du demandeur pour jugement sur la déclaration de la tiers-saisie à moins que le demandeur ne donne caution à la Tiers-Saisie dans l'espace de 15 jours que ce dernier sera payée par la vente le montant de sa créance en principal, intérêts et frais."

*Dalbec & Madore* for plaintiff.

INSANITY AS A CAUSE FOR DIVORCE.

The *Lancel* remarks that, in the Divorce Court on Friday, the 16th Dec., a very important case was settled in reference to insanity. The case was *Hunter v. Edney*. In this case a woman was married, but refused on the wedding night to allow the marriage to be consummated. The husband sent for the mother of the woman, who took her home after she had been seen by Dr. Miskin, a general practitioner in the neighborhood. Dr. Miskin was of the opinion that she was insane. Some few weeks later, Dr. Savage, of Bethlem, saw the case, and decided that the woman was suffering