

Mayor appointed a third who made the roll with the other two, and on the day that the roll was homologated, the council ratified the nomination made by the mayor. The roll being made by only two assessors competent to act, was not in accordance with the law, and must be declared null. Moreover, the roll was not attested by the assessors or by their clerk before it was deposited. It was no more than a piece of blank paper, and no one was bound to contest such a document. It was only on the day it was homologated that it was attested and sworn, and only then could those interested be called on to contest it. The signature and attestation of the clerk were not made until after the roll was homologated. These were radical nullities, and could not be disregarded under Sec. 16 M. C., which refers only to objections of form, and not to matters affecting the substance, like those complained of here. It is of the essence of a municipal assessment roll that it be made by three valuers named by the council, and that it be signed and attested, otherwise it is not an assessment roll at all.

The judgment dismissing the appellants' petition is therefore reversed.

The judgment is as follows :

"Considering that the petition of the appellants to set aside the valuation roll for the year 1878, for the township of Stoke, was an original proceeding initiated in the Circuit Court under the provisions of Article 100 of the Municipal Code, and that the judgment rendered on the said petition is appealable under the general provisions contained in Art. 1142 of the Code of Civil Procedure, this court doth reject with costs the motion made by the respondents to dismiss the appeal ;

"And considering that Isidore Gadbois, who acted as one of the valuers in preparing the said assessment roll was not appointed by the Council, which Council had alone, under Art. 365 of the Municipal Code, a right to appoint valuers, but was appointed by the mayor of the municipality who had no such right ;

"And considering that the said valuation roll was neither signed nor attested by the valuers until the day it was homologated or approved of by the Council, nor by the Secretary-Treasurer until after its homologation ;

"And considering that the proper appointment of valuers by the Council and the pro-

per attestation of the assessment roll by the valuers, or by at least two of them, and by the Secretary-Treasurer who assisted them in the confection of the said roll, are essential to the validity of an assessment roll, and cannot be considered as mere formalities which may be dispensed with, under Art. 16 of the Municipal Code ;

"And considering that there is error in the judgment rendered by the Circuit Court for the district of St. Francis, sitting at Sherbrooke, on the 10th of December, 1878 ;

"This Court doth reverse and set aside the said judgment of the 10th of December, 1878, and proceeding to render the judgment which the said Circuit Court should have rendered, doth adjudge and declare the assessment or valuation roll of the Township of Stoke for the year 1878, made by F. H. Lothrop, I. Gauthier, and Isidore Gadbois, and adopted by the Council on the 17th of July, 1878, null and void, and doth set aside the said assessment roll, and doth condemn the respondents to pay to the appellants the costs incurred on the petition of the appellants as well in the Court below as on the present appeal ; (but without the costs of printing the interrogatories and answers on *faits et articles*, which should not have been included in the appendix to the factum.)

Brooks, Camirand & Hurd for Appellants.

Hall, White & Panneton for Respondents.

COURT OF REVIEW.

MONTREAL, December 29, 1879.

JOHNSON, JETTÉ, LAFRAMBOISE, JJ.

THE MONTREAL & OTTAWA FORWARDING CO. v. DICKSON.

(From S.C., Montreal.)

Inscription in Review—Interlocutory judgment—An inscription in review, in general terms, from a final judgment does not submit for review an interlocutory judgment not referred to in such final judgment, and especially when the inscription for final hearing in the Court below did not refer to any interlocutory judgment rendered in the case.

JOHNSON, J. In this case the judgment of the Court below stands,—that is to say, the final judgment dismissing the action, but without costs ; indeed, the inscribing party