

## The Legal News.

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### POWERS OF COURT OF QUEEN'S BENCH.

Incidentally, in the case of *Mallette & City of Montreal*, noted in our last issue, (p. 370), a question of considerable interest has presented itself. An appeal has been taken from the judgment of Mackay, J., but the City, Respondent, having been about to execute the sentences which had been pronounced against the butchers, plaintiffs and appellants, an application was made to a Judge of the Court of Queen's Bench in Chambers for an order to the Recorder's Court, to suspend the execution of the sentences until the appeal should be determined. Mr. Justice Bainville had granted a temporary injunction while the case was proceeding in the Court below; but that order had lapsed. The application was rejected, both Mr. Justice Monk and the Chief Justice doubting whether the authority of the Court of Queen's Bench extended to such a case. The learned Judges, however, did not hold, apparently, that the Court would not interfere under any circumstances whatever, but only that the case presented did not justify interference. The damage apprehended by appellants was not irremediable, the appellants having the option of relieving themselves by payment of the fines imposed on them; and further, it was suggested that the Superior Court, probably having jurisdiction, might be disposed to exercise it in this matter.

### RIGHT OF ACTION.

The decision in *Gnaedinger v. Bertrand*, noted in the present issue, is almost identical, as far as the first point in the case is concerned, with the ruling of the Court of Review some years ago in *Lapierre v. Gauvreau*, 17 L. C. J. 241, which has since been generally accepted as conclusive upon the question decided. In that case it was held that where an order is obtained in another district by the travelling agent of a Montreal firm, subject to the approval of his principals, and the order is accepted by the firm in Montreal and the goods are delivered there, at the railway or steamboat, the right of

action originates in the district of Montreal. In the case of *Gnaedinger v. Bertrand*, the action was on notes, for which the merchandise sold as above stated was the consideration, and the notes, though bearing date at Montreal, were really signed in Kamouraska. This raised another question on which the decisions are not so clear. In one of the latest cases, *The Railway and Newspaper Advertising Co. v. Hamilton*, 20 L. C. J. 28, the Court considered that the dating of a contract at Montreal which was really made elsewhere, did not constitute a cause of action originating at Montreal. The special circumstances of *Gnaedinger v. Bertrand* seem to have taken it out of that rule; or, at all events, present important points of difference. The notes, being made for goods sold and delivered at Montreal, as above mentioned, were sent to the debtor with place of date in blank, and by him signed and returned in blank. He had an opportunity to date the notes in Kamouraska (the place of his domicile), if he wished; but instead of doing so, he signed them and sent them back to Montreal with place of date in blank, and the Court held that, by doing so, he authorized his creditor to complete them by filling in the place of the creditor's residence, where also they were payable.

### NOTES OF CASES.

#### SUPERIOR COURT.

MONTREAL, NOV. 14, 1879.

GNAEDINGER et al. v. BERTRAND.

*Cause of action*—Goods sold on an order obtained by a travelling agent subject to approval of employer in Montreal—Delivery at railway station—Notes signed by debtor with place of date in blank.

JOHNSON, J. This is a plea to the jurisdiction of the Court—an exception *déclinatoire* by defendant.

He says that his domicile is at *Isle Verte*, in the District of Kamouraska, and that the cause of action arose there; that the notes on which the action was brought were signed there, and the merchandise which was the consideration of them was delivered there. There is evidence of record and also an admission, from which it would appear that the goods were bargained for at *Isle Verte*, between the defendan