demandeurs, doit être considérée comme faite par eux-mêmes, et qu'en la ratifiant subséquemment à Montréal comme il est prouvé qu'ils l'ont ratifiée, les demandeurs lui ont nécessairement donné un effet remontant à l'instant où elle a été convenue à l'Isle Verte;

"Considérant que le défendeur n'était pas domicilié dans le district de Montréal, lors de la signification de l'exploit d'assignation, et que telle signification ne lui a pas été faite personnellement dans ce district, mais dans celui de Kamouraska, et qu'il n'est pas justiciable de ce tribunal pour les causes mentionnées dans la demande;

"Considérant que les mots "le droit d'action" dans le troisième paragraphe de l'article 34 du C.P.C. ne constituent pas une innovation du droit, mais ne font qu'exprimer en d'autres termes l'idée rendue par les mots "la cause d'action" dans la 26me section du chap. 82 des S.R.B.C., et que pour donner jurisdiction à cette cour sur le défendeur, il faudrait que le lien de droit eut été complètement formé dans ce district;

"Considérant que le défendeur a prouvé les faits nécessaires au maintien de son exception déclinatoire, la cour la maintient avec dépens."

Davidson & Cushing, for plaintiffs.

D'Amour & Dumas, for defendant.

MONTREAL, Oct. 28, 1879.

QUEBEC BANK v. KAPP, and KAPP, petitioner.

Writ of Attachment in insolvency, not returned, cannot be used by other creditors.

In this matter a writ of attachment in insolvency issued but was not returned, plaintiff filing discontinuance before return day. The defendant, alleging that, if he were not relieved by an order of the Court from the consequences of the issuing of the writ, other creditors might make use of the proceedings instituted, to his detriment, petitioned the Judge, on the day following the return day, for such order.

To this a preliminary answer was made to the jurisdiction.

JETTÉ, J., held that as the writ had not been returned into Court it must be treated as a nullity, and no other creditor of defendant could found any proceedings upon those had in this matter: he, therefore, rejected the petition, with costs.

Abbott, Tait, Wotherspoon & Abbott for the plaintiffs.

Monk & Butler for petitioner.

MONTREAL, Nov. 7, 1879.

PREVOST v. SOCIÉTÉ CAN. FR. DE CONSTRUCTION DE MONTREAL.

Building Society—A rule irregularly enacted not binding on a non-assenting member.

MACKAY, J. On the 20th August, 1878, the plaintiff says he ceased to be a member of the defendant's Company; that from 9th October, 1871, he was a member, and had thirty shares; that on the 20th of August, using Article 13 of the original *Réglemens* of defendant's Society, the plaintiff claimed to be paid back all the *versemens* he had paid in. He waited three months, and then sued, the amount claimed being $1,072.50, with interest from service of process.

The plea is that on the 9th October, 1871, *Réglement* 13, under which plaintiff claims, was not in force; that at a meeting of 14th February, 1871, it was abrogated, and for it another article (No. 13) substituted, and only by sale or transfer, after that, could a member part with his shares; that when plaintiff became a member this new Article, No. 13, governed; that plaintiff knew it when he became a member, and so, right to retire the amount paid in, was and is not competent to plaintiff. The defendants further contend that if plaintiff be under the original rule, he has to pay proportion of *dépenses*, $119.88, and compensation is asked *pro tanto* in the case, in which plaintiff may be held to have a right to get back his *mise*, $952.62;—the most plaintiff can get in any event, say the defendants.

In disposing of this case the Court has to consider chap. 69 of the Consolidated Statutes of Lower Canada. The defendants' Society is constituted under it. Sections 5, 6 and 7 enact that the rules shall be entered in a book, to be open for inspection. Such entry shall be deemed sufficient notice to the members, to make the rules binding. And rules so entered can be repealed only at a general meeting, called after notice to members of proposed alterations. Till 14th February, 1871, the defendants' Company existed under Rules of