this strip of land, he sold land to Spinelli, giving him a front covering Watson's strip. When Watson returned he instituted the present petitory action against Spinelli, who in turn sued Fullum *en garantie*. The judgment of the Superior Court ordered the defendant *en garantie* to pay £20 for the land, which then would become his. The Court of Appeals did not agree with the reasons of this judgment, though they considered the *dispositif* good. It would do no one any good to order the demolition of the buildings, and, therefore, the Court thought proper to exercise a rather unusual power in dealing with the case, so as not to interfere uselessly with the interests of the parties. The Respondent Fullum would have to pay £20, with costs in both Courts.—Judgment reformed. Justices Duval and Aylwin dissenting as to costs.

Day & Day for Appellant; T. S. Judah for Respondent.

McFAUL (defendant below) Appellant; and McFAUL (plaintiff below) Respondent.—DRUMMOND, J.,—This was an extraordinary case. The parties had made an amicable settlement some years ago, while their counsel were still proceeding with the case in Court. The appeal was from a judgment of the Circuit Court at Aylmer, on a motion for the appointment of a surveyor to determine the line *de novo*. The judgment was based upon the fact that since the institution of the action, a *bornage* had been made between the properties.—Judgment confirmed unanimously.

J. Colman for Appellant; Aylen & Perkins for Respondent.

QUINTIN (plaintiff) Appellant; and BUTTERFIELD (defendant) Respondent.—DUVAL, C. J.—The judgment in this case must be confirmed. Defendant had reason to fear that he might be troubled in his possession of a property sold him by one Lafrenière, a mortgage being held on the property by a man named Beauregard, and therefore he had a right to withhold payment of part of the purchase money which Quintin claimed as the *cessionaire* of Lafrenière, though Butterfield had accepted notice of the transfer. Lafrenière could not confer on plaintiff any rights against defendant which he, Lafrenière, did not possess.

Judgment confirmed unanimously.

Doutre & Doutre for Appellant; Leblanc, Cassidy & Leblanc for Respondent.

DUPLESSIS (Defendant below) Appellant; and DUFAUX (Plaintiff below) Respondent. This was a case arising out of the sale of a quantity of brick, and the only point was a question of evidence as to whether one Pelloquin acted as agent of the plaintiff in the sale, or whether he was the proprietor.—Judgment reversed, Duval and Meredith, J., dissenting.

Lesage & Jetté for Appellant; D. Girouard for Respondent.

BOWKER AND FENN.—DUVAL, CH. J., said as this was a case of importance, in which the Court was called upon, for the first time, to put an interpretation upon a part of the Promissory Note Act, it would have to stand over to next term.

FOLEY (defendant below) appellant; and GODFREY (plaintiff below) respondent.—DUVAL, C. J.—This was a hypothecary action, and judgment was obtained *ex parte* by the plaintiff. There were two objections raised to the judgment by defendant. First, that the certificate of registration was not upon the copy of the deed, but was a distinct and separate paper. The Court did not think it necessary that it should be upon the deed. Second, that the interrogatories had not been properly drawn. The Court thought they were sufficient.—Judgment confirmed unanimously.

A. & W. Robertson for appellant. C. Bedwell for respondent.

BUNTIN (defendant below) appellant; and HIBBARD, (plaintiff below), respondent.

Held,—That, under the circumstances stated, the defendant used due diligence in tendering back the goods found not to correspond to sample.

This was an action to recover the balance due on the price of a quantity of rags sold by the plaintiff to the defendant. On the 16th May, 1863, the appellant purchased from respondent 86 bales of cotton and linen rags at 5½ cents ℔ lb., deliverable in Montreal, and payable $1200 in cash when part of the bales were delivered, and the balance at a subsequent date. The sale was according to two samples of rags deposited with defendant. At the time of the delivery, the defendant was at his paper mills at Valleyfield, and the reception of the goods was conducted by one of his clerks. Fourteen of the bales were found to be damaged by salt water, and an understanding was come to between defendant's book-keeper and the plaintiff, that these 14 bales should be shipped to Valleyfield with the rest, and the damage by water be subsequently adjusted by the clerks who had seen them. When the bales arrived at the mills and were opened, the defendant pronounced them inferior to the samples, and he ordered his foreman not to use them, but to keep them, till he (defendant) brought up the samples, and compared them with the contents of the bales. The $1,200 was paid by defendant's book-keeper, before defendant's return to Montreal. After his return, he complained verbally to the plaintiff that the quality of the rags was not according to sample, and they spoke of an arbitration to determine both the quality of the rags and the amount of damage. The survey not being carried out, the defendant tendered back the 86 bales, and demanded the $1,200 which had been paid. The plaintiff took out an action for the balance, and the judgment of the Court below was rendered in his favor.

MONDELET, J., dissenting, thought the judgment should be confirmed.

MEREDITH, J., also dissenting, thought it was proved conclusively that the rags sold by the plaintiff were not of so good a quality as the sample, but the defendant should not have neglected to examine the bales at the Grand Trunk Station. When they arrived at Valleyfield, he said at once they were not of the same