After hearing evidence, the two Bissonettes sent the plaintiff to the Montreal jail, under charge of Mongeau, a bailiff. The plaintiff was immediately liberated by the order of one of the judges of the Superior Court sitting at Montreal, who declared that the alleged offence was unknown to the law. The plaintiff then brought his action against the two justices of the peace, the schoolmaster, and the bailiff. The judgment from which the present appeal was brought, condemned the four defendants *solidairement* to pay the plaintiff the sum of £100 damages.

DUVAL, C. J., said, that the two justices of the peace had not justified their conduct. They gave an order which was illegal; but for the illegality of this order the schoolmaster and bailiff were not responsible. Moreover, the damages awarded were extravagant. The judgment would be reversed, and the action dismissed as to Duquette and Mongeau. The judgment against the two Bissonettes would be reduced to £25; Duquette and Mongeau would have the costs of both Courts in their favor, and the plaintiff must also pay the costs in appeal of the other defendants, because the demand was extravagant and should not have been persisted in.

Meredith, Drummond and Mondelet, JJ., concurred.

Judgment reversed, damages reduced to £25 against A. and J. Bissonnette only.

Leblanc, Cassidy & Leblanc, for Appellants; *Moreau, Ouimet & Chapleau*, for Respondent.

HARNOIS, (plaintiff in the Court below,) Appellant; and ST. JEAN, (defendant in the Court below,) Respondent.

Held, that an action *en séparation de biens* may be instituted in the district wherein the defendant is summoned by personal service, according to C. S. L. C. cap. 82, sec. 26.

This was an appeal from a judgment of the Superior Court in a default case, rendered on the 30th June, 1865, by Mr. Justice Berthelot. The plaintiff brought her action *en séparation de biens*, against her husband. Both parties were domiciled in the district of Richelieu, but the defendant was described as being temporarily in the district of Montreal, where the action was brought, the defendant being personally served in the city of Montreal. The case was dismissed, on the ground that the plaintiff should have brought the action in the district where the parties had their domicile.

DUVAL, C. J., said that the judgment must be reversed. The defendant could be sued in any district where he was personally served.

Aylwin, Meredith, Drummond and Mondelet, JJ., concurred.

E. U. Piché for Appellant.

WATT, (plaintiff in the Court below,) Appellant; and GOULD *et al*, (defendants in the Court below,) and JACQUES *et al*, (intervening parties in the Court below,) Respondents.

Delivery of wheat.—Question as to carrier's right to store under the circumstances.

This was an appeal from a judgment of the Superior Court, rendered by Mr. Justice Smith on the 31st October, 1864. The action was brought to revendicate 9,941 bushels of wheat, seized in the possession of the defendants. The judgment recognized the defendants' right of lien for storage, and also the right of the intervening parties to the sum of $1,680, for the carriage of the wheat from Cleveland, Ohio, to Montreal, and also their right to be paid the freight out of the proceeds of the wheat. It was on these two items of storage and freight that the plaintiff appealed. The wheat arrived at Montreal about one o'clock, on the 16th October, 1862, in the *Avon*. Janes & Co., the consignees, directed the *Avon* to go along side of the *Caledonia*. She went along side early on the 18th, and found her discharging coals. The *Avon* soon after went away, on the ground that the *Caledonia* was not ready to receive the wheat, which was then stored. The whole case turned on this: was the *Caledonia* ready to receive the wheat, and were the intervening parties justified in storing when they did? The Court below having maintained the right of storage against the plaintiff, the present appeal was brought.

MEREDITH, J., said it was to be regretted that both parties had stood so determinedly upon their extreme rights. The amount involved was now several hundred pounds, whereas at first it was only about $100. If the *Avon* had waited a short time, this loss