

brought *in forma pauperis*, from a judgment of the Superior Court.

AYLWIN, J., said that during an experience of forty years he had never heard of an appeal to that Court *in forma pauperis*. Appeals would be multiplied, and the greatest inconveniences would result from such a practice.

MONDELET, J., dissenting, was of opinion that the door of the Court should not be closed to the poor, who could not bear the expenses attending an appeal in the regular way.

*Order rejected.* Mondelet, J., dissenting.

GROULX, Appellant, and THE CORPORATION OF PARISH OF ST. LAURENT, Respondents.

*Held*, That there is no appeal from a judgment rendered under the Municipal Act of 1860.

This was an appeal from a judgment of the Circuit Court, Montreal, rendered 25th April, 1865, condemning the defendant to pay \$120, for neglect of duties as inspector of roads and bridges.

The Court was of opinion that the judgment complained of, being rendered by the Circuit Court, under the dispositions of the Municipal Act of Lower Canada of 1860, which takes away from the Court of Appeals all jurisdiction over judgments pronounced by the Circuit Court under that Act, there was no appeal.

Appeal dismissed.

*Moreau, Ouimet and Chapeleau* for Appellant; *D. Girouard* for Respondents.

MONTREAL, March 6th, 1866.

PRESENT—DUVAL, C. J., AYLWIN, MEREDITH, MONDELET, and JOHNSON *ad hoc*, JJ.

Right Hon. EDWARD ELLICE, (appellant in the Court below,) appellant; and HER MAJESTY THE QUEEN, (respondent in the Court below,) respondent: and E. Contra.

*Damages—Provincial Arbitrators.*

Action to recover damages caused by the erection of certain Public Works.

This case originally came before the Provincial Arbitrators, on a claim by the Seigneur of Beauharnois, for damages caused to his property in the Seignior of Beauharnois, and in the adjacent township of Godmanchester, by certain dams erected by the Commission-

ers of Public Works at the head of the Beauharnois canal. On the 4th June, 1859, the arbitrators rendered an award allowing nothing to claimant, and an appeal was made under the statute, 22 Vic., c. 3, sec. 60, to the Superior Court, Montreal, which Court rendered a judgment for £8,575 in favour of the claimant. From this judgment the claimant appealed, and an appeal was also taken on behalf of Her Majesty.

The judgment of the Superior Court, which was rendered by Mr. Justice Badgley, has now been confirmed by the Court of Appeals, except that the latter court has gone farther, and granted the claimant interest on the £8,575 from the date of the judgment appealed from. The details of the case are very voluminous, but the following *resumé* will serve to show the main points in dispute.

Upon the completion of the Beauharnois Canal by the Provincial government, in 1849, the Commissioners of Public Works, under whose charge that work had been carried on, were compelled to raise the head of the water at its upper entrance in order to render the Canal efficient for public use; and, for the attainment of this object, caused two permanent dams to be erected, one connecting the upper point of Grande Isle with Clark's Island lying above it, both Islands at no great distance from the mouth of the canal, thereby forming, as it were, one continuous dam of considerable length; and the other lower down descending the river, connecting Grande Isle with the Seignior—the south shore of the St. Lawrence. The result was perceptible as the dams rose above the ordinary river level, and the object desired was fully accomplished by their construction. By means of these works, the entire channel of the St. Lawrence from shore to shore was narrowed two-sevenths of its extent, and in addition, the southern branch, which had before flowed between Grande Isle and the southern bank of the river (the north shore of the seignior) was entirely shut off. The head of water thus obtained did considerable damage to individuals by submerging all the lands that could be reached by the increased high water level. The dams were commenced in the spring of 1849, when the water was very low, and were completed in the autumn