

struck off the Electoral List, some for not holding *feu et lieu* at the time of the revision of the List on the properties attributed to them by the *Roll d'évaluation*; some of them because their names were not on the *Roll d'évaluation*, and that no proof was tendered to the Council to show that Contois, Lapointe and the twelve others had to be on the *Liste Electorale*, or had not to be.

The petitioners allege a refusal by the Council to do right and justice upon the 22 petitions, or *plaintes*, against Adolphe Gadoua and 21 others. Has the Council neglected or refused in the sense of the 42nd section of 38 Vict., c. 7, as amended by 39 Vict. ? The *procès-verbal* of the Council's proceedings shows the petitions referred to to have been objected to for want of sufficient libel or particularity, and to have been rejected in consequence. *Plaintes par écrit* are required by the Electoral Act, to the Council revising the Electoral List, whereas any kind of *plainte*, even verbal, suffices for objections against the *Roll d'évaluation* while it is being settled, or amended, under the *Code Municipal*; *plaintes par écrit* having been ordered, the Council seems to have supposed that the Legislature meant *plaintes* possessing form and particulars, and I can't say that the Council was wrong, or proceeded upon frivolous grounds, nor do I see that it has neglected or refused, as is charged by petitioners, in respect of the 22 petitions alluded to. These petitions are deficient in particulars, and this is fatal to part of the petition now before this Superior Court. The respondents are inexorable, insisting upon forms. No *plainte* in form, no jurisdiction, they say.

There remains the complaint that the Council struck off the Electoral List, or refused to enter upon it, the names of Edmond Contois, Alfred Lapointe, Elzear Lemieux, and eleven others. It is said that these fourteen persons' names were upon the *Roll d'évaluation*, and so it appears, except as to four, viz., Riley, Talbot, Weillbrenner, and Audette. Their names have been properly refused to be put upon the Electoral List. Besides, for their case, and the judgment upon it, there is no appeal. The names of the other ten were all on the *Roll d'évaluation*, and the Secretary-Treasurer put them on the Electoral List, as he was bound to, to wit, at date March 1st.

The respondents have to justify striking off their names. Condition precedent to right to strike off is the possession of formal, particular *plaintes* against those whose place on the List is disputed. Mere verbal *plaintes* will not suffice, nor can the Council (as can the Council of 734 C. M.) *ex mero motu* strike off.

Has the Council put before me *plaintes* warranting the striking off of the ten names? no; nor does the *procès-verbal* state any cause save that as regards Lapointe, Lemieux, Contois and Joseph Paradis, the Council seems *ex mero motu* to have struck off their names owing to their not holding *feu et lieu* on 1st of March, for which I see no complaint against any of them. The Council purports to act upon a petition of Viger and Achin. Now, that petition did not call for or warrant such action by the Council. So the names of the ten must all be restored to the Electoral List, and the petition to that extent is granted. If forms are insisted upon to one end, they must be submitted to, to all intents. No *plainte* in form, no jurisdiction. Costs against respondent, save only those made necessary and caused by the first part of the petition (hereby rejected), which costs petitioners must pay and bear.

*Prevost & Co.* for petitioners.

*Lacoste & Co.* for respondents.

MONTREAL, May 31, 1879.

PELOQUIN alias DUBOIS v. WORKMAN et al.

*Malicious Prosecution — Prescription — Action against firm — Probable cause.*

JOHNSON, J. This is an action of damages for a malicious prosecution. The first plea is one of six months' prescription, which is bad. The statute invoked gives protection to magistrates and others who are required to execute the criminal laws. The act complained of here was a complaint or charge, which the defendants brought against the plaintiff, of having feloniously received stolen goods. Therefore, the plea of prescription is dismissed.

Then, on the merits: the case is brought against a firm as such; but they don't object to this. They all appear and plead together to the merits, although only one of them, Mr. Eadie, made the complaint; and they say they had reasonable grounds for proceeding as they did; and the evidence amply sustains this plea.