

Court is absolutely without jurisdiction in such cases. We would, therefore, retrench the last clause of the head-note as framed by our correspondent in the above report.

REPORTS AND NOTES OF CASES.

COURT OF QUEEN'S BENCH.

Quebec, Dec. 5, 1878.

Present: SIR A. A. DORION, C.J., MONK, RAMSAY, TESSIER, and CROSS, JJ.

DESJARDINS and HAMILTON.

Judgment dismissing Demurrer—Appeal—Damages for Libel—Compensation d'Injures.

This was a motion for leave to appeal from a judgment dismissing a plea on demurrer. The action was for damages for libel against the proprietor of the *Canadien*. The plea rejected set forth that Desjardins had not written the article, but that it was written by the editor, Mr. Tarte, and that Hamilton had since personally avenged himself by assaulting Mr. Tarte.

RAMSAY, J., dissenting, thought this was a good plea. There was compensation of damages resulting from any *injure*; that it appeared Desjardins and Tarte were jointly and severally liable, and that Desjardins had a right to set up what Tarte could plead.

SIR A. A. DORION, C.J., said the Court did not decide that there was no *compensation d'injures*. His own opinion was that there was no such defence; but the Court refused the appeal on the ground that it could be corrected on the merits if it appeared later that defendant had been deprived of a valid defence.

Motion rejected.

MARQUIS and VAN CORTLANDT.

Appeal—Record remitted to Lower Court to give Respondent an opportunity of showing, by way of requête civile, that a document in the record is faux.

A motion was made on the part of Respondent that the appeal be not heard until he can take proceedings in the Superior Court, by way of *requête civile*, to reject from the record a document alleged to be *faux*, and that for this purpose the record be transmitted to the Court below.

The Court granted the motion without expressing any opinion as to the proceedings

Respondent proposed to take; but it appearing by affidavits that the document referred to was *faux*, it was proper that the Respondent should have an opportunity of showing that this document was *faux* as alleged, and this more particularly as the Appellant did not lose anything by the delay.

Motion granted.

GAGNIER and HAMEL.

Procedure—Notice.

Motion to reject appeal. The notice of motion served on Mr. Letendre was held insufficient, as he was Prothonotary, and consequently not a practising advocate.

Motion rejected.

SUPERIOR COURT.

Montreal, Nov. 30, 1878.

JOHNSON, J.

DUDEVOIR v. BRUCE.

Procedure—Party interested not in record.

JOHNSON, J. This is a revindication by the plaintiff of a piano in the defendant's possession. The plea is that the plaintiff is not the true owner; but that the piano belongs to Weber & Co.; and that it was to defraud them that there was a pretence of a sale by authority of justice to the plaintiff, who was in collusion with Nathalie Watts, the defendant in a case of Hamilton and Watts, in the Circuit Court, in which case the so called judicial sale took place, to defraud Weber & Co., who had leased it to her. That the instrument in question was seized in the present case in the possession of Weber & Co., and never was in defendant's possession at all. It is evident from these pleadings, and from a glance at the evidence, that the rights of Weber & Co. are those really at stake. The defendant can have no right to urge Weber & Co.'s interests. They ought to be brought into the case. In a case of Chapleau and Reilley, before Judge Jetté, the same order is to be made. Therefore it will be for the plaintiff to see to this, and the *délibéré* will be discharged so that he can take steps to bring the party interested into the case.

O. Augé for plaintiff.

Cruikshank & Co. for defendant.