

LALONDE, (plaintiff in the Court below,) Appellant; and BRUNET, (defendant in the Court below,) Respondent.

Question as to payment of *rente constituée* representing *lods et ventes*.

This was a hypothecary action to recover from the defendant, as *tiers-detenteur* of the half of certain property, the amount of a constituted rent with arrears, in all \$390. The defendant pleaded a peremptory exception, setting up that the rent in question was seigniorial, and represented the *lods et ventes* which had been commuted; that the commutation price had been paid, and the property cleared from all incumbrance. The defendant's pleas were maintained by the judgment of the Superior Court, rendered by Mr. Justice Berthelot, 27th June, 1862, and the plaintiff's action dismissed. It was from this judgment that the present appeal was brought.

MONDELET, J., dissenting, was of opinion that the judgment should be reversed.

AYLWIN, J., also dissented. It was to be observed that under the terms of the original contract, there was to be no sale whatever, unless it were with the permission of the present appellant. So far from this, there had been three different sales, and the result was to compel the present appellant to lose \$300, to which he was fairly entitled. His Honour was of opinion that the judgment should be reversed.

DUVAL, C. J., rendered the judgment of the Court, confirming that appealed from.

MEREDITH, J., concurring, said that before he saw the plaintiff's answers to the defendant's articulation of facts, he was of opinion that the judgment should be modified to the extent that the plaintiff should have security against *trouble*, because he thought it probable that the claim had never been paid, though the interest had been. But on looking at the answers, he saw that this was unnecessary, it being admitted the money had been paid.

Drummond, J., concurred.

Judgment confirmed, Aylwin and Mondelet, JJ., dissenting.

Moreau, Ouimet & Chapeleau for Appellant; Rouer Roy, Q. C. for Respondent.

WARDLE, (plaintiff in the Court below,) Appellant; and BETHUNE, *es qualité*, (defendant in the Court below,) Respondent.

Held, that the proceedings of *experts* are null and void, when notice thereof has not been given by them to both parties.

This appeal was from a judgment rendered by the Superior Court, 25th January, 1865, dismissing the plaintiff's action, declaring that the sum due to the plaintiff was more than compensated and extinguished by the damages set up in compensation, which were put down in the report of *experts* at \$30,282. The intention of the plaintiff was to carry the case to the Privy Council, but he submitted that the proceedings had by the *experts* must be declared invalid, no notice thereof having been given to the plaintiff or his agent.

DUVAL, C. J. It is impossible to confirm the judgment. The *experts* did not give the plaintiff any notice, and therefore their proceedings are null and void.

Meredith, Drummond and Mondelet, JJ., concurred.

Judgment reversed unanimously.

A. & W. Robertson, for Appellant; S. Bethune, Q. C., for Respondent.

BISSONETTE *et al.*, (defendants in the Court below,) Appellants; and BORNAIS, (plaintiff in the Court below,) Respondent.

Action for false imprisonment against the informant, bailiff making the arrest, and the two committing justices.

Held, that the two justices alone were liable in damages, which were reduced to £25.

This was an appeal from a judgment of the Superior Court, rendered by Mr. Justice Monk, on the 26th January, 1865. The action was brought by the plaintiff to recover the sum of \$1000 damages for false imprisonment, under the following circumstances. In June, 1860, Joseph Duquette, a schoolmaster of St. Valentin, laid an information before Anacleto Bissonette, a justice of the peace, alleging that the plaintiff had feloniously conspired against the life of himself, his wife, and children, by attempting to demolish the school-house in which they resided. On this complaint, the plaintiff was arrested and brought before Anacleto Bissonette and his brother Joseph, also a justice of the peace.