

"Considérant en outre que du moment que la juridiction est contestée, le tribunal ne peut passer outre à prendre connaissance d'aucune demande incidente ou autre, tant que la compétence n'est pas certaine ;

"Renvoie la motion du demandeur avec dépens."

RAMSAY, J. The action sets up a libel at Quebec, and now the plaintiff seeks to turn it into an action for publishing in the district of Montreal. In other words he seeks to bring a totally new action. I think the Court was right in refusing leave to amend.

Petition rejected.

Archambault & David, for plaintiff.

Mercier, Beausoleil & Martineau, for defendant.

SUPERIOR COURT.

MONTREAL, Dec. 10, 1881.

Before MACKAY, J.

ROSS *et al. es qual.* v. GUILBAULT.

Liquidators—Canada Agricultural Insurance Company 41 Vic. c. 38. (Can.)—Quality to make calls.

The liquidators to the Canada Agricultural Insurance Company are duly qualified under 41 Vic. c. 38 (Can.) to make calls.

This action was brought by the plaintiffs as assignees of the Canada Agricultural Insurance Company for \$200, being the amount of four calls of 10 per cent each upon certain shares of the company held by defendant. The first two calls were made by the directors of the company prior to its liquidation: the latter calls were made by the plaintiffs, *es qualité*, as liquidators of the company's affairs.

The defendant pleaded, principally, that the plaintiffs had no quality to make the calls, and that the special Act (41 Vic., c. 38. Can.), by which the company was placed in liquidation, only gave to the plaintiffs the powers of official or interim assignees, and that a meeting of creditors was necessary to confirm the appointment to entitle them to act as liquidators. It was further pleaded that the Acts incorporating the company as well as the Act putting it into liquidation were *ultra vires*, *quoad* the Dominion Parliament; that the company had commenced business before having the amount of stock required by its charter paid up, and that the directors of the company were guilty of extravagance and illegal acts.

PER CURIAM. By the preamble itself of the Act 41 Vic., c. 38, it appears that the plaintiffs were appointed liquidators by the creditors themselves, and that this appointment was confirmed, and a third (Geo H. Dumesnil) added by Parliament, and inasmuch as, had a meeting of creditors been called they would have had no power to replace the plaintiffs; and as by the general tenor of the Act it appears to have been the intention to give the plaintiffs full powers of liquidation, their quality is established, and the calls were legally made by them. As to the other pleas, there is nothing in them which the defendant, as shareholder of the company, could urge against the payment by him of his liability on the stock, and the judgment must go for plaintiffs for debt, interest and costs.

Church, Hall & Atwater, for plaintiffs.

T. Bertrand, for defendant.

Ritchie, Q. C., Counsel.

SUPERIOR COURT.

MONTREAL, Sept. 30, 1881.

Before PAPINEAU, J.

BINKS v. THE RECTOR AND CHURCH WARDENS OF THE PARISH OF TRINITY, and THE TRUST & LOAN CO. OF CANADA, opposants.

Immoveable by destination—Organ in Church.

An organ placed in a church used for public worship becomes an immoveable by destination under 375, 379 C.C.

The organ in Trinity Church, Montreal, having been seized, the opposants filed an opposition *à fin d'annuler*, on the ground that the organ was an immoveable by destination, and had already been seized with the Church by the opposants under a judgment obtained by them.

PAPINEAU, J., maintained the opposition.

Judah & Branchaud, for opposants.

L. H. Davidson, for plaintiff contesting.

SUPERIOR COURT.

MONTREAL, June 27, 1881.

Before MACKAY, J.

GAUVREAU v. ROY.

Resiliation of lease—Urgent and necessary repairs—Reduction of rent.

This action was for the resiliation of a lease made between plaintiff and defendant. The declaration alleged that while the plaintiff was