

aside the order, but should have reformed it by rectifying the error. Where a sheriff's deed has issued improperly and without authority it must be treated as an absolute nullity, notwithstanding that it has been registered and may appear upon its face to have been regularly issued, and in such a case it is not necessary to have it annulled upon taking proceedings for *folle enchère*.

Appeal allowed with costs.

Macmaster, Q.C., and *Stephens, Q.C.*, for the appellant.
Morgan, for the respondent.

1st May, 1897.

Quebec.]

LA VILLE DE CHICOUTIMI v. LÉGARÉ.

Municipal corporation—Waterworks—New works—Extension of works—Repairs—By-law—Resolution—Agreement in writing—Written contract—Highways and streets—R.S.Q. Art. 4485—C.C.P. 1033a.

By a resolution of the council of the town of Chicoutimi, on the 9th October, 1890, based upon an application previously made by him, L. obtained permission to construct waterworks in the town and to lay the necessary pipes in the streets wherever he thought proper, taking his water supply from the River Chicoutimi at whatever point might be convenient for his purposes, upon condition that the works should be commenced within a certain time and completed in the year 1892. He constructed a system of waterworks and had it in operation within the time prescribed, but the system proving insufficient a company was formed in 1895 under the provisions of R.S.Q. Art. 4485, and given authority by by-law to furnish a proper water supply to the town, whereupon L. attempted to perfect his system, to alter the position of the pipes, to construct a reservoir, and to make new excavations in the streets for these purposes without receiving any further authority from the council.

Held, (Gwynne, J., dissenting) reversing the judgment appealed from (Q.R., 5 Q.B. 542) that these were not merely necessary repairs, but new works, actually part of the system required to be completed during the year 1892, and which after that date could not be proceeded with except upon further permission obtained in the usual manner from the council of the town.