

empowered to make a new roll in accordance with sec. 187 of 37 Vict. c. 51. The present action was brought by one of the proprietors assessed for the improvement, to test the validity of the assessment roll made in pursuance of this Statute. The action was dismissed by the Superior Court, and the roll held to be valid.

Sir A. A. DORION, C. J. Sec. 187 requires the proceedings to be as prescribed by sec. 176, sub-section 2. This requires: 1st, Notice to the expropriated proprietor through the post office. 2nd, Advertisement in the newspapers. 3rd, Notice to be posted in both languages in three places upon every lot of land found liable to expropriation. Here the expropriation had already taken place, and the only thing required was to assess the amount to be paid by the different proprietors benefited by the improvement. The commissioners had not posted the notices on the lots of ground expropriated. There could be no doubt that the notices were intended to cover both the expropriation and the subsequent proceedings. But this statute was passed after the expropriation had taken place, and yet it said that notice must be given as prescribed by sec. 187, under which three notices were required. The Court could not say that the notices need not be given when the law says they must be given. It had been argued that there had been acquiescence on the part of Demers, by his having accepted the amount of the indemnity. The Court did not take this view.

Judgment reversed: "Considering that it appears by the evidence adduced in this cause that the respondents have failed to give the notices required by the Act 39 Vict., c. 52, under which the assessment or report of the commissioners was made, and, namely, failed to affix the notices required by sec. 176, s.-s. 2, of the Act 37 Vict., c. 51, on the properties expropriated and required for the widening of St. Mary street of the City of Montreal, before the appointment of the commissioners which were named to make the valuation roll complained of in the appellant's declaration;

"And considering that the respondent has failed to prove that appellant has waived the said notices;

"And considering that the said valuation roll is, from want of said notices, null and void, and the appellant entitled to the relief prayed

for," etc. Judgment reversed, roll set aside, and the Court "doth order that all further proceedings against the said plaintiff be suspended, and the said respondents are hereby prohibited from troubling the appellant for or by virtue of said assessment roll."

Barnard, Q.C., for the appellant.

Roy, Q.C., for the respondents.

Sir A. A. DORION, C. J., MONK, RAMSAY, TESSIER, and CROSS, JJ.

HUBERT (def. below), appellant; and BARTHE (plff. below), respondent.

Commission—Construction of agreement.

The action was brought in the Court below for commissions. The respondent had been employed to procure subscriptions of stock in the projected "Banque St. Jean Baptiste," of which the appellant was President. He was to get one per cent. on stock subscribed by persons outside of the city, and $\frac{1}{2}$ per cent. on stock subscribed by persons within the city limits. He obtained subscriptions to the amount of \$65,300. The commission was to be payable "after the first call," there being a *postscriptum* to the agreement, as follows:—"Cette commission sera payable après le 1er versement." Very few subscribers paid the call, and the banking scheme was abandoned. The respondent sued the President for the commissions earned, alleged to amount to \$375. The defence was that the commissions were not due until the subscribers had actually paid the first call. This construction of the agreement was overruled by the Court below, and, after some small deductions were made, judgment went for \$311.50.

The Court unanimously confirmed this judgment, holding that the respondent became entitled to the commissions as soon as the call had been made.

Barnard, Q.C., for appellant.

Girouard, Q.C., for respondent.

MARTIN (plff. below), appellant; and THE CORPORATION OF THE TOWNSHIP OF ASCOT (defts. below), respondents.

Damages—Where drunkenness does not contribute to accident.

Sir A. A. DORION, C. J. The appellant sued