

" Etienne Leblanc ne se trouveroient d'accord, sur le quantum de la dite rente au pension, viager et alimentaire; ils auroient le droit de nommer un tiers Expert pour agir conjointement avec eux et sans rien préjudicier aux autres charges, obligations et réserves y mentionnées au dit acte de Donation."

This nomination of Messrs. Kimbert & Leblanc having been accepted of by them, they proceeded to fix and establish the pension as agreed upon by the Appellants and Respondents, and on the 28th of the same month (August) they came to a decision of which they drew up a *Procès verbal* and deposited the same in the Office of J. E. Dumoulin, Esq. N. P. *Notaire*, which *procès verbal*, together with the act of deposit in the office of Mr. Dumoulin, were by him on the following day duly signified to Pierre Rousseau, the Respondent, and a true copy left with him; subsequent to this signification to the Respondents, the parties met for the purpose of passing an act of acquiescement, and sent for the Experts to fix the time the pension was to commence.

An Act of acquiescement was immediately drawn up, and it was then that the Respondents refused to ratify it; alleging, as a reason, "that it should not mention that the pension had been fixed on the immovable property only," evidently shewing a disposition to withhold from their benefactors the household furniture and moveables which they had expressly reserved to themselves, endeavouring thereby to change the express terms specified in the agreement of the 10th August, 1820, to induce a belief that the pension was to have been fixed on all the property given, as well moveable as immovable, and (after they had received from the Appellants Property to the amount of £2500, Currency).

The Appellants and Respondents then separated, and on the 31st August, the Appellants, by the ministry of Dumoulin, N. P. demanded of the Respondents the household furniture, and the horse and carriages; to this demand the Respondents answer they are willing to do so, provided the furniture be not carried out of town, and that the horse remain in their stable; which answer not being deemed satisfactory, a Protest is duly made, and on the following day, notwithstanding the Respondents' answer, they commence the delivery of the household furniture to the Appellants, alleging that motives of gratitude alone induce them to do so; but, strange to remark, on the following day they withhold the remainder. From such conduct on the part of the Respondents, the Appellants clearly saw that any further attempt to an amicable arrangement would be futile, they were, in consequence, driven to institute an action as aforesaid; and in their declaration they set forth the Donation—the subsequent argument between the parties—the *Procès Verbal* of the Experts—the misunderstandings which followed—and conclude: 1st. That the *Procès Verbal* be homologated, and that the Respondents be condemned to pay to the Appellants, *leur vie durant*, the sum of £112 10s, current money of this Province, per Annum, in quarterly payments of £28 2s 6d each, and to commence from March last (1820) and in advance—2dly. to deliver to the Respondents, à dire d'Experts, a good horse, and harness complete, and a good calash and carriage, for their use, &c. &c. 3dly. To deliver to the Respondents the household furniture reserved to them by the Donation, and subsequently agreed to by the Respondents, without prejudice to other reserves therein-mentioned.

In support of this action the Appellants filed 7 exhibits, viz :

1. The Donation,
2. A letter of Attorney from Pierre Gouin to Geneviève Rousseau, his wife,
3. The convention between the parties,
4. *Procès Verbal* of Experts,
5. Protest by Appellants against Respondents,
6. List or inventory of effects delivered by Respondents,
7. Protest by Respondents against Appellants.

To this action the Respondents (in Court below) filed a certain *exception peremptoire perpétuelle en droit*, by which they state that by the donation on which the action is founded, they the Respondents are not bound to deliver the moveables reserved *hors de la maison donnée*, but in the room reserved as the future residence of the Appellants, nor, are they the Respondents bound to furnish a horse and carriages except on the property given.—That previous to the institution of the action, they tendered one quarter of the pension fixed by the experts as commencing from the 25th June then last, and further that before the bringing of the action that they delivered part of the moveables, and that they are now ready to furnish the Appellants with the remainder, but not the horse and carriages which they the Respondents allege would be in direct contradiction with the terms of the donation, (and this is the only defence filed by the Respondents)

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