into a town does not take away the jurisdiction of the Commissioners' Court, previously established in such parish, over the same territory. The judgment in this case, which conflicts with a previous decision by another judge of the same court, is carefully elaborated. In *Samuel* v. *Houliston* an important question of procedure came up. Is notice to the parties necessary before costs are taxed? We are disposed to think that the rule should require notice. But Art. 479 of the Code does not say so, and the Judge held that unless the party shows he has been prejudiced by the absence of notice he cannot oppose the execution on this ground. In *Gauthier* v. *Dupras* the Court held that where the plaintiff has left the country during the suit, the defendant is entitled to ask for security not only for the costs to be incurred, but for those already incurred. An abstract of the Queen's Bench series for December is given below.

---

*COURT OF QUEEN'S BENCH—MONTREAL.**

Appeal to the Supreme Court—Injunction.

HELD:—That no appeal lies to the Supreme Court from a judgment in appeal confirming a judgment of the Superior Court granting an injunction, but reserving to adjudicate as to the amount of damages until after an account had been rendered.—*Whitehead et al.*, Appellants, and *White*, Respondent. In Chambers, Dorion, C.J., Oct. 15, 1885.

Curateur à Substitution—Responsabilité et pouvoirs—C. C. 931—Intérêts des intérêts—Prescription des intérêts échus avant et après la mise en force du Code—C. C. 2250, 2270.

JUGÉ:—1o. Que le curateur à une substitution n'a aucun droit de recevoir les capitaux appartenant à cette substitution, et dont il doit être fait emploi conformément à l'art. 931 du Code Civil.

2o. Qu'un tel curateur n'a pas non plus le droit de réclamer les intérêts de ces sommes capitales, ces intérêts étant dus aux grevés de substitution.

3o. Que l'appelant, n'ayant reçu les deniers appartenant à la dite substitution que comme procureur des grevés, et simple *negotiorum gestor*, il n'était pas tenu de payer les intérêts des intérêts des sommes par lui reçues si ce n'est depuis la demande qui en a été faite par l'intervention produite par l'intimé; l'obligation de payer les intérêts des intérêts n'incombant qu'à ceux qui reçoivent des deniers pour des incapables.

4o. Qu'en vertu des articles 2250 et 2270 du Code Civil les intérêts échus avant le 1er août 1866, date de la mise en force du Code, ne se prescrivent que par trente ans, et que ceux échus depuis cette date, et dont la prescription n'a commencé à courir que depuis la mise en force du Code, se prescrivent par cinq ans.—*Dorion*, appelant, et *Dorion*, intimé. Dorion, C. J., Ramsay, Tessier, Cross, Baby, JJ., 26 mai 1885.

Sale—Misrepresentation as to part of thing sold—Damages.

The appellant sold to the respondent his assets, stock-in-trade, machinery and patents, by an agreement of which the material words are as follows:—"John Tye... hereby agrees "to transfer and assign all his right and in- "terest in the assets and stock-in-trade and "machinery of the business carried on by "him in Toronto and Montreal, under the "name of John Tye & Co., otherwise called "the Dominion Wire Mattress Company, to "Warren T. Fairman, and also all the patents "used by said Tye in connection with said "business...The consideration of this trans- "fer is $4,000, of which $2,000 are to be paid "in cash, $500 in three months, $500 in six "months, $500 in nine months, and $500 in "twelve months from this date, in notes of "W. T. Fairman... If on stock-taking, which "shall be taken within one week, it is found "that $4,000 is not the exact valuation of the "property transferred, the parties shall re- "gulate the deficiency or excess as follows: "... if less than $4,000 then the deficiency "shall be deducted from the cash payment "of $2,000." And in a postcript it was stated that Tye "transfers to said Fairman the good "will of said business." On getting possession Fairman found that there was no existing patent in Canada for the process of wire

*To appear in Montreal Law Reports 1 Q. B.