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SUPREME COURT OF CANADA.

OTTAWA, 6 June, 1896.

Quebec.]

LAINE v. BELAND.

Sale—Immovables by destination.

An action was brought by L. to revendicate an engine and two boilers under the resolutive condition (*condition résolutoire*) contained in a written agreement providing that until fully paid for they should remain the property of L., and that all payments on account of the price should be considered as for rent for their use; and further, that upon default L. should have the right to resume possession and remove the machinery. The machinery in question had previously been imbedded in foundations in a saw mill which had been sold separately to the defendants, and, at the time of the agreement, the boilers were still attached to the building, but the engine had been taken out and was lying in the mill yard, outside of the building. Whilst in this condition the defendants hypothecated the mill property to the respondent, and the hypothecs were duly registered. The engine was subsequently replaced in the building and used for some time in connection with the boilers for the purpose of running the mill. The agreement respecting the engine and boilers was not registered. The respondent intervened in the action of revendication, and claimed that the machinery formed part of the freehold and was subject to his hypothecary lien upon the lands.