

them; instructions which conform perfectly to the ruling of the court (on objections raised by the defendant) on the morning of the 4th instant. Furthermore, this verdict was rendered in the exercise of the unquestionable functions of the jury, and it is not of a kind which demands any special comment on my part. The jury has found the defendant guilty of libel, but the statute has left to the court the power to measure, to some extent, its gravity by leaving a wide discretion in awarding punishment. Having left this discretion to the court, the legislature thereby imposed the duty of exercising it. In this case the fact on which the most serious part of the accusation was founded has not only been proved but it has been admitted and gloried in. That fact is that the complainant having the control of an election petition containing personal charges against Mr. Mousseau, the premier minister of this province, had abandoned those charges, and that the condition of this abandonment was the payment of a sum of money in guise of costs. This was an illicit consideration which evidently diminishes the gravity of Mr. Tassé's offence and induces me to limit the punishment to a fine, and to a fine of a moderate amount.

"The sentence of the court is that the defendant do pay a fine of fifty dollars, to be applied as the law directs, and that he be imprisoned till such fine be paid. The costs will follow the judgment."

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, March 2, 1885.

Before TASCHEREAU, J.

DAME ANN SHAW LOW v. DAME ANN BAIN, and PHILLIPS *et al.*, Opposants, and PLAINTIFF contesting.

Procedure—Inscription.

The opposants filed an opposition *afin d'annuler* to the seizure and sale of certain immovable property taken in execution by plaintiff on a judgment against defendants.

On the 26th February the plaintiff contested this opposition by an answer in law, and inscribed for hearing on the law issue on the

2nd March. On the 28th February she gave notice of motion for the 2nd March to dismiss the opposition. The opposants then served notice of motion to reject the inscription on the demurrer as prematurely filed. The two notices and the demurrer came up for argument together.

On the motion to reject the opposition the Court held that the notice came too late, being made after contestation of the opposition.

On the motion to reject the inscription as premature it was held by the learned judge after consultation with some of his colleagues, that the inscription was premature. That though the party whose pleading was demurred to might inscribe at once if he chose, yet he had a right to a delay of eight days to answer, and the party demurring could not inscribe before the expiration of the delay. (Rule of Practice 52, and C. C. P. 137, 138, 139 and 148).

Motion granted and inscription rejected. *Maclaren, Leet, Smith & Rogers* for plaintiff. *Robertson, Ritchie, Fleet & Falconer* for opposant.

COUR DE CIRCUIT (EN APPEL).

MONTREAL, 10 mars 1885.

Coram CARON, J.

VIAU *et al.*, Appelants et LA CORPORATION DE LA PAROISSE DE ST-FRANÇOIS D'ASSISE DE LA LONGUE-POINTE et LE CONSEIL DU COMTÉ D'HOCHELAGA, Intimés.

Conseil de comté—Procès-verbal—Appel à la cour de circuit—Jurisdiction.

- JUGE: 1o. *Qu'on ne peut se pourvoir par voie d'appel, devant la cour de circuit, suivant les dispositions des articles 1061 et suiv. du Code Municipal, de la décision d'un conseil de comté, relative à un procès-verbal adopté par un conseil local et homologué par ce conseil de comté siégeant en appel.*
- 2o. *Que même en supposant, qu'en pareil cas, le défaut de juridiction de la cour de circuit ne serait pas invoqué, cette cour devrait renvoyer les parties, vu son défaut absolu de compétence.*
- 3o. *Que sur appel de la décision relative au procès-verbal en question, les intimés requerront ce procès-verbal sont intéressés à son maintien.*