

QUEBEC, Dec. 4, 1879.

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

THE METACOMB NATIONAL BANK, Appellant, and
WALTER VAINE, Respondent.

Capias—Return of writ of appeal.

The respondent, imprisoned on *capias*, moved the return of the writ of appeal. Resisted by appellant.

The Court ordered the appellant to return the writ without delay.

Motion granted.

QUEBEC, Dec. 6, 1879.

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

LING v. THE QUEEN.

Error—Perjury.

Held, in error, that the omission in the indictment, in setting up the original cause, to state that A. G. "was plaintiff," is fatal, where the question, on the answer to which perjury is assigned, is: "Did you not make some bargain with plaintiff to buy that property?" and when the negative averment is that "whereas in truth the said Thomas Ling had entered into an agreement with said A. G. to purchase, &c."

The prisoner was discharged.

MONTREAL, Dec. 12, 1879.

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

GOLDRING, Appellant, and BANK OF HOCHELAGA,
Respondent.

Judgment—Correction of clerical error.

Béique, for the respondent, made application that the order of the Court on the 24th June last, granting leave to Goldring to appeal to the Privy Council (see 2 Legal News, 232), be amended in a certain particular. When the motion for leave to appeal was made, he had consented to show cause immediately, as Goldring was in jail; but in the order of the Court it was made to appear that he had consented to the appeal, which was an error.

G. Doure appeared for the appellant.

Sir A. A. DORION, C.J., said there was no doubt as to the facts. The respondent had a

right to notice of the motion, but the appellant being in jail, and the term at an end, the respondent's counsel consented to waive notice, and showed cause forthwith. After argument, the motion for leave to appeal was granted, but in the judgment, by a clerical error, the respondent was represented as having consented to the judgment. A motion was now made to correct the error. It was right that the Court should come to the relief of the respondent. It was not necessary to correct the register, but the Court would make an order to meet the case.

The order made was as follows:—

"The Court having heard the parties by their respective counsel on the petition of the respondents, La Banque d' Hochelaga, praying that the order of this Court on the 24th day of June last (1879), granting to the said H. W. Goldring leave to appeal to Her Majesty in Her Privy Council, be amended by substituting to the words 'by and with the consent of the respondents,' the words following, 'after having heard the said appellant by his counsel in favor of said motion and the respondents by their counsel against the same;'

"Doth declare that the said respondents upon the hearing of the said motion of the 24th day of June last, for leave to appeal to Her Majesty in Her P. C., did not consent that the motion should be granted, but merely consented to show cause immediately and without notice, and cause having been shown, leave to appeal was granted to the appellant; and that the said order should have been so entered;

"And it is hereby directed that an entry of the present declaration be made on the register of this Court, and a copy thereof, together with a copy of the petition of the respondents and affidavit annexed, be transmitted to the Registrar of the Privy Council with the transcript of the record."

Doure & Co. for appellant.

Béique & Choquet for respondents.

GOFF, Appellant, and GRAND TRUNK RAILWAY
Co., and PERKINS (intervening), Respondent.

Costs—Tender—Notice.

The respondent moved that, seeing the death of J. C. Beckett, and the insolvency of R. Jellyman, sureties for the appellant, the latter