

absolue, exclusive et en totalité de la partie de la première part jusqu'à l'achat par la dite partie de la deuxième part, s'il a lieu; et que le privilège facultatif de celle-ci de faire le dit achat des dits effets est seulement conditionnel et éventuel....

"Que si la dite partie de la deuxième part s'arrière dans le paiement du dit loyer pour quelque raison que ce soit, ou cède ses intérêts dans le dit bail.... la dite partie de la deuxième part perdra par ce fait tous droits lui résultant des présentes, et sera déchu du privilège facultatif d'acheter les dits meubles et effets mobiliers. Le seul écoulement du temps pour accomplir l'une des obligations ci-dessus stipulées, ou la seule arrivée de l'une des choses ci-dessus prohibées, constituera en demeure la dite partie de la deuxième part, et la dite partie de la première part pourra de suite prendre possession physique des dits meubles et effets mobiliers, ou les faire saisir en revendication, aux dépens de la dite partie de la deuxième part, sans que cette dernière puisse réclamer la remise ou la réduction d'aucune partie du dit loyer échu ou une indemnité quelconque. Cette clause est de rigueur et sera considérée comme condition résolutoire."

Voici le jugement :—

"The Court having heard the parties by their counsel, etc.,....

"Seeing that the document produced, under which the defendant acquired and held the moveable property seized by way of revendication in this cause, is not in effect a lease, but a conditional sale thereof, and that the plaintiff was not at the time of the issue of the writ of attachment in revendication, or of the seizure, the owner thereof:

"Considering that the plaintiff was not entitled to proceed by attachment in revendication, but that his recourse should have been by action for the rescission of the sale;

"Considering that the demand in this cause is unfounded and that the proceedings therein are irregular and illegal;

"Doth dismiss the action in this cause, and release the moveable property attached from the seizure in revendication effected thereof with costs, whereof distraction, etc., saving to the plaintiff any recourse he may have for the rescission of the sale and the recovering of any part of the price which is or may become due."

Rochon & Champagne, avo. du demandeur.

A. McMahon, avocat du défendeur.

(A. M.)

## COURT OF QUEEN'S BENCH—MONTREAL.\*

*Removal of executor*—C. C. 917, 282, 285.

*Held*, (reversing the judgment of the Court of Review, M. L. R., 3 S. C. 31), that the existence of a law suit between one executor and the estate he represents, especially when there are several executors, is not a sufficient cause for the removal of such executor.

2. Art. 282 C.C., does not apply to executors chosen by the testator.—*Mitchell & Mitchell*, Dorion, Ch. J., Tessier, Cross, Church, JJ., May 19, 1888.

## SUPERIOR COURT—MONTREAL†

*Right of redemption—Refusal to retrocede—Tender not followed by consignment—Right to revenues of property.*

*Held*, that a vendor, seeking to give effect to a right of redemption, and who merely makes a tender to the purchaser, not followed by consignment, does not thereby acquire a right to the revenues of the property if the purchaser refuses to retrocede. A consignment, to be effective, should be made, *partie appelée*, at a place and time, and with a person, duly designated to the holder of the property. Moreover, in the present case, the tender was insufficient in amount.—*Fournier v. Leger*, Davidson, J., Nov. 7, 1888.

*Monies of municipality handed by Mayor to his successor—Responsibility of Mayor to Secretary-treasurer.*

*Held*, (affirming the judgment of Brooks, J.), that the defendant, mayor of a municipality, who had received monies belonging to the municipality, from the secretary-treasurer, was bound to account for the same to the secretary-treasurer, who had been held accountable to the municipality therefor; and that the fact that the defendant had handed the monies over to his successor in the office of mayor, without proof that it was done at the request or with the approval of the secretary-treasurer, did not relieve him from so accounting.—*Main v. Wilcocks*, in Review, Jetté, Taschereau, Loranger, JJ. (Taschereau, J., diss.) Oct. 31, 1888.

\*To appear in Montreal Law Reports, 4 Q. B.

†To appear in Montreal Law Reports, 4 S. C.