

of the Conservative opposition in the Quebec Legislature, Mr. Blanchet was unanimously chosen to succeed him. The appointment of Mr. Justice Blanchet completed the Court. Mr. Justice Church was replaced by Mr. Justice Wurtele, of the Superior Court, first for the September term, and, on the 29th of September, this appointment was extended to the 13th June next, by which time it will, in all probability, be definitely known whether Mr. Justice Church will be able to resume his place on the bench.

### CIRCUIT COURT.

MAGDALEN ISLANDS, DISTRICT OF GASPÉ.

Aug. 29, 1891.

*Before WURTELE, J.*

ISAAC TRISTRAM COFFIN v. WM. QUINN et al.  
*Lease of land containing minerals—Reservation of mining rights by lessor—Waste by lessee—Injunction.*

- HELD:—1. *That the ownership conveyed by an emphyteutic lease may be restricted, the lessor having the right to reserve the privilege of mining on the property leased.*
2. *Where a lessee under an emphyteutic lease commits waste on the immovable leased which diminishes its value, but not to an extent sufficient to justify the rescission of the lease, the lessor is entitled to ask that the lessee be enjoined to cease from further acts of waste, and to restore the immovable to its former condition.*

The judgment is as follows:—

“The Court, having heard the plaintiff, by his counsel, and the defendants personally, upon the merits of the cause, having examined the proceedings and the exhibits produced, having heard the oral defence and the witnesses examined by the plaintiff, and also the testimony of the defendant John Ballantyne taken on behalf of the plaintiff, and having deliberated:

“Whereas the plaintiff represents that he was the owner of a certain lot of land situate on the Island of Grindstone, one of the Magdalen Islands, being lot No. 100 of the official plan; that on the 30th day of September, 1890, he leased the said lot of land for ninety-nine years from the 1st day of July, 1890, to

the defendant William Quinn, with all its rights, members and appurtenances without any exception or reservation, save of all mines and minerals thereon; that there were at the time of the execution of the said lease deposits of manganese ore on the said lot of land which belonged to the plaintiff and were expressly reserved by the above-mentioned stipulation; that the defendant William Quinn by an agreement made at Grindstone Island on the 15th day of October, 1890, without right or title granted to the other defendant John Ballantyne the right of mining for manganese or any other mineral to be found on the said lot of land until the 1st day of June, 1891, and that the defendant John Ballantyne agreed to hold his grantor William Quinn free from all expenses of any suit which might be entered against him by the plaintiff in reference to the said manganese; that after the making of the said agreement, about the month of April, 1891, the defendant John Ballantyne carried on mining operations on the said lot of land, made excavations thereon, and extracted and removed therefrom a large quantity of manganese ore, the property of the plaintiff; that on the 27th day of July, 1891, the defendant William Quinn agreed to sell to the other defendant John Ballantyne a certain part of the said lot of land, containing eight acres in superficies, to be worked by the latter in mining for manganese; that both the defendants well knew that the deposits of manganese on the said lot of land had been reserved by and were the property of the plaintiff; and that the said lot of land had been seriously deteriorated and its value greatly diminished by the said mining operations and the extraction and removal of the said quantity of manganese ore, and that plaintiff had suffered by the acts of the defendants damages to the extent of \$500;

“Whereas the plaintiff prays that in consequence of the facts alleged, the lease from him to the defendant William Quinn be cancelled and set aside, that the defendants be expelled and ejected from the said lot of land and condemned to restore the same to its former condition, that they be ordered and enjoined to refrain from excavating and carrying on mining operations on the said