

pelant la somme de \$208.40, avec intérêt sur cette somme à compter du jour de l'assignation, et condamne en outre l'intimé à payer à l'appelant les frais encourus tant en cour inférieure que sur le présent appel."

Lareau & Lebeuf for Appellant.

Loranger, Loranger, Pelletier & Beaudin for Respondent.

MONTREAL, June 22, 1880.

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

MORGAN et al. (petrs. below), Appellants, &
Coté et al. (defts. below), Respondents.

*Writ of Prohibition to Municipal Corporation—
Triennial Assessment Roll—Amendment of roll.*

The appeal was from a judgment of the Superior Court, Montreal (Rainville, J.), July 9, 1879, quashing a writ of prohibition which had been issued at the instance of the appellants, to prohibit the respondents, the Secy.-Treasurer of the County of Hochelaga, the Corporation of the Village of Hochelaga, the County Corporation and the Catholic School Commissioners from proceeding to sell the property of appellants for taxes under a certain assessment roll of 1876.

The petitioners for writ of prohibition alleged that in July 1876, the Corporation of the village of Hochelaga appointed valuator to make a general assessment roll, pretending that the only roll then existing was that made in 1872 and 1873; that at this time there was in existence a roll made in June and July 1875; and that the roll subsequently made, in which the valuation of property was greatly increased, was a nullity.

The judgment of the Court below was as follows:—

"La cour, etc.,

"Déboute la défense en droit plaidée par chacun des dits défendeurs, et

"Considérant que les requérants n'ont pas prouvé les allégations de leur requête;"

"Considérant que le Rôle d'Évaluation dont on demande la nullité est légal et a été fait suivant les dispositions de l'article 746 du Code Municipal;"

"Casse le bref de prohibition émané en cette

cause, et déboute les demandeurs requérants de leur demande avec dépens distracts, etc."

Sir A. A. DORION, C.J., (*dis.*) The object of the writ of prohibition is to have a certain assessment roll made by the Corporation of the village of Hochelaga declared invalid, and to prohibit the Corporation of the village of Hochelaga, the Corporation of the County of Hochelaga, the Catholic school Commissioners of the village of Hochelaga, and the Secretary-Treasurer from levying the assessment thereunder on the property of the petitioners. The difficulty lies in this: The Municipal Code says that corporations are obliged to make a new assessment roll every three years, but they may amend the existing assessment roll every year. In this case, the Corporation of the village of Hochelaga had a triennial assessment roll made in 1875. In 1876 it made another assessment roll, without declaring that it was an amendment of the roll of 1875. The petitioners complained and were heard: they appealed to the county council, and there the assessment roll was ratified by the delay being allowed to elapse. The case is certainly not free from difficulty. On oppositions by other parties, Mr. Justice Johnson declared the assessment roll bad; Mr. Justice (W.) Dorion held that it was good; Judge Caron also thought it was good, and Judge Rainville gave a similar judgment in this case. The majority here are going to declare the roll invalid and to reverse the judgment of the Court below. I cannot concur, in the first place because the writ of prohibition can only be addressed to an inferior tribunal, and cannot issue to a municipal corporation. *Blain v. Corp. of Granby; Beaudry & Recorder's Court; Drummond v. Comte* et al. There is however a case of *Mayor & Benny*, in which a writ of prohibition was granted to commissioners in expropriation. (His Honor cited also High's extraordinary legal remedies.) Holding, then, that the writ of prohibition will only lie to an inferior tribunal, and not to a municipal officer, I ask whether Coté, who merely received instructions from the school Commissioners to levy this tax, is a municipal officer or a Court. If he is not a Court, the writ could not issue against him. On the merits, I think the requirements of the Code were sufficiently complied with.

TESSIER, J., also dissented.