

Court of Queen's Bench has decided, in several cases in matters affecting local or sectional procedure, adjudicated upon by the Justice presiding over such District, they will not interfere to alter such decisions; instance.

Doyle & Desjardin (1869) 14 L. C. Jurist.

Perry & De Beaujeu, 14 L. C. J., p. 334.

McMillan & Buchanan *et al.*, decided in appeal, 20 June, 1872 and case of Lepine & Cusson, same day.

Greaves and Denison *et al.*, C. Q. B., 9 Sept. 1872.

If, the precedents of this Court can be relied on, this appeal must be decided upon the same principle, and the judgment of the Superior Court for the District of Terrebonne maintained.

This judgment should be maintained also for other and equally grave reasons. Because the judgment, as far as it went was rightly rendered—that is as to the dismissing of the *exception à la forme*, though it should have ~~went~~ further and have dismissed the appearance.

The facts of the case are these, as appear by the record:—

The plaintiff in the Court below returned his action into the Superior Court at St. Scholastique on the 27th April, 1871. By the record, an appearance seems to have been received and fyled by the Prothonotary of that Court from Messrs. Ritchie, Morris & Rose, on the 28th. April, 1871. This appearance was never duly served upon either of the plaintiff's attornies. (See Service of Bailiff Brazeau, on back; see respecting service, Art. 78, of *Code of Procedure Civile*: see also art. 83 of said Code, and Rule of Practice, XIX.

Now, until an appearance was duly served upon the plaintiff's attornies, the defendants were in default, and could not fyle a plea, until the Court, after a special application, had allowed them to appear and plead.

On the 1st of May, 1871, after the Greffe or office of the Prothonotary had been closed for that day, and the officer gone home, a copy of an *exception à la forme* was brought to the attornies for