

## THOMPSON V. FOSTER.

*Action to enforce purchase of land—Failure to join all proprietors in the suit.*

The plaintiff sues the defendant to compel him to accept the transfer of a piece of land bought by plaintiff by a private writing and to pay the purchase money. The defendant pleads that the purchase was dependent upon the plaintiff furnishing him all the documents necessary to prove his title; that plaintiff had not furnished such documents, and, in fact, plaintiff was only proprietor of one-half, the other half belonging to the succession of his wife, with whom he was common as to property; that by the will of his wife, plaintiff was bequeathed the usufruct of his wife's share, and the property was bequeathed to his children. The plaintiff replied that if the names of all the owners of said property were not in the action, it was owing to defendant, who kept possession of the deeds, and plaintiff declared that he was willing to be bound by the judgment of the Court to join as vendors the children issue of his marriage with his late wife.

TORRANCE, J. The plea is made out. The plaintiff is only proprietor for one half and usufructuary for the other half. The title could only be given by all the proprietors.

*Doutre & Co.* for plaintiff.

*Geoffrion & Co.* for defendant.

## SCHOOL COMMISSIONERS OF STE. MARTHE V. ST. PIERRE et al.

*School Commissioners—Pleas of prescription and absence of notice of action, where public officer has acted in bad faith—Costs.*

This was an action by the School Commissioners as a corporation against three Commissioners. It was alleged that the defendants in December, 1877, without cause or reason, but illegally, fraudulently, and in bad faith, had paid to a certain Dame Amanda Chartrand, to whom nothing was due, out of the funds of the plaintiffs, \$136. Further, that in January, 1878, another sum of \$20.20 was paid by the defendants with the money of plaintiffs, for costs on a judgment rendered in December, 1877, by the Magistrates' Court at Ste. Marthe, against plaintiffs, at the suit of Josephine Allard, who claimed her salary as a teacher, which sum defendants

illegally, unjustly and in bad faith refused to pay to her.

The defendants pleaded, 1st, that they were entitled to one month's notice of action under C.C.P. 22, and that they did not receive such notice; 2nd, that more than six months had elapsed since the acts complained of before the action was instituted, and there was prescription under C.S.L.C., cap. 101, ss. 1 and 7; 3rd, that the acts complained of were done in good faith in their public capacity, and therefore no action lay. Sec. 8 required good faith to protect them. The pretension of plaintiffs was that the defendants were in bad faith. *Ferland v. Latour*, 6 R.L. 89, and *Brown v. School Commissioners, Laprairie*, 1 L.C.J., 41.

The evidence showed that Mlle. Allard had been engaged and served as school teacher in the year previous to June, 1877, and by 35 Vic., c. 12, ss. 7 and 8, her engagement for another year was only terminable by a special notice to her, given as pointed out by the Act. No such notice was given, and the evidence of the Secretary-Treasurer shows that it was understood that the engagement of Mlle. Allard should continue. Under these circumstances, on the 29th July, 1877, the Commissioners (present, Antoine Meloche, President, Jean Bte. Schmid dit Campeault, and Evangeliste Campeault) agreed that Dame Amanda Chartrand be engaged as teacher for the *arrondissement* No. 5, at a salary of \$136 currency, in the place and stead of Miss Josephine Allard, teacher, provided that the said E. Campeault be *garant* of damages and costs, which may arise against the School Commissioners by reason of a certain promise of engagement made to Miss Allard. On the 4th August, 1877, at a meeting of the Commissioners, present, the three defendants and Thomas Burke, who took the chair, it was agreed that Dame Amanda Chartrand, wife of Jean Bte. Brabant, be engaged teacher for the *arrondissement* No. 5, in the place and stead of Miss Josephine Allard, at a salary of \$136 for the year 1877-8, without the said Evangeliste Campeault being responsible for damages and costs which may arise against the said Commissioners by reason of a certain promise of engagement made to Miss Allard, as mentioned in the minutes of last meeting. Madame Brabant was the sister-in-law of Evangeliste Campeault. In fact, a judgment