

hopeless and what is not. Lord Selborne, than whom no one is better able to form an estimate of the merits of the late Master of the Rolls, has described him in these words: 'A man of extraordinary mental gifts, of rapidity and acuteness, and energy, and a power of doing work which I have certainly never known surpassed—I think perhaps never equalled.'

SUPERIOR COURT.

SHERBROOKE, May 30, 1885.

Coram BROOKS, J.

THE CORPORATION OF MELBOURNE & BROMPTON
GORE v. JOHN MAIN et al.

Secretary-Treasurer—Responsibility for Corporation moneys.

Held:—*That under our Municipal law, a Secretary-Treasurer, the custodian of Corporation monies, cannot legally divest himself of the same, except in the manner prescribed by the Code; and that in the present case, although he had paid the same over to the then Mayor for safe keeping, he was not thereby relieved from the liability to account to the Corporation.*

PER CURIAM.—This is an action brought by plaintiffs against their late Secretary-Treasurer, John Main, and against one of his sureties, alleging that in 1868, he became Secretary-Treasurer, that David Park and William Main became his sureties, 31st March, 1868. (William Main is now dead). That John Main continued Secretary-Treasurer until February 4th, 1884, and was responsible for all monies which came into his hands as such Secretary-Treasurer. That there was a large sum of money on deposit at the Eastern Townships Bank, Richmond, being a special fund called "Saint Francis Bridge Fund," the Saint Francis Bridge belonging partly to plaintiffs and partly to Cleveland. That this fund amounted to \$2,756.98 on April 12th, 1879. That on 12th April, he (defendant), did withdraw said money from the Eastern Townships Bank by cheque given A. Wilcocks, then Mayor, and that he has failed to account for this money, and never has produced any vouchers. The plaintiffs ask that he be ordered to account, that

lands in bond be declared mortgaged, and defendant ordered to pay said sum of \$2,756.98.

The defendants plead:

1. *A défense en droit.* They say that plaintiffs have not alleged that he refused or neglected to render a detailed account of his expenditure and receipts, (see 166, 167 M. C.). This refers to a statement of the general receipts and expenditure, but the declaration says, "you had this money, a special fund deposited in a chartered bank; you withdrew it, and never accounted for it, and we ask that you should account; i. e. you never included it in your general account, and you were responsible for it, and now we ask that you should tell us what you have done with it."

The declaration to my mind is sufficient.

The other pleas are:—1. *A défense en fait.*
2. That defendant drew out this sum of money by order of the council, April 7th, 1879 (it should have been March 1st, Monday); that this was ratified by resolution in council, 3rd April, 1882, which relieved him from all moral responsibility; that the money was accounted for, indeed, Wilcocks acknowledged as the depository of the money, and defendant relieved.

The next plea is similar, except that it adds that he accounted for it, i. e. the money having passed from him to Wilcox, and from Wilcocks to W. H. Webb; that they opened an account with Webb and accepted him and Wilcocks as depositaries, and relieved defendant.

The sole question to be decided in this case is as to the original responsibility of the *Secretary-Treasurer* for these monies which he had in his hands in 1879, and whether he has been relieved from that responsibility. I think no one could reasonably doubt his original responsibility, in fact it would appear to be admitted, as he says he has accounted for the money and been relieved.

That he and he alone was accountable, is evident from M. C. 159, 160, 500. Defendant admits these were Corporation funds, and came into his hands, but says, I accounted for them. I paid over under your order. Is this so? It was correctly stated by the counsel for defendant that there are three parties to consider—the Corporation plaintiffs, the council through whom they act, and defendant.