

From the judgment ordering the third new trial A. appealed, and the judges in the Court of Appeal being equally divided the order for new trial stood. A. then appealed to the Supreme Court of Canada.

At the last trial of this action it was shown that A. had requested the police inspector for the division in which M.'s house was situate to make inquiries about it, and that after the information was laid the inspector informed A. that there were frequent rows in the house owing to the intemperance of M., and that he thought there was nothing in the charge. The trial judge did not submit the case to the jury, but held that want of reasonable and probable cause was not shown; but the Divisional Court held that he should have asked the jury to find on the fact of A.'s belief in the statement furnished to him, on which he acted in bringing the charge.

*Held*, TASCHEREAU, J., dissenting, that A. was justified in acting on the statement, and, the facts not being in dispute, there was nothing to leave to the jury; that the trial judge rightly held that no want of reasonable and probable cause had been shown, and his judgment should not have been set aside, and must be restored.

Appeal allowed with costs.

Maclaren, Q.C., for the appellant.

Tyler for the respondents.

Quebec.]

DUFRESNE *v.* PREFONTAINE.

VALLEE *v.* PREFONTAINE.

*Builder's privilege—Arts. 1095, 2013, 2103 C.C.—Ex. vt. Duties of—Procès verbal—Art. 333, et seq., C.C.P.*

*Held*: (1) That it is not necessary for an expert, when appointed under Art. 2013 C.C., to secure a builder's privilege on an immovable, to give notices of his proceedings to the proprietor's creditors, such proceedings not being regulated by Art. 333, et seq., C.C.P.

(2) That there was evidence to support the finding of fact of the courts below that the second *procès verbal* or official statement required to be made by the expert under Art. 2013 had been made within six months of the completion of the builder's works.

(3) That it was sufficient for the expert to state in his second *procès verbal*, made within the six months, that the works described had been executed, and that such works had given to the immovable the additional value fixed by him. The words completed "*suyant les règles de l'art*" are not *strictissimi juris*.

(4) That if an expert includes in his valuation works for which the builder had by law no privilege, such error will not be a cause of nullity, but will only entitle the interested parties to ask for a reduction of the expert's valuation.

Appeal dismissed with costs.

Geoffrion, Q.C., Bélique, Q.C., and Beaudin, Q.C., for appellants.

Givouard, Q.C., and Madore for respondent.