

Mr. Cherrier objects, on the ground that the evidence tends to prove facts which are *outré et contre* the contents of *actes*, and also an agreement which exceeds one hundred livres ancient currency.

The Court (C. Mondelet Esq. presiding) having from yesterday, taken the case en délibéré, gave the following judgment :

"The Court having heard the parties, rejects the objections, inasmuch as the Assignee, in and by his opposition to the claims of François Xavier Beaudry, has amongst other causes set forth, set off by way of compensation, certain services, and the sale and delivery of certain goods, wares and merchandises, which, by law may be offered *en compensation*, either in deduction or in full satisfaction of the claim of the said François Xavier Beaudry for rent. The Court, however, adjudicates and orders, that inasmuch as the sale and delivery of the goods, wares and merchandises, mentioned by the said Assignee, are of a mercantile nature, the proof thereof, shall be had, according to the Rule of Evidence laid down by the Law of England ; but in so far as respects the services made by the said Bankrupt as Bailiff, mentioned by the said Assignee, the proof, shall be had according to the rules laid down by the law of the country, and that should the amount claimed, exceed the sum of one hundred livres *ancien cours*, the evidence, shall be regulated by the Article 54 of the *Ordonnance de Moulins*, and by the title 20 of the *Ordonnance* of 1667, whereby oral testimony is prohibited."

DISTRICT OF MONTREAL—IN BANKRUPTCY.

14th May, 1845.

In the matter of

VITAL GIBEAU, ET AL *Bankrupts*.

Assignees in case of removal or resignation of a former one, to be appointed by the creditors whose claims have been admitted.

This was a special meeting for the purpose of appointing an assignee or assignees, in the place and stead of John Dods, who had resigned.

A motion was made by Mr. Edward Carter on behalf of some of the Creditors, to have the claim of Mr. Tucker, one of the creditors, set aside, inasmuch as the Power of Attorney given by Mr. Tucker to his agent, here, for the purpose of proving his claim, &c., was not sworn to before a Judge, or any of the persons mentioned in the 59th Section of the Bankrupt Law; but before a Justice of the Peace. The object to be attained, was the preventing Mr. Tucker from voting at the election of an assignee ; Mr. Carter contended that the presiding Judge could not shut his eyes to this fact that there was no valid power of Attorney before the Court, and therefore that Mr. Tucker's claim not being proved, no vote from him or his agent could be entertained, the provisions of the 27th Section not having been conformed to.

Mr. Rose, on behalf of Mr. Tucker, opposed the applications on two grounds, 1° want of notice, 2° on the principle that at the first meeting of the creditors, Mr. Justice McCord had admitted Mr. Tucker's claim, and had permitted his vote to be taken and recorded for the election of Mr. Dods, the Assignee. It was sufficient for him to say that it had been so ruled, the then presiding Judge was of opinion that the affidavit proving