

S.C.]

NOTES OF CASES.

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condemned the respondents, (the present cause having been continued against them by *reprise d'instance*, as heirs and testamentary executors of the said P. O. Desilets), to pay to the appellant the sum of \$3,000 damages.

On appeal to the Court of Queen's Bench, the judgment of the Superior Court was reduced to \$600, the amount allowed to the appellant, and he was condemned to pay all the costs of appeal.

Held, that inasmuch as the damages awarded were not of such an excessive character as to show that the judge who tried the case had been either influenced by improper motives or led into error, the amount so awarded by him ought not to have been reduced. [TASCHEREAU J., dissenting.]

O'Gara, Q. C., and *Hould*, for appellant.

Angers, Q. C., for respondents.

Appeal allowed with costs.

MARCH, 1881.

LEVI V. REED.

Jurisdiction—Right of appeal by plaintiff, respondent in Court of Queen's Bench—Slander

The present appellant had sued the respondent before the Superior Court at Arthabaska, in an action of \$10,000 damages for verbal slander. The judgment of the Superior Court awarded to the appellant a sum of \$1,000 for special and vindictive damages.

By the judgment of the Court of Queen's Bench, the amount awarded was reduced to \$500, and costs of appeal were against the present appellant.

Held, on appeal, 1. That the plaintiff, although respondent in the Court of Queen's Bench, was entitled to appeal, as in determining the amount of the matter in controversy between the parties, the proper course was to look at the amount for which the declaration concludes, and not at the amount of the judgment. *Joyce v. Hart*, 1 Can. S. C. R. 321, reviewed. [TASCHEREAU J., dissenting.]

2. That, as in the case of *Gingras v. Desilets*, the amount of damages fixed by the judge who tried the case ought not to have been reduced.

Irvine, Q. C., and *Gibson*, for plaintiff.

W. Laurier, Q. C., for respondent.

Appeal allowed with costs.

ABRAHAM V. THE QUEEN.

Indictment—Delegation of authority by Attorney General—32 & 33 Vict. cap. 29, sec. 28—Obtaining money by false pretences.

Appeal from the Court of Queen's Bench, Montreal.

The indictment contained four counts for obtaining money by false pretences.

On this indictment was endorsed: "I direct that this indictment be laid before the Grand Jury."

Montreal, 6th October, 1880.

L. O. LORANGER,

Atty. General.

"By J. A. Mousseau, Q. C."

"C. P. Davidson Q. C."

Defendant moved to quash the indictment. The motion was supported by affidavit, and the learned Chief Justice rejected it, intimating at the time that as he had some doubts, he would reserve the case, should the defendant be convicted. The defendant was found guilty, and the following questions *inter alia* were submitted for the consideration of the Court of Queen's Bench:

1. Whether the Attorney General could delegate his authority, to direct that the indictment in this case be laid before the Grand Jury, and whether the direction as given on the indictment, was sufficient to authorize the Grand Jury to enquire into the charges and report a true Bill.

2. Whether if the indictment was improperly laid before the Grand Jury it should have been quashed on the motion made by the defendant.

It was admitted that the Attorney General gave no direction with reference to this indictment, and that the gentlemen who put the endorsement on the indictment, did so merely because they were representing the Crown at the current term of the Queen's Bench under a general authority to conduct the Crown business at such term, but without any special authority over, or any directions from the Attorney General in reference to this particular indictment.

Held, on appeal, that under 32, 33 Vict., c. 29, sec. 28, the Attorney General has no authority to delegate to the judgment and discretion of another the power which the Legislature has