

The Legal News.

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SUPREME COURT OF CANADA.

Quebec.]

PIGEON V. RECORDER'S COURT.

Prohibition—By-law respecting sale of meat in private stalls—Validity of—37 Vic. ch. 51, sec. 123, subsec. 27 and 31, P.Q.—Intra vires of Provincial Legislature.

The Council of the City of Montreal is authorised by subsections 27 and 31 of sec. 123 of 37 Vic. ch. 51, to regulate and license the sale, in any private stall or shop in the city outside of the public meat markets, of any meat, fish, vegetables or provisions usually sold on markets.

Held, affirming the judgment of the Court below, that the subsections in question are *intra vires* of the Provincial Legislature, and that a by-law passed by the City Council under the authority of the above-named subsections, fixing the license to sell in a private stall at \$200, is valid.

Appeal dismissed with costs.

Geoffrion, Q.C., and *Madore* for appellants.
Ethier, Q.C., for respondents.

Quebec.]

HARDY V. FILIATRAULT.

Demolition of Dam—Transaction—Arts. 1918, 1920 C.C.—Report of Expert—Motion to hear further evidence.

In an action brought by a riparian owner asking for damages and the demolition of a second dam built by another riparian owner in contravention to the terms and conditions of an agreement made between the parties, while a judgment ordering the demolition of the first dam was pending in appeal, the Superior Court appointed a civil engineer as expert, who reported that the second dam did not injure the plaintiff's property. The Superior Court subsequently rejected a motion made by the plaintiff, asking to examine the said expert to explain his report, and dismissed the action with costs. This judgment was confirmed by the Court of

Queen's Bench for Lower Canada (Appeal side), and on appeal to the Supreme Court of Canada it was

Held, per Fournier, Gwynne and Patterson, JJ., that the provisions of arts. 1918 and 1920 C.C. under the title of Transactions were applicable to the agreement made in respect to the first dam, and that there was sufficient evidence in the case to dispose of the action by a judgment for the plaintiff. *Ritchie, C.J.*, and *Taschereau, J.*, dissenting.

Patterson, J., being of the opinion that as the principal ground of appeal was to have the case sent back to the Court of first instance for further evidence, he would agree with the dissenting judges not to do more for the plaintiff.

Appeal allowed with costs, and case remitted to the Superior Court.

Laflamme, Q.C., for appellant.

Geoffrion, Q.C., and *Beaudin* for respondent.

Quebec.]

DAVIS V. KERR.

Tutor and minor—Loan to Minor—Arts. 297, 298 C.C.—Obligation void—Personal remedy for monies used for benefit of minor—Hypothecary action.

Where a loan is improperly obtained by a tutor for his own purposes, and the lender, through his agent, has knowledge that the judicial authorisation to borrow has been obtained without the tutor having first submitted a summary account as required by art. 298 C.C., and that such authorisation is otherwise irregular on its face, the obligation given by the tutor is null and void.

The ratification by the minor after becoming of age of such obligation is not binding if made without knowledge of the causes of nullity or illegality of the obligation given by the tutor.

If a mortgage granted by a tutor and subsequently ratified by a minor when of age, is declared null and void, an hypothecary action brought by the lender against a subsequent purchaser of the property mortgaged will not lie.

A person lending money to a tutor, which he proves to have been used to the advantage and benefit of the minor has a