unprincipled litigants could delay justice by causing all the witnesses to inscribe every judgment. I would therefore confirm the judgment as between the parties, with costs against the plaintiff inscribing, and I would reject the inscription which has been illegally made by a witness who is not a party to the case, and who, if he suffers hardship, should apply to the proper source for redress. As there is no party contesting this singular inscription made by the witness, there is no one to whom we can award costs.

RAINVILLE, J., concurred with Mr. Justice Johnson in holding that upon an inscription in Review, a witness could not complain of the part of the judgment which affected him.

JETTE, J., (*diss.*) differed from the majority only as to the part which concerned the bailiff. His Honor held, as a matter of principle, that disciplinary punishment could be inflicted upon an officer of the Court only for something done or some default committed by him in the discharge of his duty as such officer. Here the bailiff was a witness in the suit, and it appeared to his honor that he had been punished by suspension from the office of bailiff for his conduct in the witness box, and in consequence of the evidence which he had given. His Honor, while agreeing with the judgment of the Court on the merits of the case, was of opinion that the powers of the Court of Review were sufficiently comprehensive to strike out and obliterate—to *biffer*—from the judgment the illegal punishment inflicted upon the witness, Tessier, and he was therefore of opinion to reform the judgment in this respect.

Judgment confirmed, Jetté, J., dissenting.

Z. Renaud for defendant, petitioner.

Desjardins & Co. for plaintiff contesting.

COURT OF REVIEW.

MONTREAL, Oct. 31, 1881.

JOHNSON, TORRANCE, RAINVILLE, JJ.

[From S. C., Ottawa.

BIRABIN dit ST. DENIS v. LOMBARD.

Pleading—Demurrer—Quality of defendant.

In an action against a curé for refusing to receive a vote at a meeting of the Fabrique, it is not ground of demurrer that the writ was addressed to the curé in his personal and not in his official quality.

The judgment inscribed in Review was rendered by the Superior Court, district of Ottawa, (McDougall, J.) February 17, 1881.

JOHNSON, J. This was a writ of mandamus, accompanied by a *requête libellée*, and the complaint was that the *curé* of Ste. Angelique, of which the plaintiff was a parishioner, had rejected the vote of one Pierre Chabot, tendered in support of a motion in amendment then before the chair, at a meeting of the Fabrique.

The writ was addressed to the "Révérend Messire François Lombard, Prêtre et curé de la dite paroisse de Ste. Angelique, diocèse d'Ottawa, dans le dit district." Then, the *requête libellée* set out fully that the *curé*, as such, was *ex officio* by law chairman of the meeting, and had rejected the vote in that capacity. There was an *exception à la forme* on another point—and it appears to have been withdrawn; but there was no *exception à la forme* to the writ as containing a *défaut de qualité* in the designation of the defendant.

The action, however, was dismissed on a plea of *défense en droit* to the *demande* or *requête*; and it was dismissed on the ground, not that it contained insufficient allegations, nor on any ground relating to the contents of the *requête* itself, but upon the ground that the writ was addressed to the defendant in his personal, and not in his official quality. Now, in the first place, this was not a ground of a *défense en droit* at all. That plea could only raise the question whether good cause of action was alleged on the face of the petition or not. In the second place, if that were the question raised here, (and no other can be raised by a *défense en droit*), we are all of opinion that the allegations were sufficient. The defendant, it is true, is addressed as *curé* in the writ; that is not objected to, but in the *demande* or *requête*, it is plainly and fully alleged that he was, in virtue of his office of *curé*, bound by law to preside at that meeting; and that he did preside at it. Then it was said that the allegations did not show that the vote was refused; because there was no vote actually given, and therefore none could be refused. This is a mere subtlety. No vote was given because (according to the allegations) none was allowed to be given. We unanimously reverse this judgment and dismiss the *défense en droit*.

I should add, perhaps, that though the sole ground of the judgment is expressed to