

MONTREAL, August 8, 1879.

[In Chambers.]

THE HERITABLE SECURITIES & MORTGAGE ASSOCIATION (Limited) v. RACINE.

Judicial Sequestration.

A similar application was made in this case to that made in *Drummond v. Holland*, noted above. The plaintiffs were suing the defendant hypothecarily, and the action being contested, they petitioned for the appointment of a sequestrator to receive the rents pending the litigation.

JOHNSON, J., (Aug. 8) granted the application, and ordered that the parties do appear on the 12th instant to name a sequestrator, and if they could not agree, the Judge would name one of his own accord (C. C. P. Art. 877).

On the 12th August,

JOHNSON, J., made the following order:—

"The plaintiffs, represented by their attorney *ad litem*, being present, the defendant not appearing although notified so to do, I, the undersigned Judge, seeing the interlocutory order rendered in this matter on the 8th August instant, do, by these presents, name and appoint Thomas Gilmour, of Montreal, house agent, sequestrator in this cause, to administer the property and revenues of the real estate mentioned and described in the petition of plaintiffs," &c.

John L. Morris for plaintiffs; W. B. Lambe, counsel.

L. Forget for defendant; E. U. Piché, Q. C., counsel.

N.B. The same day the defendant inscribed in Review from the foregoing judgment of August 8.

MONTREAL, August 15, 1879.

[In Chambers.]

THE SAME PLAINTIFFS v. THE SAME DEFENDANT.

Opposition to Judgment—Suspension of Order of Judge in Chambers by another Judge in Chambers.

The defendant (Aug. 15) produced a *requête afin d'opposition*, supported by his affidavit, and asked for the suspension of the above judgments. One of the grounds of opposition was that defendant had not received notice of the judgment of Aug. 8, ordering the parties to appear to name a sequestrator. Another ground was that

defendant had inscribed in Review from the judgment granting the petition for the appointment of a sequestrator.

TORRANCE, J., granted an order to the Prothonotary and others, to suspend all proceedings on the two judgments above mentioned, and to make a return thereof on the 1st September next, and ordering that the parties do then appear, that being the day of return of the *requête afin d'opposition*.

MONTREAL, August 20, 1879.

[In Chambers.]

THE SAME PLAINTIFFS v. THE SAME DEFENDANT.
Petition to Judge in Chambers to annul order of Judge in Chambers.

The plaintiffs in the above case presented a petition to Mr. Justice Mackay that the order made by Torrance, J., noted above, be cancelled and annulled, and that stay of proceedings be withdrawn and annulled, and that the sequestrator do enter on his duties according to law.

MACKAY, J., suspended judgment, and ordered reference of the matters in the petition against Mr. Justice Torrance's order, to the Practice Court, Third Division, on the 1st September next. In giving judgment his Honor remarked:

"Mr. Justice Johnson's order, which is opposed by the *requête à fin d'opposition*, I have not to pass upon. I will not say whether it is, or was, final, or merely interlocutory; revisible or not revisible. Mr. Justice Torrance's order upon the *requête* of defendant may have been *ultra vires*, he, a Judge in Chambers, acting in a manner to interfere with the judgment in Chambers of Mr. Justice Johnson, whose order and proceedings in the matter referred to some might hold not to be liable to be hindered or suspended by order of another Judge in Chambers, in vacation. I will not pass upon Mr. Justice Torrance's order upon the present petition. It seems to me that it would be unseemly, and bring the administration of justice into contempt. The term of September is close at hand, and under all the circumstances I think it best to suspend judgment, and to refer this matter (of the petition against Mr. Justice Torrance's order) to the Court, ordinary Superior Court, sitting in the Practice Division in September, say 1st of September, to which