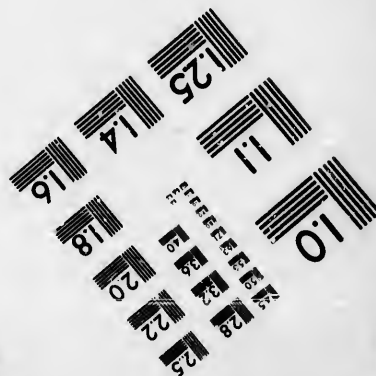
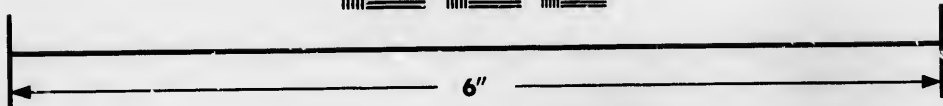
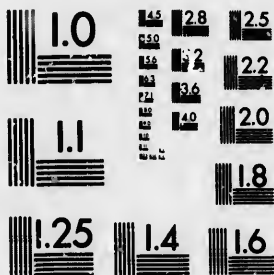


**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

© 1986

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured covers/
Couverture de couleur
- Covers damaged/
Couverture endommagée
- Covers restored and/or laminated/
Couverture restaurée et/ou pelliculée
- Cover title missing/
Le titre de couverture manque
- Coloured maps/
Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black)/
Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations/
Planches et/ou illustrations en couleur
- Bound with other material/
Relié avec d'autres documents
- Tight binding may cause shadows or distortion along interior margin/
La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure
- Blank leaves added during restoration may appear within the text. Whenever possible, these have been omitted from filming/
Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.

- Coloured pages/
Pages de couleur
- Pages damaged/
Pages endommagées
- Pages restored and/or laminated/
Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées
- Pages detached/
Pages détachées
- Showthrough/
Transparence
- Quality of print varies/
Qualité inégale de l'impression
- Includes supplementary material/
Comprend du matériel supplémentaire
- Only edition available/
Seule édition disponible
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image/
Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.

Additional comments: Docket title page is bound in as last page in book but filmed as first page on fiche.
Commentaires supplémentaires:

This item is filmed at the reduction ratio checked below/
Ce document est filmé au taux de réduction indiqué ci-dessous.

10X	14X	18X	22X	26X	30X
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12X	16X	20X	24X	28X	32X

The copy filmed here has been reproduced thanks to the generosity of:

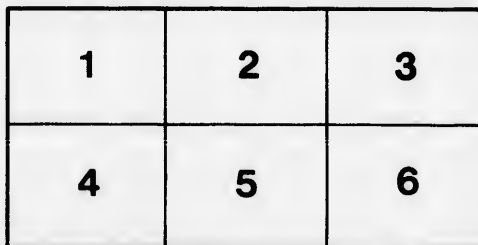
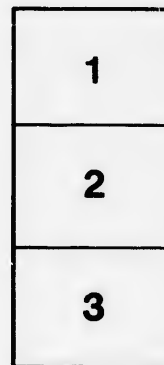
Bibliothèque nationale du Québec

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol \rightarrow (meaning "CONTINUED"), or the symbol ∇ (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

Bibliothèque nationale du Québec

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole \rightarrow signifie "A SUIVRE", le symbole ∇ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

PROVINCE OF LOWER CANADA.

==
COURT OF APPEALS.
—

*Joseph François Perrault &
William Green, Esqrs. Appls.*

AND

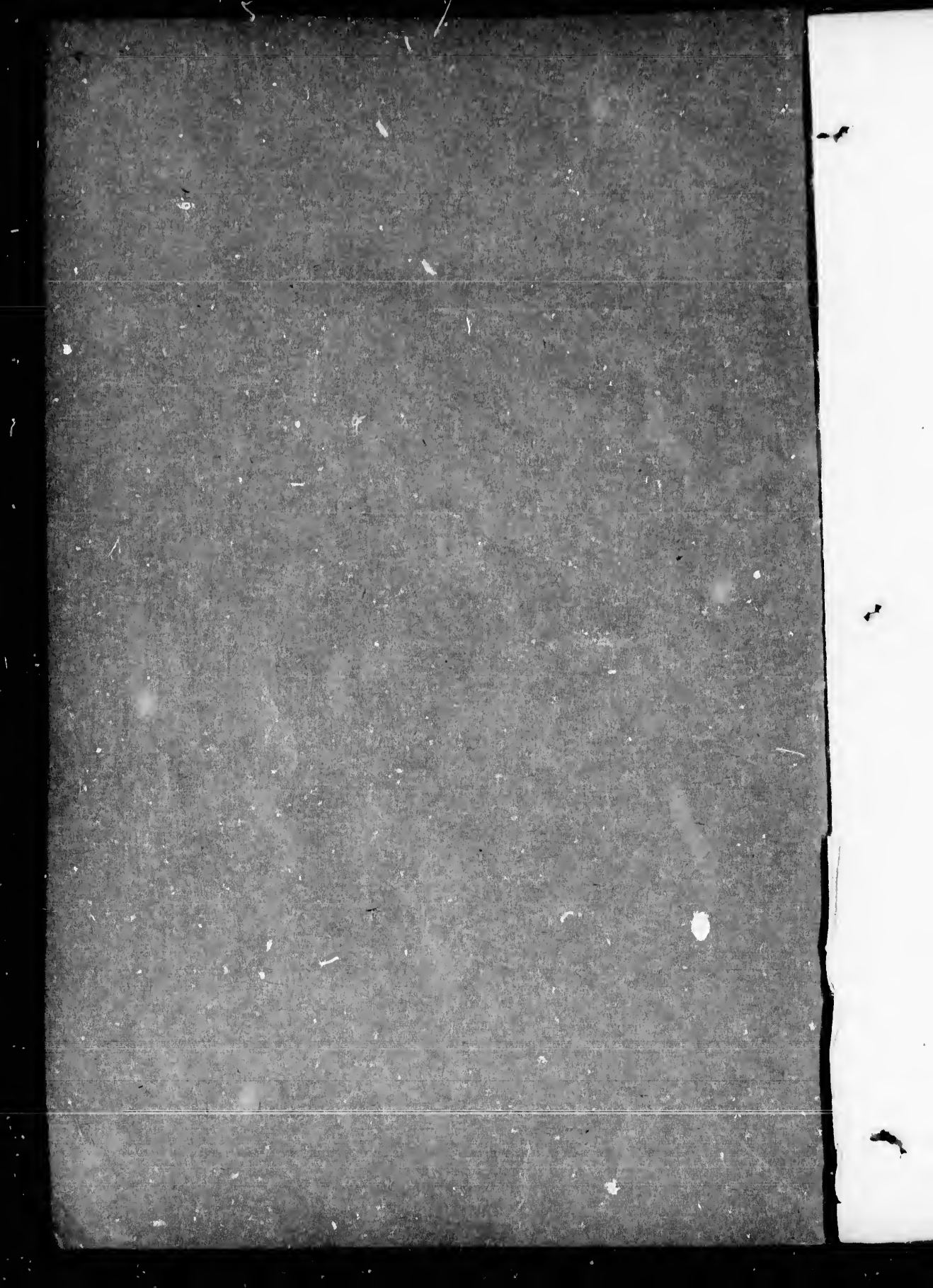
François Baillargé, Respdt.

THE APPELLANTS' CASE.

PROVINCE OF LOWER CANADA.

==

COUNTY OF ...



JOSEPH FRANÇOIS PERRAULT & WILLIAM GREEN,
Esquires, Appellants.

vs.

FRANÇOIS BAILLARGÉ,

Respondent.

In Appeal from a Judgment of Dismissal in the Court of King's Bench for the District of Quebec, in a Cause there in which the above-named Appellants, Joseph François Perrault and William Green, were the Plaintiffs and the above-named François Baillargé was the Defendant.

APPELLANTS' CASE.

THIS was an Action brought in the Court of King's Bench at Quebec by the above-named Appellants, for fees due to them as Clerks of the Peace for the District of Quebec, from the Defendant for the proceedings in a considerable number of prosecutions instituted by him, as Road Treasurer for the City of Quebec, against persons for non-payment of their Cotisations or Assessments upon houses, Compositions for personal Labour on the Highways and Contributions for horses, in the Spring of eighteen hundred and thirteen.

The Declaration is a common one in *indebitatus assumpsit* for fees, with a *quantum meruit* and the usual money counts, to which the Defendant in the Court below pleaded the general issue *non assumpsit*, whereupon issue was joined.

The merits of the Case, as appearing from the Evidence, are as follows:—

The Defendant having been recently appointed Road Treasurer for the City of Quebec, upon the death of Pierre Florent Baillargé the former one, delivered in to the Appellants, on the fifteenth of January, eighteen hundred and thirteen, a list or schedule containing eight hundred and twenty-four names of Defaulters, who had neglected to pay their Cotisations, Compositions and Contributions, with a direction or order prefixed to it, in the following words:

Messieurs les Greffiers de la Paix sont autorisés de poursuivre les Délinquants mentionnés dans ce compte.

Québec, le 15 Janvier, 1814.

(Signé)

F. BAILLARGÉ,
Trésorier des Chemins.
In

147788

In consequence of this direction and by the assent of the Magistrates, eight hundred and eighty-six prosecutions were instituted (there being several causes of action against some individuals amongst the Defaulters) and regularly proceeded in against all those persons who could be found.

The prosecutions terminated variously.—Three hundred of the Defendants were convicted, some of the Prosecutions relinquished and some of them dismissed upon proof.

The fees for the whole of the proceedings according to the Tariff established at the Quarter Sessions in April, one thousand eight hundred and eleven, (an authenticated copy of which was filed in the cause, and constitutes No. 10 in the record,) amounted in the whole to Three hundred and seventy-one pounds ten shillings and ten pence, of which there still remained one hundred and seventy pounds thirteen shillings and four pence due the Appellants, after deducting a sum of two hundred pounds, seventeen shillings and six pence, for which they have given credit on account. [See No. 8, in the Record.]

On the hearing of the cause it was objected on the part of the Defendant, that he was not liable to this demand, on account of its having been incurred by him in his capacity of a public officer, to which it was answered on the part of the Plaintiffs that this was not one of those cases in which he either had pledged or would have been authorized to pledge the credit of the Government, and did not therefore by any means fall within the purview of any of those cases in which it has been holden that public officers acting ostensibly on the part and under the authority of the Government, have been holden under certain circumstances not to have rendered themselves personally responsible.—That the case here was as between the Appellants and the Respondent clearly a private transaction, for which neither the Government nor any other person, except the Defendant himself was or could be liable to the Plaintiffs;—that it was remarkable that the Defendant was authorized by the two Provincial Acts, of the 36 Geo. III. cap. 9 and 39th Geo. III. c. 5. to reimburse himself all such expences as he may incur for the purposes of those Acts, and allowed a shilling in the pound for his trouble; and that one of the duties which he is expressly directed to perform by those Acts is to institute the necessary prosecutions, the Expences of which he is of course to be allowed in his accounts as much as he would any other necessary disbursement in the performance of such duties.

It appears difficult to conceive therefore whether the dismissal of the cause by the Court below has proceeded from some idea that the Defendant had in some way or other pledged the credit of the Government for or rendered it in some measure liable for the expences of these proceedings, or upon what other principle it took place.

A similar difficulty will scarcely however occur again; the present Respondent who has since the commencement of this action instituted a great number of other proceedings in every respect similar, at present paying the whole of the fees to the Clerks of the Peace, at the moment of the performance of their duties.

It

It is against this Judgment of dismissal that the present Appeal is instituted, there appearing as the Appellants humbly suggest, to be no more reason for their losing the Balance of one hundred and seventy pounds, thirteen shillings and four pence, which is now due to them out of the original sum of three hundred and seventy-one pounds, ten shillings and ten pence, than the whole of the rest of that sum or the fees which have been incurred since, and which are now paid regularly in consequence of their refusing longer to give credit to the Respondent.

Quebec, 10th July, 1814.

