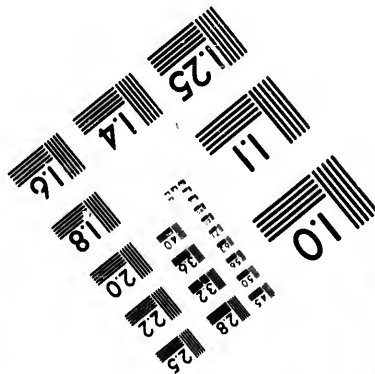
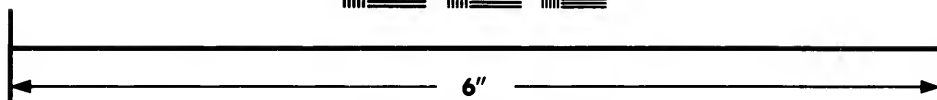
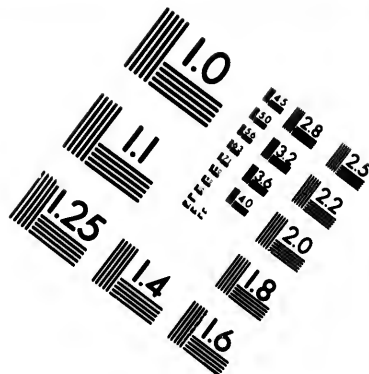




**23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503**



**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques



© 1985

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 distortion 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.
- ☒ Additional comments:/
Commentaires supplémentaires:

- ☒ 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.

Docket title page is bound in as last page in book but filmed as first page on fiche.

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

10X	12X	14X	16X	18X	20X	22X	24X	26X	28X	30X	32X
☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☒	☐

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

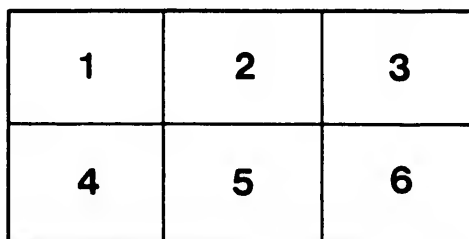
Seminary of Quebec
Library

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 —> (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:

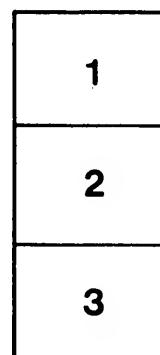
Séminaire de Québec
Bibliothèque

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 —> 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.



IN THE QUEEN'S BENCH.

APPEAL SIDE.

Julie Léocadie Delfoy,

APPELLANT,

vs.

Ambroise Légaré et al.

RESPONDENTS.

APPELLANT'S CASE.

Decree 1866

SECRETAN & DUNBAR,

For Appellant.

IN THE QUEEN'S BENCH.
APPEAL SIDE.

PROV

No.

THE
Mr.
snm

are n

Con
piece
Cou
of sa
buyi
ted
quite
were
perm
so e
him
unn
it he
The
then
whi
evid
mak
prev
appe
The

PROVINCE OF CANADA, }
Lower Canada.

IN THE QUEEN'S BENCH.
APPEAL SIDE.

No.

Julie Léocadie Defoy,

(Defendant in the Court below;)

APPELLANT,

and

Ambroise Légaré, & al.,

(Plaintiffs in the Court below;)

RESPONDENTS.

CASE OF THE APPELLANT.

THE present Appeal has been instituted to obtain the reversal of a judgment rendered in the Circuit Court in and for the District of Quebec, by Mr. Justice Stuart, condemning the Defendant to pay to the Plaintiffs the sum of £19 10 5½ with interest and costs.

The circumstances under which that amount was claimed to be due, are as follows:

"Mrs. Lecourt, (Dame Julie Léocadie Defoy, the Defendant in the Court below and the present Appellant,) being desirous of obtaining a small piece of ground stocked with firewood, purchased from the Plaintiff in the Court below and present Respondents, the lot of land described in the deed of sale in this cause filed, dated the 9th September 1859, as lot No. 7. Before buying it, her son, Mr. Lecourt, who acted as her agent in this matter, visited the lot shewn to him by the said Respondents and with which he was quite satisfied. Some time afterwards, having ascertained that persons were cutting down timber on the lot in question without his, or his mother's permission, he proceeded to the place and there found several individuals so employed who, to his no small surprise, informed him that the lot shewn him by the Respondents and by them sold to his mother, belonged to a man of the name of Magwood who owned it under a Sheriff's title, and that it had never belonged to, or been in the possession of the said Respondents. Thereupon, Mr. Lecourt went to the Respondents and re-nonstrated with them on their conduct towards his mother in thus selling her a property which was not theirs. This they denied, and, as is established by the evidence of Poulin the Appellant's witness, they subsequently pretended to make the Appellant a formal delivery of the same piece of ground they had, previously to the sale, shewn her son and which it has since been made to appear is not, and never has been, lot No. 7, but is a lot known as No. 6. The lot which in reality is lot No. 7, is perfectly worthless, is not the lot

which was shewn, and pretended to be delivered, to Mr. Lecourt and would be of no use whatever to the Appellant, who, with justice, conceives she should not be compelled to receive what she never bought or intended to buy, and much less to pay for the same."

In addition to what is above stated the Appellant is desirous of drawing the attention of the Court to the following clause contained in the deed of the sale by the Respondents to the Appellant :

" The present sale and conveyance is thus made and granted for and consideration
" of the price or sum of fifty pounds of lawful current money of this Province, together
" with interest thereon at six per cent per annum from and since the fourth day of March
" last, which the venditor doth promise to pay on account and acquit of the said
" vendors in manner following, viz., the sum of ten pounds nineteen shillings and one
" penny on demand unto the Seigneur of Beauport for arrears of rent on the said land,
" as costs of suit, incurred in proceedings taken for the recovery thereof against the said
" vendors, and the balance of thirty nine pounds and eleven pence with interest as aforesaid
" said unto William Verner, of the City of Quebec, Merchant, towards liquidation of
" the mortgage held by him upon the said lot of land under deed before us as aforesaid,
" on the fourth day of March one thousand eight hundred and fifty seven, the said sum
" payable one half on the fourth day of March next, and the other half on the fourth
" day of March one thousand eight hundred and sixty one. And for securing the payment
" of which said sum of fifty pounds and interest, the said Purchaser doth hereby
" specially mortgage and hypothecate the lot of land aforesaid by privilege of *Bailleur*
" *de fonds*, but without prejudice to the existing mortgages."

By their declaration, the Plaintiff's allege, " Que les dits Demandeurs ont droit de
" réclamer la dite somme : quoique stipulé payable à un nommé William Verner aux
" termes du dit acte et dont il ne peut avoir aucune action directe contre la dite Défende-
" resse, n'étant pas son créancier personnel, le tout avec dépens. Pourquoy les deman-
" deurs demandent jugement en conséquence avec intérêt et dépens."

Mr. Justice Stuart bases his judgment on the assumed fact " that the
" sale by the Plaintiffs to the Defendant appears to have been followed by
" a tradition of the same." If, by this is meant that the sale of the lot
mentioned in the said deed, viz: lot number 7 has ever " been followed
by a tradition of the same " lot number 7, there is error in the allegation ;
as it is, beyond doubt, established by the evidence adduced in the cause,
that it was lot number 6, of which there was such tradition, and not lot
number 7, which, it would appear, never in fact, belonged to the Plaintiffs.

Quebec, December 1860.

SECRETAN & DUNBAR,

For Appellant.

