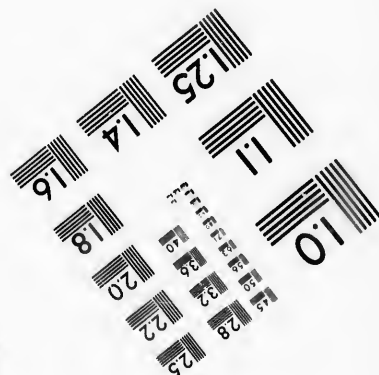
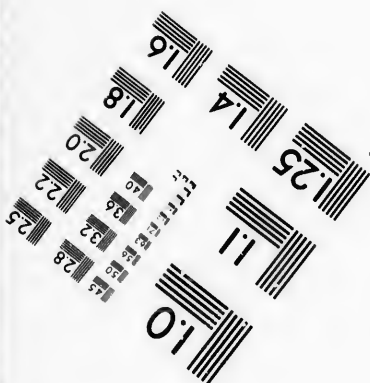
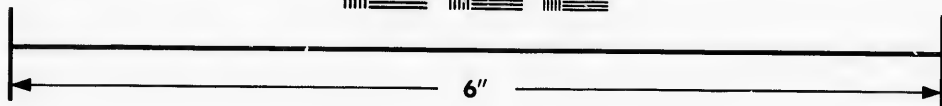
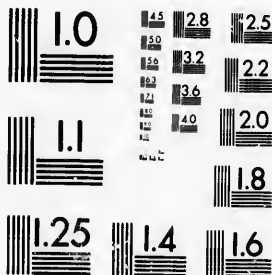


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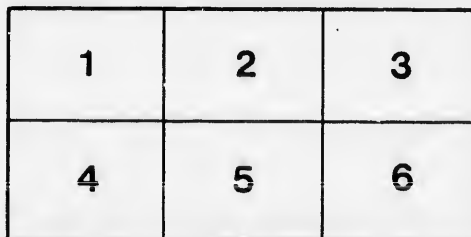
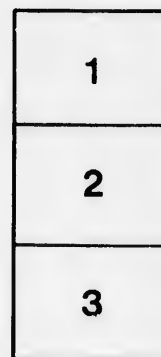
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Court of Appeals,

1820.

APPELLANT'S CASE.

McRAE et al.

Appellants,

and

MASON,

Respondent.

Filed

Novr. 1820.

W. H. Mason

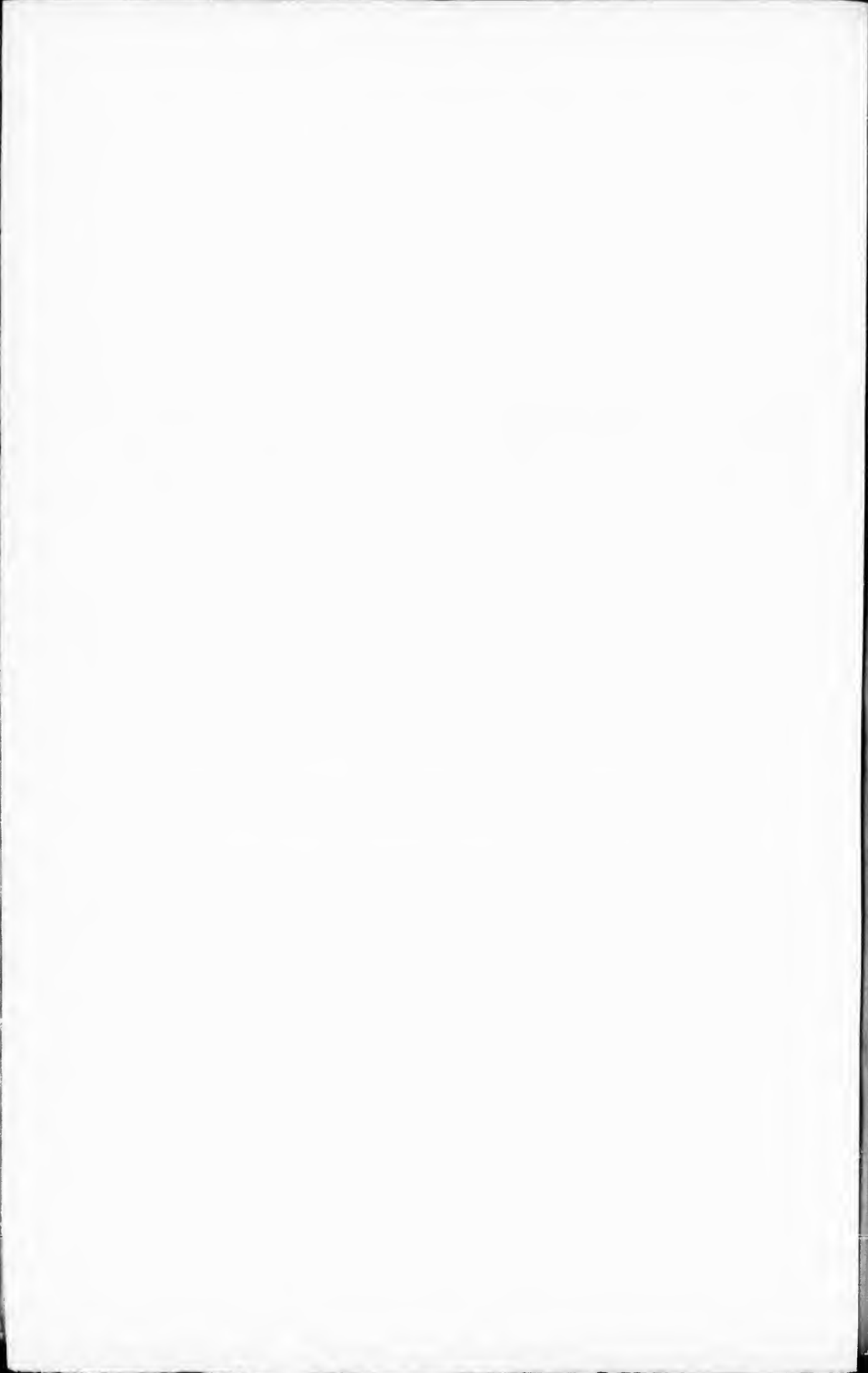
Joseph Daniels

C. R. OGDEN, for Appellant.

Court of Appeals,

1820.

APPELLANT'S CASE.



PROVINCE OF
LOWER-CANADA. }

Court of Appeals. 1820.

IN A CAUSE BETWEEN

FARQUHAR McRAE, et al.
APPELLANTS ;

AND

ROBERT MASON,
RESPONDENT.

Case of Farquhar McRae.

THIS was an action instituted in the Court of King's Bench for the District of Montreal, by the Respondent, a Blacksmith, against the Appellants, Joiners, on the 23d of February last, to recover the sum of £50, amount of a certain promissory note, of the following date and tenor—

“ £50 cury.

Montreal, 10th January, 1820.

“ Three months after date, (we jointly and severally) promise to pay Mr. Robert Mason the sum of fifty pounds, Halifax currency, for value received.

FARQUHAR McRAE,

ROBERT KERR.

And so set forth in the Respondent's declaration, followed by an averment, that, “in-as-much as the Appellants were immediately to depart the Province, an action had accrued to him, the Respondent, to have and demand the amount of the said promissory note.” By the Sheriff's return to the writ, he certifies that he had taken Farquhar McRae, one of the Defendants, who had given bail, and *non est inventus* with respect to Robert Kerr. To this demand Farquhar McRae pleads *nil debet* and *non assumpsit*; and further, that if at any time he McRae or Robert Kerr or either ever made the Promissory note (which he wholly denies to be true) he alleges that at the time of suing out the Writ and Process, to wit, on the said 23d of February last, the period for the payment of the said £50 had not arrived or become due, nor had the delay for payment expired to entitle the Respondent to have and demand the same. To this the Respondent filed a general replication, and on the 2d of May, the Respondent proceeded to evidence, and from the evidence of the last witness only (Thomas McKay) the Respondent attempted to prove that McRae intended to abscond, and that part of the evidence is as follows: “in February last, the Defendant met the Plaintiff and they entered into conversation together respecting the departure of Kerr, when Defendant informed the Plaintiff that he had been informed that Kerr had absconded the night preceding, and that he also heard that McRae, the other Defendant, was preparing to follow—and that he had received the information from one John Crawford the same morning;” and upon this hearsay-evidence alone, it would appear that the Court below condemned the said McRae to pay the said £50, with interest, to be calculated from 25th February, date after service of process. Notwithstanding it appeared on the face of the Promissory note, that the amount thereof had not become due to the Respondent, or in the evidence adduced, that the Appellants or either of them, had any intention of departing the Province, so as to entitle the Respondent to maintain his action.

It is from this judgment that the present Appeal is brought.

Quebec, Nov. 1820.

C. R. OGDEN, Atty.

for Appellant.



