The Legal News.

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GOWNS FOR JUDGES.

A tremendous revolution has taken place, and nobody is hurt. The question of gowns or no gowns for the judges of the New York Court of Appeals has been warmly debated for some time by our contemporaries in the United States, and we suppose also to some extent by the bar. The State Bar Association of New York passed the following resolutions :—

Resolved, That the example of the Supreme Court of the United States and of other courts in our country in retaining the use of the black silk robe when in session is in accordance with the historical traditions of our judicial institutions and agreeable to a cultured public taste.

Resolved, That their Honors, the Chief Judge and the Associated Judges of the Court of Appeals of this State, be and are memorialized on the subject, and respectfully recommended favorably to consider the adoption by them of similar robes when sitting *en banc*.

These resolutions were formally presented to the bench on the 15th of January last, and the result was that on the 25th of February the judges came into Court robed. The excitement which this little incident has created is altogether out of proportion to its importance. The *American Law Review*, with its well-known horror of "dudism," of course protests strongly against the innovation. "Our people have an innate abhorrence of show and shams," cries the *Review*. We are glad to be informed of this fact, as we should otherwise never have guessed it, more especially when we behold the panoply and fuss of the Knights Commanders and Grand Knights Commanders, etc., who sometimes make an irruption into Canada. The *Albany Law Journal* takes a common-sense view of the matter, and holds that while the putting of judges into gowns will not make them abler, more learned, or more honest, "it will make "them more respected by the mass of mankind, who view forms with awe." It may also be remarked that it enforces a decent uniformity, and prevents judges from gratifying, while on the bench, any personal fancy for startling garments. We have read that at one time in Scotland, while a French invasion was expected and the volunteer fever ran high, barristers sometimes came into Court from the drill ground, with a blazing scarlet uniform under their robes. If gowns had not been worn, the uniform would have had no seemly covering. It is easy to imagine that in some communities the varieties of costume dictated by individual caprice might be overpowering. The gown is convenient and becoming. The *Albany Law Journal* says "the change of dress is scarcely "noticeable, but looks well on scrutiny." That is complimentary to the good taste of the Court as to the dress previously worn. But our contemporary is not without thrills of apprehension, for he adds: "Now we "expect that the next breeze that blows from "the west will bring to our ears the clash of "resounding quills of legal editors who see "in this change of garb a shaking of the "pillars of the State."

BUSINESS IN APPEAL.

The terms of the Court of Appeal which have now been held in Montreal during four months in succession, afford some *data* of interest in relation to the progress of business in the Court. We find that the last case on the September (1883) list, numbering 106 cases, was the 88th on the November list, the 64th on the December list, 35th on the January list, and was heard as the 12th case on the February list. Between September and November, 1883 (two months), 28 new cases were inscribed; from November to December, 13 new cases; from December to January, 16 cases; from January to February, 14 cases. This shows an average of about 14 cases per month. Now it takes about four days to hear 14 cases; so that if the four days' system were adopted, the Montreal cases might be heard in a monthly term of four days, say from the 1st to the 4th inclusive; and the judgments could without difficulty be rendered at the end of the month. During the summer vacation months of July and August, there might be an accumulation of perhaps 15 or 20 cases extra; but this would merely involve a lengthening of the September term to seven or eight days.

INTERCHANGE OF COUNSEL.

Ontario is about to take from us a good and able member of the Quebec bar in Mr. J. J. Maclaren, who goes to Toronto to take the place in a prominent firm vacated by Mr. Rose, who was recently appointed to the bench. We avoid in this journal as far as possible matters merely personal, or we should be disposed to say more of an incident which is not without some significance. Ontario, on the other hand, gave to our bar several years ago a counsel of some prominence in Mr. J. C. Hatton. Both gentlemen are Queen's Counsel under Provincial authority, and we fail to perceive any reason why the Provincial appointment should not be confirmed by the Dominion Government. We protested some time ago against the exclusion of Mr. W. W. Robertson, then *Bâtonnier* of the Montreal bar, from the same honor. That omission has since been rectified, but his successor as *Bâtonnier*, Mr. Geoffrion, is not a Q. C. of the Dominion. We are entirely convinced that the appointment of Queen's Counsel would not be one whit less respectable if it ceased to be confined to so great an extent to those who have done service on the stump to the party in power. The fault has been common to both sides.

THE LATE MR. GEORGE OKILL STUART.

Mr. George Okill Stuart, Judge of the Vice-Admiralty Court at Quebec, died in that city on the 5th instant. The deceased was a son of the late Archdeacon Stuart, of Kingston, and nephew of the late Sir James Stuart, Chief Justice of Lower Canada. His grandfather, the Rev. John Stuart, was a clergyman of the Church of England, who, at the close of the revolutionary war, left the United States to settle in Canada. His mother was a daughter of General Brooks, for several years Governor of the State of Massachusetts. Mr. Stuart was educated partly in Kingston and partly in Quebec. Having chosen the law as a profession, he pursued his studies with his uncle, afterwards Sir James, and was called to the bar in 1830. From 1834 until 1838 he was in partnership with his uncle, who in the latter year was appointed Chief Justice of Lower Canada. In 1846 Mr. Stuart became Mayor of Quebec, and filled the office until 1850. A year or two later he was elected by a considerable majority to represent the same city in the Legislative Assembly, and held the seat, with a short intermission, until 1858. He then retired from political life and devoted himself entirely to his profession, in which he was eminently successful. In 1873 he was appointed Judge of the Vice-Admiralty Court at Quebec, an office which he filled with much ability up to the time of his death.

The name of Mr. Stuart is also familiar to the profession as a reporter. In 1834, shortly after his call to the bar, he published a volume of reports of cases determined in courts of the province; and subsequently in 1858 and 1873 he published two volumes of Admiralty Reports, embracing decisions by Mr. Black, whom, as we have mentioned, he succeeded in 1873.

Mr. Stuart had entered upon his seventy-seventh year. In 1833 he married Margaret B. Stacy, a niece of Mr. Black, who survives him.

NEW PUBLICATIONS.

COMPENDIUM OF DOMINION LAWS OF CANADA, 1867–1883, in force on the first day of January, 1884, indicating Amendments, Repeals, &c., with Index. By J. Fremont, A.B., L.L.L., Barrister. Montreal: A. Periard, publisher.

This is a work by a member of the Quebec bar, the useful character of which is indicated by the title. It is in three parts, the first of which contains a list of the Statutes of Canada from 1867 to 1883, indicating chapter by chapter and section by section the law as it was in force on the 1st of January of the present year. The second part comprises (1) a list of Statutes of Canada (1867–1883), repealed, expired or effete; (2) a list of Acts passed previous to Confederation which have been repealed by Statutes of Canada. (This list does not comprise Acts within the jurisdiction of Provincial Legislatures repealed by Provincial Acts.) (3) Acts passed previous to Confederation which have been amended by Statutes of Canada. The third part consists

of an Index to the Public and General Acts of the Dominion of Canada which are now in force.

A work of this nature involves very considerable labor, and should receive the cordial support of the profession. Some years will probably elapse before the official consolidation is completed, and until that work is brought to a close Mr. Fremont's Compendium cannot fail to be of the greatest service in facilitating the examination of statutes and saving many tiresome searches. The book is well printed and handsomely bound, uniform in style with the volume of *Condensed Reports* recently reprinted by Mr. Periard.

THE MANITOBA LAW JOURNAL AND LAW REPORTS, edited by John S. Ewart, Barrister-at-Law. Winnipeg: Robert D. Richardson, Publisher.

The growth of the Prairie Province is indicated in a very marked way to legal eyes by the appearance of this new legal journal, of which the issues for January and February have reached us almost simultaneously. The *Manitoba Law Journal* comprises 16 pages monthly of articles and miscellaneous matter, and about 24 pages of law reports paged separately. We confess we were rather surprised at the advent of such a well-grown brother from the West. The editorial work appears to be ably and carefully executed, and in typographical as well as literary excellence, the *Law Journal* will compare very well with its older contemporaries.

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, November 30, 1883.

Before JOHNSON, TORRANCE & RAINVILLE, JJ.

WILLIAMS v. NICHOLAS.

Contract—Offer of Reward—Compliance with Terms.

The defendant offered a reward for information that would secure the conviction of the person who broke into his shop on the night of the 17th May and stole goods therefrom. The plaintiff gave information that his own nephew was the thief, and the latter was convicted on his own confession of larceny, as on 15th May. Held, that the plaintiff was entitled to the reward, notwithstanding that the conviction was for larceny and not for breaking into a shop and stealing therefrom, and that the date was different from that mentioned in the offer of reward—more especially in the absence of proof that there were two offences committed about that time at the same place or that the person convicted was only a receiver.

The judgment inscribed in Review, was rendered by the Circuit Court, St. Francis, (Plamondon, J.) 16 June, 1883.

JOHNSON, J. The defendant had a store or shop at a place called Sawyerville in the District of St. Francis, and on the 18th of May he advertised and published an offer of a reward in the following terms: "One hundred dollars will be paid for information that will secure the conviction of the person or persons who broke into my store last night, and stole therefrom a number of watch chains, pocket knives, razors, &c.

JAMES NICHOLAS.

"Sawyerville, 18th May, 1882."

Soon afterwards the plaintiff communicated to the high constable that he had discovered the thief, and further went himself to the defendant with the same information; but the defendant never came forward to make his complaint, and it was left to the High Constable to act upon the information he had received from the plaintiff. The thief was arrested and taken before the District Magistrate, and convicted on his own confession. The plaintiff then brought his action to get the reward, and the defendant pleaded, 1st. by what he calls in his *factum*, a very strong *défense en fait*, which was meant no doubt to conform to the law requiring an express denial of what is intended to be denied, while at the same time it eluded the law by not expressing or taking out of the aggregate of facts, those which he denied; but by denying them collectively, and saying he meant that to be a denial of each fact expressly and by itself. This, of course, is not what the law requires; but only shows that the party knowing what the law is, wants to substitute something else more convenient to himself. However, this sort of thing has been tolerated too long in this

court to complain of it now;—so we have first a plain statement by the plaintiff that he accepted this offer, and acted upon it, and gave the information, and that the guilty party was convicted; and it is met by this "very strong *défense en fait*," which means, I suppose, to defy the plaintiff to prove his case; and then we have another plea alleging first, that before the advertisement was acted upon by the plaintiff, it was withdrawn; and, secondly, that the culprit who was denounced by the information given, was a nephew of the plaintiff, and that they acted in collusion.

As to the withdrawing the advertisement, there is no evidence at all that the defendant ever published any other to say that he withdrew his offer. There is only evidence that when it was rather late, and after the information sought by it had been tendered, it was taken down from the wall where it had been stuck up, and was put into the stove.

Then, as to the plea of collusion, it either means too much, or it means nothing at all. If it means that the plaintiff and his nephew contrived to share the reward by falsely putting forward as the thief an innocent person —it should have said so—for if he was not innocent, but was really the thief, there would be nothing wrong in the uncle exposing and bringing his nephew to punishment, however repugnant it might be to his feelings. On the other hand, it is just to say that it has been properly mentioned by the counsel for the defendant that the party instructing him lived at a distance, and that he admits the plea to be defective. There can be no doubt that under our law (see art. 984 C. C.) the publication of the offer by the defendant, and its acceptance by the plaintiff, constituted a contract between them; and the English cases are numerous to show the same thing. The only point is, did the plaintiff fulfil his part of it, for, if he did, the defendant must on his part be held to do the same.

The principal contention of the defendant was that he had offered a reward for one thing, and that the information given had led to another. He said he wanted information to convict the person or persons who broke into his store in the night preceding the 18th of May, and the conviction was only for larceny—and larceny laid as having been committed on the 15th of May. Now I am disposed to think there would have been a good deal in this, if it could have been shown that there were two offences committed about that time and at this same place; or if it could be shown that the youth who was convicted was only a receiver; and some one else had broken into the shop, while the boy was only reputed the thief because he was found in possession of some of the things stolen. This boy might have been examined as a witness. He might have been asked who broke into the shop, and he might have answered (mind I am very far from saying that I believe it), but as a matter of exposition I am observing merely that he might have proved, if it was true, that his uncle was the person who broke and entered the shop, or the uncle might have been examined, for that matter. But whose fault is it that nothing of this sort has been done by the defendant who was called upon to defend this case efficiently or not at all? If he had no defence he should have offered none. Justice is not to be satisfied by suspicion or twaddle:—we want facts; and if the defendant has no facts to allege and to prove, that would be an answer at once to such a case as this,—and if he had any, it was for him to take the responsibility of putting them forward in the record, and proving them by evidence. We say if he has no facts to meet the plaintiff's case, the proof made by the latter is enough. Time was not of the essence of the offence. This was not a burglary, which is breaking and entering a dwelling house in the night, and stealing therein:—it was merely breaking and entering a shop, and stealing therein—and the day and night are the same in that case. The evidence of stealing a part of the goods would support a conviction for stealing the whole. It is impossible to say that the information given would not "secure the conviction of the person who broke and entered." If it has not already led to such a conviction, it is not the plaintiff's fault. He gave the information; if the defendant has not applied that information properly, or made use of it so as to get a conviction such as he wanted, whose fault is that? Surely he cannot make his own omissions ground for refusing to fulfil his promise.

We confirm the judgment of the court below, which was for the plaintiff, with costs.

Judgment confirmed.

Camirand & Co. for plaintiff.
Merry & Co. for defendant.

COURT OF REVIEW.

MONTREAL, November 30, 1883.

Before JOHNSON, TORRANCE & RAINVILLE, JJ.

THOMAS et al., es qual. v. COOMBE et vir, and AMES et al., opposants, and PLAINTIFFS contesting.

Lessor and Lessee—Privilege of Lessor.

Where it appeared that the effects seized by the lessor on the premises leased, consisting of horses and vehicles, were continuously in the possession of the husband of the lessee, though they were used by him in travelling most of the time, the exception mentioned in the latter part of Art. 1622 *C. C., excluding effects transiently on the premises, was held not to apply.*

JOHNSON, J. This is a contested opposition which was filed by Messrs. Ames, Holden & Co., claiming as their property a pair of horses, a wagon, a sleigh and a set of double harness, seized under process of *saisie-gagerie* by the plaintiff for rent or its accessories, and in possession of the defendants. The defendant Hall is the husband of the tenant; but that makes no difference, the domicile of the one being by law the domicile of the other.

There are two questions:

1st. Were the effects seized the property of the opposants?

2nd. Were they liable for the rent due to the plaintiff?

Without going minutely into all the details of the arrangement between the defendant Hall and his first employers, Wm. Ewan & Son, or into the arrangements he subsequently made with the opposants, the facts are incontestible that Hall was in the employ first of all of Ewan & Son, and afterwards of the opposants, and for the purposes of the business of these firms he had been equipped by their means with this property. The rights of the opposants in it were acquired when Hall ceased travelling for Ewan & Co., and entered into the opposants' service. They acquired their rights from Ewan & Co., and their rights were not other or greater than those of the first firm. It therefore becomes comparatively unimportant to discuss what these rights were, except with reference to the question of ownership. But supposing the opposants to have been vested with an absolute right of property in these effects, the main question would still remain, viz., these things being seized in execution of a writ of *saisie-gagerie*, are they, or are they not, liable to be sold in satisfaction of the rent, whoever may be the owner, except under certain conditions? That is really the point, and the only point, for as to the right of the landlord depending on a presumption of ownership by the tenant—which presumption might disappear by proof to the contrary, there is no proof whatever of that kind; and as to collusion between the plaintiffs and the defendant Hall to deprive the opposants of their property, nothing of that kind is pleaded in answer to the contestation.

Now the law is this:—Art. 1619 C.C.: "The "lessor has for the payment of his rent, "and other obligations of the lease a privi- "leged right upon the moveables found upon "the property leased." This is the general rule or, at all events, the first part of the rule: the second part of it is found in another article, viz., Art. 1622:—The landlord's privilege "extends also to moveable "effects belonging to third persons, and "being on the premises by their consent, "express or implied." Now for the exception: —"but not if such moveable effects be only "transiently or accidentally on the premises, "as the baggage of a traveller in an inn, or "articles sent to a workman to be repaired, "or to an auctioneer to be sold." It seems to us that the learned judge who based his judgment on this part of the case on the idea of the transient or accidental situation of the goods did not give full and satisfactory effect to the evidence on that head. The evidence proves to us that the effects were always in the possession of Hall; he was using them on the road most of the time no doubt, and if at any such time he had happened to stop at an inn more or less distant from his home where they were seized in this case; if, I say,

they had, in such a situation as that, been taken and seized by the landlord in possession of the keeper of the inn for rent, their transient and accidental presence there would have liberated them from the lien of the landlord upon effects in his tenants' premises; but to say they were transiently or accidentally on the premises occupied by Hall, and where they always were kept when they were not actually on the road, is to make no difference between the words transient and permanent, and plainly to defeat the law. Therefore, owners or not owners, which it would be superfluous to discuss, Messrs. Ames, Holden & Co. have no right to withdraw from seizure at the suit of the landlord for rent, these things that have been taken in execution, and our judgment is to dismiss their opposition with costs, reversing the judgment below.

Judgment reversed.

Camirand & Co. for opposants.
Hall & Co. for plaintiffs contesting.

SUPERIOR COURT.

MONTREAL, March 5, 1884.

Before TORRANCE, J.

Ex parte JOSEPH HENRI PILLET, petitioner, and Dame MARIE GEORGIANA DELISLE, *mise en cause.*

Procedure—Petition by husband for order to permit him to see his child.

Where judgment of separation from bed and board has been pronounced, the husband cannot on summary petition, not in a pending cause, without a writ of summons, obtain an order to permit him to see his child, the custody of which was given to the mother.

This was a petition presented to the Court by a husband against his wife for an order to permit him to see his child.

An action *en séparation de corps* had been instituted by the wife against her husband and decided in her favour on the 23rd June, 1883, giving her the custody of the child among other conclusions taken by her. A preliminary point was now before the Court, whether by a summary petition without a writ of summons, the Court had jurisdiction in the matter. The petition was not made in a pending cause.

PER CURIAM. This Court (Torrance, J.) decided on the 23rd February that it had no jurisdiction (vide *ex parte Daoust*, p. 69 of 7th Legal News), without a writ of summons to proceed summarily to remove a tutor for misconduct in his office. The same rule should apply here.

The Court would further refer counsel to the following authorities with reference to the relations of husband and wife to each other and the interference of the Court between them :—4 Demolombe, p. 129, No. 108; Sirey; Colmar, A.D. 1833. "La femme, qui, après le rejet d'une demande en séparation de corps, refuse de rendre au mari les enfants dont la surveillance lui avait été provisoirement confiée pendant l'instance, ne peut y être contrainte que par le refus d'aliments et la saisie de ses revenus;" A.D. 1834, 2, p. 127; J. P. 1857, 879; Sirey, 1862, 1, 128; J. P. 1865, 116; Sirey, 1867, 1, 212; 1868, 1, 208. The Court does not consider that the Colmar case marks the limits of the powers of the Superior Court, which was substituted for the Courts of Queen's Bench abolished by 12 Vic., c. 38, and also succeeded to the powers of the Courts of the Province and Superior Council prior to 1759. How a contumacious husband or wife could be coerced can only be discussed when the parties are properly before the Court.

Petition dismissed.

Honoré Mercier, Q.C., for petitioner.
E. Beauchamp for Mme. Delisle.

SUPERIOR COURT.

MONTREAL, March 5, 1884.

BAXTER v. MARTIN et al.

Procedure—Summons—C. C. P. 38.

Where an endorser (who was discharged in consequence of not receiving notice of protest), was made a defendant solely in order to withdraw the other defendant (the maker) from the Court of his own district, Art. 38 of the C. C. P. was held not to apply.

This was the merits of an exception declinatory by Martin, living in the District of Richelieu. He pleaded that his co-defendant Parent had no interest in the case and was only summoned in order to give the Court jurisdiction at Montreal.

The action was against Martin, maker, and Parent, endorser of a note. Parent did not receive notice of protest for non-payment, but it was alleged that he had waived protest.

The evidence was that Parent had not waived protest and therefore was not liable.

PER CURIAM. The action here has been taken against Parent solely in order to withdraw the defendant Martin from his natural judge, and the ordinary rule which would allow Martin to be sued out of his own district (C. C. P. 38 Can.) does not apply; Gilbert, Procédure Civ. Art. 59, p. 65, No. 81, (Cod. Nap.)

Exception maintained.

Greenshields, McCorkill & Guerin, for plaintiff.

Philippe Roy, for defendant Martin.

SUPERIOR COURT.

MONTREAL, March 3, 1884.

Before LORANGER, J.

RICHER v. THE CITY OF MONTREAL.

Municipal Code, Art. 583—Carter licensed by municipality of his domicile.

1. *A carter domiciled in a municipality outside of the City of Montreal, and duly licensed as a carter by such municipality, is entitled under Art. 583 of the Municipal Code to convey goods from said municipality into the City of Montreal without having a license from the city.*
2. *Where the Corporation for the purpose of making a test case, caused a carter to be arrested and detained several hours, instead of proceeding by summons, damages to the extent of $50 were allowed.*

This was an action of damages brought by a carter against the City of Montreal under the following circumstances:—The plaintiff was a carter, resident in St. Cunegonde, and licensed for that municipality under the provisions of Article 583 of the Municipal Code, but not licensed for the City of Montreal. He was in the employ of the Montreal Rolling Mills Company, and on the 17th of November, 1882, was engaged in carting from the works of the company in St. Cunegonde to their establishment in the city, when he was stopped by Police Officer Waterson and asked to exhibit his license. The plaintiff produced his license for St. Cunegonde. The policeman threatened to arrest him, and returned to the station and made his report. A warrant was issued, and the plaintiff was arrested and taken to the Seigneurs street station. The object of the Chief of Police, as was admitted by himself, was to make a test case, in order to obtain a decision upon the question whether carters who live in a municipality outside of the city limits, and who are licensed as carters for such municipality, are entitled to convey goods into the city without having also a license as carters from the City of Montreal. There is an article of the Municipal Code which recognizes this right. It is as follows:

"Art. 583. Every carter or common carrier licensed as such in the local municipality in which he is domiciled, may convey any articles taken from such municipality, or any persons going therefrom, into any other municipality erected in virtue of any law whatsoever, without paying to such other municipality any municipal license or taxes by reason of such conveyance. He may also, without being bound to take out any other license, or to pay any other tax, convey within the local municipality wherein he is licensed, goods or persons coming from any other municipality erected under any law whatsoever."

On the other hand, the Corporation of Montreal relied upon section 123, sub-section 61, of their charter, 37 Victoria, chapter 51, and by-law 133 founded thereon, which makes it obligatory upon carters to have a license from the city in order to carry goods in the city, and enacts a penalty for default to comply with the law. The case was tried before the Recorder, and Richer pleaded that the city by-law was *ultra vires*, and that his arrest was illegal, he having a right to carry goods in the city notwithstanding the by-law. The Recorder, however, maintained the validity of the arrest, and Richer was condemned to pay a fine or undergo a term of imprisonment. Richer then brought the case by *certiorari* before the Superior Court, where the conviction was quashed, the court maintaining the right of carters domiciled outside the city and licensed by their municipality, to cart goods into the city. Richer now brought an action of damages against the city, based

upon the illegal arrest. The corporation pleaded as they had done before, that the by-law was valid, and that the policeman was fulfilling his duty; in a word, they justified the arrest.

The COURT, in rendering judgment, remarked that it was not disposed to sit in revision upon the judgment already rendered pronouncing the by-law to be invalid.

The judgment of the Court was as follows:

"La cour, etc....

"Attendu que le demandeur, charretier, résidant dans la municipalité de Ste. Cunegonde et licencié comme tel dans la dite municipalité, allègue que le septième jour de novembre 1882, il aurait été arrêté et conduit au poste de police, à la poursuite de la défenderesse, pour infraction au réglement, qui défend à tout charretier résidant en dehors des limites de la cité, de transporter dans la cité des effets venant ainsi du dehors, sans avoir au préalable obtenu une licence de la défenderesse; que le dit demandeur aurait été renfermé pendant quelques heures dans une des cellules du poste, et n'en serait sorti que sur dépôt d'une somme de vingt dollars et après avoir pris telle licence; que plus tard, il aurait été traduit devant la cour du Recorder, et s'y serait défendu par procureur et aurait plaidé que la réglement en question était nul et *ultra vires*, comme contravenant aux dispositions de l'art. 583 du Code Municipal, en vertu duquel il est permis à tout charretier licencié dans une municipalité où il est domicilié de transporter des effets qui proviennent de cette municipalité dans une autre municipalité locale érigée en vertu d'une loi quelconque; que nonobstant cette défense, le demandeur aurait été condamné à l'amende par le Recorder et à défaut de paiement, à l'emprisonnement; que le dit demandeur aurait fait casser la dite conviction par la Cour Supérieure qui aurait déclaré que le réglement susdit était nul et *ultra vires;* que le demandeur aurait par le fait de cette arrestation illégale, souffert des dommages considérables qu'il évalue par son action à la somme de $;

"Attendu que la défenderesse, nonobstant le jugement de la Cour Supérieure, qui a déclaré comme susdit nul et non avenu le réglement en vertu duquel le demandeur a été traduit devant la cour du Recorder, a plaidé à l'action du demandeur que le dit réglement était valable et l'arrestation du demandeur était justifiable; que le demandeur n'avait souffert aucun dommage réel, et qu'il n'y avait pas lieu à des dommages exemplaires contre la défenderesse;

"Considérant qu'il est en preuve qu'à l'époque où le demandeur fut arrêté par les ordres de la défenderesse et par ses employés duement autorisés, le demandeur résidait dans la municipalité de Ste. Cunegonde et était muni d'une licence de charretier; qu'il était à l'emploi comme tel de la société dite "The Rolling Mills Company," et transportait dans une voiture portant le nom de la dite société des effets manufacturiés dans les ateliers situés à Ste. Cunegonde, à la place d'affaires que possède la dite société en la cité de Montréal, ce qu'il avait le droit de faire aux termes de l'article 583 du Code Municipal ci-dessus cité;

"Considérant qu'il est en preuve que la défenderesse informée par ses employés du fait en question, et voulant provoquer un jugement de la cour sur la validité du réglement ci-dessus cité, a ordonné que le demandeur fut arrêté et traduit devant la cour du Recorder;

"Considérant que la défenderesse au lieu de procéder contre le demandeur par voie de sommation, ce qu'il lui était loisible de faire, a jugé à propos de le faire arrêter par la voie du warrant et conduire au poste de police où il fut enfermé pendant plusieurs heures;

"Considérant que l'arrestation du demandeur a eu lieu sans cause et sans droit, et que la défenderesse a dans ses procédures mis une sévérité et une rigueur que les circonstances ne justifiaient point; que le demandeur est en droit de réclamer d'elle le redressement du tout dommage qu'elle lui a causé;

"Considérant que sous les circonstances le demandeur a droit à des dommages au montant de $50;

"La cour condamne la défenderesse à payer au demandeur la dite somme de $50 et les dépens de l'action telle qu'intentée," etc.

Judgment for Plaintiff.

Church, Chapleau, Hall & Atwater for plaintiff.
R. Roy, Q.C., for defendant.