

King's Bench Montreal

Civil Pleas.

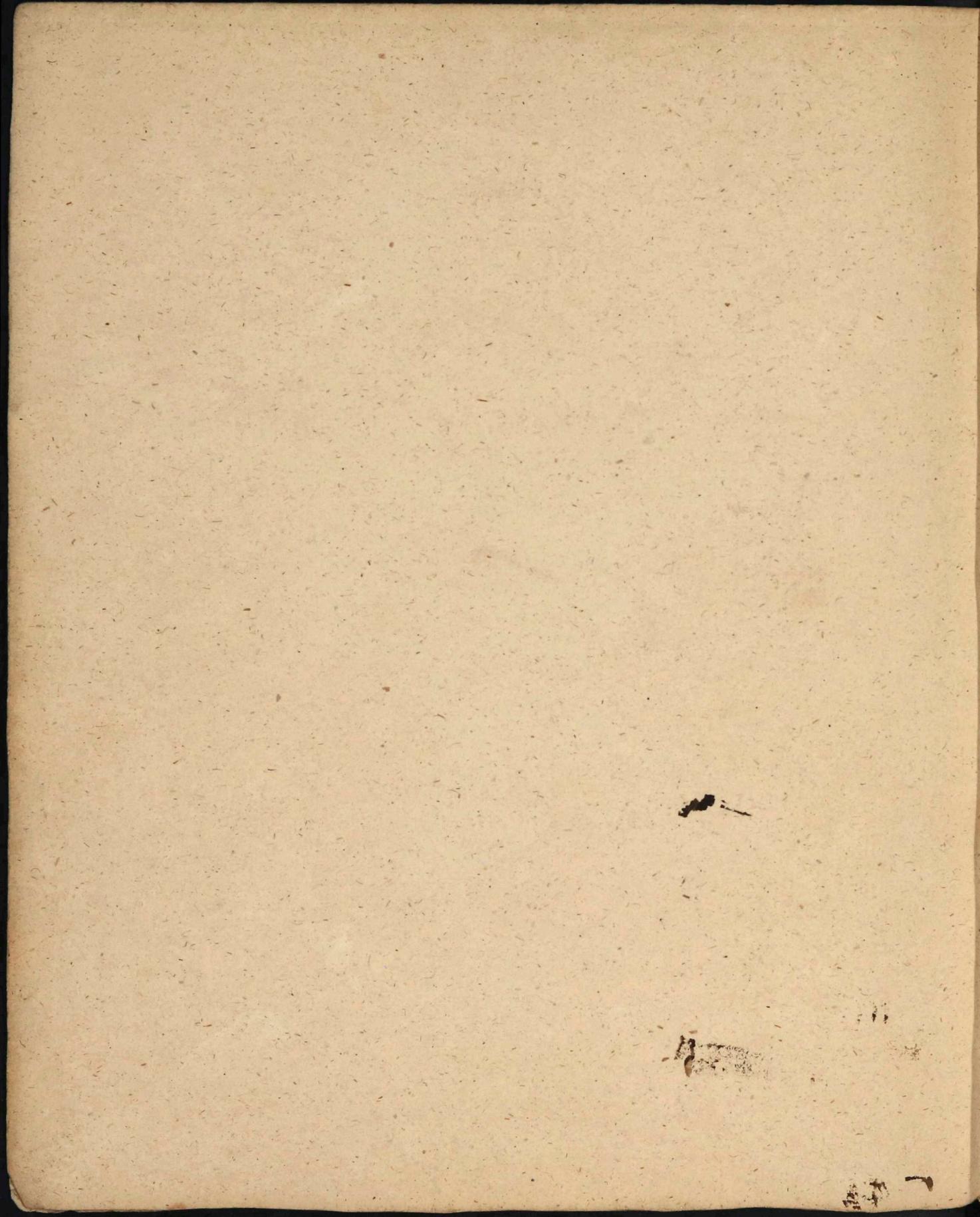
February Term. 1815. —

April Term. do^o

June Term. do^o

October Term. do^o

February Term. 1816. —



February Term 1815.

Wednesday 1st Feby. 1815.

The Ch. Justice was absent, being Presid^t.
of the Legislative Council. —

Smith.
Cuvillier ^{sue} }
Deshautels }
Jette'.

On mo. for delay for proof till 10th the
day of a return of a Com. Rog. sued out by
Def^t.

Ogden for Plff. Com. too late, — irregularly sued out,
no attende^e at office at time of notice. —

Jousse.
Bonin.
Pigeon.

Cause returnable to day. Plff moved to ex. Def^t
on facts part. — Ord^r of 1667. permits it — title de
Gant. Party may be ex^d. before contestation or cause

Sullivan for Def^t. mo. irregular, there being yet no
content raised between the parties. — Desilles v. Sauvage. (Jan 1814)

Bédard. In Plff. this may be asked in tant état de cause
same as a Wit^t. about to leave the Province. art. 1. tit. 10.

Reg. Proc. Sec. 29

Taylor.
Drenan. } On Pltf. mo. that Interrog. be taken as confessed.
Defd. objected to the regularity of service of the interrogatories,
having been served too tardy. —

McLeod
McIntosh } On mo. for delay till 1st day of next Term for a
return of a Com. Reg. In ex. of Dfd. on parts & all

Boston for Df^t. objects to mo. as tardy, ~~Standards~~ tends to delay
the cause — Defd. resides in U.S. Canada. — & might have been
exp. before —

Grant.
McIntosh
E. Contra } On Pltf. mo. to reject exh. filed by Dfd. w^t. his
Inc^d. Draw^d as being tardy — papers not marked filed w^t. list.

Ross for Df^t. exh. filed within time allowed for filing Plea.
Nov^r. last. —

Bonvouloir
Laran. } On mo. for fixing a day for meeting of experts —

Smith
Weare } On mo. to cont. enq^t. from inability of wit^r
to attend.

Ayer. no wit^r named on enq^t. book. Ry. Prac. p. 49,
& no other wit^r than those subpoenaed —

Laloude.
Asselin... }

On mo. for cont^r. of enqueste in term-
Mr Ross for Dft. objects -

Bellanger
Tasse' - }

On Plff. mo. for heard -

Obj^r. Cost on excep^r. ought first to be paid -

Lacroix in reply. Dft. filed a ^{Plea} ~~Excep^r.~~ with^r demands. cost & thereby waived his right

Vig^r for Dft. no suff^r. time for taxed costs before Plea was due, &
he was thereby under the necessity of pleading, but is always in
time to make mo. when costs are taxed. -

Griegson
McDonald
&
Demers }

On Plff. mo. to dismiss opp. for want of moyens,
the same not having been filed according to notice. -

Cont^r. till to morrow to hear parties. -

Jackson
Robertson }

On mo. for heard -

Boston for Dft^r objects, as a day was given to him
by Interrog. of 11th. Oct^r last, to ex. his wit^r after return of Com.
Rog. -

Grant for Plff. The Dft^r. has not sued out any Com. Rog^r - & therefore
not entitled to any such delay. -

Grand
Brisbois }

on mo. for delay to file exh. -

Ross for Dft. no cause shown by Plff. to entitle him to mo.

Thursday 2^d. Feby. 1815 -

Jette
Deshautels }

Mo. for facts & art. granted - the case of Deschelle
v. Sauvage 2^d June 1814 not applicable. decided on
the principle that no notice of mo. was given. - The
Defends mo. for suspends. proceedings rejected, as no taxed bill
was presented w^t the mo. -

Smith
Cuvilleret }

Mo. rejected - no suff. grounds shown by affidavit
to support it - either of diligence or other cause -

Mead
McIntosh }

Mo. granted - the right of ex. on facts & art. was
resumed by Dft. on 2^d Dec. last at closing enquest
he could not demand a Com-Rog. sooner -

Taylor
Drenan }

It appears that the serv^e of the Yacht & art. on Dft
did not mention at what hour it was made - delay given to
Dft. to appear & answer on the 4th art.

Grant
McIntosh }
E & Couture }

The 1st Nov: being a holy day, & the exhibits not being
filed till 2^o. the Ct. held it sufft. a rejected motion

—

Bonvouloir
" Larocque }

the first point of mo. for prolonging the rule of Reference
granted - the other point for fixing the day of meeting of
the experts rejected. —

—

Smith
" Weare & al }

The Plff had not the return of the Subpoena on the
last witness day & could not give the names of wit^s - but
it appearing by his affidavit that 2 of the wit^s had been
subpoenaed, & that they with the other two named in the subp.
had set out to come to Montreal in Jan'y last, but were
prevented by the state of the roads - the C^t. considered the
diligence sufft. & grant^d Plff^r mo. —

—

Lalonde
Asselin }

Mo. granted for vacation - ~~but~~ as Defd. objected
to hear^r. wit^s in term. the Ct. adhered to Rule they
adopted respects continuation of Enquet. —

—

Bellanger
Tasse }

The Plff. mo. granted - Defend^r. mo. rejected

—

Bates
Chase } }

Part of the witnesses on both sides appeared in the last Vacation

~~Giant
Brisebois~~ }

On Plff's mo. for delay to file exhibits.

Ross for Df^t contends that affidavit to obtain delay is insuff^t. as it appears

—

Campbell {
Sutherland }

On Rule to shew Cause why plea filed by Df^t shd. not be taken from the record as not have been filed in time.—

Sue. 19

Sutherland

Decr 18th 1871.

Ross. for Df^t. The Cause was return'd unto Court in Oct. Term last, and plea was filed in 20 days after Term vint. of Nov. last - besides Plff has joined issue ~~at~~ Plea

Opon for Plff. Cause returnable 11th cannot therefore take the benefit of both rules as to delay of pleading - The Replication, was not filed, but a copy served under a special notice.—

Brosseau,
De Longueuil
& al'

On Plff's mo. for declar. the faits & art. conferred -

The defendt. alleges that the facts & art. were served in the evening preceding the app' to answer, the delay was insuff' & the Interrog. very numerous - besides, many of the Interrog. are not pertinent - claims a right to be heard on the pertinency of the S^t. Interrog. in

Bedard for Plff, consents that a day be given to the defendt. Grant & Busby, but not to ^{Joubert} Brosseau who was serv'd several days before w^t. the faits & art. -

Cont^d by consent to Saturday for hear^r. on pertinency of the faits & art. -

Bricault
a
Bricault
Mme' Interv^s

On Plff's mo. for hear^r. on merits of Intervention -

Boston for Plff, contends that Interv^s Party had a second day given to him to ex. his W^t in vacation & no diligence done - a third day is now demanded by Interv^s Party - q^b is contrary to Rule of Proc. Sec. 27, art. 13. unless party offer to pay all costs of the action, q^b has not been done -

Bedard for Interv^s Party - there was an impossibility for Wit^z to appear on days fixed - in q^b can rule of Proc. do not apply - all due diligence done - asks to q^b in cont^d of Enqueste - Moves also that all proceedings be suspended on the part of the Plff until costs on except. to intervention be paid. -

Friday 3. Feby. 1815

Campbell.
Sutherland

Mo. overruled - it appears, that the Plaintiff had served a copy of a Replication on Defendant before taking objection to the Plea - The Court considering the objection raised as to the new rule, respects delay in pleads, amended the latter -

Alexandre
" Douglass

Mo. granted for changing first witness day for Enquiry to 13th —

Bricault
Bricault
Mae' Interv

Mo. for a cont'd Enquiry on 7th granted - other motions rejected. —

Mower
Powell -

Judg^t - on verdict dismissing the action - the Plaintiff concluded for costs, but the mo. for Judg^t demanded Treble costs, being an action agt. a Just. of Peace - but Court gave only Single costs as no more were demanded by the Plaintiff -

Powell
Taylor -

Action dismissed - transaction resurgois —

Deshautel,
Trusdale }
Bingham.

Thayer & Curtis
4 June 1813

On defd's mo. that plff's action be suspended until
a statement be filed of the specific sum demanded
by the Plff. - as per Reg. Prae. sec. 43. -

O'Sullivan contends that as there is but one Count in his
Declaration he is not bound to give such statement, as he claims
the whole sum demanded thereby - besides, Plff is Causator & unacquit
w^t the transactions between the parties. -

Ritchie
Dunlop
and
E Conner

On action of assumpsit for freight -
Trial by Special Jury. -

1. Bill of lading signed by Plff for 366 barrels of Potash
to be carried from Montreal to Quebec. -
2. Wm Lindsay, agent to Dft. ex^r. on a Com. Reg^r.

Verdict for Defendant on Principal Demand
and for the Defendant on Indict^r Demand

Hillyard, Winchester & Cummins mis in cause }
Plff. to issue order obtained by
On rule obt. by J. Cummins to ~~the~~^{on 18 June last} ~~the~~ ~~Court~~ that
Plff sh^t not pay costs adjudged to her before he
be allowed to proceed -

Sol. Gen^t. for Plff, contends that after Defend^s filed
their plea, they were not entitled to ~~the other side's order~~
as Plff was not heard thereon, is now entitled to be
heard thereon & to have same rescinded -

~

Delisle Richardson & Tal } action en complainte -

Beaubien for Plff. - Defd^s plead that they were
wananted to cut the Canal in question - 1^o. as Com. under
the act for the embellishment of the City of Montreal under
that law entitled to cut the o^r Canal - this not founded
as the power of the Commissioners does not extend over property
not comprehended within that act - 2^o. That they employed
the ground taken out of the Canal to fill up the little river
on the Plff^s land - 3^o. Plff^s land better drained by Canal -
4^o. Greater benefit arising to Plff from Canal in the enjoyment
of his land - all these grounds insuff. & Plff has demurred that
Sol. G. for Defd^s. - Defd^s are commissioners under a public act
& they have done no damage to Plff, but have benefited Plff
by Canal in question.

Charet
Gamelin } action of trespass, assault & for words -
On Plea of guilty - demurrer to plea.
Grant for Puff. in support of demurrer - Plea ^{does} not answer
the whole demands - justifies battery by words - not sufficient.

Pare'
Lacroix } v Action for money had and received -
Plea - tender of £4 - qd: he was always ready to pay

The Vines
..... Saturday 4th Feby. 1815.

Charet
Gamelin } Demurrer overruled.
Mo. granted as to stay of proceedings until after fresh
trial arranged.

Hillyard
Winchester } Rule discharged with costs. -
Winchester
Sal. misfor

Deshautels
Trusdell } Mo. granted as to stay of proceedings

Smith
Cavillier & ^W On def^t. mo. for a Comm. Rec^r, ret. 1 Ap. next -
Ogden for Plff. no diligence done on the former Comm. Rec^r,

McCord
Langhorne } On Plff. mo. for proceeding on an evocation from
the Inferior Court.

O'Sullivan for Dft. says he has discont^d his Plea to the
Injunction of the ^{Inferior} Court in that Court, and therefore the
Plff cannot proceed here on that evocation, as nothing
has been done in the Cause to warrant proceeding here -
The Court being of opinion that the dis continuance
ought to have been filed in this Court, the Dft. thereupon
filed the same -

Boisseau
Taylor. } ^W On hearing on claim of the Seminary on Issues
Seminary. revised by Mr Stuart -
~~Mr Stuart's~~ The parties submit the case under the argument
already had in the Cause on the 7th June last -

Berthelet
Glaetmeyer

} Action for house rent on lease. —

Grant for Df^t. Df^t has pleaded tender as to part
of rent, and a demand for repairs — q^t being grosses
reparations he is entitled to a deduction for same out of
the rent — and in this case even if the repairs were
locatives, he is entitled to be p^d for them, as Plaintiff did not
deliver the house in the state he had agreed — Poth. longar
N^o 130 — Domat.

O'Sullivan for Plaintiff. Df^t by lease accept^d house in state it
then was — has made no proof of repairs —

The King
v.
J. B. McCord

Rolland for Capt. Desnoyers, who prosecuted the
plaint in the Inferior Court, moved that the
Rule for quash^d Certiorari sh^d be declared
absolute.

21 Brum. 10 A.M.

1st The writ issued improvidently, & without order of
this Court, & party is now in time to have it quashed
not having been heard at time it was granted — The
order of 1st Oct^o 1814, does not state at whose instance
the conviction was made ag^t Stibbens on the particular

day - there were 2 convictions agt. Stibbens on that day
& therefore it was not suffly certain - the writ is right -

2. The Affidavit contains no grounds for issuing
the writ - cites Hand's Prae. no want of Jurisdiction
or error in the proceedings alleged - as Ct. cannot examine
the merits of a Conviction -

3. The proceedings are irregular - the Magistrates to
whom the writ was addressed never made the return
thereto, but two others - Mrs. Durt. &c Certiorari -

Ross for Th. Stibbens, who sued out the Certiorari.
The writ issued rightly, and had not the right conviction
been removed, it was the business of Th. Stibbens to have
complained - The affidavit upon which the writ
was granted, stated that conviction was wrongfully
made, q't is sufficient - It is no ground taken in
this rule that the return was irregularly made by the
magistrates to whom it was not directed. a

Mellote -
Malbrouk 10
Radicot ^{had}
Ranger. opp^t

On opposition a fin de conservier of Ranger
O'Sullivan for Opp^t claims value of one half of
Rente & pension viagre

Sacross for Opp^t. The Oppost. disavows the opposition and says she has no claim such as has been made in her name in this Cause - No suff^t. proof of demand not stated from what period the arrears are claimed, nor at what period the value of the articles is ascertained - The value of the rente should have been estimated as it stood at the time of making the donation - The Opp^t. claims ten years of the rente as the value of her claim, but she is not entitled to this - the value of the rente now due sh^t be ascertained by Experts -

O'Sullivan for Opp^t No regular course has been taken to establish a discrepancy in the Case, & the proceedings of the attorney cannot therefore be affected thereby. The Oppost. is entitled to the Capital of the Rente, & this can be estimated only according to the value années communes not as it stood at date of deed of Donation - Consents however to estimation by Experts -

McCord.
McKenzie
Am^t &
Logan Opp^t

X On opp^t. of Logan afin de conserver, & for a privilege for bread furnished -

Ross for Opp^t. cites Repⁿ re Privilege - & V^e Boulanger only question if privilege can extend beyond the year.

Ogden for Dft. There can be no privilege for the sum stated
in the note of hand - it is a novation of the debt.

Ross in reply - no allegation by pleading that there has been
any novation of the debt.

Jackson. ✓
Robertson }

On rule to show cause why Dft. should not
have a day for examination of his wit.

Gant. for Plff. On 1A Oct. last a day was given to the
parties to produce their wits - but neither of them had
any with & so entered - Dft. is now too late to ask
for another day - moves that rule be discharged this mo. grand
the Dfts. counsel did not attend - Rule Disch

Christie ✓
Deschamps } An exceptions.

Turgeon } Sullivan for Plff. action of assump'ton - except to h. Dm
Lacroix } Lacroix for Dft. that cause ought to be suspended until
he complies w. the award & compromise - That incidental
demand is regular & admissible - Dft. has pleaded
jurisdiction to Promissory Note, demanded in declaration -

Sullivan, contends that no award has been made -

Christien }
Deschamps }
action to obtain poss. of a lot of land sold to Plff

L.M. Vige' for Defatt That Plff ent' in poss. of land
contains that partie ob' go to prov

Oakes }
Mondelot }
Action for debt on Obligation --

over.
Rolland for Dfatt Plff states herself executrix of Mr
Jacobs - not fact - That Mr Jacobs' will could not give
a power to his Executrix beyond the year & day - much
less to the Executrix of those Executrix - No Denis t. v. Exe^r
N^o 3. - That section of Mr Gray has carta - by act of
29 Novr 1806 - see 1d. N^o

Pedard for Plff. The St. 14 Geo. gave same benefit to make
wills in this Country as in England - same reason applies here
as in England, for naming the Executor of an Executor to
execute the trusts of a will - same power is therefore vested
in testator as to appointment of Executors -

Bellanger }
Tasse' }
Action for 4 years wages as a Servant -
Vige' for Exec. pleads prescr^p ^{annual} art. 127 Cout.

MR
Lacroix cite case Bedouin v Bricault. Oct. 1802. where
it was decided that the Engagé is entitled to demand three years
of his wages, & is prorogued for the last year -

Archambault [✓]
Provillet } On action for arrears of a Rent & pension. +

Nige' for Dft. demand is for article due in Jan^y
~~Feb^r~~ & March last, ^{April & May} whereas these entries were due and
payable in 1813 in q^t. Dft. has a discharge - The
rent commences ~~on~~ 1 Oct. 1813 - & the receipt can be meant
only to apply to the first rent q^t. has been paid - & q^t
extends from 1 Oct. 1813 to 1 Oct. 1814 - Instead of
a servant girl the Dft. offered personally to do the service
up - - Ques^t. as to the delivery of the wood before action -
Ross for Puff. Part of the rent only becomes due in 1813
to q^t the receipt can apply, but it cannot apply to
what was not due nor payable till 1814 -

Jessieraux [✓]
Dumouche } Action on deed of sale. -

Bedard says, that only question now before the Court
is for costs - in consequence of Dft. hav^t furnish'd a quittance
for wheat in question -

Nige' for Dft. - Dft. never had any notice of the transaction
between Puff & his brother - & there never was any demand made
on him before the institution of the present action - Price
of wheat 15/- per minot, but wheat shd. be deliv^red in nature.

Perrault ^X
Seannot } action for rente & pension -
a dessin Lugt

Grant ^X
McIntosh } On plff's mo. to reject exhibits as irregularly
filed by Def't

Ross in Def't states that a motion had already been made by Plff for rejecting the exhibits filed by Def't on the same ground with the present, which had been overruled, contends that the present mo. is therefore irregular - Mo rejected -

Bell ¹⁴
Fraser }
Young }
Inter'g = On mo. by Inter'g Party for delay for a day to file
an Exhibit -
over -

Dubreuil ^X
Lal }
Lavigne } action for arrears of rente viagere -

Vigé for Def't - on decease of Dubreuil his widow made over her rights to Plff's - they can claim no right to what was due prior to the transfer to the Plff's - the words, "à commencer
la jorissame de ce jour", shows the intention of the parties -

Rolland for Plff - cites Rolls. N^o. 81. according to the rule
of interpretation of deeds the Plff's right is certain, she
is entitled to the arrears as well as the growing rents.

Saramet
Gaucher }
On award

Df^r. says costs ought to be divided

Hart. &
Osborne. }
On Df^r. mo. to ex. Plff. on facts said.

Open for Plff. mo. too late not made first
day of Court —

Bertrand
Deaves }
On Plff. mo. for an al. Com. Ray. to perfect
examn. of a will at Limerick

Gale for Df^r. accedes to issuing a new Com. provided
it be done at charge of Plff. who was charged w^t the
execution of the Com. hav^ts omitted to put the cross-
interrogatories —

Bourassa {
Denau } De Defend. mo. for hearing our ments
Plift objects that cause was cont. generally for
Enqueste she is not bound to fix it

Monday 6th Feby. 1815

Bricault {
Bricault } Interior orders. estimation of cert^e entts by Experts

Turgeon {
Lacroix } Exceptions dismiss'd - The arbitrators not hav^d. made
their report in conformity to the Compromis .

Jessier ^{rus} {
Dumouchel } Judge- ord^s Dep. to deliver wheat in 8 days, or to
pay it at rate of 15/- per bushel -

Berthet {
Glaizemay } Judge - costs divided - deduct^r made of repairs by Tenant.

Christin {
Deschamps } Interior. for provost

Sarrazet {
Gamelin } Judge - costs divided

Archambault
Brouillet } }

Interior orders Defd. to appear & be ex^d on oath
to state what articles he p^d. to Plff at time & in consideration
of which he obt^d the receipt in question

Mettate .
Raucot.
Ranger opp^t.

Interior orders the capital of the rent to be
estimated by Experts. —

Post. const. Rents. No 231 - 23A.

Dubreuil
Lavigne }

Plff's claim dismissed as to arrears of rent claimed
prior to the date of the assignment of the rent to
the Plff. —

Hart
Osborne - }

The defendt. res. for ^{Com. Reg} delay to ex. Plff on facts not
rejected, as due diligence was not done by demands. it
the first day of Term

McLeod
McKenzie
Logan opp^t

The bakers ac^t. for a year admitted to be prudently

Smith }
Currier et al }

The Defd: mo. rejected - as suff^t diligence was
not done on the former Com. Reg. -

Berthelot }
Deaves }

The mo. granted.

Bourassa }
Denau - }

The ~~Pltf~~ ^{Defd's} mo. granted - the Pltf not having
moved for the ex. of witⁿ on the first day of
Term.

Bangs }
" }
Barker }

Action for sp. performance & damages -

Action for Dft. action cannot be supported, - no proof
of the execution of the bond by the subscribing witness,
other witness cannot prove it - The Pltf. has rec'd
part of the money lent - and cannot now have recourse
to his action for the land, his accept^s. part of the money
being a waiver of that right - Dft. has p^d. on
acct. 180 dol^s - an incidental demand for 135 dol^s-
gl. sums ought to be deducted from this demand -

Ogden - in reply. Witⁿ to bond, out of Province -

Pliff is entitled to the money due on the bond, although
more be demanded - ^{Inde}demand not proved. —

Murray
Kuper

} action of assumpsit for timber sold. —

Gale for Dfd^t. The wood & timber in question was
included in transaction, to a greater amount between the
parties - objects to proof on testimony of one Wit^r and
delivery b^r. to be made to Dfd^t. agent - not agent of Dfd^t
but an Agent for Govt^r - There is a mo. before the
Court to shew that Pliff had not filed suff^r. authority to
prosecute action, he not living in the Province —

Grant^r for Pliff. This is a mercantile case - Pliff a trader
proof of delivery is sufficient. — submits case —

Saccombe.
Cuvillier

} action of Specific assumpsit. —

Beaubien for Dfd^t. When there is an agreement for the
Sale of goods above £10. it ought to be signed by both
parties thereto - Agreement signed by Dfd^t. but not by Pliff. —
And this writing being in the poss. of the Pliff. the Dfd^t
could have had no recourse therew^r. The wheat was

to be deliv^r. on demand - q^b Plett explains to be ^{during} the
first navigation of the year - D^r not bound to make
such demand by contract - On 29 Dec^r the Plett made
a satisfaction on D^r to come for wheat - this was too late.
The Plett does not justify having the wheat, or having done
any diligence to deliver it to D^r - Does not show he was
prevented from selling the wheat to another person. -
The contract was made at Montreal, where the difference
of price between merchant & Merchant ought to be settled
The proof adduced by Plett shows that the price of wheat
in the Country between the merchant and the habitant
was $1/8$ under the price in Montreal & therefore $1/8$ a bushel
at most can be due to Plett -

Ross for Plett - The wheat was deliverable during the
navigation of the year 1813, so understood - a tender of
wheat was made by Plett - The exception respects agreement
already decided. - The wheat was ready to be delivered -

Jackson
Robertson

see Paris & ux
Caron. — 7 Feb^r
1814

On D^r defend^r no. to file certain papers
in the cause not in his possession until
lately - vnt^r last sitting of the Court. -

Grant for Plett Party not entitled to file any papers.

Webster
Maynard }

On defendt's mo. to dismiss Cause

Paris, Sept
Cause 4

Bonne' for Defdt. - In the writ of Sum^r there is no addition of the joist - See 5. art. 3 - The order for the Sainte is not signed by the Judge - it is marked on the Copy - but not on the original - There is no sum stated in the Judge's order for q^t - the attach^t. is granted - See 8. art. 2.

Porteous for Puff. - The addition has been omitted by Proth^r. - The order for the attach^t. is at the bottom of the affidavit. - No sum necessary to be sworn to in this case. -

—

Hart
Osborne }

Action on Promy Note -

Puff asks Judg^t -

—

Smith
Cavilleau }

On Rule Nine -

Puff asks Judg^t on Rule -

? To see Inquest -

—

Gaudry.
Cherrier.
Charlebois -

On defendant's motion for delay to plead.

Bedard for Plff. cites tit. 29. art. 7. shows Deft. is account holder
Shows a balance in her hands, this sum ought to be immediately
Pd. to Plff. - 2 Paper. 47.

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Brosseau
De Longueil
Sal. -

On the pertinency of the facts & articles -

Sol. Gen^e for Defd^t objects -

1. N. 3. 4. 5. 6. 7. 8. &c. ⁴⁴ Consideration of questions put to
Loubert - ~~the~~ impudent, as they tend to draw facts from
the mind not relating to any point in the cause - it
referring to a general course of conduct of the late Mr Grant
and not to the particular fact in this cause - ^{by} if
answers do not tend to make evidence of the party answers
them but at the other Defd^t. N. 13. 14. 15. 21. 22. & 23.

Facts & art. are not to be granted in every case -

N. 11. 12. 17. 18. & 19 - objected - Defd^t not bound to say
anything at his own credit or reputation. - its case
of ~~of~~ ⁱⁿ Daskin. v. Brown. 1795. Penalty here is equally great &
not equally discreditable -

as to quest. submitted to Madame de Longueil objects

M. 3. 4. 5. 6. 7. & 19. - also 11. 12. 13. 15. 16 & 17 - on
same principles --

Bedard for Plff. The excep. taken by Defd^s to the Decr^s
has been dismissed, q^u is admitting the sufficiency of the general
allegations cont^r to the general practice of the late Mr Grant
in granting the lands of his Surveyor -
^{q. u. on to prove}
ent^s case Laboure v. Mass^s. 1810

Sol. Gen^r - The action is founded on fraud and collusion
which are dishonorable, & therefore attach disgrace to the
conduct of the Defd^s if true - & to gt^r by Law they are not
bound to answer -

Tuesday yth Feby 1815.

Webster.
v.
Maynard}

Plff. allowed to amend his ^{writ} declaration in
regard of the Plff: addition - the other parts of
the motion rejected -

Jackson.
v.
Robertson.}

The Plff: mo. granted - on affidavit & few
Papers came to his hands since last Term. -

su Paris du
caion 9th Feby 1815

Gaudry }
Cherrier } delay to plead till 15th inst.

Wednesday 8th February 1815.

Laperriere
Duplessis
Tremblay
Gaut

On two motions - one for hearing on the law, and the other for fixing for an Enquête.

Jackson
Robertson

On Dft's mo. for ex. of wit^o

Opposed by Plff., as Dft's had already had an opportunity of making this motion & was overruled.

Chaput.
Mettre

on Plff's mo. to amend, by changing the word, September, for November. - allowed. -

Upon this the Dft moved for delay to plead under the same delay as in a cause returnable in Court this day. -

Thursday 9th Feby. 1815. —

~~Chaput.~~
~~Mettote.~~ }

Defend. mo. granted. —

Jackson. }
Robertson. }

Mo. rejected. a 2^d. application. —

~~Bellanger.~~
~~Tasse.~~ }

Except. dismissed. — The plea not founded — the whole action is not prescrib'd. —

Oakes
~~Mondelet~~ }

Action dismissed. —

The King
McCord }

Rule discharged. —

Murray
Tupper }

Dismissed. —

Delisle.
Richardson
dal }

Plea in bar dismissed. —

~~Ker
Lacours~~

Interv-

Fricette
Brisbain

action of revendication for timber.—

Sol. Gen^e for Dfnd^t admits that a small quantity of timber was cut down on the Plett^r land, being for a necessary purpose, that of constructing an hospital for the sick on the Isle aux Noix — value of wood does not £5. u

Grant^r Plett contends that a much greater value has been proved.—

Burton
or
Manning
and
King Interv

action for a voie de fait

Rolland for Plett - contends that the Intervention is insufficient, as it is made on a supposition that if the wood in question was cut under the licence of the King, he is justifiable — this is an imperfect Intervention — it does not justify the Dfend^t — it does not shew that the defendant had a licence —

The Concession of Plett^r Survey contains reserve of oak D. l. w. 1. lit. 1. S. n. 2 for the use of His Maj^y — The extent of this reserve in a contract with the King, is an obl. on the Grantee to preserve this wood for his use, when he may want it — it does not reserve the property in the wood — The owner ought to be apt

Laws & For. art. 2 agt. the person giving - There is also a reserve of fine wood but the King was to pay for this - qd shew that the property was not intended to be reserved in the other wood - The custom of place, ought to be rec^d. in construing this deed - in France when King sent his Surveyor to mark the wood - refers to opinion of certain lawyers in France respects such reserves in Canada -

The licence filed, is not for cutting timber, but for admitting the entry of masts & bowsprits into the dock yard - The contract referred to not annexed to the licence - The licence extends to the Kings woods, where he has reserved the property in the wood & the right to cut it down - not the wood on the lands of Individuals - where certain formalities are requisite to enter, even where the property in the wood has been reserved - No chain of authority or licence from the King to the Defendant - That the King cannot justify a voie de fait, you can be guilty of one - Fer. Voie de fait -

The Defendant rests the case upon the argument already had in the cause

Ross for Attk. Genl - The King of France by making a reserve of certain woods in the deed of concession of the Seigniory in question, reserved that wood as his property - The action claiming wood reserved as the property of Ruff which

wh. is wrong, as his action ought to have been to preserve the wood for the use of the King, as the Kings bailliff in this behalf.
as the Plaintiff by his being in possⁿ, is considered to hold the wood reserved for the King, Poth. Poss. No 54th in it is a means
of acquire shold^s possⁿ by ourselves or others on our behalf
therefore Plaintiff had no right to his action in his own name
and for his own use.— The King therefore in this Intervention
claims that the wood in question should be adjudged to him
as his property — That the Crown does not intend by
this Intervention to justify the acts of the Defendant in the
manner he may have exercised the rights of the Crown, but
merely claims the wood in contest as belonging to the Crown.

Burton, Feb. 1807.
Carter

Pollard in reply — The Intervention is different from the arguments now used — it justifies the act of Defendant and contends that if Defd. has acted under the licence, he is justified — but there is no claim or conclusion that the wood be adjudged to the King — It has been adjudged
that the Sheriff has a right of action at his Constituion for
cutting down wood on his farm, q^t by the deed of Concession
the Sheriff had reserved.—

Bell
Fraser }
Young off. }

On rule to shew cause why a certain paper filed
by the Opponent should not be rejected from the record, as having been filed too late —

Pro Cw. 1^{re}. part 4 Rolland for Opp^t - Interv^t Party - The intervention is
ch. 2 sec. 3. only to claim the monies after Pluff -

1 Pigeon 734 -

Memorandum p. 9. Ross. Opp^t not within the Rules of practice - cites case
where an opp^t en sous-ordre was rejected, by not having
been filed in time -

~

Lapierre
Duplessis.
Trembley
Ycart

Action for recovery of Lods & ventes - bears. on
Recapitulation pleadings in Garantie.

Zacomb. v. Lods & Y.

Bedard for Gar^t. Pluff is not entitled to any lods & ventes on the deed in question - The charge imposed
on the Garant is greater than the value of the land
and it is a principle that there can be no lods & ventes on
the charge ~~of the~~ after the Vendor has imposed on himself.
Poth. Tuf. p. 156. and ~~out~~ but such a Sale, it being in
this case considered more as a donation than a Sale -
Prays delay for prosecution of action en rescision at
Duplessis -

Poth. Tuf. p. 352.

Duesnel for Pluff, contends that Pluff is entitled to the lods &
ventes demanded. - Pluff ought to have his lods immediately
for his lods & ventes, and is not bound to wait the event of a test
provision -

Grant
et al. Intosh } On exceptⁿ to Incidental demand -

E. Contra } Grant for Plff - not stated that the Plff ever was
indebted to Defd^t - therefore there can be no assumption founded
on it. -

Ross for Defd^t - The Incidental demand is sufficiently
stated -

Jette. }
Deshautels } On defendants application to reject certain
facts & articles proposed by Plff to Defd^t

Sullivan for Defd^t objects to 3. 5. 7. 12 & 13^o that
they do not regard any material facts in the cause
^{but} ~~and~~ not to intentions of a party & to confirm the party
had in Defd^t -

Objects to 26. 27. 28. 29. & 30^o - do not regard the
matter in contest - but an action formerly instituted ag^t
Defd^t and discont^o -

Bedard for Plff. The facts enquired of Defd^t by the
first sett of Interrogatories are material - as to the
2^o. sett of Interrogatories, are equally necessary to show
what Plff already prosecuted -

Gillespie.
Wadsworth
Wood. Opp^d

On rule to show cause why monies levied by Sheriff
sh^t not be p^t over to Oppos^t. -

Boston for Opposant states that no plea has been
put in to his opposition & he is therefore entitled to Judg^t
thereon -

—

Friday 10th Feby. 1815.

Belle. {
Fraser {
Young opp^d

Plif^t. mo. granted. -

Jette. {
Deshautes

The first set of Arbitrators admitted
The last set rejected -

Grant. {
McIntosh. {
E. Couture. {

Except^t dismissed. -

Lacroix
Desjardins {
Rochon opp

Interlocutory, except^t evaluation of an emplacement
belong^s to Opp^t q^t be allowed to be sold with the
land on it. it was situated dangerously made part

Scott. } action for bread furnish'd
Corse. — }
Cui' — Bedard for Def't. Proof not suff' — only one Wit.
Plff is styled, a baker, and the action for bread sold to a citizen.
This is not a Commercial transaction, it w^t not have
come within the Consular Jurisdiction — Had the Def't
been a person who bought bread to sell again, the transaction
would have been commercial — cit. tel. 12. Ord^r. 1673.
par Jousse. p. 215. Proc. du Consil. p. 280. —

Grant for Plff. cites Case. Stevenson v. Carswell. —
su Prior. v. Lutkin. 12 Octr. 1801.

Drenan }
Taylor } Action by Plff. a tenant agt. Defendant the
Proprietor, for want of repairs. —

Grant for Plff. submits that case shd. be submitted
to Experts. —

Boston for Def't. No ground for an action in this Court
no prov. to support it. —

Legueret }
Lecue^{as} } On Rule Nisi, to prolong Interlocutory order of
the Court of last Term. —

Vige' for Plff. objects agt. proceedings of Mr Guy
that he refused to hear one of the plffs — P. M. Valois,

That the Surveyor heard the wit^s at the house of the
Defend^t and not on the premises - and heard first the
Witnesses of the Defend^t - That he heard one Moreau
who is the husband of the Cousin of the Defend^t - but
says, that no objection was made thereto - That he heard
Mr Dugay, who is the Garant of the Defend^t - That
he refused to hear two Laloude's who are stated to be
related to one of the ^{new} children of the Puff, who is also a
Puff - Moves for a cont^a: after rule to 1st June next
that the other Surveyor be joined to Mr Guy - that
they make up of the evidence adduced. ~~Delin~~

Bedard for Dft. Mr Guy has made a report as far
as his proceedings went - he heard St. Marie Valois - who
was present during the whole operation - heard wit^s
in house of defend^t after a visit made - the Puff's
wit^s were heard there - That Dugay is not interested
as Garant - That Laloude is incompetent wit^s as the
action is joint -

Bricault
Bricault}

On Puff's mo. to change Intervenitory order
of int^t -

over till tomorrow

Quinet
Duclos }

On Pliffs mo. to prolong Interlocutory order rendered
in this Cause. —

Nigé for Defd^t contends that the report of the Surveyor
is sufficient - & if it is sufficient, same objection may
arise the day of enquiry —

—

Bougie.
Dauard
Diloeges...
Govt.

On action en déclaration d'hypothèque

Nigé for Defd^t The plff pretends to have £50
for damages over above sum q^t he was condemned
to pay to Tarry - Defd^t contends that he is
bound to rembare only the sum q^t he p^t. on ac't. of
Tarry - The Plff instead of paying the Judg^t against him
in favor of Tarry, allowed his property to be sold, &
demands £50. - damages arising from this sale, q^t more
from his own fault. - The Plff could be considered as
the Caution of Savard, & cannot be condemned in more
than a Caution would —

Quesnel for Plff. Defd^t is bound to pay all the
damages suffered by Plff. and also interest on all the
sums p^t by him Poth. Hyps.

Jackson
Robertson }

On Rule Nisi, why Defd. sh^t not have a day
for evidence to a certain point. —

Rule absolute for 13th —

—

Webster. }
Maynard. }

On mo. to reject an affidavit filed in the
Cause — on which the writ of attachment
issued. —

Porteous for Plff. The affidavit must be considered
as having always been before the Court, and is
marked filed by the Procty. on the day the writ of
attachment issued —

—

Saturday 11th February 1815.

Fricelle
Brisbin } Judge on Seisin Recindication. -

Webster. -
M'grauds } No. rejected. -

Leganet
Lecue } Interloc. -

Gillespie
Wadsworth } ordered that the oppos^t. make proof of his
Wood. Opp^t. demand. -

Panet.
Porteous } action of Trespass, & for establishing a ferry
& Stibbens to the prejudice of Plift's right -

Ross for Dif^t. By Stat. in 1805. authorised the
Dif^t. to erect a bridge over the river, & in case of accident,
to establish a ferry until the bridge should be repaired

and in case the D^r. did not keep sufficient ferries
the Quarter Sessions must give him a notice to make
the bridge, before he can be put en demeure - The D^r's
have recd no such notice, and therefore their rights are
entire under the Statute.

Rolland for P^liff. St. of 1805. in case the bridge become
impassable after having been built, a delay of 18 months
is given to repair it - the bridge having been carried
off, by St. 1808, a delay of 6 years is given to ^{re}construct
the bridge - this time is elapsed and the bridge has not
been built -

Ross for D^rs, all the rights in the ferry are vested
in the Crown upon the failure of the Defend^t and
cannot be granted to the P^liff, as must arise in an
this action is supported - By last clause of St. of 1808
ch. 23. the prior St. of 1805 is cont^d in force - Contends
that it does not take away the 18. month, notice required
by the St. of 1805 - That at ^{least} ~~most~~ he ought to have 18
months beyond the time granted by St. of 1808. -

— —

Forrest.
Campane.

Action by Indorsee agt. Drawer

Rolland for Dfnd^t objects, that there is no date to
the Indorsement stated in the declaration. — That
Indorsement must be in writing, signed, & dated by St.
3A. Geo. 3. c. 2. ~~+794.~~ — and parties are not characters who can negotiate
note by a blank Indorsement — etc. case.

Grant for Plff. cites Clutty on bills of Ex. p. 387. Then
points can be taken advantage of only on hearing of
merits. — Value rec'd. is implied in every Indorsement. —
Note not made in this Province, & therefore not subject
to the forms of this Country —

Rolland in reply. Not stated that the Note was made
out of the Province —

—

Prefontaine
Morjeon {

Action to recover value of beef sold. —

Vige' for Dfnd^t. denies hav^r rec'd. the quantity of beef ^{P. to be deliv'd} —
That the proof made of the beef w^t. at the public balance
ought to prevail over that made by Plff. — Objects to testimony
of Alexis Prefontaine, son of the Plff — is interested — speaks to two
pounds of beef weighed in the barn, q^t. is not ment^d by any other
of the wit^z & is also sworn to an cross examⁿ — This is not a
mercantile transaction — That is this case even, if true,

it

it must have entered into the act. kept by Mr Germain,
the person appointed for that purpose - Turenne pleaded
& upon qst Pluff ought to pay costs - at least of expenses -

Beaubien for Pluff. - This is a Commercial transaction. -
Alexis Prud'homme, not interested - a competent wit^t

The King
Mc. Cord
tal.

On certiorari. -

Submitted on the argument on the Case of
Panet v. Porteous. -

Bricault
Bricault

On mo. to amend Interlocutory.

D'Ascole
Farribault

On Exceptions to Incidental demands

Rolland for Pluff - Pluff's demand is claim & legend, ably^d not
that of Judge. Pluff is not ^{difficultly furnished} cited. Deny^t. No Demande n'est
Pigeau - etc can Gray & Hall in appeal. -

Fer. Dec. No
Reconvention. - Lacroix for Dft. repels to authority cited from Pigeau to
show that incidental demands are admissible although
D^r in art. 106. not claim & legend. & may be regulated by discretion of Judge

Berthelot
Wilson et al

action for House rent. & damages.

Gale for Defd^t contends that only one of Defd^ts occupied the house, who kept it in repair - Incidental demand for the insufficient state of repair of houses & damage arising thereon - refers to contradiction in testimony of Susannah McGee, & two Luctes - That the repairs to be made were gross reparations, & ought to have been made by Plff. - Defd^t quitned house in Sept^r. 1811, not being tenable, after notice given to Plff - Potts. cause No 107.

O'Sullivan for Plff. Defd^t bound by lease to make repairs - not bound to any damage to Defd^t as a manuf^r of Soap & Candles, not being contemplated by the parties at time of lease - Damages claimed from alterations made by Defd^t in the house. —

Att. No 162

Monday 13th Feby. 1815. —

Bougy.
Savard
&
Delage — }

The Garant having warranted the estate exchanged
with the Plaintiff free and clear of all superior rights
up to the day of exchange, the Court considers this
as a declaration de mauvais foi, as it was contrary
to the truth, although the Plaintiff became intitled even to his extrinsic
damages upon the estate after garant & p which the Plaintiff had
Poth. Vent. N° 137. his mortgage as a thing accessory to the principal obligation

—
Poth. Vent. N° 137.

Mace.
Bricault }
Bricault

Judg. for Plaintiff's rights under her marriage
Contract —

Bricault
Bricault }

Interlocutory order of int. corrected —

Deshantel,
Trudelle }

on dep^s no. for a Comm. Reg. to the Juds of the
district of Quebec returnable 1st April next
contents that no affidavit is necessary —

Objection to sufficiency of affidavit — allowed
Defendt. to amend his affidavit — see Deshantel v.
Normandin. 15 Ap. 1813. —

Tuesday 14th February 1815. —

Charet.
or
Gaucher {

On mo. to discharge rule for trial to morrow

Rolland for Defendant contends by rule of practice
party is bound to proceed, a cause must be dismissed
Grant in reply, the Cause was set down at the
instance of Defendant and Plaintiff is not bound to
proceed to trial then or, if it be not convenient —

Wednesday 15th Feby. 1815. —

Charet.
or
Gaucher {

Defend: mo. granted. —

Delisle. —
Richardson
etal.

On rule to shew cause why three actions
instituted by Plaintiff for the same voie de fait
should not be joined. —

Beaubien. The actions are for different voies de
fait, committed at different times — One of the
causes not between the same parties —

Corse - {
Trudeau } action of account agt. Defendant as a Notary -

Bender for Defe^t. Has nothing to say -

Tait
Degen } On mo. to dismiss oppo^r as mo^rys were
Schiller oppo^r not filed -

Gravelle
Fraser } On report of arbitrators -

Boston for Defe^t. had not suff^t notice of the
meeting of arbitrators -

Thursday 16th Feby. 1815. -

Fournier
Monyean } Ludi^t -

Ferribault
Ferribault } Exups. to mudl. demand dismissed -

Delisle
" Richardson } Causes joined -

Forrest. - { action dismissed -
Cameron.

Panet. - { Plea in bar overruled -
Porteous

Laucombe { Action dismissed -
Curtilander

Laperriere
Duprevis { Judg. on demand agt. Mr. Garant, on the principle
Trembley qd. that the lot of land in question was not sold subject to
any charge, so admitted by Garant who says, that it
was an imposition & agt. which he reserves his right - therefore
the Plaintiff's demand must be allowed. -

Scott
Corse. { Judg. for Plaintiff considering it a commercial case
under the rules of Evidence required by the rules of the law
of England -

Beauchamps
Verner } action of revendication -
and
Verner } Defd. asks Jus. ap Cheeseman as his Garant
Cheeseman }

Selby } Laikie } Lacroix for Oppo^t. claims the property claimed
Couselle, } under evidence adduced -

Opp^t Bourret for Plff. The sale to Oppo^t. not suffice there
having been no tradition - Post. Vnde. N^r 320. The
Defend^t says old man never out of the poss. of the Defend^t
Objects to evidence of Mary Laikie, wife of John Kelly -
being daughter of the Defend^t.

Sequin } Porteous } Section work and labor as a blacksmith in
and Contee } making ff. axes -

No proof of the value of the articles delivered

Friday 17th Feby. 1815.

Beauchamp,
Verner }
Verner
Cheeseman =

Jaffé —

Selby
Larkin
Cawell } Opp - dismissed +

The King
Faribault }

An Certiorari on a Conviction before
the Justices, on 27 Geo. 3. ch. 3rd. for refusing
to make arrest in transport of baggage —

Question for Defd. convicted — the Sumt. was irregular
at his party to appear before one Justice, whereas there
only are competent — To remedy this a 2^d. Sumt was
given to Defd. The Defend: was exempted by the
law, being the servant of Mr Lacombe, ~~or~~ one of the
Justices of Peace — the question is whether Defd: was such
servant — The officer commanding had no right
to command the Defd. to go beyond the limits of the
Province — that only 2 Justices convicted the Defend:

Bedand of counsel for Defd. The order to go out of the
Province

illegal - It requires a special order of Gov: to compel a milker
man to go beyond the limits of his parish - order 1787.

Leroux ^{suz}
Martin }

action for arrears of rente & pension viague -

L. Vige' for Defd: excepts to the Plff's action, that by
act of 14 Sept. 1813, on q⁴ the action is founded, the habilement
is due only in two years from the date of the act - therefore
the demand is pre-mature - The Plff demands the usufruct
of a Cow, to be kept by Defd: but Plff's ought w^t the first
instance to provide the Cow - according to rules of interpretation
this clause ought to be taken of the Plff -

Lacroix for Plff^e The act of 1813 is founded upon a prior
act of 20 ap. 1812. agreeable to which the habilement is due
every two years - The clause respects the winter the Cow
must be explained by a preceding clause - where the Defd:
are bound to winter 2 other cows besides the one in question -

Vige' in reply agrees to act of 1812, the Plff. w^t have been
entitled to their habilement in 1813 & the presumption is they
were not entitled to it as they did not demand it -

Guette
Coll }

action en séparation de biens -

Vigne for Df't. pleads for exception - that Puff is not entitled to this action, she has left the Df't. abandoned his home & not entitled to any advantages accruing to her by her marriage w^r. Df't. - city care. Ayer. & Petit & al.
Denov. v^e Separation - See. Droit. G.

Lacroix for Puff - The Df't. ought to have concluded that no action shd. be suspended until she returned to her husband, but he asks that she be deprived of all her rights - That Puff has been shut out by Df't. -

Rapideau
Dubois }

Action for bread sold to Df't.

Lacroix for Df't. The action is agt. Alexis Dubois, and the bons produced are signed, cont. Alex. Dubois, - therefore no sum person action ought to be dismissed - The defendant has admitted the debt, ought not to be adjudged to pay the costs on the enquête, save other costs than in the inferior Court.

O'Sullivan for Puff. The Df't. pleaded mis-nommer & plea was dismissed - & it is a proof that Df't. is as well known by the name Alexis Dubois

Perrault
" Perrault

action of damages on special assumpsit

George for Def't. - No proof of damage - and
at most the absence of debt from Plft. own was
not above 2 1/2 months

Tavernier
" Staub

action hypoth^e for damage -

Bricault
" Bricault
et Macé -

action for a rescission of a Deed of
Donation made by Plft to Def'ret

Boston for Plft contends that action is founded -
and that proof is sufficient -

George for Def't - No proof of any deed of donation
made between the parties - The copy is certified by two
notaries of an act passed before a notary now living -

Bedard for the Intervening Party - contents, even
if the existence of the act be admitted, that Plft cannot
have suit for arrears of the rent, while he demands the
rescission of the act - That the claim, that Def't

cannot

cannot alien without her consent in writing after
Pliff, is illegal, & cannot be supported — The clause to
maintain the property in the same state as when given
is not suff. to warrant the rescission demanded, while
sufficient remains to pay the Pliff his pension, which —
appears here — At most but a Committatory clause &
not resolute. — Dec. Droit. &c clauses resolutoires —
that Pliff cannot obtain this action, as it appears in
proof that a rich proprietor undertakes to pay Pliff his
rent & pension & pay ~~D~~ to 3 thous³ lars to D^rs. on obtain-
~~bys~~ purchase of the land —

Boston for Pliff — the paper

Gaudry.
Cherrier. }
vs. Charlevoix

On action of account —

Bedard for Pliff, demands a J^rt. Provisional, &
also that Defend^r be adjudged to furnish another
amount than that furnished by Defd^r —

Niçé for Df^t. The Plff cannot divide the act furnished by Defnd^t by asking a Jud^t on part & rejecting the rest, and demanding a general account of the succession Cheulebois, as if no account whatever had been furnished — That in the act rendered has renounced to certain rights upon the supposition that the account would have been accepted, but if this act be not accepted the Defnd^t has a right to set up all her claims ag^t those of the Plff. — No demand of partage is made here q^u was necessary, where an act has been already rendered — The Jdg^t. Prov. is never granted in actions of reddition de compte —

Bedard for Plff. all the property belongs to Plff, as q^u Defnd^t has nothing, & therefore there can be no partage w^t — She only claims in the act rendered a sum of 7000^t to q^u Plff objects, upon q^u only an objection can be made that Defnd^t can have no other rights to set up beyond what she has stated in the above account —

Webster
Maugrave

on Plff's mo. why two first exceptions pleaded by Df^t. should not be rejected —

Niçé for Df^t the exceptions pleaded affect the right
of

of Saisie, and that no Saisie has been made in this Cause - Mo. reputed Plaintiff has answered that

Archambault N^o 271 -

Lux: or { Our out. statement given by Defend. under the
Bronville } Interlocutory order of 6th inst.
Lux

Archambault N^o 391 -

Lux: or { action for arrears of rent due last St. Michel.
Bronville } Lux

Vige' for Plaintiff No demands of the peace, altho' this art. was to be furnished on the besoin of the party - D^r. offers to furnish the articles en nature before the action as to the sum of £25. D^r. contend there is a mortgage in favor of one Babin for that amount - The side of leather due only in Oct. 1815.

Fults -

1 Boivin. 478.

N^o 15. & 17. -

2^o Boivin? 544

- N^o 6. -

2 Denier. &c

France & quitté.

N^o 1. & 2.

Jackson

Robertson {

Bedard for Plaintiff objects to evidence of the Servant of D^r. as making no proof of offer - No security ought to be given by Plaintiff to obtain Judg^t to 25 - as Plaintiff did not alienate quitti de toutes dettes - qst is the distinction upon qst the law when grant wth warrant such security. +

action for goods sold & delivered -

Gale of counsel for D^r. The Debt, if any was contracted by the Commercial House at Glasgow 1-

Defd. is a partner - There is no proof of the Exhib.
No. 1. in regard of the account - being in lumping sums
and sworn to by Parkes on the Pltf. - There are interlineations
in the Mayor's certificate - The answers of Defendt
cannot be divided. Poth. Ob. N. & Proc. Cw.

That Defad. never purchased goods from Pltf. but from
one Weatherpoon - Even if the proof of the sale were
complete, still the Defendt. has evidence that he was
legally discharged from this debt - upon to discharge
from the Court of Session in Scotland -

Grant in Pltf. contains that proof is sufficient to
support the demand - That paper produced by Dfd.
is only a copy of a copy -

Briere
Villiot }
D'anc. Gant
L. +
L. D'anc. Ar. &

On an Inscription en faux. - raised by Pltf
That minute of the obligation is not authentique
not having been signed by 2 Witnesses -

Bedard for Gant

1. The inscrpt. en faux cannot be directed after the copy
but off the minute. - In altho' the copy may be wrong
the minute may be correct -

Peltier 20 Juin
Fuscau 1811.

2. The Plff. en faux does not alledge any falsity in the
Statement as to the truth of the facts stated in it. —
3. That Plff. by his attⁿ in another cause has admitted
the validity of the act in this Court cannot now be
admitted to deny it —

Sullivan for the Plff

3. The last objection comes to late, as the party having
been admitted to make his inscription en faux, this reason
cannot now be of force, as the instance de faux is begun,
Conf: Bourc. 6t. q. art. 6. — N. Denis art. v^e Faux Incident —
Rep^r. v^e Inscription

2. That a want of formality in an acte authentique
is an essential ground of falsity in it —
1. It is doubtful whether the defect here be a moyen de faux or a moyen de nullité, as the Witⁿ have
not signed the minute —

Bédard in reply. The 3^e moyen of Excep. is founded

Saturday 18th February 1815.

The Shing
Faribault
etal.

Conviction confirmed -

Bricault
Bricault
Macé Jules

On Plff's mo. to substitute an authentic
copy of the deed on which the action is instituted
in the room of that filed -

Mr Bizard the Int'r party contends that he is too
late, as he allowed Defendt. to plead his cause, before
he made his motion - That the copy filed here is not
authentic, nor certified by the Plff's atty according to
the rules of practice -

Gravelle
Fraser

on award. -

Defd. contends that Court ought to be divided

Monday 20th February 1815.

Léprohon
Cabanac }

The Court allowed on this action 6 years arrears of interest on a Rente Constituée, being a Cause by default, and in q't the prescription allowed ast. more than 5 years of such arrears was not set up by the defendant wh. the court considered necessary to be pleaded to bar the action - voy. R. t. Const. Rente. ch^e 132. 133 —

Brière
Bouc
& al - }

Exceptions to moyens de faus dismissed

Jackson
Robertson }

Judg. for Plff.

Gaudry
Cherrier }

Interior dismiss Exceptions & ordering an Aut. —

Auchambault
Brouillet }

n^o 271. Judg. for all actions not marked payable in 1814. —

Auchambault
Brouillet }

n^o 391 Judg. for arrears demanded, & in the £25 - stipulated in the suit without security,

Cur. April Term. 1815.

Saturday 1st April 1815.

No 302

Cummington
Garside - }
E contra

On Pltf's mo. to take certain Interrog^s pro
confessi, as Defd^t failed to appear -

Ogden for Df^t service not regular - not made
personally nor at domicile. —

No 303.

Smelt. - }
Wear & Walworth

on mo. by Defd^t Walsworth to fix cause for
trial - on merits on 4th

Gale for Pltf^t contended that he ought to have day to
ex. his witness & file mo

Ogden for Df^t contends that Pltf did no diligence to get
his witness in last vacation .

McKenzie.
Ell^r Gillivray }
Stal^r

On Defd^t mo. to ex. wit^r in vacation. —

Stuart for Pltf^t objects to this delay - & contends that
cause sh^r be fixed for first wit^r day in Term. upon
the admission of signatures now filed by him. —

Charet
Gamelin }

our deft^s now to obt. a Com. Rog. to ex. a wit^r
who has gone to Quebec since last Term. o^r Com.
Rog. int. 15. of this Term. —

Stewart for Plff. objects. that Dft^r has not done all
the diligence he ought by applying for a Com. Rog.
as soon as he knew that the wt^r absented himself. q/t
was about the beginning of this month of March —

Monday 3. April 1815.

No 303.

Smette.
Wear & al }

The Plff not having justified any diligence to
procure his wit^r in the first wit^r day of last Vacation
mo. for setting down cause for hearing granted &
Plff no rejected. —

Charet.
Gamelin }

The court held that the defend^r ought to have made
his application for the Com. Rog. within 4 days
after it came to his knowledge that his wit^r had
left the district and gone to Quebec, and therefore the applic^r
for a Com. Rog. shd. have been made during the vacation
according to the affidavit produced by him. — mo. rejected

Legault
Leder } On mo. to extend rule of preference to 1st October -

Bell. u.
Fraser. } On Plff. mo. to dismiss Intervention as
Young Int^r. already filed, the same rights having already
come before the Court in the shape of an opposition
which was rejected.

Rolland for Interv. Party. The question already return'd
regards mainly an opposition, the present claim being a
right by Intervention - *Hericourt. p. 102 Rec. Order*
Posth. Proc. Cw. p. 450. The Intervention in this case is mainly
in the over-plus of monies after other Creditors are paid, &
therefore Plff. has no interest in contending this as it admits
the Plff. right. -

Ross. The rule of Practice regulating the delay to 24 hours after
the return of the Sheriff to make oppositions or other claims, is
same as 24 hours after decret déclaré under the order of 1884.

James Fogo
Lewis Charles } On action for defamation - Trial by Sp. Jury.

John Harris, an artillery soldier, was at Plff. house on
6 May last - Dfd. came there - heard him call Plff. a thief, a
scoundrel, a vagabond & a good for nothing fellow - that

that Puff had better pay your debt, ~~Puff~~ & he owed no man
any thing in Montreal, said up^t you lie you bugger, you
owe me for yr barrel of potates ~~four~~ years ago - Puff adawd
Dft. off the premises - on going away Dft. said, that before
night he w^t have him taken up as a thief & put in gaol -

x².

Before Df^t. came into the yard where W^r was, he heard the
parties speaking together in the front of the house, ^{for} 2 or 3 minutes.
That after the words above used by Df^t heard Puff say, to
Puff, that he was a dam'd impudent scoundrel & ordered him
off his premises -

Robert Winterbottom. private in R. Artillery. - same evidence.

John Potts Hogg -

Gordon. Capt. in R. A. - brot up to speak to character
of two first wit^t - This was objected to, & refused by the
Court, as nothing had been adduced to impeach their credit

... Defence ...

James Wilson. R^t. that Df^t. lost boards last May & that he
had gone to Puff to look for them - saw two soldiers carry
back boards to defendant after the dispute -

Cecile Wilson. same evidence -

Robert Rollo. same evidence -

Verdict for Puff & 5^t damages -

Bergeron }
Cadien Lab } over till to morrow -

N^o 305
Séguin
Porteous } On report of arbitrators -
Porteous for Def^t: states only question is now
 respecting the Costs & contends that Def^t: ought to
 have his Costs -

Taylor... } On question touching the right of evocation -
Drennan.

Boston for Plff: contends that action cannot be ~~answ.~~
~~heard~~ by this Court, as he has given notice of a
discontinuance - That Def^t: neglected to proceed on
the evocation in consequence of q^t: default according to the Rules
of Prae. after Inferior Court, the ~~Defendant lost~~ his right to
the evocation, & ~~consequently~~ proceedings were ^{therefore} subsequently
had in the cause in the Inferior Court - whereupon the
Plff had a right to discontinue the cause -

Stuart for Def^t: From the time the exception was made in
the Inferior Court, the right to that jurisdiction was suspended
until the right of exception there made were decided by this
Court, & the cause must now be considered as before this
Court, as the Inferior Court had no power to make any rule
of Practice in the Inferior Court which could control the
cause after the evocation. -

Bancroft
Stubb }

On question as to admissibility of certain points in evidence -

Vice for Plaintiff. action for wages, to get a Defendant has pleaded
not debet - by the evidence the Defendant wishes to prove
that Plaintiff was his concubine - Proc. Cw. p. 102. edit. 12^o
Ter. Dec. Stat. re appointment - 1 Pigeon. p. 267. - the
particulars only can be proved -

Stuart for Defendant. The authorities cited do not apply to the
present practice of the Courts in this Country - The order
of 1785 says, that wit. shall be exam'd in presence of the party
or his atty. - & that pleadings shall consist of a Decl'n a plea &
Replication - The Plaintiff has followed the English course of
pleading by a Decl' of assump't, & Defendant has pleaded a
non-assump't, under q't he is entitled to prove & prove in
defence of the action whatever he would have been admitted
to prove in the Courts in England, from q't this course of
practice is taken -

Vice for Plaintiff. The point set up by Defendant in proof, is
an exception to the Plaintiff's right of action, and ought to have been
pleaded, to enable the Plaintiff to answer thereto, before receiving proof
of a fact not in issue -

Tuesday 4th April 1815.

Bell
Fraser }
Young }

The rule for taking Intervention from the files,
granted, not because the same question had been
already determined, as the Intervention does not
appear to be the same, the Conclusions not being the
same - but because the Court were of opinion that
such proceeding by Intervention could not be had on a
writ of Exon returned by the Sheriff, the proceedings regulated
by law in such case being by Opposition not by Intervention.

Bunker
Stubb }

The Court held that by the Rules of practice.
the defendant could not be admitted to prove any fact
not stated in his plea as a defense to the action. —

Taylor
Drennan }

The Court held that from the moment the
exception was made ^{admitted} in the Inferior Court, the
cause was considered as out of the power & jurisdiction
of that Court, and no proceeding thereon can be had but in
the Superior Court. Evacuation therefore admitted. —

No 7.

Bigelow }
Pearce } Plff. moves for Judgment

Ellis sal.
McKenzie
cur. &
McKenzie
Craigie sal.
Gant

J. R. 207.
Polk. Soc. 103.—

On the exceptions filed by Coffin, one of the Plaintiffs
Sol. Genl. for Coffin. The covenant made by Hobisher
was not solidare, but each for their share - this
should have been expressed. Rep. v^e Solidite's obligⁿ
47a. I. 389. — This was not a debt in the course of

trade - It does not appear what the Bateson Co. was, nor
that the purchase was made for the purpose of any trade carried
on by the Bateson Co.

Rolland for Plff. objects to the regularity of proceedings
between the Plff & Dif^t. in Guarantee.

Ogden for Plff in Guarantee. The purchase was made
as well by Hobisher for himself as for the other partners
of the Bateson Co. — being a purchase made in their
names for their trade - the words solidare were not
necessary. —



Fallowell
McGillivray
Sal. —

On action of account —

Sol. Genl. for Defend^t. pleads for exceptⁿ that all
parties necessary to maintain the action are not
made

made parties to the suit, which to all intents, is an action
de partage, namely the heirs of Simon Mc Farish, & of
Duncan Mc Gillivray, & also John Gregory, Angus Shaw
A. N. Mc Leod & Jas Hallouelle Law. who appear to have been
Partners w^t. Plaintiff in the partnership in question - Cite-
Répon v^r Société. Poth. Fr. Société. 6 T.N. 766. 7 d^o 279.

5 Br. 2611

Stuart for Plaintiff. The exception has been irregularly pleaded.
The Plea in question, is a peremptory exceptⁿ. en droit, or plea
of ~~abattement~~ Demurrer to the Plaintiff's claim, & must be considered
as admitted facts. - But this action can be maintained
by any one partner ag^t. any one other partner after dissolution
this is not an action of partage but pro sociis, merely to
obtain an account of the Ccopartnership ~~etc~~ Poth. Soc. 163.
but the action at most can only be suspended, not dismissed -
This ought to have been pleaded by exception dilatoire, &
demand made to call in the other partners - That the
exception cannot apply to that part of the demand by &
an amount is demanded of the defendant as surviving Partner
and holding the possession of the property - As Plea
therefore cannot be good as to this part, it must be considered as
bad to the whole, as it does not answer the whole. 5 T.R. 553.-
That no other parties ought to be bro^t. into the action, as
it is regularly bro^t. & cannot be altered - the action being
founded ag^t. Defendant as being in the possession of all

5 T.N. 553.

Murphy & Long,
Dunning -
June 1811.

The Copartnership property. When there is a solicitor, the action can be brought at any one of those solidairernt termes, to be adjudged in case of Desrivières, v. Hatt. That at all events therefore the action as to that part of the demand which regards ~~that~~ rendering the amount -

Ross in reply - The exception pleaded is an exception à la forme. The parties to the contract constituting the partnership under q[uo]d the plaintiff derives his rights. -

Wednesday 5th April 1815.

Ellice & al.
McKenriesal
McKenzie
Craigniebal
en Garantie

Cumming
v.
Williams.

The exception pleaded by the Defendant was ruled as containing matter of exception to the demand in chief and not answering the demand in Garantie.

On no. for rule to shew cause why an order of this Court fixing cause for ex. of wit^o on the 8th inst. should not be set aside, as the Defendant's atty. had no notice thereof, -

The Court were of opinion that the rule ought not to be granted without an affidavit to shew the truth of the grounds upon which it is made, the presumption being that the order in fixing the cause was regularly made.

Charret.
Gamelin }

Our mo. to fix cause for trial on 13th. i.e.

Opposed by M^r Rollard, 1. on acc^t. of sl^t of roads &
distant residence of witness - 2^d. ltr withdraws ^{of}
one of the witness, from the district since the last Term -
Statement for Plff. contains that parts in the affidavit not founded
nor sufficient - That affidavit does not show what
the absent wit^t can prove, nor when he can be expected to
attend -

Proteau
v
Larocque }

action de Legitime -

Bedard for Plff. - It is a principle that in estimating
the value of the property of a succession, consideration must be
had to it as it stood at the time of the decease of the person -
Consists particularly the gift to Amable Larocque, who has rec^d property
to the amount of 15,000[£] & has given nothing for it - must be
considered made to him in avancement d'héritier - the revenue of
the land was sufficient to maintain the father & mother of Amable
Larocque - Tr. sue. 174. 175. 2^d. If he has p^d. any thing over the
annual revenue of the land it ought to be allowed to turn out
of the value of the Legad -

Papineau in Dft. demands however. after Report of the
Practitioners. refers to a statement he has made of the value
of the property, and of the rights of the parties -

Douglas,
Denis & ^{as}

Action of Complainant -

Pliff prays Judg. on evidence adduced -

Richards
Weston }
~~~~~

On rule to shew cause why Attacht. shd. not be set aside -

Sullivan for Dfde. The sum for g<sup>t</sup>. Attacht. issued & at whom instance not stated on the back of the writ - accords g<sup>t</sup>. See. Rules Proc. §. 2<sup>o</sup>. - That the affidavit is not positive -

= Georgia Pliff - refers to case of Webster v. Maynard as to indorsement not being necessary where the affidavit is made at length on the back of the writ -

Taylor  
Drenan }  
~~~~~

On Pliffs mo. to send back report to Experts to complete the same -

Stuart for Dfde. contends that Report is complete -

Sutherland
Campbell }
~~~~~

On action for false Imprisonment -

On Pliffs mo. to join this cause with another suit at suit of Campbell agt. Pliff. -

Stuart

Stuart *ja* Dft. Grounds of the two actions are totally  
dissimilar - 1 T. & D. 531 - same principle as Joinctn of  
actions in France -

Motion over-ruled.

Dubreuil <sup>et al</sup> | action for arrears of rente -  
v  
Desnoyers ]

Bedard *for* Dft. The person on whose head the  
Rente was constituted having deceased, the Plaintiff is not  
entitled to the whole rente, Fer. des. Droit. de Pension  
Viagere. as the Rente Viagere is always presumed to be  
paid in advance - The demand for 3 years arrears of  
wood ought not to be allowed, as the Defendants were discharged  
therefrom by their father & mother - refer to proof made  
Poth. ob. N° 275. 608 & 613. - As to the

Rolledand *for* Plaintiff. Poth. Rente. N° 255 - N° 248 - rents due  
up to the time of decease of Donor, *dit p<sup>r</sup> d'avance* cannot be  
demanded back - N° 233. - *dit Robillard & Robillard ob. 1813.*  
Truchon *v.* Truchon. Oct. 1809. rente due 29 Sept. le D<sup>r</sup> not to be  
lenderman - action *in* arrears maintained -

Alexandre <sup>y</sup> | action Petition -  
Douglas. ]

Stuart *ja* Dft. The property belonged to the Crown, *now*  
*held by* <sup>held by</sup> *Dft.* under title deduced from the Crown - The Plaintiff

claims a title from one Sanguinet & pleads prescription  
under it - but there can be no prescription of the Crown -

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Thursday 6<sup>th</sup> April 1815.

Thanks giving day appointed by Govr's Proclamation

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Friday 7<sup>th</sup> April 1815. u

McLeod  
McIntosh }

Defend<sup>t</sup> mo. for ferment decision granted

Charret  
Gamelin }

Defend<sup>t</sup> allowed to amend his affidavit. u

Taylor  
Drenan }

Mo. to discontinue granted, but upon payt  
of Costs -

Algie  
Lamb }

Mo. for a Com. Rog<sup>u</sup> rejected. —

Alexander  
Douglas }

The Court were of opinion that no mo. was  
necessary for substituting the original in lieu of  
a copy of any exhibit filed. —

Monday 10<sup>th</sup> April 1815.

Taylor.  
Drenan }

Pliffs mo. overruled.

Debreuil  
Desnoyer }

Judg.

Brosseau.  
Lemoine.  
de Lapeyrière }

✓ The plaint last. admitted other Defendants ordered  
~~to answer~~ ~~therefore~~.

Richards  
Wentworth }

✓ The Plaintiff discontinued his suit. — The Court were  
of opinion however that when the affidavit was  
indorsed on the writ, the specific indorsement required  
by the Rules of Practice is not necessary. —

Hallowell  
McGillivray }

✓ The Court maintained the action, but ordered  
that the Plaintiff should put into the suit such of  
the other partners as were not parties to the action. —

Charles  
Fricelle }

The Plaintiff mo. to ex. a witness. —

Def't objects, that cause has been fixed upward  
of 3 times for evidence, & therefore Plaintiff must pay  
all the costs of cause before he be allowed to proceed

Leroux <sup>et</sup>  
Martin. }  
E Contra }

On action for arrears of rent & pension. —

Defend<sup>t</sup>. submits statement of the article as valued  
by W<sup>t</sup> — It has made incidental demand, for  
monies pd<sup>t</sup> on a Judg<sup>t</sup>. —

Cartier. —  
Carpentier }

Action for damages by a false claim made by  
Defend<sup>t</sup> of certain cattle seized by Plff. —

L. M. Vige' for Df<sup>t</sup> — The Plff ought to suffer by his  
negligence in not having used diligence to put Champlain  
into the Cause in <sup>as</sup> if he was sued by Hudson — The  
Defend<sup>t</sup> now offers to reimburse the value of the cattle but  
not the Costs of the suit instituted by Hudson & Plff,  
Rolland. The Defend<sup>t</sup> has admitted the fact of the cattle  
not being his, & therefore he is not ~~instituted~~ in that suit —

Bourassa  
Denarie }

On action for specific performance — by  
giving a title to a lot of land sold to Plff by Df<sup>t</sup>.

Rolland for Df<sup>t</sup>. The agreem<sup>t</sup> between the parties regarded  
the sale of a real estate respecting of<sup>t</sup> the parties had agreed to  
execute a little, & therefore not binding until such act was  
completed — 1 Bouv. p. 409. liv 3. tit. 4. ch 1. sec. 1. 2. 3 —

5 Inst. Inst. tit. 2A. when title is to be passed, the parties  
are presumed to have remitted all their discussions to the  
time of executing such deed or title — Every promise to  
sell must be in writing made double & contain all the  
essential requisites to effect a sale — Poth. in his treatise  
on Contrat de Vente, refers to such promises, made in this  
way — There is no proof here of Defendant's consent  
to sell —

Sheart for Plaintiff Poth. N<sup>o</sup>. 33. Vente — Sale may be made  
verbally without writing — The Declaration of the Defendant  
has admitted the fact of sale consideration here, it was all  
that was necessary for Plaintiff to prove — Vente. N<sup>o</sup>. 497. 25. 9.  
the cashes, are given as an additional security only —

—

The King  
Delery. G. Vog<sup>o</sup>

On Certiorari from a Judg<sup>t</sup> of the  
Quarta Session of 17 Jan<sup>y</sup>. 1807 —  
homologating a P. Verbal of G. Vog<sup>o</sup>

Rollands for Plaintiff — The Justices have changed the  
P. Verbal, by ordering one parish instead of two to do the  
work — So that P. Verbal cannot be executed —

L. M. Vigi. It is the fault of the G. V. that appears  
if the P. V. be not executed —

Bates } On rule to shew cause why costs of a former  
Chase } action shd. not be paid before proceeding in this  
Solv. Genl. Dpts. have waived their right by pleading to  
the action & the cause is now at issue. — This holds in the  
case as to security for Cert. Reg. Prae. sec. 9. — 1 Ad. 479.  
not always allowed even in England from of the practice  
has been adopted. —

Stuart for Dfts. remanded in reason — no given time  
fixed for the application —

Charles } On mo. for suppression of certain Interrogatories,  
Baynes } & answer, as not hav'd been. —  
over till to morrow

Delisle. } On mo. to rescind the Interventory order of this  
Richardson } Court of 16<sup>th</sup> Feby. last —

Stuart for Puff — The suits are between different parties  
and not for the same voies de faits. — The action of  
different plaintiffs cannot be joined, one of actions the wife of  
Puff is joined — who has separate rights —

~~Puff~~ <sup>Redacted</sup> for Dfts. Same reasons already alluded  
when actions were joined —

Stuart. There was a separation between Puff & his wife, & therefore  
Puff alone alone could not bring the suit —

Dumont  
Duclos }

On rule to shew cause why another Surveyor  
should not be named in the lieu & place of our  
Cherier -

L. M. Vige for Dfd. The Surveyor named could not  
execute what was ordered by the Interventur, owing to the  
Season of the year -

Rule prolonged. -

Tuesday 11<sup>th</sup> April. 1815. u

Charret  
Gamelin }

The Plff: mo. granted for next Term, but  
the Court refused to grant costs for subpoen  
Witness, as the cause was not fixed for trial  
*at a*

Bates. }  
Chase. }

The rule discharged, the Court considering  
the Defendants plea to the action as a  
waiver to his demand for Costs. u

Paysant-  
Gervais }

On defend<sup>rs</sup> mo. to reject a certain paper  
filed with Replication. -

Borden for Plff. There was a special order for parties  
to plead to the Plff: demand as it stood of seemed to  
preclude the necessity of filing any papers -

Bergeron }  
Cadien tab }

On hearing on report of Experts -

The Experts did not proceed to the evaluation of  
the objects referred to them from a difficulty  
respecting the right of the Plaintiff to the goods & chattels in question

Papineau for Dfndt' contends that the Interlocutory Judgment  
ought to be more fully explained in regard of the property  
of the effects to be valued -

Jette.

Deshautels }

on Plaintiff's ms. that Dfndt' be held to answer over  
to the 13<sup>th</sup>. Interrogatory - not being precise &  
pertinent - also to reject part of answers on  
18. 20. & 21<sup>st</sup>. Interrogatories -

Munro

Porteous }

& Conter }

On Report of Auditors -

Beaubien for Plaintiff, demands the confirmation  
of the Report of the auditors. -

Ross for Defendant - The auditors have gone into the matters  
settled by the former auditors w<sup>t</sup> under the rules of  
reference they were prohibited from doing - That rule  
entitles each party ought to pay their own fees. - as to  
the Real property, the auditors had no authority -

Charles  
Baynes

Our rule to shew cause why Inter. & answers on th  
Com. Rog. shd not be suppressed, the same not having

Sol. Genl. Notice was given to Plaintiff's counsel to attend  
who did not attend, and he ought now to shew in what  
the Interrogatories are defective —

Stuart for Dfndt. The Rule is imperative as to the allowance  
of the Interrogatories & it whole is irregular. —

Laurin  
Sarry.

action for arrears of rent viager —

Bedard for Dfndt. That the transport by  
widow Lavergne to Plaintiff can give no personal  
action of Dfndt. because the Mrs. Lavergne was not  
a party to the act between Dfndt. & Lapin — cites  
Obi. N. 54 — Toupin n Shorlitz — in appeal —

Lacroix for Plaintiff. Lavergne made a donation to Lapin  
who sold to the Dfndt. on the condition paying the  
rent, the widow of Lavergne assigned her rights to that  
rent to the Plaintiff, who assigned the transport to the  
Dfndt. whereby the Dfndt. is personally bound  
to the Plaintiff, also the d<sup>r</sup> widow Lavergne was not present as party to  
that act she is entitled to take the benefit of it —

Obi. N. 72

Dubreuil  
Lavigne } action for amercs of rent -

Puff - To ascertain value of article from evidence adduced -

Nig' for Defd - The payments admitted to have been made by the Defd must go to extinguish the same as limited by the Interv'y b/w Puff & the articles become due to the Puff since the transport -

Rolland for Puff - The Puff has admitted payments to have been made upon all the years amercs as well before as since the transport, but does not admit that any part of it was p'd. to Puff -

Green.  
Powell & Lab.

Action to rescind a certain deed of Exchange  
between Defd  
over for evidence

M. Coud  
Civillier }

Action for amercs of rent - quest. of fact  
Nothing said -

Liberian  
Cousineau }

action for amercs of rent -

Bedard for Defd - The Puff has sold all his rights to the thing demanded to the Defd -

Poth. v. N<sup>o</sup> 5. & seq. — That after the decease of his mother  
the Plaintiff put the Defendant in possession of the objects in  
question —

Bender for the Plaintiff. The sale to the Defendant does not extend  
to the rents, but to those things which were then in  
possession of the party —

McCumming  
Williams. — }

On rule to show Cause why Mr. Duvan  
a Min<sup>r</sup>. present should not be examined —

Murray  
Duclos. — }

In two causes — denied by consent

Douglas  
Taneau. — }

On mo. for delay to file certain deeds —

Sol. Gen<sup>r</sup> for Defendant. The application to delay  
was late, as the rule was obt<sup>r</sup> yesterday when the Plaintiff  
was due —

Wednesday 12<sup>th</sup> April 1815.

Charles  
Paynes }

The Commission Reg. return suppressed, as  
having issued irregularly. —

Douglas  
Taneuf }

Rule discharged, the application not having  
been made in time. —

Charles  
Paynes }

Plff. moved for hearing on merits -  
for Genl su Dft. The Dft. is entitled to 14  
days notice -

Sutherland  
Campbell }

On trial by Sp. Jury. of action for libel

The Dft. objected to the copies of the letters being  
used in evidence, as Plff. ought to have given notice to produce  
the original, in conformity to practice in England & rule of  
prac. sec. 27. art. 7. - Although those originals ~~have been~~  
filed by the Dfend. in support of his plea of justification.  
The Court overruled the objection -

Dfend. asserts on trial that language used in a Judicial proceeding  
reflecting on the character of another provided it have a reference

to the matter in contest - Noct. or Norman Law - Proe. Fran's  
p. g. Dow: Desperadoes - lit. des injures. Demirat. v<sup>e</sup> Defamation.

2 Bus. ask<sup>t</sup>. w<sup>r</sup> Young - 2 Esp. N. P. on libel -

Vindict. 57.

McKenzie.

McGillivray  
Sw.

N. 337  
Drennan  
v  
Taylor.

On Report of Experts - action respects, repairs  
of a house - Dyc<sup>t</sup>. agrees to the hom<sup>o</sup>.

Thursday 13<sup>th</sup> April 1815. —

Charles  
Paynes.

No. granted for wife day in Vacation -

Jette  
Deshaunt<sup>t</sup>.

The Defend<sup>t</sup>. to answer over to the 13<sup>th</sup> to Interro<sup>s</sup> -

M. Cummings  
Williams.

The Court objected to the hearing witness who  
had been subpoenaed to attend last witness day, but fell sick

Hibdon  
Tilton

Mo. to proceed ex parte. —

Gulter Defendt. objected that he is confined in Gaol under a writ of Capias, & has rec'd no notice to plead — and further the action being founded on action of assump't, no notice of the precise amount of the demands being filed the Defendt. was not bound to plead

Stuart for Plff. The rule as to debts in Gaol. applies only when Defendt. has no attorney in Court — here the Defendt appears by his attorney — The action is not of assump't but an action of debt. —

McKenzie  
McGillivray  
& al.

On Plff's mo. to set aside an ~~order~~ Intctg<sup>o</sup> order of last Term for exam<sup>n</sup> of Plff. on faits & art.

Stuart for Plff. states, that the Plff resides at distance of upwards of 3000 miles from this place & therefore the exam<sup>n</sup> of Plff on facts & art. would be an unnecessary & wrongful delay of the cause. —

Fowler  
Wilson  
& contra

Action upon an award —

Order for Dft<sup>t</sup>. The award was made by Arbitrators in a state of intoxication —

abandons fraudulent demand

118  
2  
2.  
4.

Deshautels  
Henderson  
Platt. opp.  
} <sup>4</sup>

On opp. of fin de conserver. —

Opp. founded on obligation to La Rochelle transferred  
to the Opp<sup>t</sup> —

See, Castignani v. Labage  
19 June 1810 —  
Pangman v. Beauvoir  
5 Oct. 1810  
=

Sullivan for Platt - Transfer made by party who  
cannot write, & is therefore illegal —

—

Briere aux  
Villiot.  
Al. Garants  
}

On merits of an inscription en faux —

Sullivan - The moyens state that minute was  
made by etoray without any wife

Bedard for Platt. Inscription en faux ought to be dismissed  
as the minute est. q<sup>t</sup> the inscription is made is conformable  
to the minute q<sup>t</sup> is now before the Court. There has been  
no moyens de faux produced on the inscription after the Procuration.

Sullivan for Gar. Has desisted from his inscr. en faux  
after Procuration - That the copy is not conformable to  
the minute & therefore the inscription est it is founded

—

Bricault  
Bricault  
et Marie Bricault  
}

on action to rescind an action of Donation  
~~opposition~~ - non performance of certain stipulations  
contained in the D<sup>d</sup> —

Boston. In Plff. refers to the evidence as supporting his demand - Polh. Don. entre vifs - p. 504. - Repose Donation. another cause - that the Defendt. has not complied with the stipulations in the deed of donation -

<sup>Interv. Party</sup>  
Bedard for Doye - The declaration not sufficient, - The resolatory clause cannot be carried into effect but is null & void in law - The intention of the parties in prohibiting the Defendt. from selling the property given, was to secure the pay<sup>t</sup>. of the alimentus therein stipulated - the same intention holds as to the other stipulations, in regarding of keeping the property up in the same state in q<sup>t</sup>. it was given to him. The donation here was no liberality to the Donee, as the ten years rent already paid by the Defendt. amounts to more than the value of the land - refers to ex. of Plff in facts part. as to the value of the articles - That Defendt. has also paid several sums q<sup>t</sup>. he was bound to pay ~~and~~ the desire of the Plff by the Donation - That the Defendt. goods effected & cattle were sold at the instance of the Plff, by q<sup>t</sup> he was induced to want-similarity to pay the Plff - That Plff cannot have the revocation of the donation & the arrears of rent also which he demands - That an default of pay<sup>t</sup> the rent the Donation ought not to be declared null & void, but a delay given to pay it - city authorities - qu. vidi.

Stuart in reply - The Dec. contains 2 grounds of action -  
1. Infringement of the clause in the Donation -

Riccardo  
1<sup>st</sup> Tract on Don. p. 544. 1<sup>st</sup> Vol. Roman law - Post. Don. a res  
Sec. 3. art. 3. p. 166 seqq. 12<sup>o</sup> -

2. The express agreement between the parties has been infringed  
This clause is legal and proper - such as can be imposed by  
a Donor to his liberality -

The Intervention -

That the clause in the Don. is only comminatory - the parties  
have stipulated to the contrary - q<sup>th</sup> they could do -

The stipulations between the parties do not admit any equitable  
construction such as the cause of rescission established by law -

Dedard in reply - The Plaintiff does not found his demand on  
a gratitudo -

Taylor.  
Drenan }

On Report of Experts - action for rent &  
for wood cut down on the land by Defendant

Stuart for Dfndt: The report is illegal - not according to  
the order of this Court - two experts were named w<sup>t</sup> power  
to call in a third in case of difference of opinion, but a third  
has been called in without stating that it was done  
without difference of opinion -

Clarendon  
McCawley }

action of damages for wood cut down on Plaintiff's land

Lindsay.

Henry & Co.  
+  
King & Co.

action to recover <sup>of special assumpsit for an amount</sup> certain quantity of tobacco  
from Defendant

Stuart for Plaintiff - No evidence on the Intervention

Evidence

The tobacco was seized  
near the lines by some  
Sailors belonging to the  
Majority Schooner Linnet  
Capt. Pringle in a boat  
on Lake Champlain -

It was carried by the  
Captains to Isle aux Noix  
& from thence to St. Johns

& while there in the poss.

of one Edgecomb, agent  
of the Navy, it was  
seized by an officer of  
the Custom House, &  
sent to Montreal to  
the Defendant - while

in the poss. of the Defd  
he rec'd an order from  
the Govt. to sell the S.

Tobacco, on acc't of the  
Captains - He sold it,

but his proceeds were  
claimed by Plaintiff, by

Edgecomb on behalf  
of the Navy, when Defd

agreed to deliver them  
to other party until  
their right was decided

by the Courts

Open for Defd: The Plaintiff not entitled to the proceeds until the  
goods were declared as forfeited - is ready to pay the proceeds  
less without costs -

Ross for the Intervention - Goods coming from an Enemy  
Country are liable to be seized. 1 Vol. Rob. Ad. Rep. &c

Proof that the tobacco was seized near the Isle aux Noix -  
by the Navy -

Stuart in reply. The Defd. has violated his contract with  
the Plaintiff, & must be condemned - On the intervention,  
the question was whether the property was taken beyond the  
line or not - if beyond the line, the Captain by the Navy  
was right - if within the line it became the exclusive  
privilege of the Plaintiff to make the seizure thereof -

All trade w/ an enemy is prohibited by the maritime law,  
but it does not appear here that the tobacco was taken in

the course of trade -

Verdun  
Provost  
Provost Gart

{  
On action en dec. & hyp.

Bedard for Gart - there is no hyp. in consequence of the retrocession made to him of the land by Aulain under a Inst. of the Comt - ~~etc.~~. Denov. vs Vente N. 56. Domat. tit. 2. sec. 12. N. 4 — 1 Bouv. lev. 3. tit. 4. ch. q. sec. 5. p. 488. —

Laroix. the Gart. retained the poss. of the property & recd. the rents. —

Robinault,  
Cav.  
Provost-dal

{ To recover amount of a Inst. & for arrears  
of rent due by Depudr

Nouv. Denov. vs  
Curatelle. N. 5.  
N. 2.  
Beaugrand Cav'  
Boivin & al.  
18 Feb. 1814

Bedard for Depd. The Plff illegally appointed Curator to the vacant succession of Esq. Thibaut — as there were existing heirs to that succession. at the time of that appointment ab. Scarratt c. England.

Laroix for Plff The venoms pleaded are insufficient

Sullivan  
McCord

{  
action for wages — Depd. says there be no proof of  
any demand above 100<sup>rs</sup>  
refers to expenses

Monday 17<sup>th</sup> April 1815. —

Delisle.  
Richardson  
al'

Plff. mo. rejected. —

Brynon.  
Casienal

Judg. —

Liberian  
Cousinian

Parties admitted to proof

McKenzie.  
McGillivray  
etal.

Mo. to record order for a Com. Rov. to ex. the Plff  
on parts & articles. —

Charles.  
Baynes.

On Defendant mo. for another Com. Rov. to ex. his  
wife at Quebec - Ret. 1 April next -

Objected by Plff. that the former Com. having been  
sued out irregularly by the Defendant he ought not to  
have another day -

Kilborne  
Tilton —

X

Plff. mo. granted, the Court being of opinion that  
the rule as to notice to the Defendant in Gaul does not  
apply where the Defendant has an attorney in Court  
who has app'd to him in the cause —

Fogo  
Charles } on Pltf's mo. for Judge and full costs. resisted by  
Defendt.

Sutherland  
Campbell

same motion. — & resistance.

Ether. <sup>1st Oct 1800 —</sup>  
Chancery <sup>2d Oct. in Appeal. Genl. 1801</sup>  
Sue Red. in case and

Dow. { N. 566.

Wilson. } On action on sp. assump't.

Stewart for Dft. First count in debt misft. in law

McCumming  
n.  
Williams }

on mo. for the re-examination of the Defendt  
on facts & articles, the answers given being insuff.

Stewart for Pltf objects to sufficiency of answers to 3<sup>rd</sup> & 4<sup>th</sup> & 9<sup>th</sup>.  
Interrog — The answers not precise to every part of the Interrog —  
the interrog is not wholly in the affirmative & therefore one  
answer thereto will not apply —

Sol. Genl. for Dft — The answers are sufficient —

Demand N° 512.

Desnoyers  
Lebeau Gau  
Demandant  
et. Gau

Action petitio[n]e -

Bedard fa. av. Gau - The lot of land was the property of Marie Josette Demers when she married Bourdeau who thereupon had a right to sell it, as a proper belonging to her, with the heirs of the husband could not therefore under any possession he had therein have acquired the right of property in the said lot - files transaction to show that the mis en Cause acknowledged the property to be in the heirs of Josette Demers - The validation of that transaction cannot affect the rights of third parties -

Viger fa. mis en Cause - There is nothing in the proceedings to show that the garants have any right in the lot of land as it has belonged to the See. of Josette Demers - The validation of the transaction must have equal effects to all parties concerned - Parties ought to be admitted to proof -

Bedard fa. Plff - The mis en Cause set up a title of prescription, upon which the Court must determine, & in that case if a decision against them a Judg may then be given for the Plff without further proof -

Charles  
Wilson

N° 454 - Action fa. ale sold to Dfd

Bearbier fa. Dfd - The ale sold was included in a settlement of account w. Plff, & the Dfd's note given thereon Sept. 1814 no sale made to him of ale subsequent to that period -

Gale. The giving the promissory note is not a proof that they comprehended the debt in question - is a mere presumption & no proof - does not produce the ~~court~~ upon it. Notes were made

Patterson } No. 573 -

Wilson v. Sab

An exception pleaded by Defd<sup>t</sup> - did claim a' la forme, that all ordinary legatees are not made parties to the suit - vs. Note & Eliz. Patterson the Father & mother of - but Patterson -

Boston for Plff<sup>t</sup> Not necessary that the deceased Eliz. Patterson should not be put in the cause as her husband sufficiently represents her -

Murray, No. 126 & N. 190 - Lained -

Duclos. - Actions of revendication -

Ross for Defd<sup>t</sup> The Defd<sup>t</sup> bought the timber under a suff<sup>t</sup> authority from Kelly who was the proprietor of it - Kelly authorized Cobalt to sell it -

St. Paul for Plff<sup>t</sup> Cobalt not produced as a wife nor shown that he has any authority from Kelly to sell -

Bellows & Sal<sup>t</sup>  
Warner -

on Rule 'obj' by Defd<sup>t</sup> on Plff<sup>t</sup> to show cause why action should not be dismissed, as no authority or power has been filed to warrant the prosecution of the action

from certain of the Plff who are not resident in the Province  
Agden for Plff - No authority necessary, as one of the  
Partners is present & entitled to bring the action - ought  
at all events to have a day to produce the authority -  
Sullivan for Dft - Party too late to ask for delay - same  
the rules of prae. p. 28. -

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Ioubert  
Lang }  
Bourassa  
Opp't

On opposition after de charge. -

Stuart for Plff. The opp't is a negligent & cannot  
maintain his demand, but to the Community to whom  
she belongs - There is no evidence to show that  
the property now owned made part of the property liable  
to the claim in question -

Lacroix for Opp't The proof is complete. -

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Panet }  
Porteous }  
Lee -

Dec 50

Action to recover damages for having illegally  
established a ferry to the prejudice of the Plff

Rolland for Plff. moves for fine on two wit' who failed  
to appear when subpoenaed - submitsments of law on  
the evidence adduced -

Porteous for Defendt. The Justices had no right given  
Ross - a license to ferry on the River to Puff by Ord.  
of 1777 ch. The Defd. had an equal right to ferry w/  
the Puff -

Rollans in reply - The Justices have the power to grant  
licenses under the Order of 1777 - The Ferryman ought to  
be known & established so as to be liable to the regulations  
to be made by the Justices -

Bartley dep<sup>y</sup> No 470.

McKenzie } action of account. -  
Excr. -

Nothing said in objection -

Cunningham No 479.

Graside &  
E Contra } action on S<sup>t</sup>. assumpsit, for a certain quantity  
of gold-leaf given to Defendt. to sell at a certain  
price -

Ogden for Defd. - Defd. has £ 47. on acc<sup>t</sup> of the Puff  
but has not been able to dispose of the gold-leaf, which  
he is ready to return under such delay, as the Court shall  
direct. incidental demands necessary from the irregular  
manners in which the demand in chief is made without  
a regular credit to Defd. -

Grant for Plaintiff the Def<sup>t</sup>. was arrested in Nov: last - had sufficient time to have produced the gold bar

Drennan } N<sup>o</sup> 337.

Taylor } On action for repairs -

Stuart for Plaintiff - 2 objects in suit - one to order house to be put in sufficient repair in a short delay, & on default thereof that Plaintiff be authorized to do it at his expense - 2<sup>d</sup>. The damages sustained by Plaintiff from the insufficiency of the house - .

Boston for Defendant - there is no lease before the Court - The estate conveyed to the Plaintiff by the lease obliges him to make all necessary repairs - being a bail emphyteutique - Reps. de l'ur. vs Emphyteuse - Post. damage. N<sup>o</sup> 220. -

Lefevre - } N<sup>o</sup> 507. Action for goods sold  
Lavassier }

Rolleau for Plaintiff - has demurred to the Plaintiff, as irrelevant and made to the evidence -

Papineau for Defendant - The pleading is made on the insufficiency of the Plaintiff's declaration -

Jackson  
Robertson  
Robertson  
opp<sup>t</sup>

On the opposition to recover back the  
expenses to which he had been put, by a  
refusal of the tender made of the amount of the  
monies which he was adjudged to pay in this  
Cause -

Stuart for Plff. The Defndt. should have made a consig-  
s cannot claim by opposition on the tender made to the Procur-  
ad lites.

Algier } No 581.

Lamb.

On Defd<sup>t</sup>. mo. to take Rep<sup>t</sup>. from record as not  
having been inserted on the list of Pleasants &  
exhibits. -

Charles } No 29.

Trichette

The Plff was refused a day to a further enquête  
~~by reason of non-attendance of one of his witnesses~~  
and thereupon the Cause fixed for hearing to day - when  
the cause came on the Plff moved to ex. the Defd<sup>t</sup> on  
~~above facts & articles~~ - The Court held that application  
was too late & would let parties proceed -

Stuart for Plff. action to recover from Defend<sup>t</sup>. the value  
of

of an ox which Defend<sup>t</sup> had wrongfully converted to  
their use - The identity of the ox, from the hide  
being found in the poss. of Trichette one of Defend<sup>t</sup>  
with the plif's mark on it - This should throw the  
presumption of the Defendants. —

Ogden for Defd<sup>t</sup> proof not sufficient -

Goselin No 197.

Perrault } action for false imprisonment

Sol. Genl. for Defend<sup>t</sup> justifies that from his  
situation & circumstances he was under the necessity  
of confining the Defend<sup>t</sup> at all events exemplary  
dam. ought not to be granted -

Welden No 186

Perrault } action for damages for a trespass in  
Lal taking away Plif's horse & also for assaulting  
the Plif -

Sol. Genl under the circumstances it was necessary  
to take the horses to carry the medicine chest of Dr. Battala

Tuesday 18<sup>th</sup> April 1815

Sullivan.  
McCord

Judg. for £8. & costs as under £10 £6-

Whitton.  
Tower

Action dismissed

Briere  
Boone

Insup. in faux liboatee -

Carter  
Carpenter

Judg for t.g. but without Costs -

argued 10<sup>l</sup>

Robinault  
an  
Povort

Exceptions dismissed -

McCumming  
Williams.

Rule discharged -

Charles  
Baynes

See Defendt mo. granted, as no delay would ensue to the Plff in proceeding in the cause the cause being appointed for ex. of writs in vacation.

Dubreuil  
Lavigne } Judg. —

Bellows &  
al. vs  
Warner } W  
The Rule made absolute.—

Kilborne  
Sifton } The question as to Pltff having a day to proceed to  
his enquest when Defend. is in default for want of  
a place the practice hitherto having been that  
the party in such case could proceed without any motion  
being made — Rule to be made on Subject.—

Patterson  
& al. } A day given to the Pltff to shew they are entitled  
Wilson & al. } to maintain the action as being the character  
pointed out by the will.—

Fogo  
Charles } W Judg. on Verdict with Costs as in a Cause  
under £30.

Sutherland  
or  
Campbell } W Judg. on Verdict with full Costs.  
The Court held that the law of England in regard  
of Costs did not apply, but that the Court had  
a discretion over the Costs — so adjudged, Ether v. Cherrill  
in appeal in Jan<sup>st</sup>. 1801.

Gaudry sal  
n  
Cherrier, Va  
Charlebois

On Plff. mo. for a provisional Judg. for £1,80.8.2  
the balance of the acct. acknowledged by Defd. to be  
in her hands -

Nige for Defende<sup>c</sup> contns. that a Sequestre should be  
named into whose hands the property of the succession of  
Charlebois, as she has various claims to exercise thereon -  
& therefore the same ought not to be paid to the Plff. -

Decided for Plff. citis Order of 1667. Tit. ~~et~~. 29. art. 7.  
Plff. is entitled to such balance - that no sequestre  
can be appointed to moveable property -

Masse  
Moyen

On defend<sup>t</sup> mo. that Plff. cause be  
dismissed for want of proceeding for upwards  
of two Terms -

Gale for Defd. action instituted in June 1813 since  
of time no proceedings have been had. -

Wednesday 19<sup>th</sup> April 1815.

Logan.  
Taylor.  
Seminary.  
opp<sup>t</sup>

Order for proof

Alexandre  
Douglas

action dismissed.—

Cunnington  
Gaines

order that deft deliver up gold leaf on a before sum recd.

Lefevre  
Levasseur

W<sup>t</sup> the pleadings of Defend<sup>t</sup> rejected as irregular—

Charles.  
Wilson

ordered that the parties file statement of accounts between them prior to the making the note filed by deft

Jackson  
Robertson  
Robertson  
opp<sup>t</sup>

The opp<sup>t</sup> dismissed, as it appeared on record that Mr Gray at Quebec was the attorney to whom the money ought to have been paid.—

Laurin  
Bleugne } { X Action dismissed — agreed 11<sup>th</sup>

Lindsey  
Henry &  
King — } { X Action dismissed

Bourassa  
Denau } { Judgment to execute a deed —  
to add on the day, or longer, the opinion of court in March —

Panet  
Porteous } { X Judgment

Perrault & al.  
Ernatinger } { on mo. to consolidate these actions. —  
Ernatinger } { Stuart for Playt — The causes have no connexion.  
Roi & Garde } {

Thurs day. 20<sup>th</sup> April. 1815.

Gaudry sal'

Cherier <sup>vs</sup> } ~~✓~~ Judge ordering payt. of money acknowledged by her to be  
Charlebois } in her hands in the amount rendered -

Perrault & Sal'

Ernatinger. } ~~✓~~ When a D<sup>r</sup>efend<sup>t</sup> is allowed to call in his garant simple

Ernatinger. }

the causes are considered so joined as not to admit of any  
motion for such junction -

Roc<sup>d</sup>, Gaud.

Bricault

Bricault

~~✓~~ On action of Rescission. - Judge for Plaintiff

June Term 1815.

Thursday 1<sup>st</sup> June 1815.

Surgeon  
Rattel - }

On Evocation from the Inferior Court -  
Objected - Not evocable -

N<sup>o</sup> 592  
Biddlestone  
Panalen }

On Pltf<sup>e</sup> mo. to reject exception for want of deposit  
of £2. 6. 8 - Reg. Prav. p. 23.

Sullivan Jr Defend<sup>t</sup>. There is no exception or law pleaded.

Campbell.  
Sutherland }

On Pltf<sup>e</sup> mo. to discharge rule for trial to morrow  
& in hearing on matter of law on 3<sup>d</sup> -

Ross for Dfd<sup>t</sup> objected that there are no matters of law  
pleaded but q<sup>t</sup> ought to have gone before the Jury -

Perrault &  
Ernestine }  
and  
Garants -

On Defend<sup>t</sup> mo. to withdraw the faits d'act. &  
answers thereto, as he does not mean to make any  
use thereof - Reg. &c Interrog<sup>t</sup> obl. 919. 920 -

Stuart for Plff. objects to the regularity of the mo. as no power  
can withdraw any papers from the Record at his pleasure  
but ought to have filed a disclaimer.

Friday 2<sup>d</sup> June 1815.

Campbell  
Sutherland {

The mo. granted, as it appeared there was a law  
issue in the Cause. u

Perrault.  
Ernestine {  
Garants.

The mo. granted, except as to withdrawing the  
faits fact. from the record. u

Biddleston  
Van Allen {

The Court finding the exception pleaded not to  
contain any ground upon which it was founded, as  
req'd by Sec. 11. art. 3. of the rules of practice, the  
Plff<sup>e</sup> motion was granted. u

Turgeon  
Rattel {

Evacuation granted, considering the action <sup>in</sup> possession

No 520

Warner  
Bill

On Defend<sup>t</sup> mo. that the issue to the County  
be changed, and made to the Court, as all the matters  
stated in the declaration can be considered personal  
wrongs - the entering the Plif<sup>t</sup>. grounds & driving off his  
Cattle -

Gale for Plif<sup>t</sup> - The application is too late, as the Dft<sup>r</sup>  
has concluded to the County, the Jury has been struck  
and the Venire issued - That all the injury complained  
of is a personal wrong. -

~

Osborne  
Finan.

On action on deed of sale for price of land  
sold -

Nuti 278.

Stuart for Plif<sup>t</sup>. objected that original seller shd. furnish  
letters patent of Conveyance to him of the property in question,  
but this was no condition precedent of the sale, ~~but~~ only  
on demand - no proof of any such demand - he had a  
right of action when it was instituted & therefrom entitled to  
his Costs -

Ross for Dft<sup>r</sup> - This action was instituted in Oct. 1813 and  
the Letters Patent sued out by ~~the~~ Palmer are dated in March  
1814 - but not valid - not registered - does not convey  
any part of land. Nut. 14. -

Stuart - Not necessary that Seller shd. have title when he sells -  
as he may afterwards acquire - Nut. N<sup>o</sup> 1. -

Griffin  
vs  
Fraser

On rule to show cause why an exception pleaded by the defendt. should not be taken from the record as having been filed too late, & because 2 Guineas were not deposited with Prostby at time same was filed -

Stuart for Defd. The plea is in nature of a plea in abatement of lis pendens, or exception en droit, & does not come within the rule - That 2 Guineas not necessary to be paid into hands of Prostby, or filing such <sup>any</sup> ~~plea~~ <sup>is necessary must be presumed to be in the hands of Prostby by plea has. been filed.</sup> The Plea, that the declaration is not sufficient in law nor founded in fact, does not come within the rule, as it requires no previous hearing on point of law before entering on the merits, as contemplated by the rules - ~~that comes~~

Sewell for Plett - The Plea admitting it to be a plea of abatement is too late -

—  
Saturday 3. June 1815.—  
—

Griffin  
vs  
Fraser

The Court were of opinion, that where a general denegation of the right of action in point of law, was joined with the denegation of fact, in a plea to the action, this could not be considered such general exception as the rule of practice had in view to compel the party to give the special reasons of such denegation in law, but must go with the facts on the merits - & the party cannot be entitled to any previous hearing on such law issue, as those special causes are not set forth.

No. 520

Warner  
Bell & Hobbs

The Court considering that the Plaintiff had joined the injuries done to his property with the injury done to his person, did make one general conclusion for damages held, that in such case, the Cause cannot go to the Jury and the conclusions must be changed to the Court, as alone competent to determine such an issue. —

Mercier.  
Diganard

On trial by Special Jury. —

In this Cause the Defendant adduced no evidence, but confined himself merely to remark on the evidence adduced by the Plaintiff — the Plaintiff rose to reply, but it was objected to, and the Court held that the practice had been in this Court that in such cases the Plaintiff could have no reply, and in this respect the course of practice ought to be regulated by that in England. —

Burton  
Manning  
King & Tattersall

The parties submitted their cause upon the argument already had on 9<sup>th</sup> February last —

Chalifoux  
Marotte }

Action en Separation.

Dufresne  
Foran

Action of debt on deed of Sale -

Poth. Obl. N° 565. 566. 570. imputation in case of payt  
by a debtor must first be made on the interest,

Stuart for Difd<sup>t</sup> - The interest was not payable yearly  
but a certain specific payt. was to be made on acc't. of  
the Capital - interest & principal were to form one mass  
upon q<sup>t</sup> the ~~annual~~ payt<sup>t</sup> were to be made -

Campbell  
Sutherland }

Action for a malicious arrest

Hearing on matter & no plea of Justification  
set up by the Difd<sup>t</sup>

Stuart for Plff. The Justification insufficient - The order  
of the Judge to arrest Plff - no cover to Difd<sup>t</sup> as it was at his  
solicitation it was given - The libel alleged by Difd<sup>t</sup>  
gave no room for an arrest for damages, as no damages  
had been ascertained & could not be sworn to - The  
Plea is argumentative - It amounts only to the general  
issue, q<sup>t</sup> in England is cause of Demurrer - Chitty on Pleas

Ross p. 170

Ross for Df<sup>d</sup>: The Justification is suff and well pleaded  
Stuart in reply - The plea does not contain matter of  
Justification, but of negation of the Pltf's right of action -  
Justification must admit the Pltf's action, but avoid it by  
other matter - here it does not do so all the allegations  
go to shew that there was a right to arrest & that it was  
not done maliciously - which is a negation of the Pltf's  
right -

Dow  
Wilson

action for wood sold & deliv<sup>r</sup> to Defend<sup>r</sup>

Hearr on exception -

Stuart for Df<sup>d</sup> - The excp<sup>r</sup> - grounded upon a copy  
of Dd<sup>r</sup>: sent on Df<sup>d</sup>: but this copy not conformable  
to the original declaration - & therefore the Df<sup>d</sup>: ought  
to have benefit of exception as agreed on the copy served  
on him - Decl<sup>r</sup> states that wood was furnished to Df<sup>d</sup>  
w<sup>t</sup> might have been on a contract of loan, or on any other  
burden sale - The other Counts of Decl<sup>r</sup> are ministerial  
the sums in the last Count wrongly stated, as it refers  
to one or other of the preceding Counts -

Monday 5<sup>th</sup> June 1815.

Campbell  
Sutherland }

The defend<sup>t</sup> admitted to make proof before the  
jury of the facts cont<sup>d</sup> in the plea of justification

Dow  
Wilson }

The exception dismissed - the objection taken to  
the copy of the declaration being considered as  
made too late, as it ought to have been made  
in limine litis, and my motion<sup>+</sup>

+ sa 12 Oct 1812.

Stm. v. Chambelin

Pattersons  
Wilson & S

On action on Obligations - transferred to the Plff  
Ogden for Defd. The proper parties not in the  
action - John Patterson deced<sup>d</sup>, constituted certain persons  
his undivided legatees, neither of whom are parties to this Suit.

Boston the persons in the Suit are proper Suff<sup>t</sup> but one  
of them, Robt. Patterson, differently stated in the will from the  
declaration altho' same person - Action must subrist as  
to the other 2 parties -

McLeod  
McIntosh }

action for work & labor  
parties upon to evidence adduced

Green & sons  
 Powell & al } over till to morrow  
 Marion & al }

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Tuesday 6<sup>th</sup> June 1815.

The King  
 M<sup>r</sup>. Cord.  
 & al. Justice

On a rule to shew cause why the Judge of the  
 Court of Q<sup>r</sup> Sessions nonologating certain Proces  
 Verbae of the G<sup>r</sup>. Voyer toucht. the upponing a bridge -

1. Because the necessary formalities have not been observed by the G<sup>r</sup>. Voyer, as no order was given by him of the day he would visit the premises in question, nor any publication in that respect made - nor at what place he would attend & hear the parties interested -  
See Sec. 11. 16. 75.  
Prov. Stat. 1794
2. That G<sup>r</sup>. V. did not annex a plan to P. V. as required by the rules of Practice of Q<sup>r</sup> Sessions -
3. That the bridge in question is not declared by the P. V. to be a bridge to be maintained by the public. & therefore public ought not to be burdened with it. art. 3.
4. That G<sup>r</sup>. V. does not point out by his P. V. the persons who are bound to keep up the said bridge - see art. 16 - but generally said that heab. from such a point to such a point, shall keep up the bridge &c.

S. M. Vig' for G. Voyer -

1. The necessary formalities have been complied with — The G<sup>r</sup>. Voyer not bound to file the copy of the order he gave to the G<sup>r</sup>. Voyer for publishing the day & place of meeting — he refers to the order q<sup>t</sup> he gave, this must be presumed to be right —
2. No law of. warrants Justice to make rules of practice, in regard of the duty imposed on the G<sup>r</sup>. Voyer, other than what the law has already determined in regard of him —
3. The bridge is sufficiently public, by the names of the persons inserted in the P. V. who are bound to repair the bridge in question —
4. Persons bound sufficiently pointed out —

Bedard in reply —

1. The requeste & order thereon must be published at the church door, & to know whether this be done, they ought to be annexed to the P. V.
2. The C<sup>t</sup>. of F. I. were of opinion that a Plan was necessary as they granted an order for that purpose —
3. The bridge must be declared public, before any but neighbours can be called to repair it —
4. Persons must be named — not their residence —

Gruette.  
Coll.

On Plaintiff's mo. to ex. a W<sup>t</sup> who did not attend on the  
enquiry day, under a resv made of diligence being shown  
to procure him -

Vigier for Df<sup>t</sup>. The W<sup>t</sup> was not sum<sup>r</sup>- but came in after the  
enquiry was closed -



Bergeron fil.  
Cadieux lab.

On report of Experts -

Papiniere for Df<sup>t</sup> no evidence to support report -  
Proof in cause, that all the effects were not sold, as  
appears by the Procès Verbal de Vente. -

That Cadieux ought not to be adjudged to pay any part  
of the damages, being merely ~~a ministerial character~~  
acting under the directions of the parties → Par.  
M<sup>r</sup>. p. by & suu. Denov<sup>t</sup>. re nullité N<sup>o</sup> 33. 34

L. M. Vigier. In libelance al. That he was present only  
at the Inventory & Sale, & had no part in the transaction  
ought not to be bound for any part of the damages -

Iacquier. In Bergeron's par - Contends that Cadieux alone is  
liable to pay the whole damages - as he has occasioned the injury

Bédard for Plaintiff demands hair. of Report - & that Cadieux  
alone sh<sup>t</sup> be bound to pay damages - when a contest  
arises

arises between the parties, the Notary sh<sup>t</sup> cease his proceedings  
and send the parties before a competent jurisdiction, but  
then the Notary interposed & took an action so as to direct  
the proceedings to be taken -

Cunnington  
Garside.

On action for value of a certain quantity of  
gold leaf deliv<sup>r</sup>d to him to be sold for Plff. v.

56

Grant for Plff. Defend<sup>t</sup> not has complied with the  
intention of last Term, but tendered the balance in money  
in lieu of the gold leaf, the Plff is entitled to a Judgment  
for interest & costs -

Agden for Dfdd. The Plff not has given credit to the  
Defend<sup>t</sup> for the monies p<sup>r</sup> on ac<sup>t</sup> of his demand w<sup>t</sup> the  
occasion of an incidental demand being made.

Briere  
Nilliot  
Douce  
Gard

On Defend<sup>t</sup> mov<sup>t</sup> to be permitted to withdraw his  
plea and file another, in consequence of the order of  
the Court permitting the minute of the cite  
insert in record to remain of record -

Sullivan for Plff. Defend<sup>t</sup> ought not to have a  
general

general permission to plead anew as he shall see fit,  
but mainly such matters of q<sup>t</sup> he was presumed to  
have had no knowledge at the time he formerly  
pleaded. The copy of the act before the Court was  
a true copy, & nothing new has occurred upon q<sup>t</sup> a new  
plea can be allowed —

1 Pg. 137.

Labbaye  
Pell — }

On Pltf. mo. to be permitted to examine  
Witnesses in proof of his demand —

Rollin for Pltf. — There is a commencement de preuve  
par écrit, by the answers made by the Defendant  
upon his ex. on facts dect. 1 Pg. 267. Pott. Ob. 826.  
The party ought to be permitted to prove facts different  
from the allegations of the party on oath —

Order for Defendant — Ver. test. inadmissible —

Taylor.  
Drenan. — }

Action for rent on lease, & for damages —

Boston for Pltf. — Tender of rent after Suit — Damages  
arisen to experts — not suff. more damages apparent from evidence  
adduced, <sup>for</sup> q<sup>t</sup> suit. It. be provided —

Stuart for Defendant The wood cut down by Intention  
order given to a period for q<sup>t</sup> there is no demand before the  
Court -

Dannay  
<sup>m</sup>  
Roc. {

On action to obtain an account of a  
Communauté Continueé. —

L. M. Vige' for Dfndt. Exceps<sup>r</sup> a law. that Charl<sup>t</sup> Antier  
in 1774 made an Inventory of her former Community  
q<sup>t</sup> was closed on 17 Feby. 1774 - and a partage made in  
consequence, ~~and dissolved~~ that Community accords to  
240 & 241<sup>r</sup> art. of the Custom - In 1776 the parties  
made a transaction, under q<sup>t</sup> Dfndt. invoked the prescr<sup>r</sup>  
Sheart for Pless<sup>r</sup> The Dfndt. has not alleged the fact  
sufficiently of the dissolution of the Community of Charl<sup>t</sup>  
Antier - Cannot be admitted to prove it - Same objection  
to the <sup>et</sup> claim of property of Gardener - All kinds  
of presumption pleaded - The taking a legacy from  
Charlotte Antier cannot bar rights of Pless<sup>r</sup> for other claims.  
Vige' for Dfndt. in reply<sup>r</sup> The facts in the plea are sufficiently  
set out. —

Wednesday 7<sup>th</sup> June 1815.

This day a new tariff of fees was published

Thursday 8<sup>th</sup> June 1815

Charles Baynes } on Plff. mo. for a reference to Expts -

Sol. Genl. opp. mo. Plff made no evidence to support his demand - there can be no reference when the party has chosen to go into evidence. —

Friday 9<sup>th</sup> June 1815.

Dawneye Roe - } Exceptions dismissed, but without Costs -

Algie Lamb } on defend. mo. to ex. Plff on facts <sup>4 or 5 years ago.</sup>  
Plff etc, can Smith v. Tiler - he bears the diff. must make his mo. to ex. Plff on facts & cert.

Charles Baynes } Court reserve to determine upon motion until parties shall have been heard on merit —

Busby & al  
or  
Bedards }

One defend<sup>t</sup> mo. for a Com. Rog. to ex. W. at Quebec  
Stuart for Plff. objected. that there must be an  
affidavit to ground the application —

Ross for Dft. contended there is no such practice —

Laurin.  
Bourgouin }

Action of Separation — parties refer to  
the evidence adduced —

Forrest,  
Camane }

Action on promissory Note. —

Rolland for Defend<sup>t</sup> objects to the sufficiency of the  
endorsement, the same not containing the requisite for  
transferring the note to the Plff, as the Defend<sup>t</sup> is not  
a merchant or trader — The Plff himself has filled up  
the endorsement, which he could not do otherwise the law  
would be nugatory.

Grand for Plff cites Chitty on bills. p. 84. as to effect of  
a blank endorsement.

Saturday 10<sup>th</sup> June 1815.

Busby & al  
Bedard }

The Plff has obtained an order upon his motion for the examination of witnesses on the 13<sup>th</sup> without objection, the Court considered that the mo. for a Com. Reg'd to ex. wit<sup>o</sup> could not be granted without an affidavit to support it. — an order was granted that the Defendt. should have till the 12<sup>th</sup> to file an affidavit.

Lacroix.  
Robinau }

Action on an assignment of money on Deed  
of Sale - 2898<sup>#</sup> Compt

Nigé for Defendt. alleges that Defendt. paid the amount of 1400<sup>#</sup> acknowledged by Plff. besides other charges sufft to cover the whole demand — sums charged to be paid by Defendt. to his brothers & sisters, francs de noces &c. Rentes Seigneuriales

Lacroix for Plff. by statement filed by Plff there is upwards 600<sup>#</sup> due to him —

Ellis & al  
McKenzie.  
Craigieval }

Action for balance due on Sale of Seignory of Batiscan to the Batiscan Co<sup>s</sup>

The action is for a partnership debt, & not aft. on  
of the partners

Order for Defd. - Has brot. in his Parents, to be condemned  
jointly with Defd. -

Sol. Gen<sup>e</sup> for Coffin, one of Parents. Frobisher had no  
authority to bind his Co-partners by the purchase of the  
Seignury in question - no proof that the sale was ever  
confirmed by his other partners. - no solidité shewed  
in this deed -

Rollens for Plff. cites Tr. Ob. 270. There is an oblig<sup>e</sup> Soldeau  
11 Henrys 6. c. 6 quæst. 26. p 419 - Poth. 266 obl. Soc. 59. 98.

Turgeon  
Ratelle }

On Rule why certain parts of Defendant's plea  
should not be rejected, as containing matter of  
ought to have been pleaded in the 24 hours after  
appearance -

L. M. Vige<sup>e</sup> for Defendant The Plff. action is in complaint  
& the description of property being insufficient, it forms matter  
of exception to be pleaded to the merits - The Inde. contains matter  
of pleading of. is irregular, & to q<sup>e</sup> Defd. has also except<sup>e</sup>  
Brevard for Defd. The Plff has taken conclusions as in a  
petitory action, q<sup>e</sup> is irregular & the exception thereto must  
be considered as précemption en droit

Becarie for Plff. The matters pleaded are wholly a la forme

Sylvin  
Cuviller

On exception to the matter pleased by the Defendant  
as irregular being an exception à la forme, with  
the merits. in 24 hours -

Rolland vs. J. S. Gray. p. 159. one cannot be admitted to  
plead to the form after having pleaded to the merits -

Bearbien for Defendant - contends he has a right to  
file his exception, the same being in time

Sanguinet  
Sanguinet  
Sanguinet  
Sal'mineau

On mo. to compel defendant to give a communication  
before the Practitioners the Lower Tiermen if the State  
in gt. Plff claims right -

Fosier.  
Bouchard

An Plff. mo. for a Comm. Royal  
Street for Plff. The application made too late.  
Rolland for Dfndt. The Plff filed no Rep<sup>s</sup>. & the delay can  
be counted only from the expiration of the time at which  
the Rep<sup>s</sup> was due -

Samothe  
Toucher }  
Gray opp.

On opposition of Mr John Gray, claiming an indemnification for a certain quantity of land he purchased at the Sheriff's Sale, on qd - there is a deficiency -

Sol. Genl. for Opp. every purchaser must be put in possession of what he purchases. Poth. Vente. No 41.

Reason for Defd. The opposit. sh. claim his right of poss. in such part of the lands he has purchased & has not had the possession - No proof of facts upon qd opposition is founded. -

Monday 12<sup>th</sup> June 1815. -

Osborne  
Finan }

Interventory to value lot No 14. not included in sale -

Forest  
Caman }

<sup>Entd</sup> action dismissed, the full indorsement not having been made by the payee to Plaintiff.

Villot  
Rocco  
et al -

The Defendants allowed to plead over -

Aylwin  
Cavillier }<sup>Ent.</sup> Puff - demand dismissed —

Robinam  
Provost }<sup>Ent.</sup> Indict for Puff w<sup>t</sup> 2 fact —

Ingvon  
Rattel }<sup>Ent.</sup> Puff - no - granted. —

McLeod }  
McIntosh }<sup>Ent.</sup> Indict —

Forcier  
Bouchet }<sup>Ent.</sup> No - granted —

Murray  
Deulos }<sup>Ent.</sup> Indict for Puff - in both cases

Cunnington  
Gairside }<sup>Ent.</sup> Indict —

Lamotte.  
Fouche }<sup>Ent.</sup> Opposition dismissed —  
Gray opp<sup>s</sup>

The King  
Defend

Order of the Sessions confirmed. —

The King  
McCord  
Sal.

X An Intervenor ordering the proceedings to be remitted to the 2<sup>r</sup> Sessions that the Requête to the Graces over this case should with the transcript of the publication of the notice afterwards be brought up to this Court —

McKinnie  
McGillivray  
Sal.

X The Court rejected the motion for a reference to arbitrators, after the party had entered upon the examination of witness to ascertain the facts stated in the pleadings —

Dow  
Wilson  
& Contract

On Pliffs' motion for a reference to Arbitrators on mutual accounts between the parties —  
Stewart for Defd — contends that there can be no such reference, as the whole case turns upon a matter of fact which ought to be established before this Court —

Charles  
B'aynes }

on Plff's mo. for Service & Indemnity of Plff

Douglas  
Co.

Mace'  
Briceault }  
Briceault }  
T. Sain

On rule on T. Sain to show cause why he  
shd. not be condemned to pay the amount of  
Plff's demand -

Bid and for Plff. The Plff. action founded on fact  
and also on a ~~fact~~ in favor of Dfd. agt T. Sain - The  
Defend. comes in & swears that he owes nothing & that  
he had compensated the debt he owed w/ other debts  
the Dfd. owed him - This not suffice he ought to  
prove it - cites Pothier & Pigeau -

Poth. Proc. Civ.  
4<sup>th</sup> p. 198.

2. Bouj. Sec. 3,  
p. 671 & 672

1 Pigeau - on il  
travaux de la Sain  
and,

Stuart for Tres Sain - The proceeding of Plff's motion  
he must <sup>first</sup> constitute the T. Sain a party to the suit &  
then contest the declaration of T. Sain, w/ he will  
then be permitted to support. -

The Tres Sain ent<sup>c</sup> appearance by atty -

Douglass  
Cartier }  
Sanguinet  
Lat. Interv.

On hearing on the Intervention —

Stuart for Pless objects to the Intervention —

1. The intervening party has no interest in the Cause — but made to renew the points contested between Pless & D'esp. — no just. to be given between Pless & D'esp. can affect the rights of Sanguinet — The conclusions of the Intervention are made in favor of D'esp. and not in his own favor —

Ross for Int'r party — The defendt is the Councillor of the Interv's party, and they are interested that he shd. be continued such —

Perrault  
Crmatiugue }

Action of Detainee for boards & plank of wood  
been adjudged to the Pless.

Roi. Gart. Stuart for Pless — The plea of not guilty irregular —  
The offer by a stranger to deliver the boards not sufficient.  
The fact not made out by D'esp. —

Ross for Defdt Tenders made by Roi — No value proved.  
Vige for Df't. objects to L. depos: of Shay as irregular —

Stuart in reply, the presumption as to quantity  
ought to be taken up the public officer to whom custody  
it has been by law confined —

Berthelot  
Vaillancour

} damages for breach of Contract — ex parte —  
Grant for Plaintiff — refers to evidence —

Odeh  
Scott

} Diminuer came in too late, & not cause assigned —  
Stewart for Dfndt — Rule of P. does not apply — it goes only  
to exceptions — nor does rule apply to exception made to  
pleas in regard of time of filing it —

Perrault  
Namur

on Plaintiff's motion to declare faict constat. confess  
as Defendant has failed to appear —

L'Abbe Nige' for Dfndt opposed it, by affidavit to show  
that Dfndt was absent & had no knowledge of proceeding

Delay granted to 1<sup>st</sup> We day in Vacation

Thursday 15<sup>th</sup> June 1815

Odeh  
Scott }

Dow.  
Wilson  
& Contra }

Algier  
Lamb }

Greer  
n  
Powell }

Stuart  
Forbes  
&  
McDonalds  
Lux -

The demurrer to a Plea, is within the rule of practice as to filing pleas if except: within 24 hours & also that the reasons in support of such pleading shd. be stated in it, therefore adjourned too late — Here the Ch. J. gave the opinion of the Court, altho he did not hear the point argued — & on objection taken thereto by the Counsel, the Court held that the Judg. of the Court could legally be pronounced by him when the case was heard by a competent Court //

Mv. granted for a reference to arbitrators to report on difficulties & make a statement of the accounts between the parties.

The Defend. mv. granted, considering the reserve made of the application for the facts part — a sufficient application for the same under the rules of Practice — Law of Teller & Smith does not apply, being in 1803 — before present rules of Proc. were made —

On defend's mv. that facts part submitted to Nancy McDonald wife of John Forbes, one of Dfnds to be supposed, as irrelevant inasmuch as being a femme covert, she cannot bind herself by any act she may have done without the authority of her husband

Stuart In Pleaf — The mv. prematurity — the Pleaf may have an authority to show in the Cause, & McD<sup>o</sup> may have done acts of which is liable

Turner  
Hancox }

On trial by Sp. Jury -

Chitty 225. No notice necessary to be given when the Indorsees cannot be found - Defd. went to England in fall 1813 -

Notice given to Dfd. on his arrival in Canada in June 1814 -  
The Dfd. not entitled to avail himself of want of notice, he being full-handed at time the bills were indorsed by him -

Robt. Wood was a clk to Puff in ~~Jan.~~<sup>Jan.</sup> 1813 - knew that Dfd. remitted the bill of Exch. to Puff from Quebec -

The W<sup>r</sup> was called to produce the correspondence between the parties at the time the Dfd. forwarded the bill to the Puff, to show thereby the nature of the disjunction on the bill - This was objected to, the correspondence not having been filed w<sup>t</sup> the exhibit - but the Court admitted the correspondence to be recd - considering that all corroborative evidence of the title upon which action is founded ought to be admitted - That the bill was immediately forwarded by the first Halifax Mail in Feb 1813 to England - The answer to <sup>the</sup> letter from Halifax from Messrs. Smith & Thom taken no notice of this letter - altho' it mentions all the others - Dfd. is a single man - & when he left Montreal for England he left no power to do his business for him - that he negotiated with Horne & Joffe, bills for them here -

13 Augt. 225.

on note

247.5252

602.3 -

The Court held - that the strictness of notice is dispensed with, when the party to whom the notice is to be given is absent - has no domicile, as the case here - also when the party has undertaken to pay, & holds funds to pay -  
q't. appears to be the case here, when the bill was forwarded by Dft. to the Plff -

Never  
Brisbois }

action for £50 value of a Mare belonging to Plff  
detained by Dft -

Vrg: for Plff refers to the evidence adduced -  
Sheant for Dft. The witness on part of Dft. more conclusive  
as they had better means to form their opinion by actual  
visual inspection of the animal from its birth ~~up to the~~  
present moment -

Barbeau  
Ryam -

Damages for retaining the poss. of a house -

Vrg: for Dfawd. The King's troops took poss. of the house  
retained it, q't prevented the Dfawd from delivering it to the  
Plff

Porter  
Bonthillier

on mo fm Judge - notes said

Giffie  
Fraser

on Rule to show Cause why a paper filed by Plaintiff's Application shd. not be taken from the Record -

Stewart for Defendant - The Replication ought to have been filed in the vacation according to the usual course

Ross for Plaintiff - The plea filed by Defendant was in the opinion of the Court inadmissible & therefore he that himself not bound to answer thereto until he got the opinion of the Court whether such plea was regularly before the Court & moved first day of the Court for that purpose -

Charles  
Baynes

action for grant. mer. for keeping 2 horses for  
the Defendant -

Stewart for Plaintiff - Evidence to show that Plaintiff entitled to be heard upon his Judicial oath - particularly from the incidental demand made by Defendant

Sol. Genl. for Defendant - moves that two deposes. of Plaintiff's children be taken off the files - There is not that degree of proof to require this oath. Pigeon.

Friday 16<sup>th</sup> June 1815

Griffin  
Fraser }

The ct. were of opinion that the Plaintiff ought to have replied to the Defendant's plea within the delay of the rules of practice - The Rep. ought to have been filed with the necessary reserve as to the impropriety of the plea, —

Stuart.  
Forbes }  
Sal. —

The ct. were of opinion to reject the motion, as the Plaintiff may produce an authority to shew that the wife acted under other orders or consent of her husband. —

Greer  
Powell }  
Marjorie }  
in up. d'amt.

It appears, that the last proceeding in the Court at the time the Plaintiff died, was an order for the continuance of the Enquiry, & that the Plaintiff in repson'd not. must take up proceedings from that period - his ms. for hearing on the merits was therefore dismissed until the enquiry shd. be first concluded —

Ryall  
Stevenson }

on the conq'ete day, no witnesses were adduced by either party, & so entered on the enquiry book - the Plaintiff now moved to fix cause for hearing on the merits, this was objected to by the Defendant — and showed a Subpoena of

to his client to be  
served on his wife  
that Plaintiff had any wife  
to prove, as now  
appeared at time,

he alleged to have sent out & caused to be duly forwarded,  
and that it was not within his knowledge at the time of  
the enquête - but the Court considered that the Plaintiff had  
something more to do, that he ought to have alleged on  
the enquête day such facts as were within his knowledge  
such as the issuing the subpoena & what <sup>had</sup> been done  
thereon & claiming a further day for a continuance of  
the enquête, not having done so the Plaintiff was considered  
as having abandoned the right to any further enquête  
and his motion was therefore rejected -

Hungerford  
Sampson }

action of complaint & reintergrande.

Ross for Defendant. States that action is ill-founded

Delisle  
Richardson }  
etal -

actions of complaint. vs - three actions joined.

Sol. Genl for Defendant. All Plaintiff is entitled to is an  
indemnification for the injury done to him, the work cannot  
be undone - There can be no legal conclusion to put the  
things in the same state it was previous to the trespass

but only that the Plaintiff shall be maintained in the poss.  
of his property -

Stuart for Plaintiff contends that the Defendant must be adjudged  
to put things in same state they were before trespass, which  
is a conclusion consonant to law

Lacombe }  
Asselin } action petitioire -

Ross for Defendant - The act under which the Plaintiff claims  
the land in question was made at the time when the  
Donor was lying ill of the malady of which he died -  
there never was any tradition of the property given, &  
therefore not valid - The will made by the deceased  
shows fraud on part of Plaintiff, and was made at the  
time the decedent was incapable of making it -

Bordard for Plaintiff - contends facts alleged by Defendant as to illness  
of decedent not made out -

McCummings }  
Williams } Our action agt. Defendants for a trespass -

Sol. Genl. for Defendants - No evidence to support action  
the depredations complained of was done by the Yankees

Saturday 17<sup>th</sup> June 1815.

Busby & L  
Bedard }

On the Defendants mo. that facts not stated. be taken  
as confessed by reason of their default -

Stratton for Plff - the rule must. no time for the appear-  
ance of the Plff - the day too general -

Patterson.  
McDonald }

On mo. in heard without -

Plff says he is entitled to Rec't. for 10/12 aft  
Barlow, & Rec't for the whole aft. the other dep't

Grant,  
McIntyre }

on mo. for ex. of W<sup>r</sup> -

~~Def~~ proposes a reference to arbitr<sup>y</sup> -  
~~Def~~ Proof has been made - no evidence by Plff

Cooper  
Caldwell }

Action of assump<sup>t</sup> - hears on hearing on suff. of plea  
Plea non. assump<sup>t</sup> -

Sullivan for Plff. The plea does not meet declaration -

Eno  
Rivard  
Eno & abd}

action of damages ~~for damages~~ for wood cut down  
by Difudt - in the Common of the Isle du Pas -

Replies for Difudt - No proof of suff. title in the Common  
the property of the Island must therefore be presumed to be in  
Common - Droit &c usage. - No damages proved -  
The title of Common in 1713 gives a droit de Commune to  
the Habiliens. It is no donation by the Seign<sup>r</sup> because the  
Censitaires pay cens & rentes on the Common so made -  
The prescriptive right of Difudt shows he had no other  
title authoris<sup>t</sup> him to cut wood on Isle du Pas -  
That Eno alone is not the sole Prop<sup>r</sup> of the Isle du Pas  
cannot alone maintain this action - At all events the  
damages proved do not exceed 10/-

Plff moves for the rejection of the testimony of a Wit<sup>r</sup>  
as intended in the Cause - The action is founded upon  
a right of possession alone without reference to the  
title of the defendant - The defendant pleads a right to the  
Common under title ~~that of his~~ gives him no right to the  
wood, but merely to the enjoyment of the Common -  
The prescriptive set up, is contrary to the title - and  
no right in title to cut wood -

Govrin }  
Forbes & } action of Defd<sup>t</sup> as heir of late Mr. Forbes for  
al — goods sold or

4 See ch. 3.  
S. 3. art. 1. p.  
332 - 333 - accepted by word or deed - 4 — The Defd<sup>t</sup>  
2. Pg. 361. n. 4.5 sets up the authority derived an authority to do conservatory  
acts for the benefit of the succession - this may be done  
as to any particular act necessary to prevent injury to the  
succession even w/out authority of the Judge. 1 Pg. 57 -  
but this cannot be done in to general management -  
such as expressed in the advertisement of 18 Feb'y. 1815  
in the Canadian Courier - Under this, goods were sold  
by Town, auctioneer, & debts paid with the proceeds -

1 Pg. 60  
— 174  
2. 4<sup>th</sup> 262  
4. P. 11. S. 130

Sullivan for Defd<sup>t</sup> admits liability of Dant. Forbes -  
John Forbes was apparently authorized under the order of the  
Judge. to do all the acts he has done -

Where the person habile to be heir, declares at the time of  
doing an act, that it is not meant to be done as such -  
secures him of the consequences - 1. Cour. Palai. 369. No  
benefit derived from the act - art. 2 Cour. Pal. 1680.

Stewart in reply - The most essential act of the Defd<sup>t</sup> was to  
make an Inventory - The parties get money of the Estate

into their hands, and when demanded will not shew or  
tell what was the amount of them —

Marchand  
Aiken & Mo. for Inde<sup>t</sup>

Baby  
Greens } action for monies p<sup>r</sup>. to Defd. on ac<sup>t</sup>. of sale of  
Sp. of Insuranc<sup>i</sup> —

Order for Defd<sup>t</sup> — Defd<sup>t</sup> tendered the Sp. Twp. but  
Plff refused to accept them —

Bender  
Coleman } action to obtain poss. of a house leased to Defd<sup>t</sup>  
years on Excep<sup>r</sup> —

Grant for Defd<sup>t</sup> — Plff does not shew any interest  
in the house at the time of bring<sup>r</sup>. his action — No  
privile<sup>r</sup> of contract between Prior & Defd<sup>t</sup> — the purp<sup>r</sup>  
alone could have had this action — Poth. Louray &c. 91.  
The only action Plff had was ag<sup>r</sup> Prior, w<sup>r</sup>. whom he contracted

Rental for Plff — Plff is the principal lessee & has a  
to maintain this action ag<sup>r</sup> the Defd<sup>t</sup> as hold the house —

Turgon  
Ratelle &

Parties to go to proof

Delinquency

Vice versa }

Action to effect revocation of Lease of the house  
belonging to her & Defuds -

Vice for Dft - Ligation cannot be had but in Real  
Estate -

Bedard for Clff - Demst. v<sup>e</sup> Partys N<sup>r</sup> 6 - 2. Pg<sup>42</sup> 461. -  
Defndt. ought to pay all costs from the writout -

Sher. vs  
Laeroy }

Hearing in consequence of an Intitulatory  
order directing them production of certain  
Papers

Stuart. for Clff - contends that the adduction of the  
Copy of Judge was irregular & that Intitulatory order  
was irregular - & that paper filed cannot affect the  
rights of either party, nor avail in anyway -

The question here, whether the process here was face  
most diligent - this is to be determined by the Court -

No contest was raised - There was no guarantee stipulated in the parties writing - the principal thing conveyed is assumed stipulated to exist, over the other right Defendant held as signifiers -

Beaubien for Defd - There is no fraud proven -  
It was a roit litigious gr. Puff agrees - It was also a  
roit uncertain purchased by the Attorney - No  
proof of any money pd by Puff. . . . .

Giffen for  
Fraser. }

Action of damages for ejection from  
certain premises sold by Defd. to Puff  
Hearing on law

Stuart for Defendant - allowed that there is another  
suit pending between the parties - This suff  
exception in law today given for the proof of it.

Monday 19<sup>th</sup> June 1815.

Griffith  
Fraser } Interv for prov.

} *W<sup>t</sup> of Lips.* the Plff<sup>o</sup> children went to  
Dox<sup>r</sup>. Plff their mother -

Bender  
Coleman } Exception dismissed. —

Lauvois  
Robineau } Suit for damage to detention of

Cooper  
Caldwell } The demurrer overruled —

Munn  
Porter } Report of aud. —  
E conter

Barbeau  
Ryan } Deaf

Eno  
Rivard } action dismissed — Recd. Rep. v<sup>e</sup> usage —  
Eno — par  
rep. d'inst<sup>t</sup> } w Tuminiville Jr. Comt. & habendum p. 23, 26, 28.

Charles  
Baynes } Experts named  
E contra = w

✓ Neveu  
n.  
Brisebois } order that D<sup>r</sup>. come up to be exp. on his  
Judiciary oath —

L'Abbe' Pells } w the Plff. application to be admitted to  
prove his demand by contradictiong the answer  
of the Defend. on facts d'act. — rejected —

Douglas,  
Cartier } the intervention admitted. —  
Sanguinet  
Hiles } —

Ellie. —  
McKenzie } order for proof  
Craipidee }

Grant.  
M'Intosh }

Refusance to arbitrators -

Hungerford  
Lampman!

Action dismissed - the possession of a  
servant not sufft. to warrant action en  
reintergrande -

Bergeron  
Cadien }  
al -

Report confirmed, & Defend<sup>t</sup> condemned

Busby & al'  
Dedard }

Action for money paid on ac't of  
Defend<sup>t</sup>. as security in appeal for Dfd-

Ross for Defend<sup>t</sup>. - The appeal made without  
the knowledge of the Dfd<sup>t</sup>. - without any authority  
from him - no evidence that Dfd<sup>t</sup> ever had any  
kn. of the appeal - No evidence of any money pa'd  
by Dff. to Dfd<sup>t</sup>. - the facts don't. not and -  
ways, that they be considered as acknowledged by the  
Dff.

Stuart for Plaintiff - There was no disavowal of the letter  
in appeal - & it might have been made even after the  
Judg't in appeal - Every officer believed until his  
authority be disputed - This Court cannot now  
consider of the proceedings in appeal even had with  
or without the consent of the D.P.C.

Tuesday 20 June 1815.

Dufresne  
Touran }

The Court were of opinion that the interest  
was to be paid only on the sums payable  
yearly, and not on the whole of the Capital  
sum of which the payment had not become due -

Lanauzier  
Vige' }

Ordered that the licitation should be had  
in the office of Mr. Papineault, Notary -

On Petition  
of a. Deshay }

The Petition rejected, considered, that the Court  
has no jurisdiction over the property of the  
deceased, & could make no disposal of the  
estate -

Percuett Tal

Ermatinger

Roi. Gant }

Judg-

Chalifoux  
Maiotte }

Judg. of separation -

Cartier.  
Normandin }

Action dismissed....

Osborne.

Aubin.  
Jesseyman }

Mands over -

Burton  
Phelps }

action dismissed as to Oak wood

Burton  
Manning }

Action dismissed. -

Richardson  
Page - }

Action dismissed. -

October Term 1815

Monday 2<sup>d</sup> October 1815

There was no business before the Court.

Tuesday 3<sup>r</sup> October 1815.

No business before the Court.

Wednesday 4<sup>th</sup> October.

Oliver  
Jacobs

The Plaintiff resides in Quebec, and had authorized one Wm Hale his atty. to appear & prosecute the present suit in this Court - At the return after writ, the Plaintiff by the s<sup>r</sup> Hale, and the Defendant in person and now moved that the Plaintiff's suit should be dismissed as he had not app'd in person nor by an atty of the Court at the return of the writ -

This mo. the Court over-ruled, considering, that the order of 1785, did not extend to prevent a person not resident

resident within the jurisdiction of the Court, from appoints  
any person other than an Atty of the Court to represent him  
prosecute his suit for him

—  
Thursday 5<sup>th</sup> Oct. 1815

Fromentau  
Vige' }  
Vige' }

On the Defendant's mo. that Plaintiff's action  
be dismissed from the irregularity in the  
declaration, the same not mentioning the  
residence either of the Plaintiff or Defendant, nor shew to  
what jurisdiction they are amenable — Parties were  
heard —

—  
Monday 9<sup>th</sup> Oct.

Fromentau  
Vige' }  
Vige' }

The Court allowed Plaintiff to amend his  
Declaration, & to make same conformable to  
the writ of Summons which appeared to have  
been regularly sued out — & this on payment of costs

Demand  
Destroyers }  
Lebert, mis }  
in Cause

The Cause was put under consideration  
at the request of the parties, who declared they  
submitted the Cause on the evidence adduced  
without further observation -

Tuesday 10<sup>th</sup> October 1815. —

Oliva  
Jacobs }

action on a bill of Exchange drawn by Dft  
Cadien fa Dft. objects in law that the action  
cannot be maintained inasmuch as the bill of  
Ex. is payable in one year, & a protest for non-acceptance  
only is made, whereas a protest ought to have been made  
for non-payment also before the action can be brought —

Ross on behalf of plff, contends that the action is  
open from the moment of the protest for non-acceptance



Wednesday 11<sup>th</sup> Oct<sup>r</sup> 1815. —

Oliva  
Jacobs }

Interloc<sup>r</sup> dismissing exception in law pleaded by  
Dft. admitting parties to prove on sufficiency  
of information on q<sup>st</sup> the Capias was issued —

Marchand  
Clasen }

Judg —

Frost & Lindsay } On Pless' mo. for delivery of article seized on  
Saisie Recindication — the Dft. did not  
appear. — Deb't. —

Thursday 12<sup>th</sup> Oct. 1815

Frost &  
Lindsay }

The Court ordered that previous to delivery  
of the goods to the Pless they be appraised by  
two persons to be named by the parties —

Perrault  
Lafresnay }

On Pless' mo. to reject plea secondly pleaded  
by Dft. as being an excep. a la forme.

Friday 13<sup>th</sup> October 1815.

Perrault  
Lafresnay }

Exception dismissed. —

Monday 16<sup>th</sup> October 1815.

Archambault

Mondor -

Cartier & al mis  
in cause -

} cont'd till to morrow -

Tuesday 17<sup>th</sup> Octo 1815

Lacroix  
Corbin }

on mo. for enqueste - & on Sept<sup>er</sup> mo.  
for arbitrators -

Cailleux

Batrard {

on mo. for perempt. d'inst. -

Loubert

Levier }

Bonassau

opp<sup>t</sup>

On opp<sup>t</sup> of Bonassau - a Nun -

Puff contends that a nun cannot in her  
own name support any action for civil  
rights -

Selby  
McGillivray  
Legacies

Sol Gen<sup>e</sup> for Harry McKenzie, Tutor to Randolph Legate  
concern right in Legates to get interest, except case of  
Maria Sutherland & Poor Relations —

Legacies to daughter & younger son not to bear interest  
until monies recd —

General clause as to payt. of Legacies, being defered for y<sup>r</sup>  
next.

Bergeron.  
Cadien &  
al'

On mo. of Mr Bedard for distribution  
of Forts, as atts of Pless

M. Vigi. says he was atty of 2 Dpts. in original cause  
but contends that he cannot represent the 2 Dpts.  
on the rule obt<sup>r</sup> by the Pless. atty, as his power  
to represent s<sup>r</sup> Dpt. ended with the final judg<sup>t</sup>—  
as the rule ~~sought~~ to have been served on s<sup>r</sup> Dpt.  
personally —

L. M. Vix - In Cadieu, says, that Exon was sued  
out at his own costs - wh. he has paid -  
that no new Ex. can issue at Dft. on that Indt. as  
there can be no partial executions on Indt's of this  
Court - That distraint cannot be granted after  
Dissent & distribution executed sued out - The execution bears on it only  
law costs &c of Mrss & y Esqrs - which presumes that all other  
costs were paid - That if Atty obtains distraint of part  
in this case it ought to be without any costs on the  
motion -

Bedard in reply - contends that this rule is an  
incident in the cause & owing an Atty is suff.  
That Cadieu cannot object to the distraint demanded  
as it is evident he has not paid the Costs which  
are now in question - That previous to suing out  
Exon. he notified Suff that he wd. demand a distraint  
of part, although Exon was sued out regularly.

---

Wednesday 18<sup>th</sup> October 1815.

Dow  
Wilson  
E Contra

On report of arbitrators.—

Bender app'd for Plaintiff & prayed Judg't of homolog  
of the Report —  
the Defendant was in default.

Sacoux  
Corbin  
E Contra

The Plaintiff moved for a day for the Enquiry.—  
The Defendant objected to mo. as Plaintiff had not  
proceeded for upwards of two terms wherefore the  
cause ought to be dismissed, & made a mo. to this effect.

The Court were of opinion that a mo. in the peremption  
must be made previous to the mo. for proceeding in the  
cause & therefore disallowed the mo. for peremption and  
granted mo. for enquiry.—

Cailleaux }  
Butraud <sup>m</sup> <sub>sup</sub>

On Plaintiff's mo. for a new Trial -

Def't. moves to be permitted to file certain papers to rebut Plaintiff's right with a plea to that effect -

Plaintiff contends that Def't. is too late and cannot file any new proceedings in the Court, as the respite must be granted in Stage cause -

Poth. Vente 547  
Sullivan for Def't. The pleads is grounded upon a matter arisen lately in the cause, & is in the nature of an ex a/c pro. p.c. q/b can be filed in any stage of the cause -

—

The King }  
McCord <sup>n</sup> <sub>sub</sub>

On Certiorari -

Bedard for Pro's - contends that the Petition sent up with the record is nowise authentic, nor has any reference to the case before the Court -

L. M. Vige for Magistrates, refers to the order of the Court made upon the Petition in the 2<sup>d</sup> Sessions, q/b shows the authenticity of the same -

Friday 20<sup>th</sup> October 1815

Osborne

Aubin

Teneyman

Furnisher

action dismissed - on irregularity of service -

Merkel

" Forbes & Co

Judg<sup>t</sup>

Irvine & Lee

Forbes & Co

Judg<sup>t</sup>

Delise

" Richardson

& al'

Delise & Richardson

" L

Delise

" Richardson

Lee

On 3 actions joined ~

Judg<sup>t</sup> on Puff

Ker  
Lacroix

Dismissed -

Saloude &  
Asselin } Judg. for Plaintiff on the Bill, considering the  
Donation as invalid -  
—

Baby &  
Green - Action dismissed

Nedum

Provoost  
&  
Provoost  
Gard

Action dismissed, the Court considers that a  
Petition made by parties in Court operated  
a revision of any mortgages made by the  
purchaser. —

Bushydale  
&  
Bedard

Action dismissed —

Cailleux  
&  
Bertrand

Defendt. no. granted -

Dam  
Milne }  
& contra.

Judg -

Deneau  
&  
Desnoyers  
Laval. East } Judg -

February Term 1816.

Thursday 1<sup>st</sup> Feby 1816

The Ch. Just. absent at Quebec.

Rolland  
n }

The Off<sup>t</sup> being called app'd  
one of Dpts was called when Mr. Stuart said  
he app'd upon this Mr. Agard moved to discontenu  
the cause as to s<sup>d</sup>

Stuart cont'd. that such discontenu shd be granted only  
on payt. of Costs - Agard objected as no app'red  
had been inst<sup>d</sup> by Dpt -

Tarver  
Barker }

Que. as to proceeding on part of the Crown

C<sup>t</sup> Que. as to app're for a Dpt; arrested <sup>by act<sup>y</sup> when</sup> such matter depends  
at return of Process

Friday 2<sup>nd</sup> February 1816.

Tarver  
Barker {

action dismissed —

Charetier  
Gamelin {

On trial by Sp. Jury - action for defamation -  
verdict for Defd. each party pay<sup>s</sup> his own costs -

Labbaye  
Pell - {

Pltf. did not appear -  
Def<sup>d</sup> pray<sup>s</sup> action be dismissed —

Doyon  
Basset {

over —

Smith  
Stoye {

action on deed of Sale  
noth<sup>s</sup> said —

Goodhue  
Ellery. {

Pltf move<sup>d</sup> for Judg<sup>t</sup> - noth<sup>s</sup> said —

Saturday. 3<sup>rd</sup> February. 1816.

McGratt.  
Cooper. }

On Plff. mo. to reject a pleading filed by Defende  
as it was not marked filed in any list of Exhibits,  
and not a correct copy of pleading served on Plff.

Sullivan for Def<sup>t</sup> - The rule of prae. does not apply to pleas  
in abatement - the Plff cannot avail himself of incorrect  
copy of pleading being served on him by motion, he must  
except to it - There being no exhib. filed in the Cause  
this plea would not be marked filed on it. —

Galernau  
" " J  
Evans - }

On Rule to shew Cause why <sup>Plff</sup> Def<sup>t</sup>'s answers to facts  
& articles should not be rejected from record -

Nig<sup>e</sup> for Def<sup>t</sup> - The proceedings were irregularly taken  
to allow that fact don't. be rejected & be permitted to answer  
over again -

Agree for Def<sup>t</sup>. The Def<sup>t</sup> consents that Plff answer over  
again before the Jury, as Plff is too late to ask to set aside  
the answers after he has served out his Verdict.

Lawrence & Dayton  
Cuviller. }  
Price & Ditter. }

On Rule XIII for new Exptn -

Defd. pleads privilege of a member of Parl.  
Lex. P. 367. - exempt to answer in all Courts - p. 368 -  
369. - The Courts of Justice subject to Parl.  
Rule for Pltf. privilege extends only to answer of body  
not to ordinary process -

Cantinab  
Leonard }

On Pltf's mo. to reject certain pleading filed  
by Pltf -

Shout for Pltf - a second desperate plead. irregularly  
filed - as it regards <sup>certain</sup> of Pltf's after having by a general  
plea pleaded to the whole demands of the Pltf's

Rolland for Dft. the Pltf is too late to answer to pleas  
filed by Dfd. and is also too late to demand rejection of  
same - when Defend. has separate defenses to make  
to the different persons of Pltf's he must make the pleas  
separately - This application ought to have been made  
on the first day of Term - no rule of practice at this  
mode of pleading -

Shout in reply - It too late to answer, yet not too late  
to get irregularity set aside -

Monday 5<sup>th</sup> Feby. 1816.

- Cantin & Dal' }  
Leonard } X Pluff's mo. granted, except as to incidental demand  
made by defendt at trial —
- Lawrence & Dayton  
Cuviller } X opinion as to privilege claimed by defor  
at. suit —
- Galeman & Dup  
Evans } also granted —
- M. Gratté.  
Cooper } X Pluff's mo. granted — as copy of Excep'. had not  
been served on Pluff — not for first reason stated in mo.  
Galeman v. Weston. 11 ap. 1814
- Kimbale  
Bartwick } Diffr. mo. for com. Reg. rejected —  
Pluff's mo. in trial granted —
- Alex. Dal' }  
Fricelle } object by Diffr. to Excep. of Pluff as being a witness in  
cause — not regularly before the Court —

Galernau & Evans - G

On action for seduction - Trial by J<sup>r</sup>s.  
Jury - Damages £300

Tuesday 6<sup>th</sup> Feby. 1816.

Dumont N° 787

Richer } on defend<sup>t</sup> mo. for delay to call in his Garant  
Plff<sup>t</sup> states that action is for loss & enter, rents &  
exhibition of title, & Dif<sup>t</sup>. sh<sup>t</sup>. first exhibit his  
title before being allowed to call in his garant.

M<sup>c</sup> Gillivray  
& al " }  
Lederer }

action on a promissory Note -

Not stated in declr<sup>t</sup> that Thain & M<sup>c</sup>Leod are  
agents of N. W. Co & the action sh<sup>t</sup>. be in the name  
of the N. W. Co - not s<sup>t</sup>. at time note was drawn  
that the persons now Plff<sup>t</sup> were the persons who composed  
the co of McCawich M<sup>c</sup> G. & C<sup>t</sup> - - the recital  
of the note is defective.

Ross in reply. Agt a suff<sup>t</sup>. person to support action -  
but it is only description of the persons -

McGillivray  
etal {  
Debarrats } action on promissory Note. -

Gale for Df<sup>t</sup> - Defuds. mark not proved.  
only the signature of witness proved, but those  
witnesses not brought forward - same objections  
as to former action. -

Dubreuil  
Goddard } action of Re-endeavouur -

Rolland for Plff - only question now respects the damage,  
& the costs claimed by the Plff -

Bramble for Df<sup>t</sup> - The horse is only 2 years old  
not fit for any service, therefore no injury by his deten<sup>n</sup>  
no proof of damages, only of value of colt at £2.10  
the Plff has been a gainer by the Defuds. having kept the  
colt all winter - The suit ought to have been in  
the Inferior Court, as no damage proved a value of  
horse not exceeding £5. -

Olivia  
Jacobs } on Plff. mo. for horses on <sup>right to be an affidavit</sup> ~~exception~~ - & on  
Df<sup>t</sup>. mo. for horses. on merits -

Bender for Df<sup>t</sup> - the affidavit is circular -

it ought to have come forward in shape of a deposition  
Rolland on behalf of Puff - The supplementary evidence  
is stated in the affidavit of Df<sup>d</sup> having since the  
enquest day left the County - it is a presumption  
in favor of the affidavit of Puff -

On Exceptions -

Boston for Puff - evidence in support of arrest  
is sufficient -

Bender for Df<sup>d</sup> Hale who was the attg. is only wit-  
to support the Puff's allegation -

Reynolds  
Palmer } on Df<sup>d</sup>'s mo. to quash writ

Boston. 1. No copy of Judge's fiat served on Df<sup>d</sup>  
2. No endorsement on <sup>sum sworn to in the</sup> writ of affidavit, certified by  
the Puff or his attg. Ry-pr. 17. §. 2 & 3 -

Ogden - for Puff - 1. The object differently stated  
in the motion from the verbal obj<sup>n</sup> - besides not necessary  
to serve a copy of decree under - 2 The endorsement  
only necessary for the Office excepts writ - hence  
whole affidavit is endorsed its Richards v. Weston.

10<sup>th</sup> April last -

Young } On deft's motion that Plaintiff file a statement of  
Rouleau } rights or exemptions on demand -

Sullivan admits that he is bound to file such statement, but contends that there was no necessity for the motion, as the Rule of Proc. has determined that Dfd. is not bound to plead till such statement be filed, & he can obtain no more by the order of the Court on the present motion -

Forcier, - } action for restitution of a Deposit -  
Poucher. } On rule to show cause why Com. Rec. and  
out by Dfd. shd. not be suppressed -

Stuart for Plaintiff - no shs. stated to show that witness was or was not interested - Cad. Civ. Tit. Engage. - which must be done à peine de nullité. -

Rolland for Dfd. This objection shd. have been made before the Commission issued, as copies of interrogatories were served upon him & he made all objections he then had -

Stuart in reply - the depos' must be regularly taken up parties can be <sup>admitted to</sup> argued on the merits - Party obliged to object only to questions propounded. -

Mr Galloway  
at  
Hallowell

Denixt. No assignation. 462. N<sup>o</sup>. 13 —

Gousse - Tit. des assignations. Tit. 2. p. 126 —

Rip<sup>r</sup> - p. 160. re Ex. Test —

Nouv. Denixt. No assignation - §. 6. N<sup>o</sup> 9 —

Wednesday 7<sup>th</sup> Feby. 1816. —

Young  
Rouleau

Mo. granted —

Oliver  
Jacob

Objec<sup>t</sup> to Capias dismissed —

Dubreuil  
Gossard

Judg<sup>t</sup> —

Reynolds  
Palmer

Rule discharged —

Torrier  
Boucher

Rule absolute

Dewolfe }  
Deshauntels }

On Defd's mo. for Security for Costs -

Smart for Plff contends that Defendt. is not entitled to such security when Plff resides within Jurisdiction of the Court - that the passing into another County for a momentary visit or to transact any particular business ought not to alter the law in regard of security for Costs -

L. M. Nigé for Defd. - The Plaintiff is a transient person & had no settled domicile in this Country, & has since the commencement of the suit left the Country. - File an affidavit in support of motion.

Deshauntels  
Logie }  
Deshauntels  
opp't

Opp't. moves for warrant suspending his client - Sullivan for Defd. opp't the motion, as it ought rest with the Court under the circumstances, whether they will grant this, after hearing the Cause -

Stanley }  
Hingsford }

Action for money p. laid out for Defd -

Grant for Defd contends that there is no evidence to support demand -

Caille  
Bertrand  
al<sup>d</sup>

On rule to show cause why a pleading filed by  
stated Replies, shd. not be rejected -

Laureix for Puff. The Replies was filed on 5<sup>th</sup> inst  
as nothing was filed by Dft<sup>t</sup> on order of Court of 20<sup>th</sup>  
Oct. last -

Laurent  
Hubert

On Puff's mo. to reject a pleading from  
Record for want of being miscribed on a list  
of exhibits. -

The rule does not apply, only where there are exhibits  
and a list of exhibits on the record. -

*Re*

The Puff withdrew his motion -

Thursday 8<sup>th</sup> Feby. 1816.

Wednesday

Friday 9<sup>th</sup> Feby. 1816.

Gilbert  
Warner {

on Defd's mo. for see. for dismissing action  
for want of security for Cert -

Nollet  
Lalonde {

on mo. for nomination of Experts -  
The defendt objects to power of Court to send the  
matter to Experts - particularly as it involves  
a question of law arising out of the pleadings -

Saturday 10<sup>th</sup> Feby. 1816

Dewolfe  
Deshantel

Motion rejected, as the application was made  
too late.  
~~before or Bellange - 3 ans -~~

Gilbert  
Warren

Motion granted, action dismissed

Nolette  
Lalonde

Reserved to determine upon Plff. motion  
until the parties shall have been heard on the  
merits. —

Desautel  
Logie }  
Deshantel  
opp.

Same Judg - on opp's motion

Stanley  
Hinington

Ordered that Defendant appear on 17<sup>th</sup>  
to exp. on oath, touching the time he occupied  
the house in question //

Laurent  
Thibert

Motion rejected.—

Caille  
Buthaud  
&  
Caille's opp't

Plff. mo. granted —

Dorion  
&  
Clement

on Plff. mo. to reject plea filed by Defendt—  
as 2 guineas were not deposited with it. —

Bearbier for Def't. contends he has had no notice  
of motion — avows that by the plea being filed, it is  
presumed that the 2 guineas are in the hands of the  
Proth'r —

Bearbier then moved that as Plff had filed no answer  
to s'plica a day & h'be given for enquiry ex parte. —

Hall.  
&  
Stanley

On action of assumpsit on Promissory Note  
tried by Special Jury —

The Defendt being called did not appear —  
Verdict for Plff

Logan  
&  
Taft  
&  
Opp'rs

On Part of Drav. Church fil., Mr Logan  
moved for Indjt. on his claim —

Searl objects that cause is not in a state of  
naming from the opposition of the Seminary —

Galeneau &  
Evans - 4

On motion for a new trial by Defendant

1. By reason of the excessive damages -

- Clarke. Udall. 2 Salt. 649 -

- Sharpe & Bryce. 2 Bl. 942

= Goodwin v Gibron 4. Brm. 2108

Damages were excessive in the cause - - -

Reqd for Plaintiff - The Court cannot say that the damages are excessive - The charge of the Court was in case they did not believe the defense set up, to allow heavy damages to the Plaintiff -

Ross in reply there was no evidence to show that the situation of the Defendant was such as to support



Leduc  
Lalouette

On Plaintiff's mo. of 20 Apr. 1813 -

Rollands - the evidence not heard & a day must be given to Plaintiff to proceed - as he was not in default - the cause not being put upon the Roll the cause never called. -

Stuart in answer - the party who wants evidence must do diligence to procure it - & as a day was given to Plaintiff he ought to have availed himself of it -

Billowsal  
Wainer } Open The defendt's application is too late for Security  
for Costs - the mo. st. have been made yesterday  
& the rule to show Cause to day cannot be admitted.

O'Sullivan for Defd. the application is regular &  
in time -

—

Bridge }  
Patterson } Boston for defendt. contains that transaction  
is mercantile - parties merchants or traders -

O'Sullivan for Puff. parties not merchants nor traders

—

Reynolds,  
Palmer } An Puff. now. to reject plea -

Open in Puff - after plea to merits - there is  
a plea to the Court's jurisdiction - too late & 2 questions of  
Boston - Excep. per. in droit - action on a joint  
obligation - & Defd's bound only for their moiety, q't is  
not within the jurisdiction of the Court -

D

Aylwin,  
Cuvillee } action on Indict-

Rolland su Proff - Exceptions pleaded by  
Defend<sup>e</sup> - a day to proof - no proof made -

Braubach su Def<sup>e</sup> - gives up Explan

Young,  
Bryant

On merits - demand for rate & differ  
on premium - on Miles & Exchange 17<sup>7</sup>/<sub>8</sub>  
per Cent.

M. Gilroy  
Hallowell

On questi: touching service of process  
on Jas. Hallowell one of Def<sup>d</sup>s

Stewart su Def<sup>d</sup> state. Faran v. Stores - asks a day to  
proof -

Ross su Proff - no issue upon q<sup>b</sup> - proof can be had  
Griffin v. Langau - then a plea to the Jurisdiction -  
The Defendant must show where his domicile was -  
1 Chitty - 433. 4 -

Monday 12<sup>th</sup> Feby. 1816. —

Bridgeman  
v.  
Patterson }

Plff. mercht & auctioneer — Dfndt — Saddler & harness  
maker — demand for goods sold at auction —  
Plff. mo. dismissed. —

Reynolds  
y  
Palmer }

The Court considered the plea as ~~for non-appearance~~  
~~defendant~~ granted the Plff. motion —

Bellwood  
Warner &

Rule absolute —

Ledue  
+  
Laloude }

The Court were opinion that the Plff shd have  
moved this cause the first open day in Court after  
the day fixed for inquiry at wh<sup>ch</sup> his wife had not been  
heard, & having failed so to do, he was in default  
according to Rule Proce. sec. 27. §. 21 — Whereupon granted Dfndt's  
motion for hearing on merits —

Daniell  
Clément }

Plff. mo. granted — Defendt mo. rejects

The Plff now moved for inquiry ex parte  
it was opposed by Dfndt. who contended that he had  
3 days after Inst. of this day to file a Plea — but  
Court was of a different opinion —

Devolfe }  
Duchautier }  
Pl. mo. for security for Costs rejected  
as not made in time - on Can. White v. Dauphin  
17 June 1812

Berichou }  
Hubert }  
On Plff's mo. for enquiry -  
Def't. objects to motion as he has a right of  
reply before motion be made. -

Istent for Plff - the issue is complete, & there is  
no necessity for reply. The law not requires a Rep<sup>n</sup>  
when that is the case -

Garnotte  
Toucher }  
Chenuel  
Opp<sup>n</sup>

One mo. to reject. certain papers filed  
by L<sup>e</sup> Chenuel - as too late. Being filed  
only on 10<sup>th</sup> June 37. art. 5

Bedard for L<sup>e</sup> Chenuel - the rules cited do not apply - on 1<sup>st</sup> opp<sup>n</sup> filed Com. 3<sup>rd</sup> the moyens were filed, but without notice to parties, & therefore L<sup>e</sup> Chenuel not bound to take notice of them without a copy served on him - If contest be raised within 10 days it is in time -

Lacourix for D<sup>r</sup> J. G. is not bound to serve a copy of his moyens upon any of the parties -

Buthelot & Nothing or cause en débâcle —  
Diennes

Champlain & On exception à la forme —  
Lefèvre — action in negligence of debt. in not doing certain  
labour — cause在意 — excep<sup>r</sup>. to dec. le novo.

Rolland fr Diffr. 1. It does not appear at when intance  
or between whom the Judg<sup>t</sup> was given your const<sup>t</sup> action is  
founded — 1 Chitty 235. 255. 355 —

2. Not stated what kind of Judg<sup>t</sup> was given — who  
the parties — where the lands, nor what kind of work  
to be done —

Nigé J<sup>r</sup> for Pless. contends that exception is not founded  
the diff<sup>r</sup> were parties to Judg<sup>t</sup> in question, & the action  
is for executing that Judg<sup>t</sup> — The pless. have acquired  
the right of the person intended in that Judg<sup>t</sup> & now  
claim their rights under it. —

Perrault & One motion for a Com. Roy<sup>r</sup> to be granted  
Papineau by diff<sup>r</sup> —

Munn  
Stevens } on Report - noth's said -

Cantin.  
Leonard. } on Defend<sup>t</sup>s mo. to reject certain pleading in  
answer to Defend<sup>t</sup>s plea. -

Stuart for Plff. answered to the Plea in 3 days  
after the order of the Court rejects. the Defd<sup>s</sup> plea  
Roland J. Defd<sup>t</sup> - the Plff ought to have answered  
to the plea q<sup>t</sup> he did not demand to have rejected -

Dishantil  
Labadie } action in separation - the Plff submit  
Cause.

Osborne  
Finan } on Plff. mo. to file a deed of sale of a  
certain lot of land & to rescind the Interloc  
of  
Ross for Defend<sup>t</sup> agrees to the paper being filed  
submits the point as to rescinding the Interlocuting

Charles  
Trickett {

Puff. asks for Judg. on Report -

Argon for Dyer - The defendt. has had no notice  
of the meeting of the Experts -

Stuart for Puff. notice was given to Dyer att<sup>t</sup> 3

Tuesday 13<sup>th</sup> Feby. 1816

Berichon  
Hubert {

Puff's mo. granted, the filing a Rep: where the  
Issue is complete, being considered as matter of form  
in Clarke v M'Dowell 12 Oct. 1812.

Osborne  
Finan {

Rule abrolect

Cantin.  
Leonard {  
dele

Rule abrolect -

Lancaster  
Tucker  
Tucker  
oppo

Mo. over-ruled.

Lacroix      }      Nothing<sup>o</sup> —  
Corbin — }

Hutchinson  
Long<sup>o</sup> {      An exception to Plff. declaration —  
Sullivan, for Defd. some months, indefinite time  
ought to have been clearly specified —  
Buder - Parties must go to trial

McNiderland  
Labadie — }  
Widow and child  
depos —

action for goods sold at auction —  
Gale for Plff. Defd. in habit of paying for  
goods bought by his wife at auction —  
Inst. Paris. — Poth. off. & 234 art. Cour. Paris —  
Nique for Defd. — The wife exceeded the power given  
to her by her husband — she had left his house at  
the time — Wit. N<sup>o</sup>. 1. proves notice to Plff. — The  
Plff. did no diligence to recover the effects sold to  
Defd. wife after notice — see Wit. N<sup>o</sup>. A —  
Gale in reply — No proof of notice — nor was notice  
sufficient — The Defd. alone bound. —

Griffin & sons  
Harrington & Hall

On Plff's mo. to reject certain pleas filed  
by Dfndts.

Seville for Plff - mo. founded on Rule of Prac. Sec. 11  
§ 3 - the exceptions in question being general -

Stewart for Df<sup>t</sup> - The exceptions filed are not dilatory  
but are so presumptory 1. Person 157. - 1. The Dfndt.  
Juliana Langan is sued as witness to Mr & Mrs Leslie  
this is denied - 2 his presumptions. This not ex aps. dilatory  
but is presumptory grounds on facts extrinsic to Plff's declar.  
on 3<sup>d</sup> point - Is a defence are found en droit, & fait joined  
& parties must go to proof before any preparatory hearing  
in law. - Plea for Mr Leslie - 1. Is not under tutelle  
of Mrs Langan - 2 Plea for Mrs Leslie - 1. Not under tutelle of  
Mrs Langan - same plea as for Mrs Langan. -

Seville in reply, not stated in Declr. that Mrs Langan  
is ~~not~~ subjected to Leslie's wife - post. Proc. Crv. 30. it is dictation  
The reasons of the exception shd have been detailed -

Thayer  
Curtis }

On demurrer to except<sup>m</sup> - moths, 3<sup>d</sup> -

Algier  
Lamb }

On action of assumpsit. -  
on a sale of oysters -

Sullivan for Dfndt - No proof of purchase of oysters from  
Dfndt - want of identity of purchaser - W<sup>m</sup> N<sup>o</sup> 8 - 8. as in ap<sup>r</sup>. Plff.

Wednesday 14<sup>th</sup> Febt 1816.

Griffin & Son  
Langoustal

The Court held that the pleas of exception  
pleaded by Defendant 1<sup>st</sup> to the capacity of the  
Defendant and 2<sup>d</sup> of les faveurs - were exceptions  
prima facie en droit, and not dilatory. 1 Souv. 18<sup>th</sup>  
Suppl. 59. 96 - and that general pleading to  
the right of action joined to the denunciation of the facts  
in the same pleading, or chif de defense, was not  
considered that general plea of exception to all the oaths  
of practice refuted, as already held in case between  
the same parties 3<sup>d</sup> June 1815 -

Goujeon  
Danis

Action of Trover for a horse  
Plea. The Plaintiff delivered horse to Defendant  
voluntarily upon a contract between  
them -

The Defendant having made proof by a witness  
of this voluntary delivery to him, the Plaintiff proposed  
the question to the court whether at the time the  
Plaintiff was not in a state of intoxication - this  
was objected to as forming no point in the pleadings  
or contest between the parties - and the question

was rejected by the Court, as a point which ought to have been pleaded by the party, as tending to invalidate every consent or agreement between the parties, and proof of it could not be required — see Bunker v. Hobb & Co. 1815 —

—————  
Thursday 15<sup>th</sup> Feby 1816

—————  
Wednesday

—————  
Friday 16<sup>th</sup> Feby 1816

Richardson  
Marchand {

action for Re-union of land.  
On defendant's mo. for Expedit. ~~order~~.

Dumont  
Lacroix &c {

Action en bornage —

Rolleau for Pless — action for bornage of Seignory  
of Mille-Isles & Blainville — originally granted in the  
the continuation grants of

Beaubien for Dfd. Hutil - That Hutil is usurpator  
only, & Mr. Claus is the prop: & the action ought to  
have been brought against him<sup>also</sup> Poth. Cont. Socote. N<sup>o</sup> 232  
The Poth. says bounded in front by the River, & demands  
that the rear line of Dfd. Lignier follow the bends  
of the River. Dfd. contends that the rear line shd  
be by a straight line -

Lacroix for Dfd. Lignier - was never reg'd but by  
sums to this action to butt his superiority, & he was  
always ready & willing to do -

Rolleau for Puff, the line ought to be so drawn  
as to compensate the immovilities of the River with  
the land given, whether by straight line or not  
as this straight line would be disadvantageous to  
Mr Lignier - The action is right agt the  
usurpator - & he can in his own name institute  
that action - It is only as an act of prudence to  
call in the proprietor, but this concerns the Puff, as  
he alone can be called upon to butt agam w<sup>t</sup> the  
Propre - Now - Denis v<sup>e</sup> bornap. §. 3 -

Reps v<sup>e</sup> v<sup>e</sup> bornap - Domab. Civ. 2 tit. 5 §. 1 -  
N<sup>o</sup> 6 - Hutil made an act q<sup>t</sup> he may rescind  
but at present he possesses as Proprietor -

Beaubien in reply - When the prop<sup>r</sup> is pointed  
out the possessor alone cannot maintain action on  
borrower

Marchand  
Skakel's  
Cur'

On action of account. —

Plff. demands. 1<sup>o</sup> Costs at Dft. personally -  
2. charge of £10 - for trouble - + 3<sup>o</sup> - Sale of a Gold  
watch. —

Charles  
Taylor }

An Interloc<sup>r</sup> ordering parties to file a  
statement of acc'ts.

Call for Plff Dft. has produced acc'ts without  
proof - Plff debt proved -

~~Lamotte~~ Beaubien for Dft. an arrangement between parties  
Toucher subject to the delivery of the beer by note of hand  
of - has been paid —

Dumont  
Leblanc }

Action for Loss & W<sup>t</sup> & exploitation of title -

Lacroix - agree that Dft. shd. pay cens & rente due  
during his possession - this agreed to, only  
question as to Costs —

Caille  
Bertrand }  
Caille par }  
Rep. d'Inst.

On action of ant-

O'Sullivan for D'st - Plffs. rights sold to Math.  
Venti. No. 583 - droits litigieux - 570 - he  
can have no more than his pd. for those rights -  
offers to pay him 1400 qd. marks pd. for

—

Deshautels  
Wroow <sup>n</sup> Lajie }  
Deshautels }  
appt

On opposition for 11 tons of stone

O'Sullivan for D'st. contends that proof  
is not sufft-

—

Giffindax  
Langlands }

On mo. to reject certain pleadings  
filed by D'st. unless it be altered  
being improperly stated Replication -

as it ought to have been an answer to the exception  
filed by Plffs or these Plffs may reply thereto -

Ross for D'st. The issue is complete by the  
pleadings already filed, no more is necessary -

—

Osborne  
" Finan

Question to remove price of land sold  
to Dif<sup>d</sup>t

Ross for Dif<sup>d</sup>t - The letters were produced, & therefore he was not bound to pay, & now that title is produced, it is not sufft as it does not appear to have been registered within the time limited, at all events the Pless ought to pay fort -

Stuart for Pless the claim for registration is only Committatory - There sh<sup>d</sup> have been a specific stipulation in the contract that the money sh<sup>d</sup> not have been pd. until the deeds were delivered to warrant the Dif<sup>d</sup>t to withhold it - There never was any demand made for those deeds -

Douglas  
Cartier  
Sanguinet  
Lal Inter<sup>r</sup>

Action partition -

Stuart for Pless - Pless made out his evidence Dif<sup>d</sup>t made no defense - after q<sup>th</sup> Sanguinet came in & contested the property as belonging to Dif<sup>d</sup>t under pretence of being the Garant of Dif<sup>d</sup>t q<sup>th</sup> was not allowable as a Garant is not bound unless regularly made a party & called to defend the action -

Ross for Interv<sup>n</sup> Party - The Intervention has been admitted by Duff. Hunt - The documents produced by the Plff not sufficient to support his action - The Defend. has possessed for ten years upwards with title & this is sufficient w<sup>t</sup> the claim of the Plff - The Plff never had the tradition of the property under his title & he cannot support the action to take away the possession of another -

Stuart for Plff - The legal right is in the Plff under title from the Crown, & therefore the poss. & title of the Defend. is no bar to the action - refers to Case of Alexander v. Douglass - where question has been decided -

Ross in reply - objects to filing original deed  
the other papers only copies -

~

Saturday 17<sup>th</sup> Feby, 1816.

Charetoux  
Garnelin.

On Depo<sup>s</sup> m<sup>r</sup> for Judg<sup>t</sup> on Verdict with  
all costs —

Smart & Pliss the Defendant asks for Judg<sup>t</sup> on the  
verdict, which is an entire thing according to which  
each party must pay their own costs — but in this  
Court without such verdict the Court would have  
divided the Costs, the whole question turning upon  
a recrimination of ill-language between the parties

Perrault.  
D'arcaine.

On report of Experts —

Oliva  
Jacobs

Action on bill of Exchange. —  
Notes o<sup>r</sup> Dep<sup>t</sup>

Gray. Esq  
Richard  
Jacobs & al  
Leroux

On rule to shew Cause why the lands sold to  
mis en Cause should not be re-sold at their  
full value. —

Leroux in Mis-en-Cause — are ready to pay on  
settling a little — ought not to be held to pay Costs

Paysant  
Gervais }

Action for damages by neglect of Defendant  
to clean certain ditches in fall 1814 -

Lacroix for Dfndt - Not s<sup>r</sup>. when damages were occas<sup>n</sup>  
that Dec. ex novo, ought not to be allowed to remedy to the  
defect - Case not proved - That the date of donation  
is not stated sufficiently either by its date, or before  
whom executed -

Munro for  
Leroux, So  
to Ph. Leroux  
about.

Requête d' Envoy en poss. of the Succession  
of Philippe Leroux about for 50 years from  
the Province -

Nigé for Leroux - accedes to demand as to  $\frac{1}{3}$  of the  
succession - as there is another brother B.<sup>t</sup> Leroux  
who is dead, but has left heirs who are entitled  
to the third in the suc. of o<sup>r</sup> Philip Leroux their only

Rolland for Pet<sup>r</sup> Denonv<sup>t</sup> re absent - & Envoy  
en poss. not necessary the party shd. be considered  
as dead - The other absentee not to be considered  
as the Court not obliged to know him. -

Charles  
Rouleau

action for Rum sold -  
not b. said -

Gambier  
Rai -

action on Note — not b. said

Fauchie  
Sexton }

Action for price of a horse -

Rolleau for Puff - proof is made out by  
answers of defend. on facts & articles - The Plea that  
horse was return. bad, as party is not bound to warranty  
in sale of this vice - Refd. v<sup>e</sup> Cheval - Ferriere re  
Redhibitory - there must be an express warranty agt  
it - No action broug. in the 9 days for this vice, only set  
up. on the 5<sup>th</sup> inst and burden is not proved -

O'Sullivan for Difd. There was an agreed between  
parties as cont'd. in a letter, & contrary to which there  
appears a defect - he refuses to march alone -  
the Puff must have known this defect, as it does not arise  
in day -

Rolleau in reply - It is not a vice redhibitory  
that horse is return -

Rolland  
Mailloux &  
al' u } On action for fees as an advocate & Cllt<sup>t</sup>  
Stuart for Dfnd<sup>t</sup> has pleaded that other  
parties not joined -

The Plff. states a contract with Dfnd<sup>t</sup> alone  
& Dfnd<sup>t</sup> not entitled to this exception -

Stuart in reply, where more are bound than  
those sued they must plead it, to entitle those sued  
to the same against others - not denied in answer  
to exception -

—

Reymond  
Gobenky } Noth's said

—

Orton  
Farmer } D.  
Sullivan  
Gurush

Gur  
Wolffe } action to rescind a deed of lease of a  
house - in consequence of an infringement  
of lease

Ross for Plff - cites -

Grant for Dcp<sup>t</sup> - Pliff knew that Defende<sup>d</sup> had  
leaved the house in May last, but it was never  
objected to by him till now last - If the under  
lease had been made to persons of a different property  
then Pliff w<sup>t</sup> have been right - Potts. Bail a large  
No 200 - Not stipulated that the non-fulfillment  
of the lease shall operate a revocation thereof

Archambault  
Mondor &  
Cartier Sal

action as Syndics for repairs to Church  
& Report of Experts thereon

Ross. for Dcp<sup>t</sup> no motion for last proviso about  
of rule of practice - the report came in the 2<sup>d</sup>. whereas  
the Rule required 1<sup>st</sup> - There is no paper annexed  
to the report of the motion given as referred to. —

Vige in reply - The Experts made survey within  
the time before expiration of rule - but the return  
was made in Court the 2<sup>d</sup>. instead of first - but  
this is no objection to the validity or regularity of it,  
Now demands homologation of the Report & Dcp<sup>t</sup>  
adjusted to pay the sum of damages allowed — the  
parties were present at operation —

Ellie.  
McKenzie  
Carr  
Craigie & Sub.

On action on Deed of Sale  
Rolando Jr. Puff asks Judge

Against the Defendant - the purchase was  
made for the concern - & they were put in as  
Garants vs Defendant - of this proof has been  
made -

Mr Lowell for Garants did not appear

McGrath  
Cooper &

on Note of hand - to see proof

Krafft  
Stores

on action to recover a certain keel  
boat belonging to Puff -

Grant for Defendant. The Defendant saved the  
boat as it was drifting down the stream &  
laid out money in the preservation of it -  
was possession or bonne foi - Rep. V<sup>o</sup> Recoulement  
022. - Obi. 583.

Boston in reply. Def. in bad faith by  
the widow adduced -

Lamothé  
Toucher }  
+  
Toucher opp }

On mo. of L<sup>o</sup> Chénier to obtain delay for  
filing certain exhibits. —

Sullivan for L<sup>o</sup> Chénier says, that this application  
is founded on an admission proposed by the Oppost.  
Toucher - as he is one of the heirs Chénier within  
the general admission of Dep't.

Beaubien for Dep't - The demand to file exhibits  
is made too late - as they ought to have been filed  
with the opposition, or a delay obt<sup>r</sup>. for filing them -  
at the time, it is now too late after the pleadings have  
been filed - In the admission of the Dep't. no cause  
is expressly made as to claim of L<sup>o</sup> Chénier -

McLacraix also for Dep't has not waited the opinion  
of the Court, but has filed answer to the exceptions filed  
by the Dep't with the oppos<sup>r</sup> of Dep't and has at same  
time filed 3 exhibits in support, which have been  
irregularly filed, so<sup>r</sup> Dep't now moves may be  
rejected -

The King  
M. Corr. }

On certiorari -

L. M. Vige' in Grand Voyer - on 12 June last  
the proceedings were sent back to the Justices to  
complete the processus. The proceedings are now  
complete & may confirmation of Judgment -

Open for Oppost<sup>t</sup>. The proceeding brought up  
regard a bridge on River Buttine, whereas it  
regards a bridge on River Bayonne -

Thayer  
Curtis. }

on Defend<sup>s</sup> me. for Com. Ruy<sup>n</sup>

Open for Puff. The Dft. shows nothing  
to entitle him to the Com. or to delay the proceeding  
thereby -

Richardson  
Marchand. }

On action en Reunion. -

Open for Puff may Judgment on evidence  
adduced. -

Bowen  
Lay  
Divers part  
in Cause

On rule on the mis en Cause to show  
Cause why there should not be a folle  
chere

Mr. Agden produces a title to show that the Sheriff  
of the District of Three Rivers has given a title of the  
land to another person - is willing to pay for the land  
on getting a title from the Sheriff in the same -

Mr. Gale & Mr. Davies state same reasons -

Goujeon  
Danis

Action of Revendication -

Grant for Puff, claims horse & damages. - etc.

Rep. re Revendication - p. 623.

Viz. to Dif't. declines using the fact <sup>untrue</sup> ~~that he proposed to Puff~~.  
Not that the Dif't. was in bad faith. not proved that Puff was in liquor.  
Grant in reply -

Warner.  
Bell.

Action of Trespass & assault, & also for  
carrying away Puff's Cattle -

Young  
Bryson

Question touching right of stipulating  
17½ premium - stipulated on casualty -

Dif't. T. Rep. Young. Talbot & Will. - Name No. 95 - 123 -

Monday 19<sup>th</sup> Feby. 1816.

Dumont } N° 833

Lacervixat }

The pleas of Hugues Herbel as usufructuary rejected -  
ordained that the line of separation between the spouses,  
be drawn straight according to the respective titles of the parties  
adding or deducting such difference in the superficial measure  
as may be occasioned by the immunities after Rueil -

Charron du  
Garnelius }

The mo. being made in confirmation of verdict  
the Court considered that they could not set aside  
that part of it which regarded the Costs, it being  
an entire thing, but that Dff<sup>t</sup>. ought to have made a  
special motion to this effect. —

McNiven & sons  
Labadie. }

The Court considered that Dff<sup>t</sup>. was liable upon  
the evidence adduced that he had been in the  
habit of paying for goods bought by his wife at  
auctions, and that the notice given by the Dff<sup>t</sup>. in this  
case to the Plff<sup>t</sup>. not to trust his wife, was given after  
the sale & delivery of the articles. —

Griffin <sup>sux</sup>  
~  
Frazer

Rule absolute — —

Rolland  
" Mailloux  
etal.

The Court used to determine on the exception until  
the parties should be heard on merits. —

Derey  
" Young

Action for non-rent, & for rescinding lease as Plaintiff  
was under the necessity of inhabiting the house himself  
The Defendant made default, but the Court upon hearing  
of the Plaintiff's evidence was of opinion to adjudge Defendant to leave  
the house on 1<sup>st</sup> May 1816, notwithstanding the lease expired  
only on the 1<sup>st</sup> May 1817. —

Thayer  
Curtis —

The Defendant's motion granted, as it did not  
delay the Plaintiff in his proceedings —  
see Charles v. Baynes — 18 Ap. 1815 —

Galeman  
Evans. —

also for new trial rejected —

see A. T. R. 641. Dabney v. Gunning —

Tavernier  
Cuvillier }  
S. &  
Smith.

On mo. of Chas. Smith to be subrogated in  
the room and place of the plff in prosecuting  
the Sale of the Defendant's lands & Tenements-

as Plff has not done diligence on the execution  
sued out by her.-

Rolland Jr Smith - refers to Proc. Cw. Pothier - &  
commits that on default of plff showing diligence  
in the proceedings on the 1<sup>st</sup> day of next Term  
the motion be then granted. -

Quittard.  
Hagar }

on Defend<sup>r</sup>'s mo. for security for Costs  
and on Plff's mo. for a Com. Recg<sup>r</sup>

Starkie  
Odell }

on Rule to show Cause why Expon  
shd not issue on Indst -

over -

Tuesday 20<sup>th</sup> Feby. 1816

Young  
v  
Bryden

Judg<sup>t</sup>. in difference of Exchange on  
Gov<sup>t</sup> Bills on note

Mashal. v. Poole. 13. T. Rep. p. 98.

Guy  
v  
Malffer

Judg<sup>t</sup>. regarding Lien, but not at the  
under Lenes. —

Munro <sup>sux</sup>  
v  
Leroux

Convai in pros. for 1/3 Am. of Philipp.  
Leroux —

Lavenu  
v  
Civille

Smitis motion granted, on default  
of Off<sup>t</sup> doing diligence by 1<sup>st</sup> of next  
Term —

J. Grant  
v  
Brisbois

on mo. for evidence

Object<sup>d</sup>. that party ought to have moved on the  
first day of Term —

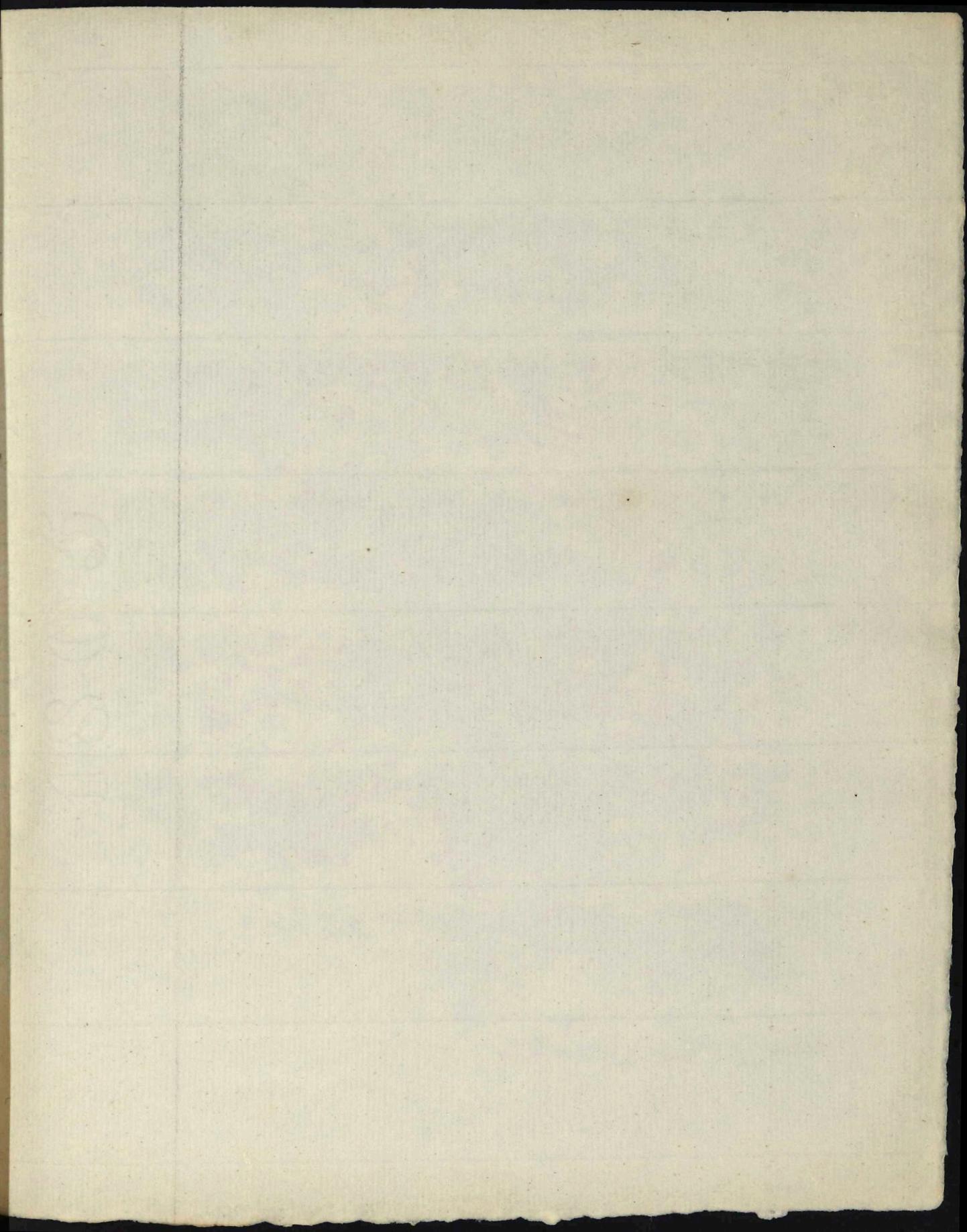
Grant. — There was a concert last Vacation 11 day<sup>s</sup>, last  
to continue came generally —

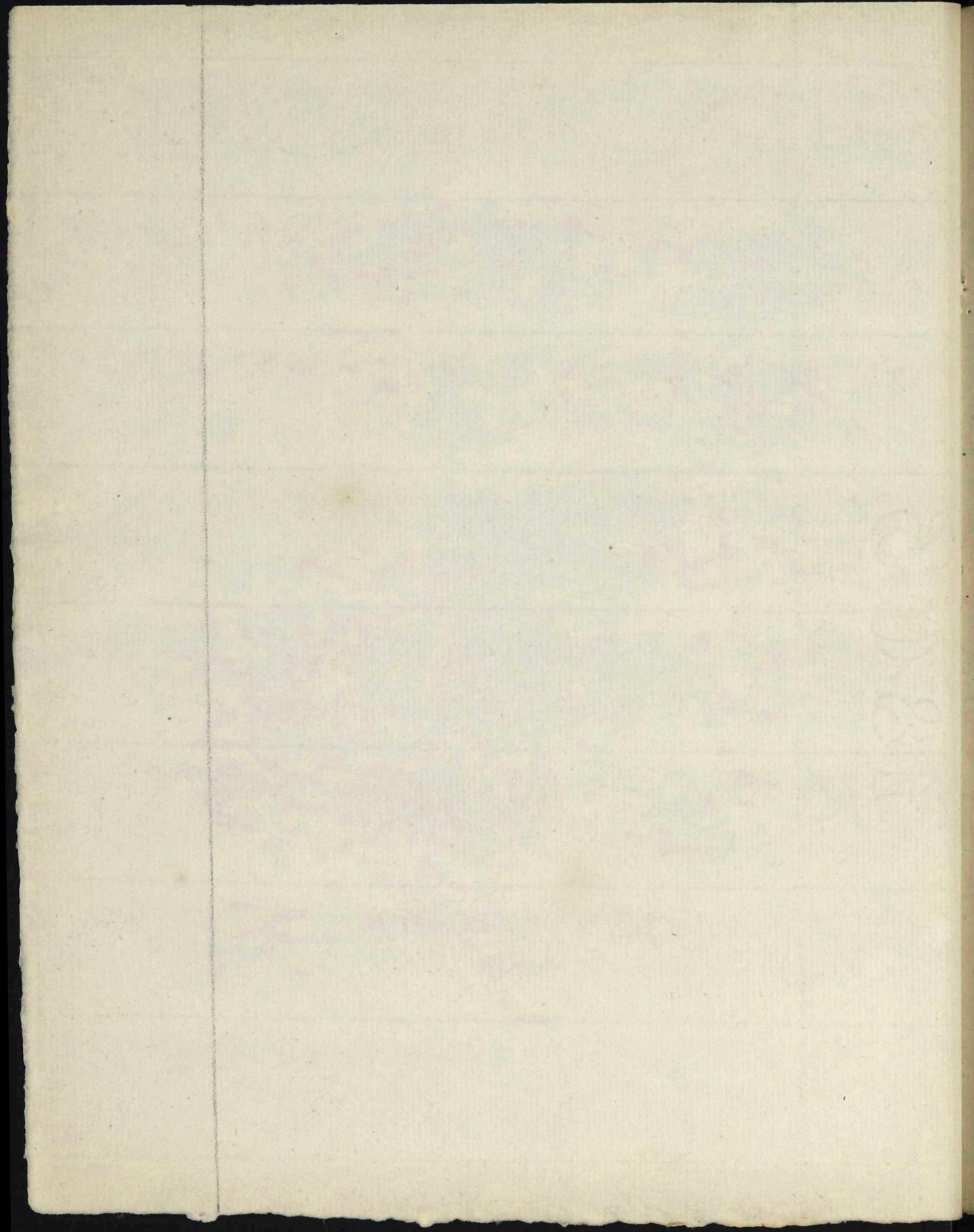
Stebb  
Bagg

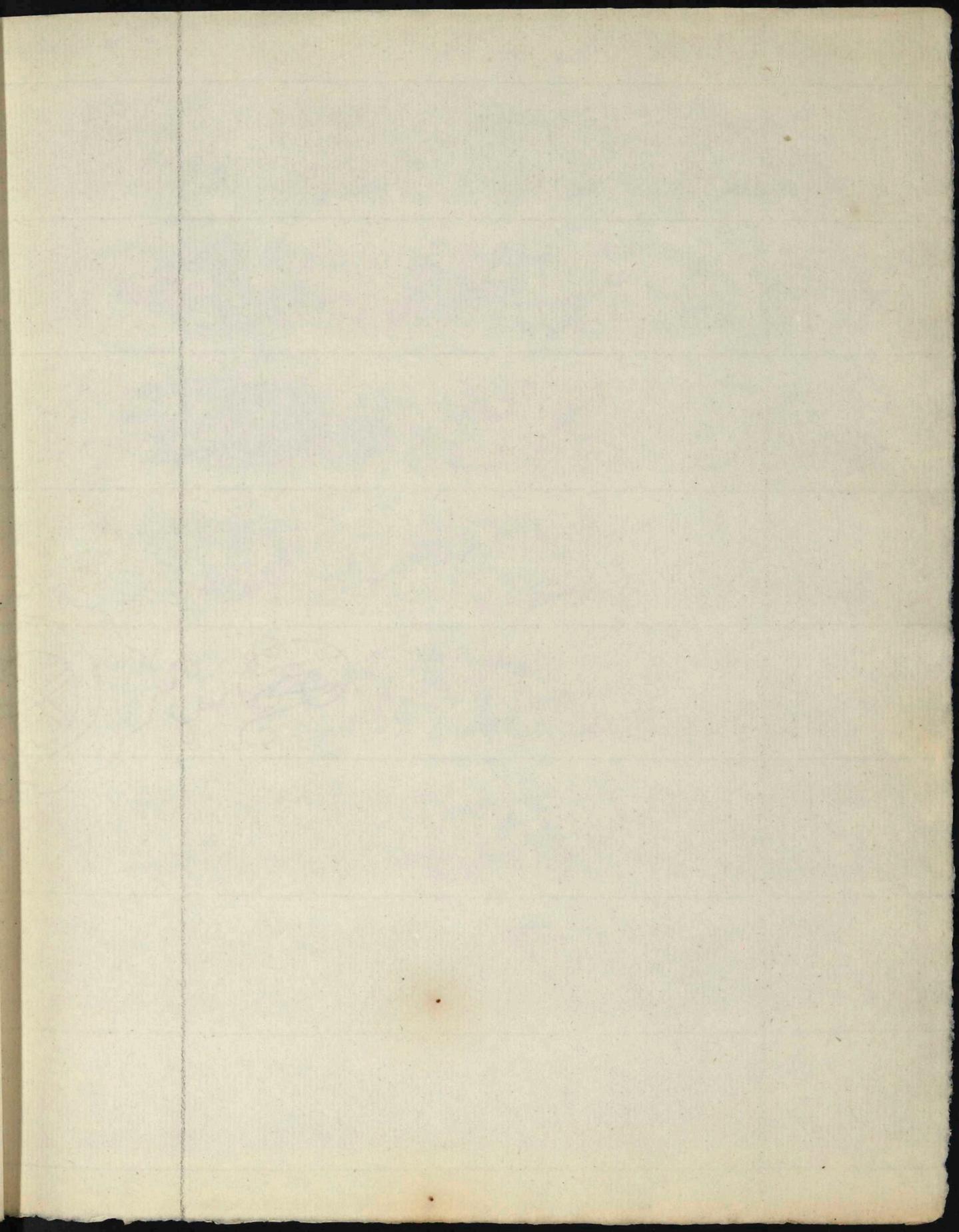
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On mo. for enquire -  
Agree - came up to Exports 5 years ago - Linc.  
irregular - a presumption ought to be granted -

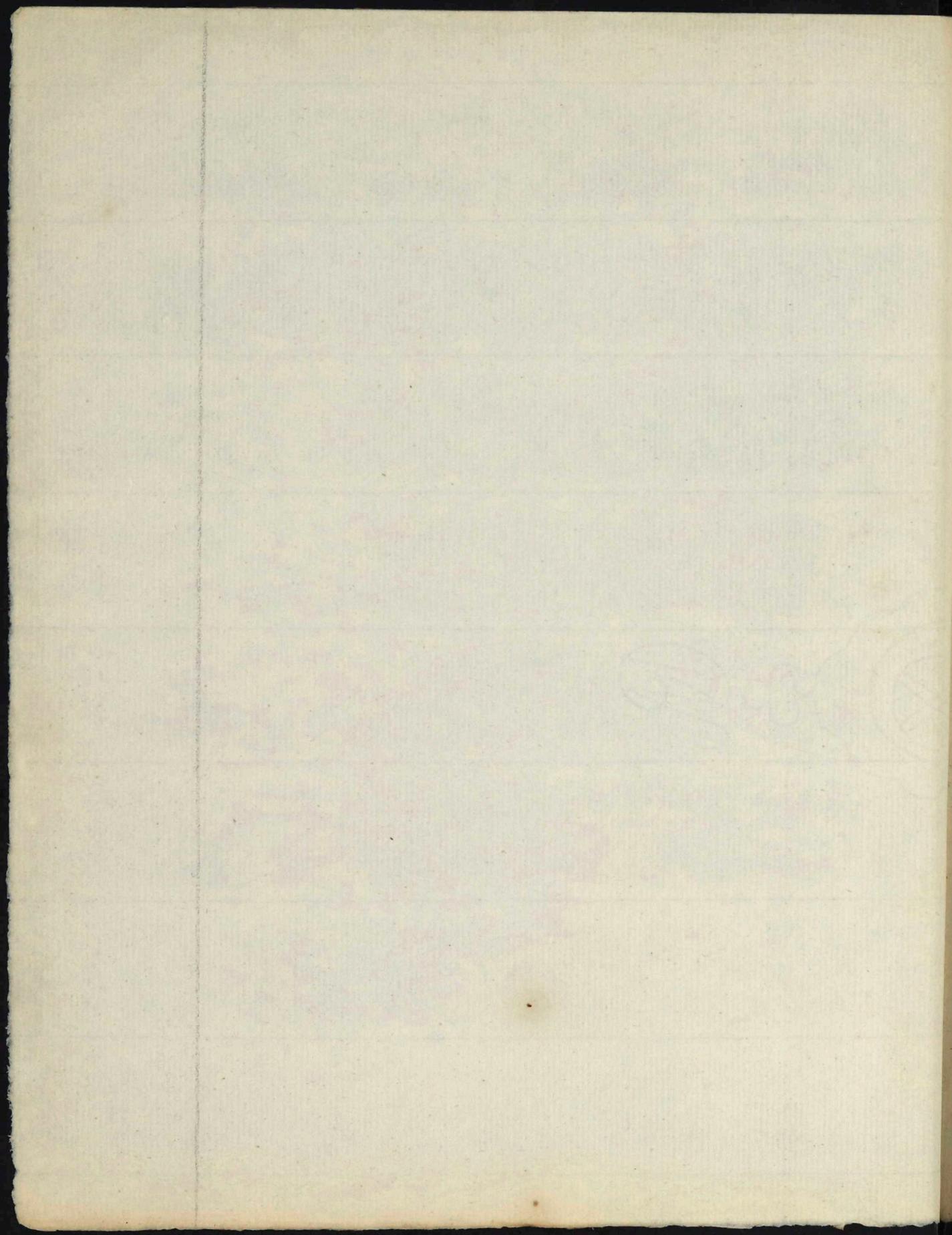
M'Gillivray  
Meacham

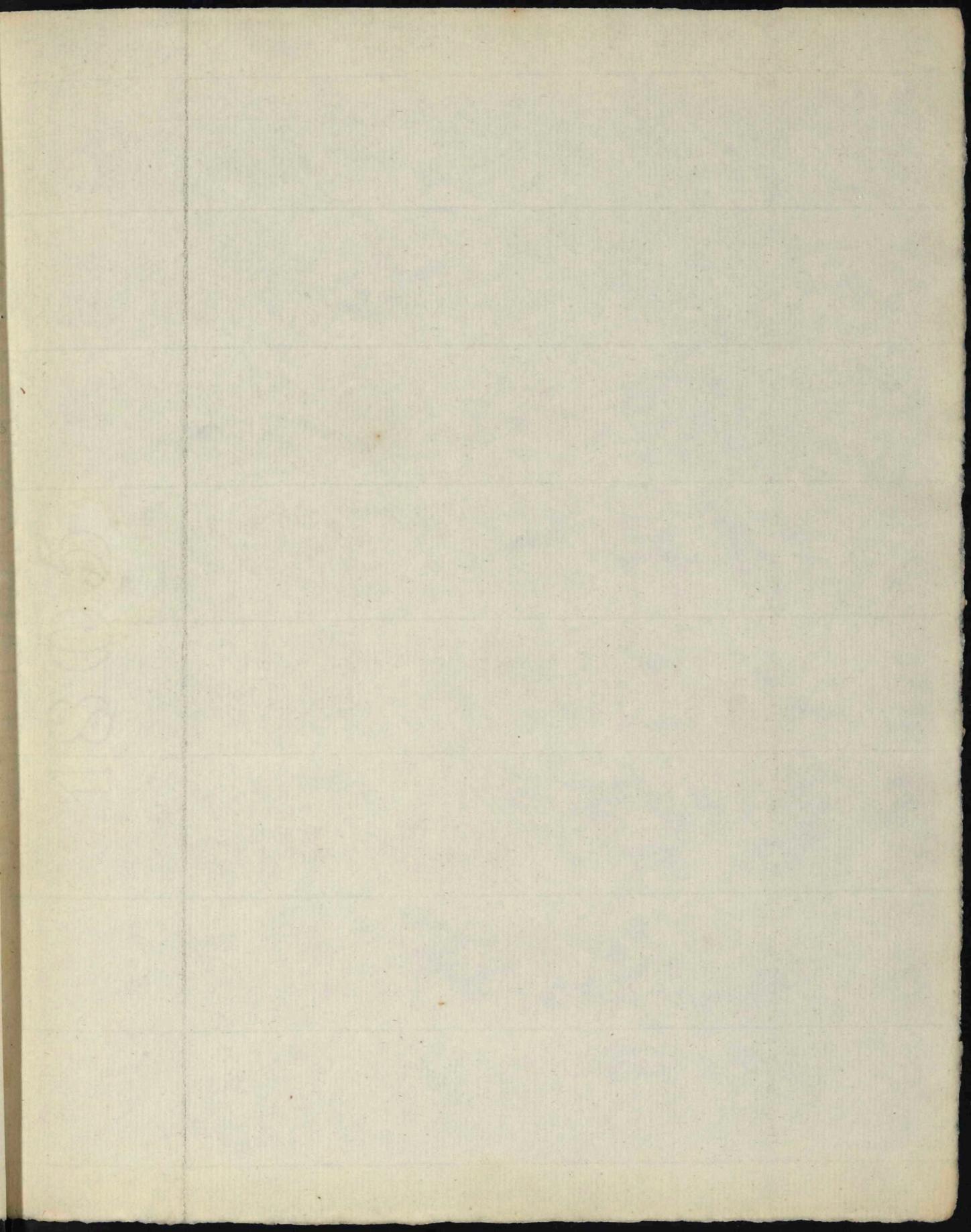
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Mo. for enquire -  
The came not in a state to be set down for  
enquiry - presumption incurred. —

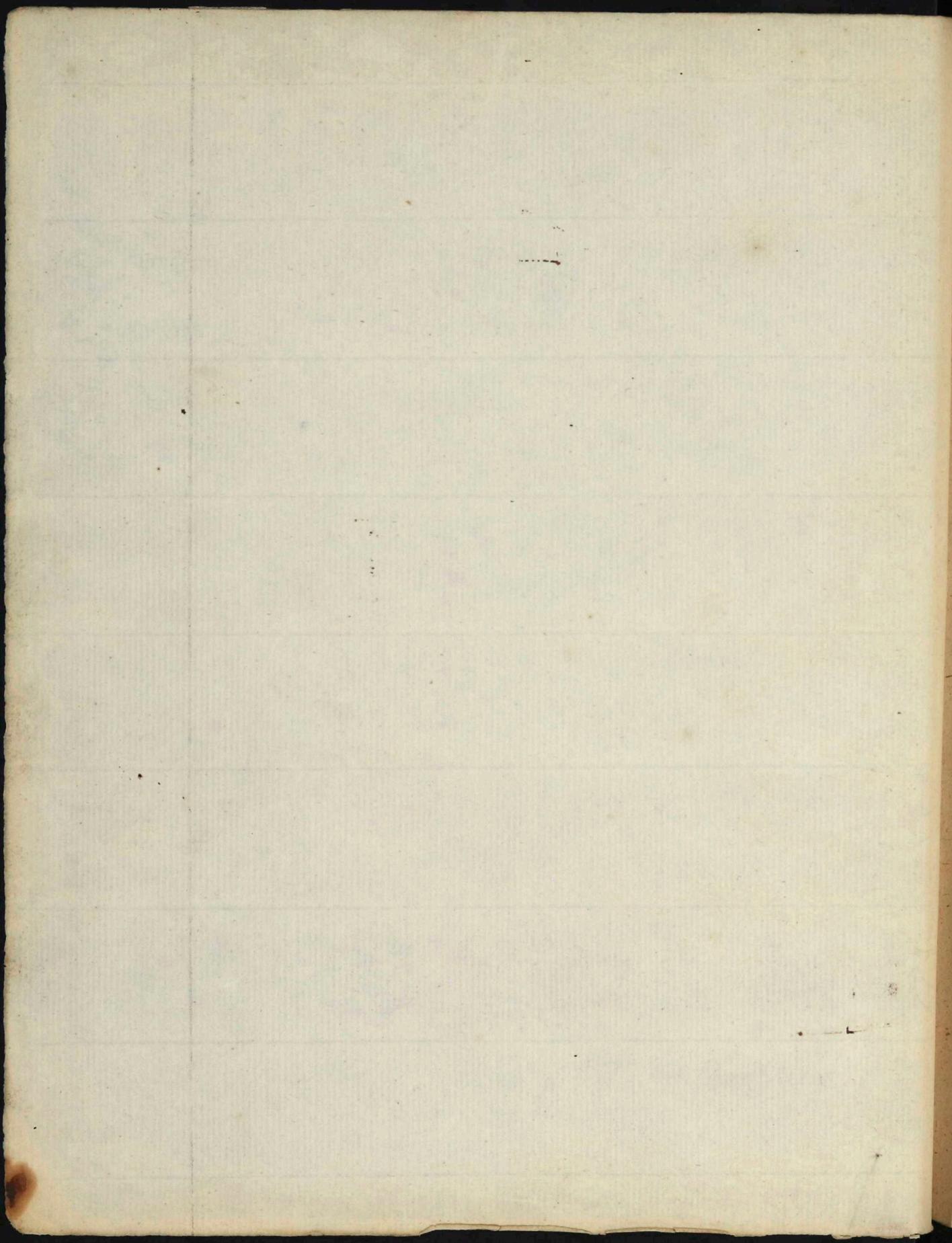


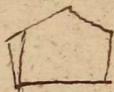




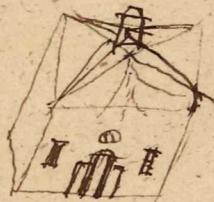








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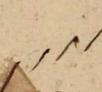
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An & Eliz  
Chas Dant -  
Emma Fanny