

almost unanimous, and he had no hesitation in saying that they were conclusive. This action must, therefore, be dismissed with costs.

*A. & W. Robertson*, for the Plaintiff.

*F. Griffin, Q.C.*, for the Defendants.

### SUPERIOR COURT.

Montreal, 5th October, 1867.

MORIN, FILS *v.* MEUNIER.

#### *Settlement of Accounts—Disputed Credits.*

MORIN, J. It appeared that in 1865 Morin and Meunier entered into an arrangement, under which Morin was to purchase corn for Meunier, and was to receive a certain commission upon the amount of his purchases. He proceeded to purchase corn in virtue of this arrangement to the amount of \$5,000 or \$6,000. During the existence of this arrangement Meunier was in the habit of paying considerable sums to Morin in liquidation of the amount the latter had paid for the corn. The last of these payments by Meunier to Morin was on the 4th of November, 1865. Immediately after the contract had been executed, difficulties arose between the parties about their accounts. There was one peculiarity in this case that was worthy of notice. Morin sent in a statement of purchases made by him, and both parties agreed that this statement was entirely correct. Morin, although he might be an ignorant man, and not much versed in keeping accounts, nevertheless seemed to have kept his accounts in this matter with great care and exactitude. The difficulties that arose between the parties resulted from payments made by Meunier to Morin. It did not appear that Morin kept any particular account of these payments. It was true there were two statements filed as exhibits which purported to be an account of the payments made, but there was a motion to reject these papers, and this motion must be granted, because the Court did not think that they could be received as evidence. The Court had, therefore, to deal with the receipts given by Morin to Meunier. It appeared that Meunier had sued Morin for a balance due, in another jurisdiction, at Joliette, which action

was connected with this affair, but the Court did not regard this as having any importance in connection with the present suit. With his declaration, Morin, the plaintiff, had filed a statement of the corn he purchased, and the defendant acquiesced in the correctness of this statement. The plaintiff also gave credit for certain sums received. There were two items, one of \$180, and another of \$600, which alone gave rise to any dispute. If the Court had it in its power to dispose of these two items, the case would be clear enough. Taking up first the item of \$180, it would appear that this \$180 was paid by Meunier's clerk to Morin. There was no dispute on this point, because there was his receipt for the sum. The receipts were all kept by Meunier in two small books, with the exception of the one for \$180. The receipt for this sum was written in pencil in a small dirty book which had always belonged to Meunier and had been in his possession. In looking at this receipt, it was manifest to a practised observer that it was originally \$200 or \$300, and had been changed from that figure to \$180. That was the amount paid by Meunier's clerk to Morin. There was no difficulty with regard to the fact that this sum of \$180 had been paid. The whole pretension of Morin was that this \$180 could not be charged, for this reason: On the 10th of October Morin received \$300, and it was contended by him that the \$180 in question was included in the \$300 paid at this time, and that the defendant sought to obtain credit for the same sum twice over. Dealing first with this \$180, the Court had the receipt before it, and it had also before it another receipt given on the second day after for \$300. It was the duty of the Court to say either that this sum of \$180 must be included in the \$300, or that it must stand alone. There is no principle of law more clearly acted upon than that receipts are by no means conclusive evidence. They do constitute *prima facie* evidence, but it is competent for the parties to prove that the money was not received. Morin had attempted to do this. There was evidence to the effect that Morin, after becoming aware that there was an overcharge of \$180, on coming to Montreal, was again desirous of entering into business transactions