

whatsoever from the Seminary. He came to Mr. Hébert as the agent of the purchaser and said this: "*Je suis autorisé par mes clients . . .*" He appears as the attorney of the purchaser during the whole transaction, he represents the interests of the purchaser and acts in this capacity throughout. And under these circumstances he claims a commission from the vendor.

"The custom as alleged by plaintiff is not established. Mr Cradock Simpson, who is one of the best known real estate agents in Montreal, says: "We invariably stipulate in our contracts that the acceptance of the offer is subject to the payment of a commission." We are therefore of opinion that on this ground there is no ground of action for the recovery of the commission.

"Finally, the appellant claims there is a commencement of proof in writing in his favor.

"Now the contract in this case makes no mention of a commission, nor was any such mention made in the pour-parlers between plaintiff and Mr. Hébert. —Plaintiff contends that the letter above referred to contains this *commencement de preuve*. Not at all, quite the contrary. There is no *commencement de preuve* therein that it ever was intended that a commission should be paid, and we do not find therein anything which could justify us in referring the case back to the Superior Court to allow the plaintiff more latitude in his parol evidence.

"We therefore think it our duty to confirm the judgment of the court below.

*Cross, J.*—"The appellant is a real estate broker. He discovered certain persons who desired to buy a piece of the respondents' land, and waited upon the respondents to ascertain if they would sell. The respondents were having a school carried on on the land and they answered that they would not sell unless they secured another site on which to carry on the school. The