to the *enquête*, costs of which were divided by defendant, as in the second case, being condemned to pay his own costs of *enquête*. I have already said that the witnesses were heard in open court before the same judge, the first witness being heard on the 13th of November, 1883, and the last on the 9th of April, 1884.

The defendant, gaining in the first suit, and having the demand reduced from $112.50 to $62.50, complains that the Court made an error in estimating the value of the occupation at $37.50 in place of $10, or $5, or nothing. The evidence written extends over 200 folio pages, and the twenty-two witnesses were before the judge, who had the advantage of seeing them, which we have not had. I cannot say that the judgment is wrong. The judge may have judged from the manner and expressions and appearance of the witnesses, of which we can have no record, no photograph, in this Court of Appeal. I dare not take the responsibility of touching this judgment. Here is what is said in Louisiana in similar cases, 2 Martin's Reports, N.S. [55]: "Judgments of inferior courts, on matters of fact, always prevail in this court, unless manifestly erroneous." Idem [56]: "Under these circumstances we are unwilling to deviate from a rule as firmly established as any other in this tribunal, namely, that the judgment of the Court below, on matters of fact, always prevails here, unless manifestly erroneous."

Judgment confirmed, Sicotte, J., *diss.*

Préfontaine & Lafontaine for the plaintiff.

Geoffrion, Lafleur, Rinfret & Dorion for the defendant.

COUR SUPÉRIEURE.

MONTRÉAL, 16 nov. 1885.

Coram MATHIEU, J.

WINTELER v. DAVIDSON.

Substitution de Procureur—Frais.

JUGÉ:—Que sur une demande de substitution de procureurs, la partie requérant la substitution n'est tenue, en vertu de l'article 205 C. P. C., à l'égard de ses avocats qui eux mêmes en avaient remplacé d'autres durant l'instruction de la cause, qu'au paiement des déboursés et honoraires par eux gagnés depuis la date où ils ont commencé à occuper dans la cause, et qu'ils n'ont pas le droit de réclamer en outre le mémoire de frais dû a leurs prédécesseurs malgré qu'il n'apparaisse pas que ces derniers aient été payés.

[Cette question avait été decidée incidemment dans le même sens par la Cour du Banc de la Reine.—*Montrait & Williams*, 24 L. C. J., p. 144.]

CIRCUIT COURT.

MONTREAL, Nov. 17, 1885.

Before CARON, J.

ARCHAMBAULT v. THE GAZETTE PRINTING CO.

Master and servant—Rule requiring vaccination of employee.

The action arose out of the smallpox epidemic. The defendants had issued a notice to their employees requiring them to be vaccinated before a certain mentioned date, offering vaccination free, and stating that any employee who refused to protect himself against the smallpox contagion would be dismissed. Archambault refused to be vaccinated, and he accordingly was dismissed. The action was taken to recover $10, amount of one week's salary as compensation.

CARON, J., in delivering judgment, held that Archambault had no right to refuse vaccination, and that the Gazette Company, in dismissing him, acted properly and with due regard for the health of the other employees.

Action dismissed.

Mercier, Beausoleil & Martineau for the plaintiff.

Busteed & White for the defendants.

COURT OF APPEAL (ENGLAND.)

Nov. 27, 1885.

LORD ESHER, M.R., COTTON, L.J., BOWEN, L.J.

EMMENS v. POTTLE & SON.

Defamation—Publication of Newspaper—Newsvendor—Knowledge of Defamatory Matter—Newspaper of Defamatory Character.

Appeal of the plaintiff from the decision of WILLS, J., entering judgment for the defendants upon the findings of the jury in an action of libel.

The libel complained of appeared in a periodical newspaper called *Money* on February 11 and 18, 1885. The publication relied