

delivery, had the right to abandon the goods to the consignor, and to have this latter condemned to pay him their value and the express freight.

Civil code, article 1053.

The plaintiff in his declaration says in effect, that on the 7th March, 1908, a consignment of merchandise worth \$574.23 arrived from New York for plaintiff through the Company defendant, in bond; that about the 8th March, 1908, plaintiff's broker went to defendant's office to obtain delivery of the goods, but was told that the consignment in question had been stopped by consignor; that on or about the 15th March, the plaintiff's broker was again notified that said goods were held on instructions from New York, and that defendant Company had received instructions to return the shipment to New York; that plaintiff, while awaiting delivery of the goods, kept part of his factory unemployed, and was subsequently obliged to purchase other goods in the Montreal market of a similar nature by paying at least seventy-five per cent. advance; that subsequently the defendant Company discovered that it was an error on its part in having held said goods; that inasmuch as styles in ladies' hats change from season to season, the said consignment is now absolutely worthless to plaintiff; that by reason of the fault and negligence of the defendant Company in withholding said shipment, plaintiff suffered damages in the sum of \$1,225.23.

The plaintiff abandoned the said consignment of goods to the defendant Company and prayed for judgment for that sum.

The defendant met this action by a plea denying its essential allegations, and alleging in effect that the shipment in question left New York on the 9th March, 1908, and arrived in Montreal on the night of 10th March, 1908, but through an unfortunate error on the part of defendant's