

appellants. Another case relied on by the appellants is *Caron & The Corporation of Quebec* (10 L. C. J. 317). Caron owned several houses, and was notified that the water would be cut off because the water rates had not been paid some years before by a former tenant. Caron paid under protest, and within a week instituted an action for the recovery of the amount as having been illegally exacted. The Court gave judgment with interest from the time of payment. But the amount in that case was a mere trifle. The only other case which bears on this question is that of *Baylis & City of Montreal* * decided last year. Baylis had been assessed in a large sum several years ago for a special improvement, and had paid it under execution, a warrant having issued from the Recorder's Court. Two or three years afterwards he instituted an action to set aside the assessment roll, and to be repaid the money which he had paid. The Court below dismissed the action. He came to this Court, and got judgment for the amount, but with interest only from the date of the institution of the action. The judgment in the present case follows the same principle.

MONK, J., (*diss.*) thought that under the old law a party paying under coercion was entitled to interest from the date of payment, and that the same rule should prevail now.

Judgment confirmed.

Barnard & Monk, for Appellants.

R. Roy, Q. C., for Respondent.

MONTREAL, June 22, 1880.

Sir A. A. DORION, C. J., MONK, J., RAMSAY, J.,
TESSIER, J., CROSS, J.

LARUE (plff. below), Appellant; & LORANGER
et al. (defts. below), Respondents.

Advocate and client—Extra remuneration—In the absence of a special agreement, an advocate cannot recover from his client more than the tariff fees, though he may have performed services not adequately provided for by the tariff, and for which the client promised to pay something extra.

The appeal was from a judgment of the Court of Review, which will be found at p. 155 of Vol. 2, Legal News. The question was whether

the respondents, a firm of attorneys, were entitled to charge the sum of \$200 for extra services in conducting a case for the appellant. This sum, according to the pretention of the respondents, was not charged as a retainer, but under a special agreement with their client by which the latter promised to compensate them for the extra work involved in the examination of a large number of witnesses. The precise figure was not fixed, but the respondents contended that, the agreement being proved, they had a right to prove by witnesses the value of the extra services. This pretention was maintained by the Court of Review, Torrance, J., dissenting.

The appellant contended that there was no legal proof of agreement to pay a retainer or extra compensation; there was no *commencement de preuve par écrit*, nor any *aveu* of the party.

Sir A. A. DORION, C. J. The respondents were engaged as the attorneys for the appellant, who was defendant in a certain cause before the Superior Court. The evidence in that case was very long and extended over sixty days. Part of the record was lost, and there was a settlement between the appellant and his lawyers. Then the record was found, and the case went on, and the present appellant was successful. The judgment was taken to appeal and was confirmed. During the litigation Larue paid \$239.75 to his lawyers, on account of costs, and after the case was closed the lawyers received these costs from the losing party. Larue now asked his lawyers to refund the amount advanced to them. The answer to the action is this: We have received our costs from the other party; but we have a right to keep this sum of \$200, because it was agreed during the trial that, on account of the great trouble we were put to, we should be paid a handsome retaining fee. The Court below (Mackay, J.) held that there was no proof of any promise of a fee, except of \$50 which Larue seemed to have admitted, and he got judgment for the balance. In Review that judgment was reversed, and the Court declared that the respondents were entitled to the \$200. In England the barrister has no action for his fees. In France the law does not prohibit him from suing, but if he sues he is disbarred at once. In this country the professions are blended; but there is a tariff of fees, and when a lawyer

* 2 L. N. 340; 23 L. C. J. 301.