and the plaintiffs had delivered stone at the rate of 216 feet per toise as an English measure. They said that at the rate of 261½ cubic feet there was only due to plaintiffs the sum of $52.47, for which they contessed judgment.

PER CURIAM. There is clearly an error on the part of the engineer of the company in receiving from the plaintiffs 216 cubic feet as the contents of a toise which is a French measure. The amount the defendants were entitled to was 261½ cubic feet for each toise. The pretension of the defendants is therefore well founded. The Counsel for the defendants further cited 42 Vict., c. 16, s. 20 of the statutes of Canada, according to which he contended that all contracts made by the toise are null. It is certainly against plaintiffs. The Court holds the plea of defendants to be proved, and judgment will be entered up according to their offer, with costs of contestation against plaintiffs.

Préfontaine for plaintiffs.

Duffey for the Company.

T. W. Ritchie, Q. C., Counsel.

SUPERIOR COURT.

MONTREAL, June 28, 1882.

Before TORRANCE, J.

PERRAULT v. CHARBONNEAU, and BUSSEAU, opposant.

Contempt—Resistance to process.

This was on the merits of a rule taken against the opposant, Busseau, on the 27th December last. The plaintiff had obtained judgment against the defendant for the sum of $434.93 due for rent. He took out an execution against the *meubles meublant* the premises leased, and it was now charged against the opposant that he fraudulently, and without motive, claimed the property seized by his opposition, which was on the 28th April, 1881, dismissed with costs, and costs taxed against the opposant, amounting to $77.05, in favor of the plaintiff. Thereupon the plaintiff took out a *venditioni exponas* to sell the moveables seized, and could not find them, and he charged that Busseau had concealed, hidden and diverted the goods, and refused to deliver them to the guardian, with the intent to defraud plaintiff and evade the judgments against the opposant and defendant, and was in contempt of this Court. Plaintiff, therefore, asked that Busseau be declared to be in contempt of this Court, and imprisoned until he had paid $7.55, balance due on the original judgment, $154, costs on the original action, $4 for subsequent costs, $9.20 for additional costs on the execution, $77.05 costs on the opposition.

PER CURIAM. The plaintiff invokes in support of his demand C. C. 2273 and C. C. P. 569 and 782. Art. 2273 says persons are also subject to imprisonment for contempt of any process or order of court, and for resistance to such process or order, and for any fraudulent evasion of any judgment or order of court, by preventing or obstructing the seizure or sale of property in execution of such judgment. C. C. P. 569 enacts: "If the debtor is absent, &c., &c., the judge may order the opening to be effected by all necessary means, &c., &c., without prejudice to coercive imprisonment in case of refusal, violence, or other physical impediment." C. C. P. 782 says: "In all cases of resistance to the orders of the court respecting the execution of the judgment by seizure and sale of the property of the debtor, as well as in all cases in which the debtor conveys away or secretes his effects, or uses violence or shuts his doors to prevent the seizure, a Judge out of Court may exercise all the powers of the Court, and order the defendant to be impr soned until he satisfies the judgment." What is the evidence of record? There is the judgment condemning the defendant to pay $434; there is the opposition of Busseau claiming the property seized as his, and the judgment overruling his pretensions. There is also the evidence of Olivier Daoust, the seizing bailiff, that he gave notice of the sale, but they did not produce the effects and he could not find them. There is no evidence that Busseau had them or concealed them. He had made an opposition and had failed. That was all that appears of record. The rule must therefore be discharged.

E. Lareau for plaintiff.

Sarrasin for Busseau.

IMPLIED WARRANTY THAT ARTICLE FURNISHED FOR SERVICE SHALL BE EFFICIENT.

ENGLISH COURT OF APPEAL, AUGUST 5, 1881.

ROBERTSON v. AMAZON TUG AND LIGHTERAGE CO., 46 L. T. REP. (N. S.) 146.

The plaintiff agreed to take a named steam-tug towing six sailing barges from Hull to the Brazils, paying and providing for the crew and furnishing all necessary instruments. The defendants agreed to pay for these services £1020. After she had started, the boilers and engines of the steam-tug in question turned out to be considerably out of repair, and in consequence the voyage occupied sixty days more than it would otherwise have done. The fact of the engines being out of repair was not known to either party at the time of the contract. *Held* (Bramwell, L. J., *dissentiente*), that there was no implied warranty by the defendants that the tug should be reasonably efficient for the purposes of the voyage.

Judgment of Lord Coleridge, C. J., reversed.

The plaintiff, a master mariner, brought this