

and such as may be offered in compensation to a debt under an obligation.

This was a case from the Circuit Court, Montreal, inscribed for review by the plaintiff. The action was brought by the plaintiff as the legatee of his deceased wife, Theotiste Tassé, claiming the balance due under an obligation for \$100, made by the defendant in favour of Theotiste Tassé in 1839. The defendant pleaded that the debt was compensated by an account which he had against Theotiste Tassé for board while she was a girl. It appeared that Theotiste Tassé, who was the defendant's niece, had resided for some time in her uncle's house. This was previous to the date of the obligation.

SMITH, J. The question comes up in this case, whether the debt offered in compensation is *claire et liquide*, and such as can be offered in compensation. The law is that compensation can take place in every case in which the sum due is easily settled. The debt due on the obligation is *claire et liquide*. If the debt due on the account is easily proveable, it can be offered in compensation. In this case, I think, the debt is easily provable, and nearly of the same nature as the plaintiff's claim. Upon this point, therefore, we are against the plaintiff. The only point remaining is whether the debt is proved. To establish this there are three witnesses, who prove that Theotiste Tassé was indebted to her uncle, the defendant, in the sum of £10, for attendance and board. The Court has made a calculation of the amount to be deducted, and judgment is rendered in the plaintiff's favour for the balance due on the obligation with interest, equal to £8; the costs to be those of an action for £15.

MONK, J. This judgment, it must be remarked, is based chiefly on the equity of the case; for Paquette, the person present when the arrangement was made respecting board, and who would have given the best evidence that could have been adduced, has not been examined at all.

BERTHELOT, J., concurred.

Judgment reformed.

M. Garault, for the Plaintiff.

Loranger & Loranger, for the Defendant.

SUPERIOR COURT.

May 21.

DUBORD v. LANCTOT.

Information against City Councillor—Necessary allegations—Amendment of Information.

Held, that in an information for the purpose of testing the right of a City Councillor to exercise the office, the petitioner must allege that he is "a citizen qualified to vote at the election of Councillor for some ward of the city," and that it is not sufficient for the petitioner (in this case the unsuccessful candidate) to allege his own qualification for the office of Councillor.

The petitioner, having asked leave to amend the information, by inserting an allegation of his "qualification as a voter:"—

Held, that such amendment could not be allowed, as it would change the substance of the information, and be equivalent to a new information, requiring the issue of a new writ.

BADGLEY, J. The information, or *requête libellée*, in this case has been presented by the unsuccessful candidate for the office of Councillor for the East Ward of this city, at the civic election for that office, held in February last. The statement of the proceedings had previous to and at the election, has not been complained of, nor the seating of the successful candidate, Mr. Lanctot, upon the ascertainment of the actual votes given, the latter having received 112 votes, and the petitioner 108. The information admits these facts, and also that Mr. Lanctot has satisfied the provisions of the City Charter in taking the oaths required by law, and consequently taken his seat in the City Council, but it objects against him that at the time of his election he was not qualified for election to the office of Councillor, as not being possessed of real or personal estate, or both, within the city, of the value of £500, after payment or deduction of his just debts. It is only necessary to add, as regards this part of the case, that the petitioner has set out in his information his own qualification for the office of Councillor as required by the Charter, which has not been contradicted.

Upon the petition required, presented in this case, supported by affidavit, a writ was issued by the Court, formally requiring Mr. Lanctot to appear and answer to the information, *Requête libellée*, against him, and to show by what authority he exercised or attempted to