

The judgment of the Superior Court was rendered by Torrance, J., as follows :

"The Court, etc....

"Considering that the balance due by defendant, if the evidence for the plaintiff is to prevail, appears to have been \$231.48, but that it is right to give some effect to the statements of defendant's witnesses who contradict the indebtedness as to the items :

Bottines .....	\$2 25
2 lbs. tea.....	1 60
6 bushels potatoes.....	1 80
Table Cloth.....	2 50

In all..... \$8 15

which the Court will allow, less 1 lb. tea, 80 cents, that is to say \$7.35, in deduction of the said sum of \$231.48, by which the indebtedness of defendant, at the date of the institution of the action, is established at the sum of \$224.13, doth condemn defendant to pay to plaintiff the sum of \$225 admitted by her plea, in order to avoid the trouble and uncertainty of a contestation with the plaintiff, with interest on \$225 from the 27th day of February 1877, day of service of process, and costs of suit as offered by defendant by her plea, to wit until after the filing of the said plea, *distracts* to O. Augé, Esq., plaintiff's attorney ; and considering that plaintiff has failed to establish any indebtedness beyond the amount so offered, the Court doth condemn plaintiff to pay to the defendant the costs of the contestation in this matter, *distracts*, &c."

The case was taken by the plaintiff, (respondent) to Review, where the following interlocutory judgment was rendered, Dec. 21, 1878 :

"The Court, now here sitting as a Court of Revision, having heard the parties by their respective counsel upon the judgment rendered in this cause on the 17th of June last (1878) by the Superior Court for the District of Montreal, and considering the defendant to be in bad faith, doth, *avant faire droit*, order the plaintiff to answer upon the *serment supplétoire* before this Court, on the thirtieth instant, or any day next term."

The final judgment of the Court of Review was as follows :

"The Court, etc....

"Considering that there is error in the said judgment of the 17th of June 1878, doth, reversing said judgment, reverse the same, and

proceeding to render the judgment that ought to have been rendered in the premises ;

"Considering that it results from the proof, including the *serment supplétoire* of plaintiff, whose statement under said oath the Court accepts, that he, plaintiff, was and is entitled to judgment against defendant for more than allowed by the judgment complained of, and for more than tendered by defendant, and that the said judgment of the 7th of June, 1878, is erroneous in allowing so little to plaintiff ; doth condemn the said defendant to pay and satisfy to said plaintiff the sum of \$228.98, with interest thereon from the 27th of February 1877, day of service of process, till paid ; with costs in the said Superior Court against said defendant in favor of said plaintiff, and with costs of this Court of Revision against said defendant in favor of said plaintiff, distraction of which costs is granted," etc.

The recorded judgment fully explains the decision in appeal. It is as follows :

"Considérant que cette action n'a été portée que pour la somme de \$243.32, et que l'appelante a par ses défenses reconnu devoir sur cette somme celle de \$225, pour laquelle elle a offert de confesser jugement ;

"Et considérant que l'intimé, n'ayant pas pu établir par sa preuve que l'appelante fut endettée en une somme excédant celle pour laquelle l'appelante avait offert de confesser jugement ; a, par motion, offert son serment supplétoire, qui n'a pas été admis par la cour de première instance, qui a rendu jugement contre l'appelante pour la somme de \$225 et les dépens jusqu'à la production des défenses inclusivement, et condamnant l'intimé aux dépens encourus depuis ;

"Et considérant que l'intimé a inscrit cette cause en révision, et que la seule contestation entre les parties sur la révision n'était que pour une somme de \$18.32, différence entre la somme de \$225, montant accordé par le jugement de la cour de première instance et celle de \$243.32, montant de la demande de l'intimé ;

"Et considérant que la cour de révision a reconnu par son jugement interlocutoire du 21e jour de décembre 1878, que l'intimé n'avait pas prouvé sa dette au-delà de la somme accordée par la cour de première instance, et se fondant sur ce que l'appelante était de mauvaise foi