

PROVINCE OF CANADA,  
LOWER CANADA, To Wit.

# Court of Queen's Bench,

APPEAL SIDE.

**LUCE CUVILLIER,**

APPELLANT.

(Defendant in Court Below.)

and

**GEORGE F. PROWSE,**

RESPONDENT,

(Plaintiff in Court Below)

## APPELLANT'S CASE.

The Respondent sued the Appellant in the Superior Court at Montreal for the recovery of the sum of £122 7s., currency alleged to be due for work and labour as Plumber and Hot-Air Furnace Maker, and materials furnished agreeable to an account produced and annexed to the Declaration and Summons.

To this action, the Appellant pleaded—*First* that the Appellant and Respondent agreed together that the Respondent should construct for the Appellant a certain apparatus called a Hot-Air Furnace and did warrant that the same should with a small consumption of fuel, heat the Appellant's Dwelling House.—*Second* that all the charges in the said account as well for work as for materials were for the construction of the said Hot-Air Furnace which the Respondent did in fact erect in the said Appellant's House.—*Third* that the said Hot-Air Furnace in question was useless and did not answer the purposes for which it was built.—*Fourth* that after the Appellant had tried to use the same, the Appellant by deed of Protest did notify the Respondent of the defects in said Furnace and require, the Respondent to remedy the said defects forthwith,—or that the Appellant would at the expense of the said Respondent take down and remove the same from out of Appellant's house.—*Fifth* that the Respondent was by law obliged to make the said Hot-Air Furnace serviceable and answer the purposes for which it was constructed.—*Sixth* that the Respondent having failed to complete and remedy the defects alluded to in the first Protest, the Appellant did on the 14th day of May 1855, further protest against the said Respondent to remove the said Furnace and that in consequence of the neglect and refusal of the said Respondent to remove the same, the Appellant did finally take down the same and remove the same from out of her Dwelling House.—*Seventhly*, that the Appellant did suffer great loss in consequence of the said Acts of Respondent caused by ignorance and want of skill of Respondent amounting to £150 currency, which amount she pleaded in compensation of any sum of money that might be adjudged due to the Respondent.—And lastly the Respondent by an incidental demand for the same causes claimed payment of the sum of £150 with interest and costs.

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