

In a Cause between

WILLIAM PRICE and others,

(Defendants and incidental Plaintiffs in the Court below.)

APPELLANTS ;

AND

ANDREW BATES BROWNSON,

(Plaintiff and incidental Defendant in the Court below.)

RESPONDENT.

Case of the Appellants.

THE interests involved in this cause are of a magnitude much beyond the sum in controversy, although that sum with the costs already incurred in resisting what the appellants conceive to be an unjust demand, is not inconsiderable.

The appellants are the proprietors, amongst other large establishments in this Province, for the manufacture of deals, and for the export of lumber generally, of a saw-mill and store at Metis, a distance on the South Shore of the St. Lawrence, of about one hundred and eighty miles from Quebec, at which mill large quantities of deals were manufactured, and many labourers employed in getting out the saw-logs, sawing them into deals, and conveying the deals to the River St. Lawrence, and there shipping them for Europe; and from the store supplies were furnished to the labourers and others, of the coarser necessaries which they required. The care and management of this store, and the superintendence of the shipments of deals at Metis, was confided by the appellants to the respondent, and for these services he was to receive £120 a-year. The respondent entered upon these duties on or about the 12th day of September, in the year 1831, and was discharged on the 9th day of November, in the year 1833, for misconduct; whereupon he instituted the present action for the recovery of a sum of £65 3s. 4d., which he claimed as the balance due to him for his services at Metis, as aforesaid.

The declaration is in general *indebitatus assumpti*, and contains four counts—1st. For work and labour, journeys and attendances. 2dly. a *quantum meruit*. 3dly. For money paid, laid out and expended;—And 4thly. on an account stated.—Damages, £75.

With the general issue the appellants pleaded a plea of peremptory exception, wherein after admitting that the said respondent had been in their employ, from the 30th of November, 1832, to the 8th of November, 1833, as the hired servant of the appellants, they allege:—

“That the said plaintiff during the time that he was in the service of them the said defendants, for the recovery of the wages whereof the present action hath been brought by him, the said plaintiff, against them the said defendants, was employed by them the said defendants, to take charge of a certain retail store or shop, of them the said defendants at Metis, in the District of Quebec aforesaid, and had during the time aforesaid, the care and management and custody of divers goods, wares and merchandises, by him the said plaintiff, for the use and benefit of them the said defendants, as the agent and servant of them the said defendants, for hire and reward, and, amongst other goods, wares and merchandizes, which were placed in the hands and custody of him the said plaintiff, by them the said defendants as aforesaid, at Metis aforesaid, there were forty-one barrels of pork of the value of £205, and ninety-three barrels of flour of the value of £162 15s., making together the sum of £367 15s. current money of this Province; which said forty-one barrels of pork, and ninety-three barrels of flour, the said plaintiff made away with and converted to his own proper use and profit, and that the said plaintiff as such agent and servant as aforesaid, during the time that he was in the said service as aforesaid, conducted himself very negligently and fraudulently, absenting himself from time to time from such service, employing the servants of them the said defendants, for his own private use and benefit, and carrying on a separate trade of his own, to the prejudice of the trade and business wherewith he was entrusted as aforesaid by the said defendants, at Metis aforesaid.”