

Le demandeur a poursuivi la défenderesse, en vertu de la loi des accidents du travail, pour un capital de \$2,000.

La défenderesse contesta l'action pour, entre autres raisons, la suivante: la loi des accidents du travail ne s'appliquait pas, vu que le demandeur gagnait plus de \$1,000 par année.

Pendant l'instance, le demandeur fit une requête demandant, en vertu de l'art. 7343, S, ref [1909], que la défenderesse fut condamnée à lui payer une allocation journalière.

Cette demande fut refusée par les motifs suivants:

Mr. Justice Greenshields.—The plaintiff now petitions under art. 23 being sec. 7343 of the R. S. [1909], for a provisional daily allowance, alleging the same facts as contained in his demand.

The defendant contests his right, chiefly on the ground that the plea is serious, and that in the face of such a plea the order should not go.

The article invoked by the plaintiff-petitioner, of course, is a law of exception, and like all laws of exception, must be applied only in cases clearly within the exception. If the Act itself has no application, then, of course, the section itself can have none.

On the face of the record it does appear that the defence made by the defendant is serious. The plaintiff was in the employ of the defendant for approximately two months, from the 21st of August, 1917 to the 25th of October of the same year, and he drew as a wage or remuneration during that period \$236.30. If he had continued for a year, at the same rate of earning, he clearly would have earned over \$1000, and the Act would not apply. It is true, in a general way, he states in the affidavit that the average earning of men in the employ of