

small sums. Molinelli was a skilful mechanic, and made some repairs for him. In 1865, a provincial exhibition was to take place. At this time Molinelli was trying to work himself into notice in Montreal, and Donegani was co-operating with him. They conferred about the approaching exhibition, and Donegani suggested that it would be a good idea for Molinelli to exhibit a piece of furniture. Molinelli acquiesced in this proposal, and setting to work, made a sideboard nine feet high, an article of great beauty and perfection, but an unusual piece of furniture in size. Very few men would like to have such an extraordinary piece of furniture in their houses; but to have it in a small house like Donegani's would be insanity. Molinelli went on with his work, and Donegani came to inspect it from time to time, and also furnished the old velvet used in the making of it. The sideboard was exhibited, and subsequently taken back to his shop. Donegani now began to be pressing about the money he had advanced, whereupon Molinelli said, here is the sideboard I made for you, worth \$700, which will more than pay you, you had better take it. This was in the early part of November, and on the 17th of November Molinelli protested Donegani, and his wife who was separated as to property. He sent a notary and said, this sideboard has been ready a long time; you had better take it. Donegani seemed to have been very much astonished at this, and on the 27th brought the present action for the moneys advanced. The plea was that the sideboard was made for the plaintiff, and was worth more than the plaintiff claimed. There was a good deal of difficulty about the evidence. The first question was a question of law. The defendant had no writing amounting to a *commencement de preuve par écrit*. It was contended that there was a commencement of proof in the answers of Donegani. His Honour had examined them carefully, but did not find anything. The defendant urged that it required very little to constitute a *commencement de preuve*—evasive answers, &c.; but Donegani's evidence did not in any part disclose sufficient to enable his Honour to say that there was a *commencement de preuve*. As to what constituted a commencement of proof, a good deal

was left to the discretion of the Court, and would depend upon the circumstances of the case. This was a commercial case, and in these cases we were obliged to have recourse to the rules of evidence laid down by the laws of England. Now, under the English law and the Statute of Frauds, the plaintiff had argued that this evidence was not admissible. It was contended by the defendant that the order could be proved by parol evidence, but on referring to the 539th page of the Consol. Stat. L.C., it would be observed that the provisions of the English Act were extended in Lower Canada to contracts for goods to the value of \$48 66 $\frac{2}{3}$, and upwards, "notwithstanding the goods are intended to be delivered at some future time, or are not at the time of such contract actually made, procured, or provided, or fit or ready for delivery, or some act is requisite for the making or completing thereof, or rendering the same fit for delivery." This act was based upon the jurisprudence in England, and the words of this clause clearly met the present case. The prohibition applied to the order as well as to the sale and delivery, and, therefore, it was not in the power of the defendant to produce parol evidence either of the order or the sale, or the delivery; therefore the motion to reject this evidence must be granted. But for the satisfaction of the defendant the Court might go further and examine this testimony. What did it amount to? In the first place his Honour had already adverted to the extreme improbability of any man ordering such a piece of furniture. It was possible that Mr. Donegani might be such a peculiar or extraordinary man as to order an expensive piece of furniture, and then say he did not order it; but unless he was mad he could not have ordered such a sideboard as this. It was too big to go into his room. Further, was it probable, if he had ordered this sideboard, that it would have been taken from the exhibition back to the defendant's shop? It was very strange also that the defendant would allow such a length of time to elapse without calling upon the plaintiff to take it. There was another circumstance to be mentioned: On the 17th November, when the defendant tendered the sideboard to Mr. and Mrs. Donegani, it was