

before the seizure; that the plaintiff has committed a breach of contract inasmuch as it undertook to deliver to defendant 10,000 tons of coal, at \$2.50 and \$2.75 per ton, to be delivered in September and October 1917, and that it absolutely refused to perform the contract; that the defendant was forced to buy this coal at open market, at \$5.25 per ton, suffering thereby damages to the extent of \$26,785.73, which it offers in compensation to plaintiff's claim.

The defendant constituted itself cross plaintiff and asks that this compensation may be maintained. It also claims damages on account of the attachment before judgment taken in Montreal, without reasonable and probable cause and with malice, which procedure have caused it damages in its trade and credit. It also sets forth that the principal plaintiff has since desisted from the said attachment before judgment.

The plaintiff, after having denied the allegations of the plea and of the cross demand, answers that the parties have agreed that the action be heard and tried at Montreal, and also have, in virtue of said agreement between the parties signed without reserve, desisted from the said attachment before judgment. Moreover, the seizure was taken in good faith, with probable cause, and on the advice of its attorneys.

The Superior Court rejected defendant's evidence as illegal, maintained the action for \$26,494.85, and dismissed the cross demand in the following terms:

Adjudicating upon the principal demand:

"Considering that the Court notwithstanding its own personal opinion considers it is under the obligation to follow the last jurisprudence of the Court of Appeals, holding that that the complete admission of the party