

general feeling of the Bar, and would say at once that the Court would not sit on Good Friday.' The allusion to alleged Good Friday sittings of judges on circuit makes the incident one of general importance. Our impression is that in the pre-Judicature Act times at least one judge once sat on Good Friday, but that since the passing of that Act there has been no such sitting. For what is the law under that Act? By section 26, subject to Rules of Court, the High Court and any judge thereof may sit 'at any time and at any place.' Read by itself, no doubt (as the *Solicitors' Journal* once put it), this section might be taken to authorize a midnight sitting in mid-winter in the middle of Salisbury Plain; but it is expressly made subject to Rules of Court, and by the Rules of the Supreme Court, Order lxiii, rule 4, the Easter vacation commences on Good Friday, which, therefore, we submit, is a *dies non*."

#### CIRCUIT COURT.

SHERBROOKE, May 14, 1891.

Coram BROOKS, J.

FOURNIER v. THE HOCHBELAGA COTTON MANUFACTURING Co.

*Master and servant.*

**Held:**—That an employee paid fortnightly, who has bound herself to give two weeks' notice of her intention to leave service, and who absents herself for half a day without leave and against the will of her employer, but returns to her work the next morning and is discharged, notwithstanding her offer to work out her notice, does not, through her absence, forfeit two weeks' wages; and that she could only be held for damages, had any been proved.

Action for wages due plaintiff's wife for work done at the Magog Print Works. Debt admitted by defendants, who pleaded that plaintiff's wife had submitted herself to the following rules and regulations:—

"All employees intending to leave the service of the company shall be held to give two weeks' notice of such intention to their overseers, and upon failure to comply with this stipulation, shall forfeit to the company the amount of two weeks' wages, which shall

be deducted from whatever amount may then remain unpaid in the hands of the company.

"The company may at any time, without notice, discharge any employee for incompetence, unfaithfulness, immoral or improper conduct, or for any wilful damage done the property of the company."

It was proved that the employee asked for leave of absence on the 22nd December last, in the afternoon, in order to receive her father and mother, who were returning from the United States. Leave was refused. She absented herself, however, and another operative was put in her place. The next morning she went back to the factory and worked until 9 o'clock, when she was summarily dismissed and her wages for two weeks retained as being forfeited under the agreement. One of the overseers testified there was damage, but it was impossible to appreciate it.

*Belanger*, for plaintiff, submitted that there was nothing in the regulations to warrant the course pursued by the defendants. The employee had not left their service, but absented herself *without leave*. She was not guilty of any of the acts mentioned in the second paragraph. No damage was proved. He cited *Belanger v. Cree*, 14 Leg. News, 92; *Sigouin v. Montreal Woollen Mills*, 14 Leg. News, 2; *Augé v. Dominion Wadding Company*, 11 Leg. News, 138.

The tender was declared insufficient. Judgment for plaintiff with costs.

*Belanger & Genest* for plaintiff.

*Lawrence & Morris* for defendants.

(L. C. B.)

#### COURT OF QUEEN'S BENCH— MONTREAL.\*

*Responsibility—Force majeure—Fire—Fall of wall after fire—Damages.*

**Held:**—Affirming the judgment of LORANGER, J., M. L. R., 3 S. C. 283, That where a person pleads inevitable accident in answer to an action of damages, he is not relieved from responsibility if it appear that the accident was preceded by negligence or fault imputable to him, which conduced to the accident. And so where the damage complained

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