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FRANCOIS RYBOT VS PIERRE DUCALVET

215. DUCALVET, Pierre. Collection of legal documents relating to a lawsuit by Francis Rybot against Pierre DuCalvet, dated mostly at Montreal, 1783-1786. 12 p. folio, 1 p. 4to, generally good condition. Texts in English. (1000)

Francis Rybot, a London merchant, was suing Sigismund Dubuit. Dubuit had consigned goods to DuCalvet to sell on his behalf. Although DuCalvet claimed to have paid Dubuit, Rybot was suing DuCalvet for payment, as the goods had originally belonged to Rybot.

Collection comprises:

1. Ms account of merchandise consigned by Dubuit to Pierre DuCalvet, signed by John Lees, Jr., attorney for Rybot, dated Quebec July 3, 1783. 3 p. narrow folio.
2. Ms defendant's reply by Pierre DuCalvet, signed by James Walker, for the defendant, dated Montreal [Nov., 1783] Docket annotation reads: "Filed 6th Nov., 1783..." 1 p. 4to.
3. Ms plaintiff's request to summon Pierre DuCalvet, signed by Arthur Davidson, dated Montreal Aug. 13, 1783, explaining to the court why DuCalvet owed money to Rybot. Counter-signed by John Southouse, Judge, granting that DuCalvet be summoned. 4 p. folio, tattered at one edge with small tears but no loss of text.
4. Ms plaintiff's account signed by Arthur Davidson, Rybot's attorney, for the amount still unpaid, dated Common Pleas, Montreal, 21 Feb., 1786.
5. Ms defendant's deposition, signed by James Walker, DuCalvet's lawyer, dated District of Montreal, Nov. 4, 1786. 3 p. folio.

Pierre DuCalvet, d. 1786, was a merchant and fur-trader at Quebec. In 1775, he espoused the cause of the Americans and was imprisoned by Haldimand for the remainder of the war. In 1783, he went to London, where he published his *Appel à la Justice* (1784). While returning to America in 1786, he was lost at sea. Judging from the dates of the above documents, it might be that DuCalvet was returning in connection with this court case.

FUR-TRADER'S ACCOUNT

216 MANUSCRIPT account between Joseph Harvard and M. Laurimie, dated Montreal le 31 aout 1773, not signed. 2 p. 4to, good condition. (200)

Among the items listed on the account are:
3 chats à 45; 18 marten à 3; en pelteries 128.15;
en pelteries 323.9; en pelteries 117, etc.

Compte des Marchandises remises par Jean
Lennison Ecuyer, a Pierre Du Calvet Ecuyer, par
Ordre de Messrs Legismund Dabuit pour le Compte
de Francois Rybot

No 1.
 Compteur de l'Esprit
 de l'Esprit de l'Esprit
 de l'Esprit de l'Esprit
 de l'Esprit de l'Esprit

1 p. Carige		3 3 -
1 Ditto		2 11 -
67 1/2 Gas Bergobrom gris a	3/9	12 13 1/2
10 p Ditto vert	3/10	2 3
2 p Cholet		18 6
33 1/2 Gas Bergobrom bleu	3/10	6 18 11
3 p Toille de traite		4 4 -
1 p diamant fort noir		2 4 -
1 p Cotif	3/1	1 11 -
1 p voile		2 -
1 p catimande Raye		2 2 -
1 p Toille herbe		2 11 -
1 p Camelot		1 7 -
1 dou. bas d'enfant		7 3
16 Tapi	3/6	4 19 -
7 1/2 Embau	1/6	5 12 -
2 Ditto	1/6	1 16 -
7 dou. Couteaux		1 8 -
16 grosses bateseup	1/10	11 17 -
6 dou. etuis pour couteaux		" " 6
52 Chanies de Montre	2/3	5 17 -
5 Ditto pour femme		1 17 -
1 Ditto		" 10 -
2 outils de frame macons		" 14 -
2 Cachet d'or		1 19 -
2 Ditto pouruline		" 14 6
80 Gas p. Jerge de Loye	4/6	17 23
12 1/3 Gas Letours	9/10	6 4 6
22 1 p D. 18 1/2 p 22 Gas 3/4	13/6	15 7 1
14 1 p D. 17 1/2 p 21 1/2	9/10	10 11 5
15 1 p D. 18 1/2 p 22 3/4	1/3	12 15 11
20 1 p D. 16 20	11/3	11 5 -
23 1 p D. 17 1/2 p 20 1/2	1/3	12 7 3
21 1 p D. 17 1/2 p 20 1/2	12/6	13 19 6
4 Gas p. Jattin bleu	7/3	1 10 9 1/2
1 p gros de toure 20	12/6	12 10 -
3 p Tekin		12 " " 6
1 p soie fort		4 17 6
2 D. filois		1 2 -
6 Gas p. pluche		1 7 1
5 p Mouchoire	25/6	6 12 6
1 D. de soie	28/1	5 12 -
14 D. Batiste	18/1	33 12 -
19 Mouchoirs de gaze	65/1	5 2 11
7 Gas Batiste		1 19 6
2 p Cotton & Loye	31/1	5 12 10 1/2
23 p Batiste uny		29 18 -
1 p Ditto		2 1 -
1 Ditto		2 5 -
1 Ditto		2 6 -
1 Ditto		2 7 -

Carried forward - 312 8 5 1/2

Brought Over £ 312 8 3/4

Carried Over £ 503 3 3/4

2	Batterie uny	4 6 -	5 1
1	Ditto	1 10 -	6 9
1	Ditto	1 8 -	8
1	Ditto	2 9 -	9
1	Ditto	1 18 -	10
2	Ditto	3 2 -	11
1	Ditto	1 12 -	12
1	Ditto	1 13 -	13
1	Ditto	1 14 -	14
2	Ditto	2 10 8	15
1	Ditto	1 10 -	16
1	Ditto	1 4 -	17
1	Ditto	1 11 -	18
1	Ditto	1 6 -	19
1	Ditto	1 16 -	20
2	Ditto	2 4 6	21
1	Ditto	1 9 -	22
1	Ditto	1 13 -	23
1	Ditto	1 19 -	24
2	Ditto	2 9 -	25
3	Ditto	2 9 -	26
1	Ditto	1 6 8	27
1	Ditto	1 13 6	28
1	Ditto	1 8 8	29
1	Ditto	1 12 -	30
3	Ditto	3 11 -	31
1	Ditto	1 10 -	32
1 1/3	Ditto	18 8	33
59	paire bas de soye chinois 55	91 13 0	34
11	Ditto	7	35
37	Ditto	3 14	36
12	Ditto	3 12	37
2	Ditto 11 bousolle	12 6	38
1	bar de fil	9	39
3	patte feuille	7	40
3	Ditto	7 6	41
2	Ditto	5	42
7	ff. Allenot	1 1	43
2	ff. Gandu	2 2	44
15	doux & Batons de soye & 3 on 1/2 paill	1 10 6	45
4	petit Ruban	9	46
5	ff. boules d'argent	1 12 6	47
3	poisons pour montre	2 3	48
3	Cassolletes de verre	2	49
1	ff. Flannete rouge	2 1/6 14 1/2	50
20	ff. diamant fort bleu	2	51
3	ff. Catottes tricoltes	10 6	52
38	Soye a coindre 37	49 8	53
10	ff. Cadis ecarlate	1 9 2	54
9	d'au et 8 paires de Jouliers	29 14 4	55
1	ff. Indienne	19 6	56
1	Ditto	9 9	57
29	doux. bar drapes	23 15 7	58
1	3 dou. et 8 Chapeaux	1 14 10	59
2	6 d° 8 Ditto	4	60
3	10 d°	8 10 7	61
4	8 d° 2 Ditto	8 11 6	62

Carried Forward

£ 503 3 3/4

1	doux. et 5 Chapeaux	1 15 5
1	d° 4 Ditto	21
5	Ditto	18 9
4	Ditto	17 4
3	Ditto	14 4
2	Ditto	2 8
6	Ditto	1 12 6
1	d°	3 10
1	d°	3 16
1	d°	4
6	Ditto	2 3
3	Ditto	1 7
4	Ditto	2 10 8
1	doux. Bonnets Rouge	19 6
1	Ditto	16
6	Baril d'ou	7 2 6
85	Caisse vin et huile 72 1	34 145 10
1	do Olive	3 10
3	paniers Capres	7 4
34	pages a renard	7 4
5	Caisse fer blanc	58 14 10
400	affin 9 1/2	34 7
14	Verd de gris	2 1/8 1 17 4
1	Baril peinture vert olive	8 6 6
1	d° Vert 2/3	5 1 10
106 1/2	ff. taffetas a flame	6 6 132 2 3
72	bleu (peinture)	1 10
60	Saune	17 6

Prix d'achat Sterling £ 894. 14 2/4

Compte des Marchandises envoye a ellont
 Puisse Du Calvet par Sigismund Dubuit ff.
 Le compte de Francois Rybot le 7 Mai 1768
 par le Batiment de Capitaine Darault

PD	2 double caies de velours content 100 pds de 6/7	
	2 simples 9° 200 d° 1/2 a 1/9	
PMS	12 L° ct. 2 a 6. 17 a 19. 21 a 24 - 1200 de 6/7	
	18 Caisse simple 1800 paires a 3/4	32 8
FOI	ct. 10A 17 millions de Clous a 5/6 LA 8 6	
	198 120 15 3 29 L° 6/2 8 18 10	
	130 32 3° 4/7 7 15 10	
		21 3 2
	Benefice a 35 ff cont	7 8 1

Cont. d'Halifax £ 60 19 3

Sauf Erreur
 Dublin le 31. Juillet 1768

par procureur de L. Rybot
 Jean Lesjans

Province of Quebec
District of Montreal

John Lee, Junr. of Quebec
Mortg. as atty for Francis Rybot
of London Mortg. P^l

Pierre Du Calvet Esq. of Montreal
Def.

This Def. in answer to this unexpected citation of the
P^l begs leave to represent to your Honors that he
did receive a quantity of Goods from Sigismund Dubuit
to be sold for ^{adv.} ~~adv.~~ & risque of said Sigismund Dubuit tho'
not immediately corresponding to the P^l's Invoice
marked A. & that he did likewise receive a further
Consignment of Goods from the s^d. Dubuit amot. g
to the sum of £ 60: 19: 3 Curly for all which Goods
the Def. justly & bona fide accounted to the s^d.
Dubuit who is now in arrears & indebted to this
Def. in the sum of £ 315: 10: 3 ^{1/2} ~~1/2~~ of lawful
Money of this Province Wherefore he prays
leave to be dismissed from this unjust suit
brought against him with Costs of suit &c

Walker for Def.

John Lee

Pierre Du Calvet Esq. of Montreal

Filed Dec 27 1793

De l'usage

In the Common Pleas, Montreal.
 John Lee, Sheriff
 City for Town of Quebec
 vs.
 The Defendant, the his heirs & assigns
 vs.
 The Plaintiff, the his heirs & assigns
 vs.
 The Defendant, the his heirs & assigns
 vs.
 The Plaintiff, the his heirs & assigns

The account which he has rendered, showing
 that he has rendered the account of the following
 accounts of the goods charged against him in the Declaration
 in this cause, but having constantly denied that he has ever
 received the said Cambricks, notwithstanding the contrary
 manifestly appears by a letter of his to Mr. [Name] of
 Quebec a former Attorney of the said Town of Quebec
 dated the 2nd day of May 1784, and which only lately came by
 accident, the names of the said Cambricks, the following state
 of the said Cambricks is herewith submitted, to be also
 accounted for by the Defendant or charged to him at the
 issue of law of the 1st day of June next in addition to the bill
 stated by the Plaintiff on the account already rendered
 by the Defendant in this cause, viz.

1	181. 8. 6.	1	181. 8. 6.
1	1. 10. "	1	1. 10. "
2	4. 6. "	1	2. 7. "
1	2. 7. "	1	2. 6. "
1	2. 6. "	1	2. 5. "
1	2. 5. "	1	2. 4. "
1	2. 4. "	1	2. 3. "
1	2. 3. "	1	2. 2. "
1	2. 2. "	1	2. 1. "
1	2. 1. "	1	2. 0. "
1	2. 0. "	1	1. 19. 6.
1	1. 19. 6.	1	1. 18. "
1	1. 18. "	1	1. 17. "
1	1. 17. "	1	1. 16. "
1	1. 16. "	1	1. 15. "
1	1. 15. "	1	1. 14. "
1	1. 14. "	1	1. 13. "
1	1. 13. "	1	1. 12. "
1	1. 12. "	1	1. 11. "
1	1. 11. "	1	1. 10. "
1	1. 10. "	1	1. 9. "
1	1. 9. "	1	1. 8. "
1	1. 8. "	1	1. 7. "
1	1. 7. "	1	1. 6. "
1	1. 6. "	1	1. 5. "
1	1. 5. "	1	1. 4. "
1	1. 4. "	1	1. 3. "
1	1. 3. "	1	1. 2. "
1	1. 2. "	1	1. 1. "
1	1. 1. "	1	0. 12. "
1	0. 12. "	1	0. 11. "
1	0. 11. "	1	0. 10. "
1	0. 10. "	1	0. 9. "
1	0. 9. "	1	0. 8. "
1	0. 8. "	1	0. 7. "
1	0. 7. "	1	0. 6. "
1	0. 6. "	1	0. 5. "
1	0. 5. "	1	0. 4. "
1	0. 4. "	1	0. 3. "
1	0. 3. "	1	0. 2. "
1	0. 2. "	1	0. 1. "
1	0. 1. "	1	0. 0. "

N^o 21 Feb. 1786.
 In the C. Pleas, Montreal.
 Lee Junior, Sheriff of the County of Quebec,
 as Attorney vs. not account of
 vs. in addition to
 Duplessis Plaintiff's former
 State.
 ad hunc supradictum

as Attorney for the said Fran^s. Rybot, the balance
remaining due thereon, but the Defendant so to do
has hitherto refused, and still doth refuse —

Wherefore the Plaintiff humbly prays
your Honors, that the Defend^t. may be sum-
-moned to be and appear, before your Honors
in this Court at Mont^e. aforesaid on Saturday
the ~~Seventeenth~~ day of August Inst^t. to
answer to the premises; and that he may, by the
Judgment of your Honors, be Condemned
to render a just and true account sales of
the beforementioned two parcels of Goods so
consigned to him as aforesaid, and to pay to the
Plaintiff the balance remaining due thereon;
and in default of his rendering such account
within a reasonable time, to be appointed by
your Honors, that he be Condemned to pay to
the Plaintiff in his quality aforesaid as Att^y.
to the said Fran^s. Rybot, the original value
of the before mentioned two parcels of Goods, with
Fifty percent advance thereon, being the usual
rate at which Goods were sold at the time of
the said consignments & amount^g (after deducting
the aforesaid sum of Two hundred & Fifty one
Pounds, fourteen shill^g. & 3^d.) to One Thousand
One hund^d. & Eighty one pounds fifteen shill^g. & 11^d.
Currency of this Province, with Interest & Costs.

Let the Defendant be
summoned, as prayed

Wm^d Southwell
J^d

A. Davidson for Pl^t.
13 Aug^t 1783.

13th August 1783

In the form above sent.

See also the way to
Stam's shop not
in
Dunbar
Dunbar

Hundred and Ninetyfour Pounds fourteen Shillings & two pence $\frac{1}{2}$ Sterling prime cost, and yet remain to be, acct. for; And also that other Goods were consigned to the Defend. at Montreal. by the said Sigismund Dubuit, on the said Fran. Rybot's account. of the value of Sixty Pounds Nineteen Shillings and three pence, Shipped and sent by one Dusault's Vessel, and which remain to be accounted for by the Defendant.

That the Defendant (without having rendered any account Sales of the before mentioned two parcels of Goods or any part thereof) has yet only paid to the said Sigismund (while he had a right to receive any money from the Defendant) or to any other person or persons, for or on Behalf of the said Fran. Rybot. in part payment of the said Goods so consigned to the Defendant as aforesaid. the sum of Two Hundred and fifty one Pounds fourteen Shillings and three pence, in the whole, as appears by the said Sigismund Dubuit's accounts and no more; for with respect to a sum of One Hundred and sixty six Pounds one Shilling and ten pence paid by the Defend. to the said Sigismund Dubuit it was for Goods sold (and not consigned) to him by the said Sigismund Dubuit, belonging to the said Fran. Rybot.

That the Plaintiff has applied to the Defendant & requested him to render an account Sales of the before mentioned two parcels of Goods so as aforesaid consigned to him, and to pay to the Plaintiff in his quality
as

In the Com Pleas
Province of Quebec
District of Mont^l.

John Lees Junior of Quebec Merchant
as Attorney for Fran^s Rybot of London
Merchant Plaintiff

Between and

Pierre Dufalvet of Montreal
Mont^l. Defendant

To the Honorable the Judges of His Majesty's Court
of Common Pleas in & for the said District of
Montreal.

The Plaintiff represents to your Honors, that, by a Judgment
of His Majesty's Court of Common Pleas in and for the
District of Quebec, in this Province, given on the fourth
day of October One Thousand Seven hundred and Eighty
in a Suit between the said Fran^s Rybot, as Plaintiff
and one Sigismund Dubuit (a former Attorney of his)
as Defendant, it appears, amongst other things, that
Sundry Goods were consigned to the above named Pierre
Dufalvet the Defendant in this cause by the said
Sigismund Dubuit on the said Fran^s Rybot's account,
a List of which Goods is contained in a Schedule marked
A annexed to a Deed of Settlement made between the said
Sigismund Dubuit, and Mr. John Jenison, another former
Attorney of the said Fran^s Rybot, bearing date the
Twenty Eighth day of July one thousand seven hundred
and Sixty Eight and now ready to be produced to your
Honors, which said Goods were of the value of Eight
hundred

Province of Quebec
District of Montreal

John Lees, Junior, of Quebec, Merchant,
as Attorney for Francis Rybot, of London,
Merchant. Pth

and
Pierre Du Calvet, of Montreal,
Esquire. D^{te}

The D^{te} in opposition to the report rendered
by the Auditors being homologated, begs leave to observe as
he has before done, that he in no wise considers himself
as amenable to the Pth in his quality aforesaid for
any sum or sums of money whatever that may be
pretended he is indebted in towards Sigismund Dubuis.
That he did receive some goods from Sigismund Dubuis
to sell on Commission, and that he has justly and
truly accounted to him for the same, who is now
considerably in arrears towards him, but supposing he
had not settled accounts with the said Sigismund Dubuis
yet the D^{te} with due submission humbly insists
that he is not obliged to account to any other person
for the same, excepting to the said Sigismund Dubuis
or his legal Attorney, which the Pth is not, therefore
before his objections to the Auditors report is taken into
consideration, he humbly prays the Court may determine
whether he is accountable to the Pth or not, in his
quality aforesaid.

Les No^{rs}
Du Calvet Esq^r }
Opposition for
the homologation
of Auditors'
Report.

1766
4th Nov^r 1766

That the Deft taking for granted the Court will first determine on the previous question, whether he is accountable or not to the Plt, and which he conceives must be determined in his favor, will nevertheless proceed to state his objections to the Auditors report, in the doing which, he will endeavor to preserve the same order the Auditors have observed in drawing up the same.

And first the Auditors have debited the Deft with the sum of ----- } 403. 10. 7 1/2
 agreeable to acct. Sales rend. which is just.

They then debit the Deft with a further sum of ----- 53. 19. 8
 for amt. of sundry goods not accounted for.

This sum the Deft ought not to stand charged with, inasmuch as it appears by the Certificate of Lorimier (ainé), & Dumoulin that the goods were part rotten when the Deft received them, therefore whatever part stands unaccounted for, arose from the bad condition they were in, being unsaleable and of course thrown away. so that the Deft ought to account for no further than the sum of -----

403. 10. 7 1/2
 Out of which the Auditors admit the Deft has accounted for the sum of ----- } 293. 11. 2 1/2
 Remains to be accounted for. ----- } 169. 19. 5

The Deft cannot but attribute to some error in the Auditors their not allowing him

car. force?

Bro. forward. to be acct. for 169. 19. 5

him a sum of 2400^l paid to Carignan, the drafts, Carignan's Certificate, & Dubuis's letters of the seventh of April 1759 speak for themselves, they must be considered as undeniable evidence of this sum being paid by order of M^r. Dubuis, and therefore ought to be allowed him -----

100. -- --
 69. 19. 5

As to the remaining articles in the Deft's account, they are objected to on the principle of the Deft having no right to set off against the Plt's claim any charge he may have against Dubuis that originated after his being superseded as M^r. Rybot's Attorney; this matter will depend wholly on the opinion of the Court whether the Deft is accountable to any other person than to Sigismund Dubuis, or his legal Attorney.

As to the observation of the Auditors respecting some Cambricks, it must be totally rejected, as making no part whatever of this action.

Therefore the Deft concludes, by praying the Court may take the premises into their consideration, and decree accordingly.

Walker for Deft.
 4. Nov. 1786.