

words and whether of a contemptuous or harmless meaning, is unknown, and not capable of being known either from the letters themselves or from anything in the context.

Words in themselves harmless, such, for example, as boycott, dewitt, beecher, have sometimes, historically or from the circumstances of the time, acquired an injurious meaning, or are capable of being used so as to convey one, and it is then for the jury to say whether they have been so used on the particular occasion; but this cannot be said of the letters in question, and therefore plaintiff fails to shew that by themselves they are capable of a defamatory meaning. Their ordinary English meaning is of two letters of the alphabet, and nothing more. . . .

[Reference to Odgers on Libel and Slander, 5th ed., pp. 106, 107, 115, 116.]

The meaning alleged, and that this was the meaning understood by those to whom the libel was published, must be proved by evidence in the usual way.

Here the plaintiff by the innuendo has undertaken to specify the particular defamatory sense in which the words or letters were used, but of that he has given no evidence, and therefore—the words themselves not being defamatory in their ordinary meaning—he has failed to establish any cause of action.

We considered this subject very fully in the recent unreported case of *Lossing v. Wigglesworth* (noted 1 O. W. R. 460). See also *Capital and Counties Bank v. Henty*, 7 App. Cas. 744; *Neville v. Fine Arts Association*, [1897] A. C. 68; *Am. & Eng. Encyc. of Law*, 2nd ed., vol. 18. p. 973.

Appeal dismissed with costs.

---

OCTOBER 16TH, 1903.

C.A.

RE TOBIQUE GYPSUM CO.

*Company—Winding-up — Judgment against Company—Sale of Lands of Company under Execution — Lands outside the Province—Jurisdiction to Stay Sale in Winding-up Proceeding — Ex Parte Order — Jurisdiction over Purchaser—Setting aside Sale—Summary Powers of Court.*

Appeal by Harriet Costigan and James Tibbets, sheriff of Victoria, New Brunswick, from an order of FALCONBRIDGE, C.J., of the 14th October, 1902, made in the matter of the winding-up of the company.