

mean, and cannot reasonably mean, that a carriage shall not go on the left side of the street, and I agree here with the plaintiff, that he had a right to the whole street so long as he did not interfere with the rights of others. The rule of the road means that carriages coming in opposite directions shall keep out of each other's way—that is all. I find, then, as a matter of fact, that the Company had not, at the time of the accident, the road-bed flush, as it ought to have been, and they had, likely unavoidably, made it unequal, in order to clear away the snow from the track, but if any one suffers thereby, they must answer for their own act. I do not think it necessary here to decide whether the Company used the flat rail of Philadelphia, as stipulated. There remains the point raised by the Company, that the by-law 31, prohibiting trotting round the corners, had been violated. That may be, but it was a matter between the city corporation and the servant. I do not see that it caused or contributed to the accident, which I find arose purely and naturally from the company clearing away the snow from the rails and destroying the even surface of the road bed, by which the sleigh was upset.

I would here call attention to the by-law 265, section 25, "The said company shall be liable for all damages arising either from the construction of the said railway, or from the works they shall cause to be done in the streets, or from the manner the cars or sleighs used by them shall be run or driven, or from the obstacles or obstructions they may cause in the streets, or from their violation of any one of the conditions imposed by the present by-law, or from any other cause whatsoever." I don't say that the company was here wilfully negligent, but there are points of time in the traffic of the cars and sleighs between summer and winter, when the carriages are changed from wheels to runners, when accidents appear to be very likely to happen. Such an accident has happened here, and they should necessarily answer in damages. I assess these as follows:— Value of horse \$250, sleigh \$65, and harness \$14.25, in all \$329.25.

Macmaster, Hall & Greenshields for plaintiff.

Abbott, Tail, Witherspoon & Abbott for defendants.

BARTHE V. DAGG.

Damages for criminal prosecution—Want of probable cause.

The action was in damages for having begun a malicious criminal prosecution against the plaintiff. The plaintiff was arrested, and after examination of the facts by the magistrate was discharged.

The defendant pleaded that plaintiff on the 11th of February, 1879, falsely represented to her that he had bought for her 25 shares of Bank of Montreal stock; that he had loaned to her \$6,787.50 to make this purchase, and on this false pretence had induced her to transfer to him as collateral security 12 shares of the stock of the Eastern Townships Bank on the 13th of February, 1879.

TORRANCE, J. The difficulty between the parties has arisen out of disputed accounts. It is true that on the 11th of February, 1879, the plaintiff began a series of speculative stock transactions as a broker acting on behalf of the defendant. On that day, he addressed to her a broker's note, informing her that he had that day purchased for her 25 shares of the Bank of Montreal stock, and had lent her \$6,787.50 to be returned to him at a future date, and she was to give as collateral security for this loan the stock in question and 12 shares Eastern Townships Bank to be transferred on the 13th February, 1879. On this representation the 12 shares were transferred as collateral security. In point of fact the 25 shares had not been bought by the broker, but were only bought on the 15th February, four days later. I cannot help noticing the fact that the speculative transactions for the defendant were unprofitable to her, and there was a dispute between them as to the settlement of accounts arising out of a number of stock transactions extending over several weeks. The dispute culminated in the criminal prosecution complained of in the declaration. On the 15th April, 1879, the defendant by her son, William Campbell, laid a charge before a magistrate, that the plaintiff on the 13th February, 1879, induced her to transfer to him twelve shares Eastern Townships Bank stock on the false representation contained in his note of the 11th February, that he had bought for her twenty-five shares of Bank of Montreal stock.