

Harold,
and
The Mayor,
Aldermen, and
Citizens of the
City of
Montreal.

plaintiff's declaration extends the period of his suffering, from on or about the first of June, 1862, for eight calendar months, which would reach to on or about the first of February, 1863. But it is not so. In this period the plaintiff has included every thing done upon the street from the first resolution of the committee to do the work at all, and from the first opening of the street at St. Ann's Market, a very considerable distance from the plaintiff's premises, and by which he could not have suffered, and has not proved any direct inconvenience: his injury as stated above must be direct and immediate, and his damage must also be the necessary, direct, natural and immediate consequence of that injury. The time for which he has ground to complain, limited by these principles, would be when the obstructions reached and incumbered his premises, and only for the time when they directly affected him. For that period of time Boisseau, his late foreman, says that the trade began to be injured principally about the beginning of September, when the earth was piled on the sidewalk opposite to the plaintiff's store, and Hugh Harold, the plaintiff's son, says, about the middle of September the tunnel was opened up as far as my father's place; and Raymore, the plaintiff's neighbour, and in the same line of business, an independent witness, says that the street was *opened again* for traffic in January, 1863. So that the period of special direct interruption was about four months. His special damage was the diminution of his trade, and he has proved the amount of his sales for each of those months in 1861 to January, 1862, the year preceding the work, and for the corresponding period up to January, 1863, when the work was being done; the corresponding period for the following year, after the street was re-opened for traffic, could not be given, because in September, 1863, the plaintiff gave up his retail business on the street; but he has given, in addition to the above details, his first six monthly sales of the three years of 1861, 1862, and 1863, so that no mere speculative loss is shewn from these facts: proved: he has, in addition to the evidence of the diminution of business, made proof of other facts, tending to shew the same result, and upon the whole has made his proof as complete as the circumstances would seem to admit. The plaintiff has adopted the rule as laid down by Sedgwick on damages, p. 136, as follows:—In an action for damages for obstructions, which hindered plaintiff in his business as the keeper of a refectory and lodging house, and diminished his custom, loss of custom and of profits are the measure of damages, and the mode of computing the damages, by proof, of the actual receipts of plaintiff's hotel, for a sufficient period previous to the obstructions, the actual receipts during the continuance of the obstructions, and the receipts after the obstructions were removed. *St. John v. the Mayor, &c., of N. Y.* 13 How. Rep. 527.

Also, case of *Wilkes vs. Hungerford Market Company*. 2, Bingham, N. C. 281, applies as to this.

The corresponding period of months of sales shews a diminution between 1861 and 1862, of \$1094.83, which is sworn to as having been caused by the special obstruction to the plaintiff's business, and allowing 25 per cent., taken as average proved profit upon the sales, the actual loss of profit would be \$273.70. There is no sufficient proof to enable the Court to add to this result a percentage for dead stock, so that the plaintiff's proved damage is the sum of \$273.70.

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