

daughter Mary. The plaintiff alleged that the defendants wrongfully conspired together falsely and maliciously to assert and declare and to cause it to be believed that the plaintiff was the father of an illegitimate child borne by the defendant Mary McDougall, with intent to extort money from the plaintiff and to injure him in his reputation, credit, and good name, and to bring him into public hatred and contempt, and, in pursuance of the conspiracy, spoke and widely circulated several slanders mentioned. Specific instances of alleged speaking and publication by one or other of the defendants were set out in the pleading. No allegation of special damage was made. The plaintiff claimed \$3,000 damages.

It was contended by the defendants that to charge a man with being the father of an illegitimate child was not an actionable wrong, nor was it an actionable wrong to conspire to do so unless special damage was alleged.

There is a distinction between words written and words merely spoken. In so far as spoken defamatory words are concerned, they are actionable only when special damage has resulted from their use. To say of a man that he is the reputed father of a bastard child is not actionable without proof of some special loss: *Ogders on Libel and Slander*, 5th ed. (1912), p. 72.

If it be not actionable to charge a man with being the father of an illegitimate child, it is not so to conspire as charged in the statement of claim. An attempt to extort money by publishing or threatening to publish or offering to abstain from publishing or prevent the publishing of a defamatory libel is an offence under sec. 332 of the Criminal Code.

If special damage were alleged, the conspiracy might be actionable; but, in the absence of such an allegation, it was not actionable.

Reference to *Quinn v. Leathem*, [1901] A.C. 495.

The statement of claim, as it now stood, disclosed no cause of action.

The plaintiff should have leave to amend by alleging special damage. If the amendment is made within one week, the defendants should have the costs of this motion payable to them at the end of the action in any event. If the amendment should not be made within the time mentioned, the statement of claim should be set aside with costs.