

P.E.I.  
S.C.

the case without any new assignment. I should come to this conclusion on the law from a perusal of the pleadings as they appear on record; but I am strengthened in this view by the case of *Dean v. Taylor*, 11 Exch. 68, which was decided on the construction of similar pleadings under the English Common Law Procedure Act, which Act was identical with that in operation here. That case is consequently, an authority directly covering the point in question in this case. It is true that the decision in *Dean v. Taylor*, 11 Ex. 68, was not followed in *Rimmer v. Rimmer*, 16 L.T.N.S. 238, but the latter case was disposed of by a single Judge at *Nisi Prius*, and cannot be held to prevail against the considered judgment of the Court, such as decided *Dean v. Taylor*, composed of Chief Baron Pollock, and Barons Parke and Martin.

Were it not for the reprehensible conduct of the plaintiff, as disclosed by the evidence, in annoying the defendant, I should be disposed to allow him a considerable sum for damages. Such annoyance, however, was no justification for the defendant, to whom other remedies were at the moment at hand, in using a dangerous weapon and therewith causing to the plaintiff grievous bodily injuries and reducing him to the perilous condition shewn by the evidence.

I find a verdict for the plaintiff and assess the damages at \$40, for which sum judgment will be entered.

*Judgment for plaintiff.*

**MOLSONS BANK v. KLOCK.**

IMP.  
P.C.

*Judicial Committee of the Privy Council, Lord Moulton, Lord Sumner, Sir Charles Fitzpatrick and Sir Joshua Williams. July 16, 1914.*

[*Molsons Bank v. Klock*, 9 D.L.R. 877, affirmed.]

JUDGMENT (§ II A—66)—*Set-off—Res Judicata.*—Appeal from Quebec King's Bench.

The judgment of the Board was delivered by

LORD MOULTON:—This is an appeal from three concurrent judgments in a case in which the decision must ultimately turn on the view which the Court takes of the facts. There is no question of law whatever involved in it, and, therefore, the decision can only be of interest to the parties.