

several offices of trust. He was Clerk of the Commissioner's Court, Agent of the Fabrique, and Secretary-Treasurer of the Municipality. Respondent, fearing the professional competition of appellant's son, conceived the idea of attacking the father's character, and by so doing to deprive him of his means of subsistence, and thus compel the son to leave the parish. All this is hardly denied, but it is contended that there was a formal reconciliation between the parties before the institution of the action, and that therefore the action must fail. This view was adopted by the Court below, and the action was dismissed with costs.

There can be no doubt that if an injury of this sort has been passed over at the time or pardoned, it cannot be afterwards made the subject of an action of damages. But the proof of this is on the defendant. In this case I do not think defendant has made out his plea. He has brought four witnesses to speak as to the reconciliation; but they do not agree in their story: one says that they shook hands, another that they drank together, and another that they exchanged pinches of snuff. These various demonstrations of affection are said to have taken place in the Court-room, in the Prothonotary's office, and at Dufresne's Hotel, yet persons who passed the afternoon with appellant at these different places, not only declare that no such reconciliation took place, but that the parties avoided each other in a marked manner, and that they did not even speak to each other. Again, the condition of the defendant's mind at the time he was at the Prothonotary's office on the 16th of December, 1880, was not such as to render a reconciliation probable; and the Rev. Mr. Parent tells us that up to the time of the respondent's departure from the country, he continued to attack appellant. Also, there is a feeble attempt in this action to justify certain of the attacks on defendant. It is very true that, as a general rule, the presumption of a reconciliation is favorably received, but this is not true where the slanders are of an atrocious character (2 Duneau, p. 390). I think that the slanders are proved, that they are atrocious, that they were dictated by the most persistent malice, and that the respondent has not proved his plea which in itself is violently improbable. The majority of the Court are to reverse the judgment, and to

award the appellant \$200 and costs of both courts.

Sir A. A. DORION, C.J., said the slanders were of a most atrocious character, and the motive for the malice displayed was quite evident. The respondent therefore deserved the condemnation to pay damages. But he thought the reconciliation was sufficiently proved, and therefore that the judgment of the Court below should be confirmed.

Judgment reversed, the respondent condemned to pay \$200 and all costs. DORION, C.J., dissenting.

COURT OF QUEEN'S BENCH.

QUEBEC, Dec. 7, 1882.

DORION, C. J., RAMSAY, TESSIER, CROSS & BABY, JJ.

CLOUTIER, Appellant, & BLACKBURN, Respondent.
Slander—Charge of Intemperance—Privileged Communication.

RAMSAY, J. Action for damages for slander. The appellant is charged with having accused respondent specially, "d'avoir prélevé trente louis au lieu de dix-huit louis et d'avoir mis la balance dans sa poche," "d'avoir fait de l'argent avec la dite cotisation," and there is an innuendo. Also "qu'il buvait trop pour bien remplir sa charge," "qu'il était toujours ivre." The defendant admits that he used these words, "M. Blackburn boit trop, cela l'empêche de remplir bien ses devoirs de secrétaire-trésorier; il a prélevé sur la municipalité des montants plus élevés que ceux que le conseil de la paroisse l'avait autorisé à prélever," but he pleads that he used these words without malice, in his own interest and in the performance of the duties of his office as municipal councillor. If he so used these words, and he can show he had reasonable cause for so doing, they are within the limits of a privileged communication. The only evidence that seems to me to attribute to the defendant stronger words than he admits to regarding the cotisation is that of Edouard Cauchon and Charles Lessard. What Cauchon says is very indirect. He says he would not pass for a voleur in place of plaintiff, which may fairly be intended simply to say, if some one is to pass for a thief it shall be the person who got the money instead of me. It is purely hypothetical, and amounts to this, "I won't pass for a thief."