

Dec. 30th, 1853.

Present :—Day, Smith and Mondelet, (C), Justices.

No. 2145.

*McDougal v. Morgan.*

RECORDING.

This action was brought for two items, the 1st for £157, for salary up to the 1st May, 1853, and the 2nd for £23, for salary due since that date, and certain credits were allowed towards each sum. The Defendant met this demand by three pleas and a general answer. By his first plea he alledged that Plaintiff had received £148 in goods, leaving a balance of only £9, which he tendered and concluded for the dismissal of the whole action. The second plea was similar to the first. And the third plea answered the second item by pleading compensation in damages, and likewise concluded for the dismissal of the whole action.

To these pleas the Plaintiff demurred on the ground that each of them only preported to answer a part of the Declaration, while they concluded for the dismissal of the whole action.

*Badgley, Q. C., & Abbott*, in support of demurrer.

*Popham*, contra.

*Day, J.*, These pleadings are insufficient. Each of them meets only one part of the demand, but at the same time they all conclude for the dismissal of the whole action.

*Demurrer maintained.*

No. 882.

*Exparte Allère* for writ of *Certiorari*.

CERTIORARI.

*Laberge & Laflamme*, for Petitioner.

*Day, J.*, This action was brought against the Petitioner in the Commissioner's Court for damages for not having entered into co-partnership with the Plaintiff in the Court below according to agreement, and the Court had condemned Petitioner. This is certainly an extraordinary judgment, but we are not made sure that there has been an excess of jurisdiction. The presumption is that partnerships include matters of greater value than £6 5s. cy., but there is nothing in the affidavit to show that it was so in this case. *Certiorari dismissed.*

No. 2133.

*McElwee v. Darling.*

DAMAGES.—SEDUCTION.—DECLARATION DE PATERNITÉ.

*Action of damages for seduction.—Declaration de paternité.*

This action wasbrought by the Plaintiff, who described herself as *fille majeure et usante de ses droits*, for seduction and *en declaration de paternité*. The Declaration stated, "That the Defendant" "with force and arms there and then in and upon the body of the said Plaintiff made an assault, and then and there did seduce, debauch, deflower and carnally know the said Plaintiff, and did then and there and at