

would have been avoided, but the plaintiff positively refused to pay for her detention. Prompt despatch in loading and discharging was of importance, and had been stipulated for in the contract. The evidence showed that the intervening parties were justified in storing the wheat, the *Caledonia* not being ready to receive her cargo on the 17th. As to the 75 bushels, alleged short delivery, he would have been disposed to modify the judgment to this extent, but all the judges were agreed in saying that the judgment must be confirmed.

Duval, C. J., Aylwin, Drummond and Mondelet, JJ., concurred.

Judgment confirmed unanimously.

Torrance & Morris, for Appellant; *A. Robertson, Q. C.*, for Respondents.

ROLLAND, (plaintiff in the Court below,) Appellant; and JODOIN, (defendant in the Court below,) Respondent.

Held, that the use of the words *paie tes dettes*, by a creditor to his debtor, on the public street, in the hearing of passers by, gives ground for an action of damages.

This action was brought to recover \$8,000, damages for verbal slander.

It appeared that as the plaintiff was walking along Notre Dame Street one evening, the defendant met him and called out to him, Rolland, Rolland. The latter did not stop nor answer. The defendant then exclaimed, according to the plaintiff's assertion, pay your debts, pay your debts, (*paie tes dettes, paie tes dettes.*) It was in consequence of this insult that the action was brought. The defendant denied having used these words. He alleged that he had merely called upon the plaintiff to come and settle his account. At this time the plaintiff was second endorser on two notes held by the defendant to the amount of \$3,000. The plaintiff had neglected to pay, wanted delay, and for the purpose of obtaining delay, had appealed from a judgment against him at the suit of the defendant. The debt, however, was afterwards settled in full. The action was dismissed by Smith, J., on the ground that the plaintiff had wholly failed to prove his case. From this judgment the plaintiff appealed.

DRUMMOND, J., dissenting, said it was absurd that a case of this nature should be brought in the Superior Court. The plaintiff might perhaps have been entitled to three or four dollars damages; but the injury was so trifling, that the judge of the Superior Court acted wisely in dismissing the action. Litigation for trifles like this should not be encouraged. He therefore fully approved of the judgment in the Court below.

MEREDITH, J., said it certainly was matter for regret that this action should have been brought in the Superior Court. There seemed to be nothing very offensive in the words used, yet he did not think it was justifiable for the defendant to tell the plaintiff in the public street to pay his debts. But an action for \$8,000, brought in the Superior Court, exposing the defendant to considerable trouble and expense, was quite unnecessary.

MONDELET, J., said that the plaintiff had made proof of his allegations. The expression, used in the open street, was injurious, and wounded the plaintiff's sensibilities. The judgment, therefore, would be reversed, and £20 damages awarded.

Duval, C. J., and Aylwin, J., concurred.

Judgment reversed, Drummond, J., dissenting.

C. & F. X. Archambault, for Appellant; *Lesage & Jetté*, for Respondent.

BEAUDRY, (defendant in the Court below,) Appellant; and ROY *et al.* (plaintiffs in the Court below,) Respondents.

Action for damages caused by privy being built against *mur mitoyen*.

The action in this case was brought by the plaintiffs, to recover £600 damages, caused by the defendant having built privies against the *mur mitoyen*, the parties being neighbours. The filth from these places had penetrated and flowed through the *mur mitoyen*, causing a disagreeable smell in the plaintiffs' premises. There was also a demand for £52, half the cost of repairs to the *mur mitoyen*. The judgment appealed from by the defendant was rendered in the Superior Court by Smith, J., 30th April, 1864, condemning the defendant to pay £50 as damages, and ordering him to thoroughly repair the *mur mitoyen*.