

The plaintiff has fully established the allegation of his declaration.

The ladder was rotten: had not been touched for nine years; was made of wooden supports with rungs or bars placed across at intervals: it had been used before for the very purpose for which the plaintiff used it, and the pulley was immediately at the top of it; it stood there as a constant invitation to any one who wanted to reach that pulley or the gallery to go up it.

The pulley on the gallery of the third storey was used by the occupants of the second storey to hoist wood or coal or other materials. The only way to get at the pulley would be to go up the ladder, or get permission from the third storey occupant to go through his house; if the latter's permission was refused there was no other way but by the ladder.

There can be no question of the responsibility of the defendant under the circumstances.

The learned counsel for the defendant before this Court pleaded for contributory negligence. I find none. If the ladder had been in good condition the weight of the plaintiff would not have been too much for it.

The plaintiff has proved the damages awarded by the learned trial judge, and the judgment should be confirmed, with costs.

*Archambault, Robillard, Julien et Morin, avocats du demandeur.*

*J. W. Pilon, avocat du défendeur.*

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