

THE CANADIAN DRY GOODS REVIEW

Vol. II.

TORONTO, MARCH, 1892.

No. 3.

THE DRY GOODS REVIEW

THE ORGAN OF THE CANADIAN

Dry Goods, Hats, Caps and Furs, Millinery and Clothing Trades.

Published Monthly by

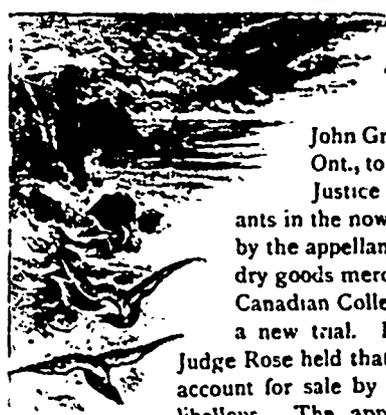
THE DRY GOODS REVIEW CO.,
6 Wellington St. West, Toronto

J. B. McLEAN,
President.

CHAS. MORRISON,
Editor and Business Manager.

Address all communications to the Editor.

ACCOUNTS ADVERTISED FOR SALE.



JUDGMENT was given on February 27th by the Queen's Bench Division on the appeal of John Green and his wife, of Kingston, Ont., to reverse the judgment of Mr. Justice Rose in favor of the defendants in the now well-known action brought by the appellants against Minnes & Burns, dry goods merchants, of Kingston, and the Canadian Collecting Agency for libel, or for a new trial. It will be remembered that

Judge Rose held that the mere advertising of an account for sale by means of a poster was not libellous. The appellants contended that the advertising of an account for sale was simply a device for blackmailing them and endeavoring to coerce them into paying the debt, and that at all events the account should not have been advertised the way it was, inasmuch as the liability to the defendants, Minnes & Burns, was incurred by the first husband of Mrs. Green or by his estate, and that certainly the appellant John Green had nothing to do with it, though the publication tended to bring him as well as his wife into contempt. It was also contended for the appellants that the evidence of the gentleman who acted as junior counsel for them was improperly rejected, and also that the appellants were entitled to a new trial on the ground of surprise. The court held that the action was maintainable, that the poster was libellous, and that the poster was not justified, because the amount advertised as due was greater than that actually due. Judgment was entered for the appellants for \$50 damages and costs. The question as to whether the advertising of an account for sale by means of a poster is libellous is, in our opinion, not yet definitely settled by this judgment. In the case under notice the amount stated in the poster was, it is claimed more than double that actually due. The Queen's Bench possibly considered that the Greens were libelled from the fact that the poster was wrong in giving their indebtedness considerably in

express of what it actually should have been. If the correct amount had been given we are inclined to think that the judgment of Mr. Justice Rose would have been sustained. Why should the mere fact of advertising an account for sale be deemed libellous? A storekeeper advertises that he has certain goods for sale, but that is not libellous. If a person purchases a supply of these goods and positively refuses to pay for them, the storekeeper has an unquestioned right to sell the account for what it will bring. That is done every day and is a perfectly legitimate transaction. If the storekeeper finds it necessary to advertise the account for sale, after every opportunity has been afforded the debtor to pay up without effect, why should it be considered libellous? It is purely and simply a needful step in disposing of a salable article. We contend that it is right in principle and should be upheld both morally and legally for the protection of storekeepers against the army of professional "dead-beats." We are not assuming that Mr. Green and his wife are "dead-beats;" our argument is on general principles. One of the greatest curses that retailers have to contend against is "bad debts" caused, chiefly, by people who look upon the payment of an account as something beneath their notice. The threat of a summons has no terrors for them, and the fear of the law keeps storekeepers, who are physically strong, from taking satisfaction out of their hides. But here we have a sure and safe means of either making them pay up or publicly warning storekeepers against them, and why we again ask, should it be looked upon as libellous? In connection with the judgment referred to we have received the following letter from Mr. Andrews, manager of the Collecting Agency "Allow me to offer a few remarks on the decision lately delivered by the Court of Queen's Bench, in the case of Green v. Minnes, wherein the judgment of Mr. Justice Rose was set aside and a verdict rendered in favor of plaintiffs for \$50 and costs. At first sight this might seem to imply that our method of collecting was held by this court to be illegal, but such is not the case, as the judgment in no way pronounces the advertising of an account for sale as illegal, if the account is actually and wholly due. Through an error on the part of the creditor the amount published as due by Mrs Green was \$59.55, whereas it could not be shown, even by the creditor himself, that she was indebted to him for more than \$24.33. The court held that in order to justify the publication of the poster, it would be necessary to show that the debtor named therein was indebted as therein set forth, but it was clear in this case that Mrs. Green was indebted in the sum of \$24.33 and in no other or greater sum, and that she was not indebted in the sum of \$59.33, as the poster set forth, and that the defendants cannot complain, if they are held to the strict proof of the matters published, and failing in such proof, if they are held liable for the consequences of such errors. There is nothing in this judgment that we can consider as a restraint upon our business, in fact it concurs throughout with Judge Rose's decision, wherein it was held that such advertisements were perfectly justifiable wherever an indebtedness exists; save that the decision of the latter court holds us strictly to the proof of the actual sum named. However, we have already entered an application for appeal from Chief Justice Armour's decision to the Court of Appeal, and we see no reason why our chances are not still good, as at present it is a case of horse and horse."