

but that he had never said that the plaintiff had set the fire and had been paid to do so.

It is established that there was every reason to believe that the defendant's house had been maliciously set fire to and burnt down; that both the plaintiff and his son-in-law had been heard to utter threats against the defendant; that at the fire, the plaintiff was generally suspected and said to be the incendiary; and that when he was publicly accused, in a bar-room on the night of the fire, of having set the house on fire, he had hung his head and had answered not a word.

The proof as to the words charged to be slanderous shows that, a few days after the fire, Mr. Groulx, who is a detective officer and was then engaged in investigating the case, had met the defendant coming out of his lawyer's private office in the City of Hull, and had asked him in the outer office if he suspected any one, and that he had replied, in the presence of those who were there, that he suspected the plaintiff, and that the plaintiff had been incited to set the house on fire by Louis Charette.

It is also proved that a rumor was generally current around the country side to the effect that the plaintiff was the incendiary.

The defendant contends that this rumor was a justification of his words; and the plaintiff maintains that an unfounded rumor does not justify a slander, but that, on the contrary, its repetition is in itself a fresh slander.

There is no doubt that the repetition of a slanderous rumor constitutes in itself a fresh slander, and renders the utterer liable in damages. But in the present case, the question is not one of justification, but whether the words addressed by the defendant to Mr. Groulx are, in the circumstances under which they were uttered, in themselves actionable? They were uttered in answer to a question asked by a detective officer seeking to discover a guilty party; and while no malicious intent has been proved, it has been shown that the defendant had probable cause, if not good reason, for the suspicion which he expressed. And no special damage has been proved to have been done to the plaintiff.

In Flood on Libel and Slander, at page 96, we read: "Words, however, of *bona-fide* sus-

"picion only, or words of complaint made to a proper authority—as to a policeman under certain circumstances—and not uttered with a malicious intent, or without proper excuse, are not actionable in themselves, nor are words which impute to another only an intention on his part to commit a crime. For instance, to say, *I believe that fellow A means to swindle his partner and then bolt*, would not be slander *per se*, that is, without proof of special damage, for the reason that it only expresses a suspicion concerning it. The real question in all cases of this kind is whether the defendant meant by his language to impute an absolute charge of felony, or merely a suspicion of felony. If the jury, from the circumstances before them, believe that the latter only was intended, then their verdict must be for the defendant."

This is the rule of law to be applied to the present case. I hold that the words uttered, having been addressed to a detective officer engaged in his occupation, and being words of suspicion only, spoken without malicious intent and with proper excuse, are not actionable in themselves; and that it would require proof of special damage, and that the words had been uttered wantonly if not maliciously, to render the defendant liable in damages.

Action dismissed.

Asa Gordon, for plaintiff.

Rochon & Champagne, for defendant.

CIRCUIT COURT.

HULL, (Co. of Ottawa,) Sept. 29, 1888.

Before WURTELE, J.

ANTILLE V. MARCOTTE.

Slander—Moral injury—Action of father in his own behalf for charge of fornication against minor daughter.

HELD:—*That a father, whose minor daughter has been slandered by words imputing that she was guilty of fornication, has an action of defamation on his own behalf against the slanderer.*

PER CURIAM.—The plaintiff avers that the defendant slandered and defamed his minor daughter Maria Théophita, by saying publicly that he had found her out, near the quarries of Hull, lying with a young man; and he