

# New Jersey Court of Errors & Appeals.

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CHRISTIAN F. FLAACKÉ,  
Defendant in Error,

vs.

FRANK B. STRATFORD,  
Plaintiff in Error.

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In Tort.

## Brief for Defendant in Error.

The action was one for slander. The words spoken charged the plaintiff with the commission of a crime, viz., robbery. The proof on behalf of the plaintiff substantiated the allegations in the declaration. The defendant admitted the charge. The direction of a verdict for the plaintiff was, therefore, correct; taken in conjunction with the charge as to damages; because any verdict in favor of the defendant, under the uncontradicted evidence, would necessarily be set aside.

The first and second assignments of error appear to be merely formal, at all events there is no error in this regard.

The third assignment of error is urged, no doubt, because certain of the witnesses called by the plaintiff stated that they did not believe the slanderous words spoken were true, losing sight of the fact that there were others present who might have so believed.

The fourth assignment of error, namely, that the words were spoken during an exchange of mutual vituperation, &c., is not borne out by the evidence. A reading of the case clearly shows that the attack made by the defendant upon the character of the plaintiff was unprovoked, and in the highest degree malicious. This proof, if it appears in the case, touches only the question of malice.

As to the fifth assignment of error, the language of the Court is not exactly as set forth in this assignment of error, but appears in page 50 where the Court says "the plaintiff is entitled to recover such reasonable amount as in your judgment should be proper to make him whole" &c. The only objection to this part of the charge is that it is too conservative, and the defendant at least should not complain of it.

The sixth assignment of error embraces the requests to charge.

As to the first request—It does not correctly state the plaintiff's burden of proof.

The second request was simply to give to the Jury a definition of robbery. This was immaterial.

The other requests to charge are covered by the assignments of error already noted.

The charge of the Court was in all respects proper.

THEODORE RURODE,  
Attorney for and of Counsel  
with the Defendant in Error.







