WILLIAM PRICE (DEFENDANT).....APPELLANT; 1914
*Nov. 11, 12.
AND
THE CHICOUTIMI PULP COMPANY (PLAINTIFFS).....RESPONDENTS. 1915
*March 15.

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL SIDE, PROVINCE OF QUEBEC.

Libel—Business reputation—Action by incorporated company—Truth of facts alleged—Fair comment—Justification—Public interest—Qualified privilege—Charge to jury—Misdirection—Misleading statements—Practice—Evidence of special damage—New trial.

There being a dispute between the parties as to the ownership of certain lands, the plaintiffs, a commercial corporation, obtained special legislation vesting the lands in question in the company. On becoming aware of this legislation, the defendant published letters in several newspapers accusing the company of obtaining it by political influence and preventing him vindicating his title in the courts. In an action to recover damages for libel, the trial judge told the jury that the defendant's defence of justification would be established if they were satisfied that, although in fact untrue, the defamatory statements had been made in honest belief of their truth, and that, if the publications were an honest comment on the facts as stated, that, in itself, would be sufficient to establish the defence of fair comment. On the findings of the jury, judgment was entered for the defendant, but this judgment was set aside, on the ground of misdirection, by the judgment appealed from and a new trial ordered.

Held, per curiam, that where a libel conveys imputations calculated to injure a trading corporation in respect of its business the corporation can maintain an action for damages.

Per Duff J.—The publication complained of was capable of being read as charging the company with having used political influence for the purpose of procuring legislation giving it possession of property in derogation of what, to its knowledge, were the defendant's rights, and this was an imputation calculated to injure the commercial corporation in its business.

Held, per Idington, Duff, Anglin and Brodeur JJ., Davies J. dissenting.—That the directions by the trial judge as to the defences of justification and fair comment were erroneous and misleading.

*PRESENT:—Davies, Idington, Duff, Anglin and Brodeur JJ.

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Per Davies J. dissenting.—Taken as a whole, the charge of the trial judge was clear and explicit and placed the material issues fairly before the jury, and, consequently, the judgment entered at the trial on the findings of the jury ought not to be disturbed.

Per Anglin J. dissenting.—That, as a judge could not properly rule or a jury reasonably find that the defendant's letters were calculated to injure the property of the plaintiff's or their business reputation, as a commercial corporation, they could not recover without proof of special damage.

Judgment appealed from (Q.R. 22 K.B. 393) affirmed, Davies and Anglin JJ. dissenting.

APPEAL and CROSS-APPEAL from the judgment of the Court of King's Bench, appeal side(1), setting aside the judgment entered in the Superior Court, District of Quebec, on the findings of the jury, by which the plaintiffs' action was dismissed with costs, and ordering a new trial without costs.

The trial took place before His Lordship Mr. Justice Dorion and a jury and, in answer to questions submitted to them, the jury found that the allegations in the letters published by the defendant, as mentioned in the head-note, were substantially true, that the matter therein referred to was one of public interest, that the defendant had made the publications in the interest of the public and in good faith, and that no damage had been thereby caused to the plaintiffs. On these findings the learned trial judge entered judgment for the defendant. On an appeal to the Court of King's Bench, the judgment entered by the trial judge was set aside on the ground of misdirections in the charge to the jury and a new trial was ordered, Trenholm J. dissenting. From this judgment the defendant appealed to the Supreme Court of Canada, asking to have the judgment in the Superior Court restored, and the de-

(1) Q.R. 22 K.B. 393.

fendants cross-appealed on the ground that the Court of King's Bench erred in refusing to allow them their costs on the appeal to that court.

G. G. Stuart K.C. and *L. St. Laurent* for the appellant and cross-respondent.

E. Belleau K.C. and *A. Taschereau K.C.* for the respondents and cross-appellants.

DAVIES J. (dissenting). — This was an action brought by the respondents, an incorporated company, against the appellant for an alleged libel contained in a letter published by him in the public newspapers charging the company with having promoted the passage of a bill through the Legislature of the Province of Quebec transferring to them certain property which the plaintiff claimed as his, and characterizing it as an act of spoliation and theft. The alleged libel charged that

> the intention of the promoters was to obtain a legislative title to property which the Chicoutimi Pulp Company pretended to own but its title to which was manifestly so insufficient that it was afraid to submit it to the test of a legal decision;

and, after saying he was advised that though the intention of the promoters was clear, it was doubtful whether the object had been obtained, he goes on to say:—

> Should I find that my property really has been transferred to the Chicoutimi Pulp Company I shall come back to the legislature to undo the injustice done and *return the property stolen.*

The trial of the action took place before Mr. Justice Dorion and resulted in certain findings of the jury in answer to questions submitted to them upon

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which findings the trial judge directed judgment to be entered for the defendant.

The Court of King's Bench set aside this judgment and directed a new trial to be had on the ground that the trial judge had misdirected the jury. With great respect, however, I think that they were wrong and that their error arose from the fact which seems to have entirely escaped their attention that the proceedings of the legislature and its Private Bills Committee with respect to which the alleged libel was written was, at any rate so far as defendant was concerned whose legal rights as claimed by him were being dealt with, what is known as an occasion of qualified privilege. Such an occasion is one on which public comment and observation might properly be made in the absence of malice such comment being such as a jury would find to be fair and reasonable.

The letter complained of sets out the text of the clause proposed and added to the bill introduced in the Legislative Assembly for amending the plaintiff company's charter the latter words of which clause contain the words of enactment which the defendant so bitterly complained of, namely,

> and all the said lands are declared to have been and to be the property of the Chicoutimi Pulp Company.

"The said lands" included those to which the plaintiff claimed title and which he declared were by this legislative enactment sought to be transferred to and vested in the company.

The letter also sets out the amendment proposed by the Attorney-General when the bill reached the Private Bills Committee of the Legislative Council and accepted by that committee, which amendment

omitted the objectionable words above quoted. The letter also states the proceedings in the council, when the bill was reported to them, restoring the clause with the objectionable words which had been elided by the committee and giving the names of those who voted pro and con.

The alleged libellous comment upon this action of the legislature and upon the company and such of its officers as were members of the legislature I have already given.

The questions for submission to the jury were in accordance with the practice of the Province of Quebec decided on and fixed by one of the judges after issue had been joined on the pleadings and before the action went down to trial.

Two important questions there were, it seems to me, which directly arose out of the action and on the determination of which it should be disposed of; one was whether the occasion was one of qualified privilege and the other whether defendant's comments were fair and legitimate criticism upon the facts.

The first question was for the trial judge to determine and, in my opinion, he did so correctly when he held the occasion one of qualified privilege.

In the case of *Stuart* v. *Bell*(1), at page 345, Lindley L.J. says:—

> A privileged communication is one made on a privileged occasion, and fairly warranted by it, and not proved to have been made maliciously. A privileged occasion is one which is held in point of law to rebut the legal implication of malice which would otherwise be made from the utterance of untrue defamatory language. This is the effect, in a few words, of the leading cases on the subject.

Ever since the case of *Wason* v. *Walter*(2) was

(1) [1891] 2 Q.B. 341. (2) L.R. 4 Q.B. 73.

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decided it has been held that fair reports of proceedings in Parliament, although disparaging to the character of individuals, have a common law immunity similar to reports of proceedings in courts of justice.

Whether or not the subject matter of the comment or criticism is a matter of public interest is a question of law for the judge, but the matter defended as comment must be comment and not mere assertion of fact. A man cannot, under the pretence that what he is publishing is comment only, misrepresent the facts. But whether he has or has not misrepresented them comes within the province of the jury to determine and not the judge.

The other question, whether the comment was fair or not, it is much to be regretted, was not specifically submitted to the jury to answer.

The learned judge, however, was most careful in his charge to tell the jury that the criticism on such a qualified privileged occasion must be fair, reasonable and legitimate and that unless they found it to be so they should find a verdict for the plaintiffs and condemn the defendant.

As to what is fair and reasonable comment, I quote the opinion of Bowen L.J. in *Merivale* v. *Carson* (1), at page 283:—

> This leaves unsettled the inquiry, and perhaps it was intended in *Campbell* v. *Spottiswoode* (2) (a case which has never been questioned) to leave it unsettled, what is the standard for the jury of *fair criticism?* The criticism is to be *fair*, that is, the expression of it is to be fair. The only limitation is upon the mode of expression. In this country a man has a right to hold any opinion he pleases, and to express his opinion, provided that he does not go beyond the limits which the law calls *fair*, and, although, we cannot find in any decided case an exact and rigid definition of the word

(1) 20 Q.B.D. 275.

(2) 3 B. & S. 769.

fair, this is because the judges have always preferred to leave the question what is "fair" to the jury.

In the case above referred to of *Wason* v. *Walter* (1), Lord Chief Justice Cockburn delivering the judgment of the Court of Queen's Bench after holding the publication of the reports of Parliamentary privilege as coming within the rules applicable to occasions of qualified privileges went on to say, at page 96:—

> The publication of the debate having been justifiable, the jury were properly told the subject was, for the reasons we have already adverted to, pre-eminently one of public interest and, therefore, one on which public comment and observation might properly be made, and that, consequently, the occasion was privileged in the absence of malice. As to the latter, the jury were told that they must be satisfied that the article was an honest and fair comment on the facts — in other words, that, in the first place, they must be satisfied that the comments had been made with an honest belief in their justice, but that this was not enough, inasmuch as such belief might originate in the blindness of party zeal, or in personal or political aversion; that a person taking upon himself publicly to criticize and to condemn the conduct or motives of another, must bring to the task, not only an honest sense of justice, but also a reasonable degree of judgment and moderation, so that the result may be what a jury shall deem, under the circumstances of the case, a fair and legitimate criticism on the conduct and motives of the party who is the object of censure.

The charge of the learned judge was very lengthy and was signed and fyled by him in the records of the court, as required by the procedure in Quebec. We had the original record with this charge before us and I must say that, taken as a whole, it is a correct explanation of the law and a fair and clear charge and direction to the jury as to what they should find in order to bring in a verdict one way or the other.

Their answers to the questions which had been settled and which were put to them (neither party asking for an additional question) must be read in the light of this charge.

(1) L.R. 4 Q.B. 73.

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Dealing with the question of fair comment, the learned trial judge said:—

> The law gives every citizen the right to discuss public affairs in the newspapers, in public meetings, *et cetera*, to express opinions; in short, to comment on public affairs. Such comments are necessary in a country like ours where there is constitutional government, in order that public opinion may be enlightened. In the present case, the question that arises is one of public order, that is, whether it is right that the legislative power should invade the judicial power. But these comments when made must be fair; they must not go beyond the limits of a fair and reasonable criticism of the facts, whether true or false. The comment has to be considered separately from the question of fact. The report of the facts may be false and malicious, and the comment fair. In the same way, the report of the facts may be true and made without malice, but the comment may be unfair.
>
> The defendant must be condemned, where he has maliciously reported facts, which are not true, without unjustly commenting on them, and where he has commented unfairly on facts reported, even if true.
>
> On the other hand, if he has reported without malice what he thought to be true and if he has expressed reasonable opinions, justified by the facts as reported he must be exonerated, however severe may have been his comments, however damaging may have been the publication of the facts and comments.

No doubt sentences may be found in different parts of the charge which, divorced from their context, may be said not to correctly state the whole law. But taken as a whole, and that is the only way a judge's charge should be passed upon, I think this charge is not open to the objections respondents make.

Bramwell L.J., in *Clark* v. *Molyneux*(1), says, at page 243:—

> I certainly think that a summing up is not to be rigorously criticized; and it would not be right to set aside the verdict of a jury because in the course of a long and elaborate summing up the judge has used inaccurate language; the whole of the summing up must be considered in order to determine whether it afforded a fair guide to the jury and too much weight must not be allowed to isolated and detached expressions.

(1). 3 Q.B.D. 237.

The jury found amongst other things that the article complained of was "substantially true," that "it dealt with questions which interest the public," that "it was published in the public interest and in good faith" and that "it did not cause any damage to the plaintiff."

Now these findings could not have been made unless, as the judge charged them, the jury reached the conclusion that the comments of the defendant upon the qualified privileged occasion were fair, legitimate and reasonable.

There does not seem to be any doubt that the president and vice-president of the company who were members of the legislature, and who respectively moved, in the assembly and in the council, the clause complained of, acted in good faith in promoting and carrying it because they believed that the defendant was a party to an all round understanding or agreement made between the two litigants and representatives of the Provincial Government whereby defendant was to relinquish his claims to the lands in dispute in return for other lands he was to get from the Crown.

On the other hand, the defendant from the first bitterly denied being a party to or consenting to any such agreement and much of the evidence taken at the trial had reference to these two divergent claims.

The charge went very fully into this evidence and submitted it fairly to the jury as an important factor for them to consider in determining whether the defendant was or was not guilty of malice.

The contention on the part of the respondents, defendants, as I understood it, was that the absence of

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any reference in his letter to this contention of the respondent company shewed malice on his part. It was not perhaps an unfair argument to present and it was urged with force not only here but before the court and jury that tried the case. But it could not be denied that it was purely a question for the jury, one of the factors which they had to consider in deciding upon the answers they gave to the questions asked them and, therefore, not one with which the courts ought to interfere if there was any evidence on which the jury could find as they did. That there was ample evidence for the jury so to find I think is clear.

On the whole, I have reached the conclusion that the appeal should be allowed with costs here and in the Court of King's Bench and that the judgment of the trial judge should be restored.

Having reached this conclusion, it is perhaps not necessary for me to express an opinion upon another important question which might well have arisen but which does not seem to have been discussed at the trial or in the Court of King's Bench, namely, whether an action by an incorporated company, such as the plaintiff, will lie at all for such an alleged libel as the one in question or whether it must be brought by the individuals acting for the company or composing it.

The question was considered in the case of the *South Hetton Coal Company* v. *North-Eastern News Association*(1), by the Court of Appeal in England, where it was held that an action of libel will lie at the suit of an incorporated trading company in respect of a libel *calculated to injure its reputation in the way of its business.*

(1) (1894) 1 Q.B. 133.

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In that case, Lord Esher, at pages 138-139, says:—

Although the law is the same with regard to libel on a firm or company as with regard to libel on a person, the conditions under which the particular statement can be libellous may not exist with regard to them. There are other statements which would have the same effect, whether they were made with regard to a person, or a firm, or a company; as, for instance, statements with regard to conduct of business. It may be published of a man in business that he conducts his business in a manner which shews him to be a foolish or incapable man of business. That would be a libel on him in the way of his business, as it is called — that is to say, with regard to his conduct of his business. If what is stated relates to the goods in which he deals, the jury would have to consider whether the statement is such as to import a statement as to his conduct in business.

On the same page he says that while an exhaustive rule cannot be laid down as to what would be a libel on a company,

statements may be made with regard to *their mode of carrying on business*, such as to lead people of ordinary sense to the opinion that they conduct their business badly and inefficiently.

At page 141, Lopes L.J. says:—

With regard to the first point I am of opinion that, although a corporation cannot maintain an action for libel in respect of anything reflecting upon them personally, yet they can maintain an action for a libel reflecting on the management of their trade or business, and this without alleging or proving special damage. The words complained of, in order to entitle a corporation or company to sue for libel or slander, must injuriously affect the corporation or company as distinct from the individuals who compose it. A corporation or company could not sue in regard of a charge of murder, or incest, or adultery, because it could not commit these crimes. Nor could it sue in respect of a charge of corruption or of an assault, because a corporation cannot be guilty of corruption or of an assault, although the individuals composing it may be. The words complained of must attack the corporation or company in the method of conducting its affairs, must accuse it of fraud or mismanagement, or must attack its financial position.

He then adopts the limits of a corporation's rights suggested by Pollock C.B. in *Metropolitan Saloon*

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Omnibus Co. v. *Hawkins*(1), at page 90, where he says:—

> That a corporation at common law can sue in respect of a libel, there is no doubt. It would be monstrous if a corporation could maintain no action for slander of title through which they lost a great deal of money. It could not sue in respect of an imputation of murder, or incest, or adultery, because it could not commit those crimes. Nor could it sue in respect of a charge of corruption, * * * although the individuals composing it may. But it would be very odd if a corporation had no means of protecting itself against wrong and, if its property is injured by slander, it has no means of redress, except by action. Therefore, it appears to me clear that a corporation at common law may maintain an action for a libel by which its property is injured.

Kay L.J. gives judgment to same effect.

In the case before us, while in the view I take of the facts, the qualified privileged occasion, the trial judge's charge and the findings of the jury, it is not necessary for me to decide whether this action would lie at all, I may say that I entertain very grave doubts whether, under the authorities, it would, and my inclination is towards the view that it would not. I prefer, however, to base my judgment upon the grounds previously stated that the occasion was one of qualified privilege and that the findings of the jury read in connection with the judge's charge really mean that the language complained of was fair and legitimate criticism.

IDINGTON J.—This is an action of libel brought by the respondent against the appellant founded upon the publication by the latter in three newspapers published in the Province of Quebec of a letter written by him.

There was a private bill pending before the Legislature of Quebec promoted by the Town of Chicoutimi.

(1) 4 H. & N. 87.

This bill was so amended as to incorporate therein a declaration confirming the respondent's title to some grants made by the Crown.

The appellant in said letter recited the proceedings in the legislature which I need not dwell upon at length.

In the course of his statements therein referring to this amendment he said:—

> Now a portion of the lands described in this paragraph never has been and is not now the property of the Chicoutimi Pulp Company, but is my property.

And then he proceeded to state the history of the amendment and commented thereupon as follows:—

> The intention of the promoters was to obtain a legislative title to property which the Chicoutimi Pulp Company pretended to own, but its title to which was manifestly so insufficient that it was afraid to submit it to the test of a legal decision.
>
> I think the public must conclude that the Chicoutimi Pulp Company had no confidence in their pretended title, otherwise the unheard of recourse to a declaratory law with respect to private property would have been unnecessary.
>
> While the value of the land at issue may not be very great the principle involved in legislation of this character is of supreme importance to the public; not alone to those persons whose property the Chicoutimi Pulp Company may covet, but to all people whose property may be coveted by others having sufficient influence to obtain legislation of this kind.
>
> I may, however, add that I am advised that though the intention of the promoters is clear, it is doubtful whether the object has been attained, and I propose forthwith to test the question and if necessary carry it to the Privy Council; should I find that my property really has been transferred to the Chicoutimi Pulp Company, I shall come back to the legislature and ask that body to undo the injustice done and return the property stolen.
>
> I suggest for the consideration of the public whether legislation of this character is not calculated to prove injurious to Canadian enterprise seeking capital on the English or foreign money markets. If companies can promote and carry legislation transferring to them other people's property, they can also promote and carry legislation by which creditors will be deprived of their security, or, if desired, of their recourse against their debtors. Is it reasonable under these cir-

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cumstances to expect that capitalists will invest money in this province.

The respondent's action is founded upon the letter as a whole, but must rest upon these quotations.

Amongst many other things pleaded in defence the appellant alleged as follows:—

14. The letter published under his signature in the *Chronicle*, the *Montreal Star*, and the *Gazette*, was written and signed by him and was published at his request.

15. The statements of fact contained in the said letter are true in substance and in fact.

* * * * *

18. This amendment was introduced without notice of any kind to the defendant or to the public and contrary to all Parliamentary rules, regulations and usages concerning private bills, and the persons who so introduced it intended thereby and the object of such amendment was to endeavour to obtain a statutory or legislative title to certain lands which did not belong to the plaintiff, but did belong to the defendant and which were in question at that time and with respect to which litigation was threatened.

* * * * *

47. The defendant's letter was a fair statement of true facts referring to a matter of public interest and was a fair and *bonâ fide* comment, not only with respect to matters which the defendant had a right and an interest to make public, but a fair and *bonâ fide* comment on matters of public interest.

On the issues so joined the respondent as plaintiff was entitled to have the jury pass.

It is claimed, and I think with reason, that the learned trial judge so misdirected the jury that the verdict obtained ought not to stand.

The court of appeal has set aside the verdict and directed a new trial. From that judgment this appeal is taken.

I am, with great respect, afraid that there was much misconception of law involved in the charge of the learned trial judge on the trial of this simple issue

and hence that the complaint of misdirection which has been pressed is well founded.

I do not propose to enter in detail upon the manifold issues presented and the various misdirections of the learned trial judge.

Speaking generally thereof, however, he seems to me, I submit with great respect, to have confused the issues which ought to have been presented to the jury and has thus been led into error.

If any doubt existed as to the defamatory character of these statements a further question should have been submitted to the jury whose province it is to pass thereon.

Then if the issues presented by the pleadings justifying as true the parts which I have quoted of the letter complained of, and assumed to be defamatory, had been well and truly tried out and the truth or falsity thereof, or of material statements therein, first ascertained, matters would have been very much simplified.

The action was launched some ten years ago and the pleadings I quote from filed shortly thereafter.

The appellant instituted, as threatened in said letter, proceedings to establish his title and followed same to the Privy Council and in these proceedings he failed entirely to establish the title he asserted. The trial of this action seems to have stood over awaiting the result of that litigation.

It surprises one to find, in face of such a result (unless something new turned up afterwards which does not appear), the pleading of the defence of justification which I quote, still adhered to, instead of that assertion of title being withdrawn. A defence of justification involving the truth in substance and in fact

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of an alleged libel is often a perilous sort of proceeding.

The appellant no where in his long pleading sets up specifically a claim of privilege but in law contends that what he does set up constitutes a privilege of some kind.

So far as reporting what actually transpired in the legislature or before its committees is concerned that clearly is privileged. And so far as a fair and reasonable comment thereon is concerned that also was permissible; for to speak the thought we will is the very life blood of our freedom and free institutions. In doing so, however, no one has the right to invent statement of fact and present it for truth. Nor has he the right in his comment to put forward what others may have invented, and publish that or aught else as fact which is false. No belief, on the part of one publishing any such comment, in such falsehood can justify its publication as part of his comment.

The reasoning used may be grossly fallacious and thus, in effect, a falsehood in itself, but of that the law will take no notice. In thus appealing to mankind they are supposed to be able to discriminate the true from the false if only the fundamental facts upon which the comment proceeds are shewn to be true.

It has been said by high authority that this right to comment should not be called a privilege. And as a matter of expediency it may be as well when we see how confused people get over the meaning of the term "privileged" to bear that observation in mind.

The comment must be fair, but much latitude has in practice been permitted, for wise men treat with silent contempt that which fair minded men can, when

nothing but facts are presented, adjust and correct for themselves. And thus the appellant, in dealing with the matter he had in hand, might have gone very far in his strictures upon private legislation of the character of that he was assailing. But he was bound in doing so to adhere to the truth so that such fair minded men as he was appealing to might not be led astray.

He could have presented to the public just exactly the nature of the claim he put before the legislative committee with the answer made thereto and asked his readers to decide relative to his appeal.

Such, as I have tried to set forth, I conceive was the law that ought to have been observed. Instead of that it seems to have been thought and, indeed, is urged before us that it mattered not in such circumstances whether what was stated was true or not, so long as it was honestly believed by appellant, and published by him in good faith.

I am unable to hold that view of the law.

There are many situations in the commerce of mankind when it becomes the legal, social, or moral, duty to speak, and in doing so to give honest utterance to that which when it comes to be investigated may prove absolutely false, and in many cases he so speaking is privileged and protected unless he can be shewn to have been actuated by malice.

But this is not such a case. And to confuse it with that class of cases in their various shades of absolute and qualified privilege is to mislead, and, when doing so in charging a jury, is to misdirect them.

The law is so well expounded by Lord Blackburn

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and others in the case of *Campbell* v. *Spottiswoode* (1), and many cases following it, that I may refer those concerned to said exposition, and to other cases collected in Fraser on Libel and Slander, pp. 90-95.

For the purpose, therefore, of furnishing a bar to the action the investigation of the belief or good faith of appellant is of no avail.

As, however, in many other libel actions, there is in this an aspect of it which gives rise to the consideration of the question of the appellant's good faith and his reason for believing that he had a right to assert that he had a title to the lands he claimed as his. And that, if he thinks it worth while, he has a right to insist on the court and jury hearing him in mitigation of damages. It cannot form in itself in such a case as this a defence barring the action.

I can imagine a man, wishing to justify himself before the public, using this right as means thereof even if only nominal damages asked at the opening of the trial, though I should doubt its expediency in a ten year old case.

In dealing with such investigation as was made on the trial relative to this question of the good faith and belief of the appellant there seems also to have been much confusion of thought. And that was carried into the charge of the learned trial judge to the jury. He seems to have treated the matter as if it were necessary to prove a contract in writing and to have held that, as there was no commencement of proof in writing, what was adduced of an oral character must fall to the ground. I submit, with deference, that it was the conduct of the appellant for years preceding his letter in relation to these matters alleged against him so far as shewn to be inconsistent with an honest belief

(1) 3 B. & S. 769.

in his assertions of a title possessed by him that bore upon the issues relative to such belief and good faith.

From that course of conduct inducing, as it was alleged, reciprocal conduct on the part of those he assails, even an agreement or understanding might have been inferred or submitted as a fair ground for an inference which forbade his honestly asserting such title as he set up.

I am by no means to be taken as asserting that such is the fair inference or conclusion to be reached. That was and is for the jury to consider. And it was for the learned judge trying the case to have directed their minds to a fair consideration of such evidence of any kind shewing his conduct in its bearing upon this subsidiary question of the good faith of the appellant.

Again I may point out that the last paragraph of the defence, being also the last of the three which I have quoted, couples together two or three matters which ought to be kept for consideration in the first place, quite independent of each other. The first part of the paragraph is apparently a repetition of paragraph fifteen, which must stand or fall by itself; and if it fall, then in my view of the law which governs the case, that defence fails; and if that fails there cannot be maintained the further proposition of a defence of fair comment.

There has in such a case been a failure to maintain what the law recognizes as fair comment and imposes as a fundamental part of what constitutes fair comment.

Counsel for appellant submitted that no case had been made out and that the case should have been withdrawn from the jury and the action dismissed.

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In my view of the law I need hardly say that I cannot assent to such a proposition.

He also took the objection, which is not set up in the statement of defence, that the respondent being a corporation cannot maintain such an action as this, under the existing circumstances attendant thereon, and resting upon such a basis as the appellant's letter furnishes.

I do not think there is anything in any of the decisions in the cases to which he has referred which can be held to maintain the objection. And I may frankly say that some *obiter dicta* I have observed therein do not seem to me maintainable.

It would be short-sighted policy to try and so mould the law as needlessly to restrict the right of corporations to bring an action for libel.

In these days when corporations engage so much of the business activities of mankind and are daily assailed in the press, I think any one of them so attacked ought to have the power to assure the public on whom it relies for business that its conduct has not been that imputed in any such attack as this, for example.

Bringing an action for libel and putting him defaming any such entity to the proof is its only means of defence. To deprive any one of them of such right would be sure to tend to make their conduct worse instead of better. It is the public's highest interest to have as much publicity given to corporate dealings with the public as possibly can be brought about.

I think this appeal should be dismissed with costs.

As to the cross-appeal I think to allow it, even if good ground of complaint, which I do not find, would

be to infringe on the settled jurisprudence of this court relative to mere questions of costs.

The cross-appeal should also be dismissed with costs to be set off against the other costs of the appeal herein.

DUFF J.—In this case I regret to say that I see no escape from the conclusion that there must be a new trial. I regret it because all the facts were before the jury to enable them to pass upon the issues raised by the action and the mistrial arises only because in certain vital matters they were not properly instructed by the learned trial judge. The defences were justification, privilege and fair comment. It was not disputed on the argument that in an action for libel where, as here, the publication complained of deals with matters admittedly of public interest the rules of law applicable in the Province of Quebec do not sensibly differ from the rules of the law of England except in so far as they may be affected by statute, and there is no question of the application of any statute in this case. In effect, the learned trial judge directed the jury that the defence of justification would be established if they were satisfied that the defamatory statements of fact were made with an honest belief in their truth, even though in fact untrue. He further directed them that if the publication was an honest comment that, in itself, would be sufficient to establish the defence of fair comment. As the learned judges of the Court of King's Bench have pointed out in their judgments these directions were erroneous. The defence of justification fails unless the defendant justifies every injurious imputation which the jury

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find to be conveyed by the publication. The defence of fair comment fails unless the jury find that the imputation, although defamatory and not proved to be true, was made *fairly* and *bonâ fide* as the honest expression of the opinion held by the defendant and is in the opinion of the jury warranted by the facts in the sense that a fair-minded man might, on those facts, hold that opinion. It is also essential to this defence (as regards imputations which the defendant fails to prove to be warranted in fact) that he must have stated them not as facts but as inferences from other facts.

As there is to be a new trial I think it is undesirable to enter upon any discussion of the facts. But I think it is important to say this: The plaintiff is only entitled to succeed if the publication in question could convey to the mind of a reasonable person imputations calculated to damage the plaintiffs in their business. I think the publication is capable of such a meaning, that is to say, I think it is capable of being read as charging the plaintiffs with making use of their political influence in the legislature to procure the passing of legislation with the object of depriving the appellant of rights which they either knew to be vested in him, or believed might be vested in him, in respect of property which they desired to get for themselves; in other words, that they were unscrupulous enough to make use of their political influence to benefit themselves at the expense of the appellant's rights, or what, if his recourse to the courts were not taken from him, might prove to be his rights. I think that would be an imputation calculated to damage them in their business. But it is a question for the

jury whether or not the publication in fact bears that interpretation in the sense that that is the meaning which a reasonable person would attribute to it.

There is one further observation arising out of the course of the argument in this court which it seems right to make and that is that the defendant is only bound to justify the publication (as regards his defence of justification) or support the publication as fair comment (as regards his defence of fair comment) in the sense in which the publication would be actionable; that is to say, in the sense in which it would convey an imputation prejudicially affecting the plaintiffs in their business. Failure to prove, for example, as a fact that the defendant was the owner of the property, while relevant, no doubt, could not be conclusive as regards either defence. Even assuming the jury should construe the publication as declaring absolutely that the appellant was the owner of the property, the gist of the imputation in the only sense in which it is actionable is that the plaintiffs oppressively or dishonestly made use of their political influence with the legislature to deprive the appellant of rights which they knew to be his, or his title to which, at all events, they did not think it safe to leave to the judgment of the courts. If the appellant fails to justify that imputation in fact there is still open the defence of fair comment, the coëfficients of which I have indicated above. But first of all, it is a condition of the plaintiffs' success that it should appear that the publication contains actionable imputations, that is, I repeat, imputations calculated to prejudice the plaintiffs in their business.

ANGLIN J. (dissenting).—Upon the verdict of the jury judgment was entered dismissing this action.

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On appeal that judgment was set aside on the ground of misdirection by the learned trial judge in instructing the jury that what matters is not the truth of the facts but that they should be reported without malice, or wicked intent, and that, if the defendant believed what he had written to be true and published it without malice or evil intent, they should find that what he had said was substantially true.

The defences were justification, privilege and fair comment.

No doubt, as applied to the plea of justification, the passages of the charge above referred to would be indefensible under English law. They are at least equally so under Quebec law, whether the truth of the alleged libel should be regarded as in itself a complete defence (*Leduc* v. *Graham*(1)), or, as would seem to be the better opinion, should be deemed a defence only if the publication is also alleged and proved to have been made in the public interest and concerning matters of public moment (*Trudel* v. *La Compagnie d'Imprimerie et de Publication du Canada*(2)), and may even then be shewn only in mitigation of damages. (*Gazette Printing Co.* v. *Shallow*(3), at page 343; *Trudel* v. *Beemer*(4).) In its bearing on the defence of fair comment the direction condemned by the court of appeal is equally erroneous. The learned judge indicated that it bore on this defence when he said:—

> If he (the defendant) has reported without malice what he thought to be true and if he has expressed reasonable opinions justified by the facts *as reported*, he must be exonerated.

I understand that in the Province of Quebec Eng-

(1) M.L.R. 5 Q.B. 511.
(2) M.L.R. 5 Q.B. 510.
(3) 41 Can. S.C.R. 339.
(4) 19 R.L. 600.

lish law governs defences to actions for libel in newspapers founded on privilege or fair comment. *Marcotte* v. *Bolduc*(1).

As I read his charge the learned judge did not intend to submit to the jury the defence of qualified privilege in the strict sense as understood by English lawyers, but rather the defence of fair comment in the public interest upon a report of proceedings in the legislature — sometimes called privilege in a broader sense. The duty of communication to or an interest in the persons to whom the alleged libel was published necessary to support a plea of qualified privilege in the strict sense was probably lacking. Upon the defence of fair comment the attention of the jury was scarcely sufficiently directed to the all-important distinction between statements or accusations of fact, the truth of which must be proven, and statements by way of inference or expressions of opinion, upon which the issue is their reasonableness and fairness. The only direction given as to the burden of proof in regard to malice was that it lay with the plaintiff — a proper direction when the judge has ruled that the occasion is one of qualified privilege in the strict sense, but incorrect where the defence is fair comment. The eighth question (whether the article dealt with matters of public interest) was improperly left to the jury. That is a question of law for the judge. But this error was probably innocuous as the learned judge distinctly charged that the question was one of public order and properly a subject of fair public discussion and criticism within reasonable limits.

Although in most respects an able presentment of a

(1) Q.R. 30 S.C. 222.

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difficult and complicated case, the charge contains several errors so vital in their character that I fear the order for a new trial could not properly be set aside, if to do so it were necessary to find that there had been no misdirection or that the case falls within the saving grace of article 500 C.P.Q.

But I have reached the conclusion that a commercial corporation, such as the plaintiff company is, cannot maintain an action for libel, without proof of special damage, for the publication of a letter such as that before us, which, as I read it, reflects rather upon members or officers of the corporation than upon the corporate body itself, and, in so far as it may impute misconduct, charges something of which the corporation itself could not be guilty. *Metropolitan Saloon and Omnibus Co.* v. *Hawkins*(1); *South Hetton Coal Co.* v. *North Eastern News Association* (2); *Mayor of Manchester* v. *Williams*(3); 18 Halsbury's Laws of England, 612.

It was suggested to us that the rights of a corporation under Quebec law differ in this respect from those which it would have under English law, and we were referred to articles 352 and 358 of the Civil Code. I find nothing in these articles warranting the suggestion made, and I can conceive of no sound reason in support of it. The only authority to which we were referred was *L'Institut Canadien* v. *Le Nouveau Monde* (4), in which the plaintiff was not a commercial corporation. Whatever may be thought of the judgment in that case, the libel there before the court directly

(1) 4 H. & N. 87, at p. 90.
(2) (1894) 1 Q.B. 133, at p. 142.
(3) (1891) 1 Q.B. 94.
(4) 17 L.C. Jur. 296.

affected the carrying on of an important part of the work of the institute.

I think a judge could not properly rule or a jury reasonably find that the defendant's letter was calculated to injure the property of the plaintiff, or its business reputation or character, as distinguished from the personal reputations or characters of its officers or members. In the absence of proof of special damage such a finding was essential to the plaintiff. The questions submitted did not cover this issue, nor did the charge present it to the jury. No objection was taken on this ground nor was any request made that a question should be put to elicit such a finding. Under these circumstances article 499 C.P.Q. appears to disentitle the plaintiff to a new trial.

On the whole I think it is in the interests of justice that this litigation, regrettable from every point of view, should be brought to an end, especially in view of the obvious fact that the plaintiff company has sustained no substantial injury.

I would allow this appeal with costs and restore the judgment of the learned trial judge dismissing the action.

BRODEUR J.—Nous avons à considerer dans cette cause-ci si la bonne foi du défendeur appelant peut justifier les propos diffamatoires qu'il a tenus sur le compte de la demanderesse intimée.

La législature de Québec, à sa session de 1904, avait, à la demande de l'intimée, déclaré qu'un certain terrain, qui avait été concédé à cette dernière par la Couronne était la propriété indiscutable de l'intimée.

L'appellant, Price, avait combattu ce projet de loi, en alléguant que ce terrain lui appartenait: mais la

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législature confirma le titre donné par la Couronne à l'intimée.

L'appelant jugea à propos alors d'écrire dans les journaux une lettre où non-seulement il critiquait la demande de la compagnie à la législature mais il alléguait que l'intimé l'avait spolié de son terrain et qu'il allait instituer des procédures devant les tribunaux pour arriver à se faire remettter en possession de ce terrain volé (return the property stolen).

Poursuivi pour libelle, le defendeur appelant a voulu se justifier en disant que de fait il avait, depuis la publication de sa lettre, pris une poursuite devant les tribunaux pour revendiquer ses droits au terrain en litige et il plaida la vérité des accusations qu'il avait portées et la justesse des commentaires qu'il avait fait.

Voici d'ailleurs le texte même des paragraphes 15 et 47 de la défense où il affirme ces deux moyens de défense :—

15. The statements of fact contained in the said letter are true in substance and in fact.

47. The defendant's letter was a fair statement of true facts referring to a matter of public interest and was a fair and *bonâ fide* comment, not only with respect to matters which the defendant had a right and an interest to make public, but a fair and *bonâ fide* comment on matters of public interest.

La présente cause est restée en suspens pendant plusieurs années afin de permettre évidemment au demandeur de faire décider l'action pétitoire qu'il avait instituée et à laquelle il référait dans sa défense. Cette action pétitoire est allée jusqu'au Conseil Privé et il a été décidé que le demandeur n'a pas prouvé qu'il était propriétaire du terrain en litige.

On a ensuite procédé sur la présente poursuite et un procès par jury eut lieu.

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L'honorable juge qui présidait au procès a déclaré à différentes reprises au cours de son adresse aux jurés que le défendeur n'était pas tenu de prouver la vérité des accusation qu'il avait portées, mais d'établir simplement qu'il croyait bien fondé ce qu'il avait dit.

En d'autres termes, il a déclaré que la bonne foi du défendeur pouvait l'exempter de toute responsabilité civile pour toutes les injures que contenait sa lettre.

Le verdict du juré a été en faveur de l'appelant; mais la cour d'appel, saisie de la cause, a ordonné un nouveau procès.

J'en suis venu à la conclusion que le jugement *a quo* doit être confirmé.

Je suis d'opinion que la défendeur devait prouver la vérité de son accusation et que la critique qu'il a faite de la conduite de la demanderesse n'était pas judicieuse (unfair comment).

Je suis d'opinion également que les paroles injurieuses dont il s'est servi ne pourraient lui permettre de réclamer l'immunité reconnue en faveur des communications privilégiées (qualified privilege).

La preuve de la vérité des propos diffamatoires est permise dans le droit anglais quelque soit la condition des parties intéressées, soit qu'il s'agisse de particuliers ou d'hommes publics, soit qu'ils aient été proférés au sujet d'une affaire privée ou d'une affaire publique.

Dans notre droit au contraire la calomnie et la médisance donnent lieu dans la rapports ordinaires de la vie a des recours en dommages.

Que les propros diffamatoires soient vrais ou faux, celui qui les a tenus engage sa responsabilité.

Sous le droit romain on disait qu'il n'était ni juste

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ni équitable que celui qui a diffamé un coupable fut condamné pour ce fait, car il est utile et nécessaire que les fautes des coupables soient connues.

Eum qui nocentem infamavit non esse bonum et æquum ob eam rem condemnari; peccata enim nocentium nota esse et oportere et expedire.

Cette législation fut implantée en France dans les pays de droit écrit. Mais dans les pays de coutume on adopta la jurisprudence canonique qui avait pour règle: "*Veritas convicii non excusat*" (Grellet Demazeau, vol. 1er, p. 340 et 345).

Dareau, qui est le guide le plus sûr que nous puissions suivre quant aux injures entre particuliers, nous dit (vol. 1er, p. 60), qu'il y a un surcroît d'injure d'offrir la preuve de la vérité du mal que l'on dit, parce que

si cette verité pouvait servir d'excuse, tous les jours ce pretexte donnerait ouverture à de nouvelles injures qu'il est toujours prudent d'éviter.

Cette doctrine de l'ancien droit français a passé dans le droit moderne français (Fuzier Herman, Vo. Diffamation, No. 59) et a été adoptée par notre jurisprudence dans Québec. *Trudel* v. *Beemer,* cour d'appel(1) ; *Moquin* v. *Brassard*(2).

Cette dernière cause a été décidée par la cour d'appel composée de jurisconsultes de grande distinction, comme Sir Antoine-Aimé Dorion et les honorables juges Monk, Taschereau, Ramsay et Sanborn et le jugé a été:—

Que le défendur dans une action en dommages pour injures verbales ne peut plaider la vérité des imputations contenues dans ces injures.

Cette jurisprudence fait loi dans la province. On

(1) 19 R.L. 600. (2) 20 R.L. 111.

faisait exception dans l'ancien droit au cas ou des accusations étaient consignées dans les requêtes envoyées aux ministres pour faire cesser des désordres, ou aux procureurs-généraux pour faire punir des délits. Dans ces cas, la vérité de l'imputation pouvait excuser. (Dareau, vol. 2, pp. 402-403.)

Il est donc bien important en discutant la responsabilité résultant des injures de ne pas oublier cette différence entre notre droit et le droit anglais sur ce point.

La question en la présente cause n'offrirait donc pas de difficulté si nous nous trouvions en présence d'un particulier qui en aurait diffamé un autre. Mais les paroles injurieuses proférées contre la compagnie intimée l'ont été au sujet d'une législation qu'elle a sollicitée et alors ses actes perdent de leur caractère privé et sont susceptibles d'être critiqués et commentés.

L'appelant a prétendu devant cette cour que les circonstances qui ont donné lieu au libelle constituent une occasion où le privilège, connu dans le droit anglais sous le nom de "qualified privilege," peut être invoqué.

Il n'est pas nécessaire pour les fins de cette cause que je décide si le "qualified privilege" existe dans notre province ou non, car j'en suis venu à la conclusion que le défendeur ne peut l'invoquer.

Sa défense, en effet, repose sur la vérité des faits (justification) et sur son droit de critique (fair comment). Il est trop tard, maintenant que le procès a eu lieu sur ces deux moyens de défense d'en soulever un nouveau.

D'ailleurs, les faits qui sont prouvés dans la cause

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ne démontrent pas que le défendeur appellant fût obligé de publier la lettre dont l'intimée se plaint, ou qu'il eut intérêt à diffamer cette dernière. Il pouvait y avoir une obligation ou un intérêt de sa part de faire connaître à ses concitoyens la conduite de leurs mandataires; mais quel intérêt public avait-il de voir la défenderesse-intimée diffamée ?

Or, pour que le *privilège qualifié* soit invoqué, il faut que ces conditions soient réunies, obligation ou intérêt du défendeur d'un coté et devoir et intérêt de la part de la personne ou du public a qui la communication est faite de recevoir cette information.

Halsbury, Laws of England, No. 1263, *vo.* Libel.

Il faut de plus qu'il n'y ait pas d'abus de ce privilège et il y aurait abus dans le cas ou l'écrit est inutilement diffamatoire du demandeur et contiendrait des déclarations fausses et mensongères et des motifs inavouables. Cyc., *vo.* Libel and Slander, p. 402.

La cour de revision en confirmant unanimement un jugement de la cour supérieure a décidé tout récemment dans une cause de *Fontaine* v. *Potvin* (1), que:—

> Dans une action de dommages-intérêts pour libelle le privilège, même lorsque l'occasion est privilégiée n'existe pas si des actes malhonnêtes sont reprochés au demandeur sans utilité pour les fins que veut atteindre le défendeur.

La jurisprudence anglaise nous enseigne aussi que l'occasion ne serait pas privilégiée parce que le défendeur agirait de bonne foi. (Halsbury, *loc. cit.* No. 1262). *Benner* v. *Edmonds* (2).

Odgers, Libel (5th ed.), pp. 250-251, dit:—

> The defendant's *bona fides* is never an element in the question whether a particular occasion is or is not privileged.

Dans la cause de *Campbell* v. *Spottiswoode* (3), Cockburn C.J. dit:—

(1) Q.R. 46 S.C. 495.
(2) 30 O.R. 676.
(3) 32 L.J.Q.B. 185, at p. 199.

Mr. Bovil is obliged to say that because the writer of this article had a *bonâ fide* belief that the statement he made were true he is privileged. I cannot assent to that doctrine.

Quant à la vérité des faits, il ne peut pas y avoir de doute. Le jury a déclaré dans son verdict qu'ils étaient substantiellement vrais, mais ce verdict est en tout contraire à la preuve.

Il est bien évident que les jurés en sont venus à cette conclusion parce que l'honorable juge, en leur adressant la parole, leur aurait dit:—

Si vous arrivez à la conclusion que la défendeur a rapporté les faites tels qu'il les connaissait, tels qu'il les croyait vrais, vous devez déclarer que ce qu'il a dit était substantiellement vrai; car en disant qu'il était propriétaire il ne faisait qu'affirmer sa croyance et son droit.

Je ne puis adopter une telle doctrine. D'ailleurs, non-seulement le défendeur a affirmé son droit de propriété mais il a même jugé à propos de déclarer qu'on lui avait volé son bien, qu'il avait été spolié. Or, bien loin d'avoir été dépouillé de sa propriété, le Conseil Privé a décidé que son action pétitoire était mal fondée et qu'il n'était pas le propriétaire du terrain en litige.

Il avait donc affirmé en termes diffamatoires une chose fausee et alors il doit en subir la responsabilité.

Quant aux commentaires qu'il a faits sur la conduite de l'intimée, ils sont absolument injustes et basés de plus sur une assertion fausse.

A l'origine, sous l'ancien droit français, sous l'empire de l'ordonnance de janvier, 1629, défense était faite aux sujets du royaume de publier des libelles contre le roi, ses conseillers, magistrats et officiers ou contre les affaires publiques et le gouvernement. Dareau, vol. 1er, p. 108.

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Cette ordonnance était la loi du Canada lors de la cession du pays. Elle n'a jamais été formellement révoquée, que je sache, ici. Mais l'établissement des institutions représentatives et démocratiques comme partie de notre droit public a implicitement eu pour effet de mettre à néant ce vestige d'une monarchie absolue. Les hommes public, en acceptant d'être mandataires du peuple, se soummettent à la critique du public et les questions d'intérêt public doivent être nécessairement débattues pour que le peuple, qui est maintenant le maître de ces destinées, puisse juger en connaissance de cause.

Je crois alors que nous ne pouvons sur ce sujet trouver de guide plus sûr que le droit anglais. Or, il est le principe incontestable en droit anglais que la critique doit être juste et raisonnable et qu'elle ne soit pas basée sur un fait faux et mensonger. Halsbury, *loco citato,* No. 1288, dit:—

> The comment must not misstate facts because a comment cannot be fair which is built upon facts not truly stated and if a defendant cannot shew that his comments contain no misstatements of fact he cannot prove a defence of fair comment.

Aux Etats-Unis le même principe est suivi. Cyc, sous le mot "comment" (Libel and Slander, p. 402) dit:—

> But the privilege is limited strictly to comment and criticize and does not intend to protect *false statements,* unjust inferences, *imputations of evil motives* or criminal conduct, and attacks upon private character, *the publisher being responsible for the truth of what he alleges to be facts.*

En France, sous la loi de 1881, il est pourvu que la vérité du fait diffamatoire pourra être établie dans le cas d'imputations contre les administrations publi-

ques, les députés, les sénateurs, les fonctionnaires publics, les jurés et les témoins.

Fuzier Herman, au mot "Diffamation," No. 261, nous dit:—

> Les hommes politiques peuvent évidemment en raison de leur rôle et du caractère de la mission qu'ils s'attribuent être librement discutés. Mais ce droit de discussion et de censure n'est pas absolu. D'abord, il ne saurait permettre de s'attaquer à l'honneur de l'homme. Ensuite, toute imputation calomnieuse, *toute allégation d'un fait* que l'on sait faux et de nature à atteindre la considération est évidemment prohibé.

Dans la province de Québec, la jurisprudence est à l'effet que la conduite d'un homme public, d'un candidat, d'un député, ou d'un employé public puisse être soumise à une critique d'intérêt public, mais des accusations fausses pourront donner lieu à une réparation civile.

Beauchamp v. *Champagne*(1); *Wickham* v. *Hunt* (2); *Marchand* v. *Molleur*(3); *Marcotte* v. *Bolduc* (4); Voir Mignault, vol. 5, p. 359.

Comme les commentaires faits par l'appelant contenaient l'assertion qu'il était propriétaire du terrain en question et comme ce fait etait faux, il a engagé sa responsabilité et le juge n'avait pas le droit de dire aux jurés que sa bonne foi pouvait le soustraire à cette responsabilité. Avec la cour d'appel je suis d'opinion qu'il doit y avoir un nouveau procès.

L'appelant a prétendu devant cette cour que l'intimée, comme compagnie, n'avait pas droit de poursuite pour le libelle en question.

Ce point n'a pas été soulevé par les plaidoiries, ni devant les cours inférieures, et je n'en suis pas étonné,

(1) M.L.R. 6 Q.B. 19.
(2) M.L.R. 6 S.C. 28.
(3) Q.R. 4 S.C. 120.
(4) Q.R. 30 S.C. 222.

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car si cette prétention peut avoir quelque consistance sous les dispositions du droit anglais elle ne saurait être maintenue sous l'empire du Code Civil.

Les corporations sont des personnes morales qui ont les mêmes droit que les individus. Tout propos diffamatoire est susceptible d'engager la responsabilité de celui qui le profère et a la même conséquence que la personne diffamée soit une personne réelle ou une corporation. L'article 1053 du Code Civil ne fait pas de distinction.

Fuzier Herman, *vo.* "Diffamation," No 239 dit:—

> Les sociétes financières, commerciales et industrielles sont des personnes morales protégées par conséquent contre les diffamations comme les particuliers eux-memes.

La jurisprudence de la province confirme la doctrine énoncee par Fuzier Herman. Dans la cause de *L'Institut Canadien* v. *Le Nouveau Monde*(1), il a été décidé

> that an action for libel may be brought by one corporation against another corporation.

Dans cette cause il n'y avait pas eu de dommages spéciaux de prouvés et, cependant, des dommages nominaux furent accordés.

Et récemment, dans une cause de *Fontaine* v. *Potvin*(2), la cour de revision a implicitement décidé la même chose en déclarant qu'un officer d'une association spécialement mais non nommément visé par le libelle a personnellement le droit de réclamer des dommages-intérêts de l'auteur du libelle et qu'il n'est pas nécessaire que la poursuite soit instituée au nom de l'association.

(1) 17 L.C. Jur. 296.

(2) Q.R. 46 S.C. 495.

L'appel doit etre renvoyé avec dépens. Le contre-appel doit être également renvoyé avec dépens.

Appeal dismissed with costs; Cross-appeal dismissed with costs.

Solicitors for the appellant: *Pentland, Stuart, Gravel & Thomson.*

Solicitors for the respondents: *Pelletier, Belleau, Baillargeon & Belleau.*