

The opinion of Mr. Justice Strong was, of course, entitled to great weight, but why the Reporter should depend for his facts or law upon the factum of one of the parties to a cause is not so clear.

Whatever view may be taken of the legal result of the point in question, Mr. Masters was not in any way taken off his guard, for I have good reason to believe that his attention was directed to this very point several months before his report was published.

The next point dealt with by Mr. Masters, and the only one in which he attempts to verify his charge against me of misrepresenting the facts of the case, relates to the demurrer. In my article, after quoting the condition mentioned in the head note, and the opinion of Strong and Taschereau, JJ., thereon, I had stated that the plea in question *was never demurred to at all*.

Mr. Masters' comment upon this is as follows:

"We will first deal with the question of fact contained in the last sentence. The holding is given in almost the exact words used by Mr. Justice Strong in his judgment; so, if the writer is correct, his Lordship has founded that holding upon a state of facts which did not exist. If such were the case, the reporter would be perfectly justified in framing his head note upon the judgment as it stood, but the fact is that this is one of the instances of the writer's ignorance of his own case, for there can be no doubt that the plea in question was demurred to. The demurrer was to paragraphs four and eight; among others, of the statement of defence; and both these paragraphs set up a breach of this condition. Mr. Justice Strong is perfectly right as to the facts, and they are presented in the same way in the appellants' factum."

Mr. Masters commenced his letter by referring to me as "evidently the plaintiff's solicitor." The only evidence of this identity in my article now comes to light, namely, ignorance of the case in question.

The Assistant Reporter has discovered and propounded a somewhat novel principle, which may be termed Selection by Inverse Ratios, according to which professional men are found to act in inverse ratio to their duty and means of knowledge. Whatever objections might be raised to this principle, it must be conceded that the Assistant Reporter is at least consistent in following it scrupulously himself.

The materials which he had at hand, in framing his report and writing his letter, certainly included the appeal book, the factums of both parties, the petition for leave to appeal to the Privy Council, and the judgment thereon. He is quite correct in stating that the demurrer was to paragraphs four and eight; among others, of the statement of defence; but he is quite wrong in stating that both these paragraphs set up a breach of the condition in question. Neither of them did so. Paragraph four of the defence sets up the condition of non-liability beyond the defendants' line, and paragraph eight alleges that the loss occurred beyond the limits of the defendants' line.

The demurrer was to the original statement of defence, as is clearly shown in the appeal book. After the C. P. R. were added the G. T. R. filed an amended statement of defence, omitting what had been paragraph No. 3.