

The motion was heard by BOYD, C., MEREDITH, J., MACMAHON, J.

A. B. Aylesworth, K.C., for plaintiff.

G. F. Henderson, Ottawa, for defendants.

MEREDITH, J.—No objection to the verdict is made on the ground of misdirection or of non-direction, nor of the improper reception or rejection of evidence, nor of misconduct on the part of the jury; nor was it, or is it, contended that there was nothing to go to the jury; the sole ground upon which a new trial is sought is that the verdict is against the weight of evidence, and that is a ground upon which in these days a new trial is seldom granted; the old rule that a verdict once found ought to stand having been very firmly adhered to for the past 20 years at least; and that rule is especially applicable to an action for libel, not only since the legislation which gives to jurors wider power upon the trial of such an action than upon any other (R. S. O. 1897 ch. 65, sec. 2, and ch. 51, secs. 111 and 112), but also long before, it having been said by a very eminent Judge in the year 1696 that "the Court never, or very rarely, grants new trials for words."

Under the enactments referred to, the case had to go to the jury at large, if at all; it could not be controlled by compelling them to answer questions or to find a special verdict; and their verdict cannot rightly be disturbed if it is in any manner supported by the evidence, that is to say, if reasonable men could so find upon any ground of defence pleaded and disclosed in the evidence; just as it also would have been upon any cause of action disclosed in the statement of claim and the evidence, if the verdict had been for plaintiff and defendants were moving against it.

And, in my opinion, the verdict can be so sustained without going very deeply, if at all, into many, if any, of the subjects so much discussed here as well as at the trial.

That in respect of which plaintiff sought damages, and in respect of which only he sought them, was that the words published by defendants charged him with having procured by misrepresentation letters of introduction for the purpose of enabling him to float schemes which were dishonest, and fraudulently to obtain subscriptions for stock or companies promoted by him, and that he did fraudulently, by misrepresentation and unlawfully, obtain from a named person and others large sums of money. This in substance covers his whole claim.

Whether the words published are capable of the meaning which he thus ascribes to them or not, is a question of law