

**LIBEL COULD
NOT BE SHOWN**

INDICTMENT QUASHED

His Lordship Held That Alleged Action Was Not

(From Friday's Daily).

The indictment of Phil R. Smith for criminal libel on J. H. S. Matson, manager of the Colonist, was yesterday afternoon quashed by Chief Justice Fraser. The action was based on an injury. The ground given by His Lordship was that the action mentioned in the alleged libel was a perfectly legitimate one, and that, therefore, the article was not libelous.

Mr. Moresey had on the desk before him about thirty or more law books with which to attack the inflammatory paragraph. He was unable to find anything that had been read he asked to quash it because it contained no criminal libel.

"The whole article contained in the 'Colonist' was not put up to injure me," he said. "I was not able to say there is no truth in the report," said Mr. Moresey. "Is an important part of the article, and this is not set out." He quoted the article in full, and stated that the whole article should have been put in. Setting this up as an innuendo, he argued they must also include everything in the indictment. His Lordship ruled against this.

The indictment should further, Mr. Moresey claimed, have averred that John Samuel Matson was a resident of Vancouver. It was ruled against him.

Mr. Moresby further claimed that even if the defendant had received the money there was nothing to show that it would have been a criminal or bad section.

His Lordship asked to hear Mr. Higgins on this subject.

Mr. Higgins claimed that he did not have to show in what sense the words were used, but the Chief Justice thought otherwise.

Mr. Higgins claimed that when a per-

son assumed that a man was going to do something in the public interest and was going to get the difference between the price offered and that asked by the company, that it contributed a libel.

The Chief Justice could not see that. He could not see that there would have been anything wrong if he had received the money mentioned.

Mr. Higgins after reading a lengthy case, proceeded to say that the article intimated that Mr. Matson was to receive a rake-off from the Esquimalt waterworks.

His Lordship said that Mr. Matson may have been a real estate agent.

he was would be perfectly justified in getting a rake-off for selling it in a lawful way. Mr. Matson may have considered that his exalted office as newspaper manager may have made the case a libel. He could see nothing illegal in a newspaperman using his paper to try to bring about a sale of waterworks to the city. So far as he could see, that was a perfectly legitimate transaction.

His Lordship said there was no prima facie evidence that the article in question was libellous. The indictment must state what sense the article may be said to be libellous.

Mr. Higgins then asked for leave to amend his indictment, but this was refused as the contention was that there was nothing for the defence to meet. On the face of it the words were perfectly innocent.

Mr. Higgins claimed there was no inuendo there at all.

"That is the difficulty," said the Chief Justice, "there is no inuendo there."

Mr. Higgins read from a case when a man was called "a crack-brained scamp."

His Lordship—"And this says you, man is a clever scamp."

The Chief Justice said he could see nothing wrong in Mr. Matson promoting this deal. He might at the same time be taking an active interest in the public welfare. The same might be said about the mayor who received a sum of money for taking an interest in public affairs. If Mr. Matson were

trying to introduce a railway or line of steamships into the city would not be justified?

Mr. Higgins, quoting the case of libel against a clergyman, elicited the following:

"Respectable and responsible as the manager of a newspaper is, I cannot see that his position is similar to that of a clergyman. I see nothing wrong in what it is alleged he did."

Mr. Higgins—"All the public have an interest in this matter of getting pure water for Victoria. When there is an insinuation that Mr. Matsen is getting off, I say that is a libel."

His Lordship—"Then try the court of appeal on it."

Mr. Moresby asked that the cost should follow the event.

His Lordship—"There is no discretion for the court. Costs follow the event. The scale will be argued before the registrar. The indictment is quashed."

PORT MOODY STATION.

New Westminster, May 25.—A new station has just been completed at Port Moody by the C. P. R., which it tends to displace with the old dep-

in future, using only the new stand which is centrally located opposite the McCormick mill. The change has been made in response to the many requests of the residents of the townsite.

DOCTOR IS ACQUITTED.

Toronto, May 14.—Dr. Fletcher, accused of performing an illegal operation and of murder in connection with the death by blood poisoning of Jesse Gould, was acquitted by a jury yesterday.