

were an action to recover real damages, I would have been disposed to say that respondent had made himself responsible for such damages. The only question for us, however, is whether the respondent acted in good faith, or through malice or vindictiveness. For this purpose we are not called upon to consider what may have been the impression on the mind of those who heard the respondent, nor again what the newspapers' reports were, nor again what their comments upon it were. All we have to consider is the intention of the respondent. The circumstances then must be examined and from that examination we will be in a position to decide whether or not there was malice on the respondent's part.

"After due consideration of the evidence, we are of the opinion that there is no proof of malice. If the action had been one to recover real damages the question would have been considered from the viewpoint, not of malice, but of fault, and from this side I think the respondent would have had some difficulty in escaping from the responsibility which the law attaches to any one who by his own fault causes damage to another.

"The appeal should not be allowed, and it is dismissed, and the judgment of the court below is affirmed, with costs in both courts against appellant."

*Trenholme, J.*—I would not have allowed to respondent any costs. His statement was reckless and he showed negligence in not complying sooner with the terms of the letter he received from the appellant's lawyers.

*Sir Louis A. Jetté, C. J.* — "L'intimé a immédiatement pris les moyens pour détruire l'impression que les rapports incorrects de ses paroles avaient créée. Les dépositions de Workman et de Porcheron, qui sont les personnes qui, d'après le témoignage de l'intimé, auraient fait