

[Reference to *Putard v. Oliver*, [1891] 1 Q.B. 474.]

There cannot be a doubt that the occasion was one of qualified privilege, and that the defendant had the right as an alderman to say anything, however false, which he honestly believed to be true. . . .

But, if a crime was in fact imputed by him, it seems that he did not actually believe that the plaintiff did commit a crime. The qualified privilege would, therefore, be nullified.

For the reasons I have mentioned, however, I think the verdict and judgment cannot stand, and that the appeal must be allowed with costs and the action dismissed with costs.

BRITTON, J., concurred, for reasons briefly stated in writing.

FALCONBRIDGE, C.J., dissented, for reasons stated in writing.

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RE REUBER—FALCONBRIDGE, C.J.K.B.—OCT. 6.

*Will—Construction—Gift to Deceased Daughter—Children of Daughter Standing in her Place.*—Motion by the executors of Maria Reuber for an order declaring the true construction of her will. The learned Chief Justice said that it was the manifest intention of the testatrix that the grandchildren should take the share of their deceased mother. The gift is saved from being a gift to a class by the fact that the individuals to be benefited do not bear the same relation to the testatrix. It does not, therefore, lapse or go to other members of the alleged class: *Theobald*, 7th (Can.) ed., p. 787; *Kingsbury v. Walter*, [1901] A.C. 187, 192; *In re Venn*, *Loudon v. Ingram*, [1904] 2 Ch. 52. These infants will take their mother's share. Costs out of the estate. H. H. Davis, for the executors. E. C. Cattanach, for the infants.

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RE BROOM—DIVISIONAL COURT—OCT. 9.

*Criminal Law—Police Magistrate—Information for Perjury—Refusal to Issue Summons—Mandamus—Discretion.*—Appeal by James Broom from the order of MIDDLETON, J., ante 51. The Court (MEREDITH, C.J.C.P., TETZEL and MIDDLETON, JJ.) dismissed the appeal. The appellant in person. No one for the magistrate.