

*Held*, that there was evidence that the defendant knew he was speaking for publication and that he authorized what he said to be published in a newspaper; and that the communication was not privileged; but

*Held*, also, that the words were not capable of the meaning ascribed to them by the plaintiff, and that the motion for a non-suit at the close of the case should have been allowed; and the action was dismissed with costs.

*Capital and Counties Bank v. Henty* (1882) 7 App. Cas. p. 744, referred to.

Judgment of MACMAHON, J., reversed in part.

*Aylesworth*, K.C., for the appeal. *McVeity*, contra.

From Falconbridge, C.J.K.B.]

[Oct. 13, 1905.]

THE CORPORATION OF OAKVILLE v. ANDREWS.

*Partnership—Dissolution—Continued use of firm name and omission to give notice of dissolution or file certificate thereof—Subsequent receipt and deposit of moneys in bank—Liability.*

On the evidence set out in this case a partnership in a private banking business which had existed between the defendant and one H. was held to be dissolved; but as the business continued to be carried on in the firm name, and no notice of the dissolution was given, or any certificate thereof under R.S.O. 1897, c. 130, s. 7, was filed, the defendant's liability to persons dealing with the firm continued. After the dissolution of the partnership H., who was also treasurer of a municipal corporation, received, as such, moneys belonging to the corporation, which he deposited with the firm as such bankers, and applied them either in the business or in discharge of its liabilities.

*Held*, that the defendant would not be liable therefor, for in dealing with the moneys, H. did so either as the corporation's authorized agent, or in breach of his duty; if as such agent, his knowledge that the defendant was not a partner must be attributed to the corporation, and, if in the breach of his duty, his improperly mixing them with his own moneys, in which the defendant had no interest, could not render the defendant liable.

*Millar*, for appellants. *Shopley*, K.C., and *D. O. Cameron*, for respondents.