

Rule absolute. Costs of applicant to be paid by defendant.

McEvoy, Pope, & Perrin, London, solicitors for the applicant.

DuVernet & Jones, Toronto, solicitors for the respondents.

MEREDITH, C.J.

APRIL 11TH, 1902.

TRIAL.

PUTERBAUGH v. GOLD MEDAL CO.

*Libel—Proof of Publication—Letter Dictated—Privilege.*

Action for libel tried at the Toronto Winter Assizes. The jury disagreed, and the defendants moved for judgment in their favour upon the grounds: (1) that publication of the alleged libel was not proved; and (2) that if there had been publication, the occasion was privileged. The alleged libel was a letter written in the name of the defendant company by the defendant Abra, the company's manager, to the plaintiff. The letter was dictated by Abra to the stenographer of the company, who typed it and copied it in the company's letter book.

E. E. A. DuVernet, for plaintiff.

F. C. Cooke, for defendants.

MEREDITH, C.J.—I am bound by Pullman v. Hill, [1891] 1 Q. B. 524, to hold that there was evidence of publication and that the occasion of the publication to the stenographer was not privileged. I should have preferred, had I been at liberty to do so, to hold otherwise, and to apply the principle of Lawless v. Anglo-Egyptian Cotton and Oil Co., L. R. 4 Q. B. 262, and Harper v. Hamilton Retail Grocers' Association, 32 O. R. 295, but, in the circumstances of this case, according to the decision in the Pullman case, that principle is inapplicable. See 7 Law Quarterly Review (1891), pp. 101-2.

Motion refused.

DuVernet & Jones, Toronto, solicitors for plaintiff.

Pinkerton & Cooke, Toronto, solicitors for defendants.

APRIL 10TH, 1902.

C. A.

REX v. GODSON.

*Criminal Law—Incest—Evidence—Contents of Destroyed Letters—Inference from Non-menstruation—Misdirection—Substantial Miscarriage—New Trial.*

Case reserved by the Chairman of the General Sessions