

duty or interest: Halsbury's Laws of England, vol. 18, p. 687; Odgers on Libel and Slander, 4th ed., pp. 272, 273; Hamon v. Falle (1879), 4 App. Cas. 247.

Upon the question whether the communication of the letter to O'Donnell was a publication in law, the principles to be deduced from Edmondson v. Birch & Co. Limited and Homer, [1907] 1 K.B. 371, and Robinson v. Dun (1897), 24 A.R. 287, had no application. There was no necessity for having the letter copied; the right to employ stenographers, etc., is based on necessity: Finden v. Westlake (1829), Moo. & Malk. 461; Williamson v. Freer (1874), L.R. 9 C.P. 393. There was no proper motive or need for communication to O'Donnell. The letter was solely and purely in reference to the defendant's private affairs. If it had been on the business of the bank, and the defendant had used the services of O'Donnell, it would have been different. The publication to O'Donnell was outside the privilege.

It was for the trial Judge to tell the jury that there was qualified privilege to publish the contents of the letter to Masters, and that, as to that publication, they must find evidence, extrinsic or intrinsic, of actual malice, before they could give a verdict for the plaintiff; and that, in determining the question of malice, all the correspondence, the conduct of the defendant, his statement of defence, and his evidence, should be taken into consideration. All that was fairly covered by the Judge's charge.

If anything had been said that should not have been said or if anything that should have been said had been omitted, no substantial wrong or miscarriage had been occasioned, and a new trial should not be granted on the ground of misdirection: Judicature Act, R.S.O. 1914 ch. 56, sec. 28; Winnipeg Electric R.W. Co. v. Wald (1909), 41 S.C.R. 431; McGraw v. Toronto R.W. Co. (1908), 18 O.L.R. 154; Wood v. McPherson (1888), 17 O.R. 163.

There was a fair trial, and ample evidence, both intrinsic and extrinsic, to go to the jury in support of express malice. There was no reason to assume that the jury was misled, and they were justified in finding the plaintiff entitled to damages.

The amount of the damages in an action for libel is peculiarly for the jury. The sum of \$5,000 was much more than the learned Judge considered reasonable; but, the trial having been a fair one, he could not substitute his opinion for the jury's finding.

The appeal should be dismissed with costs.

RIDDELL, J., agreed in the result.