

infringe upon the rule against comments upon matters which are sub judice.

The gravamen of the charge is of course the reference in the article to the notoriously corrupt London election. That was the case not of legitimate but of illegitimate and corrupt expenditure, and the comparison made by the article was therefore at least illogical, in addition to being, as in my opinion it was, unfair and unjust to Mr. Dunlop. But, however unfair or unjust, or even libellous, it may be, I remain perfectly unconvinced that its publication can possibly affect a full, free, and fair trial of the pending petition. And being of this opinion, I think the present application fails, and should be dismissed, but, under the circumstances, without costs.

MOSS, C.J.O., MACLENNAN and MACLAREN, J.J.A., concurred.

OSLER, J.A.— . . . The disposition of this motion has been unavoidably delayed, but in the meantime the petition and cross-petition have been dismissed at a so-called trial. The Court cannot avoid taking notice of the manner in which this has been done, nor of the fact that, notwithstanding the gravity of the charges alleged by each party against his opponent and his agents, no particulars of corrupt practices were delivered on either side nor any evidence offered in support of the charges.

The only course left open to the trial Judges under such circumstances was to dismiss the petition and cross-petition, which having been done, if we may take notice of what has been publicly announced, the sitting member resigned.

The whole of the proceedings on both sides were so manifestly a sham and a user of the forms of the Court for some purpose other than of the real trial of the charges, that contempt of Court is not predicable of anything reflecting upon the parties to them. In scena non in foro res agitur, and whether the play is damned or applauded is no concern of a court of justice.

On this ground (but on this ground only) I would dismiss the motion, and so dismissing it I would dismiss it with costs.