not libellous, and he denied the innuendo, and said that without it the words were not libellous.

Held, that this was not open to objection and not embarrassing.

Par. 3 justified the slander, and asserted, in addition, that the plaintiff did pay to the Government, either directly or indirectly or through some member thereof (to the defendant unknown), or to some person or persons (to the defendant unknown), the sum of $50,000 "in order that he, the plaintiff, might be appointed a Senator," and did advertise as alleged; and that the particulars were well known to the plaintiff, but not to the defendant.

Held, not embarrassing nor open to objection.

By par. 4 the defendant alleged that, if he did speak the words he did so not as stating a fact but as stating a rumour generally believed throughout Canada.

Held, that the defendant was not at liberty to allege by way of defence that the words actually spoken were different from those charged in the statement of claim to have been spoken, and to plead as to those other words something either by way of answer or in mitigation of damages; and this paragraph should be struck out. *Beaton* v. *Intelligencer Printing Co.*, 220 A.R. 97, distinguished; *Rassam* v. *Budge*, [1893] 1 Q.B. 571, followed.

Held, also, that the remaining paragraphs of the defence, which were pleaded to a hypothetical case, which might never arise, and could arise only on an amended statement of claim, were objectionable and should be struck out.

J. H. Moss, for plaintiff. *Riddell*, K.C., for defendant.

Meredith, C.J.] SMITH *v.* SMITH. [March 25.

Partition—Summary application—Practice—Opposition—Title—Action to try—Adjournment of application.

Where a motion is made under Rule 956 for a summary order for partition or sale of lands, and it appears on the motion that such order should not be made until after a question of title has been determined, and then only in the event of the determination being against the title set up in opposition to the motion, the practice which should now be adopted is to adjourn the further hearing of the motion, with liberty to the applicant to bring an action to try the question of title. *Macdonell* v. *McGillis*, 8 P.R. 339, and *Hopkins* v. *Hopkins*, 9 P.R. 71, not followed.

H. W. Mickle, for applicant. *P. D. Crerar*, for respondents. *F. W. Harcourt*, for official guardian.

Boyd, C.] SMITH *v.* HUNT. [March 25.

Discovery—Production of documents—Privilege—Solicitor and client—Fraud.

There is no valid claim of privilege in regard to the production of documents passing between solicitor and client when the transaction im-