

ground for reopening evidence that you have got more to offer, unless it has been discovered since the case was closed, or was unknown at the time. Motion to reopen enquête dismissed.

As to the merits of the case, it is an action by a professional accountant against a person who apparently conceives it to be his business not only to enquire into, but to publicly stigmatize the conduct of private persons who are employed by the executors or trustees appointed under the will of the late Hugh Fraser; and under that impression, or that illusion, he has addressed a letter to the chairman of an insurance company, and afterwards sent a copy of it to the Mayor of the city, who read it to the Council; and he has also had it published in the newspapers.

This letter was a very long affair, and perhaps I had better not read it all; but its substance was that the late Hugh Fraser had died leaving an estate worth about \$500,000, of which the writer mentioned the component assets; and that Mr. John Henry Menzies, as agent of the executors and trustees, and in the names of Menzies & Co. and Moore & Co., having misconducted certain duties with which he had been charged in connection with the accounts, Messrs. Riddell & Evans (the plaintiff) had been called in to examine matters and to make a balance sheet, which they did, and in which the whole indebtedness of Menzies & Co. and of Moore & Co., and of Mr. Menzies individually, was suppressed. It went on further to say that, whether Mr. Menzies or Messrs. Riddell & Evans were the authors of the balance sheet, it was false and fraudulent; and in fact he plainly charged Mr. Menzies with false and fraudulent conduct, and the plaintiff just as plainly with aiding and abetting it; and the plaintiff therefore brought his action and laid his damages at \$5,000.

The defendant pleaded the whole story of the bequest for the Fraser Institute, the incorporation of it, and that as a relative of the testator, and as a citizen of Montreal, he was interested in seeing this benevolence carried out. That in writing the letter he had had no intention of injuring the plaintiff, but had merely wished to point out certain irregularities in Mr. Menzies' system of bookkeeping, which he held the plaintiff was bound to have detected when he was called upon to examine

the accounts; that as to the charge of suppression, he only meant to say the plaintiff had been unskilful and negligent, and that he had a right to say what he did in the letter, and he offered to prove the truth of it.

The plaintiff's answer to all this was a general answer in fact and in law, and, to my surprise, at the trial evidence was offered—was not objected to, and was, of course, taken— as to the truth of a variety of matters in these accounts, justifying the imputations that the defendant had made in this letter. The plaintiff may have wished probably to give Mr. Fraser every opportunity of showing that the charges were true; but that would not alter the state of the issue. There is nothing pleaded here as to the non-publication, or as to its being a privileged communication, (which it possibly was intended to be at the outset): but the thing is put on the ground of right, and the publication was admitted by the defendant himself. Now, though Mr. Evans was spoken of throughout as being a public accountant, that cannot mean that he keeps the public accounts, or is in any sense a public officer; he is one of a private firm of persons skilled in accounts, and happened to be employed by the trustees under a will benefiting a public institution: that is all. The plaintiff had no more right to impute to him, and to publish of him even that he was unskilful and negligent in his profession, than he would have had to publish that the doctors attending the benefactor of this institution in his last illness had killed their patient. The public benefaction contemplated by the late Mr. Fraser does not turn into public characters all the accountants, attornies, collectors, scriveners or others whom his trustees may employ; and any of these would justly think it very hard that the Mayor of Montreal or the newspapers should be asked to publish that they had shown negligence or incapacity. But much more than negligence and incapacity are evidently imputed in this letter, and it is not the Governors of this institute, nor the trustees, nor the executors that are complained of, but merely a private person employed by the trustees. As matter of right, therefore, if it is meant that the plaintiff was a public character, amenable to public criticism, as long as it is true and fair, there is nothing to justify this evidence at all. As affecting the question of damages, however,