

So much stress was laid on the right of publishing criticisms on a public man, and the length to which it can lawfully go, that it will be useful to give the rule laid down by Lord Herschell in *Davies v. Shepstone*, 11 App., C. A. 190, where he says:—

“There is no doubt that the public acts of a public man may be lawfully made the subject of fair comment or criticism, not only by the press, but also by all members of the public. But the distinction cannot be too strongly borne in mind, between comment or criticism, and allegations of fact, such as, that disgraceful acts have been committed, or discreditable language used. It is one thing to comment upon or criticize, even with severity, the acknowledged or proved acts of a public man; and quite another to assert that he has been guilty of particular acts of mis-conduct. 10

How far the Defendant in this case has transcended this wholesome rule I have already shewn.

I cannot but conclude, therefore, upon a careful review of the arguments on both sides, and of the facts and the law applicable in this case; that upon every ground which has been advanced, the present motion has entirely failed, and this is especially apparent when the effect of the above grounds is tested by our Supreme Court Rule 287, first quoted, which lays down the principle that guides our decision.

The Order Nisi, therefore, for a new trial must be discharged with costs.