tion to Col. Wood, so that if the letter had been sent to Col. Wood, as was intended, no action would lie, unless there was proof of actual malice. But it is said that the defendant having carelessly, though unintentionally, sent the letter to the secretary, instead of to Col. Wood, is thereby deprived of the privilege which otherwise would have attached to the letter. It seems to me that this is a fallacy and that all the defendant could be accused of is a want of care in putting the letter in a wrong envelope. There is nothing in this mere accident sufficient to take the case out of the law of privilege and make it actionable, without proof of actual malice. There is no express authority on this point, though cases have been quoted to show that mere accident or inadvertence in publishing defamatory matter, when the occasion is privileged, will not be sufficient to destroy the privilege, nor supply the necessary evidence of malice to sustain the action I am of opinion therefore that the direction of the learned judge was right, and that this rule should be discharged." Mathew, J., said: "I am of the same opinion. There is no evidence here of a malicious publication, but only of accidental and negligent publication. The writing of the letter was honest, the preparation of it for the post was honest, and sending it to the wrong person was due only to negligence. This act of negligence is not sufficient to deprive the defendant of the privilege, which, it is admitted, he otherwise would have had. It has been argued that the defendant ought to be held responsible for this negligence; but if this were so, and if an action would lie in this case, it would enable a plaintiff to bring an action in a case where it might be that all the defendant had done was to leave a letter carelessly about his room, so that another person could read it. I think the evidence of negligence here is extremely slight, as the person to whom the letter was sent had only to look at the first line of it, to see that it was not intended for him, and that it had been put into the wrong envelope by mistake." The rule was discharged.

MUTUAL ADMIRATION MISPLACED.

The *Solicitor's Journal* (of London) states that a good deal of interest was excited by the development of a new feature in the August number of the Law Reports (Chancery Division). At p. 427, the following passage appears: "[Name of counsel] in reply.—"I regret the "absence of Mr. Davey in this important case. "Baggallay, L. J.—I do not think that your "clients have suffered by its being left in your "hands."

The *Solicitor's Journal* asks with some indignation, what view the editor and the reporter can take of their respective functions. Reports are intended for the information of the profession as to the state of the law, and everything which does not conduce to that end ought to be suppressed. Commendation of a junior counsel, however well deserved, does not contribute to the enlightenment of the profession, and is utterly misplaced. We have observed a like impropriety. Counsel, in reporting the decision in a case in which they have succeeded, are sometimes inclined to give the judge a pat on the back by referring to the "able and learned decision of the Court," or to the observations "savamment élaborées" of the hon. judge who has sustained their view of the question. These encomiums are quite uncalled for, and only tend to derogate from the dignity of the Court. They are almost as improper as would be the public expression of the maledictory remarks in which the losing suitor is popularly supposed to indulge during the twenty-four hours after defeat.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, August 22, 1883.

Before MATHIEU, J.

GRAHAM et al. v. BENNETT.

Capias—Fraud—Person carrying on business as his own, but his name not appearing in registered firm.

The defendant carried on a business as his own, and, in the opinion of the Court, was the real owner of the stock-in-trade; but in the registered firm his name did not appear as a partner. Held, that fraud being clearly established, and the registered firm being merely a prête-nom for the defendant, who was the real owner of the business, the capias issued against him for secretion of the assets should be maintained.