

This action is a counter-stroke to that of *Mills v. Hamilton Spectator Co.*, which was before me a few days ago. Both of them seem frivolous in the ordinary if not in the technical sense of the word. They can only be paralleled by the strife of the rival editors of *Eatanswill*, embalmed in the pages of *Pickwick*, where for nearly a century they "have added to the sum of human pleasure and enriched the gaiety of nations."

RIDDELL, J.

FEBRUARY 27TH, 1909.

TRIAL.

SCARROW v. GUMMER.

*Release — Action for Libel — Settlement pending Action —
Validity — Pleading — Costs.*

Action for libel, tried with a jury at Guelph.

F. R. Blewett, Listowel, for plaintiff.

J. J. Drew, K.C., for defendant.

RIDDELL, J.:—The plaintiff is a mechanic at Palmerston; the defendant is the proprietor and publisher of the Guelph "Weekly Herald." During the absence of the defendant from the country, those left by him to look after the paper published an utterly unjustifiable and gross libel of the plaintiff, charging him with crime. It is not necessary to say more of the libel owing to the course the case has taken.

The action was at issue and was like to be tried at the assizes at Guelph in the autumn of 1908. The defendant was desirous of getting away to a hunting club, and was detained by the pendency of the action. Speaking to certain of his friends and fellow-huntsmen, he said (in effect): "I do not want to settle this libel suit, but if you can get it settled, I shall be able to go a-hunting with you." He, of course, meant that they should try and get the action settled for him, he not to appear in the matter. The friends went to see Major Merewether, the high constable of the county, and employed him to settle the case for *them*. Merewether did not meet the defendant in the matter at all; but it is clear, I think, that nominally acting for others he was in reality acting for the defendant.