

would support the proposition that the company for which the signal-man was alone acting on the particular occasion, was the principal against which relief should be sought, if the then agent of that road was guilty of misconduct by which an employee of the road was injured.

The proper conclusion in this case is, that the damages agreed upon be paid by the defendant, the Canadian Pacific Railway Company, with costs of action. As to the other defendant, the action is dismissed, without costs, as the precise question involved now arises for the first time in the courts.

*F. H. Keefer*, K.C., for plaintiff. *W. H. Curle*, for the defendants, the Canadian Pacific Ry. Co. *O. H. Clark*, K.C., for the defendants, the Canadian Northern Ry. Co.

Meredith, C.J.C.P.]

[Sept. 25.]

BENNER v. MAIL PRINTING CO.

*Libel—Newspaper—Libel and Slander Act, s. 8—Notice—Insufficiency—Motion for judgment on pleadings—Action dismissed.*

Motion by the defendants for judgment on the pleadings and admissions of the plaintiff upon his examination for discovery, in an action for a libel published in a newspaper.

*Held*, that the notice served by the plaintiff specifying the statements complained of was not a sufficient notice to the defendants, within the meaning and for the purposes of sec. 8 of the Libel and Slander Act, being addressed: "To W. J. Douglas, Esq., Publisher and General Manager Mail & Empire." The notice was not given to the defendants, as required by sec. 8.

The Chief Justice also thought the point could be properly dealt with as upon a demurrer, as no evidence that might be given at the trial would help the plaintiff.

Action dismissed with costs.

*C. Swabey*, for defendants. *H. S. White*, for plaintiff.

Middleton, J.]

RE BROOM.

[Sept. 23.]

*Criminal Law—Police magistrate—Information for perjury—Refusal to issue summons—Crim. Code, s. 655—8 & 9 Edu. VII. c. 9—Mandamus—Discretion of magistrate.*

Application by James Broom for a mandamus to compel one