

NOVA SCOTIA COURT OF APPEAL

Hallett, Hart and Freeman, JJ.A.

Cite as: Canada Newspapers Company v. McCrea, 1993 NSCA 204

BETWEEN:

CANADA NEWSPAPERS COMPANY)	Alexander S. Beveridge
LIMITED and STEVIE CAMERON)	for the appellants
)	
Appellants)	
)	George W. MacDonald, Q.C. and
- and -)	William Lahey
)	for the respondent
ARMOUR M. McCREA)	
)	Appeal Heard:
Respondent)	November 17, 1993
)	
)	Judgment Delivered:
)	November 17, 1993
)	
)	
)	
)	

THE COURT: Appeal dismissed with costs in the amount of \$1,000.00 plus disbursements to the respondent per oral reasons for judgment of Hallett, J.A.; Hart and Freeman, JJ.A. concurring.

The reasons for judgment of the Court were delivered orally by:

HALLETT, J.A.

This is an appeal from a decision of MacAdam J. ordering the appellant Cameron to answer questions on discovery as to the intended meaning of words used in articles she had written on political patronage in Nova Scotia and which were published by the appellant Canada Newspapers in the Globe & Mail and ordering the appellants to produce documents in their possession not privileged relating to the preparation or publication of the articles.

The discovery at which Cameron was directed by her counsel not to answer certain questions put to her arose out of a defamation action commenced by the respondent against the appellants based on an article published in the Globe & Mail on August 6, 1990, headed "Fossils, Patronage Politics Collide in Nova Scotia". The respondent claimed general damages and punitive damages. The appellants raised the defence that respective words used in the Article were either not defamatory, were true, were privileged or represented fair comment.

Counsel for the appellants asserts that the questions as to what Cameron meant by the words used in the Article are not proper questions to be put to her as the meaning she intended to convey is not relevant or admissible at trial as to whether the words conveyed a defamatory meaning to the reader. I agree that on the question whether the words conveyed a defamatory meaning what Cameron meant by the use of the words chosen by her is not relevant. However, her evidence as to what she meant could be relevant to the punitive damage claim which is founded on the assertion that the appellants bore malice towards the respondent and could be relevant to the defence of fair comment. **Civil Procedure Rule 18** governs discovery in Nova Scotia. It is broad in its terms and has been given a very broad and liberal

interpretation by the courts. This court has held that two of the objectives of the rule are to ensure that a party to a law suit is not taken by surprise at trial and a full ranging discovery should facilitate settlement of claims. (**McCrae et al v. Historic Properties Limited et al** (1988), 89 N.S.R. (2d) 201).

Because of the possible relevance as to what Cameron meant by the words she used and in furtherance of the objectives of the discovery rule Cameron shall be required to answer questions on discovery to determine what meaning she intended to convey by the words used in the Article.

The appellants shall also be compelled to produce the documents in their possession which are not privileged that provided information to Cameron for the facts and opinions expressed in the Article because the respondent is entitled to assess the strength or weakness of the defence of fair comment which requires the respondent have access to such documents so as not to be taken by surprise at trial and to assess whether the Article was based on reasonably held beliefs of the author.

Insofar as the Article in question in the law suit was one of a series on political patronage in Nova Scotia the respondent is entitled to have produced the background documents in the possession of the appellants that contain information or comment reflected in all the articles in the series. The alleged defamatory statements having been made in the context of the series on political patronage in Nova Scotia Cameron is required to answer questions as to the meaning she intended to convey by use of relevant words in each of the articles.

Therefore we affirm the decision of Justice MacAdam and dismiss the appeal. We will award costs in the amount of \$1,000.00 plus disbursements.

Hallett, J.A.

Concurred in:

Hart, J.A.

Freeman, J.A.

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Appellants)

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REASONS FOR
JUDGMENT BY:

HALLETT, J.A.
(orally)