and such only, were libellous. But that is not so; Parke, B. merely decides that the publication before the court was a libel, because it tended to impute dishonest conduct to the plaintiff; but he never laid it down that nothing save what imputed dishonest conduct was a libel. There is a very proper definition of a libel given in Addison on Wrongs, p. 578, where, enumerating the publications which are libellous, the writer says that publications "which are injurious to the private character or credit of another are libellous." Now, here is a publication of a man engaged in trade, and it represents that he was indebted in a considerable sum by judgment, and when the statement of that is followed in the summons and plaint by the statement that the plaintiff in consequence of that, suffered special damage, the persons who dealt with him refusing to give him any further credit, am I to be told that the publication is not libellous? It is enough to state the general definition of the law of libel, and to state the present pleading, to show that this publication is a libel, and is actionable. Then, am I to be told that we are to disregard the innuendo where the defendant sets up a plea of excuse where a positive meaning is put in and admitted; am I to be told that we are to disregard that? It is enough to state the ground on which the privilege is contended for, namely, the right to publish proceedings in a court of justice. But it is necessary that this publication should be true, not only true in fact, but that it should not be given in such a way as to convey a meaning contrary to the truth. Because a man is justified upon grounds which I do not question, in publishing a record of all the judgment, is he justified in publishing it in such a manner as to convey that not merely judgment, but execution also, was obtained? Many a trader may resist a claim because he thinks it ill-founded, and the claim is paid the moment the action is decided. In this case judgment was obtained on the 19th May, and the amount was paid on the 19th. Are we to be told that the fact of the payment was to be withheld, when the judgment, which is so much affected by that payment, is published? It is an important circumstance that the publication was on the 24th May, 1860, a week after the judgment, and the charge is, that the publication was so framed as to convey a meaning that the debt was then due. Unless it could be contended that the privilege of publishing truth extended to privilege to publish untruth; I do not see how the privilege can be claimed here. I therefore think we do not in this case trench upon the decision of the House of Lords in *Fleming* v. *Newton*. It may be perfectly right that the publication in Scotland was justifiable, but that does not extend to a publication so made as to convey a false representation injurious to a party. But we are told also that two of the counts are unsustainable, because they are not counts for libel, but counts for a false representation. It comes round to the same thing. There is here an innuendo, or what in a libel would be called an innuendo. Well, I do not conceive why, because it does not bear the technical name of an innuendo, when the action is for a false representation, we are to throw it aside. What becomes, then, of the privilege? As I said before, the defence seeks to extend the privilege of publishing truly what is untrue, or publishing in such a manner as to convey an imputation wholly false. Well, we are told now, supposing a proceeding carried on for several days, and a party publishes every morning a true account of what took place the day before, and it is said the character of a party may be greatly injured, and yet will it be contended that the publisher of the newspaper is liable? I say not, because at the time the publication was made the publication was true, and the publisher gave truly all that took place. But I think, if, on the other hand, a man should daily tell all the proceedings that existed, and then give an unfair publication of them, the plea of privilege would be gone. Well, we were referred then to a proposition which, I think, could not be maintained, that except words are defamatory in themselves, their publication is not actionable, although it is followed by special damage. Well, if "defamatory" includes the case which I have put above, I do not quarrel with the proposition; but if it is attempted to confine its meaning to the cases of charges of dishonesty, and matters of that description, I think there is no foundation for it, and the case in 5 B. & Ad. authorises no such proposition, because the words there were not defamatory at all, and there was no innuendo, and the court held that the words themselves being neither defamatory nor injurious, those words unaccompanied by an innuendo were not actionable, though the words were followed by special damage. On these grounds I concur with the judgment of my Lord Chief Justice. On looking to the counts of the summons and plaint, I think something might be said on the fifth count. Of course, it will be for the plaintiff to say, if he succeeds, how far he will take damages on that.

HAYES, J.—I am unwilling to go over the ground trodden by the Chief Justice and my brother O'Brien. I feel I have little to say, except to express my concurrence with them. The declaration consists of two sets of counts. Two of them are for a false representation. *That part of the declaration shows a good cause of* action there is no question. The other set of counts are in libel. Serjt. Armstrong says, that the publication complained of in them does not amount to a libel; but, looking at the whole law, I have arrived at the conclusion that these are good counts in libel, understanding by libel the publication of defamatory matter without justification or excuse; and I take it that this is a publication of such matter, without justification or excuse, and the enunciation of those two words leads me to consider the defence which has been set up. First, then, is it a plea of justification? I think not; and the plain reading of it will convince any one of that. To the two counts for a false representation, the answer set up is a plea of justification, that there was a judgment against the plaintiff on the 17th May, and that it remained on record. I cannot see how that justifies the publication complained of; and I do not see either, how it applies to the counts in libel. Well, is it a plea in excuse? In form it is that; and I take it, that the pleader intended that this should not be a plea in justification, but in excuse. Now, a great deal of argument has been expended to show that every subject has a right to publish records of courts of justice. In the abstract, I agree to that; and even without the authority of the case in Scotland, I would agree to it. But, like every privilege a subject has, he avails himself of it at his peril, and he must be cautious that when he is using it he does not misuse it, as he must bear in mind the axiom, *sic utere tuo ut alienum non ladas*, and when he is publishing records he must take care he does not do it without justification or excuse, to the detriment of another. I think that has been done in this case, for this party has not only published the proceeding, but has published it with a sting or tack added to it. It might not have been actionable to say that one party recovered *a judgment against another; but as he goes on to say that the* relation of debtor and creditor still exists, and thus injures the character of the party who was defendant in that action, he must be responsible; and it is neither justification nor excuse to tell us that there is a record existing unvacated and unannulled, which nobody means to deny. Upon principles, therefore, as old as the old law, we may, I think, safely come to the conclusion that the plea cannot be sustained, and that the demurrer to it must be allowed.

Demurrer allowed.

GENERAL CORRESPONDENCE.

By-law—Conviction—Repeal—Effect thereof.

TO THE EDITORS OF THE LAW JOURNAL.

Prescott, 6 Oct., 1863.

GENTLEMEN,—Is a conviction valid which is made by a Justice of the Peace under a municipal by-law, which is afterwards (that is, after the making of the conviction) quashed for illegality?

Yours truly.

L. C.

[By-laws which are regularly passed, and valid on the face of them, have the force of statute law. Convictions had under them while in force endure notwithstanding their repeal.—EDS. L. J.]