

The plaintiffs applied to examine the defendants for discovery. (1) as to the information the defendants had when they published the alleged libel, and which induced them to believe in its truth, and whether they did in fact believe in its truth; and (2) the names of the persons from whom they received the information. The Court of Appeal (Williams, Stirling and Moulton, L.JJ.,) held affirming Sutton, J., that the first question must be answered; but overruled him as to the second, being of opinion that in actions against newspaper publishers for libels in newspapers, according to the general rule of practice, in the absence of any special circumstances, the defendants ought not to be compelled to answer the second question.

CONTRACT—LIQUIDATED DAMAGES AS PENALTY—DEPOSIT—FORFEITURE.

*Pye v. British Automobile Syndicate* (1906) 1 K.B. 425 is a case in which the somewhat difficult question was raised as to whether a sum agreed on to be forfeited, in the event of a breach of a contract, was to be regarded as a penalty, or liquidated damages. In this case the plaintiff entered into a contract to act as the defendants' agent for the sale of automobiles. The plaintiff as part of the agreement deposited with the defendants £300 as a deposit in respect of the goods, which sum was to be repaid upon payment by the plaintiff of the price of all the goods mentioned in a schedule to the agreement, which specified the automobiles to be sold, and it was provided that if the plaintiff refused to accept, or pay for any of the goods the defendants were to be at liberty to declare the deposit forfeited to the defendants "by way of liquidated and ascertained damages." The plaintiff committed a breach of the agreement and the defendants declared the deposit forfeited. The action was brought to recover the deposit, the plaintiff contending that the agreement for forfeiture was merely a stipulation by way of penalty, and that as it was made to take effect on the occurrence of one or more of several events, viz., the non-payment of the price of any one or more of the motor cars, notwithstanding the wording of the agreement, the deposit ought not to be construed as liquidated damages. Bigham, J., however, was of opinion that the deposit was, in this case, for liquidated damages and that, therefore, the plaintiff was not entitled to get back the £300. The fact that the plaintiff had actually paid over the money he regarded as an important circumstance, and he thought that the Court ought to give effect to the express words of the contract