equivocal, it was not necessary to ask witness the preliminary question required in the case of *Daines* v. *Hartley*, 3 Ex. 200.

Held, per TOWNSHEND, J., (who concurred generally with GRAHAM, E.J.)—That the direction as to malice should have been to the effect that if the statements contained in defendant's letter were false to the defendant's knowledge this would be evidence from which the jury might infer malice and that the letter was written with the object of injuring plaintiff and was therefore an abuse of the occasion which would take away defendant's privilege.

MEAGHER, J., read a dissenting opinion in which MCDONALD, C.J., concurred.

W. E. A. Ritchie, K.C., in support of appeal. *Roscoe*, K.C., and *Milner*, contra.

Full Court.] CONFEDERATION LIFE ASSOCIATION *v.* BROWN. [Feb. 22.

Principal and surety—Discharge of surety—Non-disclosure of wrongful acts.

The defendants, F.W.B. and J.A.K., were sureties on a bond given to the plaintiff Association by the defendant B. for the faithful discharge of his duties as an agent of the Association. Among such duties were the remittance at least once in each month of all moneys or securities collected for or on account of the Association, such remittances to be made by bank draft, marked cheque, post office order, or by express.

The evidence shewed that B. remitted moneys by his own personal cheques, instead of as directed, and on a number of occasions asked to have such cheques held over for a few days in order to enable him to provide funds to meet them.

Held, 1. These and other acts of disobedience under the terms of the agreement would have justified the dismissal of B. That it was the duty of the Association to have notified the sureties of his derelictions of duty, and that having failed to do so and having continued him in their employ with knowledge that he was violating his instructions they could not recover against the sureties for the default of B.

2. Findings of the jury negativating knowledge on the part of the Association of the irregularities of B. being against the weight of evidence must be set aside with costs and a new trial ordered.

H. McInnes and *J. A. Kenny*, for appeal. *J. A. Chisholm*, contra.

Full Court.] HARRINGTON *v.* LOWE. [Feb. 22.

Amendment—Error as to effect of—Appeal allowed from order imposing terms—Costs.

The judge of the County Court for District No. 7, in granting an amendment of plaintiff's statement of claim, imposed the terms that plain-