defendant that, the speaking of them having been brought about by the action of the plaintiff himself, there was no publication; and in support of that contention he cited King v. Waring (1803), 5 Esp. 13; Smith v. Wood (1813), 3 Camp. 323, 14 R.R. 752; and Starkie on Slander and Libel, 3rd ed., pp. 381, 514. . . .

[Examination of and quotations from these cases and reference to Odgers on Libel and Slander, 5th ed., p. 179; Folkard, 7th ed., pp. 166, 263; Weatherston v. Hawkins (1876), 1 T.R. 110; Warr v. Jolly (1834), 6 C. & P. 497; Rogers v. Clifton (1803), 3 B. & P. 587; Duke of Brunswick v. Harmer (1849), 14 Q.B. 185; Gordon v. Spencer (1829), 2 Blackf. (Ind.) 286, 288; Yeates v. Reed (1838), 4 Blackf. 462, 465; Jones v. Chapman (1839), 5 Blackf. 88; Haynes v. Leland (1848), 29 Me. 233, 234, 243; Sutton v. Smith (1853), 13 Mo. 120, 123, 124; Nott v. Stoddard (1865), 38 Vt. 25, 31; Heller v. Howard (1882), 11 Ill. App. 554; White v. Newcombe (1898), 25 N.Y. App. Div. 397, 401; O'Donnell v. Nee (1898), 86 Fed. Repr. 96; Radnead v. Delaney (1899), 102 Tenn. 289, 294, 295; Shinglemeyer v. Wright (1900), 124 Mich. 230, 240; 25 Cyc. 370, 371.]

Upon the whole we are of opinion that we should follow Duke of Brunswick v. Harmer; and, following it, hold that there was evidence for the jury of publication, and that the first objection, therefore, fails.

The second ground of appeal also fails; there was evidence, which the jury believed, that there was no truth in the statements made by the defendants; and there was ample evidence, out of the defendant's own mouth on his examination for discovery, that he knew that they were untrue, or that he made them recklessly, not caring whether they were true or false; and there was evidence from which malice might be inferred, in the bad feeling which had existed on the part of the defendant towards the plaintiff, and his statements to the plaintiff's bookkeeper. . . .

The damages are substantial; but, in view of the defendant's conduct throughout and his not having gone into the box to testify on his own behalf, we cannot say that they are so excessive as to warrant the Court in setting aside the verdict.

The appeal is dismissed with costs.