

truth of the facts—is not a ground upon which misrepresentation can be rested.

The other part of the Report which is referred to, is that in which it is represented that the traffic on the portion of the Line which was then opened exceeded the working expenses. Now that is contained in the Report of 1857; and I must say, with all respect, that I cannot concur in the remark of the Lords Justices, that the handing over to the Plaintiff the Report made in 1857, containing that statement, without more, in the month of September, 1858, ought to have been taken by him as amounting to a statement that that was the condition of things at the time when that Report was handed over. There is no such allegation contained in the Bill; and unless there was a definite statement to that effect, no man in his senses would arrive at the conclusion that, because a Report which was made in December, 1857, was given to him in September, 1858, therefore a representation with regard to the traffic on the Line, made in December, 1857, must of necessity, without more, be taken to be a representation repeated in the month of September, 1858. My Lords, I must here particularly beg your Lordships' attention to the fact that there is no charge whatever in this Bill, that when these Reports were given to this gentleman they were accompanied by any definite or certain statement by the Secretary that the representations contained in those Reports were accurate and truthful representations of the then existing state of circumstances.

Now, what the Company says, in answer to that particular charge, appears to be true—namely, that in the month of December, 1857, when the Report was made and issued, the receipts of the Line did in reality exceed the working expenses; therefore, in the absence of any allegation or proof that this gentleman was led distinctly to put faith in that statement, as