
IMPLIED WARRANTY OF AUTHORITY.

The more one considers the judgment of the Court of Appeal in *Yonge v. Toynbee* (1910), 1 K.B. 215, and *Simmons v. Liberal Opinion, Limited, In re Dunn*, 46 L.J. 135; the more one realizes the important and far-reaching effects of the principle laid down in *Collen v. Wright*, 27 L.J. Q.B. 215, which may be shortly stated as follows:—Where an agent in good faith assumes an authority which he does not possess, and induces another to deal with him in the belief that he has the authority which he assumes, he makes himself personally liable for the damages sustained by such other as the result of his so dealing. In the leading case an action was brought against the executors of A., who had signed an agreement, describing himself as the agent of B., to grant to the plaintiff a lease of a farm belonging to B. Both the plaintiff and A. believed at the time that A. had authority from B. to make the agreement, but A. had not, in fact, that authority. B. having refused to grant the lease, the plaintiff sued him for specific performance, but the suit failed because A. had no authority from B. Upon these facts it was held that the plaintiff was entitled to recover from A.'s executors as damages, the costs of the suit in equity, which was held to have been properly brought, as being damages naturally resulting from A.'s implied misrepresentation. Mr. Justice Willes in giving judgment said: "I am of opinion that a person who induces another to contract with him as the agent of a third party by an unqualified assertion of his being authorised to act as such agent is answerable to the person who so contracts for any damages which he may sustain by reason of the assertion of the authority being untrue. The obligation arising in such a case is well expressed by saying that a person professing to contract as agent for another, impliedly, if not expressly, undertakes to or promises the person who enters into such contract, upon the faith of the professed agent being duly authorised, that the authority which he professes to have does in point of fact, exist."