

There was some evidence to shew that at the time D. received the money and securities plaintiff was advanced in years, partially blind and incapacitated as to business, but the evidence as a whole shewed that the money and securities were received by D. with the knowledge and consent of plaintiff, and it was not until afterwards that plaintiff, becoming dissatisfied with the manner in which D. was conducting her business, took steps to enforce a settlement. D. died suddenly without having accounted to plaintiff and leaving his estate in an insolvent condition.

*Held*, that the other parties to the administration, the co-administrator and sureties were entitled to be discharged in respect to the money and securities received by D. on behalf of plaintiff.

*H. Mellish*, for appellant. *W. B. A. Ritchie*, K.C., and *H. McInnes*, contra.

Full Court.]

MILLER T. GREEN.

[Feb. 22.

*Libel—Directions of Trial Judge as to—Malice—Taking away privilege sustained—Ambiguous or equivocal words—Reception of evidence to explain—Substantial wrong or miscarriage—O. 37, r. 6.*

Defendant who occupied the position of general manager of a life insurance company wrote a letter to F., a policyholder in the company, in which he stated that plaintiff had been removed from his office as local agent of the company and assigned as the reason for such removal that they had tried for a considerable time past to get plaintiff to attend properly to their business and that it was only because it was clearly necessary that the change was made. He stated further that to give plaintiff the opportunity of getting the benefit of commissions on outstanding business the attention of certain matters had been left in his hands, but that he (defendant) now found that he had collected money which, up to the present time, they had been unable to get him to report.

This letter was handed by F. to plaintiff who in addition to acting as the local agent of the company was a solicitor, and acted as her legal adviser. In an action by plaintiff against defendant claiming damages for libel.

*Held*, 1. The trial judge correctly directed the jury that if the statements made by defendant in the letter in question as to the reasons for dismissing plaintiff were made by him, knowing them to be false, this was malice beyond all doubt and his privilege was wholly gone.

2. The reception of evidence of F. as to the meaning which she attached to the words of the letter was not under O. 37, r. 6, a substantial wrong or miscarriage in the trial and was not therefore ground for a new trial.

3. Per GRAHAM, E. J.—As in this case plaintiff was dealing with words which had not a plain and obvious meaning, but were ambiguous or