

the person assuming to act as agent, at the time of so doing expressly disclaims having any present authority he incurs no liability. In that case the defendant had signed a creditor's composition agreement on behalf of his own wife, and one Clarke, as creditors, both of whom afterwards repudiated his authority. At the time he signed he thought he had power to sign for his wife, but as to Clarke it was known to the plaintiff that he had no authority to act, but it was hoped that Clarke would ratify the agreement. While, therefore, the defendant was held bound by *Collen v. Wright* to make good the representation as to his wife, he was held not to be liable in respect of his assuming to act for Clarke. In this case Kekewich, J., points out that the supposed necessity of some wrong, or omission of duty on the part of the person assuming to act as agent in order to make him liable which, in *Smout v. Iberry*, 10 M. & W. 1, the Court thought to be an essential ingredient, must be taken to have been negatived by the latter decision of *Collen v. Wright*.

The principle of *Collen v. Wright* has sometimes been supposed to be confined to cases of misrepresentations of agency: but it is obvious that the principle on which a person is held liable to make good such representations applies equally to any other representations of fact which one person makes to another as an inducement to that person to alter his position. The misrepresentation of agency is the misrepresentation of a fact, and other facts may also be misrepresented as an inducement to others to do or refrain from doing something to their damage, for which the person making the representation appears to be liable.

A mere misrepresentation, innocently made, does not involve the person making it in liability for deceit to a person who acts upon it to his damage, as was determined by the House of Lords in *Peak v. Derry* (1889) 14 App. Cas. 337; but when the representation of any fact is made by a person to another in a matter of business, on the faith of which it is known and intended the person to whom it is made, shall or will act, and he thereby incurs a loss or liability, which but for such misrepresentation he would not have incurred, there seems no good reason why the