

### IMPLIED WARRANTY OF AUTHORITY BY AGENT.

In an earlier article in this journal (40 C.L.J. 685) the writer discussed the leading case on this subject, *Collen v. Wright* (1857), 8 E. & B. 647, and the later cases in which the principle laid down in that case was considered and extended. The latest case referred to in that article was *Starkey v. Bank of England* (1903), A.C. 114.

The result of *Collen v. Wright* as stated by Willes, J., was: "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 authorized, that the authority which he professes to have does, in point of fact, exist."

In the case in the House of Lords it was held that the rule in *Collen v. Wright* was "a separate and independent rule of law," and that "as a separate and independent rule of law it is not confined to the bare case where the transaction is simply one of contract, but it extends to every transaction of business into which a third party is induced to enter by a representation that the person with whom he is doing business has the authority of some other person." (pp. 118, 119).

This case was followed in *Sheffield Corporation v. Bagelay* (1905), A.C. 392, where a banker in good faith sent to a corporation a transfer of corporation stock which subsequently proved to be a forgery. It was held by the House of Lords that both parties having acted *bonâ fide* and without negligence, the banker was bound to indemnify the corporation against their liability to the person whose name had been forged, upon the ground that there was an implied contract that the transfer was genuine.

Lord Halsbury, L.C., in his judgment (p. 397) adopts the following as an accurate expression of the law: "It is a general principle of law that when an act is done by one person at the request of another, which act is not in itself manifestly tortious to the knowledge of the person doing it, and such act turns out to be injurious to the rights of a third party, the person doing it