

resisted payment of the cheque on the ground that it being signed by procuration, under the Bills of Exchange Act, 1882, s. 25, (53 Vict., c. 33, s. 25 (D.)), the defendants were only bound by such signature if the agent was acting within the actual limits of his authority. Charles and Collins, JJ., although of opinion that this constituted a good answer to the action on the cheque, yet considered that the plaintiff was entitled to recover for money had and received, as the money had actually been used for the defendants' benefit. This case is also reported 10 R., July, 298.

LIBEL—PRIVILEGED OCCASION—ABSENCE OF INTEREST OR DUTY IN PERSON TO WHOM LIBEL ADDRESSED—COMMUNICATION BY DEFENDANT UNDER ERRONEOUS BELIEF IN THE EXISTENCE OF INTEREST.

Hebditch v. MacIlwaine, (1894) 2 Q.B. 54, was an action for libel. The plaintiff was elected a guardian of the poor, and the defendants, who were electors, in the *bona fide* belief that the Board of Guardians were the proper authorities to inquire into corrupt practices at such elections, wrote a letter to the board, alleging that the plaintiff had been guilty of treating in order to secure his election, and asking for an inquiry. As a matter of fact, the Board of Guardians had no power to deal with the matter. The defendants claimed that the occasion was privileged, and, therefore, that they were not liable in damages in the absence of proof of malice. The Court of Appeal (Lord Esher, M.R., and Smith and Davey, L.JJ.) were unanimous that the occasion was not privileged, and that it made no difference that the defendants, *bona fide*, believed that the guardians were the proper persons to investigate such charges. Lord Esher, M.R., says: "The question whether the occasion is privileged, if the facts are not in dispute, is a question of law only, for the judge—not for the jury. If there are questions of fact in dispute upon which this question depends, they must be left to the jury; but when the jury have found the facts, it is for the judge to say whether they constitute a privileged occasion," and he, therefore, held that it was not necessary to submit to the jury any question as to whether the defendants, *bona fide*, believed that the guardians had the right to investigate the charges. The case illustrates the difficulty of wading through our case law. A dictum of Fitzgerald, B., in the Irish case of *Waring v. McCaldin*, Ir. R. 7 C.L. 282, which favoured the defendants' contention, is said to have been uttered