

a difficulty owing to the judgment of the Second Divisional Court upon the appeal after the former trial of the action. That Court might have decided that the words were capable of being read in a defamatory sense. The better course would be to pronounce no opinion upon that matter. Perhaps, before another trial, it would be possible to ascertain what the Second Divisional Court really did decide.

The ground upon which the judgment should be reversed and a new trial ordered was that the respondents claimed and had recovered general damages for two libels, one in which there was, as was alleged, a charge that the respondent Leonard had stolen a large sum of money belonging to the appellants, and the other that there was a representation that the respondent company was not bonded, or that the lawyers who were its subscribers were not bonded. As to the latter, there was a plea of justification: the statement was true in fact at the date upon which the letters of the 5th and 13th September, which contained the statement, were published. The statement was perfectly true: the subscribers were not bonded. It was not enough that it was not a statement of that which perhaps fair dealing might have dictated to the gentlemen who sent the letters out, or that the statement made by the respondents in their letters should have stated that, although they were not bonded at the time they published the letters, yet they would in due course be bonded. That was all beside the question: the question was whether that statement was true in substance and in fact, and there was only one answer to that question.

The result, therefore, was that the respondents had recovered general damages for wrongs done to them, including that alleged libel. The jury were instructed by the trial Judge to take that into consideration, and that they might assess damages to the respondent company and Leonard in respect of all these charges.

It was manifest, therefore, that the verdict could not stand: the jury might, for all the Court knew, have allowed all the damages in respect of the concluding paragraph of the letter.

It was most unfortunate that the proposal that was made at the trial, that the damages should be assessed separately in respect to the two libels charged, was not accepted by counsel for the respondents, or that the trial Judge did not direct separate assessments.

*Appeal allowed.*