Chy. Div'l Court.] [Sept. 9.

OWEN SOUND BUILDING AND SAVINGS SOCIETY *v.* MUIR.

Libel and slander—Statement that directors of a company were improperly appointed—Libel on the company.

Action of libel. The defendant published an article in which he wrote that the directors of the plaintiff's company were self-appointed men, and that by reason of such unlawful, illegal, and irregular appointing they were unable to transact the business of the company.

Held, affirming the decision of ROSE, J., that this was a libel on the company.

Aylesworth, Q.C., for the defendant appellant.

Masson, Q.C., for the plaintiffs.

Chy. Div'l Court.] [Sept. 16.

FORD *v.* MASON.

Solicitor's lien—Change of solicitors—Fund in court—Priorities.

In an action for an account against a trustee, the plaintiffs changed their solicitor during the course of the action. Before the change the first solicitor obtained a judgment of reference, and, on the defendant's consent, an order for payment into court by the defendant of $250, which he paid in after the change, subject to further order and to a claim for commission. Nothing was done by the second solicitor to procure the payment in. The second solicitor then conducted the reference and brought the action to an end, with the result that the $250 was freed from all claims for commission, and left absolutely as money recovered for the plaintiffs.

Held, per BOYD, C., in Chambers, that the fund in court had been directly "created" by the exertions of the first solicitor, and that he had a first charge upon it therefor.

Upon appeal to a Divisional Court,

Held, per FERGUSON and MEREDITH, JJ., that the general rule is that the solicitor who conducts the action to a successful termination is entitled to be paid first.

But, *per* FERGUSON, J., that the $250 should be considered as paid in immediately upon the order being made; and the general rule does not apply to a case like this, where the first solicitor has virtually preserved and recovered a fund by his exertions, and has not abandoned his right to a lien, or been paid.

Per MEREDITH, J.: That the fund was not "created" by the first solicitor; and there was nothing in the circumstances to take this case out of the general rule.

Cormack v. *Beisly*, 3 DeG. & J. 157, and *Re Knight*, (1892) 2 Ch. 368, discussed.

Kappele and *M. Malone* for the plaintiffs.

Hoyles, Q.C., for the first solicitor.