

the box and testify that he believed what he said to be true or that he uttered it in good faith. He went far beyond what was suggested to him or what he was invited to say by the detective. His own examination for discovery shews that he had no ground for making the statements he did. There is abundant evidence of malice and this would be sufficient to destroy any such qualified privilege as is claimed even if it had existed. Further it would not in any case apply to the slanders voluntarily uttered to the plaintiff's stenographer.

The jury gave a verdict that included a finding of malice after a charge that was not objected to by the defence either at the trial or in the argument before us. As pointed out to the jury it was a case in which they might give exemplary damages if they found certain facts. Having found these facts they exercised their discretion and I am not aware of any proper ground on which we can declare it to be excessive.

The appeal in my opinion, should be dismissed.

HON. MR. JUSTICE GARROW:—I agree.

HON. MR. JUSTICE MEREDITH:—If the plaintiff had by subterfuge induced the defendant to speak defamatory words of him merely for the purpose of having an action for damages, I cannot think that such an action would be: where one gets no more than he seeks asks for and induces, what great right has he to \$1,000 in addition? If one by a trick induces another to arrest or imprison him, can he recover damages in an action complaining of that which his own fraud brought about, and which he designed? The general rule is that one cannot take advantage of his own wrong; neither can he recover damages for that which had his leave and license. And that which one procures another to do for him, may be said, very properly, to be done by himself, in fishing for actions as well as in other things. But that is not this case; it was the case supposed to be by Lord Avonley in his ruling in *King v. Warden*, 5 Esp. 13.

It is quite a different thing for one who has been defamed by a secret enemy, and who in honest and not unusual or unreasonable endeavours to discover the wrong-doer, is again defamed—by one whom he suspected of the secret defamation—to bring such an action as this—even though