

supposed that the plaintiff would seek to show that such receipt had been obtained, and were not taken by surprise.

Appeal dismissed with costs.

*Wallace Nesbitt*, for the appellant.

*W. A. B. Ritchie, Q.C.*, for the respondent.

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## COURT OF APPEAL.

LONDON, 28 June, 1897.

*Before* LORD ESHER, M.R., SMITH, L.J., RIGBY, L.J.

HOPE v. BRASH ET AL. (32 L.J.)

*Discovery—Inspection—Libel in newspaper—Manuscript of libel—  
Admission of publication and liability.*

Appeal of the defendants from an order of Bruce, J., at chambers.

The action was brought for a libel published in a newspaper belonging to the defendants. The defendants by their defence admitted the publication of the libel, and pleaded that the libel was published by them without actual malice and without gross negligence; that before the commencement of the action they published in their newspaper a full apology for the libel, according to section 2 of the Libel Act, 1843; and they paid into court a sum of money in satisfaction of the plaintiff's claim.

The defendants in their affidavit of documents stated that they had in their possession or power the documents relating to the matters in question in the action set forth in the first and second parts of the schedule thereto. In the second part of the schedule they stated that they had in their possession a manuscript of the matters published in their newspaper, but they objected to produce it on the ground that it was the original contribution to them, and was that which was published by them as admitted in the statement of defence, and as to which they admitted responsibility.

Bruce, J., made an order for the production of the manuscript for inspection.

The defendants appealed.

*J. E. Bankes*, for the defendants, cited *Hennessy v. Wright*, (No. 2), L. R. 24 Q. B. Div. 445*n*.