

DEFAMATION—LIBEL—DEFENCE OF FAIR COMMENT—MISDIRECTION—NEW TRIAL.

Hunt v. Star Newspaper Co. (1908) 2 K.B. 309 was an action for libel in which the defendants set up a defence of justification and fair comment. The alleged libel imputed to the plaintiff misconduct in the discharge of his duties as a deputy returning officer at a municipal election. Lawrence, J., tried the action, and the jury found a verdict for the plaintiff for £800. The defendants moved for a new trial in the ground that the learned judge misdirected the jury by telling them that it was for the jury to decide whether it was a bonâ fide and fair comment, or whether it was comment which tended to charge the plaintiff with improper conduct: and also by telling them that if they came to the conclusion that the words complained of were libels and were such as would have a tendency to prejudice the plaintiff in his position, they must return a verdict for him. The Court of Appeal (Cozens-Hardy, M.R. and Moulton, and Buckley, L.J.J.) considered the objections to the charge well founded and granted a new trial as it was apparent that the defence of fair comment as a separate issue had not been properly left to the jury.

SUBPOENA DUCES TECUM—SEALED PACKET—DEPOSIT IN BANK—OBLIGATION OF BANKER TO PRODUCE SEALED PACKET DEPOSITED WITH HIM.

The King v. Daye (1908) 2 K.B. 333. In this case, for the purpose of extradition proceedings, a subpoena duces tecum was issued and served on a bank with which a certain sealed packet alleged to contain a chemical formula for the manufacture of diamonds had been deposited by the alleged criminal, upon the terms that it was not to be delivered up without the consent of the depositor and a third person. The bank's representative objected in these circumstances to producing the packet under the subpoena duces tecum and raised the question whether a sealed packet such as that in question could be said to be "a document." On a motion to commit the bank's representative for disobedience to the subpoena it was held by the Divisional Court [(Lord Alverstone, C.J., and Ridley and Darling, J.J.)] that the packet was a document, and as such producible under the subpoena, and that the circumstances of the deposit did not afford any excuse for its non-production, and the attachment was granted, but ordered to lie in the office for a month.