

whosoever upon the trial of any indictment or information for the publication of a libel, evidence shall be given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent or knowledge." The much discussed case of *Reg. v. Holbrook*, 37 L. T. Rep. N. S. 530, decided that in a trial for a defamatory libel evidence that the defendant, although proprietor, or having the general control over a newspaper, had entrusted the sole charge of it to an editor, and had not authorized and had no knowledge of the particular libel incriminated, was within the section and afforded a complete answer to the charge. Lord Coleridge held that the section applied equally to an indictment for blasphemous libel, the words of the section being, unlike those of the other sections of the Act, not confined to defamatory libels, but perfectly general in its terms. The evidence against Mr. Bradlaugh consisted in his having, under the name of the Freethought Publishing Company, formerly been the publisher of the paper in which the libels appeared, and in the paper being sold in a shop of which he was proprietor. But, according to Mr. Justice Lush in *Reg. v. Holbrook*, "a proprietor whose agent sells over the counter libels without his knowledge would not be criminally liable if able to show that the sale was without his authority." As Lord Coleridge left the question to the jury, it was not "whether Mr. Bradlaugh had anything to do with the paper, but whether he had authorized the sale of the articles complained of; it was not enough that he might have stopped them, the question was whether he had authorized their sale or publication." The ruling adopted by the Lord Chief Justice may now, therefore, be taken to be settled law, that in an indictment for any kind of libel which appears in a newspaper, the question is not whether the defendant authorized the publication of the paper, but whether he authorized the publication of the libel.—London *Law Times*.

#### UNDUE INFLUENCE.

In the case of *Hides v. Hides*, 65 How. Pr. Rep. 17, there is enough of the curious and the funny to entitle it to particular mention in the

humorous phases of the law. This was an action to set aside a marriage and a conveyance of property to the wife on the ground of fraud. The man was old, feeble, deaf, childish, and a fervent believer in spiritualism. The woman pretended to be "very modest and bashful," and a clairvoyant physician able to cure the old man's deafness. So she "manipulated his head, put her fingers into his ears," and held his jaw. After a course of this treatment, she told the old man that the spirits said they must be married within two weeks or something dreadful would "step in between them." She also told him she was from one of the first families of Ireland (it does not appear that she claimed descent from an Irish king), that "her character was as pure as the white snow," and that her relations abroad were very rich. The long and short of it is that by means of these representations—all false—she prevailed on the old man to marry her and deed to her property worth \$25,000, including a mineral spring which the spirits had discovered to him. The old man came to his senses after the honeymoon, and prayed to be released on the ground of fraud. The referee granted his prayer, putting his decision solely on the ground of undue influence by means of the spiritual delusion, which he pronounced an "atrocious fraud." The court at special term, Landon, J., confirmed this judgment, observing: "That he was predisposed by the faith of many years to a readiness of belief in the truth of such representations made him, it is true, the more easily a dupe and a victim, but it does not make the grossness of the deception less nor accord to the impostor any protection. \* \* \* \* Our law prescribes no religion, but tolerates all and condemns none, and therefore the plaintiff's case suffers no detriment because his religious belief exposed him to the arts of the defendant." So it seems if we were called on to construct a syllabus for this case we should have to do it as follows: In an action to set aside a marriage for fraud, practised by means of the plaintiff's belief in spiritualism, the doctrine of contributory negligence does not apply, any more than in an action of seduction.—*Albany Law Journal*.

#### RECENT ENGLISH DECISIONS.

*Carrier*.—Where rags, which were packed damp, shipped by a carrier, were injured in