

tiffs was that the telegraph company, by the very extent and nature of their business, owe an obligation to the recipient as well as to the sender, and that it is an essential part of their business to be accurate in the delivery of their dispatches.

These three points were severally overruled by the judgment of the Common Pleas Division, since affirmed by the Court of Appeal;—the first on the ground that it is essential that the statement should be false to the defendants' knowledge to make them responsible. In the present case the company were a mere medium for the transmission of messages, and did not hold themselves out as agents of the senders.

The second ground was one of more subtlety. The defendants, it was argued, being the agents of the senders, by their telegram proposed to the plaintiffs to enter into a certain contract. That, it turned out, they had no authority to do; but it was contended that they must be taken to have warranted that they had such authority. The answer to this was that the telegraph company did not hold themselves out as agents of any one, nor did they profess to carry on the business of agents for making contracts. And further, there was no contract express or implied. "Here there is no duty cast by contract," remarked Lord Justice Bramwell, "because there is none; and none by law, for if there were, then the words of the general principle—that no action is maintainable for any statement which causes damage to the person to whom it is made, unless it be fraudulent—would have to be amended by adding to the word 'fraudulent' the words 'or careless'; but no such addition exists."

The third point—the obligation of the telegraph company from the nature of their business to be accurate in the delivery of their messages—was somewhat summarily overruled by the Common Pleas Division. "The proposition," it was remarked in the judgment, "is simply equivalent to this contention, that a telegraph company, having no contract with any individual except the sender, must be supposed to guarantee, towards all mankind, the accuracy and care of all their servants in all parts of the globe wherever they deliver a message, to such an extent at least as that if, through the negligence of any of their servants at any stage of the transmission, a message

should be sent to the wrong person, that person, if he acted upon it to his detriment, would have an action."

This, we must assume, is good law; but we remain under the impression that the case of Mr. Dickson is one of great hardship. By no fault of his own, or of the senders of the message, he incurred a loss of \$7,000. Has he no remedy? Are telegraph companies to be exempted from liability for the consequences of their blunders? An English legal contemporary remarks: "The Court of Appeal saw nothing unreasonable in the present state of things; and though the case was one of much hardship for the plaintiffs, yet, considering the heavy and burdensome results to telegraph companies which would follow from such an obligation, we are certainly inclined to adopt that view of the matter." This strikes us as rather a poor argument. If telegraph companies were held liable, as they might be by Statute, for mistakes, they would simply have to be more careful, or to charge a little more for messages as a sort of insurance to cover losses by mistakes. The business would only be a little more hazardous. There would be less hardship in making companies bear the consequences of an occasional blunder than in visiting them upon private individuals who have no way of protecting or insuring themselves. It may be remarked that the law of libel affords an illustration of a much more stringent rule. The publishers of a newspaper are held liable for a mere error, where the faintest suspicion of malice is absent; as in the recent case of *Larin v. White*, decided by the Superior Court at Montreal. Here two persons, each bearing the Christian name of "Charles," were charged with offences before the Recorder, and a newspaper reporter, by error, imputed the more serious offence to the wrong Charles. The publishers, being sued for libel, were condemned in damages, though the error was amply corrected at the earliest moment possible, and no special damages were alleged or proved. See also *Starnes v. Kinnear*, 6 L.C.R. 410, where damages were awarded against newspaper proprietors for inserting an advertisement, received in good faith, but which turned out to be untrue. Surely mistakes of this kind are equally or more difficult to guard against than an error in the delivery of a telegraphic message.