

to be all right, but he made the representation without knowing it to be true or false. On this state of facts the Court of Appeal considered, and so held, that the defendant was not liable, conceiving the case to be one of innocent misrepresentation covered by *Peak v. Derry*. But it may be noticed that the representation was made for the express purpose of inducing the plaintiff to cash the cheque, and his doing so, it would seem, was a valuable consideration for an implied warranty on the part of the defendant that his representation was true.

There are no doubt passages in the reasons given for the decision in *Peak v. Derry* which conflict with this view, but it is questionable whether they have not been modified by the later cases above referred to. While it would undoubtedly be hard to make a man responsible in damages to persons acting on representations innocently made, which turn out to be false, where they are made without any express object of inducing the course of action which results in damage, still the case is very different where the representation is made for the express purpose of inducing the course of action which results in damage to the person relying on it. At the same time it must be confessed the line would in many cases be hard to draw between cases where liability should attach and where it should not. For instance, if a man tells another he may safely walk over a bridge which he knows to be unsafe, and the person acts on his representation and is injured, the person making the representation would seem to be liable, but if not knowing whether it is safe or not, he says it is safe and it proves to be unsafe, then that might be said to be a mere expression of opinion for the correctness of which he would not be held liable. But can a man who positively affirms that a cheque is "all right," for the purpose of inducing another to cash it, be considered as merely expressing an opinion? He is positively affirming a fact to be true, as an inducement to a course of action, and in such a case it seems not unreasonable to hold that he warrants the truth of the statement.

In *Le Lievre v. Gould* (1893) 1 Q.B. 491. Lindley, L.J., refers to this conflict of opinion and considers that it has been