another in that suit, more especially if that other be a person himself of no means, and the suit be one which he cannot bring, is still, as it always was, maintenance; and that for such maintenance an action will lie." And later on he says:—"It is true that this action is of the rarest; very few examples of it in any modern books are to be found. As a rule the doctrines and principles applicable to maintenance are discussed and laid down in judgments upon pleas, defences to actions of the more ordinary kinds, in which the defendant has sought to set aside a contract, or to be relieved from an obligation, on the ground that the contract was void or illegal, or the obligation not binding, because founded upon what was, or what savoured of maintenance. But I think it has been shown, not only from old abridgements and digests and text writers, but by a chain of authorities from Lord Loughborough and Lord Eldon down to the present time, that the doctrine of maintenance is a living doctrine, and the action of maintenance is one which, in a fit case, the Courts of this day will support."

LIBEL—PUBLICATION OF PRIVILEGED COMMUNICATION BY MISTAKE.

The next case requiring notice is *Tompson* v. *Dashwood*, p. 43, and is of a peculiar character. The defendant wrote defamatory statements of the plaintiff in a letter to W. under circumstances which made the publication of the letter to W. privileged, but by mistake the defendant put it in an envelope directed to another person, who received and read the letter. The full court now held that the publication was nevertheless privileged. Watkin Williams, J., said:—"The defendant's state of mind was never altered. His intention was always honestly to do that which he conceived to be his duty. I can see nothing to justify the conclusion, as a matter of law, that by reason of the defendant's inadvertence the case is taken out of the category of privilege, so that malice should be implied. There is no direct authority on the question, though there have been cases to the effect that mere accident or inadvertence in using language, or publishing writing, spoken or written on a privileged occasion will not supply the necessary evidence of malice in fact which will destroy the privilege." Mathew, J., expressed concurrence.

BILL OF LADING—PERILS OF THE SEA.

The next case *Woodley & Co.* v. *Mitchell*, p. 47, concerns the question what is and what is not included within the "perils of the sea," in the usual exception in a bill of lading, and the point here decided is sufficiently indicated in the passage in the judgment of Brett, L. J., where he says that "although a collision when brought about without any negligence of either vessel is or may be a peril of the sea, a collision brought about by the negligence *of either of the vessels* so that without that negligence it would not have happened, is not a peril of the sea within the terms of the exception in a bill of lading."

MALICIOUS PROSECUTION—"REASONABLE AND PROBABLE CAUSE"—ONUS.

The next case requiring notice is *Abrath* v. *The North Eastern Railway Company*, p. 79, and is a case on a point on which it is said, there was no express authority. It was for malicious prosecution by the defendant of the plaintiff for conspiracy to defraud. The present application was for a new trial on the ground of misdirection. The misdirection was in the learned judge before whom the action was tried stating to the jury that the onus was upon the plaintiff of proving that the defendants did not take the reasonable and proper care to inform themselves of the true state of the case in prosecuting the plaintiff, and that they did not honestly believe the case which they laid before the magistrates. This the court now held to be a misdirection. Grove, J., with whom Lopes, J., concurred, says:—"In *Panton* v. *Williams*, L. R. 2 Q. B. 169, it was held—and the principle of that decision has been followed in many subsequent cases, and reaffirmed by the House of Lords in *Lister* v. *Perryman*, L. R. 4 H. L. 521—that it is for