

made by plaintiff and published in said newspaper, and bona fide for the purpose of vindicating his character against plaintiff's attack, and in order to prevent plaintiff's said charges from operating to his prejudice, and in reasonable and necessary self defence and without malice; and that the occasion is therefore privileged. In his counterclaim defendant repeats the above allegations, and says that the charges so made by plaintiff were falsely and maliciously spoken and published of defendant in the way of his trade and as a building contractor.

The point involved in the appeal is whether the above facts as pleaded constitute a privileged occasion, and therefore, in the absence of express malice, a defence to the action. It will be observed that it is not alleged by defendant that plaintiff procured or caused his remarks at the committee meeting to be published in the newspapers, but in paragraph 4 he says that the meeting was open to the public and was attended by the reporters of the leading newspapers in Ottawa, for the purpose of reporting the proceedings at said meeting in their respective papers, and in paragraph 5 charges plaintiff with well knowing that the proceedings, thereat would be duly reported in said newspapers.

I take it to be well settled that where a person publishes in a newspaper statements reflecting on the conduct or character of another, the aggrieved party is entitled to have recourse to the same paper for his defence and vindication, and may at the same time retort upon the assailant when such retort is a necessary part of the defence, or fairly arises out of the charges made by the assailant, and in so doing if he reflects upon the conduct and character of the assailant, it is for the jury to say whether he did so honestly and in self defence or was actuated by malice: see *O'Donohue v. Hussey, Ir. R.* 5 C. L. 124; *Dwyer v. Esmonde, Ir. L. R.* 2 Q. B. D. 243; . . . *Odgers*, 3rd ed., p. 253; *Folkard*, 6th ed., p. 278.

Except in *Laughton v. Bishop of Sodor and Man, L. R.* 4 P. C. 495, I have found no case in which such a defence has been allowed where the defamation complained of by defendant consisted of oral statements made by plaintiff at a public meeting in the presence of reporters who, without being expressly required to do so, published such statements in their newspapers, but I do not think the *Laughton* case an authority for the defence in this action, by reason of the special and extraordinary conditions involved in it.