

5. Notices circulated amongst the coemployés of the persons to which they relate.—Another kind of "blacklist" is that which employers who hire large numbers of servants circulate either among all their servants indiscriminately, or among such superior employés as are invested with authority to engage and discharge subordinate servants. The right to publish such a document has so far been tested only in actions for libel, and it has uniformly been held that the privilege of the occasion is *prima facie* an effectual bar to a claim for damages based on this ground⁸. Whether the

"Suppose a man should file a bill alleging that he belonged to the Honourable and Ancient Order of Free-masons, or to the Presbyterian church, or to the Grand Army of the Republic; that his employer had discharged him solely on that account; that he had discharged others of his employés, and intended to discharge all of them for the same reason; that he kept a book which contained all the names of such discharged persons, and set opposite the name of each discharged person the fact that he had been discharged solely on the ground that he belonged to such organization; and that he had given such information to others, who refused to employ such persons on that account. Is it possible a court of equity could grant relief? If so, pray on what ground? And yet that is a perfectly parallel case to this as made by the bill."

⁸ In *Hunt v. Great Northern R. Co.* (1891) 2 Q.B. (C.A.) 189, 60 L.J.Q.B.N.S. 498, 55 J.P. 648, it appeared that, after the plaintiff had been dismissed from the defendant railway company's service on the charge of gross neglect of duty, the railway company published his name in a printed monthly circular addressed to all its servants, stating that plaintiff had been dismissed and the reason therefor. The communication was unanimously held to be a privileged one. "Can anyone," said Lopes, L.J., "doubt that a railway company, if they are of opinion that some of their servants have been doing things which, if they were done by their other servants, would seriously damage their business, have an interest in stating this to their servants? And how can it be said that the servants to whom that statement is made have no interest in hearing that certain things are being treated by the company as misconduct, and that, if any of them should be guilty of such misconduct, the consequence would be dismissal from the company's service? I cannot imagine a case in which the reciprocal interest could be more clear." It was argued that the plaintiff's name need not have been mentioned by the defendants, and that the privilege of the occasion was lost because his name was mentioned. This contention was rejected. "It might possibly be," said Lopes, L.J., "that the mentioning of his name could be suggested as evidence of malice on the part of the defendants—not that I think the suggestion could be maintained for one moment. But, at any rate, it could only be used as evidence to shew that the defendants had abused the occasion, not that the occasion did not exist."

In *Hebner v. Great Northern R. Co.* (1899) 78 Minn. 289, 80 N.W. 1128, the record of the reasons for a railway servant's discharge was made in one of the books of the corporation, kept for its own information, and the only publication complained of occurred when the record was communicated by one of the clerks, employed by defendant in the office of the telegraph superintendent to another clerk; both of these persons being in-