—to prevent such a result, there must be at least so much of a public investigation as is implied in a submission to the judicial mind, with a view to judicial action."

"The publication was not merely of the fact that a petition for divorce had been filed; but it purported to give the contents of a petition which had never been brought before the court at any sitting, or with a view to judicial action. No proceedings in open court had taken place, and, in fact, no proceedings in open court ever did take place, in the suit for divorce, from the time of the filing of the petition to the time of the dismissal of the suit. The statements made in this publication were not only of a kind to disgrace and degrade the plaintiff in the estimation of the community, but they impute an act which may be a crime under the statutes of this State. *Prima facie*, the words are actionable (Wag. Stat. 519, §1; *Stieber* v. *Wensel*, 19 Mo. 513) and their use raises the presumption of malice; that is, not of any actual design to injure, but of that wrongful intention which the law presumes to be the concomitant of an act which it condemns as wrong. This being the case, is there any great public advantage overriding the injury that would ensue in cases of this kind to individuals?

"That injury is apparent. If every paper on which a clerk of court marks the word 'filed' is a privileged communication, and the person who spreads its contents broadcast before the public is exempted from the penalties which the law imposes on those who injure the reputation and property of others, consequences most serious will follow. A court may well pause before it makes a decision to this effect, unsanctioned as such a decision would be by any authority. Papers may be filed, as declarations or petitions, which are filled with libellous matter. Their mere filing is no guaranty that the plaintiff intends to go to trial upon them. They may be so composed as to blast reputations and ruin business. They might be published with the most malicious design, yet, if privileged, the effect would be practically to deprive the injured party of redress. The anomaly, too, would be presented that, while the law would afford the defendant a remedy against the person who brought the suit (for the latter would be liable in damages for a malicious action), it would afford no redress against the libeller, whose publication may have produced the greater injury. Nor, if a publication is to be privileged, merely because a petition is on the files, is it easy to see why the filing of an affidavit, or deposition, even though it may be totally inadmissible in evidence and may be subsequently stricken from the files, does not confer a like exemption. When a matter is before a court upon a hearing, subject to the control and direction of the court, the right of publication may well be allowed. But where a paper is filed by a private person, perhaps not even with intent to produce an investigation, he who chooses to publish it should do so at his own risk. It is better that a craving after any thing but wholesome news should be disappointed, than a reputation assailed. If the charges of the petition are not baseless, they will soon be made the subject of judicial action, in one form or another; and, when they are made such, the law, from motives of public policy, makes all proper publications in regard to them privileged communications."

NOTES OF CASES.

IN THE ONTARIO COURTS, PUBLISHED IN ADVANCE, BY ORDER OF THE LAW SOCIETY.

COURT OF APPEAL.

From Q. B.] [June 25th.

McMaster v. King.

Insolvent Act of 1875—Deed of composition and discharge—Estoppel.

The plaintiffs sued the defendant, a discharged insolvent, for a debt alleged to have been contracted under such circumstances that the imprisonment of the debtor for enforcing payment is permitted by the Insolvent Act.