

REVIEW OF CURRENT ENGLISH CASES.

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LIBEL—PRIVILEGED OCCASION—TRADE PROTECTION—COMMUNICATION TO MEMBERS NOT PRIVILEGED—PRIVILEGE FOUNDED ON GENERAL INTEREST OF SOCIETY—JOINT TORT—SEVERAL DEFENDANTS—SEPARATE JUDGMENTS—SEPARATE ASSESSMENT OF DAMAGES AGAINST JOINT TORTFEASORS—PLEADING—EVIDENCE—UNINCORPORATED ASSOCIATION.

Greenlands v. Wilmshurst (1913) 3 K.B. 507. This was an action for libel brought against three defendants, Wilmshurst, The London Association for Protection of Trade, an unincorporated association formed for the purpose of trade protection, and Hadwin, the secretary of the Association. The libel complained of was contained in certain communications made by the defendant Wilmshurst to the defendant Association, and in communications made by the secretary of the Association to its members, prejudicially affecting the financial standing of the plaintiff. No point is raised apparently as to the constitution of the suit, though it seems at the outset doubtful how far a voluntary unincorporated association can be effectively sued as if it were in fact a corporation. Although the evidence disclosed that the libels complained of were in fact two separate libels, one by Wilmshurst and the other by the other two defendants, yet the pleadings alleged a joint libel by all three and no amendment was made, and the action proceeded to trial and the case was disposed of as if it were in fact a joint libel, but the jury assessed £750 damages as against Wilmshurst and £1,000 as against the other two defendants. The facts as proved showed that Wilmshurst as a correspondent of the Association had made a false report of the plaintiff's financial standing, which was subsequently communicated to members of the Association who were contemplating selling goods to the plaintiff. The main question was whether the report was not, in the circumstances, a privileged communication. Lord Alverstone, C.J., who tried the action, held that the report was not privileged and gave judgment for the plaintiffs for the amounts respectively awarded against the defendants. On appeal by the defendants the Court of Appeal (Williams and Hamilton, L.JJ., and Bray, J.) affirmed the decision that the report was not privileged, (Bray, J., dissenting) but held unanimously that the judgment must be vacated and a new trial had because the tort complained of, being alleged by the pleading to be joint, there could not be separate assessments of damages