

488, the reasons for the holding in the latter case that plaintiff was not entitled to discovery as to the extent of the circulation of defendants' newspaper, appear to me to be applicable only to actions for libel published in a newspaper, and not to such a case as this, where the number and class of persons to whom the alleged libel was published may be most important, not merely on the question of damages, but also on the question whether defendants are entitled to succeed on their defence of qualified privilege, for it may be that the information sought may disclose the fact that the alleged libel was published to persons to whom defendants were not justified in communicating it, even though the occasion of its publication to some of them may be protected under the defence set up.

The second ground of appeal, therefore, also fails, and the appeal must be dismissed, and the costs of it will be to plaintiffs in any event of the action.

BRITTON, J., gave reasons in writing for the same conclusions.

TEETZEL, J., also concurred.

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