

*On appeal from the Supreme Court of the Colony of Natal.*

DAVIS v. SHEPSTONE.

*Libel—Criticism on Public Acts—Privilege.*

*The principle that acknowledged or proved acts of a public man may lawfully be made the subject of fair comment or criticism, does not extend to allegations of particular acts of misconduct said to have been committed by him. Defamatory matter thus published is not the subject of any privilege.*

*Statements made to a reporter in the employment of the proprietor of a newspaper, for the purposes of the newspaper, are not privileged.*

This was an appeal from a judgment of the Supreme Court of the Colony of Natal, refusing an application made by the appellants for an order to set aside the verdict of the jury in an action for libel in which the respondent was plaintiff, and the appellants defendants, and for a new trial on the ground of misdirection.

The facts appear sufficiently from the judgment of their Lordships.

H. Matthews, Q. C., and Cock, appeared for the appellants.

They cited *Henwood v. Harrison*, L. Rep. 7 C. P. 606; 26 L. T. Rep. N. S. 838; *Campbell v. Spottiswoode*, 32 L. J. 185, Q. B.; *Kelly v. Tinkling*, L. Rep. 1 Q. B. 699; 13 L. T. Rep. N. S. 255; *Wason v. Walter*, L. Rep. 4 Q. B. 73; 19 L. T. Rep. N. S. 409; *Davis v. Duncan*, L. Rep. 9 C. P. 396; 30 L. T. Rep. N. S. 464; *Purcell v. Sowter*, 2 C. P. Div. 215; 36 L. T. Rep. N. S. 416.

Sir R. Webster, Q. C., and Arbutnot, who appeared for the respondent, were not called upon to address the committee.

MARCH 5]. Their Lordships' judgment was delivered by the Lord Chancellor (HERSCHELL) as follows: This is an appeal from a judgment of the Supreme Court of the colony of Natal, refusing a new trial in an action brought against the appellants in which the respondent obtained a verdict for 500*l.* damages. The action was brought to recover damages for alleged libels published by the appellants in the *Natal Witness* newspaper in the months of March and May, 1883. The respondent was, in December, 1882, appointed

resident commissioner in Zululand, and proceeded in the discharge of his duties to the Zulu reserve territory. In the month of March, 1883, the appellants published in an issue of their newspaper, serious allegations with reference to the conduct of the respondent whilst in the execution of his office in the reserve territory. They stated that he had not only himself violently assaulted a Zulu chief, but had set on his native policemen to assault others. Upon the assumption that these statements were true, they commented upon his conduct in terms of great severity, observing: "We have always regarded Mr. Shepstone as a most unfit man to send to Zululand, if for no other reason than this, that the Zulus entertain toward him neither respect nor confidence. To these disqualifications he has now, if our information is correct, added another which is far more damnable. Such an act as he has now been guilty of cannot be passed over, if any kind of friendly relations are to be maintained between the colony and Zululand. There are difficulties enough in that direction without need for them to be increased by the headstrong and almost insane imprudence and want of self-respect of the official who unworthily represents the government of the Queen." In the same issue, under the heading "Zululand," there appeared a statement that four messengers had come from Natal to Zululand, from whom details had been obtained of the respondent's treatment of certain chiefs of the reserve territory who had visited Cetewayo, and what purported to be the account derived from these messengers, of the assault and abusive language of which the respondent had been guilty, was given in detail. On the 16th May, 1883, the appellants published a further article, relating to the respondent, which commenced as follows: "Some time ago, we stated, in these columns, that Mr. John Shepstone whilst in Zululand, had committed a most unprovoked and altogether incomprehensible assault upon certain Zulu chiefs. At the time the statement was made, a good deal of doubt was thrown upon the truth of the story. We are now in a position to make public full details of the affair, which the closest investigation will