

in the congregation and then against myself?" The defendant pleaded privilege in that the statements complained of were contained in a private and confidential correspondence with two other ministers, who had an interest in the matter, and were so made bona fide and without malice and solely with a view of promoting the interests of the church and of the congregation, and set out at length the circumstances under which the statements were written. In stating these circumstances, the following words were used, which were those struck out by the local Judge: "For some time prior to the year 1900 a considerable amount of drunkenness had prevailed amongst certain of the members of the defendant's said church, to the manifest injury of the welfare of the congregation and to the detriment of the cause of religion in the locality, and efforts had been made by the session of the said congregation to correct or lessen this evil, with the result that one J. M. (naming him), an offender, was dealt with and subsequently suspended from the membership of the congregation on the charge of drunkenness. The plaintiff espoused the cause of the said M. and sought to obstruct the session in the discharge of what it conceived to be its duty, amongst other things publishing an abusive and scurrilous circular bitterly attacking the members of the session. The plaintiff was thereupon summoned before the session on the charge of having circulated among the members and adherents of the church a circular containing libellous and derogatory matter against the said session, and after trial upon such charge was suspended from the membership of the church. The plaintiff thereupon appealed to the presbytery of Lanark and Renfrew against the sentence of suspension pronounced by the session, and pending said appeal, at the instance of the said presbytery, and for the sake of peace and in order to avoid as far as possible the scandal to the church attaching to such proceedings, an agreement was entered into by the said session to restore the plaintiff to membership of the church on his agreement to voluntarily withdraw from membership of the said congregation and to apply for a certificate of withdrawal within three months' time."

J. H. Moss, for defendant.

Grayson Smith, for plaintiff.

MACMAHON, J., held that under the practice prior to the Judicature Act it was unnecessary to specially plead privilege. But since that Act privilege must be specially pleaded, and facts and circumstances must also be stated shewing why and how the occasion is privileged: Rule 298; Odgers, 3rd ed., p. 563. The parts of the paragraph directed to be struck out