

"The matter comes, therefore, to this, that the liability which is sought to be cast upon the company is that they have contracted with a man to shunt their trucks, that he has employed in his turn a servant of his to shunt the trucks, and that because it is said that it cannot be done without other assistance the railway company, forsooth, are under some particular contract to supply that which is necessary to be supplied in order that the thing may be done safely. My Lords, it seems to me to reduce the whole question to something too ludicrous to give verbal expression to."

LIBEL.—PRIVILEGE.—REPORT OF PROCEEDINGS IN COURT OF JUSTICE.—PUBLICATION OF JUDGMENT ALONE.—EVIDENCE.

*Macdougall v. Knight*, 14 App.Cas. 194, is an appeal from the decision of the Court of Appeal 17 Q.B.D. 636, noted ante vol. 22, p. 395. The action was for libel in publishing a judgment of North, J., which contained reflections on the plaintiff, and which reflections the Court of Appeal, on the case being subsequently brought before it, thought were not justified by the evidence. The jury found that the pamphlet was a fair, accurate, and honest report of the judgment of North, J., and that it was published by the defendants *bona fide*, and with the honest intention of making known the facts of the case in order to protect their reputation and in reasonable self-defence; and that the publication was not malicious, which were the only issues raised on the pleadings. The plaintiff made no application to enter judgment for himself, notwithstanding the finding of the jury; but the plaintiff applied to the Divisional Court for a new trial, merely on the ground of misdirection, in the judge at the trial telling the jury that the occasion was privileged, and in telling them that if the pamphlet was a fair and honest report of the judgment its publication was privileged; and in not telling them that to be privileged it must be a fair and accurate report of all the proceedings at the trial; and also on the ground that the judge at the trial ruled that the plaintiff was not entitled on the pleadings to object that the paragraph of the defence which justified the publication, and upon which the plaintiff had taken issue, was bad in law; and also on the ground that the judge at the trial refused to allow the plaintiff to amend his reply by alleging that this paragraph of the defence was bad in law. The only point, however, argued before the Divisional Court and the Court of Appeal was whether the publication, being a separate and independent part of the proceedings, published alone and without disclosing all that took place at the trial, was privileged. Their Lordships were of opinion that the plaintiffs not having at the trial required the judge to put other questions than he did, to the jury, was too late in objecting on the score of non-direction either in the Divisional Court or the Appellate Court; and that not having by his pleading taken any objections to the legal validity of the defence set up, on the ground that the publication of the judgment alone without the evidence was not privileged, he was precluded from relying on that objection in appeal. Their Lordships were, however, of opinion that the publication of the reasons of judgment alone without the evidence or other proceedings, might, in some cases, be libellous, if properly attacked; and