

6. Statutes with regard to blacklisting.—The present writer has no hesitation in expressing the opinion that the broader considerations of public policy point very decidedly to the conclusion that "blacklisting" should everywhere be greatly restricted, if not entirely prohibited, by legislation, in so far as it is concerned with the exchange of circulars or notices between different employers. It would of course not be expedient to enact any statute which would deprive employers altogether of the privilege of communicating information regarding the character of an employé to a person who is interested in ascertaining the truth; and there may be some difficulty in framing provisions which will leave this privilege intact, and at the same time afford adequate protection to employés. But it seems preferable to run the risk of circumscribing the privilege to some extent than to leave unchecked and unregulated a practice so

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plaintiff, a carpenter employed by the defendant company, when he was leaving a train in a hurry upon its arrival at the place where he lived, picked up by mistake a coat which was not his, leaving his own behind, and carried it with his tools to the company's shop, where he threw it across a bench. A few days later he was discharged for no assigned cause. In a subsequent issue of a "discharge list," sent out at intervals to all the agents of the company who were authorized to hire employés, his name was inserted with a memorandum to the effect that he had been discharged for stealing. *Held*, that there was evidence which would have justified the jury in finding that defendant was actuated by malice in fact, and that it was error to take the case from them.

In a certain issue of a "discharge list," circulated among all the agents of a railway company who had charge of the employment of its servants, it was stated that the plaintiff had been discharged for incompetency. In spite of his having drawn attention of the defendant's trainmaster to the mistake, and obtained a written statement that he had not been discharged on this ground the list was again issued without any correction, the result being that he was discharged several times upon different lines of railway operated by the company. *Held*, that the reissuance of the list after the trainmaster had notice of the falsity of the statement with regard to the plaintiff was a circumstance which justified the inference of malice. *Missouri P.R. Co. v. Bebee* (1893) 2 Tex. Civ. App. 107, 21 S.W. 384. On a previous appeal of this case, *Bebee v. Missouri P.R. Co.* (1888) 71 Tex. 424, 9 S.W. 449, the ground upon which the judgment of the lower court had been set aside was that certain evidence had been improperly excluded.

Where an order discharging an employé of a railway company was circulated among his fellow employés, with the statement that he had been dismissed for intimating that an officer of the company had used insulting language in speaking of another officer, and that such intimation was untrue, it was held that the language used was not so violent or disproportionate to the occasion as to raise an inference of malice. *Brown v. Norfolk & W.R. Co.* (1902) 100 Va. 619, 60 L.R.A. 472, 42 S.E. 644.