

PRIVILEGED COMMUNICATIONS.

Are lists of discharged employés circulated by the master to others having an interest in the subject-matter of the service, privileged communications? In the case of *Edward L. Randall v. C., R. I. & P. Ry. Co.*, recently tried in the Circuit Court of Kansas City, Missouri, Judge Gibson presiding, the question indicated in the above query was directly involved. The plaintiff sued the defendant in the sum of \$25,000 for damages, claimed to have been sustained by him, and occasioned, as he alleged, by being discharged from the service of defendant, and the circulation of his name on an alleged "black-list" sent to different departments of the railroad and telegraph service. Briefly stated, the facts are these: Randall was a telegraph operator in the employ of the defendant, and while in its employ, in the early part of 1886, became active and prominent in the work of organizing what is known as the Association of Telegraphers of America. One of the rules of this association made it incumbent upon each person becoming a member, to solemnly promise and affirm that he would, under no circumstances, teach the art of telegraphy to any person not a member of the organization, without the consent of the chief officer of the association designated as the Grand Chief Telegrapher. Because of plaintiff's being an active organizer, rather than as a member of this association, and because of neglect of duty upon his part in consequence thereof, the railroad company, on the first of July, 1886, discharged him from its service, and Mr. Asa R. Swift, the superintendent of defendant's telegraphs, communicated the fact and cause of said discharge by private letter to P. W. Drew, secretary of what was, and is known, as the Association of Superintendents of Railroad Telegraphers. At the same time, Mr. Swift made a like communication to Mr. F. H. Tubbs, superintendent of the Western Union Telegraph Company at Chicago. The Association of Railroad Telegraphic Superintendents above referred to, was a voluntary association, made up of telegraphic superintendents of the different railroads having telegraphic service arrangements with the Western Union Telegraph Company. This service arrange-

ment existed between the Western Union Telegraph Company and the different railroads referred to, including that of the defendant, and was, so far as its leading feature was concerned, to the effect that the telegraph company furnish certain wires to be operated over and along its line by each of the railroad companies with which it entered into the arrangement. The superintendent of the railroad telegraphers is selected, employed and paid jointly by the railroad and telegraph companies; the operators employed by the railroad company are to do all the commercial business of the telegraph company where there are no up-town officers, the proceeds of which are handled by these operators, and turned over to the telegraph company. From these and facts of a similar nature it was made evident that to some extent, the railroad company and the telegraph company had a corresponding interest in the character of the telegraph service.

With these explanations we now turn to the sending of the communication by Mr. Swift to the secretary of the Association of Railroad Telegraph Superintendents, and the superintendent of the telegraph company. In accordance with the rules and usages of the Association of Railroad Telegraph Superintendents, its secretary, Mr. Drew, from time to time, prepared and had printed lists showing the men who had been discharged by the different railroad telegraph superintendents, and which had been reported to him by them. In one of these lists was included the name of Randall, the plaintiff, together with the names of other men discharged for different causes. The cause of Mr. Randall's discharge, as stated in the list, was that he was "an organizer of co-operative union;" a copy of this list thus prepared and printed by Mr. Drew, as the secretary of said association, he sent to each of the members of said association, that is to say, he sent to each of the superintendents of the different railroads having service arrangements with the telegraph company, and who belonged to said association. This list was in all respects, intended to be, and was regarded as strictly confidential, and for the information and advice of the different railroad telegraph superintendents in respect to men who