

MAINE STATE LEGISLATURE

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N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 155

S. P. 102

In Senate, January 25, 1951.

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Ward of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT Relating to Damages in Libel Actions.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 100, §§ 48-A-48-D, additional. Chapter 100 of the revised statutes is hereby amended by adding thereto 4 new sections, to be numbered 48-A to 48-D, inclusive, to read as follows:

‘Sec. 48-A. Definitions. As used in sections 48-A to 48-D, inclusive, the following terms shall have the following meanings:

“Actual malice” is that state of mind arising from hatred or ill will toward the plaintiff; provided, however, that such a state of mind occasioned by a good faith belief on the part of the defendant in the truth of the libelous publication or broadcast at the time it is published or broadcast shall not constitute actual malice.

“Exemplary damages” are damages which may in the discretion of the court or jury be recovered in addition to general and special damages for the sake of example and by way of punishing a defendant who has made the publication or broadcast with actual malice.

“General damages” are damages for loss of reputation, shame, mortification and hurt feelings.

“Special damages” are all damages which plaintiff alleges and proves that he suffered in respect to his property, business, trade, profession or occupation, including such amounts as the plaintiff alleges and proves he has expended as a result of the alleged libel, and no other.

Sec. 48-B. Failure to demand or publish or broadcast correction; damages; service of demand. In any action for damages for the publication of a libel in a newspaper, or of a slander by radio broadcast, the plaintiff shall recover no more than special damages, unless correction be demanded and not be published or broadcast as hereinafter provided. Plaintiff shall serve upon the publisher at the place of publication or broadcaster at the place of broadcast, a written notice specifying the statements claimed to be libelous and demanding that the same be corrected. Said notice and demand must be served within 20 days after knowledge of the publication or broadcast of the statements claimed to be libelous.

Sec. 48-C. Failure to publish or broadcast correction; recovery of special and exemplary damages; malice. If a correction be demanded within said period and not be published or broadcast in substantially as conspicuous a manner as in said newspaper or on said broadcasting station as were the statements claimed to be libelous, in a regular issue thereof published or broadcast within 3 weeks after such service, the plaintiff, if he pleads and proves such notice, demand and failure to correct and if his cause of action be maintained, may recover general, special and exemplary damages; provided that no exemplary damages may be recovered unless the plaintiff shall prove that the defendant made the publication or broadcast with actual malice and then only in the discretion of the court or jury; and actual malice shall not be inferred nor presumed from the publication or broadcast.

Sec. 48-D. Publication or broadcast of correction prior to demand. A correction published or broadcast in substantially as conspicuous a manner in said newspaper or on said broadcasting station as the statements claimed in the complaint to be libelous, prior to the receipt of a demand therefor, shall be of the same force and effect as though such correction had been published or broadcast within 3 weeks after a demand therefor.