

Defamation: *N.Y. Times v. Sullivan*, Commonwealth Qualified Privilege Standards and Empirical Research

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New Zealand Qualified Privilege

Lange v Atkinson [1997] 2 NZLR 22 (NZ HC); [1998] 3 NZLR 424 (NZ CA); [2000] 1 NZLR 257 (Privy Council); [2000] 3 NZLR 385 (NZ CA).

- Qualified privilege defence can apply to statements published to general public.
- ‘The nature of New Zealand’s democracy means that the wider public may have a proper interest [in] statements which directly concern the functioning of representative and responsible government, including statements about the performance ... of specific individuals in elected public office.’
- A proper interest does exist for statements about the actions and qualities of candidates for parliament and current or former parliamentarians that ‘directly affect their capacity (including their personal ability and willingness) to meet their public responsibilities.’
- Qualified privilege is defeated by a statutory version of malice: namely, if the ‘defendant was predominantly motivated by ill will towards the plaintiff, or otherwise took improper advantage of the occasion of publication’: *Defamation Act 1992* s 19.
- See [2000] 3 NZLR 385, 390-91 and 400.

Comparative Defamation Litigation: England, Australia and the US

1 Introduction

- Research: court files and interviews

2 Findings – meaning in England and Australia

- Disputes about pleaded meanings
- Particulars, evidence and defence meanings
- (Opinion)

3 Findings – US litigation practice

- Meaning in US defamation
- Defamation litigation’s usual steps
- Lawyers’ experience
- Common complexity?

For further reference, defamation book publications are listed below. Articles and conference papers on defamation, media regulation and copyright are available from the Legal Scholarship Network and via my staff page (see www.law.unimelb.edu.au/cmcl).

ANDREW T KENYON, *DEFAMATION: COMPARATIVE LAW AND PRACTICE* (London: UCL Press, due for publication early 2006) ISBN 1-84472-021-7.

RUSSELL L WEAVER, ANDREW T KENYON, DAVID F PARTLETT AND CLIVE P WALKER, *THE RIGHT TO SPEAK ILL: DEFAMATION, REPUTATION AND FREE SPEECH* (Durham, NC: Carolina Academic Press, 2006) ISBN 0-89089-489-2.