



# **The Law of Libel and Slander in Civil and Criminal Cases; As Administered in the Courts of the United States of America**

*Martin L. Newell*

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This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1898. Excerpt: ... § 42. Justification--The Truth a Defense--The Rule in Civil Cases.--In civil actions, and against a party coming into a court of justice on a claim for damages, it has long been held, as a rule of the common law, that the truth of the facts imputed constituting the slanderous or libelous charge may be pleaded by way of justification, and if proved constitute a good bar to the action. In such case, of course, the motive and purpose are immaterial, and cannot be the subject of inquiry. The rule proceeds upon the principle that whatever is the motive, if the charge against the individual suing is true, if he is in fact guilty of the crime or disgraceful conduct imputed to him, he has sustained no damage for which he can claim redress in a court of justice. But in such case it is a fixed rule that the defendant must plead the truth in bar, and must detail the facts in his special plea with legal formality and precision, and sustain it by strict proof of the facts thus charged. Civil and criminal prosecutions are obviously different in their purpose and end. In the former an individual seeks redress for a supposed wrong done to himself; in the other the public seek to restrain and prohibit acts which would destroy the peace and harmony of society.1 § 43. Degree of Proof Required.--In England there was a substantial reason for requiring a more conclusive degree of certainty of the truth of the charge in a civil action for defamation which does not apply in this country. There, if the plea of justification, where a felony had been charged, was sustained by the verdict of a jury, the verdict stood as an indictment. Lord Kenyon said: "Where the defendant justifies words which amount to a charge of felony, and proves his justification, the plaintiff mi...

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