



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Defamation Act 2013:
Mr Mike Gilson, Belfast Telegraph

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— but also for claimants. The Defamation Act 2013 laid out as never before clear law on what constitutes defamation, replacing myriad interpretations of common law threads stretching back into the Victorian era. Not only are publishers in England and Wales much clearer on the lines of battle, but claimants have a clear-eye view of the threshold that they must cross in order to be successful rather than gamble on ever escalating legal costs to win a case.

The laws in Northern Ireland are so open to exploitation that President Obama was forced to legislate to protect American interests from foreign rulings that impinge on freedom of expression, so chilling had London's reputation as the libel tourism capital of the world become. In my opinion, now only Belfast stands to gain from this dubious industry. This is not a case of vested interests somehow protecting the rights to slander and libel the little man with impunity, as some Belfast lawyers have so colourfully but misleadingly portrayed it. It is about supporting a law that goes some way to underpinning something vital in our society, and dare I say even more so in ours: freedom of expression.

What is it that we are so worried about in this Defamation Act that so inexplicably and undemocratically disappeared from the Executive's radar? Should we be worried by a law that says a claimant has to prove serious harm to reputation rather than simply assert it, or that a rich company has suffered, or is very likely to suffer, serious financial loss and has to prove that under this law? Will we stop a simple, clear threshold being put in place that might stop frivolous claims and dispose of them early before time and money are spent? Surely not.

Could we object to a law that says that a publisher has to establish that the piece in question is true to claim defamation? I do not think so. Should we be concerned with a law that widens protections of freedom of expression and comment by allowing a defence of "honest opinion" for an article based on facts understood at the time and which asks the claimant to prove that the defendant did not hold that opinion as opposed to the present "fair comment" defence, which I can tell you from personal experience, is almost impossible to argue? Again, we should not be worried about that, in my opinion. Is anyone really worried about a clause that allows a defendant to argue that a statement complained of was on a matter of public interest or that there was a reasonable belief that it was so? Public interest is put right at the centre of this legislation, and I cannot think of a single objection to that.

Given that Northern Ireland is like the rest of the world in the twenty-first century, what is wrong with a law that covers the explosion of digital publications and gives them hosting defences? I cannot think of one, and I am sure that Google and Yahoo! would agree. How about a law that gives protection to reporters in any proceedings under any law in any country other than that which we have now in just the UK and the EU? Publishers will have to have a twin-track view here. What is accepted in London and Cardiff may not be accepted here. What about protection being extended to cover press conferences, scientific and academic conferences around the world, as well as statutory meetings such as this in the UK? Is there anything wrong with that? What is wrong with a proper statute of limitations for websites rather than someone finding something on an archive and suing again and again? In a country where Queen's and the Ulster universities try to attract the best scientists and academics, what is wrong with giving protection to peer-reviewed statements and publications so that robust opinions can be expressed on vital research work? Dr Simon Singh would still have had to spend possibly £500,000 in this country, as he had to do in London, to fight off a claim from chiropractors against his dismissal of their claims that they had an effective cure for colic and other childhood diseases. Would he take up a post at Queen's?

As Mike Nesbitt pointed out in his consultation, what is wrong with giving a judge the power to decide whether a case is appropriate here if the offending article is read 10 ten times here but perhaps 100,000 times in New York? Surely no one would object, except for lawyers in Belfast who might make a nice little earner from it in years to come. I make that point not to argue about the comparisons with the Republic and Scotland but to suggest that there is absolutely nothing sinister about the Defamation Act 2013 as now adopted in England and Wales. It puts freedom of expression on a firm footing, but it does not stop people getting financial recompense for serious and malicious falsehoods and defamation. In Belfast, we risk having the most punitive defamation laws, and we should not be proud of that.

Northern Ireland has an almost unique system of government that, perhaps more than most, needs scrutiny. Although Committees such as yours do an excellent job, so should a free press. By "free press" I mean bloggers, websites and tweeters. Look at the story of this case. Without the probing of journalists, we would never have known that it had been kicked into the long grass. Why? Who was behind the decision? We hear that Sammy Wilson appeared to recommend at least some adoption of the Act, but it became lost in a black hole somewhere. Why? Was it anti-press? Was it an attempt to

keep us under the thumb? Did lawyers have the ears of prominent politicians? Was self-interest at play?

Journalists should be fearless in probing and reporting on such stories because it is clearly in the public interest. I argue that this work needs to go on without the chilling effect of an outdated collection of old common laws that are simply no longer fit for purpose. We need something that strengthens the public interest, requires proof of harm and financial loss, legislates for the web and stops the potential for libel tourism. This Act is the best that we have. Why should the people of Northern Ireland not have the same protection as those in England and Wales?

The Chairperson: Thank you very much, Mike. It is an interesting one. I know that there are different views and that the views of some change according to the evidence that they hear. The point is that the media should be able to act in the public interest without fear of being bullied or cajoled. However, there is also the need to protect individuals and, in some circumstances, families, because there are both responsible and irresponsible media. If an individual is the subject of a certain story, it could destroy their life; therefore there is a need for protection there too. Should we adopt the Westminster legislation wholesale, take a selective approach, as Scotland did, with a different choice, or go further to suit our local needs?

Mr Gilson: First, Scotland has been a separate legal entity since 1707, so you might as well compare us with Nova Scotia or California. In that sense, it is different. However, it has adopted the scientific element of the Act. When I look through the Defamation Act, I cannot find much that could not apply here and that would not be a reasonable and sensible adoption. I do not think that we need to go further. I see from Mike Nesbitt's consultation that there was slightly less support for having judge-only rulings. I have to say that 77% rather than 98% of consultees were in support of all the things in the Defamation Act. The Act merely brings together in, I think, a common-sense way some very clear rules; there are some easy rules that knock out early vexatious appeals. It brings together some quite sensible things, and they still protect a person who has been seriously damaged. I see nothing in there that gets anybody off the hook.

Mr Weir: Thank you, Mike. I have a few points to make. It is interesting to see the research on this again. You said that you previously worked as the editor of 'The Scotsman' or that you were involved in it. One of the most contentious aspects of this, or, at least, one of the concerns that I have, is the shift of the bar between libel being actionable per se and having to show serious harm. There is a concern that that will result in there effectively being a lot more libel. I would not take 100% at face value what you said about Scotland almost being like Nova Scotia. Although there has been a separate legal system, there is a separate statute book for Northern Ireland; there has been since 1921. Indeed, prior to that, there were Acts of that nature. It is not just as removed as is suggested. We are now, within a matter of a few weeks, a year on from the implementation of the Defamation Act 2013. I appreciate that you did not particularly stress the libel tourism aspect of things, but, in that year, has there been any evidence of additional caseload or libel tourism emerging? That seems to be a little bit of a red herring, to be perfectly honest.

Mr Gilson: I have to say no. However, in the life cycle of a law and the way these things move, it is far too early to say that. If you look at it in two years' time, you might possibly —

Mr Weir: Presumably, if there were legislation, an amendment could be made to it. You also made mention of the idea of a jurisdictional point. At present, the courts will rule if they feel that there is not sufficient jurisdiction. Indeed, in the Ewing against 'The Times' case heard recently, the court simply ruled that out on the basis that the plaintiff did not have enough of a jurisdiction to take a case here. Surely there is already a degree of protection to prevent, essentially, people simply using Belfast as a flag of convenience from which to take their case. You have to show that there was a clear strong link in impact with —

Mr Gilson: That is an interesting case. It is the only one in which a national newspaper has defended in Belfast against a serial litigant, who has been declared vexatious everywhere. Frankly, if that case had not been knocked out anywhere, it would have been remarkable, so you cannot really use that example —

Mr Weir: With respect, you are not able to give me a single example of any bit of libel tourism —

Mr Gilson: However, as I said, that gentleman has been ruled out and ruled vexatious virtually everywhere he has been. It was a home win, frankly. I submit that it does not really prove anything.

Mr Weir: I have another couple of issues. I agree with you on the peer review side of things. Scotland's approach is to say, "We regard aspects of the Defamation Bill as not being particularly appropriate and not needed". Maybe there are things that they are hostile to. However, they have said, "Yes, but we want to ensure that there is actually protection for academics". By the same token, I am not aware of a single academic who has refused to come to Belfast or be based at Queen's because of fear of being sued. That said, there is a good argument to be made that, if we adopted the Scottish approach and had that direct protection for the academic in a scientific journal, that would deal with that situation. Similarly — it is probably marginal one way or the other — you talked about the defence of truth. However, there is a defence of justification, which has always been there in common law. If you print something and it is true, it is not libellous. That is a complete defence. Is that slightly, one way or the other, dancing on a head of a pin whether you rely on common-law justification or the statutory basis of truth?

Mr Gilson: There is a slight difference. Overall, for the publisher, whether that be a bedroom blogger or me, and the person being tempted down a route to look for financial recompense or whatever, these things set very clearly — they do not have to now — that you will be able to say, "Right, do I meet this test? Can I get to that point before this thing is out?" That does not happen at the moment. It —

Mr Weir: Sorry, with respect, justification has been a key defence in libel for probably centuries. What is the difficulty with actually saying that justification is the defence? Where is the uncertainty with that? The justification is basically truth in that regard.

Mr Gilson: In a sense, you are absolutely right. What I was talking about is the totality, which is that you have to prove serious harm or financial loss. What I am saying is that, in my four and a half years' experience as editor here, there is an awful lot of kite-flying about what can happen, when it can happen and whether we can get something. The problem is that it has a chilling effect on journalism, because the temptation is that you do not go any further to defend it because the costs of going further and also the awards given by courts here when you eventually get there — most of the stuff I am talking about does not actually get to court — are very high. We have examples here —

Mr Weir: With respect, if a case has been proved because it was shown to be both libellous and untrue, is it not quite reasonable that there is a very high level of damage? Surely that should act as a deterrent to a newspaper, a blog or a television company reporting something that is untrue. Surely people need to defend their reputation. Surely something that punitively punishes those who have gone out and published something that is untrue is a good thing.

Mr Gilson: I do not know whether you should use "punitive" as a word for settling those cases. You should look at the person and the damage done to that person's reputation. It should not be used as a punitive measure to tell the rest to watch out; that would be wrong in law.

Mr Weir: So it is a heavy fine.

Mr Gilson: Yes. Looking across my experience of England, Wales and Scotland, I can see the level of damages, and, let us be honest, we have examples in this very House. You people are very lucky to have your libel insurance paid for, unlike me. However, there were certain cases recently with regard to the former Police Ombudsman and a former director of Northern Ireland Water where the damages given were, frankly, very high.

Mr Weir: Somebody says something and people take the consequences.

I have two final questions. From the position that you have taken on behalf of the 'Belfast Telegraph', the argument is that this would make life easier for newspapers and publishers. It shifts the boundaries to your benefit. To what extent could an argument be made that the evidence that you are giving is borne out of self-interest — I am not talking about you personally — and that it is in the interests of newspapers and the media to shift the boundaries of defamation to their benefit?

Mr Gilson: I am a newspaper editor, and for that reason I have an interest in it. I look at the Defamation Act as a whole; I look at it as an Act that recognises that we now live in an entirely

different media landscape. I have 100,000 comments on Belfasttelegraph.co.uk every week; that is a different editing challenge from 10 years ago when it was simply the paper. We have changed the landscape completely, and things are different. In Northern Ireland, we are not up to date with it, and this Act does that.

Yes, there is a little bit of that. Yes, it costs money, although I do not think that we would have to pay under this law. However, at the end of it, we are still bound by truth, as you say, and justification and public interest. We have to argue those cases, and it is right that we do so. We are not looking for a charter to hit people over the head. That would not be a sensible option.

Mr Weir: My final question may relate to something that everyone would agree with, but it is a question of how we agree. I appreciate what you said in a general sense and that it would mean that certain vexatious cases would not be there, although I would argue that vexatious cases should not be there in the first place, but that is by the by. However, one of the arguments that would strongly be used with regard to the current position on libel — it may still be an argument across the water as well — is that potentially libel is really quite affordable for somebody who is very well off, but there is *carte blanche* to libel people who do not have the financial resources to be able to take a case. Either through this legislation or any other suggestions, how do you see this impacting on cost to make it a lot more affordable for people to take libel action?

Mr Gilson: I think that they are two separate issues. Access to justice is a big issue. There are conditional fee arrangements in England and Wales that do not exist here. However, that is almost a separate debate.

Mr Weir: With respect, we are looking at a reform of libel law, and one of the biggest problems that is highlighted in libel law is the fact that if you are a multimillionaire you can take the case. However, if you are Joe Public, realistically, you have no chance of taking a libel action because of the sheer volume of cost. Are we saying that we are going to have major reforms to the libel law and, by the way, the elephant in the room is the inability of somebody to take a libel action if they are seen as too small fry, so we will leave that for another day and treat it as a separate issue? If we are going to tackle the issue, surely we should be looking at all the aspects. Do you have any suggestions as to how we could reform things on that aspect to make it easier for somebody who has been libelled to be able to take the case without the cost being prohibitive?

Mr Gilson: That is a separate issue. You could not do anything under the Defamation Act to talk about finance, legal action, conditional fee arrangements or "No win, no fee". This is specifically about publishing.

Mr Weir: Why not?

Mr Gilson: I just do not think that you could do it in law; it is a separate issue. It is like oranges and apples.

Mr Weir: With respect, interlinked issues have often been put into different pieces of legislation. If we are looking at the way that the courts deal with libel law and libel action, why could something not, at least, be looked at in the same piece of legislation on how to bring the cases and deal specifically with that? It seems that there is a barrier there that is not necessarily there to the same extent in other forms of law?

Mr Gilson: I accept your point that it is, in some senses, a middle-rich man's game and, probably, a company game as well. However, there are arguments that you could look at to do with funding for people who think that they have that. I would raise the issue of the Press Complaints Commission (PCC) if it did not bring laughter to the Chamber; but when it comes to recourse and whether those things are a good idea, this Act looks at how you deal with defamation in the courts, not at how you get there. I have sympathy for what you say. Judging by most of the letters that I get, you are right; they do not often come from the ordinary man in the street because there is no legal aid for defamation.

The Chairperson: There has been debate in the South following Rory O'Neill's comments on the 'Saturday Night Show'. RTÉ paid out damages pretty quickly in that case. Is there any sense, through your connections with the Southern media and the South in general, that there is a suggestion of change there as well?

Mr Gilson: Not that I am hearing, I have to say, although I am not an expert on the law in the South. However, there is no question that if you make statements that are wrong, you have to do something to put them right. My argument is this: how would you get strict criteria that identify serious harm? At the moment, a person just has to say, "I have been lowered in the minds of right-thinking men". The burden of proof is incredibly low, whereas what we are saying now under this is, "Show us serious harm". That is not a bad thing; it is not a bad test and we would abide by it. In my time, the 'Belfast Telegraph' has paid out for things when, frankly, looking back on it, we made a mistake. It is usually a mistake; it is not normally deliberate. Nevertheless, when you do pay out, you have to sit there and take it.

Mr Weir: I am not accusing the 'Belfast Telegraph', but there have been accusations across the water in particular that newspapers will have the thing that is wrong blazoned across page 1, but a few days later the retraction appears in a small paragraph on page 15. There is, at times, a lack of balance; you will appreciate that I am not accusing the 'Belfast Telegraph' of that.

Mr Gilson: It is a fair point. There was some talk, I believe, in the early days of the Act about a judge being able to say where an apology would be. The new Independent Press Standards Organisation (IPSO) guidelines, should they ever come out — as you know, the 'Belfast Telegraph' is refusing to sign the royal charter for that — will have a much more prescriptive approach to newspapers about where apologies go. They cannot go on page 59; at the time, it was suggested that they go on page 1 and pages 4 and 5. There is a serious issue there.

The Chairperson: In defining serious harm, is it important that a jury is involved in such cases or are they better left to a judge?

Mr Gilson: Given the cost and the length of a case, my preference would be for a judge-only decision by someone who knows the law. I can understand why that was slightly lower down Mike's consultation. It is a matter for debate. It is a very specific area of law, and there is a lot of argument to say that we need that expertise and speed, because the longer these things go on, the bigger the costs they incur. We need to look at that, because there are costs to the claimant as well as to us. More often than not, we will look at a case — this has happened in the past two or three weeks — that we know we can defend, but it will cost far too much even to try. Lawyers know that, and I have just admitted that in public. *[Laughter.]*

Mr Girvan: You mentioned that "a dubious industry" would be set up in, and associated with, Northern Ireland if we did not implement this Bill. I believe that there is a need for legislation and regulation of social media to ensure that they meet the same level of scrutiny that newspapers have to meet. I do not say that all papers are equal scrupulous; some newspapers set a different level of balance from others.

One person's perceived serious harm is totally different from another's. One gentleman fought a case for 15 years over something about which anyone else would say, "It is minor. I will forget about it and move on". However, he fought for 15 years to take that through, and eventually he won. There are areas where, from an academic point of view, there is a necessity to allow academics to have certain freedoms, under sections 6 and 7, although I am not sure that many of them have had libellous issues taken against them.

"Honest opinion" is to replace the common-law defence of fair comment. That is the point: honest opinion. Often, journalists have a view of honest opinion that is sadly skewed to fit their own opinions. There needs to be proper scrutiny of the industry to ensure that what is published is properly backed up. Therefore, it is not a matter of lifting it and, because it has been published somewhere else, publishing. We have to protect those who cannot serve a major writ, take it right through and go the whole hog. We have to protect those less able to defend themselves. If we pass this legislation, it will reduce the scrutiny and interrogation of evidence required before publication. I would like your opinion on that.

Mr Gilson: I do not agree at all. You would be surprised if I said anything else. You are right when you talk about social media. Our laws do not take into account that stories are out there already; the genie is out of the bottle before you can do anything about it. The Defamation Act 2013 brings social media within the law, which is common sense. One of the things that it provides for is that, if you host websites, you are not liable. The claim of defamation has to go to the author first to see the source of it. Therefore it gives recourse to the subject to go after the author who has said something online about them. That is enshrined in law in England and Wales.

Honest opinion is what makes the world go round. It is about honest debate and the things that you talk about in the Chamber. Members have absolute privilege here, and that is how it should be. However, newspapers and blogs, for the health of democracy, should be involved in forming honest opinion. We may not agree with it; we may violently disagree with it, but, provided it is within the law, it is a good defence: this is my opinion; it was honestly held and based on what I thought at the moment were the facts; and I can defend it on that. At the moment, the threshold is far too low. If I say something about you that you think is just not very pleasant, you will sue.

Mr Girvan: What protection is there? Those working in that form of media will say, "He is a man of straw; he will not take it far. If we have to pay him, we will pay him minimal damages and publish whatever we want". That goes on in the industry, and, although I do not mention names, there are areas where they say, "We can publish it; let him come back at us".

Mr Gilson: I do not know of any examples like that.

Mr Girvan: You do not.

Mr Gilson: If there are stories that people want to print, they still have to ensure that they have done the research and have the facts. They have to consider what information they have on the person and what allegations they are going to make. Sometimes, newspapers have to take a stance. The 'Daily Mail' named the Stephen Lawrence killers at a time when there was not a shred of evidence for it. Everyone looks at that now as an incredibly strong and powerful front page, and I totally agree with it. Newspapers get things wrong. We publish about 15,000 words a day. Not all of them are right, I am ashamed to admit. There are things that go wrong in newspapers. I doubt that people say, "We can stitch him up because he cannot fight back". I do not know of anything that happens like that, and I do not know why you would do it.

Mr Girvan: There are cases going through the courts in Northern Ireland as we speak against a publication on that very basis.

Mr Gilson: Obviously, then, the judge will decide, and we will see which side of that is true or not. If the newspaper is wrong, it will pay the price, as it would under the Defamation Act 2013.

Mr Girvan: They have already made a few payments on the same issue to the same person.

Mr Gilson: Yes. Going back to my point about the awards in Northern Ireland, across the experience, we tend to give out very high sums for damages here. Whether that is part of our history, I do not know, but, in my opinion, it is certainly higher than it is in England, Wales and Scotland.

Mr Girvan: I think that, if something has been done wrong on an individual and they feel strongly enough about it, the level of compensation that they receive is not the issue. If they perceive it to have caused them damage and they get good, high-level compensation, more power to their wee wheel.

Mr Gilson: I say again that there is nothing in the Defamation Act 2013 that would stop that — absolutely nothing whatsoever.

Mr Girvan: Why did you introduce that then?

Mr Gilson: Sorry?

Mr Girvan: Why say?

Mr Gilson: Why say what?

Mr Girvan: Why say that there is a higher level of compensation?

Mr Gilson: Because it stops vexatious appeals, of which there are many and which are costly. It also tells the plaintiff and the person who is defending that these are the rules. It is not a whole set of common law things gathered together that are vague and, frankly, involve the vagaries of different judges and different lawyers. I still think that libel tourism and all that kind of stuff is a potential threat to Belfast. Why would President Obama legislate if the Americans did not think so? Putting that

aside, it brings together some other very good things. The other thing that we are forgetting here is the right to freedom of expression. We do not want, certainly not in Northern Ireland, a chill effect on people. We need that freedom here as much as anywhere else.

Mr Girvan: We do not need a North Korea.

Mr Gilson: It would be nice if we were not North Korea. I am not suggesting that we are, incidentally. *[Laughter.]*

Mr Cree: I was intrigued by Lord Black's comment about the effect of the Defamation Act on inward investment. He was warning against the commercial dangers if we were to operate a system that is from the mid-20th century. How realistic are those dangers?

Mr Gilson: It is very difficult to say, because we are very new into it. Up until 2013, England, Wales and Northern Ireland were all covered by the same defamation Acts. I think that it is a potential problem; there is no doubt about it. It is a bit like tax rates. With corporation tax, for example, people tend to go where they think they can operate in the safest and most —

Mr Cree: Yes, we know about that.

Mr Gilson: Exactly. I think that, if creative industries have a law that is clear and concise, there is a potential that, if there is a choice between, let us say, England and Northern Ireland, newspapers could look and say that the defamation laws here are a bit iffy and the payouts are high. They could consider that the time that it takes is enormously cumbersome. Therefore, they might ask why they would get involved in Northern Ireland. There is a very real possibility of that. I do not have any evidence — as I said, it is too early — but I think that there is very much a possibility that, if you are looking at things, it could be one factor.

Mr McCallister: I have a couple of points. Mike, you were talking about the dangers, and Peter asked you about examples. We have to bear it in mind that it is the 2013 Act and this is only 2014. We are not a long way into it. Because of the structure of the Government here, the press has a very important role in providing some of the scrutiny and opposition that we need. On the point around damages and costs, we have often heard the argument that are costs are too high in things like personal injury claims, which puts up car insurance costs for everyone.

I certainly accept Peter's point about access to justice. Across the board, there is probably an argument that access to justice is sometimes for the very wealthy or the very poor, who can access legal aid, depending on the case. There must be issues around that, but I accept that it probably would not be appropriate to go into them.

It is encouraging that we may be seeing some slight movement on this and that there is a broad acceptance that we need to do something. I agree with that. The 2013 Act seemed to be a well thought out and measured response to the huge advances in the way people have been accessing media and information in the past 10 to 15 years. That is why I welcome any movement down that road.

When you look at and work this out, although you are prepared to do a blanket cut and paste of legislation in England and Wales with only slight Northern Ireland modifications, do you think that the basis of it is there and we could do the read across? That said, the advantage of Mr Nesbitt's private Member's Bill is that, were it to reach that stage, this Committee would scrutinise it.

Mr Gilson: I agree. I would not suggest for a minute that our devolved Government should not take a strong look at it rather than just accept it lock, stock and barrel. If you look through it, the starting place for me would be what to knock off it and how much would you knock off. Personally, I would knock off very little of it. As you said, it has gone through a strong process; it has been filtered through Westminster and it has been looked at by lawyers.

In the end, it enshrines clearly to certain people that these are the things that you have to meet. I will give an example. We have paid money to fight a doctor who was suing us despite being struck off for severe medical malpractice. That did not stop him carrying on with a long suit that cost us a lot of money to fight off. We did fight it off, because it was, clearly, vexatious. The new law would not necessarily stop that, but it would show, and lawyers would have to say, "This is the law under which

we are working and, frankly, rather than take your money, this is not worth pursuing". I suggest that there is no serious harm to a doctor who has been struck off for serious malpractice. Similarly —

Mr Girvan: It is not libellous if it is true.

Mr Gilson: Sorry?

Mr Girvan: It is not libellous if it is true.

Mr Gilson: The one thing that I will say is that inaccuracy is not always libellous either. Getting things wrong does not always make things libellous. We must remember that inaccuracy is not defamation. However, the effort of fighting libel is the issue; it is the chill effect that I keep talking about. That doctor was prepared to go a long way. We thought that we had a decent case and we fought it, but it cost the newspaper money that I could have invested, frankly, in more reporters up here looking into you guys. It cost me some money.

Mr McCallister: You are not selling this well. *[Laughter.]*

Mr Gilson: Have I just mis-sold? I probably have.

Mr Weir: In that case, did the judge not award costs?

Mr Gilson: I am saying that, in the end, we successfully batted that off before it got to court. Under the new law, any lawyer offered a case such as that would look at the Act and say, "Look, this isn't going to fly". At the moment, you can afford to take a punt, and I can tell you that people do so every week.

Mr McCallister: Are you relatively confident, Mike, that the Act would have stopped that type of vexatious case in its tracks?

Mr Gilson: I was making just one small point, which is that, at the moment, a lot of people are having a go. You are right: it is not always the little man. We have one going through the courts at the moment. I cannot talk to you about it, but I can assure you that it is someone who is having a go. We are already incurring quite substantial costs for our lawyers and their lawyers, and we will continue to fight it. In the end, we might give them a very small amount of money. That is not because we think that we are wrong but because they are absolutely determined to go to court. We will start racking up costs of thousands of pounds a day to defend that case. That is having a chilling effect on our industry. This law will stop that, in some senses.

Mr McCallister: It would also give you some regulation or place to go with the new internet-based media. I should maybe declare an interest as a regular contributor to your DebateNI site. I stress that that is unpaid by the way. *[Laughter.]*

Mr Weir: What? Not even a commission for Basil.

Mr McCallister: It all goes to him. *[Laughter.]* At the minute, all the laws that you are working with are half a century old.

Mr Gilson: Yes, absolutely. Everyone is a publisher now. You are a publisher. What this will do, John — perhaps I should not say this — is protect us if you write something that someone thinks is defamatory, because you are the author.

There is another thing. We know that some of the comments that are made in your columns can be brutal. The commenting community are not always the most rational people, and there are a lot of what we used to call the "green ink brigade" out there. When you have that plethora of information, you really cannot control it. That is the world that we live in now. The law will give some protection to the people who host sites in a much clearer way, and to the tweeters and bloggers out there in their bedrooms.

The Chairperson: Mike, thank you very much.