

Under subsection (5), difficulties would also abound because the intended beneficiaries for libel purposes are publishers and do not do their job if they do not publish. The decision to publish is automatic. Paragraph (b) would appear to be a great help if we could be certain that it refers to the mode of publication rather than, for example, the type of publication. An amendment that limited paragraph (b) to "the circumstances of publication" would be helpful, because the court could then take into account the lack of opportunity for the publisher, distributor or others to avoid or to delete the offending material.

9.45 pm

Paragraph (c) would create a difficulty. The Periodical Publishers Association recognises that distributors and others should not have carte blanche to carry publications of any nature without any risk to themselves. The trouble is that because the paragraph refers to the conduct of the publishers, the distributors of a children's comic would not be able to use the new defence. I tabled an amendment that substituted the word "publication" for "publisher". Unfortunately it was not selected, but it is relevant because it would avoid the difficulty and relieve the plaintiff and the defendant of the need to compile a dossier of claims to try to determine "previous conduct".

I tabled all my suggestions as amendments, and two have been selected for debate. They would not harm the Bill and they would be useful. If, by any chance, not all of them can be accepted by the Government tonight, I hope that they will have discussions with the Periodical Publishers Association and others so that the amendments might be incorporated in another place. The amendments are not a criticism of the drafting of the Bill: they are an attempt to improve it.

Mr. Corbyn: I was slightly ahead of myself in my previous attempt to intervene. I tabled amendments Nos. 16 and 17 on Report to try to deal with the dangers of libel proceedings for booksellers. It is a serious matter, because the selective libel actions that are being taken against a number of small and independent booksellers threaten their existence. Libel actions can be used selectively to practise censorship on other people's opinions. I look forward to what the Government have to say on the matter and, even if they are not prepared to accept the amendments, I hope that the Minister will be prepared to accept that there is a serious problem with the way in which libel actions have been taken against individual booksellers.

Amendments Nos. 16 and 17 would make it difficult for any potentially litigious person who takes a libel action against an individual who has written a defamatory article about him to extend that action beyond the writer of the article and the publisher. Under the present law, if someone writes a libellous article that is published in a newspaper, he clearly exposes himself to a libel action from the person he has libelled, as does the publisher. The printer is held to be liable to a lesser extent. These days, there is so much direct inputting to printing works that it is almost impossible to expect a printer to be able to read everything that he is printing. Likewise, it is not credible to expect someone running a bookshop, a newsagent or a vendor to have read every single magazine or book on the shelves. If they did, they would never be open, because the staff would be detained the whole day reading newspapers and magazines to ensure that they contained nothing that could be damaging to the bookshop.

The purpose of the amendments is not to stop people taking libel actions to protect their interests if anything outrageous was published about them. They are designed to protect innocent booksellers, lenders of books, newsagents and magazine vendors against litigation.

Some hon. Members may have seen the interesting article in last Saturday's edition of *The Independent*, entitled "Anti-fascist articles prove rich pickings". It described how two ultra right-wing activists in this country have taken a series of actions against *Searchlight* newspaper. They have enjoined in that action a small number of people whom they deem to be stockists of that magazine and have threatened them with libel action. As there is no access to legal aid in libel actions, a number of bookshops have been forced to settle out of court at considerable cost to them.

The two individuals concerned threaten that the bookshops either stop stocking an anti-fascist magazine such as *Searchlight* or face the prospect of libel action. They produced a magazine that was deeply critical of the bookshop Centreprise in Hackney and wrote on the front page of the publication, "Produced by courtesy of Housemans bookshop". That bookshop had been forced to settle out of court on a libel action and those people used the proceeds from that action to publish a pamphlet attacking another radical bookshop.

I have tabled the two amendments because I believe that the time has come to deal with the issue. Bookmarks bookshop in my constituency and the nearby Housemans bookshop in King's Cross have been subject to terrorism by far-right groups that seek to prevent them from stocking certain types of journals. I hope that the House will recognise the importance of my comments. When the individuals concerned were challenged about their activities, they said that they intended to continue, as the liability rests only with the recipients of that litigation. It seems grossly unfair that those people should be allowed to target a number of radical bookshops around the country and ignore larger bookshops that would be in a better position to defend themselves.

My amendments go a long way towards defending the diversity of bookshops and booksellers. I think that all hon. Members will agree that that is important. They also defend innocent booksellers, newsagents and purveyors of news from libel action involving material of which they could have no knowledge. The amendments tabled by the hon. Member for Eltham (Mr. Bottomley) and myself would go some way towards protecting their position. I look forward to the Minister's accepting the burden of our argument about the defence of individuals in that situation.

Mr. Streeter: I am glad that the amendments have been tabled. We have had a useful debate about the important new defence that has been introduced in clause 1.

However, I believe that amendment No. 26, in the name of my hon. Friend the Member for Eltham (Mr. Bottomley), is misguided as it seeks to remove the words "nature or" from the description of a relevant publication in clause 1(5). The nature of the publication is a relevant issue that must be considered when ascertaining the responsibilities of printers, distributors or wholesalers and whether they can offer that defence to a defamation action. My hon. Friend mentioned the magazine *Scallywag*—which I think is now defunct—and

[Mr. Streeter]

it was in the nature of that publication to libel people. We must put distributors, printers, wholesalers and retailers on notice that they should have regard to the nature of a publication if they seek to rely on that defence. Therefore, I cannot accept my hon. Friend's amendment No. 26. Of course, I am prevented from considering amendments that have not been selected.

I understand the thrust of the remarks by the hon. Member for Islington, North (Mr. Corbyn), about amendments Nos. 41 and 42. However, they would introduce unnecessary fetters on courts when considering precisely what they can take into account in determining whether the defence that is set out in clause 1 applies. I encourage the hon. Gentleman to rely on the new defence that is set out in clause 1, which—having listened carefully to his remarks—I think offers a strong and complete defence to the people with whom he is concerned. However, I cannot accept the amendments. I am sorry, but when I referred to amendments Nos. 41 and 42, I meant amendments Nos. 16 and 17.

Madam Speaker: Is the Minister back on his correct brief?

Mr. Streeter: Absolutely, Madam Speaker. Thank you very much for keeping me in order.

The hon. Gentleman is wrong, as a court must take into account whether a retailer, bookseller or library has stocked a particular publication. Of course, if no such publication has been stocked, that is a complete defence in any action for defamation.

Mr. Corbyn: A number of bookshops throughout the country stock *Searchlight*, a respected anti-fascist magazine.

Mr. David Winnick (Walsall, North): An excellent magazine.

Mr. Corbyn: I agree.

People who do not like the message contained in *Searchlight* have selected a number of bookshops, the burden of their threat to any other bookshop being, "If you stock this magazine, you will get the same treatment." It is selective terrorism against radical bookshops, in the knowledge that they have little resources with which to fight a libel case, so many of them have been forced to settle out of court, paying money that they can ill afford to keep these people happy.

Mr. Streeter: I am concerned to learn that, and I shall be happy to see the hon. Gentleman to discuss that case. I have no time whatever for the bullying tactics that he described. I shall be delighted to receive a delegation from him and to explore more fully what the law can do to protect his constituents.

This has been a useful, albeit brief, debate. I understand the reasons why the amendments have been tabled, but I cannot recommend that the House accept them.

Mr. Peter Bottomley: On the understanding that my hon. Friend will meet the delegation led by the hon. Member for Islington, North (Mr. Corbyn); if my hon.

Friend and his officials will meet the fear of the publishers, who can explain to him at more length than time allows this evening the problems of a publisher who owns a major newspaper which may, rightly or wrongly, at times be involved in libel actions as part of its general search for news; and given that the word "publisher" is in the Bill, rather than "publication", and any children's magazine can be subject to an attack because a retailer is also selling, say, *The Sun* or any of the mainstream periodicals; it would be inappropriate to press the amendment to a vote.

I believe that the Bill is defective, and I am grateful to my hon. Friend for his acknowledgment of at least one of the points that was raised, and I hope of mine as well. If my hon. Friend is open to meet people, I shall not press the amendment to a vote, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2

OFFER TO MAKE AMENDS

Mr. Ashby: I beg to move amendment No. 15, in page 3, line 1, leave out from 'in' to second 'and' in line 2 and insert

'an article of the same size and type and of the same prominence as the defamatory article'.

Madam Speaker: With this, it will be convenient to discuss the following amendments: No. 1, in clause 3, page 3, line 18, after first 'offer', insert

'save and except in the case of a qualified offer'.

No. 2, in page 3, line 19, at end insert—

'(2A) Where there is a qualified offer in respect of one part of a defamation, a plaintiff accepting a qualified offer to make amends shall be free to pursue an action for defamation in respect of other parts of the defamation for which no offer of amends has been made.'

No. 4, in clause 4, page 4, line 20, leave out from beginning to end of line 40.

No. 5, in page 4, leave out lines 33 and 34.

No. 6, in page 4, line 40, after 'defence', insert

'only in so far as it applies to the meaning to which the offer related.'

Mr. Ashby: I find it difficult to get up at the moment, as I was gardening on Sunday and now have a bad back.

As the law stands, a publisher who has published a defamation and admits that he has done so can publish a correction and apology in mitigation of damages and pay money into court. That seems to me to be quite sufficient. If that is not accepted by the victim—I stress again that I always use the word "victim" rather than "plaintiff"—they can go before a jury and the jury can assess the damages.

The clause seems to be a means by which a publisher, without a leg to stand on, can avoid damages being assessed by a jury. I find it odd and quite wrong that if a victim is unhappy about an apology that has been offered and therefore proceeds with his case, he can lose all rights to recover damages, even when it is admitted that a serious libel has been published. That is the effect of the clause, and we should understand what we are doing.