



Friday, 12 July 2024

Weekly Defamation Law

A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Defamation Law

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Executive Summary (One Minute Read)

Lazon v West Australian Newspapers Ltd (No 2) (WASC) - junior public servant who had been the subject of overenthusiastic media reporting of allegations of expenses fraud succeeded in defamation claim

HABEAS CANEM

The scent on the breeze



Summaries With Link (Five Minute Read)

Lazon v West Australian Newspapers Ltd (No 2) [2024] WASC 238

Supreme Court of Western Australia

Tottle J

Defamation - the plaintiff worked in the Media Monitoring Unit of the WA Department of Premier and Cabinet, and was a delegate of the Community and Public Service Union - he was charged with fraud relating to travel expenses - he was acquitted of the fraud charges - he later sued defamation in respect of a newspaper articles about the fraud charges - held: a report which does no more than state that a person has been arrested and has been charged with a criminal offence is incapable of bearing the imputation that he is guilty or probably guilty of that offence - the ordinary reasonable reader is mindful of the principle that a person charged with a crime is presumed innocent until it is proved that he is guilty - statements concerning police investigations into a plaintiff commonly give rise to three possible defamatory meanings: (1) that the plaintiff is guilty; (2) that there are reasonable grounds to suspect that the plaintiff is guilty; or (3) that there are grounds for investigating whether the plaintiff is guilty - the article in this case had several features that, taken together, insinuated the plaintiff was guilty of dishonesty - the article had conveyed the imputation that the plaintiff was dishonest in his conduct as a government official - the defendant had not established the defence of fair report of proceedings of public concern pursuant to s29 of the *Defamation Act 2005* (WA) - in order to be fair, a report need not be a complete report of the proceedings in question, nor need it be accurate in every respect, but it must be substantially accurate - the defendant had similarly not established the defence of fair summary of public documents pursuant to s28 of the *Defamation Act* - the defendant had not established that the matter complained of was published on an occasion of qualified privilege pursuant to s30 of the *Defamation Act*, or at common law including in accordance with the implied constitutional freedom in relation to the publication of government or political matters - the article had no features that distinguished it from the run of everyday news stories published in the mass media, and there was no reciprocity of duty or interest between the defendant and readers of the article - general damages awarded of \$180,000.

[Lazon](#)

[From Benchmark Friday, 12 July 2024]

Benchmark

INTERNATIONAL LAW

Executive Summary and (One Minute Read)

Moody v Netchoice (SCOTUS) - Lower court decisions upholding State statutes prohibiting social media companies from moderating content posted by third parties were reversed for failure to conduct proper First Amendment analysis

Summaries With Link (Five Minute Read)

Moody v Netchoice 603 US ____ (2024)

Supreme Court of the United States

The States of Florida and Texas enacted legislation that prohibited internet platforms from moderating third-party content based on content. The Supreme Court found serious First Amendment implications that the lower courts failed to properly consider. The cases were remanded to the courts below. The Court cited to *Miami Herald Publishing Co v Tornillo*, 418 US 241 (1974), where it was held that a Florida statute requiring newspapers to offer a right of reply violated the First Amendment because it consisted of compelled speech. Compelled speech can violate the First Amendment as much as suppression of speech. The Court said that government cannot meddle in speech by claiming that it is improving the marketplace of ideas. Here, the Court concluded that states were not likely to succeed in prohibiting the platforms from enforcing the platforms' own content moderation rules. The Court said that the States' attempt to better balance the mix of viewpoints on the internet by restricting content moderation amounted to an interference with speech decisions made by the private platforms. The Court added that a State cannot prohibit speech to rebalance the speech market. Inasmuch as the content moderation practices amounted to speech decisions by the platforms, the government was not free to enact laws that infringed those private speech rights.

[Moody](#)



Poem for Friday

Iceland

By Jonas Hallgrímsson (1807-1845)

Charming and fair is the land,
and snow-white the peaks of the jokuls [glaciers],
Cloudless and blue is the sky,
the ocean is shimmering bright,
But high on the lave fields, where
still Osar river is flowing
Down into Almannagorge,
Althing no longer is held,
Now Snorri's booth serves as a sheepfold,
the ling upon Logberg the sacred
Is blue with berries every year,
for children's and ravens' delight.
Oh, ye juvenile host
and full-grown manhood of Iceland!
Thus is our forefathers' fame
forgotten and dormant withal.

Jonas Hallgrímsson was born in Iceland on 16 November, 1807. He is a revered figure in Icelandic literature, writing in the Romantic style. His love of the Icelandic people and country side and pride in the national identity comes through his poetry. He was a promoter of the Icelandic Independence Movement. He was employed for a time by the sheriff of Reykjavik as a clerk. He studied law at the University of Copenhagen. He also worked as a defence lawyer. He founded the Icelandic periodical Fjölfnir first published in 1835. He died on 26 May 1845, after slipping on stairs and breaking his leg, the previous day. He died of blood poisoning aged 37 years. His birthday each year is recognised as the Day of the Icelandic Language.

Ég bið að heilsa, words by Jónas Hallgrímsson, composition by Ingi T. Lárusson
<https://www.youtube.com/watch?v=6OqbfGSJDUc>

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