



Media, Society, Defamation -A New Era?

ANDREW O'RORKE INTRODUCTORY SPEAKING NOTES
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Bunreacht na hÉireann is a simple yet powerful document.

It promises to protect us from unjust attack and to vindicate our good names.

Equally it guarantees our right to express freely convictions and opinions.

The European Convention on Human Rights echoes these provisions.

The Irish judicial system and the European Court of Human Rights interpret and protect them.

Hayes has a passion for ensuring these rights are upheld.

We have a proud record of doing so, probably the longest of any firm practicing in the area - half a century or more.

That is why ladies and gentlemen we are delighted to host and welcome you to this seminar on defamation and the interplay between media and society.

The genesis for this afternoon goes back to 1987 when the reform of defamation law in media and society was first mooted by a number of people including Douglas Gageby, Frank Cullen, Marie McGonagle and Kevin Boyle, two of whom Marie and Frank we are delighted to welcome here today.

We initially scheduled the conference for late 2006 but decided to wait a little while until the Defamation Bill 2006 was enacted.

We did not expect it would take 4 years.

We have an impressive list of speakers, with each of whom we have or had a professional relationship.

Mr. Justice Kelly is recognised as an expert in commercial and business law, under whose stewardship the Commercial Court has grown and delivered a prompt, efficient and fair judicial service. What is forgotten perhaps is that as a practitioner and Senior Counsel he had an extensive career at the defamation bar not only as adviser to The Irish Times but to many other publications as well. He acted for the Sunday Times in the Slab Murphy case.

Geraldine Kennedy is the first woman Editor of an Irish newspaper. Her achievements are substantial and exceptional and have been recognised throughout the country and by many of our academic institutions. Her courage is long recognised going back to the privacy case she took against the State in respect of telephone tapping in the 1980s. She has been in the news more recently for her joust with the Mahon Tribunal, a matter to which I have no doubt she will refer today.

Ten years ago Professor Tom Mitchell was better known as the Provost of Trinity College following a distinguished career as a Classics Scholar. Perhaps it was his knowledge and understanding of the politics of Cicero and Roman republicanism that gave him a taste for contemporary law. He is Chairman of the Press Council, a body established under the aegis of publishers, journalists, proprietors, regionals, magazines. Anybody who has worked with him, as I have had the privilege of doing, will recognise he has made a major contribution to the development of a free, fair and accessible press complaints mechanism.

Martin Cullen was elected to the Dail in 1987 and appointed a Cabinet Minister in 2002. The media has engaged robustly with him as a public person, legitimately in the context of political jousting, but wrongly by the broadcasting and publishing of vile and unsubstantiated allegations. We had never met when I was first instructed by him five or six years ago but I have always been impressed by his determination to carry out his functions despite the outrageous allegations made against him. I

am pleased he had no difficulty in accepting the invitation to speak today notwithstanding the preponderance of media speakers and guests!

John O'Sullivan is probably our surprise packet. Many of you are journalists who have written about, railed against, or opined on defamation laws. Few if any have had to withstand the pressure of machine gun cross examination and defend what you have written or broadcast any number of months or years previously. He was part of the game that a defamation hearing can be. He survived battered and bruised and readily accepted our invitation to explain the reality of being a real player, in a real trial in a real courthouse.

I have left my good colleague, David Phelan until last if only to thank him for undertaking (without any choice) 2 of the most difficult tasks of the day, speaking first and secondly explaining in non legal jargon what defamation is, how it may have been changed by the 2009 Act and to do so in twenty minutes. At a recent Law Society conference for solicitors three colleagues were given four hours to do so!

Our guests represent an incomparable panel of speakers, and I look forward to hearing what they say and to later Q&A. It gives me great pleasure in welcoming you on behalf of Hayes solicitors to ask Mr. Justice Kelly to assume the role of Chairman to conduct the afternoon's proceedings.

Thank you.