

While I am grateful for the sterling work done in drafting this bill, noted below, I remain deeply concerned that it does not address the imbalance that presently exists between corporations and the individual; in fact, it weakens it. This is a time when it seems likely that overseas influence - particularly American - will increase in this country as the protections afforded by EU membership go into abeyance. The corporate sector already uses the law as an instrument to protect its interests against those of the individual and the consumer, at times unscrupulously. That is a situation that must be guarded against in any redrafting of Scots law.

It is good to see the introduction of a public interest defence (section 6), a concept new to Scots law, but as it stands, it is weaker than the Defamation Act 2013. It needs to be robust. You do not reform a law by weakening its provisions.

Defamation is intended for the protection of individuals, who have private lives and actual (as opposed to legal) personalities and all that implies. Corporations have no need of protection under defamation law as they can have recourse to a wide range of law already, relating to malicious falsehood, competition, business practices and advertising. Besides, their financial resources are generally far greater than those of individuals, which means they can use the mere threat of legal action to cow them.

There are numerous instances where only the valour and perseverance of determined individuals has brought corporations to book, often at great personal sacrifice, so it is important that their ability to do that is not weakened or curtailed. Certainly the hand of corporations should not be strengthened against them.

On the positive side, it is good to see

- The inclusion of the serious harm test (section 1(2)(b)).
- A single publication rule (section 30(3)) - meaning that the time limit for bringing defamation claims is not reset every time a publication is shared, for instance by retweeting.
- The reduction of the time limit for bringing proceedings to one year (section 30(2)(b)).
- The Derbyshire principle (section 2), which prevents public bodies from bringing actions for defamation, gain statutory footing.

yours faithfully

John Ward