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special damage would surely be a mere shifting of severity. Damage to reputation may obviously be very real and yet extremely difficult to prove. Furthermore, even though the presumption of damage be allowed, the jury still has control over the amount of the award. Though it will rightly feel that injury will very probably follow certain reports, it will not render exorbitant verdicts where damage does not clearly exist.

The degree of exactness with which the defendant's proof must square with his previous statement in order to sustain the defence of truth cannot be precisely defined in a general rule. It is obviously wise to restrain the careless use of defamatory language. Strictness, however, easily leads to unjust results, as in the Indiana case held up to ridicule by Mr. Courtney, in which a defendant who had alleged that the plaintiff had stolen two animals was not allowed to prove that he had stolen one. *Swann* v. *Rary*, 3 Black. (Ind.) 299. An excellent test has been suggested: "Did the libel as published have a different effect on the mind of the reader from that which the actual truth would have produced?" ODGERS, OUTLINE OF THE LAW OF LIBEL, 99; see *Alexander* v. *North Eastern Ry. Co*, 6 B. & S. 340. This test seems worthy of general adoption.

The suggestion that the defendant should be allowed to prove in mitigation of damages, by specific instances distinct from those detailed in his original statement, that the plaintiff did not deserve the reputation alleged to have been injured, seems most dangerous. It is true that the plaintiff had no right to a reputation he did not deserve, and that this is the real basis for allowing the defence of truth. But where truth is not pleaded, the admission of evidence that the plaintiff's reputation was undeserved would be unfair and unwise. It would compel him to be prepared to defend all his past life, and would afford opportunity for publishing indefinite amounts of libellous matter during the trial itself. There is also the very real, though perhaps exaggerated, danger of confusing the issue by these collateral questions.

In some respects the present law may, as Mr. Courtney charges, operate harshly upon the defendant; to some extent it may foster baseless litigation. But the actual injustice resulting from it seems inconsiderable as compared with the harm that might follow the adoption of the author's extreme views. The wise course would seem to be to strengthen the reform tendency already apparent in the courts, rather than to resort to summary legislation which would impose an undue burden on the plaintiff and remove salutary restraints on careless accusation.

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POWER OF LEGISLATURE TO REGULATE MINERS' WAGES. — As a result of the recent coal strike, the proposition has been advanced that the legislature of Pennsylvania has the power to classify the coal mines with reference to the depth and thickness of the veins, to fix schedules of reasonable minimum wages per ton for mining coal, and to impose a penalty upon any operator who may make contracts with miners for less than such wages. *Power of State Legislatures to fix the Minimum Amount of Wages to Coal Miners*, by R. M. Benjamin, 64 Albany L. J. 349 (Oct., 1902). The author supports the proposed legislation as a valid exercise of the police power, and, so far as corporations are concerned, of those powers of amendment which a state possesses over their charters. It would seem that unless it can be defended upon one of these grounds it is in violation of those clauses of the Fourteenth Amendment which forbid the states to "deprive any person of life, liberty, or property without due process of law," or to "deny to any person the equal protection of the laws." It is now settled that "liberty" includes the right to contract. *Allgeyer* v. *Louisiana*, 165 U. S. 578. It is also settled that a corporation is a "person" within the meaning of the Amendment. *Smyth* v. *Ames*, 169 U. S. 466, 526. It seems at the outset at least doubtful whether the proposed legislation is not void as denying the equal protection of the laws. *Gulf, etc., Ry.* v. *Ellis*, 165 U. S. 150.

Granting that the legislation is not open to the objection last stated, can one

say that it is a valid exercise of the police power? The right to contract may be regulated under that power for the purpose of protecting the public health, morals, comfort, or safety. Accordingly, the Supreme Court has sustained a law limiting the hours of labor in mines, upon the ground that the occupation is one dangerous to health. *Holden* v. *Hardy*, 169 U. S. 366. But a measure cannot be justified under the police power unless calculated to secure the objects for which the power exists. For this reason, legislation limiting the hours of labor generally, or prohibiting payment except in money, or providing against deductions in wages for imperfections in work, has usually been held unconstitutional. *Low* v. *Rees Printing Co.*, 41 Neb. 127; *Godcharles & Co.* v. *Wigeman*, 113 Pa. St. 431; *Commonwealth* v. *Perry*, 155 Mass. 117. Inasmuch as the court in the Pennsylvania case cited above would not support a law fixing the manner of payment, it is scarcely to be expected that a law imposing a still greater limitation upon the power to contract, by fixing a schedule of wages, would be upheld.

Again, even though it be admitted that the police power is properly invoked to regulate the charges of railroads and other public service corporations, that fact can have no bearing on the present question; for the coal companies are not shown to be public service corporations. Even in the case of the latter, the prices which the legislature may regulate directly are the charges to the public, not the wages paid to employees. *Cf. Transportation Co.* v. *Standard Oil Co.*, 40 S. E. Rep. 591 (W. Va.).

It is further contended that the proposed legislation, so far as it applies to corporations, is a valid exercise of the powers of amending charters expressly reserved by the State. Legislation regulating the manner of payment has been held constitutional under this power. *Leep* v. *Ry. Co.*, 58 Ark. 407. And it is a popular idea that the power of amendment, because reserved in general terms, is therefore absolute. But the courts which have gone farthest in recognizing the power have been careful to point out by way of *dictum* that it must be so exercised as not to infringe upon constitutional rights. "The alterations must be reasonable; they must be made in good faith, and be consistent with the scope and object of incorporation." *Shields* v. *Ohio*, 95 U. S. 319, 324. "We do not mean to intimate that the legislature can by way of amendment fix or limit the compensation of employees of railroad companies." *Leep* v. *Ry. Co.*, *supra*. Further, the constitution of Pennsylvania provides that amendments must be "just to the corporators." It would seem that a law obliging a corporation to pay a wage greater than it would have to pay on the open market or incur a penalty would be unjust to the corporators as well as in violation of the Fourteenth Amendment.

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EXTENT OF TERRITORIAL WATERS — THE ALASKA-CANADA BOUNDARY. — The Anglo-Russian treaty of 1825 fixes as the boundary between Alaska and British Columbia in certain places, a line "parallel to the windings of the coast" and never exceeding the "distance of ten leagues therefrom." The United States, the successor of Russia as sovereign of the seaboard strip, claims that this line should run parallel to the coast line of certain salt water inlets, such as the Lynn Canal. This claim is criticised in a lately published article, on the ground that, since the breadth of these inlets at the mouth is less than six miles, they are territorial waters and hence should be disregarded in determining the boundary. *The Alaska-Canada Boundary Dispute*, by Thomas Hodgins, Contemp. Rev., No. 440, p. 190 (Aug., 1902).

That inlets not more than six miles broad are territorial waters is a necessary corollary of the well-recognized principle that such is the status of all waters within three miles of a coast. *Com.* v. *Manchester*, 152 Mass. 230. If, therefore, such inlets are to be disregarded in fixing the boundary for the reason that they are territorial waters, all waters up to the three mile limit should be disregarded for the same reason. In that event the distance of ten leagues from the coast would be measured not from the shore line but from the three mile limit, —