

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
D. WAYNE BUTLER, FLOYD HEMEON, HEIKKE MUINONEN, MILLARD MacKENZIE and LEE KEATING	- and -	SOUTHAM INC., as publisher of THE DAILY NEWS and PARKER BARSS DONHAM
(Appellants)		(Respondents)
CA 169237	Halifax, N.S.	CROMWELL, J.A.

---

[Cite as: **Butler v. Southam Inc., 2001 NSCA 121**]

**APPEAL HEARD:** May 31, 2001

**JUDGMENT DELIVERED:** September 7, 2001

**SUBJECT:** **Defamation - whether alleged defamation was published ‘of and concerning’ the plaintiffs**  
**Limitation of Actions - disallowance of limitation defences - Defamation Act, R.S.N.S. 1989, c. 122**

**SUMMARY:** The appellants, current and former employees of the Shelburne School for Boys, sued the respondents in defamation. The respondents applied in chambers to strike their statement of claim on two bases: (1) that the allegedly defamatory statements were not published ‘of and concerning’ the appellants; and (2) that the action had been commenced without regard to the notice and limitation provisions of the **Defamation Act**. The appellants applied to disallow the limitation defence. The chambers judge held that, with one exception, the allegedly defamatory passages were not published ‘of and concerning’ the appellants, that the action was statute barred and that the limitation defence should not be disallowed. The appellants appealed.

**ISSUES:**

1. Were the allegedly defamatory articles clearly incapable of defaming the appellants?
2. Should the limitation defence be disallowed?

**RESULT:** Appeal allowed in part. The judge erred in finding that the allegedly defamatory articles were clearly incapable of defaming three of the appellants and in refusing to disallow the limitation defences with respect of two of them.

<p>This information sheet does not form part of the court’s decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 61 pages and a 15 page appendix.</p>
--