SUPREME COURT GIVES WIDE BERTH TO INTERNET

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Ms. Tyler provided interesting tidbits about the history of libel and defamation. "In early 18th century England, a printer's servant whose only job was to damp down a printing press was held responsible for a libelous publication, even though he knew nothing about the words inside," she wrote. A century later "pointing to a sign that said a factory was ruining people's homes was found to amount to publishing a defamatory statement."

Keeping in touch with current realities and the apparent omnipresence of the Internet, courts are being challenged to redefine aspects of law dealing with libel. Ms. Tyler wrote that the Supreme Court of Canada provided some of the answers recently "when it ruled that inserting 'hyperlinks' into online material isn't an act of publishing and that writers and website operators can't be held responsible if their material links to defamatory material elsewhere on the Internet."

The court decision was the upshot of an appeal from Wayne Crookes, a Vancouver businessman and Green Party of Canada volunteer who claimed he was the target of an Internet smear campaign. In her decision to dismiss the case, Justice Rosalie Abella said, "Hyperlinks...are like references or footnotes in a book and, by clicking on a link, readers are directed to other sources." She added that referencing on its own does not involve exerting control over the content. "Communicating something is very different from merely communicating that something exists, or where it exists," said Justice Abella.

However, Justice Marie Deschamps maintained that the majority had adopted a "superficial and exaggerated distinction between hyperlinks and other material found online. Giving what amounts to blanket immunity to those who create web links to defamatory material goes too far." She

suggested there could be grounds for a defamation lawsuit if an online publication deliberately inserts a link to libelous material in the hopes people would see it and if proof exists that somebody did.