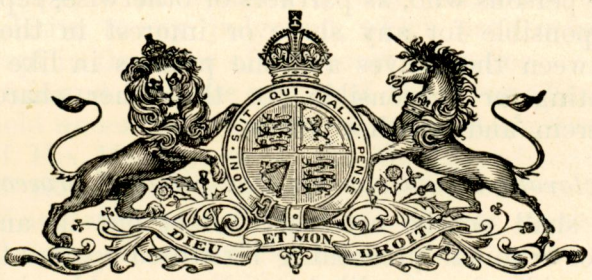
New South Wales.



ANNO NONO

EDWARDI VII REGIS.

* *

Act No. 22, 1909.

An Act to amend the law of Defamation. [Assented to, 20th December, 1909.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as the "Defamation (Amendment) Act, 1909," and shall be construed with the Defamation Act, 1901, hereinafter called the Principal Act. Short title.

2. In this Act, unless the context otherwise requires,— Definitions. [44 & 45 Vic., c. 60, s. 1.]

"Jury" includes a District Court Judge sitting for the determination of questions of fact in an action in a district court.

A "Newspaper"

"Newspaper" means any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon, printed for sale, and published in New South Wales, periodically, or in parts or numbers, at intervals not exceeding one month between the publication of any two such papers, parts, or numbers.

Also any paper printed in order to be dispersed and made public, weekly or oftener, or at intervals not exceeding one month, containing only or principally advertisements.

"Proprietor" means and includes as well the sole proprietor of any newspaper, as also, in the case of a divided proprietorship, the persons who, as partners or otherwise, represent and are responsible for any share or interest in the newspaper as between themselves and the persons in like manner representing or responsible for the other shares or interests therein, and no other person.

Declarations, indictments, and criminal prosecutions.

Obscene or blasphemous matter need not be set out. [51 & 52 Vic., c. 64, s. 7.]

3. It shall not be necessary to set out in any information, indictment, or criminal proceeding instituted against the publisher of any obscene or blasphemous libel the obscene or blasphemous passages, but it shall be sufficient to deposit the book, newspaper, or other document containing the alleged libel with the information, indictment, or criminal proceeding, together with particulars showing precisely by reference to pages, columns, and lines in what part of the book, newspaper, or other document, the alleged libel is to be found, and such particulars shall be deemed to form part of the record, and all proceedings may be taken thereon as though the passages complained of had been set out in the information, indictment, or proceeding.

Order of judge required for prosecution. *Ibid.* s. 8.

4. No criminal prosecution shall be commenced against any person for the publication of any libel without the order of a Judge of the Supreme Court or of a district court first had and obtained.

Such application shall be made on notice to the person accused, who shall have an opportunity of being heard against such application.

Civil and criminal defences.

Publication of matters of public interest. (Queensland Statute 53 Vic. No. 12.)

5. (1) No criminal proceeding or civil action shall be maintainable against any person or corporation in respect of the printing or publishing in good faith for the information of the public in any newspaper any of the following matters, provided they are not blasphemous, seditious, or obscene—

Proceedings of Parliament.

(a) a fair and accurate report of the proceedings of either House of Parliament of the Commonwealth, or of the Parliament of any State of the Commonwealth, or

(b) a fair and accurate report of the proceedings of any Committee of any such House;

(c)

(c) a copy of, or an extract from or abstract of, any report, paper, votes, or proceedings published by order or under the authority of either House of any such Parliament as aforesaid; Parliamentary papers.

(d) a fair and accurate report of the public proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, unless, in the case of proceedings which are not final, the publication has been prohibited by the court: Provided that matter of a defamatory nature ruled to be inadmissible by the court shall not be deemed to be part of the public proceedings of such court as aforesaid; Proceedings of courts of justice. [51 and 52 Vic., c. 64, s. 4.]

(e) a copy or an abstract of any judgment, or of the entries relative to any judgment, which are recorded in any books kept in the office of any court of justice;

(f) a fair and accurate report of the proceedings of any inquiry held under the authority of any Act, or under the authority of His Majesty, or of the Governor-General-in-Council, or of the Governor-in-Council, or an extract from or abstract of any such proceedings, or a copy of, or an extract from, or abstract of, any official report made by the person by whom the inquiry was held; Proceedings of official inquiries.

(g) any notice or report issued by any Government office or department, officer of State or officer of police, for the information of the public, published with the consent of such office, department, or officer; Public notifications by Government.

(h) a fair and accurate report of the proceedings of any local authority, board, or body of trustees, or other persons, duly constituted under the provisions of any Act for the discharge of public functions so far as the matter published relates to matters of public concern, except where neither the public nor any newspaper reporter is admitted. Proceedings of local authorities.

A publication is said to be made in good faith for the information of the public if the person by whom it is made is not actuated in making it by ill-will to the person defamed, or by any other improper motive, and if the manner of the publication is such as is ordinarily and fairly used in the case of the publication of news. Definition of publication in good faith for the information of the public.

In the case of the publication of a report of proceedings referred to in paragraphs (b) (f) (g) and (h), it is evidence of a want of good faith if the proprietor, publisher, or editor has been requested by the person defamed to publish in the newspaper a reasonable letter or statement, by way of contradiction or explanation of the defamatory matter, and has refused or neglected to publish the same.

(2) In any civil action in respect of the printing or publishing in any newspaper of any defamatory matter, any matter of defence under this section may be pleaded specially with a plea of not guilty, or any other plea, without the leave of a judge. How defendant may plead.

6.

Publication under contract does not take away privilege.

6. In any criminal proceedings or civil action against any person or corporation in respect of the publication of any matter, the publication may be deemed to be privileged, notwithstanding that such publication is made in pursuance of a contract whereby such person or corporation undertakes for valuable consideration to supply information to the person to whom such publication is made, if—

(a) the publication is in answer to an inquiry made in pursuance of such contract;

(b) the matter published is relevant to the subject of the inquiry;

(c) the manner and extent of the publication do not exceed what is reasonably sufficient for the occasion;

(d) the person making the publication is not actuated by ill-will to the person defamed, or by any other improper motive;

(e) the person making the publication has reasonable ground to believe the matter published to be true.

Mitigation of damages.

Compensation in other actions admissible in mitigation of damages.

[51 & 52 Vic., c. 64, s. 6.]

7. At the trial of an action for a libel the defendant may give in evidence, in mitigation of damages, that the plaintiff has already recovered, or has brought actions for damages, or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as the libel for which such action has been brought.

Summary proceedings.

Evidence admissible in inquiry by court of summary jurisdiction.

[44 & 45 Vic., c. 60, s. 4.]

8. Where the criminal proceedings are commenced against any person in respect of the printing or publishing of a libel, the court may receive evidence as to any matter which under this or any other Act, or otherwise might be given in evidence by way of defence by the person charged on his trial on information or indictment; and such court if of opinion after hearing such evidence, that there is a strong or probable presumption that the jury on the trial would acquit the person charged, may dismiss the case.

Summary conviction for libel.

[44 & 45 Vic., c. 60 s. 5.]

9. If the court is, upon the hearing of a criminal proceeding against any person for the publication of a libel, of opinion that though the person charged is shown to have been guilty, the libel was of a trivial character, and that the offence may be adequately punished by virtue of the powers of this section, such court shall cause the charge to be reduced into writing and read to the person charged, and shall then address a question to him to the following effect, "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" and if such person assents to the case being dealt with summarily, such court may summarily convict him and adjudge him to pay a fine not exceeding fifty pounds. In this and the last preceding section "court" means stipendiary magistrate or police magistrate.

Trial,

Trial, costs, and execution.

10. It shall be competent for the court or a judge, upon an application by or on behalf of two or more defendants in actions in respect to the same, or substantially the same libel brought by one and the same person, to make an order for the consolidation of such actions, so that they shall be tried together; and after such order has been made, and before the trial of the said actions, the defendants in any new actions instituted in respect to the same, or substantially the same, libel may be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

Consolidation actions. [51 & 52 Vic., c. 64, s. 5.]

In a consolidated action under this section, the jury shall assess the whole amount of the damages (if any) in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately; and if the jury find a verdict against the defendant or defendants in more than one of the actions so consolidated, they shall proceed to apportion the amount of damages which they have so found between and against the said last-mentioned defendants; and the judge at the trial, if the plaintiff is entitled to the costs of the action, shall make such order as he may deem just for the apportionment of such costs between and against such defendants.

Supplemental.

11. The proprietor of any newspaper may upon the written request of any person who has commenced an action in respect of any defamatory article, letter, report, or writing in any newspaper supply to such person affected thereby the name and address of the person who supplied such article, letter, report, or writing to such newspaper, and in default of compliance with such request any person affected thereby may apply to a Judge of the Supreme Court who may if he sees fit, after hearing such proprietor, direct that such name and address be so supplied.

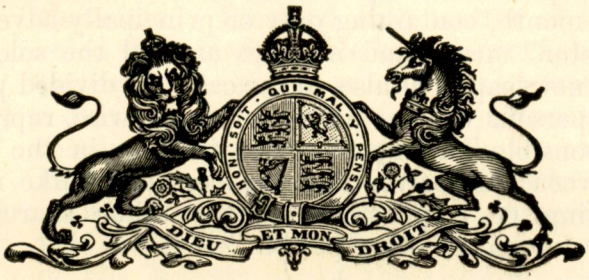
Name of writer of article, &c., to be disclosed.

12. Section nineteen of the Principal Act is hereby repealed.

Repeal of s. 19 of Principal Act.

By Authority: William Applegate Gullick, Government Printer, Sydney, 1909.

[6*d*.]



I Certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

Legislative Assembly Chamber,
Sydney, 15 *December*, 1909.

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

New South Wales.

ANNO NONO

EDWARDI VII REGIS.

* *

Act No. 22, 1909.

An Act to amend the law of Defamation. [Assented to, 20th December, 1909.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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2. In this Act, unless the context otherwise requires,— Definitions.

"Jury" includes a District Court Judge sitting for the determination of questions of fact in an action in a district court. [44 & 45 Vic., c. 60, s. 1.]

"Newspaper"

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

JOHN J. COHEN,
Chairman of Committees of the Legislative Assembly.

"Newspaper" means any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon, printed for sale, and published in New South Wales, periodically, or in parts or numbers, at intervals not exceeding one month between the publication of any two such papers, parts, or numbers.

Also any paper printed in order to be dispersed and made public, weekly or oftener, or at intervals not exceeding one month, containing only or principally advertisements.

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Order of judge required for prosecution. *Ibid.* s. 8.

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(g) any notice or report issued by any Government office or department, officer of State or officer of police, for the information of the public, published with the consent of such office, department, or officer; Public notifications by Government.

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Evidence admissible in inquiry by court of summary jurisdiction.

[44 & 45 Vic., c. 60, s. 4.]

8. Where the criminal proceedings are commenced against any person in respect of the printing or publishing of a libel, the court may receive evidence as to any matter which under this or any other Act, or otherwise might be given in evidence by way of defence by the person charged on his trial on information or indictment; and such court if of opinion after hearing such evidence, that there is a strong or probable presumption that the jury on the trial would acquit the person charged, may dismiss the case.

Summary conviction for libel.

[44 & 45 Vic., c. 60 s. 5.]

9. If the court is, upon the hearing of a criminal proceeding against any person for the publication of a libel, of opinion that though the person charged is shown to have been guilty, the libel was of a trivial character, and that the offence may be adequately punished by virtue of the powers of this section, such court shall cause the charge to be reduced into writing and read to the person charged, and shall then address a question to him to the following effect, "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" and if such person assents to the case being dealt with summarily, such court may summarily convict him and adjudge him to pay a fine not exceeding fifty pounds. In this and the last preceding section "court" means stipendiary magistrate or police magistrate.

Trial,

Trial, costs, and execution.

10. It shall be competent for the court or a judge, upon an application by or on behalf of two or more defendants in actions in respect to the same, or substantially the same libel brought by one and the same person, to make an order for the consolidation of such actions, so that they shall be tried together; and after such order has been made, and before the trial of the said actions, the defendants in any new actions instituted in respect to the same, or substantially the same, libel may be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated. Consolidation actions. [51 & 52 Vic., c. 64, s. 5.]

In a consolidated action under this section, the jury shall assess the whole amount of the damages (if any) in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately; and if the jury find a verdict against the defendant or defendants in more than one of the actions so consolidated, they shall proceed to apportion the amount of damages which they have so found between and against the said last-mentioned defendants; and the judge at the trial, if the plaintiff is entitled to the costs of the action, shall make such order as he may deem just for the apportionment of such costs between and against such defendants.

Supplemental.

11. The proprietor of any newspaper may upon the written request of any person who has commenced an action in respect of any defamatory article, letter, report, or writing in any newspaper supply to such person affected thereby the name and address of the person who supplied such article, letter, report, or writing to such newspaper, and in default of compliance with such request any person affected thereby may apply to a Judge of the Supreme Court who may if he sees fit, after hearing such proprietor, direct that such name and address be so supplied. Name of writer of article, &c., to be disclosed.

12. Section nineteen of the Principal Act is hereby repealed. Repeal of s. 19 of Principal Act.

In the name and on the behalf of His Majesty I assent to this Act.

CHELMSFORD,
Governor.

State Government House,
Sydney, 20*th December*, 1909.

DEFAMATION (AMENDMENT) BILL.

SCHEDULE showing the Legislative Assembly's Amendments upon the Legislative Council's Amendments, referred to in Message of 14th December, 1909.

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

Page 2, clause 5, new paragraph (b). *After* "(b)" *insert* the words "a fair and "accurate report of the proceedings"

Page 3, clause 5, paragraph (e d), line 11. *After* "**proceedings**" *insert* the words "of such court as"

Page 3, clause 5, line 38. *Omit* "(e)"

Page 3, clause 5, line 38. *After* "(f)" *omit* "**and**"; and *after* "(g)" *insert* "and (h)"

46199 433—

NOTE.—These references are to the Council's reprint of the Assembly's Bill.

DEFAMATION (AMENDMENT) BILL.

SCHEDULE of the Amendments referred to in Message of 9th December, 1909.

Page 2, clause 5, lines 42 and 43. *Omit* "of any committee of any such House"
Page 2, clause 5. *After* paragraph (a) *insert* new paragraph (b)
Page 3, clause 5, line 9. *After* "court" *add* proviso.
Page 3, clause 5, line 38. *Omit* "paragraph (g)" *insert* "**paragraphs (b) (e) (f) and (g)**"
Page 3, clause 5. At end of clause *add* new subsection **(2).**
Page 5, clause 11. *Omit* clause 11.

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

Legislative Assembly Chamber,
Sydney, 17 *November,* 1909.

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with Amendments.*

Legislative Council Chamber,
Sydney, 9*th December,* 1909.

E. A. GARLAND,
For the Clerk of the Parliaments.

New South Wales.

ANNO NONO

EDWARDI VII REGIS.

* * *

Act No. , 1909.

An Act to amend the law of Defamation.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as the "Defamation (Amendment) Act, 1909," and shall be construed with the Defamation Act, 1901, hereinafter called the Principal Act. Short title.

2. In this Act, unless the context otherwise requires,— Definitions.

"Jury" includes a District Court Judge sitting for the determination of questions of fact in an action in a district court. [44 & 45 Vic., c. 60, s. 1.]

NOTE.—The words to be *omitted* are *ruled through*; those to be *inserted* are printed in **black letter**.

"Newspaper" means any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon, printed for sale, and published in New South Wales, periodically, or in parts or numbers, at intervals not exceeding one month between the publication of any two such papers, parts, or numbers.

Also any paper printed in order to be dispersed and made public, weekly or oftener, or at intervals not exceeding one month, containing only or principally advertisements.

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(b) of any Committee of any such House;

~~(b)~~

(~~b~~ c) a copy of, or an extract from or abstract of, any report, paper, votes, or proceedings published by order or under the authority of either House of any such Parliament as aforesaid; Parliamentary papers.

(~~c~~ d) a fair and accurate report of the public proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, unless, in the case of proceedings which are not final, the publication has been prohibited by the court: **Provided that matter of a defamatory nature ruled to be inadmissible by the court shall not be deemed to be part of the public proceedings aforesaid;** Proceedings of courts of justice. [51 and 52 Vic., c. 64, s. 4.]

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(~~g~~ h) a fair and accurate report of the proceedings of any local authority, board, or body of trustees, or other persons, duly constituted under the provisions of any Act for the discharge of public functions so far as the matter published relates to matters of public concern, except where neither the public nor any newspaper reporter is admitted. Proceedings of local authorities.

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6. In any criminal proceedings or civil action against any person or corporation in respect of the publication of any matter, the publication may be deemed to be privileged, notwithstanding that such publication is made in pursuance of a contract whereby such person or corporation undertakes for valuable consideration to supply information to the person to whom such publication is made, if—

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[51 & 52 Vic., c. 64, s. 6.]

Summary proceedings.

8. Where the criminal proceedings are commenced against any person in respect of the printing or publishing of a libel, the court may receive evidence as to any matter which under this or any other Act, or otherwise might be given in evidence by way of defence by the person charged on his trial on information or indictment; and such court if of opinion after hearing such evidence, that there is a strong or probable presumption that the jury on the trial would acquit the person charged, may dismiss the case.

Evidence admissible in inquiry by court of summary jurisdiction.

[44 & 45 Vic., c. 60, s. 4.]

9. If the court is, upon the hearing of a criminal proceeding against any person for the publication of a libel, of opinion that though the person charged is shown to have been guilty, the libel was of a trivial character, and that the offence may be adequately punished by virtue of the powers of this section, such court shall cause the charge to be reduced into writing and read to the person charged, and shall then address a question to him to the following effect, "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" and if such person assents to the case being dealt with summarily, such court may summarily convict him and adjudge him to pay a fine not exceeding fifty pounds. In this and the last preceding section "court" means stipendiary magistrate or police magistrate.

Summary conviction for libel.

[44 & 45 Vic., c. 60 s. 5.]

Trial,

Trial, costs, and execution.

10. It shall be competent for the court or a judge, upon an application by or on behalf of two or more defendants in actions in respect to the same, or substantially the same libel brought by one and the same person, to make an order for the consolidation of such actions, so that they shall be tried together; and after such order has been made, and before the trial of the said actions, the defendants in any new actions instituted in respect to the same, or substantially the same, libel may be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated. Consolidation actions. [51 & 52 Vic., c. 64 s. 5.]

In a consolidated action under this section, the jury shall assess the whole amount of the damages (if any) in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately; and if the jury find a verdict against the defendant or defendants in more than one of the actions so consolidated, they shall proceed to apportion the amount of damages which they have so found between and against the said last-mentioned defendants; and the judge at the trial, if the plaintiff is entitled to the costs of the action, shall make such order as he may deem just for the apportionment of such costs between and against such defendants.

Supplemental.

11. The defendant may, with a plea of not guilty or any other plea, plead and give evidence that the matter complained of was published in good faith for the information of the public, and that any part of such matter as consists of comment was fair comment. How defendant may plead.

~~12.~~ **11.** The proprietor of any newspaper may upon the written request of any person who has commenced an action in respect of any defamatory article, letter, report, or writing in any newspaper supply to such person affected thereby the name and address of the person who supplied such article, letter, report, or writing to such newspaper, and in default of compliance with such request any person affected thereby may apply to a Judge of the Supreme Court who may if he sees fit, after hearing such proprietor, direct that such name and address be so supplied. Name of writer of article, &c., to be disclosed.

~~13.~~ **12.** Section nineteen of the Principal Act is hereby repealed. Repeal of s. 19 of Principal Act.

Sydney: William Applegate Gullick, Government Printer.—1909.

[6*d*.]

433—B

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

Legislative Assembly Chamber,
Sydney, 17 *November,* 1909.

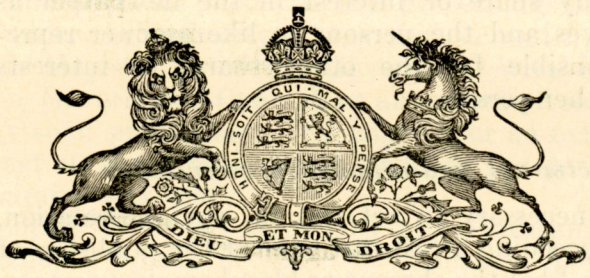
RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with Amendments.*

Legislative Council Chamber,
Sydney, December, 1909.

Clerk of the Parliaments.

New South Wales.



ANNO NONO

EDWARDI VII REGIS.

* *

Act No. , 1909.

An Act to amend the law of Defamation.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as the "Defamation (Amendment) Act, 1909," and shall be construed with the Defamation Act, 1901, hereinafter called the Principal Act. Short title.

2. In this Act, unless the context otherwise requires,— Definitions. [44 & 45 Vic., c. 60, s. 1.]

"Jury" includes a District Court Judge sitting for the determination of questions of fact in an action in a district court.

NOTE.—The words to be *omitted* are *ruled through*; those to be *inserted* are printed in **black letter**.

"Newspaper" means any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon, printed for sale, and published in New South Wales, periodically, or in parts or numbers, at intervals not exceeding one month between the publication of any two such papers, parts, or numbers.

Also any paper printed in order to be dispersed and made public, weekly or oftener, or at intervals not exceeding one month, containing only or principally advertisements.

"Proprietor" means and includes as well the sole proprietor of any newspaper, as also, in the case of a divided proprietorship, the persons who, as partners or otherwise, represent and are responsible for any share or interest in the newspaper as between themselves and the persons in like manner representing or responsible for the other shares or interests therein, and no other person.

Declarations, indictments, and criminal prosecutions.

Obscene or blasphemous matter need not be set out. [51 & 52 Vic., c. 64, s. 7.]

3. It shall not be necessary to set out in any information, indictment, or criminal proceeding instituted against the publisher of any obscene or blasphemous libel the obscene or blasphemous passages, but it shall be sufficient to deposit the book, newspaper, or other document containing the alleged libel with the information, indictment, or criminal proceeding, together with particulars showing precisely by reference to pages, columns, and lines in what part of the book, newspaper, or other document, the alleged libel is to be found, and such particulars shall be deemed to form part of the record, and all proceedings may be taken thereon as though the passages complained of had been set out in the information, indictment, or proceeding.

Order of judge required for prosecution. *Ibid.* s. 8.

4. No criminal prosecution shall be commenced against any person for the publication of any libel without the order of a Judge of the Supreme Court or of a district court first had and obtained.

Such application shall be made on notice to the person accused, who shall have an opportunity of being heard against such application.

Civil and criminal defences.

Publication of matters of public interest. (Queensland Statute 53 Vic. No. 12.)

5. (1) No criminal proceeding or civil action shall be maintainable against any person or corporation in respect of the printing or publishing in good faith for the information of the public in any newspaper any of the following matters, provided they are not blasphemous, seditious, or obscene—

Proceedings of Parliament.

(a) a fair and accurate report of the proceedings of either House of Parliament of the Commonwealth, or of the Parliament of any State of the Commonwealth, or of any committee of any such House;

(b)

(b) a copy of, or an extract from or abstract of, any report, paper, votes, or proceedings published by order or under the authority of either House of any such Parliament as aforesaid; Parliamentary papers.

(c) a fair and accurate report of the public proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, unless, in the case of proceedings which are not final, the publication has been prohibited by the court; Proceedings of courts of justice. [51 and 52 Vic., c. 64, s. 4.]

(d) a copy or an abstract of any judgment, or of the entries relative to any judgment, which are recorded in any books kept in the office of any court of justice.

(e) a fair and accurate report of the proceedings of any inquiry held under the authority of any Act, or under the authority of His Majesty, or of the Governor-General-in-Council, or of the Governor-in-Council, or an extract from or abstract of any such proceedings, or a copy of, or an extract from, or abstract of, any official report made by the person by whom the inquiry was held; Proceedings of official inquiries.

(f) any notice or report issued by any Government office or department, officer of State or officer of police, for the information of the public, published with the consent of such office, department, or officer; Public notifications by Government.

(g) a fair and accurate report of the proceedings of any local authority, board, or body of trustees, or other persons, duly constituted under the provisions of any Act for the discharge of public functions so far as the matter published relates to matters of public concern, except where neither the public nor any newspaper reporter is admitted. Proceedings of local authorities.

A publication is said to be made in good faith for the information of the public if the person by whom it is made is not actuated in making it by ill-will to the person defamed, or by any other improper motive, and if the manner of the publication is such as is ordinarily and fairly used in the case of the publication of news. Definition of publication in good faith for the information of the public.

In the case of the publication of a report of proceedings referred to in ~~paragraph~~ (g) **paragraphs (e) (f) and (g), or the proceedings of any Committee of either House of Parliament,** it is evidence of a want of good faith if the proprietor, publisher, or editor, has been requested by the person defamed to publish in the newspaper a reasonable letter or statement, by way of contradiction or explanation of the defamatory matter, and has refused or neglected to publish the same.

(2) In any civil action in respect of the printing or publishing in any newspaper of any defamatory matter, any matter of defence under this section may be pleaded specially with a plea of not guilty, or any other plea, without the leave of a judge. How defendant may plead.

6.

6. In any criminal proceedings or civil action against any person or corporation in respect of the publication of any matter, the publication may be deemed to be privileged, notwithstanding that such publication is made in pursuance of a contract whereby such person or corporation undertakes for valuable consideration to supply information to the person to whom such publication is made, if—

Publication under contract does not take away privilege.

(a) the publication is in answer to an inquiry made in pursuance of such contract;

(b) the matter published is relevant to the subject of the inquiry;

(c) the manner and extent of the publication do not exceed what is reasonably sufficient for the occasion;

(d) the person making the publication is not actuated by ill-will to the person defamed, or by any other improper motive;

(e) the person making the publication has reasonable ground to believe the matter published to be true.

Mitigation of damages.

7. At the trial of an action for a libel the defendant may give in evidence, in mitigation of damages, that the plaintiff has already recovered, or has brought actions for damages, or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as the libel for which such action has been brought.

Compensation in other actions admissible in mitigation of damages. [51 & 52 Vic., c. 64, s. 6.]

Summary proceedings.

8. Where the criminal proceedings are commenced against any person in respect of the printing or publishing of a libel, the court may receive evidence as to any matter which under this or any other Act, or otherwise might be given in evidence by way of defence by the person charged on his trial on information or indictment; and such court if of opinion after hearing such evidence, that there is a strong or probable presumption that the jury on the trial would acquit the person charged, may dismiss the case.

Evidence admissible in inquiry by court of summary jurisdiction. [44 & 45 Vic., c. 60, s. 4.]

9. If the court is, upon the hearing of a criminal proceeding against any person for the publication of a libel, of opinion that though the person charged is shown to have been guilty, the libel was of a trivial character, and that the offence may be adequately punished by virtue of the powers of this section, such court shall cause the charge to be reduced into writing and read to the person charged, and shall then address a question to him to the following effect, "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" and if such person assents to the case being dealt with summarily, such court may summarily convict him and adjudge him to pay a fine not exceeding fifty pounds. In this and the last preceding section "court" means stipendiary magistrate or police magistrate.

Summary conviction for libel. [44 & 45 Vic., c. 60 s. 5.]

Trial,

Trial, costs, and execution.

10. It shall be competent for the court or a judge, upon an application by or on behalf of two or more defendants in actions in respect to the same, or substantially the same libel brought by one and the same person, to make an order for the consolidation of such actions, so that they shall be tried together; and after such order has been made, and before the trial of the said actions, the defendants in any new actions instituted in respect to the same, or substantially the same, libel may be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

Consolidation actions. [51 & 52 Vic., c. 64, s. 5.]

In a consolidated action under this section, the jury shall assess the whole amount of the damages (if any) in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately; and if the jury find a verdict against the defendant or defendants in more than one of the actions so consolidated, they shall proceed to apportion the amount of damages which they have so found between and against the said last-mentioned defendants; and the judge at the trial, if the plaintiff is entitled to the costs of the action, shall make such order as he may deem just for the apportionment of such costs between and against such defendants.

Supplemental.

11. The defendant may, with a plea of not guilty or any other plea, plead and give evidence that the matter complained of was published in good faith for the information of the public, and that any part of such matter as consists of comment was fair comment.

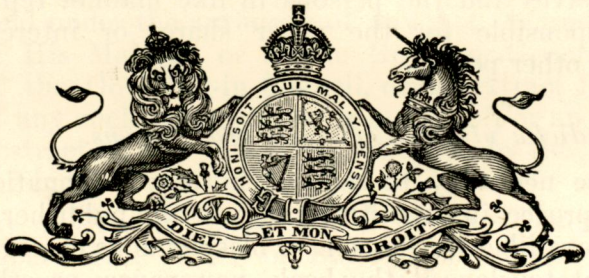
How defendant may plead.

~~12.~~ **11.** The proprietor of any newspaper may upon the written request of any person who has commenced an action in respect of any defamatory article, letter, report, or writing in any newspaper supply to such person affected thereby the name and address of the person who supplied such article, letter, report, or writing to such newspaper, and in default of compliance with such request any person affected thereby may apply to a Judge of the Supreme Court who may if he sees fit, after hearing such proprietor, direct that such name and address be so supplied.

Name of writer of article, &c., to be disclosed.

~~13.~~ **12.** Section nineteen of the Principal Act is hereby repealed.

Repeal of s. 19 of Principal Act.



This Public Bill *originated in the* Legislative Assembly, *and, having this day passed, is now ready for presentation to the* Legislative Council *for its concurrence.*

Legislative Assembly Chamber,
Sydney, 17 *November,* 1909.

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

New South Wales.

ANNO NONO

EDWARDI VII REGIS.

* *

Act No. , 1909.

An Act to amend the law of Defamation.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as the "Defamation (Amendment) Act, 1909," and shall be construed with the Defamation Act, 1901, hereinafter called the Principal Act.

Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

"Jury" includes a District Court Judge sitting for the determination of questions of fact in an action in a district court.

[44 & 45 Vic., c. 60, s. 1.]

"Newspaper" means any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon, printed for sale, and published in New South Wales, periodically, or in parts or numbers, at intervals not exceeding one month between the publication of any two such papers, parts, or numbers.

Also any paper printed in order to be dispersed and made public, weekly or oftener, or at intervals not exceeding one month, containing only or principally advertisements.

"Proprietor" means and includes as well the sole proprietor of any newspaper, as also, in the case of a divided proprietorship, the persons who, as partners or otherwise, represent and are responsible for any share or interest in the newspaper as between themselves and the persons in like manner representing or responsible for the other shares or interests therein, and no other person.

Declarations, indictments, and criminal prosecutions.

Obscene or blasphemous matter need not be set out. [51 & 52 Vic., c. 64, s. 7.]

3. It shall not be necessary to set out in any information, indictment, or criminal proceeding instituted against the publisher of any obscene or blasphemous libel the obscene or blasphemous passages, but it shall be sufficient to deposit the book, newspaper, or other document containing the alleged libel with the information, indictment, or criminal proceeding, together with particulars showing precisely by reference to pages, columns, and lines in what part of the book, newspaper, or other document, the alleged libel is to be found, and such particulars shall be deemed to form part of the record, and all proceedings may be taken thereon as though the passages complained of had been set out in the information, indictment, or proceeding.

Order of judge required for prosecution. *Ibid.* s. 8.

4. No criminal prosecution shall be commenced against any person for the publication of any libel without the order of a Judge of the Supreme Court or of a district court first had and obtained.

Such application shall be made on notice to the person accused, who shall have an opportunity of being heard against such application.

Civil and criminal defences.

Publication of matters of public interest. (Queensland Statute, 53 Vic. No. 12.)

5. No criminal proceeding or civil action shall be maintainable against any person or corporation in respect of the printing or publishing in good faith for the information of the public in any newspaper any of the following matters, provided they are not blasphemous, seditious, or obscene—

Proceedings of Parliament.

(a) a fair and accurate report of the proceedings of either House of Parliament of the Commonwealth, or of the Parliament of any State of the Commonwealth, or of any committee of any such House;

(b)

Published ~~not more than within one year after~~ within three months after the proceedings so reported

(b) a copy of, or an extract from or abstract of, any report, paper, votes, or proceedings published by order or under the authority of either House of any such Parliament as aforesaid; **Parliamentary papers.**

(c) a fair and accurate report of the public proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, unless, in the case of proceedings which are not final, the publication has been prohibited by the court; **Proceedings of courts of justice.** [51 and 52 Vic., c. 64, s. 4.]

(d) a copy or an abstract of any judgment, or of the entries relative to any judgment, which are recorded in any books kept in the office of any court of justice.

(e) a fair and accurate report of the proceedings of any inquiry held under the authority of any Act, or under the authority of His Majesty, or of the Governor-General-in-Council, or of the Governor-in-Council, or an extract from or abstract of any such proceedings, or a copy of, or an extract from, or abstract of, any official report made by the person by whom the inquiry was held; **Proceedings of official inquiries.**

(f) any notice or report issued by any Government office or department, officer of State or officer of police, for the information of the public, published with the consent of such office, department, or officer; **Public notifications by Government.**

(g) a fair and accurate report of the proceedings of any local authority, board, or body of trustees, or other persons, duly constituted under the provisions of any Act for the discharge of public functions so far as the matter published relates to matters of public concern, except where neither the public nor any newspaper reporter is admitted. **Proceedings of local authorities.**

A publication is said to be made in good faith for the information of the public if the person by whom it is made is not actuated in making it by ill-will to the person defamed, or by any other improper motive, and if the manner of the publication is such as is ordinarily and fairly used in the case of the publication of news. **Definition of publication in good faith for the information of the public.**

In the case of the publication of a report of proceedings referred to in paragraph (g), it is evidence of a want of good faith if the proprietor, publisher, or editor, has been requested by the person defamed to publish in the newspaper a reasonable letter or statement, by way of contradiction or explanation of the defamatory matter, and has refused or neglected to publish the same.

6. In any criminal proceedings or civil action against any person or corporation in respect of the publication of any matter, the publication may be deemed to be privileged, notwithstanding that such **Publication under contract does not take away privilege.**

such publication is made in pursuance of a contract whereby such person or corporation undertakes for valuable consideration to supply information to the person to whom such publication is made, if—

(a) the publication is in answer to an inquiry made in pursuance of such contract;

(b) the matter published is relevant to the subject of the inquiry;

(c) the manner and extent of the publication do not exceed what is reasonably sufficient for the occasion;

(d) the person making the publication is not actuated by ill-will to the person defamed, or by any other improper motive;

(e) the person making the publication has reasonable ground to believe the matter published to be true.

Mitigation of damages.

Compensation in other actions admissible in mitigation of damages. [51 & 52 Vic., c. 64, s. 6.]

7. At the trial of an action for a libel the defendant may give in evidence, in mitigation of damages, that the plaintiff has already recovered, or has brought actions for damages, or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as the libel for which such action has been brought.

Summary proceedings.

Evidence admissible in inquiry by court of summary jurisdiction. [44 & 45 Vic., c. 60, s. 4.]

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Summary conviction for libel. [44 & 45 Vic., c. 60, s. 5.]

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Trial,

Trial, costs, and execution.

10. It shall be competent for the court or a judge, upon an application by or on behalf of two or more defendants in actions in respect to the same, or substantially the same libel brought by one and the same person, to make an order for the consolidation of such actions, so that they shall be tried together; and after such order has been made, and before the trial of the said actions, the defendants in any new actions instituted in respect to the same, or substantially the same, libel may be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

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How defendant may plead.

12. The proprietor of any newspaper may upon the written request of any person who has commenced an action in respect of any defamatory article, letter, report, or writing in any newspaper supply to such person affected thereby the name and address of the person who supplied such article, letter, report, or writing to such newspaper, and in default of compliance with such request any person affected thereby may apply to a Judge of the Supreme Court who may if he sees fit, after hearing such proprietor, direct that such name and address be so supplied.

Name of writer of article, &c., to be disclosed.

13. Section nineteen of the Principal Act is hereby repealed.

Repeal of s. 19 of Principal Act.

Sydney: William Applegate Gullick, Government Printer.—1909.

[6*d*.]

433—B