



ANNO QUINQUAGESIMO OCTAVO ET QUINQUAGESIMO NONO

# VICTORIÆ REGINÆ.

A.D. 1895.

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No. 646.

An Act to amend the Law of Libel.

[*Assented to, December 20th, 1895.*]

**W**HEREAS it is desirable to amend the law of libel—Be it Preamble.  
therefore Enacted by the Governor of the Province of South  
Australia, by and with the advice and consent of the Legislative  
Council and House of Assembly of the said province, in this present  
Parliament assembled, as follows:

**1.** This Act may be called “The Law of Libel Amendment Short title.  
Act, 1895.”

**2.** In this Act, unless inconsistent with the context— Interpretation.

The word “newspaper” means any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon, printed for sale and published in South Australia, periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts, or numbers:

The word “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.

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Newspaper reports of proceedings in Court privileged.

**3.** A fair and accurate report in any newspaper of proceedings publicly heard before any Court exercising judicial authority shall, if published contemporaneously with such proceedings, be privileged: Provided that nothing in this section shall authorise the publication of any blasphemous or indecent matter.

Newspaper reports of proceedings of public meetings and of certain bodies and persons privileged.

**4.** A fair and accurate report published in any newspaper of the proceedings of a public meeting, or (except where neither the public nor any newspaper reporter is admitted) of any meeting of a Municipal Corporation or District Council, School Board of Advice, Board of Health, board or local authority formed or constituted under the provisions of any Act of Parliament, or of any committee appointed by any of the above-mentioned bodies, Royal Commissions, Select Committees of either House of Parliament, meetings of shareholders in any bank or incorporated company, and the publication at the request of any Government office or department, Minister of the Crown, or Commissioner of Police, of any notice or report issued by them for the information of the public, shall be privileged unless it shall be proved that such report or publication was published or made maliciously: Provided that nothing in this section shall authorise the publication of any blasphemous or indecent matter: Provided also that the protection intended to be afforded by this section shall not be available as a defence in any proceedings if it shall be proved that the defendant has been requested to insert in the newspaper in which the report or other publication complained of appeared a reasonable letter or statement by way of contradiction or explanation of such report or other publication, and has refused or neglected to insert the same: Provided further, that nothing in this section contained shall be deemed or construed to limit or abridge any privilege now by law existing, or to protect the publication of any matter not of public concern and the publication of which is not for the public benefit.

For the purposes of this section, "public meeting" shall mean any meeting *bonâ fide* and lawfully held for a lawful purpose, and for the furtherance or discussion of any matter of public concern, whether the admission thereto be general or restricted.

Penalties on unfair and inaccurate reports.

**5.** If any unfair and inaccurate report of any matter mentioned in sections 3 and 4 shall be published in any newspaper, every person responsible for the publication of such newspaper shall be guilty of an offence against this Act, punishable on complaint of any person aggrieved, and on summary conviction, by a fine not exceeding Ten Pounds, or by imprisonment not exceeding three calendar months: Provided that—

- i. The punishment shall be by fine only if it shall be proved that the defendant, so soon as practicable after being informed of the unfairness and inaccuracy of the report, has published in the newspaper a correction thereof, giving to the correction at least equal prominence to that which was given to the original report :

ii. Any

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11. Any person laying any information under this section shall be deemed to have waived all other remedies, both civil and criminal, against the same defendant in respect of the same report.

6. There shall be an appeal to the Local Court of Adelaide of Full Jurisdiction only from every conviction for an offence under this Act and from every order dismissing any information, and the proceedings on such appeal shall be conducted in manner appointed by law for appeals to Local Courts. Appeal.

7. It shall be competent for a Judge or the Court, upon an application by or on behalf of two or more defendants in actions 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 said actions, the defendants in any new actions instituted in respect to the same, or substantially the same libel, shall also be entitled to 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 of actions.

8. A Court of summary jurisdiction, upon the hearing of a charge against a proprietor, publisher, or editor, or any person responsible for the publication of a newspaper for a libel therein, may receive evidence as to the publication being for the public benefit, and as to the matters charged in the libel being true, and as to the report being fair and accurate and published without malice, and 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 indictment; and the Court, if of opinion after hearing such evidence that there is a strong or probable presumption that the jury at the trial would acquit the person charged, may dismiss the case. Evidence may be received as to publication, matters charged, &c.

9. At the trial of an action for a libel contained in any newspaper, the defendant shall be at liberty to give in evidence in mitigation of damages that the plaintiff has already recovered (or has brought action 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. Power to defendant to give certain evidence in mitigation of damages.

10. It shall not be necessary to set out in any indictment or other judicial proceeding instituted against the publisher of any obscene libel the obscene passage, but it shall be sufficient to deposit the book, newspaper, or other documents containing the alleged libel with the indictment or other judicial 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 Obscene matter need not be set forth in indictment or other judicial proceeding.

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though the passages complained of had been set out in the indictment or judicial proceeding.

Imprint to be *prima facie* evidence of publication of newspaper, book, or periodical.

**11.** Upon the trial of an action or prosecution in respect of a libel contained in a newspaper or book, the production of such newspaper or book containing a printed statement that it is printed or published by or for the defendant shall be *prima facie* evidence of the publication of the said newspaper or book by the defendant.

Evidence.

**12.** Upon the trial of an action or prosecution in respect of a libel contained in a newspaper, after evidence sufficient in the opinion of the Court has been given of the publication by the defendant of the newspaper containing the libel, other prints purporting to be other numbers or parts of the same newspaper formerly or subsequently published, and containing a printed statement that they were published by or for the defendant, shall be admissible in evidence on either side without further proof of publication of them.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

T. FOWELL BUXTON, Governor.