



ANNO OCTAVO

GULIELMI IV. REGIS.

No. 11.

By His Excellency SIR JOHN FRANKLIN, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Greek Order of the Redeemer, and a Captain in His Majesty's Royal Navy, Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council.

AN ACT to assimilate the Law of this Colony to that of Great Britain with respect to the Security to be given by Printers and Publishers of Newspapers.

WHEREAS by an Act of Parliament passed in the first year of His Majesty's Reign for abolishing Sentences of Banishment upon any second conviction for Libel and for providing a better remedy against the abuse of publishing Libels the amount of Recognizances and Bonds required by Law to be entered into previously to the publishing of any Newspaper was increased and it was enacted that the conditions of all such Recognizances and Bonds in England Scotland and Ireland respectively should extend to secure the payment of Damages and Costs recovered in Actions for Libel as well as the payment of Fines to the King upon Convictions for Libel—

Recites 1 W. 4 c. 73 passed 1830.

AND WHEREAS by the Act of this Island intituled *An Act to regulate the Printing and Publishing of Newspapers* every Printer or Publisher of a Newspaper published in this Colony was required to

Recites Newspaper Act of this Colony passed 1828.

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enter into a Recognizance before the Chief Justice conditioned for the payment of any Fine thereafter imposed upon him on any Conviction for printing or publishing any Blasphemous or Seditious Libel and it is expedient to extend the condition of such Recognizances in future to the payment of Damages and Costs recovered in Actions for Libel—

Recites Act of Council 5 W. 4 No. 16 passed 1835.

AND WHEREAS by the Act of this Island passed to provide for the Appointment of Commissioners of the Supreme Court and to define their powers it is enacted that any such Recognizance as last aforesaid may be acknowledged before any such Commissioner if the Chief Justice should in any case so order—

The Law on this subject to be consolidated.

AND WHEREAS it would be convenient if the Law upon this subject were consolidated so that the several provisions intended to be in force with respect to such Security as aforesaid may be referred to in one and the same Act—

Sections 21 22 23 24 and 25 of the Newspaper Act repealed.

BE IT THEREFORE ENACTED by His Excellency SIR JOHN FRANKLIN Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council that from and after the first day of October now next ensuing such parts of the said recited Act of this Island passed to regulate the Printing and Publishing of Newspapers as relate to Recognizances to be entered into by Printers and Publishers of Newspapers (comprising the twenty-first and four following Sections of that Act) shall be and the same are hereby repealed but without prejudice nevertheless to any proceeding whatsoever in respect of any offence committed or penalty incurred under the said Sections or any of them on or before that day but every such proceeding may be had and continued the same as if this present Act had not been passed.

Printer and Publisher of a Newspaper to give certain security.

II. AND BE IT ENACTED that after the said first day of October if any person shall print or publish or cause to be printed or published any Newspaper (printed within this Colony or its Dependencies) until he shall have entered into a Recognizance before one of the Judges of the Supreme Court or (if residing elsewhere than in Hobart Town) before a Commissioner of the said Court together with two three or four sufficient sureties to be respectively approved of by one of the said Judges such Printer or Publisher in the sum of Four Hundred Pounds and such sureties in a like sum in the whole conditioned for the payment by such Printer or Publisher not only of the amount of every such fine as may at any time thereafter be imposed upon him by reason of any Conviction for the printing or publishing of any Blasphemous or Seditious Libel but also of the amount of all such damages and costs as

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may at any time thereafter be recovered against him in any action for the printing or publishing of any other Libel in such Newspaper the person so offending shall forfeit and pay a penalty or sum of not less than ten pounds nor more than fifty pounds in respect of every successive number of such Newspaper which shall be so published.

III. PROVIDED ALWAYS that if any such Surety shall be at any time desirous of withdrawing from such Recognizance it shall be lawful for him to do so upon giving twenty days' previous notice in writing to the Colonial Secretary at his office in Hobart Town and also the like notice to the Printer or Publisher for whom he became bound as aforesaid—AND in such case after the expiration of the said twenty days such Surety shall cease to be liable upon the said recognizance in respect of any offence committed after that time by such Printer or Publisher—BUT so nevertheless that nothing herein contained shall be construed even after the expiration of such twenty days to exempt such Surety from liability under the said Recognizance for payment of any Fine incurred or Damages and Costs recovered in respect of any Libel printed or published before the expiration of such twenty days.

Provision for Sureties withdrawing.

IV. AND BE IT ENACTED that after any such notice so given as aforesaid and after the expiration of such term of twenty days the person for whom such Surety was bound shall not Print or Publish or cause to be Printed or Published any such Newspaper as aforesaid until he shall have entered into a new Recognizance with Sureties in manner and to the amount aforesaid under the penalty of not less than ten pounds nor more than fifty pounds in respect of every successive number of such Newspaper which shall be so published.

A new Recognizance to be thereupon entered into.

V. AND BE IT ENACTED that in case any Surety in any such Recognizance as aforesaid shall at any time afterwards be declared an Insolvent or shall be discharged as an Insolvent under any Act in that behalf made or to be made then the person for whom he was bound shall not thereafter Print or Publish or cause to be Printed or Published any such Newspaper until such person shall have entered into a new Recognizance as aforesaid under the like penalty as is mentioned in the preceding Section—PROVIDED that no such penalty as last aforesaid shall be incurred until after the expiration of ten days' notice in writing of such discharge or Insolvency given to the person so Printing or Publishing under the hand of the Colonial Secretary.

Provision for the care of insolvent sureties.

VI. AND BE IT ENACTED that a Certificate of every Recognizance entered into under this Act shall be sent to the Colonial Secretary by the proper officer of the Supreme Court for recording the same

Certificates of Recognizances to be sent to Colonial Secretary.

so soon after the recording of such Recognizance as conveniently may be.

Damages &c. in Actions for Libel may be recovered under Recognizance.

VII. AND BE IT ENACTED that if at any time after the recording of any such Recognizance as aforesaid it shall on behalf of any Plaintiff in any Action for Libel against any Printer or Publisher of any such Newspaper as aforesaid be made to appear to any Judge of the Supreme Court that such Plaintiff is entitled to execution upon any judgment obtained against such Printer or Publisher in such Action and that he is not able to procure satisfaction of such judgment against the property of the Defendant under such execution it shall be lawful for such Judge to authorise such proceedings to be taken upon such Recognizance either by action or otherwise for the benefit and in the name of such Plaintiff as might be taken thereupon to obtain any fine secured by such Recognizance payable to His Majesty—PROVIDED that the Plaintiff shall be liable to pay and may recover costs therein as in any ordinary case.

Forfeiture of Recognizance for good behaviour.

VIII. AND (for the prevention of doubt in such cases) BE IT ENACTED AND DECLARED that where any Printer or Publisher of any Newspaper shall hereafter pursuant to the order of any Court or Judge enter into any Recognizance to be of good behaviour for any term in that behalf specified the Printing or Publishing of any Libel by him after the date of such Recognizance and during the continuance of the term so thereby limited shall be and be deemed and taken to be a Breach of such Recognizance and as well such Printer or Publisher as his Sureties if any in such Recognizance may be proceeded against for the forfeiture thereby incurred accordingly.

As to Affidavits of Proprietorship &c.

IX. AND (for the prevention of doubt as to the effect and use of affidavits and affirmations made by Printers or Publishers of Newspapers before Commissioners of the Supreme Court under the Act hereinbefore in that behalf referred to) BE IT ENACTED that every affidavit and affirmation so made and every certified copy of any such affidavit or affirmation under the hand of any such Commissioner shall be as valid and effectual to all intents and purposes whatsoever against every person having signed and made such affidavit or affirmation as the same would have been under the said Act for regulating the Printing and Publishing of Newspapers if signed and taken before (or certified if a copy) by the Colonial Secretary—AND every affidavit or affirmation made under the provisions of the last-mentioned Act by any Printer Publisher or Proprietor of any Newspaper whether taken before the Colonial Secretary or any such Commissioner shall (as against every party having signed and made the same) be received as conclusive evidence of the

Newspaper Act § 6.

matters therein stated in every proceeding whatever whether under this Act or otherwise.

X. PROVIDED ALWAYS that after the commencement of this Act in every case where under the present law an affidavit or affirmation would be necessary a Declaration in writing shall be substituted in the form contained in the Schedule to the Act lately passed for the Abolition of Extra-Judicial and Unnecessary Oaths. Declarations in writing.

XI. AND BE IT ENACTED that every Offence against this Act not hereinbefore otherwise provided for may be heard and determined and every Fine or Penalty in respect thereof be imposed by and before any Two Justices of the Peace and every person feeling aggrieved by any Conviction of such Justices shall be entitled to appeal therefrom in the manner provided by the Act intituled *An Act to regulate Summary Proceedings before Justices of the Peace*. Recovery of Penalties.

JOHN FRANKLIN.

Passed the Legislative Council this twentieth day of July one thousand eight hundred and thirty-seven,

ADAM TURNBULL, *Clerk of the Councils*.

