

Hon. Mr. Herdman.

DEFAMATION.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title and commencement.</p> <p>2. Periodical defined.</p> <p style="text-align: center;"><i>Defamation.</i></p> <p>3. Defamatory imputation defined.</p> <p>4. Questions of fact and of law as to defamatory matters.</p> <p>5. Publication defined.</p> <p>6. Publication of defamatory matter unlawful except in certain cases.</p> <p>7. Unlawful publication an actionable wrong. Exceptions.</p> <p style="text-align: center;"><i>Absolute Protection.</i></p> <p>Protection of members of Parliament. Defamatory matter contained in petitions to Parliament. Defamatory matter in papers printed by order of Parliament.</p> <p>9. Defamatory matters published in the course of judicial proceedings or inquiries not actionable.</p> <p>10. Defamatory matter contained in official report of inquiry not actionable.</p> <p style="text-align: center;"><i>Reports of Matters of Public Interest.</i></p> <p>11. Publication of matters of public interest, if made in good faith, lawful.</p> <p style="text-align: center;"><i>Fair Comment.</i></p> <p>12. Publication by way of fair comment lawful in certain cases.</p> <p style="text-align: center;"><i>Truth.</i></p> <p>13. Truth published for public benefit.</p> <p style="text-align: center;"><i>Qualified Protection.—Good Faith.</i></p> <p>14. Publication in good faith of defamatory matter lawful in certain cases. Questions as to relevancy and as to publication for the public benefit are questions of fact.</p> <p style="text-align: center;"><i>Oral Defamation.</i></p> <p>15. Defence in action arising out of spoken words.</p> <p style="text-align: center;"><i>Provisions in Respect of Actions for Defamation.</i></p> <p>16. Defendant may plead an apology in mitigation of damages.</p> <p>17. Defendant in action for defamation may pay money into Court.</p> <p>18. Consolidation of actions arising out of several publications of the same defamatory matter.</p> <p>19. Evidence in mitigation of damages.</p> <p>20. Judge may require plaintiff, being an undischarged bankrupt, to give security for costs. If security not so given, action deemed to be dismissed.</p> | <p style="text-align: center;"><i>Criminal Liability.</i></p> <p>21. Penalty for publishing defamatory matter.</p> <p>22. Informations to be dealt with by a Magistrate only.</p> <p>23. With consent of defendant case may be dealt with summarily.</p> <p>24. Plea of justification.</p> <p>25. Jury may give general verdict.</p> <p style="text-align: center;"><i>Provisions with Respect to Publishers, &amp;c., of Periodicals and Books.</i></p> <p>26. Exemption from criminal liability in certain cases for defamatory matter published in periodical.</p> <p>27. Exemption from liability in certain cases of person selling periodical containing defamatory matter.</p> <p>28. Exemption from liability in certain cases of person selling book, &amp;c., containing defamatory matter.</p> <p>29. Employer not responsible in certain cases for sale by servant of book, &amp;c., containing defamatory matter.</p> <p>30. Criminal prosecutions against proprietor, publisher, or editor of periodical not to be commenced without leave of Supreme Court.</p> <p style="text-align: center;"><i>Evidence.</i></p> <p>31. Evidence of publication by defendant.</p> <p>32. After evidence of publication of particular part or number, other parts or numbers of same periodical may be produced in evidence without proof of publication.</p> <p style="text-align: center;"><i>Remedy for Costs.</i></p> <p>33. On private prosecution defendant entitled to costs if acquitted. Costs when truth pleaded.</p> <p style="text-align: center;"><i>Miscellaneous.</i></p> <p>34. Action or prosecution to be stayed on production of certificate that publication was by order of Parliament.</p> <p>35. Action to be stayed on proof that matter published was a copy or extract from paper published by order of Parliament.</p> <p>36. Publication by way of transmission by telegraph not deemed to be malicious.</p> <p>37. Act not to apply to slander of title, &amp;c.</p> <p>38. Repeals.</p> <p>Schedule.</p> |
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## A BILL INTITULED

Title.	AN ACT to declare and amend the Law relating to Defamation. BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title and commencement.	1. This Act may be cited as the Defamation Act, 1913, and shall come into operation on the first day of March, nineteen hundred and <i>fourteen</i> .	5
Periodical defined.	2. In this Act, the term "periodical" includes any newspaper, review, magazine, or other writing or print published periodically.	10
<i>Defamation.</i>		
Defamatory imputation defined.	3. (1.) Any imputation concerning any person, or any member of his family, whether such member of his family is living or dead, by which the reputation of that person is likely to be injured, or by which he is likely to be injured in his profession or trade, or by which other persons are likely to be induced to shun or avoid or ridicule or despise him, is said to be defamatory; and any person who, by words either spoken or intended to be read, or by signs or visible representations, publishes any defamatory imputation concerning any person is said to defame that person.	15
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(2.) Such imputation may be expressed either directly, or by insinuation or irony.		
Questions of fact and of law as to defamatory matters.	4. (1.) The question whether any matter is or is not defamatory is a question of fact.	25
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(2.) The question whether any matter alleged to be defamatory is or is not capable of bearing a defamatory meaning is a question of law.		
Publication defined.	5. (1.) Publication is, in the case of words spoken, the speaking of such words in the hearing of any person other than the person defamed, and, in the case of other defamatory matter, the exhibiting of it in public, or causing it to be read or seen, or showing or delivering it or causing it to be shown or delivered with a view to its being read or seen, by any person other than the person defamed.	30
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(2.) A communication made by a person to his partner, clerk, or servant in the ordinary course of business is not deemed to have been published.		
Publication of defamatory matter unlawful except in certain cases.	6. It is unlawful to publish defamatory matter, unless such publication is protected, or justified, or excused by law.	35
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7. The unlawful publication of defamatory matter is an actionable wrong:		
Unlawful publication an actionable wrong. Exceptions.	Provided that words spoken shall not be actionable unless—	40
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(a.) They charge the person defamed with the commission of a crime; or		
(b.) Impute to him a contagious or infectious disease tending to exclude him from society; or		
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(c.) Are spoken of him in reference to his office, profession, trade, or employment; or		
(d.) Can be proved to have caused special damage to the person defamed:		
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Provided also that words spoken which impute unchastity or adultery to any woman or girl shall be actionable without proof that such words have caused special damage to the person defamed; but in an action for words which impute unchastity or adultery to any woman or girl, the plaintiff shall not recover more costs than damages unless the Court certifies that there was reasonable ground for bringing the action.		
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*Absolute Protection.*

8. (1.) A member of either House of Parliament does not incur any liability as for defamation by the publication of any defamatory matter in the course of a speech made by him in Parliament.

Protection of members of Parliament.

5 (2.) A person who presents a petition to either House of Parliament does not incur any liability as for defamation by the publication to that House of Parliament of any defamatory matter contained in the petition.

Defamatory matter contained in petitions to Parliament.

10 (3.) A person who, by order or under the authority of either House of Parliament, publishes any paper containing defamatory matter does not incur any liability as for defamation.

Defamatory matter in papers printed by order of Parliament.

15 9. A person who in the course of any proceeding held before or under the authority of any Court of justice, or in the course of any inquiry made under the authority of any statute, or under the authority of the Governor in Council, or of either House of Parliament, publishes any defamatory matter, does not incur any liability as for defamation.

Defamatory matters published in the course of judicial proceedings or inquiries not actionable.

20 10. A person appointed under the authority of any statute, or by or under the authority of the Governor in Council, to hold any inquiry, does not incur any liability as for defamation by publishing any defamatory matter in any official report made by him of the result of such inquiry.

Defamatory matter contained in official report of inquiry not actionable.

*Reports of Matters of Public Interest.*

25 11. (1.) It is lawful to publish in good faith for the information of the public—

Publication of matters of public interest, if made in good faith, lawful.

(a.) A fair and accurate report of the proceedings of either House of Parliament, or of any Committee thereof :

30 (b.) A copy of, or an extract from or abstract of, any paper published by order or under the authority of either House of Parliament :

*New.*

35 (bb.) At the request of any Government office or Department, officer of State, or Superintendent or Inspector of Police, any notice or report issued by such office, Department, Superintendent, or Inspector so far as such notice or report relates to matters of public concern and the publication thereof is for the public benefit :

40 (c.) A fair and accurate report of the public proceedings of any Court of justice, whether in New Zealand or elsewhere, and whether such proceedings are preliminary or interlocutory or final, and whether in open Court or not, or of the result of any such proceedings, unless in the case of proceedings which are not final the publication has been prohibited by the Court, or unless the matter published is blasphemous or obscene :

45 (d.) A fair and accurate report of the proceedings of any inquiry held under the authority of any Act, or under the authority of the Governor in Council, or ~~an~~ a fair and accurate extract from or abstract of any such proceedings, or a true copy of or ~~an~~ extract from or abstract of any official report made by the person by whom the inquiry was held :

50 (e.) A fair and accurate report of the acts and proceedings of the Executive Government, or of any Department or officer thereof, so far as the publication of such report is authorized or requested by a Minister of the Crown :

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- (f.) A fair and accurate report of the proceedings of any local authority, Board, or body of trustees or other persons, constituted under the provisions of any Act for the discharge of public functions, or of a committee of any such local authority or body, so far as the report relates to matters of public concern, and the publication thereof is for the public benefit: 5

*New.*

- (ff.) A fair and accurate report of the proceedings of any meeting of creditors held under any law for the time being in force relating to bankruptcy: 10

- (fff.) A fair and accurate report of the proceedings of any meeting of shareholders of any bank or public company so far as the report relates to matters of public concern and the publication thereof is for public benefit: 15

- (g.) A fair and accurate report published in any periodical of the proceedings of any public meeting, so far as the matter published relates to matters of public concern.

*Struck out.*

The term "public meeting" means a meeting lawfully held for a lawful purpose, and for the *bona fide* furtherance or discussion of a matter of public concern, or for the advocacy of the candidature of any person for a public office, whether the admission to the meeting was general or restricted. 20  
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*New.*

The term "public meeting" means any meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance and discussion of any matter of public concern or for the advocacy of the candidature of any person for a public office, whether the admission thereto is general or restricted; also, any general meeting of the shareholders or debenture-holders of a public company or of any other statutory company in the management of which the public is concerned. 30  
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- (2.) 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 or information. 40

- (3.) In the case of a publication of a report of the proceedings of a public meeting in a periodical, 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 periodical a reasonable letter or statement by way of contradiction or explanation of the defamatory matter, and has failed to publish the same as soon after such request as he had an opportunity of so doing. 45

- (4.) Nothing in this section shall be so construed as to take away or restrict any privilege existing at common law. 50

*Fair Comment.*

12. (1.) It is lawful to publish a fair comment respecting—

- (a.) Any of the matters with respect to which the publication of a fair report in good faith for the information of the public is by the *last preceding* section declared to be lawful: 55

(b.) The public conduct of any person who takes part in public affairs, or respecting the character of any such person, so far as his character appears in that conduct :

5 (c.) The conduct of any public officer or public servant in the discharge of his public functions, or respecting the character of any such person, so far as his character appears in that conduct :

10 (d.) The merits of any case, civil or criminal, that has been decided by any Court of justice, or respecting the conduct of any person as a judge, party, witness, counsel, solicitor, or officer of the Court, in any such case, or respecting the character of any such person, so far as his character appears in that conduct :

15 (e.) Any published book or other literary production, or respecting the character of the author, so far as his character appears by that book or production :

20 (f.) Any composition or work of art or performance publicly exhibited, or respecting the character of the author or performer or exhibitor, so far as his character appears from the matter exhibited :

25 (g.) Any public entertainment or sports, or respecting the character of any person conducting or taking part therein, so far as his character appears from the matter of the entertainment or sports, or the manner of conducting the same :

(h.) Any communication made to the public on any subject.

(2.) Whether a comment is or is not fair is a question of fact. If it is not fair, and is defamatory, the publication of it is unlawful.

*Truth.*

*Struck out.*

30 13. It is lawful to publish defamatory matter if the matter is true and it is for the public benefit that the publication should be made.

Truth published for public benefit.

*New.*

35 13A. It is a good defence in an action for defamation that the matter is true.

*Qualified Protection.—Good Faith.*

40 14. (1.) It is a lawful excuse for the publication of defamatory matter if the publication is made in good faith—

Publication in good faith of defamatory matter lawful in certain cases.

(a.) By a person having over another any lawful authority in the course of a censure passed by him on the conduct of that other in matters to which such lawful authority relates :

45 (b.) For the purpose of seeking remedy or redress for some private or public wrong or grievance from a person who has, or is reasonably believed by the person making the publication to have, authority over the person defamed with respect to the subject-matter of such wrong or grievance :

50 (c.) For the protection of the interests of the person making the publication, or of some other person, or for the public good :

55 (d.) In answer to an inquiry made of the person making the publication relating to some subject as to which the person by whom or on whose behalf the inquiry is made has, or is reasonably believed by the person making the publication to have, an interest in knowing the truth :

(e.) For the purpose of giving information to the person to whom it is made with respect to some subject as to which that person has, or is reasonably believed by the person making the publication to have, such an interest in knowing the truth as to make his conduct in making the publication reasonable under the circumstances : 5

(f.) On the invitation or challenge of the person defamed :

(g.) In order to answer or refute some other defamatory matter published by the person defamed concerning the person making the publication or some other person : 10

(h.) In the course of, or for the purpose of, the discussion of some subject of public interest the public discussion of which is for the public benefit.

(2.) Publication is made in good faith if the matter published is relevant to the matters the existence of which may excuse the publication in good faith of defamatory matter ; if the manner and extent of the publication does not exceed what is reasonably sufficient for the occasion ; and if the person by whom it is made is not actuated by ill-will to the person defamed, or by any other improper motive, and does not believe the defamatory matter to be untrue. 20

(3.) When any question arises whether a publication of defamatory matter was or was not made in good faith, and it appears that the publication was made under circumstances which would afford lawful excuse for the publication if made in good faith, the burden of proof of the absence of good faith lies upon the party alleging such absence. 25

Questions as to relevancy and as to publication for the public benefit are questions of fact.

(4.) Whether any defamatory matter is or is not relevant to any other matter, and whether the public discussion of any subject is or is not for the public benefit, are questions of fact.

#### *Oral Defamation.*

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Defence in action arising out of spoken words.

15. In the case of spoken words, it is a good defence in an action for defamation to prove that the publication was made on an occasion and under circumstances when the person defamed was not likely to be injured thereby.

#### *Provisions in Respect of Actions for Defamation.*

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Defendant may plead an apology in mitigation of damages.

16. In an action for defamation the defendant may plead and prove in mitigation of damages that he made or offered an apology to the plaintiff for such defamation before the commencement of the action, or, if the action was commenced before there was an opportunity of making or offering such apology, as soon afterwards as he had an opportunity of doing so. 40

Defendant in action for defamation may pay money into Court.

17. (1.) In any action for defamation, it shall be lawful for any defendant to pay money into Court either with or without a defence denying liability.

(2.) In an action for the publication of defamatory matter in a periodical, any defendant who has paid money into Court under this section may state, in mitigation of damages, in his defence that such matter was published without malice and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in such periodical a full apology for such defamation, or, if the periodical in which the defamatory matter appeared was ordinarily published at intervals exceeding one week, he offered to publish the apology in any periodical to be selected by the plaintiff. 45 50

18. (1.) The *Supreme Court* or *any Judge thereof*, on application by or on behalf of two or more defendants in actions in respect of the publication of the same, or substantially the same, defamatory matter brought by one and the same person, may make an order  
 5 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 actions, the defendant in any new action instituted in respect of the publication of the same, or substantially the same, defamatory matter shall also be entitled to be joined in a common action ~~on~~  
 10 upon a joint application being made by such new defendant and the defendants in the actions already consolidated.

Consolidation of actions arising out of several publications of the same defamatory matter.

(2.) In any such action the Court or a Judge may give notice to the plaintiff that a period stated in the notice will be allowed for the discovery of any further publications that may have taken place  
 15 in order that the whole of the actions in respect of such publications may be tried together; and after the expiration of such period of discovery no further actions shall be instituted in respect of the publication of such matter except for the recovery of special damages.

(3.) In an action consolidated under this section the Judge or  
 20 jury shall assess the whole amount of the damages (if any) in one sum, but a separate verdict shall be given for or against each defendant in the same way as if the actions consolidated had been tried separately; and, if a verdict is given against the defendants in more than one of the actions so consolidated, the Judge or jury  
 25 shall proceed to apportion the amount of damages so found between and against the last-mentioned defendants; and the Judge at the trial, if he awards to the plaintiff the costs of the action, shall thereupon make such order as he deems just for the apportionment of such costs between and against such defendants.

19. At the trial of an action for the publication of defamatory matter in a periodical 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 other publications of defamatory matter  
 30 to the same purport or effect as the matter for the publication of which the action is brought.

Evidence in mitigation of damages.

20. (1.) In any action for defamation a Judge in Chambers, if satisfied that the plaintiff is an undischarged bankrupt, or otherwise has no visible means of paying the costs of the defendant in the  
 40 event of a verdict not being found for the plaintiff, may make an order staying all proceedings in the action until the plaintiff gives full security for the defendant's costs, to the satisfaction of the Registrar, to an amount not exceeding twenty-five pounds.

Judge may require plaintiff, being an undischarged bankrupt, to give security for costs.

(2.) If security as aforesaid is not given within twelve  
 45 months after the order, the action shall be deemed to be dismissed with costs, and the defendant shall be at liberty to sign judgment for his costs.

If security not so given, action deemed to be dismissed.

*Criminal Liability.*

21. (1.) Every person is liable on indictment to imprisonment—  
 50 (a.) For one year, who unlawfully publishes any defamatory matter; or  
 (b.) For two years, who unlawfully publishes any defamatory matter knowing the same to be false; or  
 (c.) For five years, who publishes, or threatens to publish, or offers to abstain from publishing, any defamatory matter  
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Penalty for publishing defamatory matter.

with intent to extort money, or to induce any person to confer on or procure for any person any appointment or office of profit or trust or business, or in consequence of being refused any such money, appointment, office, or business.

(2.) No person shall be liable to criminal proceedings for oral defamation.

(3.) Nothing herein shall alter or affect the law for the time being in force with respect to the sending or delivery of threatening letters or writings.

Informations to be dealt with by a Magistrate only.

22. All informations for an offence under this Act shall be heard and dealt with by a Magistrate, and in no other manner.

With consent of defendant, case may be dealt with summarily.

23. If on the hearing of a charge of publication of defamatory matter the Magistrate is of opinion that a *prima facie* case has been made out against the defendant, but that the case is of a trivial nature, he may, if the defendant consents, summarily convict him and adjudge him to pay a fine not exceeding *fifty* pounds.

#### *New.*

23A. It is a good defence to a prosecution for the publication of defamatory matter that the defamatory matter is true, and that it was for the public benefit that the publication complained of should be made.

Plea of justification

24. Any person charged with the unlawful publication of defamatory matter who sets up as a defence that the defamatory matter is true, and that it was for the public benefit that the publication complained of should be made, must plead that matter specially, either with or without the general plea of "Not guilty."

Jury may give general verdict.

25. On the trial of any person for the unlawful publication of defamatory matter, the jury may give a general verdict of guilty or not guilty upon the whole matter put in issue, in like manner as in other criminal cases.

#### *Provisions with Respect to Publishers, &c., of Periodicals and Books.*

Exemption from criminal liability in certain cases for defamatory matter published in periodical.

26. (1.) A proprietor, publisher, or editor of a periodical is not criminally responsible for defamatory matter published therein if he shows that the matter complained of was inserted without his knowledge and without negligence on his part.

(2.) General authority given to the person who actually inserted the defamatory matter to manage or conduct the periodical as editor or otherwise, and to insert therein what in his discretion he thinks fit, is not negligence within the meaning of this section, unless it is proved that the proprietor or publisher or editor, when giving such general authority, meant that it should extend to and authorize the unlawful publication of defamatory matter, or continued such general authority knowing that it had been habitually exercised by unlawfully publishing defamatory matter in any number or part of the periodical.

Exemption from liability in certain cases of person selling periodical containing defamatory matter.

27. A person does not incur any liability as for defamation by selling any number or part of a periodical unless he knows that such number or part contains defamatory matter, or that defamatory matter is habitually or frequently contained in that periodical.

Exemption from liability in certain cases of person selling book, &c., containing defamatory matter.

28. A person does not incur any liability as for defamation by selling a book, pamphlet, print, or writing, or other thing not forming part of a periodical, although it contains defamatory matter, if at the time of the sale he does not know that the defamatory matter is contained therein.

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29. The sale by a servant of a book, pamphlet, print, or writing, or other thing, whether a periodical or not, does not make his employer responsible in respect of defamatory matter contained therein, unless it is proved that such employer authorized the sale  
 5 knowing that the book, pamphlet, print, writing, or other thing contained defamatory matter, or, in the case of a number or part of a periodical, that defamatory matter was habitually or frequently published therein.

Employer not responsible in certain cases for sale by servant of book, &c., containing defamatory matter.

30. No criminal prosecution shall be instituted against the proprietor, or publisher, or editor, or any person responsible for the publication of any periodical, for any defamatory matter published therein without the order of a Judge of the Supreme Court, made after notice to the person accused, and after that person has had an opportunity of being heard in opposition to the application for the  
 15 order.

Criminal prosecutions against proprietor, publisher, or editor of periodical not to be commenced without leave of Supreme Court.

Evidence.

31. On the trial of an action or prosecution for unlawfully publishing defamatory matter contained in a book or periodical, the production of the book, or of a number or part of the periodical, 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 book, or of the number or part of the periodical, by the defendant.  
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Evidence of publication by defendant.

32. On the trial of an action or prosecution for unlawfully publishing defamatory matter contained in a periodical, after evidence sufficient in the opinion of the Court has been given of the publication by the defendant of the number or part of the periodical containing the matter complained of, other writings or prints purporting to be other numbers or parts of the same periodical formerly or subsequently published, and containing a printed statement that  
 25 they were published by or for the defendant, shall be admissible in evidence on either side, without further proof of publication of them.

After evidence of publication of particular part or number, other parts or numbers of same periodical may be produced in evidence without proof of publication.

Remedy for Costs.

33. (1.) In the case of a prosecution of any person on the information of a private prosecutor for the publication of defamatory  
 35 matter, if the defendant is acquitted he shall be entitled to recover from the prosecutor the costs incurred by him by reason of such prosecution.

On private prosecution defendant entitled to costs if acquitted.

(2.) If in any such prosecution the defendant pleads the truth of the matter published, and that the publication was for the public  
 40 benefit, then if the issue is found for the Crown, the prosecutor shall be entitled to recover from the defendant the costs incurred by him by reason of that plea.

Costs when truth pleaded.

(3.) The costs so to be recovered by the defendant or prosecutor shall be taxed by the proper officer of the Court before which the  
 45 information is tried.

Miscellaneous.

34. In any action or prosecution commenced or prosecuted in respect of the publication of any paper published by the defendant or by his servant by order or under the authority of either House  
 50 of Parliament, the defendant may bring before the Court in which

Action or prosecution to be stayed on production of certificate that publication was by order of Parliament.

the proceeding is pending, or before any Judge thereof, first giving twenty-four hours' notice of his intention so to do to the plaintiff or prosecutor, a certificate under the hand of the Speaker or Clerk of the Legislative Council, or Speaker or Clerk of the House of Representatives, as the case may be, stating that the paper in respect whereof such action or prosecution is commenced or prosecuted was published by the defendant, or by his servant, by order or under the authority of the Council or House, together with an affidavit verifying such certificate, and such Court or Judge shall thereupon immediately stay such action or prosecution, and may order the plaintiff or prosecutor to pay the defendant his costs of defence. 5 10

Action to be stayed on proof that matter published was a copy or extract from paper published by order of Parliament.

35. In any action or prosecution commenced or prosecuted in respect of the publication of a copy of or an extract from or abstract of any such paper, the defendant may, at any stage of the proceedings, lay before the Court or a Judge thereof an original of such paper, with an affidavit verifying the same, and the Court or Judge may thereupon stay such action or prosecution, and may order the plaintiff or prosecutor to pay the defendant his costs of defence. 15

Publication by way of transmission by telegraph not deemed to be malicious.

36. Any communication transmitted by telegraph, which would be deemed a privileged communication if published only to the person to whom it is addressed, is not by reason of its having been published to any officer or other person for the purpose of being transmitted by telegraph to the person to whom it is addressed deemed to have been maliciously published. 20

Act not to apply to slander of title, &c.

37. Nothing in this Act relates to the actionable wrong commonly called "slander of title," or to the offence of publishing a blasphemous or seditious or obscene libel. 25

Repeals.

38. The enactments specified in the Schedule hereto are hereby repealed.

Schedule.

## SCHEDULE.

### ENACTMENTS REPEALED.

- 1908, No. 32.—The Crimes Act, 1908 : Sections 231 to 236.  
 1908, No. 89.—The Judicature Act, 1908 : Section 101.  
 1910, No. 83.—The Law of Libel Amendment Act, 1910.