

Mr. Tole.

LIBEL.

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A BILL INTITULED

AN ACT to amend the Law of Libel.

Title.

WHEREAS it is expedient to amend the law affecting civil actions and criminal prosecutions for newspaper libel, and to make certain provisions in relation to contempt of Court :

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The Short Title of this Act is "The Libel Act, 1882."

Short Title.

2. In this Act, if not inconsistent with the context,—

Interpretation.

"Newspaper" is interpreted in like manner as the word "newspaper" in "The Printers and Newspapers Registration Act, 1868 :"

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 person in like manner representing or responsible for the other shares or interests therein, and no other person :

"Court of summary jurisdiction" means any Court of two or more Justices of the Peace or Resident Magistrate acting under "The Justices of the Peace Act, 1866," or any similar Court lawfully constituted for the time being to hear and determine offences in a summary way, and to deal with indictable offences.

Report of public meeting privileged if accurate and for public good.

3. Any report published in any newspaper of the proceedings of a public meeting shall be privileged if such meeting was lawfully convened for a lawful purpose and open to the public, and if such report was fair and accurate, and published without malice, and if the publication of the matter complained of was for the public benefit: Provided always that the protection intended to be afforded by this section shall not be available if the plaintiff or prosecutor can show that the defendant has refused to insert in the newspaper in which the report containing the matter complained of appeared a reasonable letter or statement of explanation or contradiction by or on behalf of such plaintiff or prosecutor. 5 10

No criminal prosecution without fiat of Attorney-General.

4. No criminal prosecution shall be commenced against any proprietor, publisher, editor, or any person responsible for the publication of a newspaper for any libel published therein without the written fiat or allowance of the Attorney-General for the time being of the colony being first had and obtained.

If Court think jury would acquit, then may dismiss the case.

5. 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 published 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 or indictment, and the 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. 15 20

If case trivial and accused consents, Court may summarily convict.

6. If a Court of summary jurisdiction upon the hearing of a charge against a proprietor, editor, or any person responsible for the publication of a newspaper published therein, is 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, the Court shall cause the charge to be reduced into writing and read to the person charged, and 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, the Court may summarily convict him and adjudge him to pay a fine not exceeding fifty pounds. 25 30 35

Punishment for contempt of Court defined.

7. From and after the passing of this Act, the Supreme Court, Court of Appeal, or any Judge thereof respectively, shall have the following and no other power to punish all contempts whatsoever which arise judicially in the face of such Court or Judge, that is to say, by imprisonment for any time not exceeding for each offence three months, or by fine not exceeding for each offence the sum of fifty pounds; and in default of payment thereof, in accordance with the order of such Court or Judge relating thereto, to commit the person adjudged guilty of such contempt to prison for any time not exceeding the term of three months, unless such fine shall be sooner paid. 40

Proceedings on newspaper contempt.

8. In all cases of contempt of the superior or other Courts of the colony arising from the publication of matter in a newspaper relating to such Courts, or the Judges thereof acting in their judicial capacity, or relating to causes or proceedings depending therein, such publication shall, for the purpose of the punishment therefor, be deemed to be a libel; and the provisions and proceedings contained in sections four, five, and six of this Act, *mutatis mutandis*, shall apply, and no other punishment or disability save as in the said sections provided shall be inflicted or be valid in respect of the said published contempts, except after trial by jury, according to law existing at the time of the passing of this Act. 45 50

9. The procedure respecting any prosecution under this Act shall, until the Court assume as herein the power to deal with any offence of libel summarily, be the same in all respects as if such charge were to be dealt with throughout as an indictable offence; but when and so soon as the Court assume as aforesaid
5 the power to deal with such offence summarily, the procedure shall be the same from and after that period, and without necessarily retaking the previous evidence, as if the said offence were an offence punishable on summary conviction, and not an indictment; and, so far as is consistent with the tenor thereof, the provisions of "The Justices of the Peace Act, 1866," or Act or Acts for the time
10 being relating to offences punishable on summary conviction, including the enforcement and effect of the conviction (which shall contain a statement of the consent, if such be the case, of the accused to be tried summarily), the certificate which shall be given of the dismissal (if such take place) of the information, and the effect of such dismissal (which shall be equivalent to an acquittal on a trial
15 on an indictment), shall respectively apply accordingly as if herein enacted.