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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 :

Preamble.

5 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, 1887."

Short Title.

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

Interpretation.

10 The word "Newspaper" shall have the meaning assigned to it by "The Printers and Newspapers Registration Act, 1868," which is hereinafter referred to as the "said Act."

15 "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, 1882," or any Court lawfully constituted for the time being to hear and determine offences in a summary way, and to deal with indictable offences.

20 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 :
25 Provided always that the protection intended to be afforded by this section shall not be available as a defence in any proceedings 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.

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

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 of the Attorney-General for the time being of the colony being first had and obtained: Provided that a Judge of the Supreme Court may by order sanction any such prosecution without such fiat in any case where the same has been refused or withheld. 5

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. 10 15

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, publisher, 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 *one hundred* pounds. 20 25 30

Procedure generally.

7. Where an indictable offence is by this Act authorized to be dealt with summarily the procedure shall, until the Court assume the power to deal with such offence 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 the power to deal with such offence summarily, the procedure shall be the same from and after that period as if the said offence were an offence punishable on summary conviction and not on indictment; and the provisions of "The Justices of the Peace Act, 1882," and any other Acts for the time being in force relating to offences punishable on summary conviction shall respectively apply to any such offence in all respects so far as not expressly inconsistent with the provisions of this section. 35 40

Section 17 of "The Printers and Newspapers Registration Act, 1868," amended.

8. Notwithstanding anything to the contrary in section seven-teen of the said Act a newspaper shall be admissible in evidence in the proceedings therein mentioned without proof of publication, if such newspaper (whether wholly or partly amalgamated with another newspaper or not) is proved to be the one referred to, or intended to be referred to, in the affidavit deposited under Part Two of the said Act, although such newspaper may not be intituled in the same manner as the newspaper mentioned in such affidavit. 45 50

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9. The proceedings under section eighteen of the said Act may be by summary application on summons or notice, and on the hearing of such application the Judge may receive evidence by affidavit, *viva voce*, or otherwise.

Discovery may be by summary jurisdiction.

5 10. If the Court in which any action for libel is pending or a Judge thereof is satisfied that the cause of action is frivolous, or that the plaintiff, if unsuccessful, would not be able to pay the defendant's costs, such Court or Judge may order a stay of such action until the plaintiff shall give security by bond, deposit of 10 money, or otherwise for the defendant's costs of such action to an amount not exceeding fifty pounds.

Security for costs in certain cases.