

Right Hon. Sir J. G. Ward.

LAW OF LIBEL AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Law of Libel and Slander.

Title.

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

- 5 1. This Act may be cited as the Law of Libel Amendment Act, 1910. Short Title.
- 10 2. (1). In any action or prosecution for a defamatory libel the publication of any of the following matters shall be deemed privileged in the absence of proof of malice :— Qualified privilege in respect of certain publications.
- 15 (a.) A fair and accurate report of the proceedings of either House of Parliament or of any Committee thereof :
- (b.) A fair and accurate report of the proceedings of any Court of justice, whether in New Zealand or elsewhere, and whether those proceedings are preliminary, interlocutory, or final, and whether in open Court or not, or of the result of any such proceedings :
- 20 (c.) A fair and accurate report of the proceedings in any inquiry held under the authority of any Act or under the authority of the Governor in Council, or a true copy of or a fair and accurate extract from or abstract of any

official report made by the person by whom the inquiry was held :

- (d.) A fair and accurate report of the proceedings of any local authority, or of any body of 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
- (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 authorised or requested by any Minister of the Crown. 10

(2.) Nothing in this section shall be so construed as to take away or restrict any privilege existing at common law. 15

Refusal to publish explanation or contradiction of defamatory matter to exclude defence of privilege.

3. In the case of a publication in any newspaper of a report of any such proceedings as are mentioned in paragraph (d) of the *last preceding* section, the protection intended to be afforded by that section shall not be available in any civil or criminal proceedings if it is proved that the defendant has been requested by the person defamed to publish in that newspaper a reasonable letter or statement by way of contradiction or explanation of the defamatory matter, and has without reasonable justification refused or neglected to publish the same within a reasonable time. 20

Actions in respect of publication in different newspapers of same defamatory matter.

4. (1.) When an action has been commenced by any person in respect of the publication of defamatory matter in a newspaper, no other action shall thereafter be commenced by the same person in respect of the publication, at any time prior to the commencement of the first-mentioned action, of the same or substantially the same defamatory matter in any other newspaper, unless that other action is commenced on or within ten days after the date of the commencement of the first-mentioned action. 25 30

(2.) When any action is commenced in breach of the provisions of this section, it shall not be necessary for the defendant to plead this matter by way of defence, but the same may be given in evidence as a defence on the trial of the action. 35

(3.) In determining for the purposes of this section the date of the publication of defamatory matter in a newspaper, the defamatory matter shall be deemed to have been published on the day of the date of that newspaper, and at no subsequent time. 40

Plaintiff to give notice of such actions to each defendant.

5. (1.) When two or more actions have been commenced by the same person in respect of the publication of the same or substantially the same defamatory matter in different newspapers, the plaintiff shall as soon as practicable give to the defendant in each of the actions such notice of the existence of the other actions as is reasonably sufficient to enable each defendant to make application for the consolidation of the actions under the provisions hereinafter contained. 45

(2.) If the plaintiff makes default in giving such notice to any defendant, that defendant may apply to the Court to dismiss or stay the action, and the Court may, if in its discretion it thinks fit so to do, dismiss or stay the action accordingly. 50

6. (1.) The Supreme Court or any Judge thereof, upon the application of two or more defendants in actions brought in that Court by one and the same person in respect of the publication of the same or substantially the same defamatory matter, may make an order for the consolidation of those actions so that they shall be tried together; and after any such order has been made, and before the trial of the actions, the defendant in any other 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 upon a joint application being made by that defendant and the defendants in the actions already consolidated.

Consolidation of actions on application of defendants.

(2.) In an action consolidated under the provisions of this section the Judge or 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 shall proceed to apportion the amount of damages so found between and against those 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 those costs between and against those defendants.

Damages in consolidated action.

(3.) Every action consolidated under the provisions of this section shall be heard at such time and place as the Supreme Court or a Judge thereof may order.

7. In an action for defamation the defendant may prove in mitigation of damages that he made or offered a public apology to the plaintiff for such defamation before the commencement of the action, or, if the action was commenced before there was a reasonable opportunity of making or offering such an apology, as soon afterward as he had a reasonable opportunity of doing so.

Public apology may be proved in mitigation of damages.

8. In an action for defamation the defendant may prove in mitigation of damages that the plaintiff has already recovered damages, or has brought an action for damages, or has received or agreed to receive compensation, in respect of any other publication by the same or any other person of the same or substantially the same defamatory matter.

Other evidence in mitigation of damages.

9. Upon the trial of any action or prosecution for the publication of defamatory matter in any book or printed document, or in any number or part of a newspaper, any printed statement contained in such book, document, number, or part, that the same is published or printed by or for the defendant, shall be *prima facie* evidence of the truth of that statement.

Evidence as to publisher or printer.

10. (1.) A Magistrate, upon the hearing of a charge of the publication of a defamatory libel, may receive evidence as to the publication being for the public benefit, and as to the truth of the defamatory statement, and as to any other matter which might be given in evidence by way of defence by the person charged on his trial on indictment; and the Magistrate, if he is 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.

Powers of Magistrate in prosecutions for libel.

(2.) This section shall extend and apply, *mutatis mutandis*, to the hearing by a Magistrate of a charge of criminal defamation.

Definition of
newspaper.

11. In this Act the term "newspaper" means any newspaper, review, magazine, or other print published periodically at intervals not exceeding three months.