

## CHAPTER 18.

## LIBEL AND DEFAMATION.

AN ORDINANCE RESPECTING DEFAMATORY WORDS AND LIBEL.

*Ordinances*

No. 23,

,, 87, s. 9,

,, 29 of 1925,

s. 3.

[26th January, 1846.]

1. This Ordinance may be cited as the Libel and Defamation Ordinance. Short title.

2. No action for defamation shall be maintainable in any Court of Justice in the Colony in respect of words spoken, except in those cases in which an action would be maintainable in respect of the same words in England. When action for defamation maintainable.

3. In any action for defamation or for libel, it shall be lawful for the defendant to plead the truth of the matters charged by way of justification in the same manner as he might do in any like action in any Court in England, and such plea shall be a sufficient answer in law to any such action; and if, on the issue joined on such plea, a verdict shall pass for the defendant, the defendant shall have final judgment and recover his costs of suit. The truth may be pleaded by way of justification.

4. In any action for defamation, it shall be lawful for the defendant (after notice in writing of his intention so to do duly given to the plaintiff at the time of filing or delivering the plea in such action) to give in evidence in mitigation of damages, that he made or offered an apology to the plaintiff for such defamation before the commencement of the action, or as soon afterwards as he had an opportunity of doing so in case the action shall have been commenced before there was an opportunity of making or offering such apology. Offer of apology admissible in mitigation of damages.

5. In any action for a libel contained in any public newspaper or other periodical publication, it shall be competent to the defendant to plead that such libel was inserted in such newspaper or other periodical publication without actual malice, and without gross negligence, and that before Actions against newspaper.

the commencement of the action, or at the earliest opportunity afterwards, he inserted in such newspaper or other periodical publication a full apology for the said libel, or, if the newspaper or periodical publication in which the said libel appeared shall be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper or periodical publication to be selected by the plaintiff in such action; and every such defendant shall, upon filing such plea, be at liberty to pay into Court a sum of money by way of amends for the injury sustained by the publication of such libel; and such payment into Court shall be of the same effect and be available in the same manner and to the same extent as any payment into Court under the Rules of the Supreme Court.

Words imputing unchastity to woman, actionable.

6. Words spoken and published which impute unchastity or adultery to any woman or girl shall not require special damage to render them actionable: Provided always, that in any action for words spoken and made actionable by this section, a plaintiff shall not recover more costs than damages, unless the Court shall certify that there was reasonable ground for bringing the action. (*Added by 29 of 1925, s. 3.*)

Costs in civil actions.

7. In all actions for libel or slanderous words spoken, to be sued or prosecuted by any person in the Supreme Court, if upon the trial the damages shall be found and assessed under two pounds, then the plaintiff in such action shall have and recover only so much costs as the damages so given or assessed amount unto, any law, custom, or usage to the contrary notwithstanding. (*S. 9 of 87 incorporated.*)

False defamatory libel.

8. If any person shall maliciously publish any defamatory libel, knowing the same to be false, every such person being convicted thereof shall be liable to be imprisoned for such term not exceeding two years, and to pay such fine, as the Court shall award.

Malicious defamatory libel.

9. If any person shall maliciously publish any defamatory libel, every such person being convicted thereof shall be liable to fine or imprisonment or both, as the Court may award; such imprisonment not to exceed the term of one year.

10. On the trial of any indictment for a defamatory libel, the defendant having pleaded such plea as herein-after mentioned, the truth of the matters charged may be enquired into, but shall not amount to a defence, unless it was for the public benefit that the said matters charged should be published; and to entitle the defendant to give evidence of the truth of such matters charged as a defence to such indictment, it shall be necessary for the defendant in pleading to the said indictment to allege the truth of the said matters charged in the manner required in pleading a justification to an action for defamation, and further to allege that it was for the public benefit that the said matters charged should be published, and the particular fact or facts by reason whereof it was for the public benefit that the said matters charged should be published, to which plea the prosecutor shall be at liberty to reply generally denying the whole thereof; and if after such plea the defendant shall be convicted on such indictment, it shall be competent to the Court in pronouncing sentence to consider whether the guilt of the defendant is aggravated or mitigated by the said plea, and by the evidence given to prove or disprove the same :

Proceedings on trial of indictment for defamatory libel.

Provided always, that the truth of the matters charged in the alleged libel complained of by such indictment shall in no case be enquired into without such plea or justification :

Provided also, that in addition to such plea it shall be competent to the defendant to plead a plea of not guilty :

Provided also, that nothing in this Ordinance contained shall take away or prejudice any defence under the plea of not guilty which it is competent to the defendant to make under such plea to any action or indictment for defamatory words or libel.

11. Whenever, upon the trial of any indictment for the publication of a libel under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent, or knowledge, and that the said publication did not arise from want of due care or caution on his part.

Evidence to rebut *prima facie* case of publication by an agent.

Costs in  
private  
prosecutions.

12. In the case of any indictment by a private prosecutor for the publication of any defamatory libel, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the said defendant by reason of such indictment; and upon a special plea of justification to such indictment, if the issue be found for the prosecutor, he shall be entitled to recover from the defendant the costs sustained by the prosecutor by reason of such plea, such costs so to be recovered by the defendant or prosecutor respectively to be taxed by the proper officer of the Court before which the said indictment is tried.