

BILL

No. ~~25~~ of 1913.

An Act Respecting Actions for Libel and Slander.

(Assented to 1913.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Libel and Slander Act.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires—
 - (a) The expression "Newspaper" shall mean a paper containing public news, intelligence or occurrences, or remarks or observations thereon, printed for sale, and published periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two of such papers, parts or numbers, and shall include a paper printed in order to be made public weekly or oftener, or at intervals not exceeding thirty-one days, and containing only or principally advertisements;
 - (b) "Public Meeting" means any meeting lawfully held in good faith for a public purpose and for the furtherance of discussion of any matter of public concern, whether admission thereto be general or restricted.

LIBEL AND SLANDER.

3. In an action for libel or slander the plaintiff may aver that the words or matter complained of were used in a defamatory sense specifying the defamatory sense without any prefatory averment to show how the words or matter were used in that sense and the averment shall be put in issue by the denial of the alleged libel or slander and where the words or matter set forth with or without the alleged meaning show a cause of action the statement of claim shall be sufficient.

4. In an action for libel or slander where the defendant has pleaded a denial of the alleged libel or slander only or has suffered judgment by default or judgment has been given against him on motion for judgment on the pleadings he may give in evidence in mitigation of damages that he made or offered a written or printed apology to the plaintiff for such libel or slander before the commencement of the action; or if the action was commenced before there was an opportunity of making or offering such apology that he did so as soon afterwards as he had an opportunity.

LIBEL.

5. On the trial of an action for libel the court may give a general verdict upon the whole matter in issue in the action and shall not be required or directed to find for the plaintiff merely on proof of publication by the defendant of the alleged libel and of the sense ascribed to it in the action; but the judge shall according to his direction give his opinion and directions to the jury (if the action is tried by a jury) on the matter in issue as in other cases and the jury may on such issue find a special verdict if they think fit so to do and the proceedings after verdict whether general or special shall be the same as in other cases.

6. The court or a judge upon an application by two or more defendants in any two or more actions for the same or substantially the same libel or for a libel or libels contained in articles the same or substantially the same published in different newspapers brought by one and the same person may make an order 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 such actions the defendants in any new actions instituted in respect to any such libel or libels shall also be entitled to be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

(2) In a consolidated action under this section the judge or jury shall assess the whole amount of the damages, if any, in one sum, but a separate judgment or verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately and if the judge or jury find a judgment or verdict against the defendant or defendants in more than one of the actions so consolidated the judge or jury shall apportion the amount of the damages between and against such last mentioned defendants and the judge in the event of the plaintiff being awarded the costs of the action shall thereupon make such order as he shall deem just for the apportionment of the costs between and against such defendants.

NEWSPAPER LIBEL.

7. No action for libel contained in a newspaper shall lie unless the plaintiff has within six weeks after the publication thereof has come to his notice or knowledge, given to the defendant a notice in writing specifying the statement complained of which shall be served in the same manner as the statement of claim, or by delivering the notice to a grown-up person at the place of business of the defendant; and no such action shall be begun until in the case of a daily newspaper three (3) clear days, in the case of a weekly publication ten (10) clear days and in the case of a monthly publication six (6) weeks have elapsed after the service of such notice, in order to give the defendant an opportunity to publish a full apology for the said libel; and if the judge or jury find that a full apology was published before the commencement of the action, the plaintiff shall only recover such actual damages as he has sustained.

(2) In the case of a libel of any candidate for elective public office in Alberta the apology in this section referred to shall be made editorially in a conspicuous manner at least fifteen (15) days before the election.

8. The defendant may pay into court with his defence a sum of money by way of amends for the injury sustained, by publication of any libel to which the next preceding section applies and such payment shall have the same effect as payment into court in other cases.

9. A fair and accurate report published in a newspaper of any proceedings in the Senate or House of Commons of Canada, in any Legislative Assembly of any of the provinces of Canada or in any committee of any such bodies or of a public meeting or (except where neither the public nor any newspaper reporter is admitted) or any meeting of a municipal council, school board, board of health or of any other board or local authority formed or constituted under any of the provisions of any public Act of any Legislative Assembly of any of the provinces of Canada or of the Parliament of Canada or of any committee appointed by any of the above mentioned bodies and the publication of the whole or a portion or fair synopsis of any report, bulletin, notice or other document issued for the information of the public from any government office, bureau or department or by any board of health or medical health officer or the publication at the request of any government or municipal official, commissioner of police or chief constable of any notice or report issued by him for the information of the public shall be privileged unless it shall be proved that such publication was made maliciously.

(2) Nothing in this section shall authorize the publication of any blasphemous, seditious or indecent matter.

(3) The protection intended to be afforded by this section shall not be available as a defence in any proceeding if the plaintiff shows that the defendant has refused to insert in the newspaper making such publication a reasonable letter or statement of explanation of contradiction by or on behalf of the plaintiff.

(4) Nothing in this section shall limit or abridge any privilege now by law existing or protect the publication of any matter not of public concern or the publication of which is not for the public benefit.

10. All reports of proceedings in any court exercising judicial authority, published in any newspaper shall be privileged, provided that they contain only fair and authentic reports without comment, but nothing in this section shall authorize the publication of any blasphemous, seditious or indecent matter.

11. In an action for libel contained in a newspaper the defendant may at any time after the delivery of the statement of claim apply to a judge of the court in which the action is taken for security for costs, by notice of motion which shall be supported by an affidavit of the defendant or his agent, showing the nature of the action and of the defence, that the defendant has a good defence upon the merits, as the deponent is advised and believes; that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment is given in favor of the defendant; that the statements complained of were published in good faith or that the grounds of action are trivial or frivolous; and the judge may make an order that the plaintiff shall give security for costs, which shall be given in accordance with the practice in cases where the plaintiff resides out of Alberta, and the order shall be a stay of proceedings until the security is given.

(2) For the purposes of this section the plaintiff or the defendant or their agents may be examined upon oath at any time after the delivery of the statement of claim.

(3) This section shall not apply to any action wherein the plaintiff shall sue *in forma pauperis*.

(4) An order made under this section shall be final and shall not be subject to appeal unless the same is made by a local judge of the Supreme Court, in which case an appeal shall lie to a judge of the Supreme Court sitting in Chambers, whose order shall be final and shall not be subject to appeal.

12. An action for libel contained in a newspaper shall be tried in the judicial district where the chief office of such newspaper is, or in the judicial district wherein the plaintiff resides at the time the action is brought; but upon the application of either party, a judge of the court in which the action is brought may direct the action to be tried or the damages to be assessed in any other judicial district if it appears to be in the interests of justice or that it will promote a fair trial, and may impose such terms as to the payment of witness fees and otherwise as may seem proper.

13. An action for libel contained in a newspaper shall be commenced within three months after the publication thereof has come to the notice or knowledge of the person defamed; but where an action is brought and is maintainable for a libel published within that period, the same may include a claim for any other libel published against the plaintiff by the defendant in the same newspaper within a period of one year before the commencement of the action.

14. In an action for libel contained in a newspaper the defendant may prove in mitigation of damages that the plaintiff has already brought actions for and has recovered damages or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as that for which such action is brought.

15. No defendant shall be entitled to the benefit of sections 7 and 13 of this Act unless the name of the proprietor and publisher and address of publication is stated either at the head of the editorials or on the front page of the newspaper.

(2) The production of a printed copy of a newspaper shall be *prima facie* evidence of the publication of the said printed copy and of the truth of the statements mentioned in subsection (1).

16. In any action for the publication in a newspaper of any defamatory matter which has been communicated in writing to such newspaper with a view to its publication therein by a person other than a person employed by the defendant, the defendant may at any stage of the proceedings apply on notice to such person to a judge of the court in which the action is taken, for an order joining such person as a party defendant in the action, and such person may be so joined on such terms as may appear to be just.

(2) The application shall be supported by an affidavit verifying the facts entitling the defendant to have such person joined as a party defendant, and showing that the defamatory matter was not known by the applicant to be untrue and that it was not contained in an anonymous communication, and judgment may be given in the action against one or both of the defendants or for such remedy or relief over to the person or company against whom the action was in the first instance taken against the person so joined as a party defendant, as the court before which the action is tried shall determine.

17. In an action for libel contained in a newspaper the plaintiff shall not be entitled to a judgment or order for the costs of the action where he recovers merely nominal damages.

SLANDER OF WOMEN.

18. In an action for slander for defamatory words spoken of a woman imputing unchastity or adultery, it shall not be necessary to allege in the plaintiff's statement of claim, or to prove that special damage resulted to the plaintiff from the utterance of such words, and the plaintiff may recover nominal damages, without averment or proof of special damage, but shall not be entitled to recover more than nominal damages unless special damage is proved.

(2) The defendant may, at any time after the delivery of the statement of claim, apply to a judge for security for costs, upon notice and an affidavit shewing the nature of the action and that the plaintiff is not possessed of property sufficient to answer the costs of the action if a verdict or judgment is given in favour of the defendant, and that the defendant has a good defence on the merits, or that the grounds of action are trivial or frivolous; and the judge may make an order that the plaintiff shall give security for the costs, which shall be given in accordance with the practice in cases where a plaintiff resides out of Alberta, and the order shall be a stay of proceedings until the security is given.

(3) For the purposes of subsection (2) the plaintiff or the defendant may be examined upon oath at any time after the delivery of the statement of claim.

REPEAL.

Chapter 30 of the Consolidated Ordinances, 1898, intitled "*An Ordinance to Amend the Law Relating to Slander*," is repealed.