

WESTERN AUSTRALIA

ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 12

An Act to amend the Law of Newspaper Libel, and to  
provide for the Registration of Newspaper Proprietors.

*[Assented to 10th September, 1884.]*

**W**HEREAS it is expedient to amend the Law affecting civil  
actions and criminal prosecutions for Newspaper Libel;  
And whereas it is also expedient to provide for the Registration of

*The Newspaper Libel and Registration Act, 1884*

Newspaper Proprietors : Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows :—

Interpretation

1. In the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several words and phrases hereinafter mentioned shall have and include the meanings following, that is to say,—

The word 'Registrar' shall mean the Registrar, or his deputy for the time being, of the Supreme Court.

The phrase 'Registry Office' shall mean the office of the Registrar, for the time being, of the Supreme Court.

The word 'newspaper' shall mean any paper containing public news, intelligence, or occurrences, or any remarks or observations therein printed, for sale and published in Western Australia periodically, or in parts or numbers at intervals not exceeding twenty-six days between the publication of any two such papers, parts, or numbers; and also any paper printed in order to be dispersed and made public weekly, or oftener, or at intervals not exceeding twenty-six days, containing only or principally advertisements.

The word 'occupation,' when applied to any person, shall mean his trade or following, and if none, then his rank or usual title, as esquire, gentleman.

The phrase 'place of residence' shall include the street, or place where the person to whom it refers shall reside, and the number (if any), or other designation of the house in which he shall so reside.

The word 'proprietor' shall mean and include, 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 persons in like manner representing or responsible for the other shares or interest therein, and no other person.

Newspaper reports of certain meetings privileged

2. 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 as a defence in any proceeding 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.

No prosecution for newspaper libel without fiat of Attorney-General

3. 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 first being had and obtained.

*The Newspaper Libel and Registration Act, 1884*

4. 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.

Inquiry by Court of Summary Jurisdiction as to libel being for public benefit or being true

5. If a court of summary jurisdiction, upon the hearing of a charge against a proprietor, or publisher, editor, or any person responsible for the publication of a newspaper, for a libel 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.

Provision as to summary conviction for libel

6. Where a charge of libel is under the circumstances in this Act mentioned authorised to be dealt with summarily:

Regulations as to charges of libel dealt with summarily

- (1) The procedure, until the Court shall assume the power to deal with such offence summarily, shall be the same in all respects as if the offence were to be dealt with throughout as an indictable offence or an offence punishable on information; but when and so soon as the court shall assume the power to deal with such offence summarily, the procedure shall be the same from and after that period as if the offence were an offence punishable on summary conviction and not on indictment or information, and the provisions of the Acts relating to offences punishable on summary conviction shall apply accordingly; and
- (2) The evidence of any witness taken before the court assumed the said power need not be taken again, but every such witness shall, if the defendant so require it, be recalled for the purpose of cross-examination; and
- (3) The conviction for any such offence shall be of the same effect as a conviction for the offence on information or indictment; and
- (4) Where the court has assumed the power to deal with the case summarily and has dismissed the charge, they shall, if required to do so, deliver to the person charged a copy certified under their hands of the order of such dismissal; and such dismissal shall be of the same effect as an

*The Newspaper Libel and Registration Act, 1884*

acquittal on a trial on information or indictment for the said offence; and

- (5) A summary conviction as aforesaid shall contain a statement of the consent of such person to be tried by a court of summary jurisdiction.

The Chief Justice may authorise registration of the names of only a portion of the proprietors of a newspaper

7. Where, in the opinion of the Chief Justice or of a Judge of the Supreme Court, inconvenience would arise or be caused in any case from the registry of the names of all the proprietors of the newspaper (either owing to minority, coverture, absence from the Colony, minute subdivision of shares, or other special circumstances), it shall be lawful for the said Chief Justice or Judge to authorise the registration of such newspaper in the name or names of some one or more responsible 'representative proprietors.'

Register of newspaper proprietors to be established

8. A register of the proprietors of newspapers, as defined by this Act, shall be established under the superintendence of the Registrar.

Annual returns to be made

9. It shall be the duty of the printers and publishers for the time being of every newspaper to make or cause to be made to the Registry Office on or before the fourteenth day of January, 1885, and thereafter annually in the month of January in every year, a return of the following particulars, according to the Schedule A hereto annexed, that is to say—

- (a) The title of a newspaper,  
(b) The names of all the proprietors of such newspaper, together with their respective occupations, places of business (if any), and place of residence.

Penalty for omission to make Annual Returns

10. If within the further period of one month after the time hereinbefore appointed for the making of any return as to any newspaper, such return be not made, then each printer and publisher of such newspaper shall, on conviction thereof, be liable to a penalty not exceeding Twenty-five pounds, and also to be directed by a summary order to make a return within a specified time.

Power to party to make return

11. Any party to a transfer or transmission of or dealing with any share of or interest in any newspaper whereby any person ceases to be a proprietor, or any new proprietor is introduced, may at any time make or cause to be made to the Registry Office a return according to the Schedule B hereunto annexed, and containing the particulars therein set forth.

Penalty for wilful misrepresentation in or omission from return

12. If any person shall knowingly and wilfully make or cause to be made any return by this Act required or permitted to be made in which shall be inserted or set forth the name of any person as a proprietor of a newspaper who shall not be a proprietor thereof, or in which there shall be any misrepresentation, or from which there shall be any omission in respect of any of the particulars by this Act required to be contained therein, whereby such return shall be misleading; or if any proprietor of a newspaper shall knowingly and wilfully permit any such return to be made which shall be misleading as to any of the particulars with reference to his own name, occupation, place of business (if any), or place of residence, then, and in every such case,

*The Newspaper Libel and Registration Act, 1884*

every such offender being convicted thereof shall be liable to a penalty not exceeding One hundred pounds.

13. It shall be the duty of the Registrar, and he is hereby required forthwith to register every return made in conformity with the provisions of this Act, in a book to be kept for that purpose at the Registry Office, and called 'The Register of Newspaper Proprietors'; and all persons shall be at liberty to search and inspect the said book from time to time during the hours of business at the Registry Office; and any person may require a copy of any entry in or an extract from the book, to be certified by the Registrar or his deputy for the time being or under the official seal of the Registrar.

Registrar to enter returns in register

14. There shall be paid, in respect of the receipt and entry of returns made in conformity with the provisions of this Act, and for the inspection of the register of newspaper proprietors, and for certified copies of any entry therein, and in respect of any other services to be performed by the Registrar, such fees (if any) as the Chief Justice of the Supreme Court, with the approval of the Governor, may direct, and as they shall deem requisite to defray, as well the additional expenses of the Registry Office caused by the provisions of this Act, as also the further remunerations and salaries (if any) of the Registrar and of any other person employed under him in the execution of this Act; and such fees shall be dealt with as the Governor may direct.

Fees payable for Registrar's service

15. Every copy of an entry in or extract from the register of newspaper proprietors, purporting to be certified by the Registrar or his deputy for the time being, or under the official seal of the Registrar, shall be received as conclusive evidence of the contents of the said register of newspaper proprietors so far as the same appear in such copy or extract, without proof of the signature thereto or of the seal of office affixed thereto; and every such certified copy or extract shall in all proceedings, civil or criminal, be accepted as sufficient *prima facie* evidence of all the matters and things thereby appearing, unless and until the contrary thereof be shown.

Copies of entries in and extracts from register to be evidence

16. The printer of every newspaper shall print upon each of such papers printed by him his name and usual place of abode or business, and shall also, within twenty-four hours after the publication of such paper, send to the Colonial Secretary one copy (at least) of every such paper, signed by such printer, and on which shall be written or printed the name and place of abode of the person or persons by whom he shall have been employed to print the same; and every person neglecting or omitting to comply with any of the provisions aforesaid shall, on conviction thereof before a court of summary jurisdiction, be liable to a penalty for every such offence not exceeding Ten pounds.

Names and addresses of printers and their employers to be printed on newspaper

17. The expression 'A Court of Summary Jurisdiction,' as used in this Act, means any Resident or Police Magistrate sitting together with one or more other Justices of the Peace, or any two or more Justices of the Peace in Petty Sessions; and all fines and penalties under this Act may be recovered before a court of summary jurisdiction according to the provisions of the Acts in force for the time being with respect to summary convictions and orders, but subject to the

Definitions and enforcement of orders

*The Newspaper Libel and Registration Act, 1884*

provisions in this Act aforesaid ; and all summary orders under this Act may be enforced according to the provisions of the said Acts.

Provisions as to registration of newspaper proprietors not to apply to newspaper belonging to a joint stock company

18. The provisions as to the registration of newspaper proprietors contained in this Act shall not apply to the case of any newspaper which belongs to a joint stock company duly incorporated under and subject to the provisions of 'The Joint Stock Companies Ordinance, 1858,' or of any other Act in that behalf amending, altering, or repealing the same.

Repeat of 7th Wm. 4, No. 2

19. The Act passed by the Legislative Council of this Colony in the Seventh year of the reign of His late Majesty King William the Fourth, to provide for the regulation of the printing and publication of newspapers, and for other matters relating to newspapers, and being Ordinance No. 2 of the Seventh year of the reign of His said late Majesty, is hereby repealed; but this repeal shall not affect the validity or invalidity of anything already done or suffered, or any right or title already accrued or acquired, or any remedy or proceeding in respect thereof, and all such remedies and proceedings may be had and continued as if this Act had not passed.

Short title

20. This Act may for all purposes be cited as 'The Newspaper Libel and Registration Act, 1884.'

Commencement of Act

21. This Act shall come into operation on the 1st of January, 1885.

F. NAPIER BROOME,  
GOVERNOR.

SCHEDULES

SCHEDULE A

*Return made pursuant to the Newspaper Libel and Registration Act, 1884*

Title of the Newspaper	Name of the Proprietors	Occupation of the Proprietors	Places of business (if any) of the Proprietors	Places of Residence of the Proprietors

---

*The Newspaper Libel and Registration Act, 1884*

---

## SCHEDULE B

*Return made pursuant to the Newspaper Libel and Registration Act, 1884*

Title of Newspaper	Names of persons who cease to be Proprietors	Names of persons who become Proprietors	Occupation of new Proprietors	Places of business (if any) of new Proprietors	Places of Residence of new Proprietors

---