

THE LAW OF CRIMINAL LIBEL

THE members of the Fourth Estate owe a debt of gratitude to Mr. John King, barrister, of Berlin, Ont., for pointing out to them the many snares which environ them in connection with the law of criminal libel. This he did in a paper read before the Canadian Press Association at the recent annual meeting in Ottawa. The disclosures made such a painful impression upon the meeting that instant action was taken to effect a radical change. An influential deputation waited upon the Minister of Justice, the result of which has been the submission of certain propositions for amendments to the law for his consideration, which are deemed fair and reasonable in the interest of the press of the country. Briefly stated the more important amendments are as follows:

Under privileged matters it is sought to include the publication of a report of the proceedings of any Royal Commission, or of the proceedings, preliminary or final, publicly heard before any court exercising judicial authority, or of any judge's charge or judgment and any fair comment upon any such proceedings, charge or judgment.

It is provided that no one commits an offence by publishing in a newspaper a fair and accurate report of the proceedings of a public meeting, or, except where neither the public nor any newspaper reporter is admitted, of any meeting of a municipal council, school board or other local representative body formed or constituted under the authority of any statute, or of any committee appointed by any such body, or of any meeting of creditors, or of stockholders or shareholders of or in any company or corporation, or of any meeting of any commissioners authorised to act by any statute, order of Her Majesty, or of any of the departments of Governments, Federal or Provincial, or by other lawful authority, or of any meeting of any committee of the Senate or House of Commons, or of any Legislative Council, Legislative Assembly or House of Assembly, unless it shall be proved that the publication of the matter complained of in such report was made maliciously. No one commits an offence by publishing at the request of any office or department of Government, Federal or Provincial, or of any public or peace officer, any notice or report issued by any such office, department or officer, for the information of the public, unless it shall be found that the publication of the matter complained of in such notice or report was made maliciously. Provided, (1) that nothing in this section shall authorize the publication of any blasphemous or indecent matter; (2) that the protection intended to be afforded by this section shall not be available as a defence in any proceedings if it shall be proved that the defendant has been requested to insert in the newspaper in

which the report or other publication complained of appeared, a reasonable letter or statement by way of contradiction or explanation of such report or other publication, and has refused or neglected to insert the same; (3) that nothing in this section contained shall be deemed or construed to limit or abridge any privilege now by law existing, or to protect the publication of any matter not of public concern and the publication of which is not for the public benefit. For the purposes of this section "public meeting" shall mean "any meeting bona fide and lawfully held for a lawful purpose, and for the furtherance and discussion of any matter of public concern, whether the admission thereto be general or restricted."

It is provided that a fair comment is a comment which is either true, or which, if false, expresses the real opinion of its author as to the existence of matter of fact or otherwise, such opinion having been formed with a reasonable degree of care and on reasonable grounds.

No proprietor of any periodical shall be criminally responsible for defamatory matter inserted and published therein, if it shall appear that the particular defamatory matter was inserted in such periodical without such proprietor's cognizance, and without negligence on his part.

Any proprietor, publisher, editor, or other person charged with the publication in any newspaper of any defamatory libel shall be dealt with, indicted, tried and punished in the Province in which he resides or in which such newspaper is printed.

No criminal prosecution shall be commenced against any proprietor, publisher, editor or any person responsible for the publication of a newspaper, for any defamatory libel published therein without the order of a judge of the Superior Court of criminal jurisdiction in chambers being first had and obtained. Such application shall be made on reasonable notice to the person accused, who shall have an opportunity of being heard against such application. The judge may grant or refuse the order upon such terms as to costs as he deems proper. Provided that, if on the granting of the order it shall appear to the satisfaction of the judge that the prosecutor is not possessed of property sufficient to answer the costs of the prosecution in case a verdict is given or judgment rendered in favor of the accused person, the judge may also order that the prosecutor shall give security for the costs to be incurred in the prosecution in the same manner and in accordance with the practice in civil actions where a plaintiff resides out of the Province in which the accused person resides. Such order shall be a stay of the proceedings in the prosecution until the proper security is given as aforesaid.

It is provided that every person charged with defamatory libel before any court of criminal juris-