

No. II.

BLASPHEMOUS AND
SEDITIONOUS LIBELS.

An Act for preventing the Mischiefs arising from the printing and publishing Newspapers and Papers of a like nature by persons not known and for regulating the printing and publication of such Papers in other respects and also for restraining the Abuses arising from the publication of Blasphemous and Seditious Libels. [25th April, 1827.]

Preamble.

From 1st May 1827
no person shall print
or publish any news-
paper until after the
delivery of an affi-
davit or affirmation
as hereinafter
mentioned to the
Colonial Secretary.

WHEREAS it is expedient that regulations should be provided touching the publication of Newspapers and other papers in this Colony Be it enacted by His Excellency the Governor of New South Wales and its Dependencies with the advice of the Legislative Council that from and after the first day of May next no person shall print or publish within the Colony of New South Wales or any of the Dependencies thereof any newspaper or other such paper as aforesaid until an affidavit or affidavits affirmation or affirmations made and signed as hereinafter mentioned and containing the several matters and things hereinafter for that purpose specified and mentioned shall have been delivered to the Colonial Secretary or Acting Colonial Secretary at his office.

Blasphemous and Seditious Libels.

2. And be it further enacted That such affidavit or affidavits affirmation or affirmations shall specify and set forth the real and true names additions descriptions and places of abode of all and every person or persons who is and are intended to be the editor or editors printer or printers publisher or publishers of the newspaper or other paper mentioned in such affidavit or affidavits affirmation or affirmations and of all the proprietors of the same and a true description of the house or holding wherein any such paper is intended to be printed and likewise the title of such paper.

Nature of affidavit or affirmation.

3. And be it further enacted That an affidavit or affidavits or affirmation or affirmations of the like import shall be made signed and delivered in like manner as often as any of the editors printers publishers or proprietors named in such affidavits or affirmations shall be changed or shall change their respective places of abode or their printing house place or office and also as often as the title of the paper shall be changed and as often as the Colonial Secretary for the time-being shall see reasonable cause for requiring such affidavit or affirmation to be made signed and sworn or affirmed and shall give notice in writing that he doth require the same such notice to be left at such place as is mentioned in the affidavit or affirmation last delivered as the place at which the newspaper or other paper to which such notice shall relate is printed.

To be renewed as occasion may require.

4. And be it further enacted That every such affidavit or affirmation shall be in writing and signed by the person or persons making the same and shall be taken or made before the Colonial Secretary for the time-being which officer is hereby authorised to take such affidavit upon the oath or oaths of the person or persons making the same and such affirmations in the case of persons commonly call Quakers.

To be made or taken in writing before the Colonial Secretary who may take such affidavit upon oath.

5. And be it further enacted that the affidavit or affirmation hereby required shall be sworn or affirmed and signed by all and every the editor or editors printer or printers publisher or publishers and proprietor or proprietors of the newspapers or other paper to which the same shall relate.

To be sworn or affirmed and signed by every editor printer publisher and proprietor of newspapers.

6. And be it further enacted That if any person shall knowingly and wilfully either as a proprietor thereof or otherwise sell vend or deliver out any newspapers or other such paper as aforesaid such affidavit or affirmation or affidavits or affirmations containing such matters and things as are required by this Act to be therein contained not having been duly signed sworn or affirmed and delivered and as often as by this Act is required such person shall forfeit and lose for every such act done the sum of One Hundred Pounds.

Under penalty of £100.

7. And be it further enacted That if any person or persons making such affidavit or affirmation as in and by this Act is required to be made shall knowingly and wilfully insert or set forth therein the name or names addition or additions place or places of abode of any person as editor printer publisher or proprietor of any newspaper or other such paper as aforesaid to which such affidavit or affirmation relates who is not an editor printer publisher or proprietor thereof or shall knowingly and wilfully omit to mention in such affidavit or affirmation the name or names addition or additions and place or places of abode of any of the editors printers publishers or proprietors thereof contrary to the true intent and meaning of this Act or shall knowingly and wilfully in any other manner set forth in such affidavit or affirmation any matter or thing by this Act required to be set forth otherwise than according to the truth or shall knowingly and wilfully omit to set forth therein according to the truth any matter or thing required by this Act to be therein set forth every person so offending shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

To falsify an affidavit or affirmation punishable as corrupt perjury.

Blasphemous and Seditious Libels.

All such affidavits and affirmations to be filed and kept in the office of the Colonial Secretary and in all proceedings civil and criminal shall be received as conclusive evidence of the truth of all such matters as are therein set forth.

8. And be it further enacted That all such affidavits and affirmations as aforesaid shall be filed and kept in the office of the Colonial Secretary and the same or copies thereof certified to be true copies as hereinafter is mentioned shall respectively in all proceedings civil and criminal touching any newspaper or other such paper as aforesaid which shall be mentioned in any such affidavits or affirmations or touching any publication matter or thing contained in any such newspaper or other paper be received and admitted as conclusive evidence of the truth of all such matters set forth in such affidavits or affirmations as are hereby required to be therein set forth against every person who shall have signed and sworn or affirmed such affidavits or affirmations Provided always that if any such person or persons respectively against whom any such affidavit or affirmation or any copy thereof shall be offered in evidence shall prove that he or they hath or have signed sworn or affirmed and delivered to the Colonial Secretary for the time-being previous to the day of the date of publication of the newspaper or other such paper as aforesaid to which the proceedings civil or criminal shall relate an affidavit or affirmation that he or they hath or have ceased to be the editor or editors printer or printers publisher or publishers or proprietor or proprietors of such newspaper or other such paper as aforesaid such person or persons shall not be deemed by reason of any former affidavit or affirmations so delivered as aforesaid to have been the editor or editors printer or printers publisher or publishers proprietor or proprietors of such paper after the day on which such last mentioned affidavit or affirmation shall have been delivered to the Colonial Secretary.

The true and real name addition and abode of the editor printer publisher and proprietor of every newspaper to be printed in some part thereof under penalty of £100.

9. And be it further enacted That in some part of every newspaper or such other paper as aforesaid there shall be printed the true and real name and names addition and additions and place and places of abode of the editor and editors printer and printers and publisher and publishers proprietor and proprietors of the same and also a true description of the place where the same is printed And in case any person or persons shall knowingly and wilfully print or publish or cause to be printed or published any such newspaper or other paper as aforesaid not containing the particulars aforesaid and every of them every such person shall forfeit and lose the sum of One Hundred Pounds and that proof made in manner herein mentioned in any proceeding to recover the same that the party proceeded against is an editor printer or publisher of a newspaper or other such paper so printed or published as aforesaid shall be deemed and taken to be proof that such party is a person wilfully and knowingly printing or publishing or causing the same to be printed or published unless he shall satisfactorily prove the contrary thereof.

Evidence of the purchase of any newspaper at the house shop or office of the defendant upon trial dispensed with.

10. And be it further enacted That it shall not be necessary after any such affidavit or affirmation or a certified copy thereof shall have been produced in evidence as aforesaid against the persons who signed and made the same or any of them and after a newspaper or other such paper as aforesaid shall be produced in evidence intituled in the same manner as the newspaper or other paper mentioned in such affidavit or affirmation or copy is intituled and wherein the name or names of the editor printer and publisher or editors printers and publishers and the place of printing shall be the same as the name or names of the editor printer and publisher or editors printers and publishers and the place of printing mentioned in such affidavit or affirmation for the plaintiff informant or prosecutor or person seeking to recover any of the penalties given by this Act to prove that the newspaper or paper to which such trial relates was purchased at any house shop or office belonging to or occupied by the defendant or defendants or any of them or by his or their servants or workmen or where he or they by themselves or their servants or workmen usually carry

Blasphemous and Seditious Libels.

carry on the business of printing or publishing such paper or where the same is usually sold.

11. And be it further enacted That service at the house or place mentioned in such affidavit or affirmation as aforesaid as the house or place at which such newspaper or other such paper as aforesaid to which any proceeding civil or criminal shall relate is printed or published or intended so to be of any legal notice summons subpoena rule order or process of what nature soever or to enforce an appearance in any suit prosecution or proceeding civil or criminal against any editor printer publisher or proprietor of any such newspaper or other paper shall be deemed and taken to be good and sufficient service thereof respectively against the person or persons named in such affidavit or affirmation as the editor or editors printer or printers publisher or publishers or proprietor or proprietors of the newspaper or other paper mentioned in such affidavit or affirmation Provided always that if any such person or persons respectively as aforesaid shall have signed sworn or affirmed and delivered to the said Colonial Secretary for the time-being previous to the day of the date or publication of the newspaper or other such paper as aforesaid to which the proceeding in Court shall relate an affidavit or affirmation that he or they hath or have ceased to be the editor or editors printer or printers publisher or publishers or proprietor or proprietors of such newspaper or other such paper as aforesaid and shall make proof thereof such person or persons shall not be deemed by reason of any former affidavit or affirmation so delivered as aforesaid to have been the editor or editors printer or printers publisher or publishers proprietor or proprietors of such paper after the day on which such last mentioned affidavit or affirmation shall have been delivered to the said Colonial Secretary for the time-being.

Service of legal process against editors printers publishers or proprietors of newspapers regulated.

12. And be it further enacted That the Colonial Secretary for the time-being to whom any such affidavit or affirmation shall have been delivered as aforesaid or in whose possession the same shall be shall and he is hereby required upon application made to him by any person or persons requiring a copy certified according to this Act of any such affidavit or affirmation as aforesaid in order that the same may be produced in any civil or criminal proceedings to deliver to the person or persons so applying for the same such certified copy.

The Colonial Secretary to furnish certified copy of affidavit or affirmation upon application.

13. And be it further enacted That in all cases a copy of any such affidavit or affirmation certified to be a true copy under the hand of the Colonial Secretary for the time-being shall upon proof made that such certificate has been signed by the Colonial Secretary for the time-being (and whom it shall not be necessary to prove to be such Colonial Secretary) be received in evidence as sufficient proof of such affidavit or affirmation and that the same was duly sworn or affirmed and of the contents thereof and such copies so produced and certified shall also be received as evidence that the affidavits or affirmations of which they purport to be copies have been sworn or affirmed according to this Act and shall have the same effect for the purposes of evidence to all intents and purposes whatsoever as if the original affidavits or affirmations of which the copies so produced and certified shall purport to be copies had been produced in evidence and been proved to have been duly so certified sworn and affirmed by the person or persons appearing by such copy to have sworn or affirmed the same as aforesaid.

Such copy to be valid as evidence.

14. And be it further enacted That from and after the said first day of May next the editor printer or publisher of every newspaper or other such paper as aforesaid shall upon every day upon which the same shall be published deliver to the said Colonial Secretary for the time-being at his office or to some person to be appointed by him to receive the same and whom he is hereby required to appoint for that purpose

From the 1st May 1827 the editor printer or publisher of every newspaper shall upon each day of publication deliver one of the newspapers so published to the Colonial

Blasphemous and Seditious Libels.

Secretary or to some person to be by him appointed to receive the same.

The Colonial Secretary to pay the ordinary price of such papers.

Penalty for neglect to deliver every such newspaper £100.

Such newspapers may be required from the Colonial Secretary to produce in evidence in any proceeding civil or criminal within two years from publication.

Defendants in any action for libellous or slanderous matter in any newspaper may not plead or demur to any Bill filed in the Supreme Court for the discovery of the names of any persons concerned in the property of such newspapers.

From the 1st May 1827 recognizances with sureties to be entered into by the editors printers or publishers of newspapers.

Penalty for omission £20.

Sureties may withdraw upon giving twenty days notice in writing.

purpose one of the papers so published upon each such day signed by the printer or publisher thereof in his hand writing with his name and place of abode which shall be carefully kept by the said Colonial Secretary for the time-being or such other person so to be appointed as aforesaid and such printer or publisher shall be entitled to demand and receive from the said Colonial Secretary in every three months the amount of the ordinary price of the newspapers or other papers so delivered and in every case in which the editor printer and publisher of such newspaper or other papers as aforesaid shall neglect to deliver one such newspaper or other paper in the manner hereinbefore directed such editor printer and publisher shall for every such neglect respectively forfeit and lose the sum of One Hundred Pounds and in case any person or persons shall make application to the said Colonial Secretary for the time-being or other person so to be appointed as aforesaid in order that such newspaper or other paper so signed by the printer or publisher may be produced in evidence in any proceeding civil or criminal the said Colonial Secretary shall at the expense of the party applying at any time within two years from the publication thereof either cause the same to be produced in the Court in which the same is required to be produced and at the time when the same is required to be produced or shall deliver the same to the party applying for it taking according to his discretion a reasonable security at the expense of the applicant for the returning the same to the said Colonial Secretary.

15. And be it further enacted That if any person or persons shall file any bill in the Supreme Court for the discovery of the names of any persons concerned in the property of or in any newspaper or other such paper as aforesaid as printers editors or publishers or otherwise of any matters relative to the printing or publishing thereof in order to enable him or them the more effectually to bring or carry on any suit or action for damages by him or them alleged to have been sustained by reason of any slanderous or libellous matter contained in any such newspaper or other paper as aforesaid respecting such person or persons it shall not be lawful for the defendant or defendants to plead or demur to such bill but he or they shall be compellable to make the discovery thereby required Provided nevertheless that such discovery shall not be made use of as evidence or otherwise in any other proceeding than that in which the discovery is made.

16. And be it further enacted That from and after the said first day of May next no person shall print or publish for sale any newspaper or other such paper as aforesaid until he shall have entered into a recognizance before one of the Judges of the Supreme Court together with two or three sufficient sureties to the satisfaction of the Judge taking such recognizance every such editor printer or publisher of any such newspaper or other paper as aforesaid in the sum of Three Hundred Pounds and his sureties in a like sum in the whole conditioned that such editor printer or publisher shall pay to His Majesty His Heirs and Successors every such fine or penalty as may at any time be imposed upon or adjudged against him by reason of any conviction for printing or publishing any blasphemous or seditious Libel at any time after the entering into such recognizance and that every person who shall print or publish any newspaper or other such paper as aforesaid without having first entered into such recognizance with such sureties shall for every such offence forfeit the sum of Twenty Pounds.

17. Provided always and be it further enacted That if any surety or sureties shall be desirous of withdrawing from such recognizance it shall and may be lawful to and for him or them so to do upon giving twenty days previous notice in writing to the Colonial Secretary for

Blasphemous and Seditious Libels.

for the time-being at his office and also to the editor printer or publisher for whom he or they is or are surety or sureties and that in any such case every such surety shall not be liable upon the said recognizance other than and except for any penalty or penalties before that time imposed or incurred and for which he or they would otherwise have been liable under the said recognizance and that then and in every such case the person for whom such surety shall have been bound shall not print or publish any newspaper or other such paper as aforesaid until he shall have entered into a new recognizance with sufficient sureties in manner and to the amount aforesaid and in case he shall print or publish any newspaper or other such paper as aforesaid without having entered into such recognizance as aforesaid he shall forfeit for every such offence the sum of Twenty Pounds.

No other newspaper to be printed or published until a new recognizance with sureties be entered into.

Penalty £20.

18. And be it further enacted That in case any surety or sureties in any such recognizance shall be declared insolvent under the provisions of a certain Act of Parliament made and passed in the fourth year of the reign of His present Majesty intituled "*An Act to provide until the first day of July one thousand eight hundred and twenty-seven and until the end of the next Session of Parliament for the better Administration of Justice in New South Wales and Van Diemen's Land and for the more effectual Government thereof and for other purposes relating thereto*" or under any other law containing such or the like provisions for declaring insolvencies or shall be discharged under and by virtue of any law for the relief of insolvent debtors then and in every such case the person for whom such surety or sureties shall have been bound shall not print or publish any newspaper or other such paper as aforesaid until he shall have entered into a new recognizance with sufficient sureties in the manner and to the amount aforesaid after he shall be required so to do by the Colonial Secretary by a notice in writing to that effect such notice to be left at such place as is mentioned in the affidavit or affirmation last made as the place at which the said newspaper or other such paper as aforesaid to which such notice shall relate is printed and in case he shall print or publish any newspaper or other such paper as aforesaid without having entered into such new recognizance as aforesaid having been required in manner aforesaid so to do he shall forfeit for every such offence the sum of Twenty Pounds.

In case of the insolvency of sureties a new recognizance with sufficient sureties to be entered into.

Penalty for printing or publishing without entering into a new recognizance £20.

19. And be it further enacted That a certificate of every recognizance which shall have been entered into by virtue of this Act shall be sent by the proper officer for recording the same to the Colonial Secretary for the time-being as soon as conveniently may be after such recognizance shall be recorded.

Certificates of recognizances to be sent to the Colonial Secretary.

20. And be it further enacted That if any person shall after the passing of this Act be legally convicted of having after the passing of this Act composed printed or published any blasphemous or seditious Libel tending to bring into hatred or contempt the Government of the said Colony as by law established or to excite His Majesty's subjects to attempt the alteration of any matter in Church or State as by law established otherwise than by lawful means and shall after being so convicted offend a second time and be thereof legally convicted before the Supreme Court such person may on such second conviction be adjudged at the discretion of the Court either to suffer such punishment as may now by law be inflicted in cases of high misdemeanors or to be banished from the said Colony and its Dependencies for such term of years as the said Court shall order.

Persons convicted of blasphemous or seditious Libels how punishable.

21. And be it further enacted That in case any person so sentenced and ordered to be banished as aforesaid shall not depart from the said Colony and its Dependencies within thirty days after the pronouncing of such sentence and order as aforesaid for the purpose of

Persons sentenced to banishment not departing from the Colony within thirty days may be sent away by the Governor.

of going into such banishment as aforesaid it shall and may be lawful to and for the Governor of this Colony to cause such person to be conveyed out of the said Colony and its Dependencies.

Fines penalties and
forfeitures how
recoverable.

22. And be it further enacted That all fines penalties and forfeitures imposed by this Act which shall exceed the sum of Twenty Pounds shall be recovered by action of debt bill plaint or information in the Supreme Court and that all fines penalties and forfeitures imposed by this Act which shall not exceed the sum of Twenty Pounds shall be recovered before any two or more Justices of the Peace in a summary manner and shall if not paid within six days after conviction be levied by distress and sale of the offender's goods and chattles and for want of sufficient distress by imprisonment of such offender for any time not exceeding six calendar months or until such fine be paid And the money arising by all such fines penalties and forfeitures respectively when recovered shall be as to one moiety thereof to and for the use of our Sovereign Lord the King His Heirs and Successors and be carried to and form part of the Colonial fund of the said Colony and be applied to the public uses and in support of the Government thereof and as to the other moiety of such fines penalties and forfeitures to and for the use of such person as shall inform or sue for the same.

Their appropriation.