

## Act No. 23, 1898.

NEWSPAPERS.

An Act to consolidate the Laws relating to the printing and publishing of newspapers and papers of a like nature. [27th July, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

*Preliminary.*

Short title and division.

1. (1) This Act may be cited as the "Newspapers Act, 1898," and is divided into parts, as follows:—

PART I.—*Preliminary*—ss. 1-2.

PART II.—*Affidavits or affirmations*—ss. 3-9.

PART III.—*Recognizances*—ss. 10-13.

PART IV.—*Miscellaneous*—ss. 14-20.

PART V.—*Procedure*—ss. 21-23.

Repeals.  
First Schedule.

(2) The Acts mentioned in the First Schedule hereto are to the extent therein expressed hereby repealed.

Interpretation.

2. In this Act, unless the context otherwise indicates, the word "newspapers" includes newspapers and other papers of a like nature.

## PART II.

*Affidavits or affirmations.*

No person shall print or publish any newspaper until after the delivery of an affidavit or affirmation at the office of the prothonotary.

8 Geo. IV No. 2, s. 1.  
13 Vic. No. 47, s. 1.  
16 Vic. No. 37, s. 1.

Nature of affidavit or affirmation.

8 Geo. IV No. 2, s. 2.  
5 Vic. No. 19, s. 6.

3. No person shall print or publish, within New South Wales, any newspaper until an affidavit or affirmation made and signed as hereinafter mentioned, and containing the several matters and things hereinafter for that purpose specified, has been delivered at the office of the prothonotary of the Supreme Court to the said prothonotary, or to one of the clerks in the said Court authorised in that behalf by the said prothonotary.

4. Such affidavit or affirmation shall specify and set forth—

- (a) the names, additions, descriptions, and places of abode of every person who is intended to be the printer or publisher of the newspaper mentioned in such affidavit or affirmation and of all the proprietors of the same;
- (b) a true description of the house or holding wherein any such newspaper is intended to be printed; and
- (c) the title of such newspaper.

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5. An affidavit or affirmation of the like import shall be made, signed, and delivered in like manner as often as any of the printers, publishers, or proprietors named in such affidavit or affirmation are changed or change their respective places of abode or their printing-house, place, or office, and also as often as the title of the newspaper is changed, and as often as the Colonial Secretary sees reasonable cause for requiring such affidavit or affirmation to be made, signed, and sworn or affirmed, and gives notice in writing that he requires the same, and such notice shall be left at such place as is mentioned in the affidavit or affirmation last delivered as the place at which the newspaper to which such notice relates is printed.

8 Geo. IV No. 2, s. 3.  
5 Vic. No. 19, s. 6.

6. (1) Every such affidavit or affirmation shall—

- (a) be in writing and signed by the person making the same;
- (b) be sworn or affirmed by every printer, publisher, and proprietor of the newspaper to which it relates;
- (c) if it relates to a newspaper printed and published in the city or district of Sydney, be taken or made before the prothonotary of the Supreme Court or one of the clerks in the said Court authorised in that behalf by the said prothonotary;
- (d) if it relates to a newspaper printed and published in any part of New South Wales other than the city or district of Sydney, be taken or made before the police magistrate of the district in which such newspaper is to be printed and published or any other person appointed by the Governor for that purpose.

Form of affidavit or affirmation; by and before whom affidavit or affirmations are to be made.  
8 Geo. IV No. 2, ss. 4 and 5.  
2 Vic. No. 20, ss. 1 and 2.  
5 Vic. No. 19, s. 6.  
13 Vic. No. 47, s. 1.  
16 Vic. No. 37, s. 1

(2) Every person before whom such affidavits or affirmations are hereby directed to be taken or made are hereby authorised to take any such affidavit upon the oath of the person making the same, and to take such affirmations in the case of persons commonly called Quakers upon the affirmation of the person making the same.

(3) Every police magistrate or other person appointed as aforesaid before whom any such affidavit or affirmation is taken shall forthwith transmit the same to the prothonotary of the Supreme Court or to one of the clerks in the said Court authorised in that behalf by the said prothonotary.

7. Whosoever knowingly and wilfully, either as a proprietor thereof or otherwise, sells, vends, or delivers out any newspaper, such affidavit or affirmation 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, as often as by this Act is required, shall, for every such offence, forfeit the sum of one hundred pounds.

Penalty for selling, &c., newspapers where no affidavit or affirmation made and delivered.  
8 Geo. IV No. 2, s. 6.

8. Every person making any such affidavit or affirmation who—

- (a) knowingly and wilfully inserts or sets forth therein the name, addition, or place of abode of any person as printer, publisher, or proprietor of any newspaper to which such affidavit or affirmation relates who is not an editor, printer, or publisher, or proprietor thereof; or
- (b)

To falsify an affidavit or affirmation punishable as corrupt perjury.  
*Ibid.* s. 7.  
5 Vic. No. 19, s. 6.

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- (b) knowingly and wilfully omits to mention in such affidavit or affirmation the name, addition, or place of abode of any of the printers, publishers, or proprietors thereof contrary to the true intent and meaning of this Act; or
- (c) knowingly and wilfully in any other manner sets 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
- (d) knowingly and wilfully omits to set forth therein according to the truth any matter or thing required by this Act to be therein set forth

shall be liable to the penalties to which persons are liable for wilful and corrupt perjury.

Affidavits and affirmations to be filed in the office of the prothonotary and to be conclusive evidence of the truth of matters therein set forth.

8 Geo. IV No. 2, s. 8.

5 Vic. No. 19, s. 6.

13 Vic. No. 47, s. 1.

16 Vic. No. 37, s. 1.

9. Every such affidavit and affirmation as aforesaid shall be filed and kept in the office of the prothonotary, and every such affidavit and affirmation or any copy thereof certified to be a true copy as is hereinafter mentioned shall respectively in all proceedings, civil and criminal, touching any newspaper which is mentioned in any such affidavit or affirmation or touching any publication, matter, or thing contained in any such newspaper, be received and admitted as conclusive evidence of the truth of all such matters set forth in such affidavit or affirmation as are hereby required to be therein set forth against every person who shall have signed and sworn or affirmed such affidavit or affirmation:

Provided always that if any such person against whom any such affidavit or affirmation or any copy thereof is offered in evidence proves that he has signed, sworn, or affirmed, and delivered to the prothonotary or clerk authorised as aforesaid previous to the day of the publication of the newspaper to which the proceedings, civil or criminal, relate, an affidavit or affirmation that he has ceased to be the printer, publisher, or proprietor of such newspaper, such person shall not be deemed by reason of any former affidavit or affirmation so delivered as aforesaid to have been the printer, publisher, or proprietor of such newspaper after the day on which such last-mentioned affidavit or affirmation shall have been delivered to the said prothonotary or clerk.

## PART III.

*Recognizances.*

Recognizances to be entered into by the editors, printers, or publishers of newspapers.

8 Geo. IV No. 2, s. 16.

2 Vic. No. 20, ss. 1 and 2.

13 Vic. No. 47, s. 1.

16 Vic. No. 37, s. 1.

10. (1) No person shall print or publish for sale any newspaper until he has entered into a recognizance before the persons hereinafter mentioned, together with two or three sufficient sureties, to the satisfaction of the person taking such recognizance (every editor, printer, or publisher of any such newspaper in the sum of three hundred pounds and his sureties

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in a like sum in the whole), conditioned that such editor, printer, or publisher shall pay to Her Majesty 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 entering into such recognizance.

(2) Every such recognizance entered into in respect of a newspaper to be printed and published in the city or district of Sydney shall be taken before one of the Judges of the Supreme Court.

(3) Every such recognizance entered into in respect of a newspaper to be printed and published in any part of New South Wales other than the city or district of Sydney shall be entered into before the police magistrate of the district in which such newspaper is to be printed and published, and shall be forthwith transmitted by such police magistrate to the prothonotary of the Supreme Court or to one of the clerks in the said Court authorised in that behalf by the said prothonotary that the same may be duly registered and recorded in the said Court.

(4) Whosoever prints or publishes any newspaper without having first entered into such recognizance with such sureties shall for every such offence forfeit the sum of twenty pounds.

11. (1) If any such surety desires to withdraw from such recognizance he may do so upon giving twenty days notice in writing to the prothonotary or clerk authorised as aforesaid at his office, and also to the editor, printer, or publisher for whom he is surety, and in any such case such surety shall not be liable upon the said recognizance except for any penalty before that time imposed or incurred and for which he would otherwise have been liable under the said recognizance.

Sureties may withdraw upon giving twenty days notice in writing.  
8 Geo. IV No. 2, s. 17.  
13 Vic. No. 47, s. 1.  
16 Vic. No. 37, s. 1.

(2) In every such case the person for whom such surety was bound shall not print or publish any newspaper until he has entered into a new recognizance with sufficient sureties in the manner and to the amount aforesaid, and if he prints or publishes any newspaper without having first entered into such recognizance as aforesaid he shall, for every such offence, forfeit the sum of twenty pounds.

New recognizance to be entered into.

12. If any surety in any such recognizance becomes bankrupt or is discharged under and by virtue of any law relating to insolvency or bankruptcy, then and in every such case the person for whom such surety was bound shall not print or publish any newspaper until he has entered into a new recognizance with sufficient sureties in the manner and to the amount aforesaid after he is required so to do by the Colonial Secretary by a notice in writing to that effect, which notice shall be left at such place as is mentioned in the affidavit or affirmation last made as the place at which the newspaper to which such notice relates is printed, and if he prints or publishes any newspaper without having entered

In case of the bankruptcy of surety a new recognizance to be entered into  
8 Geo. IV No. 2, s. 18.

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entered into such new recognizance as aforesaid, having been required in manner aforesaid so to do, he shall for every such offence forfeit the sum of twenty pounds.

Certificates of recognizance to be sent to the prothonotary or clerk.  
8 Geo. IV No. 2, s. 19.  
13 Vic. No. 47, s. 1.  
16 Vic. No. 37, s. 1.

§ 13. A certificate of every recognizance which is entered into by virtue of this Act shall be sent by the proper officer for recording the same to the prothonotary or clerk authorised as aforesaid as soon as conveniently may be after such recognizance is recorded.

## PART IV.

*Miscellaneous.*

The true and real name, &c., of the printer and publisher of every newspaper to be printed in some part thereof.

8 Geo. IV No. 2, s. 9.  
5 Vic. No. 19, s. 6.

14. (1) In some part of every newspaper there shall be printed the name, addition, and place of abode of the printer and publisher of the same, and also a true description of the place where the same is printed.

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

8 Geo. IV No. 2, s. 10.  
5 Vic. No. 19, s. 6.

(2) Whosoever knowingly and wilfully prints or publishes, or causes to be printed or published, any newspaper not containing the particulars aforesaid and every of them, shall forfeit and pay the sum of one hundred pounds, and proof made in manner herein mentioned in any proceeding to recover the same that the party proceeded against is a printer or publisher of a newspaper so printed or published as aforesaid shall be taken to be proof that such party is a person wilfully and knowingly printing or publishing the same, or causing the same to be printed or published, unless he proves the contrary thereof.

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

8 Geo. IV No. 2, s. 11.  
5 Vic. No. 19, s. 16.

15. It shall not be necessary after any such affidavit or affirmation or a certified copy thereof has been produced in evidence as aforesaid against the persons who signed and made the same or any of them, and after a newspaper has been produced in evidence intitled in the same manner as the newspaper mentioned in such affidavit or affirmation or copy thereof is intitled, and wherein the names of the printer and publisher and the place of printing are the same as the names of the printer and publisher and the place of printing mentioned in such affidavit or affirmation, or copy thereof, for the plaintiff, informant, or prosecutor, or person seeking to recover any of the penalties given by this Act, to prove that the newspaper to which such trial relates was purchased at any house, shop, or office belonging to or occupied by the defendants or any of them, or by their servants or workmen, or where they by themselves or their servants or workmen usually carry on the business of printing or publishing such paper, or where the same is usually sold.

16. Service at the house or place mentioned in such affidavit or affirmation as aforesaid as the house or place at which such newspaper to which any proceeding civil or criminal relates is printed or published, or intended so to be, of a legal notice, summons, subpoena, rule, order,

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or process of any nature whatsoever, or to enforce an appearance in any suit, prosecution, or proceeding, civil or criminal, against any printer, publisher, or proprietor of any such newspaper, shall be good and sufficient service thereof respectively against the persons named in such affidavit or affirmation as the printer, publisher, or proprietor of the newspaper mentioned in such affidavit or affirmation :

Provided always that if any such person as aforesaid has signed, sworn, or affirmed, and delivered to the prothonotary or clerk authorised as aforesaid previous to the day of the publication of the newspaper to which the proceeding in Court relates, an affidavit or affirmation that he has ceased to be the printer, publisher, or proprietor of such newspaper and makes proof thereof, such person shall not be deemed by reason of any former affidavit or affirmation so delivered as aforesaid to have been the printer, publisher, or proprietor of such paper after the day on which such last-mentioned affidavit or affirmation was delivered to the said prothonotary or clerk.

**17.** The prothonotary or clerk authorised as aforesaid to whom any such affidavit or affirmation has been delivered as aforesaid, or in whose possession the same is, shall upon application made to him by any person 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, deliver to the person so applying for the same such certified copy.

The prothonotary or clerk to furnish certified copy of affidavit or affirmation upon application.  
8 Geo. IV No. 2, s. 12.  
13 Vic. No. 47, s. 1.  
16 Vic. No. 37, s. 1.

**18.** In all cases a copy of any such affidavit or affirmation certified under the hand of the prothonotary or clerk authorised as aforesaid to be a true copy shall, upon proof made that such certificate has been signed by the said prothonotary or clerk (and whom it shall not be necessary to prove to be such prothonotary or clerk) be received in evidence as sufficient proof of such affidavit or affirmation, and that the same was duly sworn or affirmed according to this Act, and of the contents thereof, and shall have the same effect for the purposes of evidence to all intents and purposes whatsoever as if the original affidavit or affirmation of which the copy so produced and certified purports to be a copy had been produced in evidence and been proved to have been duly so certified, sworn, or affirmed, by the person appearing by such copy to have sworn or affirmed the same as aforesaid.

Such copy to be valid as evidence.  
8 Geo. IV No. 2, s. 13.  
13 Vic. No. 47, s. 1.  
16 Vic. No. 37, s. 1.

**19.** If any person files any statement of claim in the Supreme Court for the discovery of the names of any persons concerned in the property of or in any newspaper as printers, editors, or publishers, or otherwise of any matters relative to the printing or publishing thereof, in order to enable him the more effectually to bring or carry on any suit or action for damages by him alleged to have been sustained by reason of any slanderous or libellous matter contained in any such newspaper respecting such person, it shall not be lawful for the defendant to plead or demur to such statement of claim, but he shall be compellable to make the discovery thereby required :

Discovery of the names of any persons concerned in the property of newspapers.  
8 Geo. IV No. 2, s. 15.

Provided

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Provided nevertheless that such discovery shall not be made use of as evidence or otherwise in any other proceeding than that in aid of which the discovery is made.

Person convicted of blasphemous or seditious libel how punishable.

8 Geo. IV No. 2, s. 20.

5 Vic. No. 19, s. 1.

**20.** If any person is legally convicted of having composed, printed, or published any blasphemous or seditious libel tending to bring into hatred or contempt the Government of New South Wales as by law established, or to excite Her Majesty's subjects to attempt the alteration of any matter in Church or State as by law established, otherwise than by lawful means, and after being so convicted offends a second time and is thereof legally convicted before the Supreme Court, such person shall on such second conviction be liable to suffer such punishment as may by law be inflicted in cases of high misdemeanours.

## PART V.

*Procedure.*

Fines, penalties, and forfeitures how recoverable.

8 Geo. IV No. 2, s. 22.

**21.** All fines, penalties, and forfeitures imposed by this Act which exceed the sum of twenty pounds shall be recovered by action of debt or information in the Supreme Court, and all fines, penalties, and forfeitures imposed by this Act which do not exceed the sum of twenty pounds shall be recovered before any justice of the peace in the manner hereinafter mentioned.

No actions for penalties to be commenced except in name of the Attorney or Solicitor General at Sydney.

5 Vic. No. 19, s. 2.

Provided that it shall not be lawful for any person whomsoever to commence, prosecute, enter, or file, or cause or procure to be commenced, prosecuted, entered, or filed in manner hereinafter provided any action, statement of claim, plaint, or information in the Supreme Court or in any Circuit Court or before any justice of the peace against any person whomsoever for the recovery of any fine, penalty, or forfeiture incurred under this Act, unless the same is commenced, prosecuted, entered, or filed in the name of Her Majesty's Attorney or Solicitor General: and if any such action, statement of claim, plaint, or information is commenced, prosecuted, entered, or filed in the name of any other person for anything done or omitted to be done under this Act the same and every proceeding thereupon had shall be null and void to all intents and purposes whatsoever.

Mode of proceeding for the recovery of penalties before justices of the peace.

*Ibid.* s. 4.

**22.** (1) Upon any information exhibited or complaint made by any person duly authorised in that behalf to any justice of the peace in respect of any offence against the provisions of this Act, the penalty for which does not exceed twenty pounds, such justice shall summon the party accused and also the witnesses on either side to be and appear before the said justice or before any other justice of the peace at a time and place to be in such summons appointed for that purpose, and whether the party accused shall appear or not the said justice or any other justice

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justice present at the time and place appointed for such appearance may proceed to examine into the fact, and upon due proof made thereof to the satisfaction of any such justice, either by confession of the party accused or by the oath of one or more credible witness or witnesses, may convict such offender, and may give judgment for the penalty and costs to be assessed by any such justice, and may issue his warrant for levying such penalty and costs on the goods and chattels of the offender, and may cause sale to be made thereof in case the same are not redeemed within the five days then next ensuing, rendering to the offender the overplus (if any) after deducting the reasonable costs and charges attending such distress and sale, and where no sufficient distress can be found to answer such penalty and costs such justice or any other justice of the district or place in which such conviction took place shall commit such offender to the common gaol or house of correction, there to remain for any time not exceeding three months nor less than one month, unless such penalty, costs, and charges are sooner paid and satisfied.

(2) If any person is aggrieved by the judgment of any such justice such person may appeal against the same to the General or General Quarter Sessions of the peace for the district or place where the offence was committed, which shall be held next after the expiration of ten days from the day on which such conviction was made, of which appeal notice in writing shall be given to the prosecutor or informer seven clear days previous to the first day of such Sessions. Appeal to Sessions.

(3) The chairman at such Sessions may examine witnesses on oath and may finally hear and determine such appeal, and in case the judgment appealed against is confirmed, such chairman may award and order the person convicted to pay in addition to the original judgment, such costs occasioned by such appeal as to them shall seem meet. Determination of appeal.

(4) No person convicted before any such justice shall be entitled or permitted to appeal in manner aforesaid, unless within three days after such conviction made he enters into a recognizance with two sufficient sureties before such justice to enter and prosecute such appeal and to pay the amount of the penalty and costs in which he has been convicted, and also such further costs as may be awarded in case such conviction is confirmed on such appeal. Persons convicted to give security on appeal.

(5) No such proceedings so to be taken as aforesaid shall be quashed or vacated for want of form, or shall be removed by certiorari or by any other writ or process whatsoever into any superior or other Court or jurisdiction, any law, statute, or usage to the contrary notwithstanding. No certiorari.

(6) Any justice of the peace before whom any person is convicted of any offence against this Act may mitigate, as he shall see fit, any pecuniary penalty imposed by this Act to any sum not less than Justices may mitigate penalties.



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than one-fourth of the penalty incurred, and all reasonable costs and charges incurred, as well in discovering as in prosecuting for such offence, shall be always allowed over and above the sum to which such penalty is mitigated.

Form of conviction.  
5 Vic. No. 19, s. 5.  
Second Schedule.

**23.** The justice before whom any person is convicted of any offence under this Act shall cause the conviction to be made out in the manner and form set forth in the Second Schedule hereto, or in any other form of words to the like effect, *mutatis mutandis*.

## SCHEDULES.

## FIRST SCHEDULE.

Section 1.

No. of Act.	Title of Act.	Extent of Repeal.
8 Geo. IV No. 2	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.	The whole Act.
2 Vic. No. 20 ..	An Act to amend an Act intituled 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.	The whole Act.
5 Vic. No. 19 ..	An Act to repeal so much of an Act intituled 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 libel as relates to the sentence of punishment on a second conviction, and further to amend the same.	The whole Act.
15 Vic. No. 47..	An Act to transfer certain duties with respect to the printing and publishing of books and newspapers from the office of the Colonial Secretary to that of the Supreme Court.	The whole Act.
16 Vic. No. 37..	An Act to enable the prothonotary of the Supreme Court or his deputy to perform certain duties with respect to the printing and publishing of books and newspapers.	The whole Act, except so far as it affects the Act 8 Geo. IV No. 5.

SECOND

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*Auctioneers' Licensing.*

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SECOND SCHEDULE.

Section 23.

County of \_\_\_\_\_ ) Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the  
to wit. ) year of our Lord one thousand eight hundred and \_\_\_\_\_  
\_\_\_\_\_ ) \_\_\_\_\_, at \_\_\_\_\_ A.B., of \_\_\_\_\_, was duly convicted  
before me, C.D., Esq., one of Her Majesty's justices of the peace for New South Wales,  
in pursuance of the "Newspapers Act, 1898," for that the said A.B. [*here state offence*]  
contrary to the form of the said Act, for which offence I do adjudge that  
the said A.B. hath forfeited the sum of \_\_\_\_\_, and (if the justice mitigate the  
penalty) which sum of \_\_\_\_\_ I do hereby mitigate to the sum of \_\_\_\_\_ over and  
above the sum of \_\_\_\_\_ which I do allow to E.F. for his reasonable costs and expenses  
in prosecuting this conviction.

Given under my hand and seal, &c.

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