

UNEDITED

# *The Libel and Slander Act*

*being*

Chapter 71 of *The Revised Statutes of Saskatchewan, 1909*  
(effective March 15, 1911).

FOR HISTORICAL REFERENCE ONLY

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER 71

### An Act respecting Actions for Libel and Slander

#### SHORT TITLE

##### Short title

- 1 This Act may be cited as “*The Libel and Slander Act*.”

1909, c.16, s.1; R.S.S. 1909, c.71, s.1.

#### INTERPRETATION

##### Interpretation

- 2 In this Act unless the context otherwise requires the expression:

##### “Newspaper”

1. “**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 regular 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 regular intervals not exceeding thirty-one days and containing only or principally advertisements:

##### “Proprietor”

2. “**Proprietor**” means and includes as well the person or corporation being 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.

1909, c.16, s.2; R.S.S. 1909, c.71, s.2.

#### LIBEL AND SLANDER

##### Averments in actions, for libel or 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 word or matter set forth with or without the alleged meaning show a cause of action the statement of claim shall be sufficient.

1909, c.16, s.3; R.S.S. 1909, c.71, s.3.

##### Defendant may prove in mitigation that he offered a written or printed apology

- 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.

1909, c.16, s.4; R.S.S. 1909, c.71, s.4.

## LIBEL

**Jury not be directed to return a verdict of guilty on the mere proof of the publication and of the sense ascribed**

5 On the trial of an action for libel the jury 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 court shall according to its discretion give its opinion and directions to the 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.

1909, c.16, s.5; R.S.S. 1909, c.71, s.5.

**Consolidation of different actions for same libel**

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.

**How damages assessed and costs apportioned in such cases**

(2) In a consolidated action under this section the jury shall assess the whole amount of the damages, if any, in one sum, but a separate 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 jury find a verdict against the defendant or defendants in more than one of the actions so consolidated they shall apportion the amount of the damages between and against such last mentioned defendants and the judge at the trial 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.

**“Article”**

(3) For the purposes of this section “article” shall include anything appearing in a newspaper as an editorial or as correspondence or otherwise than as an advertisement.

1909, c.16, s.6; R.S.S. 1909, c.71, s.6.

## NEWSPAPER LIBEL

**Defendant may plead that the libel was inserted without malice or gross negligence and that he published or offered to publish an apology**

**7** In an action for libel contained in a newspaper the defendant may plead in mitigation of damages that the libel was inserted therein without actual malice and without gross negligence and that before the commencement of the action or at the earliest opportunity afterwards he inserted in such newspaper a full apology for the libel; or if the newspaper in which the libel appeared is one ordinarily published at intervals exceeding one week that he offered to publish the apology in any newspaper to be selected by the plaintiff.

1909, c.16, s.7; R.S.S. 1909, c.71, s.7.

**Only actual damage recoverable in certain cases**

**8** In any action for libel contained in a newspaper the plaintiff shall recover only actual damages if it appears at the trial:

- (a) That the alleged libel was published in good faith;
- (b) That there was reasonable ground to believe that the publication thereof was for the public benefit;
- (c) That it did not involve a criminal charge;
- (d) That the publication took place in mistake or a misapprehension of the facts; and
- (e) That a full and fair retraction of any statement therein alleged to be erroneous was published in the said newspaper before the commencement of the action and was so published in as conspicuous a place and type as was the alleged libel.

**Section not to apply in certain cases**

(2) The provisions of this section shall not apply to the case of libel against any candidate for public office in Saskatchewan unless the retraction of the charge is made editorially in a conspicuous manner at least fifteen days before the election.

1909, c.16, s.8; R.S.S. 1909, c.71, s.8.

**Defendant may pay money into court as amends**

**9** A defendant may pay into court with his defence a sum of money by way of amends for the injury sustained by the publication of any libel to which the two next preceding sections apply and except so far as regards the additional facts hereinbefore required to be pleaded by a defendant such payment shall have the same effect as payment into court in other cases.

1909, c.16, s.9; R.S.S. 1909, c.71, s.9.

**Reports of proceedings, of public meetings, etc.**

**10** 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) of 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.

**Blasphemous or indecent matter**

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

**When defendant refuses to publish explanation**

(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 or contradiction by or on behalf of the plaintiff.

**Proviso saving matters of public concern**

(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.

**Meaning of “public meeting”**

(5) For the purposes of this section the expression “**public meeting**” means a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance of discussion of any matter of public concern whether the admission thereto be general or restricted.

1909, c.16, s.10; R.S.S. 1909, c.71, s.10.

**Report of proceedings in court privileged**

**11** A fair and accurate report without comment in a newspaper of proceedings publicly heard before a court of justice if published contemporaneously with such proceedings shall be absolutely privileged unless the defendant has refused or neglected to insert in the newspaper in which the report complained of appeared a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff.

**Publication of improper matter not authorised**

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

1909, c.16, s.11; R.S.S. 1909, c.71, s.11.

**Security for costs**

**12** When the defendant in any action for libel contained in a newspaper alleges by affidavit of himself or his agent that he has a good defence to the action upon its merits (showing the matter of such defence) or that the grounds of action are trivial or frivolous and that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment is given in favour of the defendant, such defendant shall be entitled to a summons to show cause why an order should not issue requiring the plaintiff to give security for the defendant's costs and upon the return of such summons the judge may make an order that the plaintiff shall give security for costs within such time and subject to such conditions as may be ordered and the order shall be a stay of proceedings until the security is given.

**Where libel involves a criminal charge**

(2) Where the alleged libel involves a criminal charge the defendant shall not be entitled to security for costs under this Act unless he satisfies the court or judge that the action is trivial or frivolous or that the circumstances which under section 8 entitle the defendant at the trial to have the damages restricted to actual damages appear to exist, except the circumstances that the article complained of involves a criminal charge.

**Examination of plaintiff**

(3) 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.

1909, c.1.6, s.12; R.S.S. 1909, c.71, s.12.

**Place of trial**

**13** 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 the court or a judge 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.

1909, c.16, s.13; R.S.S. 1909, c.71, s.13.

**Time within which action must be brought**

**14** An action for libel contained in a newspaper shall be commenced within six 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 two years before the commencement of the action.

1909, c.16, s.14; R.S.S. 1909, c.71, s.14.

**Publication of name of publisher and address**

**15** No defendant shall be entitled to the benefit of sections 8 and 14 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.

**Copy of newspaper to be prima facie evidence**

(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).

**Service of writ of summons**

(3) Service of the writ of summons may be made upon the proprietor or publisher of the newspaper by serving the same upon any grown up person at such address.

1909, c.16, s.15; R.S.S. 1909, c.71, s.15.

**Evidence in mitigation of damages**

**16** 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 or has recovered damages or has received or agreed to receive compensation in respect of the same libel or a libel substantially the same published in another newspaper.

1909, c.16, s.16; R.S.S. 1909, c.71, s.16.

**Annual return to be made**

**17** It shall be the duty of the publisher for the time being of every newspaper to make or cause to be made to the provincial secretary on or before the first day of July, 1910, and thereafter annually in the month of June in every year a return of the following particulars according to the schedule A to this Act, that is to say:

- (a) The title of the newspaper; and
- (b) The names of all the proprietors, of the editor and of the publisher of such newspaper together with their respective places of residence.

1909, c.16, s.17; R.S.S. 1909, c.71, s.17.

**Penalty for omission to make annual returns**

**18** If within the period of one month after the time hereinbefore appointed for the making of any return as to any newspaper such return is not made then each publisher of such newspaper shall on summary conviction thereof be liable to a penalty not exceeding \$50 and also be directed by a summary order to make a return within a specified time.

1909, c.16, s.18; R.S.S. 1909, c.71, s.18.

**Penalty for wilful misrepresentation in or omission from return**

**19** 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, editor or publisher of a newspaper who shall not be a proprietor, editor or publisher thereof, as the case may be, 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, editor or publisher 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 or place of residence then in every such case every such offender shall on summary conviction thereof be liable to a penalty not exceeding \$50.

1909, c.16, s.19; R.S.S. 1909, c.71, s.19.



**Provincial secretary to enter returns in register**

**20** It shall be the duty of the provincial secretary to register every return made in conformity with the provisions of this Act in a book to be kept for that purpose at his office and called “the register of newspapers;” 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 said office and any person may require a copy of any entry in or an extract from the book to be certified by the provincial secretary.

1909, c.16, s.20; R.S.S. 1909, c.71, s.20.

**Supplementary return**

**21** Upon any person ceasing to be a proprietor, editor or publisher of a newspaper or upon any new person becoming a proprietor, editor or publisher of any newspaper a supplementary return according to schedule B shall be made to the provincial secretary within ten days after such change has occurred in the ownership or in the editing or publishing of such newspaper, as the case may be.

1909, c.16, s.21; R.S.S. 1909, c.71, s.21.

**Fees**

**22** 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 newspapers and for certified copies of any entry thereof and in respect of any other services to be performed by the provincial secretary such fees, if any, as the Lieutenant Governor in Council may direct.

1909, c.16, s.22; R.S.S. 1909, c.71, s.22.

**Copies of entries and extracts from register to be evidence**

**23** Every copy of an entry in or extract from the register of newspapers purporting to be certified by the provincial secretary shall be received as conclusive evidence of the contents of the said register of newspapers so far as the same appear in such copy or extract without proof of the signature thereto; and every such certified copy or extract shall in all proceedings be accepted as sufficient *prima facie* evidence of all the matters and things thereby appearing unless and until the contrary thereof be shown.

1909, c.16, s.23; R.S.S. 1909, c.71, s.23.

## SLANDER OF WOMEN

**Slander of women**

**24** In any action of slander founded on words spoken of the plaintiff imputing unchastity or adultery to a female, whether married or unmarried, it shall not be necessary to allege or prove any special damage but such words shall be actionable *per se*.

1909, c.16, s.24; R.S.S. 1909, c.71, s.24.

## SCHEDULE A

(Section 17)

RETURN of Newspapers made pursuant to *The Libel and Slander Act.*

Title of the newspaper	Names and addresses of proprietors	Names and addresses of proprietors	Names and addresses of proprietors

## SCHEDULE B

(Section 21)

SUPPLEMENTARY Return of Newspapers made pursuant to *The Libel and Slander Act.*

Title of the newspaper	Name and address of person ceasing to be proprietor, editor or publisher ( <i>as the case may be</i> )	Name and address of person ceasing to be proprietor, editor or publisher ( <i>as the case may be</i> )

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