

# **Criminal Code**

**R.S.C., 1985, c. C-46**

An Act respecting the Criminal Law

## **SHORT TITLE**

### **Marginal note: Short title**

1. This Act may be cited as the *Criminal Code*.

## **INTERPRETATION**

### **Marginal note: Definitions**

2. In this Act,

"Act"

« *loi* »

"Act" includes

- (a) an Act of Parliament,
- (b) an Act of the legislature of the former Province of Canada,
- (c) an Act of the legislature of a province, and
- (d) an Act or ordinance of the legislature of a province, territory or place in force at the time that province, territory or place became a province of Canada;

## **PART VIII - OFFENCES AGAINST THE PERSON AND REPUTATION**

- 296 - Blasphemous Libel
- 297 - Defamatory Libel
- 317 - Verdicts
- 318 - Hate Propaganda

## **BLASPHEMOUS LIBEL**

### **Offence**

- **296.** (1) Every one who publishes a blasphemous libel is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.
- **Question of fact**
  - (2) It is a question of fact whether or not any matter that is published is a blasphemous libel.
- **Saving**
  - (3) No person shall be convicted of an offence under this section for expressing in good faith and in decent language, or attempting to establish by argument used in good faith and conveyed in decent language, an opinion on a religious subject.
- R.S., c. C-34, s. 260.

## **DEFAMATORY LIBEL**

### **Definition of "newspaper"**

**297.** In sections 303, 304 and 308, "newspaper" means any paper, magazine or periodical containing public news, intelligence or reports of events, or any remarks or observations thereon, printed for sale and published periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts or numbers, and any paper, magazine or periodical printed in order to be dispersed and made public, weekly or more often, or at intervals not exceeding thirty-one days, that contains advertisements, exclusively or principally.

- R.S., c. C-34, s. 261.

### **Definition**

- **298.** (1) A defamatory libel is matter published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published.
- **Mode of expression**
  - (2) A defamatory libel may be expressed directly or by insinuation or irony
    - o (a) in words legibly marked on any substance; or
    - o (b) by any object signifying a defamatory libel otherwise than by words.
- R.S., c. C-34, s. 262.

## **Publishing**

**299.** A person publishes a libel when he

- (a) exhibits it in public;
- (b) causes it to be read or seen; or
- (c) shows or delivers it, or causes it to be shown or delivered, with intent that it should be read or seen by the person whom it defames or by any other person.
- R.S., c. C-34, s. 263.

## **Punishment of libel known to be false**

**300.** Every one who publishes a defamatory libel that he knows is false is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

- R.S., c. C-34, s. 264.

## **Punishment for defamatory libel**

**301.** Every one who publishes a defamatory libel is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

- R.S., c. C-34, s. 265.

## **Extortion by libel**

- **302.** (1) Every one commits an offence who, with intent

- (a) to extort money from any person, or
- (b) to induce a person to confer on or procure for another person an appointment or office of profit or trust,

publishes or threatens to publish or offers to abstain from publishing or to prevent the publication of a defamatory libel.

- **Idem**

(2) Every one commits an offence who, as the result of the refusal of any person to permit money to be extorted or to confer or procure an appointment or office of profit or trust, publishes or threatens to publish a defamatory libel.

- **Punishment**

(3) Every one who commits an offence under this section is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

- R.S., c. C-34, s. 266.

## **Proprietor of newspaper presumed responsible**

• **303.** (1) The proprietor of a newspaper shall be deemed to publish defamatory matter that is inserted and published therein, unless he proves that the defamatory matter was inserted in the newspaper without his knowledge and without negligence on his part.

- **General authority to manager when negligence**

(2) Where the proprietor of a newspaper gives to a person general authority to manage or conduct the newspaper as editor or otherwise, the insertion by that person of defamatory matter in the newspaper shall, for the purposes of subsection (1), be deemed not to be negligence on the part of the proprietor unless it is proved that

- o (a) he intended the general authority to include authority to insert defamatory matter in the newspaper; or
- o (b) he continued to confer general authority after he knew that it had been exercised by the insertion of defamatory matter in the newspaper.

- **Selling newspapers**

(3) No person shall be deemed to publish a defamatory libel by reason only that he sells a number or part of a newspaper that contains a defamatory libel, unless he knows that the number or part contains defamatory matter or that defamatory matter is habitually contained in the newspaper.

- R.S., c. C-34, s. 267.

## **Selling book containing defamatory libel**

• **304.** (1) No person shall be deemed to publish a defamatory libel by reason only that he sells a book, magazine, pamphlet or other thing, other than a newspaper that contains defamatory matter, if, at the time of the sale, he does not know that it contains the defamatory matter.

- **Sale by servant**

(2) Where a servant, in the course of his employment, sells a book, magazine, pamphlet or other thing, other than a newspaper, the employer shall be deemed not to publish any defamatory matter contained therein unless it is proved that the employer authorized the sale knowing that

- o (a) defamatory matter was contained therein; or
- o (b) defamatory matter was habitually contained therein, in the case of a periodical.

- R.S., c. C-34, s. 268.

## **Publishing proceedings of courts of justice**

**305.** No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter

- (a) in a proceeding held before or under the authority of a court exercising judicial authority; or
- (b) in an inquiry made under the authority of an Act or by order of Her Majesty, or under the authority of a public department or a department of the government of a province.

• R.S., c. C-34, s. 269.

## **Parliamentary papers**

**306.** No person shall be deemed to publish a defamatory libel by reason only that he

- (a) publishes to the Senate or House of Commons or to the legislature of a province defamatory matter contained in a petition to the Senate or House of Commons or to the legislature of a province, as the case may be;
- (b) publishes by order or under the authority of the Senate or House of Commons or of the legislature of a province a paper containing defamatory matter; or
- (c) publishes, in good faith and without ill-will to the person defamed, an extract from or abstract of a petition or paper mentioned in paragraph (a) or (b).

• R.S., c. C-34, s. 270.

## **Fair reports of parliamentary or judicial proceedings**

• **307.** (1) No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, for the information of the public, a fair report of the proceedings of the Senate or House of Commons or the legislature of a province, or a committee thereof, or of the public proceedings before a court exercising judicial authority, or publishes, in good faith, any fair comment on any such proceedings.

### **• Divorce proceedings an exception**

(2) This section does not apply to a person who publishes a report of evidence taken or offered in any proceeding before the Senate or House of Commons or any committee thereof, on a petition or bill relating to any matter of marriage or divorce, if the report is published without authority from or leave of the House in which the proceeding is held or is contrary to any rule, order or practice of that House.

• R.S., c. C-34, s. 271.

### **Fair report of public meeting**

**308.** No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, in a newspaper, a fair report of the proceedings of any public meeting if

- (a) the meeting is lawfully convened for a lawful purpose and is open to the public;
- (b) the report is fair and accurate;
- (c) the publication of the matter complained of is for the public benefit; and
- (d) he does not refuse to publish in a conspicuous place in the newspaper a reasonable explanation or contradiction by the person defamed in respect of the defamatory matter.

• R.S., c. C-34, s. 272.

### **Public benefit**

**309.** No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter that, on reasonable grounds, he believes is true, and that is relevant to any subject of public interest, the public discussion of which is for the public benefit.

- R.S., c. C-34, s. 273.

### **Fair comment on public person or work of art**

**310.** No person shall be deemed to publish a defamatory libel by reason only that he publishes fair comments

- (a) on the public conduct of a person who takes part in public affairs; or
- (b) on a published book or other literary production, or on any composition or work of art or performance publicly exhibited, or on any other communication made to the public on any subject, if the comments are confined to criticism thereof.

• R.S., c. C-34, s. 274.

### **When truth a defence**

**311.** No person shall be deemed to publish a defamatory libel where he proves that the publication of the defamatory matter in the manner in which it was published was for the public benefit at the time when it was published and that the matter itself was true.

- R.S., c. C-34, s. 275.

### **Publication invited or necessary**

**312.** No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter

- (a) on the invitation or challenge of the person in respect of whom it is published, or
- (b) that it is necessary to publish in order to refute defamatory matter published in respect of him by another person,

if he believes that the defamatory matter is true and it is relevant to the invitation, challenge or necessary refutation, as the case may be, and does not in any respect exceed what is reasonably sufficient in the circumstances.

- R.S., c. C-34, s. 276.

### **Answer to inquiries**

**313.** No person shall be deemed to publish a defamatory libel by reason only that he publishes, in answer to inquiries made to him, defamatory matter relating to a subject-matter in respect of which the person by whom or on whose behalf the inquiries are made has an interest in knowing the truth or who, on reasonable grounds, the person who publishes the defamatory matter believes has such an interest, if

- (a) the matter is published, in good faith, for the purpose of giving information in answer to the inquiries;
- (b) the person who publishes the defamatory matter believes that it is true;
- (c) the defamatory matter is relevant to the inquiries; and
- (d) the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

- R.S., c. C-34, s. 277.

### **Giving information to person interested**

**314.** No person shall be deemed to publish a defamatory libel by reason only that he publishes to another person defamatory matter for the purpose of giving information to that person with respect to a subject-matter in which the person to whom the information is given has, or is believed on reasonable grounds by the person who gives it to have, an interest in knowing the truth with respect to that subject-matter if

- (a) the conduct of the person who gives the information is reasonable in the circumstances;
- (b) the defamatory matter is relevant to the subject-matter; and
- (c) the defamatory matter is true, or if it is not true, is made without ill-will toward the person who is defamed and is made in the belief, on reasonable grounds, that it is true.

- R.S., c. C-34, s. 278.

### **Publication in good faith for redress of wrong**

**315.** No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter in good faith for the purpose of seeking remedy or redress for a private or public wrong or grievance from a person who has, or who on reasonable grounds he believes has, the right or is under an obligation to remedy or redress the wrong or grievance, if

- (a) he believes that the defamatory matter is true;
- (b) the defamatory matter is relevant to the remedy or redress that is sought; and
- (c) the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

• R.S., c. C-34, s. 279.

### **Proving publication by order of legislature**

• **316.** (1) An accused who is alleged to have published a defamatory libel may, at any stage of the proceedings, adduce evidence to prove that the matter that is alleged to be defamatory was contained in a paper published by order or under the authority of the Senate or House of Commons or the legislature of a province.

- **Directing verdict**

(2) Where at any stage in proceedings referred to in subsection (1) the court, judge, justice or provincial court judge is satisfied that the matter alleged to be defamatory was contained in a paper published by order or under the authority of the Senate or House of Commons or the legislature of a province, he shall direct a verdict of not guilty to be entered and shall discharge the accused.

- **Certificate of order**

(3) For the purposes of this section, a certificate under the hand of the Speaker or clerk of the Senate or House of Commons or the legislature of a province to the effect that the matter that is alleged to be defamatory was contained in a paper published by order or under the authority of the Senate, House of Commons or the legislature of a province, as the case may be, is conclusive evidence thereof.

- R.S., 1985, c. C-46, s. 316;
- R.S., 1985, c. 27 (1st Supp.), s. 203.

### **Verdicts in cases of defamatory libel**

**317.** Where, on the trial of an indictment for publishing a defamatory libel, a plea of not guilty is pleaded, the jury that is sworn to try the issue may give a general verdict of guilty or not guilty on the whole matter put in issue on the indictment, and shall not be required or

directed by the judge to find the defendant guilty merely on proof of publication by the defendant of the alleged defamatory libel, and of the sense ascribed thereto in the indictment, but the judge may, in his discretion, give a direction or opinion to the jury on the matter in issue as in other criminal proceedings, and the jury may, on the issue, find a special verdict.

- R.S., c. C-34, s. 281.

## **HATE PROPAGANDA**

### **Advocating genocide**

• **318.** (1) Every one who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

- **Definition of “genocide”**

(2) In this section, “genocide” means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,

- (a) killing members of the group; or
- (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

- **Consent**

(3) No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.

- **Definition of “identifiable group”**

(4) In this section, “identifiable group” means any section of the public distinguished by colour, race, religion, ethnic origin or sexual orientation.

- R.S., 1985, c. C-46, s. 318;
- 2004, c. 14, s. 1.

### **Public incitement of hatred**

• **319.** (1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
- (b) an offence punishable on summary conviction.

- **Wilful promotion of hatred**

(2) Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of

- o (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
- o (b) an offence punishable on summary conviction.

- **Defences**

(3) No person shall be convicted of an offence under subsection (2)

- o (a) if he establishes that the statements communicated were true;
- o (b) if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text;
- o (c) if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or
- o (d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.

- **Forfeiture**

(4) Where a person is convicted of an offence under section 318 or subsection (1) or (2) of this section, anything by means of or in relation to which the offence was committed, on such conviction, may, in addition to any other punishment imposed, be ordered by the presiding provincial court judge or judge to be forfeited to Her Majesty in right of the province in which that person is convicted, for disposal as the Attorney General may direct.

- **Exemption from seizure of communication facilities**

(5) Subsections 199(6) and (7) apply with such modifications as the circumstances require to section 318 or subsection (1) or (2) of this section.

- **Consent**

(6) No proceeding for an offence under subsection (2) shall be instituted without the consent of the Attorney General.

- **Definitions**

(7) In this section,

“communicating”  
 « *communiquer* »

“communicating” includes communicating by telephone, broadcasting or other audible or visible means;

“identifiable group”

« *groupe identifiable* »

“Identifiable group” has the same meaning as in section 318;

“public place”

« *endroit public* »

“public place” includes any place to which the public have access as of right or by invitation, express or implied;

“statements”

« *déclarations* »

“statements” includes words spoken or written or recorded electronically or electro-magnetically or otherwise, and gestures, signs or other visible representations.

- R.S., 1985, c. C-46, s. 319;
- R.S., 1985, c. 27 (1st Supp.), s. 203;
- 2004, c. 14, s. 2.