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ANNO VICESIMO SEXTO ET VICESIMO SEPTIMO
VICTORIÆ REGINÆ.
A.D. 1863.

No. 16.

An Act to amend the Law relating to Defamatory Words.

[Assented to, 12th November, 1863.]

WHEREAS the Law does not provide any remedy for the speaking of Defamatory Words, except in certain cases, and it is expedient that the Law in that respect should be amended—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. Any person who shall, without just cause, speak and publish any defamatory words, tending to injure the reputation of another. shall be liable to an action for defamation, at the suit of the person injured, in respect of the words so spoken and published: Provided that, in any such action, unless the words impute an indictable offence, it shall be open to the jury by whom the same shall be tried, or to the Court, in case such action shall be tried without the intervention of a jury, under the plea of not guilty, to consider whether, under the circumstances, when the words were spoken and published, they were necessarily calculated to injure the reputation of the person to whom they were applied; and if such jury or Court shall consider that the said words were not so necessarily calculated to injure reputation, as aforesaid, then there shall be a verdict for the defendant, without any special justification: Provided also, that, in any such action, it shall be lawful for the defendant to give in evidence, in mitigation of damages, that such defendant made or offered an apology to the plaintiff for such defamation.

In the name and on behalf of the Queen I hereby assent to this Act.

D. DALY, Governor.