

SENATE No. 198.

Commonwealth of Massachusetts.

The undersigned, a minority of the joint committee on the Judiciary, to whom was referred the petition of the Boston Daily Newspaper Association by Chas. H. Taylor, Jr., secretary, for an amendment of the law relating to civil suits for libel (with the accompanying bill, printed as Senate Document No. 35), beg leave to differ from the majority of the committee, and as a substitute for the report of the majority, and the bill reported by them, recommend the passage of the accompanying Bill.

For the minority of the Committee,

EDWARD L. PIERCE.
JOHN E. MAGEÑIS.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-seven.

AN ACT

Relative to Actions for Libel.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. In any action for libel the defend-
2 ant, after notice in writing given to the plaintiff
3 or his attorney, at any time before the answer is
4 required to be filed therein, of his intention to
5 publish a retraction of such libel, may give in
6 evidence that he so published such retraction; or
7 if upon such notice the plaintiff does not accept
8 the offer so to publish such retraction, may give
9 in evidence that he offered to publish such retrac-
10 tion and that said offer was not accepted, and at
11 the trial may introduce evidence of such retrac-
12 tion or of such offer to retract, and that the
13 alleged libel was published in good faith and
14 without actual malice; and unless the plaintiff
15 prove actual malice or want of good faith or a
16 failure either to retract or offer to retract as afore-
17 said, he shall recover only compensation for the
18 actual injury sustained; and in no action of libel
19 shall exemplary or punitive damages be allowed.

1 SECT. 2. In any civil action for libel the
2 defendant may allege and prove, in mitigation of
3 damages, that the plaintiff has already recovered
4 damages for, or has received or has agreed to
5 receive, compensation in respect of substantially
6 the same libel as that for which such action was
7 brought.

1 SECT. 3. Whenever two or more civil actions
2 are pending, whether in the same or different
3 counties of this Commonwealth, brought by the
4 same plaintiff for substantially the same libel, any
5 justice of the court in which such actions are
6 pending may in his discretion make an order that
7 any or all of them be tried together. If they be
8 so tried the court shall, if the actions are tried
9 without a jury, or the jury shall, if the actions are
10 tried by a jury, find a separate verdict in each
11 action, and judgment shall be rendered in each as
12 if the actions had been tried separately; and in
13 the event of judgment in favor of the plaintiff in
14 more than one action, the court shall make such
15 order for the apportionment of costs between the
16 defendants in such actions as may be just and
17 reasonable.

1 SECT. 4. Chapter four hundred and forty-one
2 of the acts of the year eighteen hundred and
3 ninety-five is hereby repealed, but this repeal shall
4 in no wise affect pending actions.

1 SECT. 5. This act shall take effect on its
2 passage.

