

In Her Majesty's name I assent to this Ordinance this  
26th day of April, 1961.

MAURICE H. DORMAN,  
*Governor.*

LS

No. 32



1961

Sierra Leone

## An Ordinance to Amend the Law Relating to Libel and Slander and other Malicious Falsehoods

[11th May, 1961.] Date of  
commence-  
ment.

**BE IT ENACTED** by the Legislature of Sierra Leone, as follows:—

1. This Ordinance may be cited as the Defamation Short title.  
Ordinance, 1961.

2. (1) In this Ordinance “broadcasting by means of wireless telegraphy” means publication for general reception by means of wireless telegraphy within the meaning of the Wireless Telegraphy Ordinance or any other Ordinance replacing the same, and “broadcast by means of wireless telegraphy” shall be construed accordingly.

Interpreta-  
tion, con-  
struction  
and applica-  
tion.  
Cap. 267.

(2) Any reference in this Ordinance to words shall be construed as including a reference to pictures, visual images, gestures and other methods of signifying meaning.

(3) The provisions of Part III of the Schedule to this Ordinance shall have effect for the purposes of the interpretation of that Schedule.

Cap. 233.  
Ord. No. 15  
of 1954.

(4) Where words broadcast by means of wireless telegraphy are simultaneously transmitted by telegraph as defined by the Telegraph Ordinance, as amended by the Telegraph (Amendment) Ordinance, 1954, in accordance with a licence granted by the Postmaster-General, the provisions of this Ordinance shall apply as if the transmission were broadcasting by means of wireless telegraphy.

Slander of  
women.

3. Words spoken and published after the passing of this Ordinance which impute unchastity or adultery to any woman or girl shall not require special damage to render them actionable:

Provided always, that in any action for words spoken and made actionable by this Ordinance, a plaintiff shall not recover more costs than damages, unless the judge shall certify that there was reasonable ground for bringing the action.

Broadcast  
statements.

4. For the purposes of this Ordinance, the broadcasting of words by means of wireless telegraphy shall be treated as publication in permanent form.

Slander  
affecting  
official,  
professional  
or business  
reputation.

5. In an action for slander in respect of words calculated to disparage the plaintiff in any office, profession, calling, trade or business held or carried on by him at the time of the publication, it shall not be necessary to allege or prove special damage, whether or not the words are spoken of the plaintiff in the way of his office, profession, calling, trade or business.

Slander of  
title, etc.

6. In an action for slander of title, slander of goods or other malicious falsehood, it shall not be necessary to allege or prove special damage—

(a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form; or

(b) if the said words are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication.

Uninten-  
tional  
defamation.

7. (1) A person who has published words alleged to be defamatory of another person may, if he claims that the words were published by him innocently in relation to that other person, make an offer of amends under this section and in any such case—

- (a) if the offer is accepted by the party aggrieved and is fully performed, no proceedings for libel or slander shall be taken or continued by that party against the person making the offer in respect of the publication in question (but without prejudice to any cause of action against any other person jointly responsible for that publication);
- (b) if the offer is not accepted by the party aggrieved, then, except as otherwise provided by this section, it shall be a defence, in any proceedings by him for libel or slander against the person making the offer in respect of the publication in question, to prove that the words complained of were published by the defendant innocently in relation to the plaintiff and that the offer was made as soon as practicable after the defendant received notice that they were or might be defamatory of the plaintiff, and has not been withdrawn.

(2) An offer of amends under this section must be expressed to be made for the purposes of this section, and must be accompanied by an affidavit specifying the facts relied upon by the person making it to show that the words in question were published by him innocently in relation to the party aggrieved; and for the purposes of a defence under paragraph (b) of subsection (1) of this section no evidence, other than evidence of facts specified in the affidavit, shall be admissible on behalf of that person to prove that the words were so published.

(3) An offer of amends under this section shall be understood to mean an offer—

- (a) in any case, to publish or join in the publication of a suitable correction of the words complained of, and a sufficient apology to the party aggrieved in respect of those words;
- (b) where copies of a document or record containing the said words have been distributed by or with the knowledge of the person making the offer, to take such steps as are reasonably practicable on his part for notifying persons to whom copies have been so distributed that the words are alleged to be defamatory of the party aggrieved.

(4) Where an offer of amends under this section is accepted by the party aggrieved—

- (a) any question as to the steps to be taken in fulfilment of the offer as so accepted shall in default of agreement between the parties be referred to and determined by the Supreme Court, whose decision thereon shall be final;
- (b) the power of the court to make orders as to costs in proceedings by the party aggrieved against the person making the offer in respect of the publication in

question, or in proceedings in respect of the offer under paragraph (a) of this subsection, shall include power to order the payment by the person making the offer to the party aggrieved of costs on an indemnity basis and any expenses reasonably incurred or to be incurred by that party in consequence of the publication in question;

and if no such proceedings as aforesaid are taken, the Supreme Court may, upon application made by the party aggrieved, make any such order for the payment of such costs and expenses as aforesaid as could be made in such proceedings.

(5) For the purposes of this section words shall be treated as published by one person (in this subsection referred to as the publisher) innocently in relation to another person if and only if the following conditions are satisfied, that is to say—

- (a) that the publisher did not intend to publish them of and concerning that other person, and did not know of circumstances by virtue of which they might be understood to refer to him; or
- (b) that the words were not defamatory on the face of them, and the publisher did not know of circumstances by virtue of which they might be understood to be defamatory of that other person;

and in either case that the publisher exercised all reasonable care in relation to the publication; and any reference in the subsection to the publisher shall be construed as including a reference to any servant or agent of his who was concerned with the contents of the publication.

(6) Paragraph (b) of subsection (1) of this section shall not apply in relation to the publication by any person of words of which he is not the author unless he proves that the words were written by the author without malice.

Justification.

8. In an action for libel or slander in respect of words containing two or more distinct charges against the plaintiff, a defence or justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges.

Fair comment.

9. In an action for libel or slander in respect of words consisting partly of allegations of facts and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved.

Qualified privilege of newspapers.

10. (1) Subject to the provisions of this section, the publication in a newspaper of any such report or other matter as is mentioned in the Schedule to this Ordinance shall be privileged unless the publication is proved to be made with malice.

(2) In an action for libel in respect of the publication of any such report or matter as is mentioned in Part II of the Schedule to this Ordinance, the provisions of this section shall not be a defence if it is proved that the defendant has been requested by the plaintiff to publish in the newspaper in which the original publication was made a reasonable letter or statement by way of explanation or contradiction, and has refused or neglected to do so, or has done so in a manner not adequate or not reasonable having regard to all the circumstances.

(3) Nothing in this section shall be construed as protecting the publication of any matter the publication of which is prohibited by law, or of any matter which is not of public concern and the publication of which is not for the public benefit.

(4) Nothing in this section shall be construed as limiting or abridging any privilege subsisting immediately before the commencement of this Ordinance.

(5) A fair and accurate report in any newspaper of proceedings publicly heard before any court exercising judicial authority in Sierra Leone shall, if published contemporaneously with such proceedings, enjoy absolute privilege.

(6) In this section the expression "newspaper" means any paper containing public news or observations thereon, or consisting wholly or mainly of advertisements, which is printed for sale and is published in Sierra Leone either periodically or in parts or numbers.

11. Section 10 of the Ordinance shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station within Sierra Leone, and in relation to any broadcasting by means of wireless telegraphy of any such report or matter, as they apply in relation to reports and matters published in a newspaper and to publication in a newspaper; and subsection (2) of the said section 10 shall have effect, in relation to any such broadcasting, as if for the words "in the newspaper in which" there were substituted the words "in the manner in which".

Extension of certain defences in broadcasting.

12. A defamatory statement published by or on behalf of a candidate in any election to a local government authority or to the House of Representatives shall not be deemed to be published on a privileged occasion on the ground that it is material to a question in issue in the election, whether or not the person by whom it is published is qualified to vote at the election.

Limitation on privilege at elections.

13. An agreement for indemnifying any person against civil liability for libel in respect of the publication of any matter shall not be unlawful unless at the time of the publication that person knows that the matter is defamatory, and does not reasonably believe there is a good defence to any action brought upon it.

Agreements for indemnity.

Evidence of other damages recovered by plaintiff.

**14.** In any action for libel or slander the defendant may give evidence in mitigation of damages that the plaintiff has recovered damages, or has brought actions for damages, for libel or slander in respect of the publication of words to the same effect as the words on which the action is founded, or has received or agreed to receive compensation in respect of any such publication.

Consolidation and actions, etc.

**15.** (1) It shall be competent for a judge or the court, upon an application by or on behalf of two or more defendants in actions in respect to the same, or substantially the same, libel brought by one and the same person, to 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 the said actions, the defendants in any new actions instituted in respect of the same, or substantially the same, libel 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.

In a consolidated action under this section the judge shall assess the whole amount of the damages (if any) in one sum, but a separate finding shall be made for or against each defendant in the same way as if the actions consolidated had been tried separately; and if the judge shall have made a finding against the defendant or defendants in more than one of the actions so consolidated, he shall proceed to apportion the amount of damages which he shall have assessed between and against the said last-mentioned defendants; and if the judge awards to the plaintiff the costs of the action, shall thereupon make such order as he shall deem just for the apportionment of such costs between and against such defendants.

(2) Subsection (1) shall apply to actions for slander of title, slander of goods or other malicious falsehood as it applies to actions for libel; and references in that subsection to the same, or substantially the same, libel shall be construed accordingly.

Proceedings affected and saving.

**16.** (1) This Ordinance applies for the purposes of any proceedings begun after the commencement of this Ordinance, whenever the cause of action arose, but does not affect any proceedings begun before the commencement of this Ordinance.

(2) Nothing in this Ordinance affects the law relating to criminal libel.

SCHEDULE (Sections 2, 10)  
 NEWSPAPER STATEMENTS HAVING QUALIFIED  
 PRIVILEGE

PART I

STATEMENTS PRIVILEGED WITHOUT EXPLANATION  
 OR CONTRADICTION

1. A fair and accurate report of any proceedings in public of the legislature of Sierra Leone.

2. A fair and accurate report of any proceedings in public of an international organisation of which Sierra Leone or Her Majesty's Government in Sierra Leone is a member, or of any international conference to which that government sends a representative.

3. A fair and accurate report of any proceedings in public of an international court.

4. A fair and accurate report of any proceedings before a court exercising jurisdiction throughout any part of Her Majesty's dominions outside Sierra Leone, or of any proceedings held outside Sierra Leone under the Naval Discipline Act, 1957 as applied by section 5 of the Naval Volunteer Force (General Service) Ordinance (Cap. 216) and the Naval Discipline (Colonial Naval Forces) Order, 1959 (Public Notice No. 9 of 1959) or under the Royal West African Frontier Force Ordinance (Cap. 204).

5. A fair and accurate report of any proceedings in public of a body or person appointed to hold a public inquiry by the Governor or legislature of Sierra Leone.

6. A fair and accurate copy of or extract from any register kept in pursuance of any Ordinance which is open to inspection by the public, or of any other document which is required by any law in force in Sierra Leone to be open to inspection by the public.

7. A notice or advertisement published by or on the authority of any court with Sierra Leone or any judge or officer of such a court.

PART II

STATEMENTS PRIVILEGED SUBJECT TO EXPLANATION  
 OR CONTRADICTION

8. A fair and accurate report of the findings or decision of any of the following associations, or of any committee or governing body thereof, that is to say—

- (a) an association formed in Sierra Leone for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate upon matters of interest or concern to the association, or the actions or conduct or adjudication;

- (b) an association formed in Sierra Leone for the purpose of promoting or safeguarding the interests of any trade, business, industry or profession, or of the persons carrying on or engaged in any trade, business, industry or profession, and empowered by its constitution to exercise control over or adjudicate upon matters connected with the trade, business, industry or profession or the actions or conduct of those persons.
- (c) an association formed in Sierra Leone for the purpose of promoting or safeguarding the interests of any game, sport or pastime to the playing or exercise of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or adjudicate upon persons connected with or taking part in the game, sport or pastime,

being a finding or decision relating to a person who is a member of or is subject by virtue of any contract to the control of the association.

9. A fair and accurate report of the proceedings at any public meeting held in Sierra Leone, that is to say, a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public concern, whether the admission to the meeting is general or restricted.

10. A fair and accurate report of the proceedings at any meeting or sitting in any part of Sierra Leone of—

- (a) any local authority or committee of a local authority or local authorities;
- (b) any Magistrate acting otherwise than as a court exercising judicial authority;
- (c) any commission, tribunal, committee or person appointed for the purposes of any inquiry by Ordinance, by the Governor or by a Minister of the Government;
- (d) any person appointed by a local authority to hold a local inquiry in pursuance of any Ordinance;
- (e) any other tribunal, board, commission, committee or body constituted by or under and exercising functions under, an Ordinance

not being a meeting or sitting admission to which is denied to representatives of newspapers and other members of the public.

11. A fair and accurate report of the proceedings at a general meeting of any company or association constituted, registered or certified by or under any Ordinance or incorporated by Royal Charter, not being a private company within the meaning of the Companies Ordinance, Cap. 39.

12. A copy or fair and accurate report or summary of any notice or other matter issued for the information of the public by or on behalf of any government department, officer of state, local authority or chief officer of police.

## PART III

13. In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say—

“international court” means the International Court of Justice and any other judicial or arbitral tribunal deciding matters in dispute between States;

“local authority” means—

(a) the City Council of Freetown as established under the Freetown Municipality Ordinance (Cap. 91);

(b) the Rural Area Council as established under the Rural Area Ordinance, 1949 (No. 11 of 1949);

(c) the Sherbro Urban District Council as established under the Sherbro Urban District Council, Ordinance, 1950 (No. 22 of 1950);

(d) the District Councils as established under the District Councils Ordinance, 1950 (No. 17 of 1950);

(e) the Bo Town Council as established under the Bo Town Council Ordinance, 1954 (No. 11 of 1954);

“part of Her Majesty’s dominions” means the whole of any territory within those dominions which is subject to a separate legislature.

14. In relation to the following countries and territories, that is to say, India, the Republic of Ireland, any protectorate, protected state or trust territory within the meaning of the British Nationality Act, 1948, any territory administered under the authority of a country mentioned in subsection (3) of section 1 of that Act, and the New Hebrides, the provisions of this Schedule shall have effect as they have effect in relation to Her Majesty’s dominions, and references therein to Her Majesty’s dominions shall be construed accordingly.

Passed in the House of Representatives this 8th day of March, in the year of our Lord one thousand nine hundred and sixty-one.

S. V. WRIGHT,  
*Clerk of the House of Representatives.*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed the House of Representatives and found by me to be a true and correct copy of the said Bill.

S. V. WRIGHT,  
*Clerk of the House of Representatives.*