STEELE and OTHERS *v.* ATTORNEY-GENERAL, TEJAN-SIE and KOROMA

SUPREME COURT (Cole, Ag. C.J.): January 3rd, 1967
(Civil Case No. 125/66)

[1] **Constitutional Law—fundamental rights—enforcement—application for redress—applicant must allege facts showing direct injury actually sustained or immediately threatened:** A person invoking the enforcement provisions laid down in s.24 of the Constitution must allege facts which show that, as a result of the acts complained of, he has sustained, or is sustaining, or is immediately in danger of sustaining, a direct injury, and it is insufficient to allege facts which merely show a likelihood that he will suffer in some indefinite way (page 13, lines 30–36; page 14, lines 8–13).

[2] **Constitutional Law—fundamental rights—enforcement—application for redress—applicant must allege facts showing special injury not common to public:** A person invoking the enforcement provisions laid down in s.24 of the Constitution must allege facts which show, as a result of the acts complained of, an injury to himself which is not one of a general nature common to all members of the public, and it is insufficient to allege facts which merely show that he will suffer in common with other people (page 13, lines 30–36; page 14, lines 8–13).

[3] **Constitutional Law — party system — parliamentary resolution that Government consider introducing one-party system constitutional:** A resolution of Parliament that the Government give serious consideration to the introduction of a one-party system of government does not contravene Part 2 of Chapter IV of the Constitution (page 11, lines 7–9).

The defendants-applicants applied to strike out the plaintiffs-respondents' statement of claim and in the alternative for the points of law raised in the defence to be heard and disposed of before the trial.

By their writ of summons, the plaintiffs-respondents claimed, "pursuant to s.24 of the Constitution," (a), a declaration that the Government's appointment of a committee to report on a one-party system for Sierra Leone was a threat to and an infringement of ss. 12 to 23 of the Constitution and was specifically in breach of s.22, and was therefore void, and (b), an order restraining the committee from meeting or proceeding and the second defendant from acting as its chairman.

In their statement of claim, they quoted the committee's terms of reference, *viz.*—"To collate and assess all views on the One

Party System both in and out of Parliament and to make recommendations on the type of One Party System suitable for Sierra Leone and the method by which it should be introduced." They alleged that the committee, by reason of its restrictive terms of reference, constituted a distinct and certain threat to the rights entrenched by s.22 of the Constitution (which protects the freedoms of assembly and association) and that their entrenched rights were likely to be contravened in relation to them, the plaintiffs-respondents.

By their defence, the defendants-applicants denied these allegations while admitting that the committee had been set up with the terms of reference stated. They raised the objections in law (a), that the appointment of the committee and the fixing of its terms of reference were an exercise of the incidental power of the Government to inform itself of public opinion before introducing a bill in Parliament, and (b), that the statement of claim was bad in law and disclosed no cause of action because the invocation of the jurisdiction of the court under s.24 of the Constitution was wrong. In support of the latter objection, they contended that the plaintiffs-respondents had alleged no facts showing that as a result of the setting-up of the committee any of the provisions of ss. 12 to 23 of the Constitution had been, was being or was likely to be contravened in relation to them, the plaintiffs-respondents. Further, they alleged that the committee had been set up following a resolution of Parliament calling on the Government to give serious consideration to the introduction of a one-party system of government. The plaintiffs-respondents filed no reply and this allegation was not disputed.

Cases referred to:

(1) *Att.-Gen. for Australia* v. *Colonial Sugar Refining Co., Ltd.,* [1914] A.C. 237; (1913), 110 L.T. 707.

(2) *Balewa* v. *Doherty,* [1963] 1 W.L.R. 949; (1963), 107 Sol. Jo. 615.

(3) *Ex p. Levitt,* 302 U.S. 633; 58 S.Ct. 1 (1937), applied.

(4) *Massachusetts* v. *Mellon,* 262 U.S. 447; 43 S.Ct. 597 (1923), applied.

(5) *Olivier* v. *Buttigieg,* [1967] 1 A.C. 115; [1966] 2 All E.R. 459.

Constitution and Rules construed:

Constitution of Sierra Leone, 1961 (No. 741, Second Schedule), s.24: The relevant terms of this section are set out at page 12, line 3—page 13, line 11.

Supreme Court Rules (Laws of Sierra Leone, 1960, *cap.* 7), O.II, r.1: "Every action in the Supreme Court unless otherwise expressly provided for shall be commenced by a writ of summons, which shall be indorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action."

O.XVI, r.5: "Every pleading shall contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved . . . ."

O.XXI, r.4: "The court may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action or answer, and in any such case or in the case of the action or defence being shown by the pleadings to be frivolous or vexatious, the court may order the action to be stayed or dismissed, or judgment to be entered accordingly, as may be just."

B. Macaulay, Q.C., Att.-Gen., and *Tejan-Cole, Senior Crown Counsel,* for the defendants-applicants.

C. N. Rogers-Wright and *Smythe* for the plaintiffs-respondents.

COLE, Ag. C.J.:

Let me start by giving a résumé of the history of this matter. By their writ of summons dated April 29th, 1965, the plaintiffs-respondents instituted proceedings against the defendants-applicants. The writ of summons was generally indorsed, and the indorsement reads as follows:

> "The plaintiffs claim pursuant to s.24 of the Constitution as citizens of Sierra Leone against the Attorney-General of Sierra Leone as representative of the Government of Sierra Leone, and against the second defendant, the Hon. Banja Tejan-Sie, Speaker of the House of Representatives of Sierra Leone, appointed chairman of the committee hereinafter more particularly described, for a declaration:
>
> > That the appointment of a one-party committee proposed by the Government of Sierra Leone constitutes and is a threat to and an infringement of the constitutional provisions contained in ss. 12 to 23 (inclusive) of the Constitution and is specifically in breach of s.22 of the said Constitution and is therefore null, void and of no effect;
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> and for an order:
>
> > (a) That the said proposed committee, being an infringement as aforesaid of the undoubted and entrenched rights of the plaintiffs, be perpetually restrained from meeting or from proceeding in any form whatever.

(b) That the second defendant, the Hon. Banja Tejan-Sie, Speaker of the House of Representatives of Sierra Leone, be restrained perpetually from convening a meeting of the said committee or from acting as chairman of the said committee and for such further and other orders as in the premises shall be just."

The statement of claim was delivered and filed on May 13th, 1966. It states:

[The learned Acting Chief Justice read the statement of claim and continued:]

On May 25th, 1966, upon application having been made to this court by the plaintiffs-respondents and after listening to arguments, I ordered that Mr. Abu Koroma be added as a defendant, and at the same time I granted the plaintiffs-respondents an interim injunction.

The defendants-applicants delivered and filed their statement of defence on May 28th, 1966. It is as follows:

[The learned Acting Chief Justice read the defence and continued:]

On that same day, May 28th, 1966, the defendants-applicants applied to move this court on June 2nd, 1966 for an order that the point of law raised in para. 7 of their statement of defence be set down for hearing and disposed of forthwith and before the trial of the issues of fact in the action. This motion was abandoned and another dated June 2nd, 1966, was filed. This motion applied to move this court on June 6th, 1966—

"for an order that the plaintiffs' statement of claim be struck out under the Supreme Court Rules, O.XXI, r.4 on the ground that it discloses no reasonable cause of action, is frivolous and vexatious and an abuse of the process of the court, and that the defendants be at liberty to sign judgment herein for their costs of defence and of this application; in the alternative, for an order that the points of law raised by the defendants in paras. 5 and 7 of their statement of defence be set down for hearing and disposed of forthwith and before the trial of the issues of fact in this action."

This motion was supported by the affidavit of Donald Marius Allison Macaulay, Acting Solicitor-General, sworn on June 2nd, 1966 and filed. That is the motion which is the subject-matter of this decision.

In the course of the hearing of the motion, in view of certain

rulings I made (including an order made by me on June 7th, 1966 that the points of law raised in paras. 5 and 7 of the statement of defence would substantially dispose of the main action if decided in favour of the defendants-appellants), the plaintiffs-respondents appealed to the Court of Appeal. In consequence of a consent order made by that court on July 8th, 1966 (which, *inter alia*, included my order that the points of law raised in paras. 5 and 7 of the defence do stand for argument and be disposed of before the trial), an amended statement of claim and an amended statement of defence were delivered and filed. The amended statement of claim was delivered and filed on August 3rd, 1966, and it reads as follows:

"1. The plaintiffs are each of them citizens of and resident in Sierra Leone. The first defendant is the Attorney-General of Sierra Leone and is sued in his capacity as representative of the Crown in Sierra Leone. The second defendant, the Hon. Banja Tejan-Sie, is sued in his capacity as appointee of the Crown to lead the proposed committee the main subject-matter of these proceedings.

2. By Government Notice No. 347 M.P. CO/22/40/1 issued out of the Cabinet Secretariat, dated April 22nd, 1966 and published in the Sierra Leone Gazette (Extraordinary) Volume XCVII, No. 32 of April 25th, 1966, the Government set up a committee with the following terms of reference:

> 'To collate and assess all views on the One Party System both in and out of Parliament and to make recommendations on the type of One Party System suitable for Sierra Leone and the method by which it should be introduced.'

3. Representatives from certain bodies with the number of delegates each was allowed was also decided in this said Government Notice and the Hon. Banja Tejan-Sie, Speaker of the House of Representatives, was nominated chairman.

4. The plaintiffs and each of them say that the proposed committee according to its restrictive terms of reference constitutes a distinct and certain threat to the rights entrenched by s.22 of the Constitution.

5. The plaintiffs and each of them aver that they do not consent to any hindrance being put on their right to assemble freely and associate with other persons and in particular do not consent to any curtailment of their respective freedom to belong to respective political associations, unions or parties for

the protection and advancement of their respective political interest.

6. The plaintiffs further aver that the proceedings and recommendations of the said committee as is evidenced by the definitive terms of reference made it clear that their entrenched rights are likely to be contravened in relation to them.

7. The plaintiffs further say that no adequate means of redress are available to them under any other law.

The plaintiffs' claim pursuant to s.24 of the Constitution is as citizens of Sierra Leone against the Attorney-General of Sierra Leone as representative of the Government of Sierra Leone, and against the second defendant, the Hon. Banja Tejan-Sie, Speaker of the House of Representatives of Sierra Leone, appointed chairman of the committee hereinafter more particularly described for a declaration:

> That the appointment of a one-party committee proposed by the Government of Sierra Leone constitutes and is a threat to and an infringement of the constitutional provisions contained in ss. 12 to 23 (inclusive) of the Constitution and is specifically in breach of s.22 of the said Constitution and is therefore null, void and of no effect;

and for an order:

> (a) that the said proposed committee, being an infringement as aforesaid of the undoubted and entrenched rights of the plaintiffs, be perpetually restrained from meeting or from proceeding in any form whatever;
>
> (b) that the said committee with its terms of reference as set out in Government Notice No. 347 M.P. CO/22/40/1 published in the Sierra Leone Gazette (Extraordinary) Volume XCVII, No. 32 of April 25th, 1966 constitute a threat to the rights entrenched by s.22 of the Sierra Leone Constitution and is unconstitutional and is null, void and of no effect;
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> (c) that the second defendant, the Hon. Banja Tejan-Sie, Speaker of the House of Representatives of Sierra Leone, be restrained perpetually from convening a meeting of the said committee or from acting as chairman of the said committee;

and for such further and other orders as in the premises shall be just."

The amended statement of defence was delivered and filed on July 11th, 1966, and reads as follows:

"1. In answer to para. 1 of the statement of claim, the defendants are unable to admit or deny the allegations contained therein except and in so far as such allegations concern the first and second defendants, which allegations are admitted.

2. The defendants admit para. 2 of the statement of claim and in addition state that on July 17th, 1966 the Government issued a statement contained in a White Paper, as follows:

'GOVERNMENT WHITE PAPER
on the Proposed Introduction of a
Democratic One Party System in
Sierra Leone

Parliament at its Fourth Session 1965–66 passed the following resolution:

"That Government give serious consideration to the introduction of a One Party System of government in this country."

2. The idea of a One Party System has come about as a result of a genuine desire on the part of the Government for national unity, solidarity and progress. It has not been motivated by any thirst for power nor by any desire to entrench the present Government perpetually in power by undemocratic and unconstitutional means. There is no intention whatsover on the part of the Government to impose any system on the people of this country. Any changes in our political system which are proposed, will only be brought about if the people agree to them, after being consulted by a method which is both constitutional and popularly acceptable.

3. In order therefore to ascertain the wishes of the people as a whole, it is the view of Government that the One Party System should be introduced by means of a referendum. Since there is no provision in the Constitution for such a referendum, it will be necessary to amend the Constitution to provide for it. The Committee which will be appointed to study this question will however be free to consider other methods of ascertaining the wishes of the people.

4. Government has repeatedly told the public that it has

nothing to hide and it will be guided entirely by the will of the people in its consideration of the One Party System. Therefore the Prime Minister in a number of addresses to party rallies has made it clear that the various questions that arise in regard to the introduction of a One Party System will be referred to a Committee for thorough study. Government now takes the opportunity of setting down in this White Paper its views on the subject. It is hoped that these will form part of the basis or the starting point from which the proposed Committee, when appointed, will approach its work. These proposals are neither final nor complete; and although they indicate the thinking of the Government on the One Party System, they are not intended to exclude other ideas and other suggestions which may occur to members of the Committee and to members of the public. There is therefore nothing absolute or unchangeable about them.

5. In a One Party System one of the qualifications for election to Parliament should be membership of the Party. This will not, however, interfere with all the other qualifications which are at present provided for in the Constitution. These other qualifications for membership shall stand; *e.g.*, it is laid down in the Constitution that all persons of 25 years and above, if otherwise qualified, should be eligible to stand as candidates for election to Parliament.

6. In making these proposals Government will endeavour to ensure that no person in Sierra Leone is deprived of his fundamental rights to life, liberty, security of his person, the enjoyment of property and the protection of the law, his fundamental freedoms of conscience, of expression and of assembly, and respect for his private and family life. Government is particularly anxious to ensure that whatever political system is adopted no person shall be deprived of his personal liberty save as may be authorised by law in any of the cases specified in the Constitution.

7. With these general principles in mind Government has decided to set up a Committee with the following terms of reference:

> "To collate and assess all views on the One Party System both in and out of Parliament and to make recommendations on the type of One Party System

suitable for Sierra Leone and the method by which it should be introduced."

In making this study the Committee may take into consideration any points that will help it in coming to a fair and reasonable conclusion. The Committee may also take into consideration the above proposals of the Government and the following specific points:

(a) the method and procedure to be adopted in general elections under the One Party System;

(b) the safeguarding of freedom of speech under the One Party System;

(c) the maintenance of the rule of law and the independence of the judiciary in a One Party System;

(d) the definition of a political party and how to ensure adherence to the One Party System when introduced.

8. Government is of the view that the principles set out above will allay fears that have been expressed about the purpose and nature of the One Party System.'

3. The defendants admit para. 3 of the statement of claim.

4. The defendants deny para. 4 of the statement of claim.

5. The defendants will object in law and say that the appointment of the committee referred to in the writ of summons and the statement of claim is an incidental power of Government and the Crown to make such enquiries as it thinks fit so as to inform itself of the state of public opinion before introducing any bill in Parliament; that in the exercise of such a power the Government and the Crown have an unqualified right to state the terms of reference of any committee so appointed, including the committee challenged in this action.

6. The defendants deny para. 6 of the statement of claim and further say that the said para. 6 is speculative and is in anticipation of the deliberations and decisions of the said committee.

7. The defendants will object that the statement of claim is bad in law and discloses no cause of action against them, on the ground that the purported invocation of the jurisdiction of the court under s.24 of the Constitution is wrong.

8. Save as is specifically admitted the defendants deny each and every of the allegations contained in the statement of claim."

The hearing of the motion then continued on the basis of the

indorsement on the writ of summons, the amended statement of claim, the amended statement of defence and the affidavit of Donald Marius Allison Macaulay to which I have already referred. It would, perhaps, be better if I dealt with the alternative part of the motion at this stage as I consider this to be of more (if not the utmost) importance.

I have already set out paras. 5 and 7 of the amended statement of defence. For ease of reference I shall here set them out. They are:

"5. The defendants will object in law and say that the appointment of the committee referred to in the writ of summons and the statement of claim is an incidental power of Government and the Crown to make such enquiries as it thinks fit so as to inform itself of the state of public opinion before introducing any bill in Parliament; that in the exercise of such a power the Government and the Crown have an unqualified right to state the terms of reference of any committee so appointed, including the committee challenged in this action."

"7. The defendants will object that the statement of claim is bad in law and discloses no cause of action against them, on the ground that the purported invocation of the jurisdiction of the court under s.24 of the Constitution is wrong."

It will be recalled that in para. 2 of the amended statement of claim it was alleged, and the allegation was admitted in para. 2 of the amended statement of defence, that—

"By Government Notice No. 347 M.P. CO/22/40/1 issued out of the Cabinet Secretariat, dated April 22nd, 1966 and published in the Sierra Leone Gazette (Extraordinary) Volume XCVII, No. 32 of April 25th, 1966 the Government set up a committee with the following terms of reference:

'To collate and assess all views on the One Party System both in and out of Parliament and to make recommendations on the type of One Party System suitable for Sierra Leone and the method by which it should be introduced.'"

The plaintiffs-respondents also allege in their statement of claim that the proposed committee according to its restrictive terms of reference constitutes a distinct and certain threat to the rights entrenched by s.22 of the Constitution.

The plaintiffs-respondents have not denied the allegations in the amended statement of defence, namely that the creation of the committee the subject-matter of this action was the result of a resolution of Parliament passed at its fourth session, 1965–66, to the

effect that Government give serious consideration to the introduction of a one-party system of government in this country. There has been no reply to the amended statement of defence nor has there been filed any affidavit in opposition to that of Donald Marius Allison Macaulay to which I have already referred. There has been no denial of this very important allegation. In the circumstances I accept as a fact that this is the case. It has not been contended that this resolution is *ultra vires* Part 2 of Chapter IV of the Constitution. I hold that the resolution does not contravene that part of the Constitution. There is no evidence before me that the resolution contravened any of the standing orders of Parliament. In the circumstances this latter point does not arise for consideration. If the resolution is constitutional, as I have already found, what are the duties of Government in this regard? Surely it is to execute the resolution. Has Government (meaning the executive) gone outside the resolution in publishing the White Paper set out in para. 2 of the amended statement of defence and setting up the committee (which I shall hereafter refer to as "the one-party committee") with the terms of reference already set out above? I do not think so. It is my considered view that the steps taken by Government were quite proper and lawful. I also consider the terms of reference of the committee quite in place. It must not be overlooked that the decision of Parliament was—"that Government give serious consideration to the introduction of a One Party System of government in this country." Government in executing the duty cast upon it by Parliament was bound to do so in accordance with the tenor and spirit of Parliament's decision. I find no substance in this complaint of the plaintiffs-respondents.

I now come to the point of law raised in para. 7 of the amended statement of defence. This point of law, as I understand it, is: Are there in the indorsement on the writ of summons and/or in the amended statement of claim any allegations of material facts showing that as a result of the action complained of any of the provisions of ss. 12 to 23 (inclusive) of the Constitution has been, is being or is likely to be contravened in relation to the plaintiffs-respondents?

Sections 12 to 23 inclusive of the Constitution comprise what I shall call the protected freedoms, that is to say, the fundamental rights of individuals protected by the Constitution. Section 24 of the Constitution sets out the provisions for the enforcement of these rights in case of any contravention or the likelihood of any such

contravention. It is a long section but I think it is necessary that I set it out in full. The section states:

"24. (1) Subject to the provisions of subsection (6) of this section, if any person alleges that any of the provisions of sections 12 to 23 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.

(2) The Supreme Court shall have original jurisdiction—

(a) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and

(b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) thereof,

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of the said sections 12 to 23 (inclusive) to the protection of which the person concerned is entitled:

Provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court other than the Supreme Court or the Court of Appeal any question arises as to the contravention of any of the provisions of the said sections 12 to 23 (inclusive), the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court unless in his opinion the raising of the question is merely frivolous or vexatious.

(4) Any person aggrieved by any determination of the Supreme Court under this section may appeal therefrom to the Court of Appeal.

(5) No appeal shall lie from any determination under this section that any application or the raising of any question is merely frivolous or vexatious.

(6) Parliament may make provision, or may authorise the making of provision, with respect to the practice and procedure of any court for the purposes of this section and may confer upon that court such powers, or may authorise the conferment

thereon of such powers, in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(7) During the period of two years beginning with the commencement of this Constitution, nothing contained in any law made before that commencement shall be held to be inconsistent with any of the said sections 12 to 23 (inclusive); and nothing done during that period under the authority of any such law shall be held to be done in contravention of any of those sections."

Let me say at once that sub-s.(7) does not apply to this matter.

By O.II, r.1 of our Supreme Court Rules, the indorsement on a writ of summons should state the nature of the claim made or the relief or the remedy required in the action. By O.XVI, r.5 of the same rules every pleading (and this includes a statement of claim) should contain a statement of the material facts on which the party pleading relies for his claim or defence.

In an action of this nature s.24 of the Constitution requires that the plaintiffs-respondents must allege that one or other of the provisions of the Constitution (namely ss. 12 to 23) has been, or is being, or is likely to be, contravened in relation to them. Now, what does s.24(1) of the Constitution mean? This question is relevant because it is my view that on a proper reading of s.24(1) of the Constitution and O.II, r.1 and O.XVI, r.5 of our Supreme Court Rules, already referred to above, the plaintiffs-respondents must allege material facts on which they rely to show that any of the provisions of ss. 12 to 23 (inclusive) of the Constitution has been, or is being, or is likely to be, contravened in relation to them. In my considered opinion, what the section means is this: To entitle a person to invoke the judicial power of this court, that person must show by allegations of material fact in his pleadings that as a result of the legislative or executive acts complained of he has sustained, or is sustaining, or is immediately in danger of sustaining, a direct injury, and this injury is not one of a general nature common to all members of the public.

In arriving at this opinion I am guided by a number of legal authorities including the Australian case of *Att.-Gen. for Australia* v. *Colonial Sugar Refining Co., Ltd.* (1) cited with approval by the Privy Council in the Nigerian case of *Balewa* v. *Doherty* (2), the Maltese case of *Olivier* v. *Buttigieg* (5) (another decision of the Privy

Council) and two decisions of the Supreme Court of the United States of America, namely, *Massachusetts* v. *Mellon* (4) and *Ex p. Levitt* (3). All these authorities lay down what I consider to be a sound and sensible proposition of law (and, in fairness to Mr. Smythe, he did concede this in the course of his learned arguments). I have carefully perused the indorsement on the writ of summons and the amended statement of claim. Nowhere do I find any allegation which falls within this requirement. In my view the possible threat alleged in the amended statement of claim merely shows a likelihood of the plaintiffs-respondents suffering as a result of the executive acts complained of in some indefinite way in common with other people generally. This in law is insufficient to entitle the plaintiffs-respondents properly to invoke the jurisdiction of this court. I therefore hold in the circumstances that the purported invocation of the jurisdiction of the court under s.24 of the Constitution by the plaintiffs-respondents is wrong.

The rulings I have made in this decision substantially dispose of the main action. With regard to the first part of the motion, suffice it to say that there were substantial points of law involved requiring an interpretation of the Constitution.

The result is that the motion succeeds. The main action hereby stands dismissed. The plaintiffs-respondents are hereby ordered to pay to the defendants-applicants the costs of the motion and that of the main action, such costs to be taxed.

Order accordingly.

MACAULAY *v.* MACAULAY

SUPREME COURT (Cole, Ag. C.J.): January 4th, 1967
(Divorce Case No. 27/66)

[1] **Family Law—divorce—condonation—evidence—forgiveness, cohabitation and sexual intercourse:** Where a matrimonial offence is forgiven and remitted by the injured spouse and the parties cohabit and have sexual intercourse, the offence is condoned (page 18, lines 32–39).

[2] **Family Law—divorce—condonation—revival of condoned offence —cruelty revived by great unkindness:** Condoned cruelty may be revived by an act or acts of great unkindness (page 19, lines 9–10).