1st Session Third Parliament Trinidad and Tobago
20 Elizabeth II

TRINIDAD AND TOBAGO

Act No. 36 of 1971

[L.S.]

AN ACT to amend the Sedition Ordinance, Ch. 4. No. 6.

[*Assented to* 13*th December,* 1971]

WHEREAS it is enacted *inter alia* by subsection (1) of section 5 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect notwithstanding sections 1 and 2 of the Constitution and, if any such Act does so declare, it shall have effect accordingly: Preamble

And whereas it is provided by subsection (2) of the said section 5 of the Constitution that an Act of Parliament to

which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect notwithstanding sections 1 and 2 of the Constitution:

Enactment

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:

Short title

1. (1) This Act may be cited as the Sedition (Amendment) Act, 1971.

Act at variance with Ch. 1 of the Constitution

(2) This Act shall have effect notwithstanding sections 1 and 2 of the Constitution.

Interpretation

2. In this Act—

"Constitution" means the Constitution of Trinidad and Tobago set out in the Second Schedule to the Trinidad and Tobago (Constitution) Order-in-Council, 1962;

Ch. 4. No. 6

"the Ordinance" means the Sedition Ordinance.

Section 2 of the Ordinance amended

3. Section 2 of the Ordinance is amended as follows:—

(*a*) by renumbering the section as section 2(1), and by inserting therein in its appropriate alphabetical order the following new definitions:—

" "Constitution" means the Constitution established by the constitutional laws of Trinidad and Tobago;".

"identifiable group" means any section of the public distinguished by colour, race, religion or ethnic origin or profession, calling or employment;

"publish" in relation to a seditious publication, includes publish the publication, either by itself or as part of a

newspaper or periodical or otherwise than as part of a newspaper or periodical, for distribution to the public;

"statements" includes words spoken or written or recorded electronically or electromagnetically or otherwise, and signs or other visible representations.";

(*b*) by adding the following new subsection thereto:

"(2) In any prosecution for an offence under this Ordinance a person shall be deemed, until the contrary is proved, knowingly to have been in possession of a seditious publication, if the same is found in any place or thing over which he has the possession, custody, power, or control."

4. Section 3 of the Ordinance is amended as follows:

Section 3 of the Ordinance amended

(*a*) in subsection (1) thereof—

(i) by deleting all the words occurring after the words "or to excite disaffection against" in paragraph (*a*) thereof and by substituting therefor the words "Government or the Constitution as by law established or the House of Representatives or the Senate or the administration of justice";

(ii) by deleting the words "Her Majesty's subjects" occurring in paragraph (*b*) thereof and by substituting therefor the words "any person";

(iii) by deleting the words "Her Majesty's subjects" occurring in paragraph (*c*) thereof and by substituting therefor the words "inhabitants of Trinidad and Tobago";

(iv) by repealing and replacing paragraph (*d*) thereof as follows:

"(*d*) to engender or promote—

(i) feelings of ill-will or hostility between one or more sections of the community on the one hand and any other section or sections of the community on the other hand; or

(ii) feelings of ill-will towards, hostility to or contempt for any class of inhabitants of Trinidad and Tobago distinguished by race, colour, religion, profession, calling or employment.";

(v) by adding the following new paragraph thereto—

"(*e*) to advocate or promote, with intent to destroy in whole or in part any identifiable group, the commission of any of the following acts, namely—

(i) killing members of the group; or

(ii) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.";

(*b*) in subsection (2) thereof—

(i) by inserting immediately after the word "speech" occurring in line one thereof, the word "statement";

(ii) by deleting the words "Her Majesty or" occurring in line two thereof;

(iii) by deleting the words "in his or their measures" occurring in lines three and four thereof and by substituting therefor the words "in its measures";

(iv) by substituting for the words "Her Majesty's subjects" occurring in lines six and seven thereof the word "persons"; and

(v) by deleting all the words occurring after the words "tendency to produce" in line ten thereof and by substituting therefor the following:

"(*a*) feelings of ill-will, hostility or contempt between different sections of the community; or

(*b*) feelings of ill-will, hostility or contempt between different classes of the inhabitants of Trinidad and Tobago distinguished by race, colour, religion, profession, calling or employment.";

(*c*) in subsection (3) thereof by inserting immediately after the words "any words were spoken" occurring in line two thereof the words "or communicated".

Section 4 of the Ordinance amended

5. (1) Section 4 of the Ordinance is amended by repealing and replacing subsections (1) and (2) thereof as follows and by renumbering subsection (3) thereof as subsection (4):

"Offences 4. (1) A person is guilty of an offence who—

(*a*) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;

(*b*) communicates any statement having a seditious intention;

(*c*) publishes, sells, offers for sale or distributes any seditious publication;

(*d*) with a view to its being published prints, writes, composes, makes, reproduces, imports or has in his possession, custody, power or control any seditious publication.

(2) Subject to subsection (3), a person guilty of an offence under this section is liable—

(*a*) on summary conviction to a fine not exceeding one thousand five hundred dollars or to imprisonment for two years or to both such fine and imprisonment; or

(*b*) on conviction on indictment to a fine not exceeding ten thousand dollars or to imprisonment for five years or to both such fine and imprisonment, and any seditious publication, the subject matter of the charge, shall be forfeited.

(3) Notwithstanding any other enactment to the contrary where a person is charged summarily with an offence under this section the magistrate shall—

(*a*) inform him that he may, if he so requires, be tried indictably by a jury instead of being tried summarily and explain to him what is meant by being tried summarily; and

(*b*) after so informing him ask him whether he wishes to be tried indictably by a jury or consents to be tried summarily,

and if the person charged requests to be tried indictably, the magistrate shall proceed with the matter as if it was a preliminary enquiry."

(2) Section 4(4) of the Ordinance as renumbered is amended by inserting immediately before the words "importing or having a seditious publication" the word "communicating",; and by inserting the words "or statement" immediately after the word "publication" wherever that word occurs in the subsection.

Section 5 of the Ordinance amended

6. Section 5 of the Ordinance is amended as follows:—

(*a*) in subsection (3) thereof, by inserting the word "communicates" immediately after the word "reproduces" occurring in line two of the said subsection (3);

(*b*) in subsection (3) thereof by deleting the words "and the publication shall be forfeited to Her Majesty" occurring at the end thereof and by substituting therefor the words "and liable on summary conviction to a fine of five thousand dollars or to imprisonment for three years or on conviction on indictment to imprisonment for five years, and the publication shall be forfeited";

(*c*) in subsection (4) thereof by deleting the words "against this Ordinance" occurring at the end thereof and by substituting therefor the words "and liable on summary conviction to a fine of two thousand, five hundred dollars or to imprisonment for two years";

(*d*) by inserting the words "or statement" immediately after the word "publication" wherever that word occurs in the section.

Section 7 of the Ordinance amended

No. 30 of 1965

7. Section 7 of the Ordinance is amended by substituting a reference to the Police Service established under the Police Service Act, 1965, for the reference to "the Police Force" wherever that reference occurs in the section.

Section 8 of the Ordinance amended

8. Section 8 of the Ordinance is amended by deleting all the words occurring after the words "on summary conviction" in line two thereof and by substituting therefor the words "be liable to a fine of two thousand five hundred dollars or to imprisonment for two years or to both such fine and imprisonment."

Ordinance amended

9. The Ordinance is amended by adding at the end thereof the following new sections:—

"Limitation on legal proceedings

11. No prosecution for an offence under section 4 shall be begun except within twelve months after the offence is committed.

Evidence

12. No person shall be convicted of an offence under section 4 on the uncorroborated testimony of one witness.

Search warrant

13. If a magistrate is satisfied by information on oath that there is reasonable cause to believe that an offence under this Ordinance has been or is about to be committed

he may grant a search warrant authorising any police officer to enter any premises or place named in the warrant, with such assistance as may be necessary, and if necessary by force, and to search the premises or place and every person found therein and to seize anything found on the premises or place which the officer has reasonable ground for suspecting to be evidence of an offence under this Ordinance.".

Act to be certified

10. (1) The Clerk of the Senate and the Clerk of the House of Representatives shall certify whether this Act is one the Bill for which has been passed by the Senate and the House, respectively, and at the fin[illegible] the Senate and in the House, [illegible] ported in the Senate, by the votes of not less [illegible] fifths of all the members of the Senate, and in the House, by the votes of not less than three-fifths of all the members of the House.

(2) The certificates of the Clerk of the Senate and the Clerk of the House of Representatives under subsection (1) duly signed and authenticated by them shall be conclusive evidence that this Act is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House, as provided for in section 5(2) of the Constitution.

Passed in the House of Representatives this 19th day of November, 1971.

G. R. LATOUR
Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of 35 members of the House.

G. R. LATOUR
Clerk of the House

Passed in the Senate this 16th day of November, 1971.

J. E. CARTER
Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of 17 Senators.

J. E. CARTER
Clerk of the Senate

GOVERNMENT PRINTERY, TRINIDAD, TRINIDAD AND TOBAGO—1971