

*Amended by
Law 35/1934*

No. 35 OF 1932.

A.D. 1932.

A LAW TO DEFINE AND AMEND THE LAW OF
CIVIL WRONGS.

35 of 1932.

RONALD STORRS,
Governor.

[8th June, 1932.]

BE it enacted:—

Short title.

1. This Law may be cited as the Civil Wrongs Law, 1932.

PART I.

PRELIMINARY.

Interpreta
tion.

2.—(1) This Law shall be interpreted in accordance with the principles of legal interpretation obtaining in England, and expressions used in it shall be presumed, so far as is consistent with their context, and except as may be otherwise expressly provided, to be used with the meaning attaching to them in English Law and shall be construed in accordance therewith.

(2) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“Action” means all proceedings of a civil nature before any Court and includes a set off or a counterclaim;

“Animal” includes birds, fish, insects and reptiles.
“Wild animal” means any animal not usually kept in captivity or under the control of man in the Colony;

“the Colony” means the Colony of Cyprus;

“Damage” means the loss of or detriment to any property, comfort, bodily welfare, reputation or other similar loss or detriment. “Pecuniary damage” means any actual loss or expense which is capable of estimation in money and of which particulars can be given;

“Enactment” means any Order of His Majesty in Council or any Law or any Order of the Governor in Council or any bye-law, regulation, rule or other subsidiary legislation lawfully made ;

“Injury” means any unlawful interference with a legal right ;

“Master” means the person who, in relation to another, has complete control of the way in which such other performs his work for such person. “Servant” means any person whose work is so controlled by a master :

Provided that no person in the service of His Majesty or of the Government of the Colony or of the Evcaf Department or of any Municipal Corporation or of any person shall be deemed to be the master or servant of any other person in such services respectively ;

“Occupier” means any person entitled as against the owner thereof to occupy or use any immovable property and if there is no such person then the owner of such property ;

“Property” means immovable and movable property. “Immovable property” means land, houses, buildings, walls and other constructions and trees. “Movable property” means all inanimate things and animals and shall include money, the produce of trees and vines, cereals, vegetable and other crops and water, whether severed from the land or not ;

“Public office” means any office held for the time being by any person employed in the public service as defined in the Cyprus Criminal Code Order in Council, 1928.

3. The matters in this Law hereinafter enumerated shall be civil wrongs, and subject to the provisions of this Law, any person who shall suffer any injury or damage by reason of any civil wrong committed in the Colony or within three miles of the coast thereof measured from low water mark shall be entitled to recover from the person committing or liable for such civil wrong the remedies hereinafter specified :

Right to
remedy in
respect of
civil wrongs.

Provided that an act which if repeated would not tend to establish an adverse claim or which is an act of which in the circumstances a person of ordinary sense and temper would not complain shall not be deemed to be a civil wrong.

PART II.

RIGHTS AND LIABILITIES OF CERTAIN PERSONS.

Limitation
of actions
against
certain
persons in
respect of
civil wrongs.

4.—(1) No action in respect of any civil wrong shall be brought against His Majesty.

(2) A servant of the Crown shall be responsible for any civil wrong committed by him :

Provided that he shall be sued therefor in his personal capacity :

Provided also that, subject to the provisions of subsections (3) and (4) hereof, it shall be a defence to any action brought against any such servant that the act complained of was within the scope of his lawful authority.

No servant of the Crown shall be responsible for any civil wrong committed by any other servant of the Crown unless he shall have expressly authorised or ratified such civil wrong.

(3) No action shall be brought against any Judge of the Supreme Court of the Colony, nor against any person lawfully performing the duties of a Judge of such Court in respect of any civil wrong committed by him in his judicial capacity.

(4) No action shall be brought against any Judge of any Court in the Colony, other than the Supreme Court, nor against any person lawfully performing the duties of a Judge of such Court, nor against any official receiver, nor any member of any court martial nor against any arbitrator nor other judicial officer in respect of any civil wrong committed by him in his judicial capacity if the act causing the civil wrong was within his jurisdiction.

Acts of State.

5. No action shall be brought under the provisions of this Law in respect of any act of state, that is to say, any act causing injury or damage to any person who is not at the time of that act a subject of His Majesty and which act is done by a representative of His Majesty's civil or military authority and is either previously sanctioned or subsequently ratified by His Majesty.

6. Notwithstanding anything contained in the Bankruptcy Law, 1930, a bankrupt may sue and be sued in respect of a civil wrong and no action in respect thereof shall be brought on behalf of or against the estate of any bankrupt : Provided,

Bankrupts.

(a) that the right of action in respect of any such wrong which caused or causes pecuniary damage to the estate of a bankrupt shall pass to or be exercised by his trustee, and

(b) that a judgment obtained against a bankrupt before the date of the receiving order, in respect of a civil wrong, shall be provable in the bankruptcy.

7. A corporate body shall not recover any compensation in respect of any civil wrong unless it shall have suffered damage thereby.

Corporate bodies.

8. A person under the age of eighteen years may sue and, subject to the provisions of section 9 of this Law, be sued in respect of a civil wrong :

Persons under the age of eighteen years.

Provided that no action shall be brought against any such person in respect of any civil wrong when such wrong arises directly or indirectly out of any contract entered into by such person.

9. No action shall be brought against any person in respect of any civil wrong committed by such person when such person was under the age of twelve years.

Persons under the age of twelve years.

10.—(1) No action shall be brought in respect of any civil wrong committed before or during the subsistence of a marriage by either party thereto or any person representing his or her estate against the other party thereto or any person representing his or her estate.

Husband and wife.

(2) No party to a marriage shall be liable for any civil wrong committed at any time by the other party thereto save under the provisions of sections 11 and 12 of this Law.

11. When two or more persons are respectively liable under the provisions of this Law for any act and such act constitutes a civil wrong such persons shall be jointly liable as joint civil wrong doers for such act and may be sued therefor jointly or severally :

Joint civil wrong doers, etc.

Provided that,

(a) if a judgment is obtained against, or

(b) if a release is given to,

one or more of such persons in respect of such civil wrong no action shall lie against the other person or persons in respect thereof.

Liability
for acts
committed
by other
persons not
being
servants.

12.—(1) For the purposes of this Law,

(a) Any person who shall join or aid in, authorise, counsel, command, procure or ratify any act done or to be done by any other person shall be liable for such act ;

(b) Any person who shall employ an agent, not being his servant, to do any act or class of acts on his behalf shall be liable for anything done by such agent in the performance of, and for the manner in which such agent does, such act or class of acts ;

(c) Any person who shall enter into any contract with any other person, not being his servant or agent, to do any act on his behalf shall not be liable for any civil wrong arising during the doing of such act :

Provided that the provisions of this paragraph of this sub-section shall not apply if,

(i) such person was negligent in the selection of such contractor, or

(ii) such person interfered with the work of the contractor in such a way as to cause the injury or damage, or

(iii) such person authorised or ratified the act causing injury or damage, or

(iv) the thing for the doing of which the contract was entered into was unlawful.

(2) Nothing in this section shall affect the liability of any person for any act committed by such person.

Master's
liability for
acts of his
servant.

13.—(1) For the purposes of this Law a master shall be liable for any act committed by his servant,

(a) which he shall have authorised or ratified, or

(b) which was committed by his servant in the course of his employment :

Provided,

(a) that subject to the provisions of any enactment as to workman's compensation or employer's liability a master shall not be liable to one of his servants for any civil wrong committed against such servant by another of his servants unless the master shall have authorised or ratified such civil wrong, and

(b) that a master shall not be liable for any act committed by any person, not being another of his servants, to whom his servant shall without his authority, express or implied, have delegated his duty.

(2) An act shall be deemed to have been done in the course of a servant's employment if it was done by him in his capacity as a servant and whilst performing the usual duties of and incidental to his employment notwithstanding that the act was an improper mode of performing an act authorised by the master ; but an act shall not be deemed to have been so done if it was done by a servant for his own ends and not on behalf of the master.

(3) For the purposes of this section act includes omission.

(4) Nothing in this section shall affect the liability of any servant for any act committed by such servant.

14. Whenever under the provisions of this Law it is necessary to allege or prove knowledge, the knowledge of an agent or of a servant shall be deemed to be the knowledge of his principal or master if such knowledge was acquired,

When
knowledge
of agent or
servant to be
knowledge
of master.

(a) by the agent whilst acting for and on behalf of his principal, or

(b) by the servant in the course of his employment, in connection with the matter or thing in respect of which the knowledge is so necessary.

15.—(1) The right of action in respect of any civil wrong shall be extinguished by the death of,

Effect of
death of
party.

- (a) the person suffering injury or damage thereby, or
- (b) the person responsible therefor :

Provided,

(a) that the executor, administrator or heirs of a deceased person as representing his estate shall be entitled within six months of his death to take proceedings to recover compensation in respect of any civil wrong which caused pecuniary damage to the deceased committed within six months before his death, and

(b) that proceedings may be taken to recover compensation from the executor administrator or heirs of a deceased person as representing his estate within six months of his death in respect of any civil wrong committed by such person within six months before his death whereby he had,

- (i) wrongfully appropriated the movable property of another and thereby increased his own estate, or
- (ii) caused pecuniary damage to another.

(2) Where any proceedings are brought under the provisions of this section the provisions of this Law shall, subject to the provisions of this section, apply to such proceedings and to all matters arising in or out of or in connection with such proceedings as though such proceedings were brought by or against the deceased person.

(3) Nothing in this section shall be deemed to affect the liability of any surviving joint civil wrong doer.

Liability or right in respect of civil wrong not assignable.

16. The right of any remedy for, and any liability in respect of, any civil wrong shall not be assignable otherwise than by operation of law.

PART III.

CIVIL WRONGS AND DEFENCES TO CERTAIN ACTIONS THEREFOR.

Libel.

17.—(1) Libel consists of the publication by any person by means of print, writing, painting, effigy or by any means otherwise than solely by gestures, spoken words or other sounds of any matter which,

(a) imputes to any other person a crime, or

(b) imputes to any other person misconduct in any public office, or

(c) is likely to injure any other person in his occupation, calling or office, or

(d) is likely to expose any other person to general hatred, contempt or ridicule.

(2) In this section "crime" means any offence or other act punishable under any enactment in force within the Colony and any act wheresoever committed, which if committed within the Colony, would be punishable therein.

Publication of libel.

18. A person publishes a libel if he causes the print, writing, painting, effigy or other means by which the defamatory matter is conveyed, to be so dealt with, either by exhibition, reading, recitation, description, delivery or otherwise, so that the defamatory meaning thereof becomes known or is likely to become known to any person other than,

(a) the person defamed thereby, or

(b) the husband or wife of the person publishing the libel so long as the marriage is subsisting.

Special defences to action for libel.

19. In any action brought in respect of any libel it shall be a defence,

(a) that the matter of which complaint is made was true, or

(b) that the publication thereof was privileged in accordance with the provisions of this Law.

20.—(1) The publication of a libel is absolutely privileged in any of the following cases, that is to say:—

When
publication
of libel
absolutely
privileged.

(a) If the matter is published by the Governor, or by the Governor in Executive Council or by any legislative body which may hereafter be established, in any official document or proceedings;

(b) If the matter is published in the Executive Council or any legislative body which may hereafter be established by the Governor or by any member of such Council;

(c) If the matter is published by order of the Governor in Council;

(d) If the matter is published concerning a person subject to military, naval or police discipline for the time being, and relates to his conduct as a person subject to such discipline, and is published by some person having authority over him in respect of such conduct and to some person having authority over him in respect of such conduct;

(e) If the matter is published in course of any judicial proceedings by a person taking part therein as a Judge or Magistrate or advocate or witness or party thereto;

(f) If the matter published is in fact a fair report of anything said, done or published in the Executive Council or any legislative body which may hereafter be established.

(g) If the matter published is in fact a fair report of anything said, done or shown in any judicial proceedings before any Court:

Provided that if the Court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral or blasphemous, the publication thereof shall not be privileged;

(h) If the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under the provisions of this section;

(i) If the person publishing the matter is legally bound to publish it.

(2) Where any publication is absolutely privileged under the provisions of sub-section (1) hereof it is immaterial whether the matter was true or false, and whether it was or was not known to be false and whether it was or was not published in good faith.

Kyrakides
v.
Sir Herbert Palmer
C.L.R. vol. 16 p. 15

When
publication
of libel
conditionally
privileged.

21.—(1) The publication of matter which constitutes a libel under the provisions of this Law is privileged, on condition that it was published in good faith, if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made or has a legitimate personal interest in so publishing it :

Provided that the publication does not exceed either in extent or matter what is reasonably sufficient for the occasion, and in any of the following cases, that is to say :—

(a) If the matter is an expression of opinion in good faith as to the conduct of a person in a judicial, official or other public capacity, or as to his personal character so far as it appears in such conduct ;

(b) If the matter is an expression of opinion in good faith as to the conduct of a person in relation to any public question or matter, or as to his personal character so far as it appears in such conduct ;

(c) If the matter is an expression of opinion in good faith as to the conduct of any person as disclosed by evidence given in a public legal proceeding, whether civil or criminal, or as to the conduct of any person as a party, witness, or otherwise in any such proceeding, or as to the character of any person so far as it appears in any such conduct as in this paragraph mentioned ;

(d) If the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech or other work, performance or act published or publicly done or made, or submitted by a person to the judgment of the public, or as to the character of the person so far as it appears therein ;

(e) If the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the other person, or on the character of the other person, so far as it appears in such conduct ;

(f) If the matter is a complaint or accusation made by a person in good faith against another person in respect of his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter ;

(g) If the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published, or of some person in whom the person to whom it is published is interested.

(2) The publication of any matter which constitutes a libel under the provisions of this Law shall not be deemed to have been made in good faith by a person, within the meaning of sub-section (1) hereof, if it is made to appear either :—

(a) that the matter was untrue, and that he did not believe it to be true ; or

(b) that the matter was untrue, and that he published it without having taken reasonable care to ascertain whether it was true or false ; or

(c) that, in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he claims to be privileged.

(3) In any action brought in respect of any libel, the publication of which might be privileged under the provisions of sub-section (1) hereof, the onus of proving that the publication thereof was not made in good faith shall be upon the plaintiff.

22. The defendant in any action for libel may, after reasonable notice to the plaintiff of his intention so to do, prove in mitigation of any compensation that may be awarded,

Mitigation of
compensa-
tion for libel.

(a) That he made or offered an apology to the plaintiff before the commencement of the action or as soon afterwards as he had an opportunity, if the action was begun before he had an opportunity of so doing ;

(b) That the libel was contained in a newspaper, a subsisting permit to publish which has been issued under the provisions of the Newspaper, Books and Printing Presses Law, 1930, and that the plaintiff has already recovered, or brought actions for, compensation, or received or agreed to receive some recompense in respect of a libel or libels to the same purpose or effect as the libel for which such action has been brought ;

(c) That prior to the publication of the libel the plaintiff was of general bad reputation in connection with the particular trait of his character which is assailed by the libel;

and the Court may having regard to the circumstances of the case take all or any of such matters into consideration in assessing compensation.

Special
defence in
case of libel
published in
newspaper.

23. In any action brought in respect of a libel contained in any newspaper, a subsisting permit to publish which has been issued to him under the provisions of the Newspaper, Books and Printing Presses Law, 1930, the proprietor of such newspaper may prove by way of defence,

(a) that the libel was inserted without actual malice, and

(b) that there was no gross lack of reasonable care for which he was liable in connection with the insertion of such libel, and

(c) that before the commencement of the action or so soon afterwards as he had an opportunity if the action was begun before he had an opportunity of so doing, he inserted in such newspaper a full apology, or if the newspaper is published at intervals exceeding one week, that he offered to publish the apology in any newspaper selected by the plaintiff:

Provided,

(a) that such proprietor shall have paid into Court a sum of money which in the opinion of the Court is sufficient amends, and

(b) that no other defence shall be pleaded.

Sec. 23A added by Law 35/34.

False imprisonment.

24. False imprisonment consists of unlawfully totally depriving any person of his liberty for any period of time by physical means or by a show of authority:

Provided that any parent, guardian or schoolmaster may respectively temporarily deprive any child, ward or pupil of his liberty for such time as may be reasonably necessary for the purpose of correction.

Special
defences to
action for
false imprisonment.

25. In any action brought in respect of any false imprisonment it shall be a defence,

(a) That the defendant was acting in the execution of or lawfully assisting in the execution of any warrant, committal, order of commitment or writ of attachment issued by any Court provided that the act complained

of was authorised by such warrant, committal, order of commitment or writ of attachment and notwithstanding any defect in or in the issue of such warrant, committal, order of commitment or writ of attachment ;

(b) That the plaintiff was detained in lawful custody in accordance with the provisions of any enactment.

(c) That the plaintiff was of unsound mind or was suffering from some infirmity of mind or body and that the restraint was, or appeared to be, reasonably necessary for his own protection or for that of other persons and was exercised in good faith and without malice ;

(d) That the act of which the plaintiff complains was an act for the non-performance of which the person performing such act would be liable to a penalty under the provisions of any enactment ;

(e) That the plaintiff and defendant are both members of His Majesty's armed forces and that the defendant acted under the authority of and in accordance with any Imperial Act or other law or enactment applicable to such forces.

26. Notwithstanding anything contained in this Law, no principal or master shall be liable for the false imprisonment by his agent or servant of any other person unless he shall have expressly authorised or ratified such imprisonment.

Liability of another for false imprisonment by his agent or servant.

27. Malicious prosecution consists of actually, maliciously and without reasonable and probable cause instituting or carrying on against any person unsuccessful criminal, bankruptcy or winding-up proceedings, where such proceedings,

Malicious prosecution.

(a) caused scandal to the credit or reputation of, or possible loss of liberty by, such person, and

(b) terminated, if in fact they were capable of so terminating, in favour of such person :

Provided that no action for malicious prosecution shall be brought against any person by reason only that he furnished information to some competent authority by whom any proceedings were instituted.

28. Notwithstanding anything contained in this Law, no principal or master shall be liable for any malicious prosecution instituted by his agent or servant unless he shall have expressly authorised or ratified such prosecution.

Liability of another for malicious prosecution by his agent or servant.

Unlawfully
causing
breach of
contract.

29. Any person who knowingly and without sufficient justification causes any other person to break a legally binding contract with a third person shall commit a civil wrong against such third person :

Provided that such third person shall not recover compensation in respect thereof unless he has suffered pecuniary damage thereby :

Provided also that the relationship created by marriage shall not be deemed to be a contract for the purposes of this section.

Passing off.

30. Any person who by imitating the name, description, sign, label or otherwise causes or attempts to cause any goods to be mistaken for the goods of another person, so as to be likely to lead an ordinary purchaser to believe that he is purchasing the goods of such other person, shall commit a civil wrong against such other person :

Provided that no person shall commit a civil wrong by reason only that he uses his own name in connection with the sale of any goods.

Fraud.

31. Fraud consists of a false representation of fact, made with the knowledge that it is false, or without belief in its truth or recklessly, careless whether it be true or false, with intent that it shall be acted upon by the person deceived :

Provided that no action shall be brought in respect of any such representation unless it was intended to and did deceive the plaintiff and he has acted upon it and he has thereby suffered damage :

Provided also that no action shall be brought in respect of any such representation as to the character, conduct, credit, ability, trade or dealings of any person in order to obtain him credit, money or goods unless such representation is in writing and signed by the defendant himself.

Unlawful
detention.

32.—(1) Unlawful detention consists of the unlawful withholding of any movable property from any person entitled to the immediate possession thereof.

(2) In any action brought in respect of any unlawful detention the onus of proving that the withholding was lawful shall be upon the defendant.

Power of
Court in
action for
unlawful
detention.

33. In any action brought in respect of any unlawful detention the Court may, having regard to the circumstances of the case, order the return of the property detained in addition to or in substitution for any other remedy by this Law provided.

34. Conversion consists of an unlawful physical act which affects any movable property and asserts a claim to deal therewith in a manner inconsistent with the rights of any person entitled to the immediate possession thereof. Conversion.

35. In any action brought in respect of the conversion of any movable property it shall be a defence that the defendant purchased such property in good faith, Special defences to action for conversion.

(a) in any open market from some person usually dealing in that market in the kind of property of which the property alleged to have been converted consists, or

(b) in any shop where property of the kind of which the property alleged to have been converted is usually sold and from the proprietor thereof.

36. In any action brought in respect of the conversion of any movable property the defendant shall not by way of defence set up against the person entitled to the immediate possession of such property the right of any third person. Jus tertii to be no defence to action for conversion.

37. In any action brought in respect of the conversion of any movable property the Court may, having regard to the circumstances of the case, in addition to or in substitution for any other remedy by this Law provided, order the return of the property converted. Power of Court in action for conversion.

38.—(1) Trespass to immovable property consists of, Trespass to immovable property.

(a) any unlawful entry upon, or

(b) any unlawful damage to or interference with, any such property by any person :

Provided that no plaintiff shall recover compensation in respect of trespass to immovable property unless he shall have suffered pecuniary damage thereby.

(2) In any action brought in respect of any trespass to immovable property the onus of showing that the act of which complaint is made was not unlawful shall be upon the defendant.

39.—(1) Trespass to movable property consists of, Trespass to movable property.

(a) the unlawful disturbance of or interference with, or

(b) any unlawful act directly causing damage to, any such property, such disturbance or interference being caused by or such act being done by some person :

Provided that no plaintiff shall recover compensation in respect of any trespass to movable property unless he shall have suffered pecuniary damage thereby.

(2) In any action brought in respect of any trespass to movable property the onus of showing that the act of which complaint is made was not unlawful shall be upon the defendant.

Public
nuisance.

40. A public nuisance consists of some unlawful act, or omission to discharge a legal duty where such act or omission endangers the life, safety, health, property or comfort of the public or obstructs the public in the exercise of some common right :

Provided that no action shall be brought in respect of a public nuisance, save,

(a) by the Attorney-General for an injunction, or

(b) by any person who has suffered pecuniary damage thereby.

Private
nuisance.

41. A private nuisance consists of any person so conducting himself or his business or so using any immovable property of which he is the occupier as habitually to interfere with the reasonable use and enjoyment, having regard to the situation and nature thereof, of the immovable property of any other person :

Provided that no plaintiff shall recover compensation in respect of any private nuisance unless he shall have suffered damage thereby :

Provided also that the provisions of this section shall not apply to any interference with daylight.

Special
defence to
action for
private
nuisance.

42. It shall be a defence to any action brought in respect of any private nuisance that the act complained of was done under the terms of any covenant or contract binding upon the plaintiff which inures for the benefit of the defendant.

Nuisance
existing
before
plaintiff's
occupation;

43. It shall not be a defence to any action brought in respect of a private nuisance that the nuisance existed before the plaintiff's occupation or ownership of the immovable property affected thereby.

Saving.

44. Nothing contained in sections 40 to 43, inclusive, of this Law shall be deemed to affect the provisions as to nuisance of the Municipal Corporations Law, 1930.

45. Any person who shall by any obstruction or otherwise prevent the enjoyment by the owner or occupier of any immovable property of a reasonable amount of daylight having regard to the situation and nature of such immovable property when such light has been continuously enjoyed by such owner or occupier or his or their predecessors in title, otherwise than under the terms of any covenant or contract, for a period of not less than fifteen years immediately preceding such obstruction or prevention shall commit a civil wrong.

Interference
with day-
light.

46.—(1) Negligence consists of,

Negligence.

(a) doing some act which in the circumstances a reasonable prudent person would not do or failing to do some act which in the circumstances such a person would do, or

(b) failing to use such skill or to take such care in the exercise of a profession, trade or occupation as a reasonable prudent person qualified to exercise such profession, trade or occupation would in the circumstances use or take,

and thereby causing damage :

Provided that compensation therefor shall only be recovered by any person to whom the person guilty of negligence owed a duty, in the circumstances, not to be negligent.

(2) A duty not to be negligent shall exist in the following cases, that is to say :—

(a) The occupier of any immovable property shall, subject to any terms of any lease or contract applicable to the occupation of such property, owe a duty to the owner of such property :

(b) The occupier of any immovable property shall owe such a duty to all persons who are, and to the owner of any property which is, lawfully in or upon or so near to such immovable property as in the usual course of things to be affected by the negligence :

Provided that the owner and occupier of any immovable property shall jointly owe such a duty in respect of the maintenance and repair of such immovable property to all persons who are not, and the owner of any property which is not, in or upon such immovable property or in or upon any immovable property adjoining and held together with such immovable property by the owner and occupier thereof, or either of them :

Provided also that the occupier of any immovable property shall owe no such duty in respect of the condition of or of the maintenance or repair of such immovable property to any bare licensee who is, or the property of whom, is, in or upon such immovable property save only to warn such bare licensee of any concealed danger or hidden peril in or upon such immovable property of which such occupier knew or must be presumed to have known.

For the purposes of this section "bare licensee" means any person who lawfully comes upon any immovable property otherwise than,

(i) in connection with any business in which the occupier of the property is interested, or

(ii) in the lawful performance of any public duty under the provisions of any enactment or otherwise, and includes the guests, not being guests for reward, and the servants of the occupier of any immovable property;

(c) The owner of any animal, vehicle, railway train, boat, ship, aircraft or other means of conveyance shall owe such a duty to all persons who are, or the owner of any movable property which is, carried for reward in or upon such animal, vehicle, railway train, boat, ship, aircraft or other conveyance and to all other persons who are, and to the owner of any property which is, so near to such animal, vehicle, railway train, boat, ship, aircraft or other conveyance as in the usual course of things to be affected by the negligence.

For the purposes of this paragraph it is immaterial whether or not such reward moves from the person who is, or the owner of the movable property which is, so carried;

(d) All persons who are, and the owner of any movable property which is, in or upon any immovable property or public or private place or animal, vehicle, railway train, boat, ship, aircraft or other conveyance, not being the occupier of such immovable property or the owner of such animal, vehicle, railway train, boat, ship, aircraft or other conveyance, shall owe such a duty to the owner and occupier of such immovable property and to the owner of such animal, vehicle, railway train, boat, ship, aircraft or other conveyance, and to all other persons whom, and the owner of any property

which, a reasonable person might have contemplated as likely in the usual course of things to be affected by the negligence;

(e) Any person, whether for reward or otherwise, exercising any profession, trade or occupation or rendering any service to any other person shall owe such a duty to any person upon whom, or upon the property of whom or to whom such person is exercising his profession, trade or occupation or rendering any service.

47. In any action brought in respect of any damage in which it is proved,

(a) that such damage was caused by any dangerous thing, other than fire or an animal, or by the escape of anything which if it escapes is liable to cause damage, and

(b) that the defendant was the owner of or the person in charge of such thing or the occupier of the property from which such thing escaped,

the onus shall be upon the defendant to show that there was no negligence for which he is liable in connection with such dangerous thing or the escape of such thing.

Onus of proof of negligence when damage caused by dangerous things.

48. In any action brought in respect of any damage in which it is proved,

(a) that such damage was caused by or in consequence of any fire, and

(b) that the defendant kindled such fire or was liable for the kindling of such fire or was the occupier of the immovable property or the owner of the movable property on which such fire originated,

the onus shall be upon the defendant to show that there was no negligence for which he is liable in connection with the origin or spread of such fire.

Onus of proof of negligence when damage caused by fire.

49. In any action brought in respect of any damage in which it is proved,

(a) that such damage was caused by a wild animal, or by an animal, other than a wild animal, which the defendant knew, or must be presumed to have known, had a propensity to do the act causing the damage, and

(b) that the defendant was the owner of or the person in charge of such animal,

the onus shall be upon the defendant to show that there was no negligence for which he is liable in connection with such animal.

Onus of proof of negligence when damage caused by an animal.

Onus of proof of negligence in certain cases.

50. In any action brought in respect of any damage in which it is proved,

(a) that the plaintiff had no knowledge or means of knowledge of the actual circumstances which caused the occurrence which led to the damage, and

(b) that the damage was caused by some property of which the defendant had full control,

and it appears to the Court that the happening of the occurrence causing the damage is more consistent with the defendant having failed to exercise reasonable care than with his having exercised such care, the onus shall be upon the defendant to show that there was no negligence for which he is liable in connection with the occurrence which led to the damage.

Special defences to action for negligence.

51. In any action brought in respect of any negligence it shall be a defence, notwithstanding that the defendant was negligent,

(a) that the defendant's negligence was brought about by the conduct of the plaintiff or of some person for whose conduct the plaintiff was liable, or

(b) that there was also some negligence for which the plaintiff was liable and that such negligence was the decisive cause of the damage :

Provided that such negligence was not brought about by the conduct of the defendant, or

(c) that there was some negligence for which the plaintiff was liable and that the defendant had no opportunity of avoiding such negligence, or

(d) that some third person was negligent and that such third person's negligence was the decisive cause of the damage, or

(e) that the damage was due to the happening of some extraordinary natural occurrence which a reasonable person would not have anticipated and the consequences of which could not have been avoided by the exercise of reasonable care :

Provided that the matters set out in paragraphs (a), (b) and (c) hereof shall be no defence to any such action brought by or on behalf of any child under the age of twelve years in respect of any damage to such child if the defendant shall have invited or permitted such child to be in, on or upon any property upon or in connection with which the damage occurred or to be so near to any such property as in the usual course of things to be affected by the negligence.

52.—(1) Where the death of any person is caused by any civil wrong and such person would, if death had not ensued, have been entitled at the time of his death under the provisions of this Law to have recovered compensation in respect of bodily injury caused to him by such civil wrong, the husband, wife, parent and child of such deceased person may recover compensation from the person responsible for such civil wrong in accordance with the following provisions, that is to say:—

Right of action of certain persons in respect of act causing death of another.

(a) The action shall be brought in the name of the executor, administrator or heirs of the deceased person for the benefit of the husband, wife, parent and child, or such of them as may be in existence, of the deceased person :

Provided that if no action is brought by such executor, administrator or heirs within six months of the death of the deceased person the action may be brought on behalf of all the persons for whose benefit the action could have been brought by the executor, administrator or heirs, in the name or names of all or any of such persons.

(b) The compensation to be recovered in any such action shall be awarded in respect of the pecuniary loss actual or prospective suffered by the persons on whose behalf the action is brought by the death of the deceased person, and shall be apportioned, after the deduction of any costs not recovered from the defendant, by the Judge at the trial among such persons :

Provided that in assessing such compensation,

(i) any sum paid or payable on the death of the deceased under any contract of assurance or insurance, and

(ii) any sum paid or payable in respect of the funeral expenses of the deceased or of mourning on his account, shall not be taken into account.

(c) In any such action particulars shall be given of the persons on whose behalf such action is brought, and of the pecuniary loss suffered by such persons respectively owing to the death of the deceased person.

(d) Any such action shall be brought within twelve months of the death of the deceased person.

(2) For the purposes of this section "child" includes grand-child, step-child and a child *en ventre sa mère* but does not include an illegitimate child.

Special
defence that
plaintiff
voluntarily
exposed
himself to
state of
affairs
causing civil
wrong.

53. It shall be a defence to any action brought in respect of a civil wrong that the plaintiff knew and appreciated or must be taken to have known and appreciated the state of affairs causing the damage and voluntarily exposed himself or his property thereto :

Provided that the provisions of this section shall not apply to any action brought in respect of any civil wrong when such wrong was due to the non-performance of a duty imposed upon the defendant by any enactment :

Provided also that no child under the age of twelve years shall be deemed to be capable of knowing or appreciating such state of affairs or of voluntarily exposing himself thereto or of himself exposing his property thereto.

Special
defence that
act was done
under an
enactment.

54. It shall be a defence to any action brought in respect of a civil wrong that the act complained of was done under and in accordance with the provisions of any enactment.

PART IV.

REMEDIES FOR CIVIL WRONGS.

Power of
Court to
grant
remedies.

55. All Courts established in the Colony by the Cyprus Courts of Justice Order, 1927, shall, within the limits of the jurisdiction by such Order conferred upon them, have power to grant remedies for civil wrongs in accordance with the provisions of this Law :

Provided,

(a) that any Court may, subject to the provisions of paragraph (c) hereof, grant an injunction in respect of any civil wrong notwithstanding that no compensation or other relief is claimed or granted together therewith, and

(b) that if the compensation claimed in any action in respect of any civil wrong amounts to three hundred pounds or over and such action is defended it shall be transferred to a Divisional Court of the Supreme Court and the provisions of the first proviso to clause 30 and the provisions of clause 35 of the Cyprus Courts of Justice Order, 1927, shall be deemed to apply to any such action, and

(c) it shall not be within the jurisdiction of an Assistant District Judge or a District Judge respectively sitting alone to grant any remedy in respect of any libel.

Injunctions.

56.—(1) An injunction may be interlocutory, perpetual or mandatory :

Provided,

(a) that an interlocutory injunction shall not be granted unless the Court is satisfied by affidavit or otherwise that,

(i) there is a serious question to be tried at the hearing, and

(ii) there is a probability that the plaintiff is entitled to relief and that unless an interlocutory injunction is granted it will be difficult or impossible to do complete justice at a later stage, and

(b) that no injunction shall be granted when in the opinion of the Court,

(i) the injury or damage to the plaintiff is small and is capable of being estimated in money and can be adequately compensated by a money payment, and

(ii) it would be oppressive to the defendant to grant an injunction.

The provisions of this sub-section shall be deemed to be in addition to and not in derogation of any of the powers exercisable by the Courts as to injunctions under the provisions of the Cyprus Courts of Justice Order, 1927, and of the Civil Procedure Laws.

(2) In any case where the Court refuses to grant an injunction under the provisions of sub-section (1) (b) hereof the Court may grant compensation.

57. Compensation may be awarded either alone or in addition to or in substitution for an injunction : Compensation.

Provided that where the plaintiff has suffered damage, compensation shall only be granted in respect of such damage as would naturally arise in the usual course of things and which directly arose from the defendant's civil wrong :

Provided also that if the plaintiff has suffered pecuniary damage no compensation in respect thereof shall be awarded unless the plaintiff shall have given particulars of such damage in or together with his statement of claim or where the action is tried without pleadings shall have given such particulars when the issues in such action were settled.

PART V.

MISCELLANEOUS PROVISIONS AS TO THE
RECOVERY OF REMEDIES.

Compensa-
tion only to
be recovered
once.

58.—(1) No person who has recovered compensation or other relief in respect of any civil wrong, nor any person claiming through such person, shall recover any further compensation in respect of such civil wrong.

(2) No person shall recover any compensation or other relief in respect of any civil wrong, if such civil wrong also constituted a breach of any contract, or of an obligation resembling those created by contract, and compensation for such breach of contract or obligation has been awarded by any Court, arbitrator or other tribunal to such person or to any person through whom such person claims.

(3) No person shall recover any compensation in respect of any civil wrong if such civil wrong also constitutes a crime or a breach of any obligation imposed by any enactment and compensation in respect thereof has been awarded in accordance with the provisions of any enactment to such person or to any person through whom such person claims.

Compensa-
tion not to
be recover-
able under
both this
Law and
Workmen's
Compensa-
tion Laws.

59. Notwithstanding anything contained in the Mines Regulations Law, 1925, or any other enactment as to Workmen's Compensation in force in the Colony for the time being, no workman (which term, for the purpose of this section, shall be deemed to include his dependants) shall, by reason of the happening of any event, recover from his employer both compensation under the provisions of this Law and compensation under the provisions of such Mines Regulations Law or other enactment for any injury or damage caused by such event.

No action to
be brought
on contract
if compensa-
tion awarded
for civil
wrong.

60. Notwithstanding anything contained in the Contract Law, 1930, no person shall recover any compensation in respect of any breach of contract, or of an obligation resembling those created by contract, if such breach also constitutes a civil wrong and compensation or other relief has been awarded for such civil wrong by any Court to such person or to any person through whom such person claims.

Recovery of
contribution
from joint
civil wrong
doers, etc.

61. When a civil wrong doer has paid compensation in respect of a civil wrong for which he was jointly liable together with any other person under the provisions of this Law he shall have no right to recover from any such other person any indemnity or contribution in respect thereof :

Provided that such civil wrong doer who has so paid compensation may recover indemnity or contribution from any other joint civil wrong doer by whose conduct he was induced to do the act causing the civil wrong if such civil wrong doer who has paid compensation did not know, and must not be presumed to have known, that such act constituted a civil wrong :

Provided also that when a joint civil wrong doer has paid compensation in respect of an act which was the act of some other person for which such civil wrong doer was liable under the provisions of this Law such civil wrong doer may recover indemnity or contribution from such other person if such civil wrong doer had not joined or aided in, authorised, counselled, commanded, procured or ratified the act causing the civil wrong :

Provided also that whenever there exists between the owner and occupier of any immovable property any covenant or contract whereby such owner or occupier is responsible for the maintenance or repair of such immovable property and damage has been suffered by any person by reason of any breach of such covenant or contract for which damage such owner and occupier are jointly liable under the provisions of section 46 sub-section (2) of this Law and either such owner or occupier has,

(a) with the consent in writing of the party liable under such covenant or contract for the maintenance or repair of such property paid compensation for such damage, or

(b) after notice in writing to the party liable under such covenant or contract for the maintenance or repair of such property of his intention so to do, defended any action brought in respect of such damage and has paid any compensation and costs awarded to the plaintiff and any other costs incurred in such action,

such owner or occupier shall be entitled to recover from the party so liable under such covenant or contract any sum paid with such consent as compensation or any sum paid after such notice as compensation and in respect of any such costs.

62. In assessing any compensation payable by reason of any civil wrong any sum paid or payable under any contract of assurance or insurance in connection with such civil wrong shall not be taken into account.

Insurance not to be taken into account in assessing compensation.

Recovery of
compensa-
tion for libel
published in
a newspaper.

63.—(1) Notwithstanding anything contained in the Newspaper, Books and Printing Presses Law, 1930, any compensation which the Court may order to be paid by the proprietor of a newspaper in respect of any libel published in a newspaper shall be deemed to be a penalty within the meaning of section 4 (1) (b) of that Law.

(2) If the plaintiff in any action for libel published in a newspaper shall make it appear by affidavit to the Supreme Court, or to a Judge thereof, that he is entitled to have execution against the defendant in such action and that he has not been able to procure satisfaction by way of execution against the immovable or movable property of such defendant it shall be lawful for such Court or Judge, for the benefit of such plaintiff, to order and direct such proceedings to be had and taken upon any bond given by or on behalf of such defendant under section 4 (1) (b) of the Newspaper, Books and Printing Presses Law, 1930, as would be taken to obtain any other penalties secured by such bond :

Provided that the costs and expenses of such proceedings shall be borne exclusively by such plaintiff.

Civil wrong
which is also
a crime.

64. It shall be no bar to any action in respect of a civil wrong that the facts upon which such action is based constitute a crime or offence under the provisions of any enactment :

Provided that if such crime or offence is a felony no action shall be brought in respect of the civil wrong until the offender has been brought to justice or the Court before which such action is to be tried is satisfied that it is not reasonably possible to bring the offender to justice.

Limitation
of actions for
civil wrongs.

65. No action shall be brought in respect of any civil wrong unless such action be commenced,

(a) within two years next after the act, neglect or default of which complaint is made, or

(b) where the civil wrong causes fresh damage continuing from day to day within two years next after the ceasing thereof, or

(c) where the cause of action does not arise from the doing of any act or failure to do any act but from the damage resulting from such act or failure within two years next after the plaintiff sustained such damage, or

R. & R. by
Law 35/34

(d) if the civil wrong has been fraudulently concealed by the defendant within two years of the discovery thereof by the plaintiff, or of the time when the plaintiff would have discovered such civil wrong if he had exercised reasonable care and diligence :

Provided that if at the time when the cause of action first arises the plaintiff is under the age of eighteen years or is of unsound mind or the defendant is not in the Colony such periods of two years shall not begin to run until the plaintiff attains the age of eighteen years or ceases to be of unsound mind or the defendant is again within the Colony :

Provided also that nothing in this section shall be deemed to affect the provisions of sections 15 and 52 of this Law.

PART VI.

MISCELLANEOUS.

66. Nothing in this Law shall be deemed to affect, Saving.

(a) any jurisdiction in Admiralty vested in any Court in the Colony, or

(b) the provisions of the Cyprus Courts of Justice Order, 1927, as to claims against the Government of the Colony, or

(c) the provisions of the Companies (Limited Liability) Laws, 1922 and 1931.

67. This Law shall come into operation on the first day of January, 1933. Commencement.

68. The enactments set forth in the schedule to this Law are hereby repealed. Repeal and saving.

Nothing in such repeal or in this Law contained shall,

(a) give any right to any remedy in respect of any civil wrong committed before the commencement of this Law, or

(b) affect any right of action and the remedy in respect thereof accruing before the commencement of this Law :

Provided that no action in respect thereof shall be brought after the expiration of two years from the commencement of this Law.

SCHEDULE.
ENACTMENTS REPEALED.

Enactment.	Extent of repeal.
The Mejellé	Articles 1 to 100, inclusive, in so far as they are repugnant to or inconsistent with the provisions of this Law.
"	Articles 881 to 940, inclusive.
"	Articles 1192 to 1223, inclusive.
"	Articles 1660 to 1675, inclusive, in so far as they are repugnant to or inconsistent with the provisions of this Law.

This Law was published in the Cyprus Gazette No. 2223 of the 10th June, 1932.

NO. 36 OF 1932.

A.D. 1932. A LAW TO AMEND THE MOTOR CAR LAW, 1921.

36 of 1932. H. HENNIKER-HEATON, [13th June, 1932.

Officer Administering the Government.

BE it enacted:—

Short title.

1. This Law may be cited as the Motor Car (Amendment) Law, 1932, and shall be read as one with the Motor Car Law, 1921, (hereinafter called "the Principal Law"), and the Principal Law and this Law may together be cited as the Motor Car Laws, 1921 and 1932.

Amendment of section 3 of the Principal Law.

2. Section 3 of the Principal Law is hereby amended by the addition thereto of the following sub-sections:—

"(g) The inspection from time to time of motor cars plying for hire and the levying of fees in respect thereof not exceeding the amount specified in the first part of the Third Schedule hereto.

(h) The testing of and the issue to persons driving motor cars of certificates of competence and the levying of fees in respect thereof not exceeding the amount specified in the second part of the Third Schedule hereto :