

*To be construed with Ord 25 of 1930, Ord 16 of 1931,  
Ord 2 of 1935.  
32 of 1936*

~~Ord 2 of 1935.~~ CHAPTER 10.  
SUPREME COURT OF JUDICATURE.

[No. X. of 1915.]

[12th March, 1915.]

PRELIMINARY.

Short title.

1. This Ordinance may be cited as the Supreme Court of Judicature Ordinance.

Interpretation.

2. In this Ordinance and in rules of court unless the context otherwise requires,—

“ the Court ” means the Supreme Court constituted by this Ordinance, and includes a judge when exercising any of the jurisdictions conferred on him by this Ordinance, by any other Ordinance, or by the rules;

“ judge ” means a judge of the Court and includes the Chief Justice ;

“ the registrar ” means the registrar of the Court ;

“ the marshal ” means the registrar and includes any marshal of the colony ;

“ the registry ” means the registry of the Court and includes the branch thereof formerly known as the Provost Marshal’s office ;

“ the Act ” means the West Indian Court of Appeal Act, 1919 ;

“ the Court of Appeal ” means the West Indian Court of Appeal constituted and established by the Act ;

“ rules of court ” means the rules and orders made under the Supreme Court Ordinance, 1893, and this Ordinance, or under any Ordinance conferring the power to make rules of court ;

“ the rule-making authority ” means the persons in whom is vested the power to make rules and orders ;

“ cause ” includes any action or other original proceeding between a plaintiff and a defendant, and any criminal proceeding at the suit of the Crown ;

“ action ” means a civil proceeding commencing by filing a claim or in any other manner prescribed

- by rules of court, and includes a suit, but does not include any criminal proceeding at the suit of the Crown;
- “matter” includes every proceeding in the Court not in a cause;
- “plaintiff” includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is taken by action, petition, motion, summons, or otherwise;
- “defendant” includes every person served with any writ of summons or other process, or served with notice of or entitled to appear in any proceeding;
- “party” includes every person served with notice of or appearing in any proceeding, although not named on the record;
- “pleading” includes the statement in writing of the claim of a plaintiff, and of the defence of any defendant thereto, and of the counter-claim of a defendant, and of the reply of the plaintiff, and any subsequent pleadings, and also any petition, citation or summons;
- “existing” means existing at the commencement of this Ordinance.

## PART I.

### THE SUPREME COURT.

#### A.—CONSTITUTION AND JUDGES.

##### *Constitution.*

3.—(1) From and after the commencement of this Ordinance there shall continue to be one Supreme Court in the colony which shall be a supreme court of record and be called The Supreme Court of British Guiana.

The  
Supreme  
Court of  
British  
Guiana.

(2) The Court shall have and may exercise all the authorities, powers, and functions belonging or incident to a court of that character according to the law of England, and all the authorities, powers, and functions which, when the colony came under the dominion of the British Crown, belonged or were incident to the High Court of Justice of Holland and to the National Court of Holland, or other courts then possessing and exercising in Holland or in this colony the jurisdiction of superior courts, and, subject to the provisions of this Ordinance, all the

authorities, powers, and functions conferred upon and exercised by the Supreme Court as constituted by the Supreme Court Ordinance, 1893.

Statutory  
jurisdiction  
of Court.

4. All jurisdiction, which, by or by virtue of any Order in Council, Ordinance, or other enactment continuing in force after the commencement of this Ordinance, is vested in any of the courts whose jurisdiction ceases upon the commencement of this Ordinance, shall, from and after the commencement of this Ordinance, be transferred to and vested in the Court; and the jurisdiction so transferred shall include the jurisdiction which at the commencement of this Ordinance was vested in or capable of being exercised by all or any one or more of the judges of any of those courts sitting in court or chambers or elsewhere when acting as judges or a judge in pursuance of any Order in Council, Ordinance, or other enactment, and all powers given to any of those courts, or to any of those judges by any Order in Council, or Ordinance, or other enactment, and also all ministerial powers, duties and authorities incidental to any and every part of the jurisdiction so transferred.

Construction  
of statutes  
relating to  
Courts whose  
jurisdiction  
is vested in  
the Court.

5. All statutes relating to the several courts whose jurisdiction is by this Ordinance vested in the Court, or to the inferior courts of civil justice, or to the judges of any of those courts, or wherein any of those courts or judges are mentioned or referred to, shall be construed and take effect so far as relates to anything done or to be done after the commencement of this Ordinance, as if the Court and the judges thereof, as the case may be, had been named therein instead of the first named courts or judges.

#### *Judges.*

Constitution  
of the Court.

6.—(1) The Court shall consist of not less than two but may consist of three or more judges, of whom one shall be the Chief Justice of British Guiana and President of the Court, and the other or others shall be called the Puisne Judge or Puisne Judges of British Guiana.

(2) The puisne judges if more than one shall rank between themselves according to the date of their respective appointments.

(3) The Court shall be deemed to be duly constituted during and notwithstanding any vacancy in the office, or absence from the colony, of any judge.

Sec. 2. d  
Ord. 37 of 1936  
J.H. 37

7.—(1) The Governor may, in pursuance of any instructions he receives from the Secretary of State, appoint some fit and proper person, who is a barrister of not less than seven years' standing to be the Chief Justice of British Guiana or to be a puisne judge of British Guiana, and the appointment shall be made by an instrument under the public seal.

Appoint-  
ment of  
Chief  
Justice  
and Puisne  
Judges.

(2) For the purposes of this section, the expression "barrister" means any person duly admitted and entitled to practise as a barrister-at-law in the superior courts of England or Ireland, and any person duly admitted and entitled to practise as an advocate in the superior courts of Scotland.

8.—(1) There shall be and there is hereby granted to His Majesty, his heirs and successors, the annual sum of four thousand five hundred and fifty pounds sterling, equivalent, at the rate of four shillings and twopence sterling to the dollar, to the sum of twenty-one thousand eight hundred and forty dollars, for the purposes in this section hereafter set forth;

Salaries :

- (2) out of that annual sum, there shall be paid annually to the Chief Justice a salary not exceeding eighteen hundred pounds;
- to the ~~senior puisne judge~~ <sup>Principal Puisne Judge</sup> a salary not exceeding fifteen hundred pounds;
- to the ~~junior puisne judge~~ <sup>Second Puisne Judge</sup> a salary not exceeding twelve hundred and fifty pounds;

Sec. 3 }  
Ord. 32 }  
1936 }

and any part of that annual sum not applied in payment of those salaries shall lapse to the colony.

(3) The annual sum aforesaid shall grow due and become payable to his Majesty, his heirs and successors monthly on the last day of each month in each year, and the Colonial Treasurer may from time to time, on the warrant or order of the Governor, pay that sum out of the moneys arisen or to arise from and out of the colonial revenues without any further or other order or formality :

Provided that the amount from time to time so to be paid for or in respect of each month shall not exceed one-twelfth part of the annual sum aforesaid or that part hereof which is required for the purpose aforesaid.

Proviso.

9. The present and any future chief justice and puisne judges shall respectively receive the salaries, not exceeding the respective salaries specified in the preceding section, or any enactment on the same subject for the time being

Salaries.

in force, that have been or shall be assigned to them respectively by his Majesty.

Tenure of  
office.

10.—(1) Every judge shall hold his office during his Majesty's pleasure and subject to any regulations made by the Secretary of State for the government of his Majesty's Colonial Civil Service.

(2) The acceptance by any judge of any other office or place of profit or emolument not authorised by law shall be and be deemed de facto an avoidance of his office of judge, and his salary as judge shall cease accordingly from the time of his acceptance of that other office or place.

*See Sec 2  
of Ord 28 of 1935*

Appointment  
of acting  
judge in  
certain cases.

11.—(1) In any of the following cases, that is to say, whenever—

- (a) the office of any judge is vacant; or
- (b) any judge is absent from the colony; or
- (c) any judge is personally interested in any cause or matter; or
- (d) any judge is a necessary witness in any cause or matter; or
- (e) any judge is, from illness or any other cause, incapable of acting in his office; or
- (f) it is necessary to appoint any person to act as judge for the purpose of any appeal or re-hearing; or
- (g) it is necessary to appoint any person to act as judge for any purpose,

the Governor may, if he thinks fit, by an instrument under the public seal, appoint some fit and proper person, who is a barrister of not less than seven years' standing, to act as a judge or an additional judge.

(2) Every appointment shall be for the time, or for trial or hearing of the causes or matters or otherwise, specified in the instrument of appointment.

(3) Every person so appointed and acting under this appointment shall, so far as necessary for the purposes thereof, have all the powers of a judge, and all acts done by him within the scope of his appointment shall be as valid as if done by a judge, whether in court or in chambers.

(4)—(a) When the number of judges is reduced by the existence of any of the cases mentioned in paragraphs (a) to (e) of sub-section (1) of this section, the business of the court, until an appointment is made under this section, shall be transacted so far as may be practicable by the other judges.

(b) Where there is no Chief Justice, or where the Chief Justice is absent or unable to act, ~~the judge who ranks first by priority of appointment~~, or the sole judge if there is only one, may exercise all the powers and authorities of the Chief Justice.

Sec. 4 of  
Ord. 32 of 1936.

(5) For the purposes of this section the expression " barrister " has the same meaning as in section seven of this Ordinance.

12. The admiralty and appellate jurisdictions by this Ordinance vested in the Court shall, together with all the powers incident thereto, be exercised by a single judge, sitting apart or in chambers, as the nature of the case may require.

Exercise of other jurisdictions.

13. Two or more of the judges may sit apart at the same time for any purpose in respect of which a single judge may exercise jurisdiction.

Concurrent sittings.

14.—(1) The Chief Justice, or the person appointed in his stead under the provisions of sub-section (3), (a), section one of the Act if he is a judge of the Court or other official, may leave and be absent from the colony from time to time for any period necessary for the purpose of attending the sittings of the Court of Appeal when required by the rules or by the President of that Court.

Attendance of Judges at Court of Appeal to count as service for pension.

(2) The periods of absence shall count as service for pension under the Pensions Ordinance, as amended by any Ordinance.

Chapter 204.

#### *Seals.*

15.—(1) The Court shall have and use seals as occasion may require for the stamping of documents in or issuing from the court.

Description, use and custody of seals.

(2) Every seal shall bear a device and impression of the royal arms within an exergue or label surrounding them, with the inscription " The Supreme Court of British Guiana. "

(3) Every document which may be required by law or by the practice of the Court to be sealed shall be sealed with one of the seals.

(4) The registrar shall have the custody of the seal of the Court to be used in the county of Demerara.

(5) The officers of the court nominated for that purpose by the registrar shall have the custody of the seals of the Court to be used in the counties of Essequibo and Berbice respectively.

## B.—OFFICERS.

*Registrar and Clerks.*

- Registrar. 16. The registrar of deeds shall be the registrar of the court.
- Duties of sworn clerks. 17. Every sworn clerk and assistant sworn clerk shall perform those duties in connection with the Court and with judicial business which the registrar, subject to the approval of the Court, assigns to him.
- Administration of oaths by the registrar. 18. The registrar and the sworn clerks and assistant sworn clerks thereto authorised by the Court shall have power to administer oaths and take affidavits, and to take solemn affirmations or declarations in lieu of oaths.
- Executive officers of the Court. 19. The registrar shall be the chief executive officer, and every marshal shall be an executive officer of the Court.
- Duties of marshals. 20.—(1) Every marshal shall be under the control and be responsible to the registrar and shall, in addition to the duties and liabilities imposed on him by any statute, perform the duties required of him by the registrar subject to the direction and approval of the Governor.
- (2) The registrar shall cause at least one marshal to be resident in the county of Essequibo.
- (3) The Governor shall appoint all marshals, clerks, and supernumeraries from time to time required.
- Giving of security by the registrar. 21.—(1) The registrar shall give security, either in a bond to be executed by himself and two sufficient sureties to the satisfaction of the Governor in Council binding themselves jointly and severally, or by the bond of some guarantee society, approved by the Governor in Council binding itself, to and in favour of His Majesty, his heirs, and successors, for the true and faithful performance by the registrar of the duties of his office, and for the due accounting for, and payment and appropriation of, every sum of money which, before the execution of the bond, may have been, or thereafter shall be, received by him as registrar.
- (2) The bond shall be a charge on the property, movable and immovable, of each of the persons executing it, from the date thereof until it is discharged.
- (3) The amount of the security shall be fixed, and may from time to time be varied, by the Governor in Council,

and the registrar may, on any variation of that amount, be called upon to give fresh security.

(4) It shall not be necessary to execute in the registry any bond to be given under this Ordinance, but the original of the bond may be deposited or recorded therein.

(5) Every office copy of any bond so deposited or recorded shall be received in evidence without any proof of the execution of the original.

#### *Liability of Officers.*

22. Every marshal, whether appointed before or after the commencement of this Ordinance, shall be liable for all losses, damages, costs, charges, and expenses, had and suffered by any person from or by reason of any irregularity, informality, omission, or neglect of duty by him, and may be sued in any manner and form applicable to the circumstances of the case, for the recovery of those losses, damages, costs, charges, or expenses :

Liability of marshals :

Provided that, in that suit, the marshal shall be entitled to the protection given by the Justices Protection Ordinance.

Proviso.  
Chapter 254.

#### *Commissioners.*

23.—(1) The Court may appoint, by an instrument or instruments under the seal of the Court, the requisite number of fit and proper persons to be commissioners of the Court for taking affidavits and declarations in any cause or matter and, when authorized thereto by a special order of the Court or a judge, for taking the examination of witnesses or receiving production of documents.

Appointment and powers of Commissioners of the Court.

(2) Any appointment made under this section may at any time be cancelled by the Court by an instrument under the Seal of the Court.

(3) Any order of the Court or a judge for the attendance and examination of witnesses or production of documents before a commissioner within the jurisdiction of the Court may be enforced in the same manner as an order to attend and be examined or produce documents before the Court.

Enforcement of order to be executed before a commissioner.

(4) Subject to any special directions of the Court, a commissioner, when and so far as necessary for performing any duty which he is authorised to perform, shall be deemed to have and may exercise the incidental powers of a judge.

Incidental powers of commissioner.

(5) Every commissioner shall be subject to the order and direction of the Court as fully as any other officer of

Control of Commissioners and their proceedings.



the Court, and every proceeding before a commissioner shall be subject to the direction and control of the Court.

Protection of  
Commiss-  
sioner.

(6) No action shall be brought against a commissioner in respect of any act or order *bonâ fide* done or made by him in the execution or supposed execution of the jurisdiction and powers vested in him, but every act or order, if in excess of that jurisdiction and those powers, shall be liable to be altered, amended, reversed, or set aside on summary application to the Court.

Employment  
of experts  
and referees.

24.—(1) The Court may, when it thinks fit, obtain the assistance of accountants, actuaries, or scientific persons, to assist it to determine any question at issue in any cause or matter before the Court, and may refer any question depending upon matters of account to the accountant of court or some other accountant for determination or investigation and report.

(2) The Court may allow reasonable fees and expenses to any of those persons, to be taxed as costs in the cause or matter.

Duties of  
officers of  
the court  
generally.

25.—(1) Subject to rules of court and to the provisions of any other statute relating thereto, all officers of the court and their successors in office shall perform, in connection with the Court or with the judges, duties similar or analogous to those performed by them before the commencement of this Ordinance in connection with any court whose jurisdiction is by this Ordinance vested in the Court, or in any judge or judges thereof

Saving of  
rights of  
existing  
officers of the  
Court.

(2) The officers who were attached to the courts or judges whose jurisdiction is by this Ordinance vested in the Court shall have the same rank, and hold their offices by the same tenure, and receive the same salaries and pensions, as if this Ordinance had not passed.

#### C.—JURISDICTION AND LAW.

Original  
jurisdiction.

26.—(1) Subject to any statutory provision, every action and proceeding and all business arising therefrom shall, so far as is practicable and convenient, be heard, determined, and disposed of before a single judge, and all proceedings in an action subsequent to the hearing or trial and down to and including the final judgement or order, except any proceedings on appeal, shall, so far as it is practicable and convenient, be had and taken before the judge before whom the trial or hearing took place.

(2) For the purpose of those proceedings a single judge shall be vested with and may exercise the whole of the original jurisdiction of the Court.

26 A.

See Sec 2 of Ord 16 of 1931.

27. The criminal jurisdiction by this Ordinance vested in the Court, not being the jurisdiction in respect of Crown cases reserved, shall, together with all the powers incident thereto, be exercised by a single judge sitting with a jury in the same manner and with the same powers and authorities as a judge of assize, of oyer and terminer and of gaol delivery in England, or by a single judge sitting apart or in chambers, as the nature of the case may require :

Criminal jurisdiction :

Provided that nothing in this section shall affect any right of the Attorney General to demand a trial at bar in any criminal cause.

Proviso.

28. The Court shall have and exercise an appellate jurisdiction in all cases in which by law an appeal lies to the Court from any decision of a magistrate in the exercise of his jurisdiction.

Jurisdiction on appeals from magistrates.

#### *Admiralty Jurisdiction.*

29. The Court shall be a Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, and shall have and exercise admiralty jurisdiction in accordance with the provisions of that Act.

Vesting of Admiralty jurisdiction in the Court. 53 & 54 Vict. c. 27.

#### *Miscellaneous Jurisdictions.*

30. Where an agreement for the payment of interest is sought to be enforced, and the Court is of opinion that the rate agreed to be paid is excessive and ought not to be enforced by legal process, the Court may give judgement for the payment of interest at the rate that it thinks just.

Power to reduce interest.

31.—(1) Subject to rules of court, a mandamus or injunction may be granted, or a receiver appointed, by an order of the Court in all cases in which it appears to the Court to be just or convenient that that order should be made.

Injunction and appointment of receivers.

(2) The order may be made either unconditionally or upon the terms and conditions which the Court thinks just.

(3) If the order is asked for either before, or at, or after, the trial or hearing of any cause or matter to prevent

any threatened or apprehended waste, injury, or trespass, it may be made, if the Court thinks fit, whether the person against whom it is sought is or is not in possession under any claim of title or otherwise, or (if not in possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whatever may be the nature of the interest claimed by all or by any of the parties.

Powers to  
make orders  
in cases not  
provided for.

**32.** Subject to the provisions of any statute, the Court may in any cause or matter make any order as to the procedure to be followed or otherwise which the Court considers necessary for doing justice in the cause or matter, whether that order has been expressly asked for by the party entitled to the benefit thereof or not.

Extent of  
remedies.

**33.** The Court, in exercise of the jurisdictions vested in it by this Ordinance, shall, in every cause or matter pending before it, have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as the Court may think just, all the remedies or relief whatsoever to which any of the parties appear to be entitled in respect of any and every claim properly brought forward by him or them respectively in the cause or matter; so that, as far as possible, all matters so in controversy between those parties respectively may be completely and finally determined, and all multiplicity of proceedings concerning any of those matters avoided.

#### D.—SITTINGS AND VACATIONS.

##### *Times of Sitting.*

Sittings of  
the Court.

**34.**—(1) Subject to the provisions hereinafter contained, the Court and the judges respectively shall have power to sit and act at any time for the transaction of any part of the business of the Court or judges, or for the discharge of any duty which by law is required to be discharged by it or them, but for greater convenience periodical sittings shall be appointed by rules of court.

(2) If any of the days appointed for any sitting is dies non, the sitting shall commence on the next following lawful day.

(3) Judgements and orders may be given and made at any place and time at which the Court is sitting, whether at the place where and during the sittings at which the cause or matter was heard or otherwise.

**35.** The Court shall hold sittings in the exercise of its criminal jurisdiction in every year in each of the counties of Demerara, Essequibo, and Berbice as follows, that is to say,—

Ordinary sittings of the Court in its criminal jurisdiction.

- (a) in the county of Demerara, on the second Tuesday in January, the first Tuesday in April, the first Tuesday in June, and the first Tuesday in October;
- (b) in the county of Essequibo, on the third Tuesday in February, the third Tuesday in May, and the fourth Tuesday in October; and
- (c) in the county of Berbice, on the first Tuesday in February, the third Tuesday in June, and the third Tuesday in October :

but the Governor may, by proclamation, suspend or postpone any of those sittings.

**36.** The Governor may at any time, by proclamation, direct a special sitting of the Court in the exercise of its criminal jurisdiction to be held at the place and time and for the purposes specified in the proclamation.

Special sitting of the Court in its criminal jurisdiction.

**37.**—(1) Every sitting of the Court shall be continuous until the business before it has been disposed of or it is adjourned to some future day.

Continuance of sittings and adjournments.

(2) The Court, or, in the absence of the judges or a judge, the registrar or a sworn clerk or assistant sworn clerk, subject to any direction of the judges or a judge, may adjourn any sitting of the Court for any convenient time.

(3) If, on the opening or any other day of any sitting of the Court, the judges or a judge are or is unable or fail or fails to attend, the Court shall stand adjourned *de die in diem* until the judges or a judge shall attend or until it is adjourned or closed by their or his order.

(4) The Registrar may, subject to the direction of the judges or a judge, by notice published in the Gazette not less than five days before the day appointed for any sitting of the Court for the trial or hearing of civil causes or matters, postpone that sitting to any day mentioned in the notice.

#### *Places of Sitting.*

**38.** The Court shall sit at the following places, that is to say,—

- (a) in the county of Demerara, at the Victoria Court in the city of Georgetown;

Places of sitting of the Court in Demerara, Essequibo and Berbice :

(b) in the county of Essequibo, at the Court House at Suddie; and

(c) in the county of Berbice, at the Court House in the town of New Amsterdam :

Proviso.

Provided that the Court may sit at any place other than one of those places which the Governor in Council by order in the Gazette proclaims as a place at which a sitting or sittings of the Court may be held.

Holding of sittings in other places.

**39.**—(1) Where it is from any cause impracticable or inconvenient to hold a sitting of the Court at any place mentioned in the preceding section, the Governor may direct the sitting to be held at some other place in the same county.

(2) Nothing in the preceding section shall be construed to prevent the Governor from directing any special sitting of the Court in the exercise of its criminal jurisdiction to be held at a place other than a place mentioned in that section.

General business of the Court.

**40.** The registry of the Court shall be open throughout the year for the transaction, subject to rules of court, of the general legal business pending in the Court, excepting on Sundays, Christmas Day and the next succeeding day, Good Friday, Easter Monday, His Majesty's birthday, Whit Monday, and any public holiday.

Attendance of police at sittings.

**41.** The Inspector General of Police shall cause a sufficient number of police officers and constables to attend for the purpose of assisting in the preservation of order and for the keeping of prisoners in custody at every sitting of the Court in the exercise of its criminal jurisdiction and, if so required in writing by any judge, at any other sitting of the Court.

Vacation and holidays:

**42.**—(1) In every year the period from the first day of July to the thirty-first day of August, both days inclusive, or any other period appointed by rules of court, shall be observed as a vacation by the Court, but this enactment shall not extend to prevent or preclude any sitting of the Court in the exercise of its criminal, appellate, insolvency, or admiralty jurisdictions :

Proviso.

Provided that the judges holding office at the passing of this Ordinance shall be entitled to the same vacation leave and leave of absence as if this Ordinance had not passed, but all judges appointed or promoted after the passing of

this Ordinance shall be only entitled to the same vacation leave and leave of absence as other officers in the civil service.

(2) The holidays to be observed or kept by the Court, exclusive of Sundays and the vacation and public holidays, shall be Christmas Day, and the three succeeding days, Maundy Thursday, Good Friday, Easter Eve, Monday and Tuesday in Easter week, His Majesty's birthday, Ascension Day, and Monday and Tuesday in Whitsun week.

43.—(1) Any judge may during the vacation deliver judgement or make an order in any cause or matter then awaiting the decision of the Court, and where any judge who took part in the trial or hearing of the cause or matter is absent from the colony, or is otherwise unable to be present at the time when judgement is so delivered or the order made, the reasons of the judge so absent may at that time be read by any judge and entered in the minute book of the Court.

Delivery of  
judgement  
in vacation.

(2) Every judgement delivered or order made under the provisions of this section shall have the same force and effect as if it had been delivered or made during the ordinary sitting of the Court.

#### E.—PRACTICE AND PROCEDURE.

##### *Regulation.*

- 44.—(1) The practice and procedure of the Court—
- (a) in its general civil jurisdiction shall be regulated by this Ordinance and by rules of court, and where no provision is made by this Ordinance, by rules of court, or by any other statute, the existing practice and procedure shall remain in force;
  - (b) in its criminal jurisdiction shall, subject to this Ordinance and to any other statute, be the existing practice and procedure;
  - (c) in its magisterial appellate jurisdiction shall be regulated by rules of court and by any other statute relating thereto;
  - (d) in its admiralty jurisdiction shall be regulated by rules of court :

Regulation  
of practice  
and proced-  
ure in the  
several juris-  
dictions of the  
Court :

Provided that, in default of those rules and so far as they do not extend, that practice and procedure shall be, as near as may be and with the necessary modifications, in accordance with the rules for vice-admiralty courts in Her Majesty's possessions abroad approved by her late Majesty's Order in Council bearing date the twenty-second day of August, eighteen hundred and eighty-three.

Proviso.

*Administration of Estates.*

Application  
for direction  
of the Court.

45.—(1) Any guardian of the person or estate, any executor or administrator, and any person appointed or required to administer the property of another for the benefit of the other, may apply to the Court for its opinion, advice, or direction on any question respecting the management or administration of that property or respecting his conduct as guardian, executor, administrator, or person aforesaid.

Protection  
where the  
direction is  
followed :

(2) Every guardian, executor, administrator, or person aforesaid, acting upon the opinion, advice, or direction given by the Court, shall be deemed, so far as regards his own responsibility, to have discharged his obligations and his duty as that guardian, executor, administrator, or person in the subject-matter of the application :

Proviso.

Provided that the provisions of this section shall not extend to indemnify any guardian, executor, administrator, or person aforesaid in respect of any act done in accordance with the opinion, advice, or direction of the Court, if he has been guilty of any fraud or wilful concealment or misrepresentation in obtaining that opinion, advice, or direction.

Jurisdiction  
and powers of  
the Court.

(3) The Court shall have full jurisdiction to entertain and shall dispose of all or any of the following questions or matters, that is to say,—

- (a) any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee, heir, or person beneficially interested;
- (b) the ascertainment of any class of creditors, legatees, devisees, heirs, or others;
- (c) the furnishing of any particular accounts by the guardian, executor, administrator, or person administering as aforesaid, and the vouching, when necessary, of those accounts;
- (d) the payment into the registry of any money in the hands of the guardian, executor, administrator, or person aforesaid;
- (e) directing the guardian, executor, administrator, or person aforesaid to do or abstain from doing any particular act in that character;
- (f) the approval of any sale, purchase, compromise, or other transaction; and
- (g) the determination of any question arising in the administration of the property or in the performance of any duty by the guardian, executor, administrator, or person aforesaid.

(4) An application under the provisions of this section may be made in the manner provided by rules of court, and, in the absence of any special provision thereby may be made by petition. Mode of application.

(5) Notice in the first instance shall be served on the following persons, that is to say,— Notice of application.

(a) where the application is made by a guardian, executor, administrator, or person aforesaid—

(i) for the determination of any question under sub-section (3), paragraphs (a), (e), (f) or (g), the persons or one of the persons whose rights or interests are sought to be affected;

(ii) for the determination of any question under sub-section (3), paragraph (b), any member or alleged member of the class;

(iii) for the determination of any question under sub-section (3), paragraph (c), any person interested in taking the accounts;

(iv) for the determination of any question under sub-section (3), paragraph (d), any person interested in the money;

(v) if there are more guardians, executors, administrators, or persons aforesaid than one, and they do not all concur in the application, those who do not concur; and

(b) where the application is made by any person other than the guardian, executor, administrator, or person aforesaid, that guardian, executor, administrator, or person.

(6) The Court may direct any other persons it thinks fit to be served with notice of the application.

*Claims by and against the Government.*

46.—(1) Claims by the government of the colony against any private person shall be brought by the Attorney General, or by any officer authorised by law to prosecute those claims on behalf of the Government. Claims by the Government against private parties.

(2) All claims against the Government of the colony which are of the same nature as claims which may be preferred against the Crown in England by petition, manifestation, or plea of right, may, with the consent of Claims by private parties against the Government.



the Governor, be brought in the Court, in a suit instituted by the claimant as plaintiff against the Attorney General as defendant, or any other officer authorised by law, or from time to time designated for that purpose by the Governor.

How action  
commenced.

(3) The claimant shall not issue a writ of summons, but the action shall be commenced by the filing of a statement of claim (with an address for service thereon) in the Court, and the delivery of a copy thereof at the chambers of the Attorney General or other officer authorised or designated as aforesaid.

Fiat of  
Governor.

47.—(1) The registrar shall forthwith transmit the statement of claim to the Colonial Secretary, and it shall be laid before the Governor; and if the Governor grants his consent, the statement of claim shall be returned to the Court, with the fiat of the Governor indorsed thereon, and the claim shall be prosecuted in the Court.

(2) The statement of defence shall be served on the claimant within twenty-eight days from the date of the fiat.

Service of  
documents.

48. All documents which, in a suit of the same nature between private parties, would be required to be served upon the defendant, shall be delivered at the chambers of the Attorney General or other officer authorised or designated as aforesaid.

Judgement  
and pro-  
ceedings  
thereon.

49. Whenever in any action a judgement or order is given or made against the Government, no execution shall issue thereon, but a copy of the judgement or order under the seal of the Court, shall be transmitted by the registrar to the Governor, who, if the judgement or order is for the payment of money, shall, by warrant under his hand, direct the amount awarded thereby to be paid, and in case of any other judgement or order shall take all measures necessary to cause it to be carried into effect.

Appeal.

50. Any judgement or order aforesaid shall be subject to appeal in the same manner as if it had been given or made in an action between private parties.

Procedure to  
be according  
to Supreme  
Court Ordin-  
ance.

51. So far as applicable and except in so far as inconsistent with the provisions of the five last foregoing sections, all the powers, authorities, and provisions contained in this Ordinance, or in any enactment extending or amending it, and rules of court, and the practice and course of procedure of the Court, shall extend and apply to all actions

and proceedings by or against the Government, and in all those actions and proceedings costs shall be awarded in the same manner as in actions between private parties.

52. Where any claim of the nature set forth in subsection (2) of section forty-six of this Ordinance is of an amount or a value not exceeding one hundred dollars, the proceedings shall be instituted by filing a statement of claim in a magistrate's court under the Summary Jurisdiction (Petty Debt) Ordinance instead of in the Supreme Court, and the procedure as to delivery of a copy of the statement of claim and the transmission of the claim to the Colonial Secretary, the fiat of the Governor, service of documents, and proceedings upon the judgement or order shall be as hereinbefore provided for proceedings in the Supreme Court :

Where claim of amount or value not exceeding \$100 :

Chapter 15.

Provided that—

Proviso.

- (a) the clerk of the magistrate's court shall fix the time for appearance at not less than ten days from the date of the service; and
- (b) the jurisdiction of the magistrate's court in all other proceedings and all fees and costs shall be as though the cause were between private parties under the Summary Jurisdiction (Petty Debt) Ordinance, and either party shall have the right of appeal conferred in like cases by the Summary Jurisdiction (Appeal) Ordinance.

Chapter 15.

Chapter 16.

53.—(1) All taxes, imposts, dues, and sums of money payable to His Majesty, or to the colony, shall be recoverable by parate or summary execution; and the signature of the Colonial Treasurer or other officer authorised to receive them subscribed to any document setting forth or containing a statement of the amount claimed, or due, shall without proof of that signature, and without proof of any other matter or thing, be held and be deemed to be in all courts, and by all judges and magistrates, *primâ facie* evidence of the amount claimed being in every particular correct.

Recovery of certain claims by parate execution.

(2) Whenever parate or summary execution is hereafter issued, the defendant shall be notified that the amount due is payable within six days of the service of the process in execution upon him, if he resides outside of the municipal boundaries of Georgetown, and within three days if he resides in Georgetown.

Notice to be given before issue of execution.

*Execution of Process.*

Persons by whom process may be executed.

54.—(1) All process in civil cases, except arrests of the person and proceedings in execution after summation, and all process in criminal cases, except execution in cases of forfeited recognizances, may be served by anyone authorised by the Registrar to do so.

(2) The term “process,” as herein used, includes all proceedings whatever involving service of any document on any party, witness, or other person concerned in any of those proceedings.

Onus of proof of want of authority to lie on person served.

(3) The authority from the registrar of anyone appearing to have served any process aforesaid need not be proved; but anyone objecting to the authority of that person shall be at liberty to prove the want of that authority.

Keeping of list of persons authorised to serve process.

(4) There shall be kept in the registry a correct list of the persons, not being marshals, who have that authority; and anyone objecting to the authority of any of those persons to serve any process, may produce the original of that list, or a copy thereof, signed as a true copy by the registrar or any marshal, or by any sworn clerk or assistant sworn clerk; and if the name of the person does not appear on the list or copy, he shall be held not to have the authority.

Authentic return of service :

55.—(1) Every return of service appearing to be signed by the registrar, or by any marshal, shall, as heretofore, be received by all courts as authentic, without any proof.

(2) Every return of service appearing to be signed by any other person purporting to be authorised by the registrar shall, if verified by the affidavit of that person, sworn before any justice of the peace, be received by all courts as authentic.

(3) The affidavit purporting to be so sworn shall be taken to have been properly sworn before a justice of the peace, without proof of the fact of its having been so sworn, or of the fact of the person before whom it appears to have been sworn being a justice of the peace, or of the signature either of the deponent or of the justice :

Proviso.

Provided that any person seeking to disprove either of those facts, or the genuineness of either of those signatures, shall be at liberty to do so by evidence.

Service of process.

56.—(1) Nothing contained in any statute shall be construed to prohibit the service of process or the mode of making return of service authorised by this Ordinance.

(2) The registrar may give special permission in writing to any person, who is authorised to serve process in civil cases under section fifty-four of this Ordinance, notwithstanding the provisions of that section, to execute fiats, issuing out of the registry, and generally to carry out any process of execution thereon, in any part of the colony other than the city of Georgetown or the town of New Amsterdam in the same way as a marshal is by law authorised to do.

57. Warrants of arrest issued under this Ordinance, shall be addressed to and be executed by a marshal. Execution of warrants.

58.—(1) Every bailiff of a magistrate's court shall be, and have all the powers of a marshal of the colony for the purposes of serving any process, or executing any judgement of the court in its civil jurisdiction, or any other process which the law requires to be served or executed by a marshal of the colony, and all matters connected therewith. Service of process by bailiffs.

(2) The term "process" used in this and the three next succeeding sections means any step either before or after judgement in any civil action or other proceeding which involves or includes service of any document on any party, witness, or other person interested or concerned therein.

59.—(a) When any process is to be served or any judgement executed by any of those bailiffs, the registrar shall send the writ and other necessary papers to the clerk of the court to which the bailiff is attached, who shall hand or send them to the bailiff for the proper action; Procedure by registrar :

Provided that in the district where there is no clerk of the court the duties imposed by this section shall be performed by the magistrate. Proviso.

(b) The registrar shall, together with the writ and other papers, send—

- (i) a list of the writs and other papers sent, which, if it is correct, shall be initialled by the clerk and returned to the registrar;
- (ii) envelopes addressed and, if necessary, stamped, for the return of the writs and other papers;
- (iii) a form of the proper indorsation to be made on the writ or other document in question.

(c) All writs and other papers sent by the registrar to the clerk of a magistrate's court, or by that clerk to

a bailiff, or returned by the bailiff to the clerk, or by the clerk to the registrar, may be sent or returned by registered post.

Indorsation  
on writ.

60. The bailiff after taking action shall make the proper indorsation on the writ and hand it back with any other papers to the clerk of the Court, who shall forthwith return them to the registrar.

Clerks and  
bailiffs  
officers of  
Court.

61. All the magistrates' clerks and all bailiffs shall be officers of the Court in respect of the several duties imposed upon them by the foregoing provisions.

*Fees and Costs.*

Fees and  
costs gener-  
ally.

62.—(1) The fees and costs payable and allowable in the Court shall be regulated by rules of court and, where provision is not made by those rules, the existing tariffs and regulations as to fees and costs shall remain in force.

(2) Subject to the provisions of the next succeeding section and to rules of court, the costs of and incident to any proceeding in the Court shall be in the discretion of the Court or judge.

Disallowance  
of costs in  
certain cases.

63. No costs shall be allowed to a successful plaintiff in any action brought by him in the Court which might have been heard in a magistrate's court in its civil jurisdiction, unless the Court is of opinion that the action was one which it was expedient to bring in that manner and certifies accordingly.

Fees for  
arrests and  
apprehen-  
sions.

64. The fees payable for arrests and apprehensions of the person shall belong to the marshals making the arrests and apprehensions.

Fees in  
Crown cases.

65.—(1) No fees shall be payable for any services performed in criminal cases.

(2) With respect to civil cases to which his Majesty the King, or the colony, may be a party, the ordinary fees shall be charged, and may be recovered from the opposite party, but shall not be payable by His Majesty or the colony, unless recovered from the opposite party.

Place of pay-  
ment of fees.

66. All fees for services performed in the counties of Demerara and Essequibo shall be paid at the registry in Georgetown, and all fees for services performed in Berbice shall be paid at the registry in New Amsterdam.

67.—(1) In all cases where it becomes necessary to proceed to execution for the recovery of colonial or town taxes not exceeding in amount the sum of one hundred dollars, the following and no other fees shall be chargeable :—

Fees for recovery of colonial and town taxes :

For drawing and serving process of summary execution, including copies of documents served therewith ... ..	\$ c.
	1 00
For levying on property, including inventory	2 00
For conditions of sale ... ..	25
For publishing advertisement of sale ...	1 00
For commission, one-half per centum on amount of sale.	
For order for execution ... ..	25
For taxing costs, when necessary ... ..	16
For attendance at sale ... ..	67

(2) Nothing in this section shall extend, or be construed to extend, to bar any claim for distance money, not exceeding two dollars, payable for service of process of execution made beyond the boundaries of the city of Georgetown and the town of New Amsterdam.

Saving.

68.—(1) There shall be kept in the registry in Georgetown and New Amsterdam a cash fee book, in which shall be entered every fee received in the registry; and the cash fee book shall be in the form established by the registrar with the approval of the Governor.

Keeping of cash fee books.

(2) On or before the third day of each month, the registrar in Georgetown and the marshal in New Amsterdam shall respectively produce those books containing the entries of all fees received during the last preceding month, to the Colonial Treasurer, together with abstracts thereof, signed by the registrar and that marshal respectively, and shall then pay over the amounts of the fees to the Colonial Treasurer, and shall at the same time submit a list of all the expenses of the registry in Georgetown and New Amsterdam respectively during the preceding month.

69. The Governor in Council may, from time to time, if he deems it expedient, make regulations for checking the amounts received in the registry in Georgetown and New Amsterdam, and the entries in the cash fee books kept there; and the registrar and the marshals shall be bound to conform with those regulations.

Regulations relating to fees.

*Unclaimed Moneys.*

Furnishing of  
half-yearly  
lists of  
unclaimed  
moneys.

70.—(1) On the thirtieth day of June and the thirty-first day of December respectively in every year, or within one week thereafter, the registrar shall deposit with the Colonial Treasurer a list of all moneys, the proceeds of sales of property under execution, of which all the instalments have been paid up, and what moneys have remained unclaimed for three months and upwards prior to each of those dates.

Paying over  
moneys.

(2) At the time of depositing the list, the registrar shall pay over all moneys mentioned therein to the Colonial Treasurer, and shall cause the list to be published in the Gazette and to be re-published in like manner at the expiration of one month thereafter.

Discharge for  
moneys paid  
over.

(3) The receipt of the Colonial Treasurer, in a book to be kept by the registrar for that purpose, shall be a sufficient acquittance, discharge, and release to him for all moneys paid over by him to the Colonial Treasurer under the provisions of this Ordinance.

Effect of  
moneys  
remaining  
unclaimed for  
five years.

71. All moneys advertised under the provisions of the preceding section which remain unclaimed for a period of five years from the time when they came to the hands of the registrar shall become and be part and parcel of the general funds of the colony, and all right, title, and interest of every person in and to them shall be statute barred.

Claim to  
moneys paid  
over :

72. Anyone claiming any sum of money paid over by the registrar to the Colonial Treasurer may apply, by petition to the Governor in Council, whereupon the Governor in Council, as to him seeming fit, shall authorise the Colonial Treasurer to pay out that sum of money, or shall refer the party to establish the claim by due course of law, in which latter case the Colonial Treasurer shall make any defence in law he may be advised :

Proviso.

Provided that nothing herein contained shall be construed to hinder or prevent the Governor in Council from making provision on the annual estimates for the payment of any sum of money paid over by the registrar under the provisions of this Ordinance to anyone whom he considers to have an equitable claim thereto, notwithstanding that the claim may be statute barred.

Default of  
registrar.

73.—(1) Any failure on the part of the registrar to comply with any of the requirements of this Ordinance relating to unclaimed moneys shall render him liable to a

*See Sec 3 d  
Ord 16 of 1931*

penalty of five hundred dollars, to be sued for and recovered by the Attorney General in the Supreme Court in its civil jurisdiction. Penalty.

(2) The penalty, when recovered, shall be paid to His Majesty for the public use of the colony.

74. The Chief Justice may determine the distribution of the business before the Court among the judges thereof, and may assign any judicial duty to any judge or judges. Distribution of business among the judges.

*Rules of Court.*

75.—(1) Any five or more of the following persons, namely,— Rules and orders.

the judges (or a majority of them, of whom the Chief Justice shall be one), and four other persons, of whom two shall be practising barristers and two practising solicitors appointed for the purpose as hereinafter provided, may make rules and orders for all or any of the following purposes, that is to say, for—

- (a) regulating the sittings of the Court and of the judges in chambers, and the period to be observed as a vacation in the Court;
- (b) regulating the pleading, practice, and procedure, the execution of the process, the duties of the officers of the Court, and the transaction of business during any vacation or non-session thereof;
- (c) regulating matters relating to the costs, and the taxation thereof, of proceedings in the Court, including the costs of counsel and solicitors, the expenses of witnesses, and the fees of the registrar, and all matters relating thereto;
- (d) prescribing any forms to be used in proceedings in the Court;
- (e) fixing the fees and costs to be taken and received in respect of all matters and proceedings of any kind whatsoever in any department of the registry of the Court and the deeds registry, and for regulating the practice and procedure therein, in any matters in which the practice and procedure is not prescribed by any Ordinance not repealed by this Ordinance; and
- (g) <sup>(h)</sup> ~~(f)~~ regulating, prescribing, and doing any other thing which may be regulated, prescribed, or done by rules of court.

See Ord 25 of 1930

See sec. 24 of Ord 16 of 1929.



(2) (a) The appointment of barristers and solicitors for the purpose aforesaid shall be made by the Chief Justice in writing under his hand and shall continue for the time specified therein.

(b) The Chief Justice may at any time revoke the appointment of any barrister or solicitor.

(c) In the case of the death, resignation, temporary absence from the colony, or revocation of the appointment, of a barrister or solicitor, his place may be filled permanently or temporarily by appointment by the Chief Justice.

(3) No rule or order so made shall be deemed invalid or be subject to objection by reason that it alters, amends, or repeals the provisions of this or any other statute (not being an Act of Parliament, with respect to which that power is not given by that or any other Act of Parliament), relating to any matter hereinbefore in this section mentioned.

Power to  
make rules  
as to proof.

76. The power to make rules of court includes power to make rules for regulating the means by which particular facts may be proved and the mode in which evidence thereof may be given in any proceedings, or on any application in connection with or at any stage of any proceedings.

Mode of  
making  
rules.

77. Rules of court shall be made in the manner and subject to the conditions prescribed in this section, that is to say, —

Publication  
of draft rules.

(a) at least ~~thirty~~ <sup>fourteen</sup> days before making any rules of court, notice of the proposal to make them and copies of the draft rules shall be published in the Gazette;

(b) on the expiration of those ~~thirty~~ <sup>fourteen</sup> days the rules may be made by the rule-making authority, and shall come into operation at the time prescribed therein;

(c) all rules of court shall be published in the Gazette forthwith after they are made and shall not come into operation before that publication.

Amended by Ord.  
25 of 1930.

Provisional  
rules in cer-  
tain cases.

78. Where the rule-making authority certifies that, on account of emergency or for any special reason, any rules of court should come into immediate operation, the authority may make them to come into operation forthwith as provisional rules, but those provisional rules shall continue in force only until rules of court have been made in accordance with the foregoing provisions of this Ordinance.

79. Every rule of court so made shall be laid before the Legislative Council within fourteen days next after it is made if the Legislative Council is then sitting, or, if not, within fourteen days after the commencement of the then next ensuing session, and, if within the next subsequent twenty-one days, a resolution is passed by the Legislative Council praying that the rule may be annulled, the Governor may thereupon by Order in Council annul it; and the rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings in the meantime taken under it.

Rules to be laid before Legislative Council.

80. Any copy of the rules purporting to have been printed for the Government of British Guiana shall be primâ facie evidence in all courts and for all purposes of the due making and tenor of the rules.

Evidence of rules.

#### F.—MISCELLANEOUS.

81. No officer or person employed in any way whatsoever in the registry may or shall, directly or indirectly or by the intervention of a trustee or otherwise, purchase any property sold at execution; and if that officer or person purchases or is interested in the purchase of any property at an execution sale, he shall, upon proof thereof to the Governor, be dismissed from his office or employment:

Restriction on officers' purchase of property sold at execution:

Provided that nothing in this section contained shall prevent the officer or person from purchasing at execution sale any property which it is necessary for him to purchase in order to protect the interest of himself, his wife, or his child.

Proviso.

82. Subject to any special disability to sue or be sued, any person, whether a foreigner or not, and whether a domiciled inhabitant of the colony or not, may take proceedings or be proceeded against by action or other proceeding in the Court in its civil jurisdiction, and the Court shall have full jurisdiction, power, and authority to try, hear, and determine the action or other proceeding and to proceed to a final judgement or order and execution therein.

Jurisdiction over foreigners.

83.—(1) Where the plaintiff in any action in the Court proves at any time before final judgement by evidence on oath to the satisfaction of the Court or a judge that he has good cause of action against the defendant to an amount exceeding one hundred dollars, and that there is probable cause for believing that the defendant is about to quit the

Arrest in certain circumstances of defendant about to quit the colony.

colony unless apprehended, and that the absence of the defendant from the colony will materially prejudice the plaintiff in the prosecution of his action, the Court or a judge may, in the manner prescribed by rules of court, order the defendant to be arrested and imprisoned for a period not exceeding six months, unless and until he has sooner given security not exceeding the amount claimed in the action as prescribed by rules of court that he will not go out of the colony without the leave of the Court.

(2) Where the action is for a penalty or sum in the nature of a penalty, other than a penalty in respect of any contract, it shall not be necessary to prove that the absence of the defendant from the Colony will materially prejudice the plaintiff in the prosecution of the action, and the security given (instead of being that the defendant will not go out of the Colony) shall be to the effect that any sum recovered against him in the action shall be paid or that he shall be rendered to prison.

Procedure  
in case of  
imprison-  
ment.

84.—(1) The return of the Marshal or of the chief officer of any prison, to any writ of habeas corpus of an arrest or detainer under any order of arrest or imprisonment by the Court, or under any judgement or order of detention for or during non-payment of any fine or penalty imposed by the Court, shall be deemed sufficient in law, if there appears in or is attached to the return a certificate by the registrar setting forth the judgement or order by virtue of which the arrest or detainer was made.

(2) The Court shall have power to reduce or remit any fine or penalty imposed by it provided the fine or penalty has not been already paid or satisfied.

Saving of  
jurisdictions.

85. Nothing in this Ordinance shall be construed to take away or abridge any jurisdiction, power, or authority vested in the Court.

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## PART II.

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### THE FULL COURT OF THE SUPREME COURT.

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#### CONSTITUTION.

Constitution  
of Full  
Court :

86.—(1) There shall be a Court of the Supreme Court styled the Full Court of the Supreme Court of British Guiana, in this Ordinance referred to as "the Full Court."

(2) The Full Court may be composed of all, but shall consist of not less than two of the judges of the Court :

Provided that when the Full Court is composed of two judges and they differ as to the judgement that should be given on an appeal from a single judge the judgement of the single judge shall stand except as to any matters in which the Full Court agrees that it shall be reversed, and on an appeal from a decision of a magistrate's court the appeal shall be re-heard as soon as conveniently may be by a full court of three judges.

(3) Wherever in any Ordinance the expression " Full Court " occurs, it shall be deemed to refer to the Full Court hereby constituted.

87. When the Full Court is composed of two judges if any party to an appeal in any cause or matter makes application to the Chief Justice, and the Chief Justice is of opinion that for any special grounds a third judge should be appointed, he shall so report to the Governor, who may, at any time before the hearing of the appeal, appoint a barrister, qualified under section eleven of this Ordinance, to act as a judge of the Court, to sit as a member of the Full Court on the hearing of the appeal.

88. No judge of the Court shall sit in the Full Court on the hearing of an appeal from any judgement given or order made by himself.

#### JURISDICTION.

##### (i)—*Appeals from the Court.*

89. Subject to the provisions of section ninety-one of this Ordinance and to rules of court, an appeal shall lie to the Full Court from any judgement given or order made by a single judge of the Court in exercise of its civil jurisdiction in respect of which there is by section ninety-four of this Ordinance no appeal to the Court of Appeal :

Provided that (a) no appeal shall lie to the Full Court from any interlocutory judgement or order given or made without the leave of the judge by whom that judgement or order was given or made, or of the Full Court, except in the following cases :—

- (i) where the liberty of the subject or custody of infants is concerned; and
- (ii) cases of the granting or refusing an injunction or appointment of a receiver; and

Chapter 178.

(iii) any decision determining the claim of any creditor, or the liability of any contributory, or the liability of any director or other officer, under the Companies (Consolidation) Ordinance, and any amending Ordinance, in respect of misfeasance or otherwise.

and (b) no appeal shall lie from a judgement or order in any action (including a counter claim) where the amount claimed or the value of the property in respect of which the action is brought does not exceed two hundred and fifty dollars, except by leave of the judge by whom the judgement or order was given or made, or of the Full Court; and that leave to appeal shall not be given unless there is a substantial question of law involved.

(ii)—*Appeals from Magistrates.*

Appeals from  
decisions of  
Magistrates.

Chapter 9.

90.—(1) Every appeal from a decision—

(a) of a puisne judge under sub-section (1) of section nine of the Summary Jurisdiction (Magistrates) Ordinance, or

(b) of a magistrate,

shall be heard and determined by the Full Court.

Chapter 16.

(2) The Summary Jurisdiction (Appeals) Ordinance, shall apply to appeals from the decisions mentioned in sub-section (1) of this section.

Chapter 16.

(3) In matters not provided for in this section or in the Summary Jurisdiction (Appeals) Ordinance the practice and procedure of the Full Court in cases of appeal under this section shall be regulated by rules of court.

(iii)—*Matters in which there is no Appeal.*

Matters in  
which there  
is no appeal.

91. No appeal shall lie from a judgement given or order made by a single judge of the Court in the following cases, namely, from—

(a) any judgement pronounced or order made by consent of parties, or as to costs only which by law are left to the discretion of the court except by leave of the court or judge making the order;

(b) any order giving unconditional leave to defend;

(c) any judgement or order obtained by default or any order made on an ex parte application;

(d) any order allowing an extension of time for appealing from a judgement or order;

- (e) any judgement or order in respect of which there is no right of appeal by virtue of any Ordinance or of rules of court;
- (f) any criminal cause or matter at the suit of the Crown.

(iv)—*Power of judge to state a case.*

92. A judge of the Court, sitting apart in the exercise of the civil jurisdiction of the Court, may in his discretion reserve any question of law arising in any cause or matter for the consideration of the Court of Appeal or the Full Court;

Reservation  
of questions  
of law :

Provided that the question shall be reserved for the consideration of the court to which an appeal might have been taken; and the Court of Appeal or the Full Court, as the case may be, shall have full power to hear or determine any question so reserved.

Proviso.

(v)—*Procedure.*

93. The procedure on appeals under this part of this Ordinance shall be as prescribed by rules of court.

PART III.

THE COURT OF APPEAL.

*Matters in which no Appeal lies to the Court of Appeal.*

94.—(1) Notwithstanding the provisions contained in section three of the Act no appeal shall lie to the Court of Appeal from—

Matters in  
which no  
appeal to  
Court of  
Appeal.  
9 & 10 Geo. V.,  
c. 47.

- (a) any interlocutory judgement or order made or given by a judge of the Court except in the following cases:—
- (i) any decree nisi in a matrimonial cause, and any judgement or order in an admiralty action determining liability;
- (ii) any order on a special case stated under the Arbitration Ordinance;
- (iii) such other cases, to be prescribed by rules of court, as are, in the opinion of the rule-making authority, of the nature of final decisions;

Chapter 21.

(b) any judgement or order—

- (i) in any action where the amount claimed or the value of the property in respect of which the action is brought does not exceed two hundred and fifty dollars;
- (ii) in an application for prohibition;
- (iii) in an application for mandamus;
- (iv) relating to insolvency;
- (v) referred to in section ninety-one of this Ordinance; or
- (vi) given or made by the Full Court.

(c) any order granting or refusing a stay of execution pending an appeal;

(d) any order for the giving of security pending an appeal;

(e) any decision of a puisne judge under sub-section (1) of section nine of the Summary Jurisdiction (Magistrates) Ordinance;

(f) any decision of a magistrate's court;

(g) such other judgements or orders, to be prescribed by rules of court, as are, in the opinion of the rule-making authority, cases in which appeals shall lie to the Full Court.

(2) An order refusing unconditional leave to defend an action shall not be deemed to be an interlocutory order within the meaning of this section.

95. This part of this Ordinance shall be construed with the provisions of section one hundred and seventy-four to one hundred and seventy-seven, both inclusive, of the Criminal Law (Procedure) Ordinance.

96. The approval required by section five of the Act to the draft rules to be made under the Act shall be signified by resolution of the Legislative Council.

97. The Governor may pay from colonial revenue the proportion of expenses to be borne by the colony fixed by his Majesty in Council under the provisions of section six of the Act.

98. Where one person holds the two offices of the Registrar of the Court of Appeal and the Registrar he may omit giving or transmitting any notice or certificate or copies of proceedings or otherwise from himself in one

Chapter 9.

Chapter 18.

Rules.

Expenses.

Where office of Registrar of the Court of Appeal and Registrar held by the same person.

capacity to himself in the other capacity, or doing anything, whether required by this Ordinance or not, tending in the opinion of the President of the Court of Appeal to the duplication and unnecessary increase of work and which is only necessary where the two offices are held by different persons.

99. Nothing in this part of this Ordinance shall prejudice or affect the right of any person to appeal to his Majesty in Council.

Right of  
appeal to  
King in  
Council.