

To be construed with Ord 34 of 1929, 14 of 1932.

CHAPTER 7.

CIVIL LAW OF BRITISH GUIANA.

[No. XV. of 1916.]

[1st January, 1917.]

Short title.

1. This Ordinance may be cited as the Civil Law of British Guiana Ordinance.

Interpretation:
"movable property";
"immovable property."

2.—(1) From and after the first day of January, nineteen hundred and seventeen, hereinafter in the Ordinance referred to as "the date aforesaid," save as provided by this or any other Ordinance, unless the context otherwise determines, wherever the words "movable property" are used in an Ordinance, or in another statute, or in a document, they shall ordinarily be deemed to mean and include personal property, inclusive of choses in action but exclusive of chattels real, as understood by the common law of England, and vice versâ, and wherever the words "immovable property" are so used they shall ordinarily be deemed to mean and include both real property and "chattels real" as understood by the common law of England, and vice versâ.

Roman-Dutch terms.

(2) Wherever in an Ordinance, or in another statute, or in a document, any term of Roman-Dutch law is used, the corresponding term of English law, if any, with any words of qualification required, shall be understood and construed in lieu thereof, unless the context otherwise determines.

Saving of existing rights.

(3) Nothing in this Ordinance contained shall be held to deprive any person of any right of ownership, or other right, title, or interest in any property, movable or immovable, or of any other right acquired before the date aforesaid; and where in any matter whatsoever any right is founded upon a rule or custom of Roman-Dutch law or procedure for which there is no equivalent in the English common law, or where the English common law in the opinion of the Supreme Court is not applicable owing to any special local conditions for which no provision is made by this or any other Ordinance, effect may be given to the Roman-Dutch rule or procedure to the extent the Supreme Court deems advisable in the interests of equity if that Court is so advised.

3. From and after the date aforesaid save as provided by any Act of the Imperial Parliament now or hereafter applying to the colony, or by any order of His Majesty in Council, or by this Ordinance, or by any other Ordinance of the Legislative Council now or at any time hereafter in force, or by any order of the Governor in Council made in pursuance of any statute, or of any other lawful authority,—

Alteration
of law.

(A) the law of the colony relating to wills, fideicommissa, trusts, suretyship, donations or gifts (both as regards movable and immovable property, liens or rights of retention, tacit and legal hypothecs or mortgages, partnership, agency, mandate, powers of attorney and appointment, hiring and lease, landlord and tenant, negotiable instruments, bailments, carriers, torts, or delicts, quasi-delicts, every description whatsoever of contracts and obligations whether mercantile or otherwise, all questions relating to husband and wife, marriage, separation, and divorce (save as to the rights acquired and obligations contracted by marriage in community of goods or subject to ante-nuptial contract prior to the Married Persons Property Ordinance), parent and child, guardian and ward, minors or infants, lunatics, persons of unsound mind, master and servant, the presumptions and rules as to continuance of life and proof of death, movable or personal property, immovable or real property and chattels real, and all matters relating to any of the aforesaid subjects, and the law of the colony relating to all other matters whatsoever, whether ejusdem generis with the foregoing or not, shall cease to be Roman-Dutch law, and as regards all matters arising and all rights acquired or accruing after the date aforesaid, the Roman-Dutch law shall cease to apply to the colony;

Abrogation
of Roman-
Dutch law.

Chapter 144.

(B) The common law of the colony shall be the common law of England as at the date aforesaid including therewith the doctrines of equity as then administered or at any time hereafter administered by courts of justice in England, and the Supreme Court shall administer the doctrines of equity in the same manner

Introduc-
tion of Eng-
lish common
law.

as the Supreme Court of Judicature in England administers them at the date aforesaid or at any time hereafter;

Exclusion of English law of real property.

Law of movable and immovable property to be the same subject to certain provisions:

- (c) The English common law of real property shall not apply to immovable property in the colony;
- (d) there shall be as heretofore one common law for both immovable and movable property, and all questions relating to immovable property within the colony and to movable property subject to the law of the colony shall be adjudged, determined, construed, and enforced, as far as possible, according to the principles of the common law of England applicable to personal property:

full ownership of immovable property preserved;

Provided that—

mortgages, real servitudes, and oppositions;

specific performance;

evidence in writing; (Statute of Frauds.)

- (a) immovable property may be held as heretofore in full ownership, which shall be the only ownership of immovable property recognised by the common law and shall not be subject to any rule of succession by primogeniture or preference of males to females, or to any other incident attached to land tenure or to estates in land in England and not attached to personal property in England.
- (b) the law and practice relating to conventional mortgages or hypothecs of movable or immovable property, and to easements, profits à prendre, or real servitudes, and the right of opposition in the case of both transports and mortgages, shall be the law and practice now administered in those matters by the Supreme Court;
- (c) the relief by judgement for specific performance shall be granted in the case of immovable property on the same principles on which it is granted in England in the case of contracts relating to land or to interests in land;
- (d) no action shall be brought whereby to charge any—
 any lease of immovable property for a period exceeding one year, or
 any contract or agreement for the sale, mortgage, or lease of immovable property or any interest in or concerning immovable property, or
 any declaration, creation, or assignment of any trust relating to immovable property,

unless the agreement or some memorandum or note thereof is in writing and signed by the party to be charged or some other person thereunto by him lawfully authorised;

- (e) the particulars or conditions of sale by auction of immovable property shall state whether that property will be sold without reserve, or subject to a reserved price, or whether a right to bid is reserved; if it is stated that the property will be sold without reserve, or to that effect, then the seller may not employ anyone to bid at the sale, nor may the auctioneer take knowingly any bidding from that person; and where any sale by auction of immovable property is declared, either in the particulars or conditions of sale, to be subject to a right of the seller to bid, the seller, or any one person on his behalf, may bid at that auction in any manner he thinks proper;
- (f) where after the date aforesaid a tenant of any holding that is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or in whole or in part cultivated as a market garden, affixes to his holding any engine, machinery, fencing, or other fixture, or erects any building for which he is not under this Ordinance or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the landlord, then that fixture or building shall be the property of and be removable by the tenant before or within a reasonable time after the termination of the tenancy, but—
- (i) before the removal of any fixture or building the tenant shall pay all rent owing by him and perform or satisfy all other his obligations to the landlord in respect to the holding;
- (ii) in the removal of any fixture or building the tenant shall not do any avoidable damage to any other building or other part of the holding;
- (iii) immediately after the removal of any fixture or building the tenant shall make

sale by
auction of
immovable
property.
(Auctions of
Land Act,
1867.)

(Agricul-
tural Hold-
ings Act,
1883, s. 34.)

good all damage occasioned to any other building or other part of the holding by the removal;

- (iv) the tenant shall not remove any fixture or building without giving one month's previous notice in writing to the landlord of his intention to remove it;
- (v) at any time before the expiration of the notice of removal the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture or building comprised in the notice of removal, and any fixture or building thus elected to be purchased shall be left by the tenant and become the property of the landlord, who shall pay the tenant the fair value thereof to an incoming tenant of the holding; and any difference as to the value shall be settled by arbitration under the Arbitration Ordinance or otherwise, but without appeal.

Chapter 24.

Title by prescription to immovable property must be declared by Supreme Court. (Prescription Act, 1832, simplified.)

4.—(1) Title to immovable property, including immovable property of the Crown or colony, or to any easement, profit à prendre, servitude, or other right connected therewith, may be acquired by sole and undisturbed possession for thirty years, of which not less than three years shall be after the date aforesaid, if that possession is established to the satisfaction of the Supreme Court which may issue a declaration of title in regard to the property or right upon application in the manner prescribed by any Ordinance or rules of court.

Limitation of actions: (Real Property Limitation Act, 1874.)

(2) No person shall make an entry or distress, or bring an action or suit to recover any immovable property, but within twelve years next after the time at which the right to make, bring, or recover the same has accrued to him or to some person through whom he claims:

Proviso.
Chapter

Provided that (a) sections ten to seventeen inclusive of the Limitation Ordinance shall apply as if the twelve years herein mentioned were a term of limitation under that Ordinance; and (b) thirty years shall be the utmost allowance for periods of disability preventing the running of the statute; and (c) rent arising out of immovable property and any sum secured by any mortgage, judgement, or lien, or

otherwise charged upon or payable out of immovable property, and any legacy payable out of immovable property shall be deemed to be movable property for the purpose of the Ordinance aforesaid.

5.—(1) From and after the date aforesaid, the foreshore of the colony (that is to say, the part of the shore of the sea and of tidal navigable rivers which is covered by the medium high tide between the spring tides and the neap tides), the soil under tidal waters, and the sea-bed within the territorial waters of the colony (hereafter in this section called "the lands"), shall be deemed to be Crown lands and may be dealt with in the same manner in which Crown lands are now dealt with under the Crown Lands Ordinance or under any later Ordinance.

Vesting
foreshore,
sea-bed, and
minerals
thereunder,
in the
Crown.

Chapter 171.

(2) Gold, silver, precious stones, valuable minerals, as defined by the Mining Ordinance, mineral oil, asphalt, coal, bauxite, and all other mineral substances found upon the lands shall be deemed to be vested in the Crown, and no one shall explore, prospect, mine for, remove, or appropriate any of those minerals except in accordance with the Mining Ordinance, or any other Ordinance or regulations applying thereto, subject to the penalties provided for offences against the Ordinances or regulations aforesaid.

Chapter 175.

(3) No one shall remove any sand, shell, clay, gravel, shingle, or other mineral substance, or any seaweed or vegetation, from the lands without the permission of the Governor subject to the like penalties.

(4) Except as provided in the two next ensuing subsections all acts of ownership by the Crown over the lands and minerals aforesaid, and all grants, leases, or licences shall be subject to any existing public rights under the common law of England.

(5) Whenever the Governor in Council is satisfied that any act of ownership or any grant, lease, or licence of the lands cannot be exercised without a substantial infringement of some public right, a description of the lands and a statement of the purposes for which they are to be used shall be published in the Gazette during a period of six weeks, and the Governor in Council shall thereafter fix a day for the hearing of objections in writing or by counsel to that act, grant, lease, or licence before him and duly consider any objections.

Determina-
tion of
public rights.

(6) If the Governor in Council considers the objections insufficiently founded, or if no objections are made he may with the approval of the Legislative Council declare

that any lands so required are freed and discharged from any public rights until the purpose of the act, grant, lease, or licence is terminated.

Saving of existing rights.

(7) Nothing in this section contained shall be construed as vesting in the Crown any land forming part of the foreshore or a sea-bed over which a private right has been established by virtue of any law or custom and whether by prescription or otherwise.

Foreshore.

(8) From and after the date aforesaid the ownership of the foreshore and of all lands covered by public navigable rivers, or (to the extent to which those lands now or hereafter are vested in the Crown of England under the common law or by statute) by arms of the sea, or by territorial waters, shall be vested in the Crown upon the same terms, as to the use and enjoyment thereof by the public for navigation and fishing, and by the owners of the adjoining lands for access to the sea for purposes of navigation, and upon the same terms for all other purposes, as in England.

Rules for intestate succession. (22 & 23 Car. II. c. 10, adapted):

6.—(1) There shall be for the entire colony only one law of succession to the estate of every person, male or female, married or single, dying intestate after the date of this Ordinance, that is to say, after all debts, funeral expenses, and just expenses of every sort have been first allowed and deducted, namely,—

(a) if there are descendants, one-third part of the surplusage shall be allotted to the widow or widower and all the residue by equal portions to the children of the intestate, their descendants taking per stirpes, in case any or all of those children are then dead :

Proviso.

Provided that if any child shall have any estate by a settlement of the intestate, or shall be advanced by the intestate in his life-time, that child shall bring the estate or amount advanced into hotch-pot or so much of it as shall make the estate of all the children to be equal so near as can be estimated ;

(b) if there are no descendants, then one moiety shall be allotted to the widow or widower of the intestate and the residue shall be distributed equally among the next of kin of the intestate who are in equal degree, the children, but not the grandchildren, of deceased brothers and sisters taking

per stirpes, no other representation being admitted among collaterals :

- Provided that (i) if there are no next of kin of the second or third degrees, the widow or widower shall take the whole estate to the exclusion of the next of kin of remoter degree; and (ii) brothers and sisters shall take before the grandparents although of the same degree; and (iii) kindred of the half-blood shall rank with those of the whole blood; Proviso.
- (c) if there is no widow or widower, the whole estate shall be divided equally among the children, the grandchildren of any deceased child or children taking per stirpes;
- (d) if there is no widow or widower and no descendant of the intestate the whole estate shall be distributed among the next of kin of the intestate who are in equal degree, their descendants taking per stirpes;
- (e) the father and mother shall rank equally as of the same degree, and the father shall not take in exclusion of the mother, but each shall be entitled if of the same degree to a separate and equal share, and if, after the death of either parent, any of the children die intestate without wife or children, every brother and sister and their representatives shall have an equal share with the surviving parent; (1 Jas. II, c. 17, s. 7.)
- (f) the husband of the survivor shall not be entitled to any preference or to any greater interest than the wife would have where the wife is the survivor, but shall take a like share, and a wife's estate shall be subject in all respects to the same rules of distribution as a husband's estate;
- (g) if the estate does not exceed in value four hundred and eighty dollars, the surviving spouse, if any, whether there are descendants or not of the intestate, shall take the whole estate absolutely and exclusively, and, if the estate exceeds four hundred and eighty dollars, whether there are descendants or not of the intestate, shall be entitled to four hundred and eighty dollars as a just charge, without Intestate Estates Act, 1890. (Modified.)

prejudice to or diminution of his or her share as above provided, and the residue shall be treated as if it were the whole estate;

- (h) illegitimate children shall be entitled to succeed in intestacy as heirs of their mother as if they were legitimate children of their mother, and children legitimised by the marriage of their parents shall be entitled to succeed in intestacy as heirs of both parents as if they had been legitimate children at the date of their birth;
- (i) the degrees of kindred shall be reckoned by counting every generation from the intestate up to the common ancestor and down thence to the person in question.

(2) The rules of succession to both immovable and movable property shall be the same, and no distinction shall be made between movable and immovable property for purposes of distribution.

(3) No special rule of succession in the county of Berbice pursuant to any law, customs or charter shall be valid or enforceable after the date aforesaid.

(4) In any matter not provided for by this section the common law of England shall apply.

(5) Any claim which might have been made by the Colonial Treasurer on behalf of the Crown or colony to exclude a surviving spouse on failure of blood relations of the deceased under the common law of Berbice or under the common law of Demerara and Essequibo shall cease to be valid or enforceable.

(6) In the absence of all blood relations, including therein all illegitimate children of a female deceased, and in the absence of a surviving wife or husband of a deceased person, his movable and immovable property shall fall to the Crown:

Escheat:

Proviso.

Provided that in the case of an escheat to the Crown through failure of legitimate heirs, or through the illegitimacy of the deceased, the Governor may in the name of the Crown forgo the whole or part of the escheat and may direct the portion so forgone to be paid, delivered, or transported to any or all of those persons who would have succeeded but for their own, or their ancestors', or the deceased's, illegitimacy, ~~but during the continuance of the Civil List Ordinance the consent of the Legislative Council shall be always previously obtained.~~

Ord 14 of 1932.
Sec 13.

Ord. 34 of 1929.

7.—(1) All persons who by the laws in force in the colony on the fourteenth day of August, eighteen hundred and thirty-two, would not have attained their majority until they were twenty-five years of age, are hereby declared to have attained their majority so soon as they were twenty-one years of age, and all persons who were at that date already twenty-one years of age are hereby declared to have attained their majority.

Majority at
twenty-one.

(2) All persons aforesaid are hereby declared to be entitled to all the rights and privileges, and to none other, to which they would have been entitled under the laws before the fourteenth day of August, eighteen hundred and thirty-two, in force in the colony on their attaining the age of twenty-five years.

Rights under
former laws
as to attain-
ment of
majority.

(3) Nothing in this section contained shall be deemed to have extended or shall extend to affect any estate by any will made before or after the fourteenth day of August, eighteen hundred and thirty-two, in the colony specially directed to be kept together for a specific period of time, or to alter any agreement entered into before that date by executors or guardians wherein provision was or is made for infants or wards being of age at the period prescribed by the law of the colony existing before that date.

Saving of
testamentary
dispositions
or existing
agreements.

Wills, Charities, and Gifts.

8. Where the Wills Ordinance, and any other Ordinance now or hereafter dealing with wills or testaments, is silent, the Wills Act, 1837, except section seven thereof so far as it relates to personal property, shall be part of the law of the colony and shall apply to both movable and immovable property as if the provisions dealing with personal property were specifically enacted to apply to both movable and immovable property, and in the absence of any provision by Ordinance or Act the English common law, including the rule against perpetuities, shall apply :

Will's.
Chapter 148.
(7 W. IV. and
1 Vict. c. 26) :

Provided always that,

(a) although no descendant or ascendant of any person dying after the date aforesaid shall have any right to claim any legitimate portion, effect shall be given to any testamentary direction bequeathing a legitimate portion to any ascendant or descendant as a valid bequest of that part of the estate which would constitute a legitimate portion for the descendant or ascendant under the Roman-Dutch law;

Proviso.

(Thelusson
Act, 1798.)

(b) no person by will or otherwise shall so settle or dispose of any property that the rents or profits shall be accumulated for a longer term than the life of that person, or the term of twenty-one years from the death of that person, or during the minority of anyone living or en ventre sa mère at the time of the death of that person, or during the minority of anyone who would be entitled under the will or other document if of full age; and any accumulation in excess thereof shall go to the person who would be entitled but for that direction; but nothing herein shall extend to any provision for the payment of the debts or for raising a portion for the child of anyone;

(Accumula-
tions Act,
1892.)

(c) no person by will or other document shall so settle or dispose of any property that the rents or profits thereof shall be wholly or partially accumulated for the purchase of land only for any longer period than during the minority of anyone who would be entitled to receive the rents or profits under the will or other document if of full age.

Charities :
(43 Eliz. c. 4)

9. The law as to charities shall be the common law of England :

Proviso.

Provided that—

(a) no bequest or gift, whether testamentary or otherwise, shall be held void by reason only that it is for a superstitious use or purpose; and

(b) by “charities” shall be ordinarily understood charities within the meaning, purview, and interpretation of the preamble to the Act of the forty-third year of Queen Elizabeth, chapter four, as preserved by section thirteen of the Mortmain and Charitable Uses Act, 1888.

Voluntary
conveyances,
and settle-
ments.
(13 Eliz. c. 5.)
(27 Eliz. c. 4.)

10. Voluntary conveyances or settlements, or other voluntary dispositions of property, whether movable or immovable, that is to say, conveyances, settlements, or dispositions, made otherwise than on valuable consideration and in good faith lawfully conveyed to, or made in favour of, a person who is without notice of any fraudulent intent, shall be void as against existing creditors.

Marriage.

11. Children born during concubinage, not being the offspring of an adulterous or incestuous union, shall be legitimised by the marriage of those living in concubinage :

Legitimation
per subse-
quens matri-
monium :

Provided that the legitimation shall not take effect if the intended husband prior to the date of the marriage makes a notarial declaration in the presence of the intended wife to the effect that to the best of his knowledge and belief any particular child or children is or are not his offspring.

Proviso.

Ord 14 of 1932

Sec 13.

12. The obligation of observing the *annus luctus*, and any other limitation of the right of a widow or widower under Roman-Dutch law to re-marry, are hereby abolished.

Annus luctus
abolished.

Trusts.

13. Subject to the provisions of this or any other Ordinance the Trustee Act, 1893, shall be part of the law of the colony so far as the same is applicable,

Trusts and
Trustees :
56 & 57
Vict. c. 53 :

Provided that—

Proviso.

- (a) the Supreme Court may exercise any power which the High Court of Justice in England may exercise under that Act;
- (b) a trustee may, in addition to the securities set out in section one of the Act invest any trust moneys in the Government savings bank of the colony, or in any bonds or inscribed stock issued by the authority of the Government of the colony, and guaranteed by resolution of the Legislative Council or by the Imperial Government, or in any municipal bonds issued with the consent of the Government of the colony or in any colonial stock registered in the United Kingdom in accordance with the provisions of the Colonial Stock Acts, 1877 and 1892, or in any investment sanctioned by a judge of the Supreme Court on application by any trustee;
- (c) a trustee shall be entitled to fair and reasonable compensation for his services, and for his time expended, in and about the trust estate allowed by a judge of the Supreme Court or allowed by any Ordinance to an administrator in like

cases, and any judge may on summary application fix the amount of the compensation although the trust estate is not before the court in any action;

(Trustee Act,
1894.)

(d) a trustee shall not be liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorised by the instrument of trust or by the general law.

Legal rate of
interest in
existing
contracts.

14.—(1) Where interest is now payable upon any contract, expressed or implied, for payment of the legal or current rate of interest, or where upon any debt or sum of money interest is now payable by any rule of law, the same rate of interest shall be recoverable as if this provision had not been enacted.

Rate of
interest where
no rate fixed.

(2) In all proceedings before any court of justice founded upon contract in which no rate of interest is specifically stated, the court shall award interest, if it so thinks fit, at the rate of six per centum per annum and no more.

English law
to prevail in
insurance
cases.

15. In every suit, action, and cause having reference to questions of fire and life assurance which are henceforth brought in the Supreme Court, or in any other competent court of this colony, the law administered for the time being by the High Court of Justice in England, so far as that law is not repugnant to, or in conflict with, any Ordinance now in force in the colony, shall be the law to be administered by the Supreme Court or other competent court.

Miscellaneous.

Laesio
enormis
and Roman-
Dutch pleas
abolished;
law of parate
execution and
notaries
public re-
tained.

16.—(1) The doctrine or action of laesio enormis is hereby abolished.

(2) The pleas founded upon the benefits of excussion and division and all other pleas founded upon the Roman-Dutch or Roman law and not recognised by the English common law are hereby abolished and it shall be no longer necessary to exclude them expressly in any surety bond or other document.

(3) The law and procedure relating to parate execution and to notaries public shall continue as at present.

Deeds.

17. Where by the English common law, or by any Ordinance or other statute now or hereafter applying to the colony, any matter is required to be evidenced by deed,

a document notarially executed shall be held to be as valid and effectual for all purposes as if sealed and delivered as a deed.

18. The common law right to the writ of habeas corpus, as confirmed and regulated by the Habeas Corpus Act, 1679, shall be part of the law and procedure of the colony and, subject to any rules of the Supreme Court, shall be granted and issued as nearly as possible in accordance with the practice and procedure for the time being in force in regard to that writ in the High Court of Justice in England.

Habeas
corpus,
31 Car. II.,
c. 2.

19. Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal chose in action, of which express notice in writing has been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim that debt or chose in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Ordinance had not passed), to pass and transfer the legal right to the debt or chose in action from the date of that notice, and all legal and other remedies therefor and the power to give a good discharge therefor, without the concurrence of the assignor :

Assignment
of debts and
choses in
action :
(S.C. of
Judicature
Act, 1873, s.
25 (6).)

Provided that if the debtor, trustee, or other person liable in respect of the debt or chose in action has had notice that the assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to the debt or chose in action, he shall be entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning it, or he may, if he think fit, pay it into the Supreme Court under and in conformity with the provisions of any rules of court.

Proviso.

20. No action shall be brought whereby to charge any heir, executor, or administrator, upon any special promise to answer damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another, or to charge anyone upon any agreement made upon consideration of marriage, or upon any agreement which is not to be performed within the space of one year from the making thereof, unless the agreement upon which the

Promise and
agreement
by parol.
(Statute of
Frauds, s. 4.)

action is brought or some memorandum or note thereof, is in writing and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorised.

Action
against exe-
cutors (3 and
4 W. IV, c. 41,
s. 2).

21. An action may be maintained against the executors or administrators of anyone deceased for any wrong committed by him in his lifetime to another in respect of his property if the injury has been committed within six months before his death and if the action is brought within six months after letters of administration have been granted.

Slander of
women :
(54 & 55 Vic.,
c. 51.)

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

Proviso.

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

Chapter 188.

23.—(1) Where anyone has been adjudged a lunatic under the provisions of the Lunacy Ordinance, a judge of the Supreme Court may, on application by the Attorney General, or by a wife, husband, blood relation, creditor, or duly appointed agent or attorney of the lunatic, make an order as to the custody of the person of the lunatic, and thereupon that order shall supersede any order of committal or removal made under the Ordinance aforesaid and if any previous order of committal or removal has been made, the judge shall cause the Attorney General to be notified of the application and shall fix a day for hearing his objection (if any) thereto.

53 Vic., c. 5.

(2) On the application of any of the persons mentioned in the preceding sub-section, the judge may also, in respect of the estate or property in the colony of any of those hereinafter mentioned, and whether they are or are not resident or domiciled in the colony, make any of the orders, or exercise or direct to be exercised any of the powers, which a judge in lunacy may make or exercise or direct to be exercised under the Lunacy Act, 1890, and any Act amending it.

(3) The persons in respect of whose estate or property in the colony any order may be made or power exercised under the last preceding sub-section are as follows :—

(a) any lunatic—

Chapter 188.

(i) so adjudged under the Lunacy Ordinance ;

- (ii) so found by inquisition within the meaning of the Lunacy Act, 1890, whether so adjudged under the Lunacy Ordinance or not;
 - (iii) not so found or adjudged, for the protection or administration of whose property any order has been made by a court of competent jurisdiction in any part of the United Kingdom or in any colony or dependency thereof;
- (b) anyone lawfully detained as a lunatic though not so found;
- (c) anyone with regard to whom it is proved to the satisfaction of the judge by affidavit or otherwise that—
- (i) he is, through mental infirmity arising from disease or age, incapable of managing his affairs;
 - (ii) he is of unsound mind and incapable of managing his affairs;
 - (iii) he is or has been a criminal lunatic and continues to be insane and in confinement.

(4) The practice and procedure of the Supreme Court in Lunacy under the provisions of this section and the costs in relation thereto shall be regulated by rules of court made under the provisions of the Supreme Court Ordinance.

Chapter 10.

24.—(1) All Ordinances, regulations, or rules, purporting to confer any franchise, vote, appointing or nominating power, or any right to be elected, appointed, or nominated to any government, municipal, or other public office of honour or emolument, shall apply and since the year eighteen hundred and thirty-eight, have applied, equally to all British subjects of every race or origin within the colony without any distinction whatsoever, and every British subject possessing the qualifications (if any) prescribed thereunder for exercising that power or holding that office shall exercise or hold it, as the case may be, independently of race or origin.

Declaration.

(2) All Ordinances, regulations, or rules, purporting to confer upon British subjects any right of trade, commerce, land holding, land transfer, lease or mortgage of movable or immovable property, or any right of association, or purporting to regulate the exercise thereof, shall apply

and since the year eighteen hundred and thirty-eight have always applied to all British subjects resident within the colony.

(3) From and after the commencement of this Ordinance all Ordinances, regulations, and rules referred to in sub-sections (1) and (2) of this section shall apply to all persons of East Indian race or origin (not being subjects of any non-Indian foreign state) whether those persons are British subjects, or British protected persons, or subjects of any Indian native state.

(4) No British subject and no one of East Indian race or origin (not being a subject of a non-Indian foreign state) shall be subject to any legal, political, or other disability, disqualification, or incapacity by reason only of his race or place of origin.

ENGLISH STATUTES.

Application
of English
Statutes
prior to 1831.

25. The Governor and Legislative Council may by resolution declare that any statute of the Parliament of the United Kingdom, or of Great Britain, or of England, passed before the fourth day of March, eighteen hundred and thirty-one, or any part of that statute, shall be part of the law of the colony as from a date specified in the resolution, and upon the publication of the statute or part thereof together with a copy of the resolution in the Gazette and in one daily newspaper circulating in the colony, that statute or part thereof shall so apply to the colony.

Royal pre-
rogative.

26. Except as specifically enacted, nothing in this Ordinance contained shall be deemed to limit or restrict the royal prerogative as hitherto enjoyed by His Majesty under the Roman-Dutch law of the colony, and except as aforesaid that prerogative shall as from the date aforesaid comprehend all the pre-eminence and all the special dignities, liberties, privileges, and powers conferred upon His Majesty by the common law of England.

Repeal.

27. The Resolutions of their High Mightinesses the States General of the United Netherlands, dated respectively the fourth day of October, seventeen hundred and seventy-four, the placaat of the States of Holland relating to marriage, inheritance, succession, and other points and articles dated the first day of April, fifteen hundred and eighty; the Ordinance of the States of Holland and West Vriesland for the interpretation of doubts daily occurring

in the Ordinance of Succession dated the thirteenth day of May, fifteen hundred and ninety-four; the Edict or Proclamation of the States of Holland or West Vriesland relating to succession ab intestato, dated the eighteenth day of December, fifteen hundred and ninety-nine; the Ordre van Regieringe of their High Mightinesses of the thirteenth day of October, sixteen hundred and twenty-nine, the provisions of the Octrooi or Charter of the East India Company granted by their High Mightinesses on the tenth day of January, sixteen hundred and sixty-one, and applied to the Colony of Berbice by an Octrooi or Charter passed by the States-General on the twenty-seventh day of September, seventeen hundred and thirty-two, and all other placcaats, statutes, charters, acts, orders, laws, resolutions or proclamations repugnant to the provisions of this Ordinance shall from and after the date hereof cease to be applicable to the colony or to any part thereof.

ENGLISH STATUTES ADAPTED, INCORPORATED, OR
REFERRED TO IN THIS ORDINANCE.

Adapted by section 3, (D), (d)	Statute of Frauds, 1677, (29 Chas. II. c. 3).
	(e)—Auctions of Land Act, 1867.
	(f)—Agricultural Holdings Act, 1883, s. 34.
Adapted by section 4 (1).	Prescription Act, 1832.
(2).	Real Property Limitation Act, 1874, except sections 6, 7, and 9.
Adapted by section 6.	Statute of Distributions, 1670, (22 and 23 Chas. II. c. 10); 1 James II. c. 17, s. 7; Intestate Estates Act, 1890.
Incorporated by section 8.	Wills Act, 1837, (except section 7).
Adapted by section 8.	Thelusson Act, 1798.
	Accumulations Act, 1892.
Incorporated by section 9.	Preamble to 43 Eliz. c. 4.
Adapted by section 10. {	(13 Eliz. c. 5,) } as to voluntary conveyances
	(27 Eliz. c. 4,) } and settlements.
Incorporated by section 13.	Trustee Acts, 1893 and 1894.
Referred to in section 13.	Colonial Stock Acts, 1877 and 1892.
Incorporated by section 18.	Habeas Corpus Act, 1679, (31 Car. II. c. 2).
Adapted by section 19.	Supreme Court of Judicature Act, 1873, s. 25 (6).
Adapted by section 20.	Statute of Frauds, 1677.
Adapted by section 21.	3 and 4 W. 4 c. 41.
Adapted by section 22.	Slander of Women Act, 1891.
Adapted by section 23.	Lunacy Act, 1890, and amending Acts.