

TRINIDAD AND TOBAGO.

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No. 24—1936.

I ASSENT,

[L.S.]

M. FLETCHER,
Governor.

21st December, 1936.

24th December, 1936.

AN ORDINANCE to amend the Judicature Ordinance,
Cap. 35.

BE it enacted by the Governor of Trinidad and Tobago
with the advice and consent of the Legislative Council
thereof as follows :—

1. This Ordinance may be cited as the Judicature Short title.
(Amendment) Ordinance, 1936, and shall be read as one
with the Judicature Ordinance. Cap. 35.

2. The following sections shall be substituted for Sections 4 and
5 of Cap. 35
substituted.
sections 4 and 5 of the Judicature Ordinance :—

4. (1) The Supreme Court shall consist of Judges of the
Court.
four Judges, one of whom shall be designated the
Chief Justice of Trinidad and Tobago and the others
the Puisne Judges of Trinidad and Tobago.

The Chief Justice shall be the President of
the said Court. The Puisne Judges shall be called
the First, Second and Third Puisne Judges according
to the terms of their respective appointments.

4. The following sub-section shall be added to and form part of section 10 of the Judicature Ordinance :—

Section 10 of
Cap. 35
amended.

(3) The Registrar shall be a barrister-at-law or a solicitor, in either case of five years standing at least.

5. The following section shall be substituted for section 20 of the Judicature Ordinance :—

Section 20 of
Cap. 35
substituted.

20. (1) There shall be vested in the Court all such jurisdiction as is vested in or exercisable by the High Court of Justice in England, including the jurisdiction in matrimonial causes and matters and in respect of suits to establish legitimacy and validity of marriages and the right to be deemed natural-born ^{British} subjects, as is by the Supreme Court of Judicature (Consolidation) Act, 1925, vested in the High Court of Justice in England. (See Provision 15 and 16 Geo. 5 c. 49. 26-1932 S. 4)

General
jurisdiction
of the Court.

(2) The jurisdiction hereby vested in the Court shall be exercised as nearly as possible in accordance with the ~~law~~ practice and procedure for the time being in force in the High Court of Justice in England so far as such practice and procedure is not displaced by Rules of Court made in pursuance of this Ordinance, and whether the cause of action arose before or after the coming into operation of this Ordinance.

(3) Nothing herein shall authorise the Court to make any decree of dissolution of marriage where the parties to the marriage have been married pursuant to the provisions of the Immigration Ordinance or the Muslim Marriage and Divorce Registration Ordinance, 1935.

Limitation of
jurisdiction
in divorce.

Cap. 245.

No. 29—1935.

6. The following section shall be substituted for section 33 of the Judicature Ordinance :—

Section 33 of
Cap. 35
substituted.

33. (1) Appeals under the Summary Conviction Offences (Procedure) Ordinance arising in Trinidad shall be heard and determined by a Full Court if there are in the Colony two or more Judges not incapacitated from acting by illness or interest, but if there is only one Judge in the Colony not incapacitated as aforesaid, such appeal shall be heard and determined by such Judge alone, and his decision shall be final and without appeal.

Appeals from
Magistrates.
Cap. 24.

such information or otherwise the Attorney General shall suspect that any parties to the petition are or have been acting in collusion for the purpose of obtaining a decree, contrary to the justice of the case, he may by leave of the Court intervene in the petition, alleging such case of collusion, and retain counsel and subpoena witnesses to prove it; and it shall be lawful for the Court to order the costs of such counsel and witnesses and otherwise arising from such intervention to be paid by the parties, or such of them as it shall see fit, including a wife if she has separate property; ~~but it shall not be lawful for the Court to order any costs arising from such intervention to be paid by the Attorney General to the parties or such of them as it shall see fit to be paid by the Attorney General, and the~~ Attorney-General shall be entitled to be paid from the general revenue all reasonable costs which he may have incurred arising from any such intervention after deducting any costs which may have been paid to him by either of the parties to the petition. Any rules and regulations for the time being for the High Court of Justice in England with respect to the King's Proctor shall, subject to the Rules of Court, apply to the Attorney-General.

Ord. 26-1938. S. 6.

Vexatious Actions.

37. (1) If, on an application made by the Attorney-General under this section to the Court, the Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the Supreme Court or in any inferior Court, and whether against the same person or against different persons, the Court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall without the leave of the Supreme Court or a Judge thereof be instituted by him in any court, and such leave shall not be given unless the Court or Judge is satisfied that the proceedings are not an abuse of the process of the Court and that there is *prima facie* ground for the proceedings.

Restriction on institution of vexatious actions.

Court Vacations and urgent matters.

40. (1) In every year the periods from the twenty-sixth day of June to the third day of October (both days inclusive), and from the twentieth day of December to the second day of January next following (both days inclusive) or such other periods as may be appointed by Rules of Court under this Ordinance, shall be observed as vacations by the Court, but such vacations shall not extend to the trial of criminal cases, to the trial of civil cases in Tobago, to appeals under the Criminal Appeal Ordinance, 1931, or to appeals under the Summary Conviction Offences (Procedure) Ordinance. During such vacations at least one Judge shall remain in the Colony.

(2) Provision shall be made by Rules of Court for the hearing, whether during vacation or not, of all such applications as require to be immediately or promptly heard.

Proceedings against, and contribution between Tort-feasors.

8.—(1) Where damage is suffered by any person as a result of a tort (whether a crime or not)—

(a) judgment recovered against any tort-feasor liable in respect of that damage shall not be a bar to an action against any other person who would, if sued, have been liable as a joint tort-feasor in respect of the same damage;

(b) if more than one action is brought in respect of that damage by or on behalf of the person by whom it was suffered, or for the benefit of the estate, or of the wife, husband, parent or child, of that person, against tort-feasors liable in respect of the damage (whether as joint tort-feasors or otherwise) the sums recoverable under the judgments given in those actions by way of damages shall not in the aggregate exceed the amount of the damages awarded by the judgment first given; and in any of those actions, other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the court is of opinion that there was reasonable ground for bringing the action;

The effect of death in relation to causes of action.

Effect of death
on certain
causes of
action.

9.—(1) Subject to the provisions of this section, on the death of any person after the commencement of this Ordinance all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate. Provided that this sub-section shall not apply to causes of action for defamation or seduction or for inducing one spouse to leave or remain apart from the other or to claims by a husband for damages from any person on the ground of adultery with his wife.

(2) Where a cause of action survives as aforesaid for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person :—

- (a) shall not include any exemplary damages ;
- (b) in the case of a breach of promise to marry shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry ;
- (c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

(3) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person, unless either—

- (a) proceedings against him in respect of that cause of action were pending at the date of his death ; or
- (b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

(4) Where damage has been suffered by reason of any act or omission in respect of which a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage

11. The following enactments are hereby repealed:—
- | | |
|---|-----------------------------------|
| | Repeals. |
| (a) Paragraph (p) in sub-section 2 of section 32 of the Judicature Ordinance. | Cap. 35 s. 32
(2)(p) |
| (b) The Judicature (Amendment) Ordinance, 1926. | No. 2 of 1926. |
| (c) Section 17 of the Criminal Justice Ordinance, 1928. | No. 7 of 1928
s. 17. |
| (d) The Judicature (Amendment) Ordinance, 1931. | No. 34 of 1931. |
| (e) Sections 3, 4 and 6 of the Judicature (Amendment No. 2) Ordinance, 1932. | No. 9 of 1932.
ss. 3, 4 and 6. |
| (f) The Vexatious Actions Ordinance, 1932. | No. 12 of 1932. |
| (g) The Judicature (Amendment) Ordinance, 1934. | No. 29 of 1934. |

Passed in Council this thirteenth day of November, in the year of Our Lord one thousand nine hundred and thirty-six.

J. O'CONNOR,
Clerk of the Council.