

TRINIDAD AND TOBAGO.

No. 18.—1920.

[L.S.]

I ASSENT,

J. R. CHANCELLOR,
Governor.

31st May, 1920.

AN ORDINANCE to make certain provisions in connection with the Court of Appeal established by the West Indian Court of Appeal Act, 1919.

[By Proclamation.]

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 West Indian Short title.
Court of Appeal (local jurisdiction) Ordinance, 1920.

2. For the purposes of this Ordinance—

Interpretation.

The expression "Court of Appeal" means the Court of Appeal established by the West Indian Court of Appeal Act, 1919 (9 & 10 Geo. 5 c. 47.)

The expression "Full Court" means the Full Court under the Judicature Ordinance, No. 34.

Saving certain
jurisdiction of
Full Court.

3. Notwithstanding the provisions of the West Indian Court of Appeal Act, 1919, which said Act is set out in the schedule hereto, the Full Court shall have jurisdiction—

- (a.) To hear and determine appeals from Magistrates under the Summary Conviction Offences (Procedure) Ordinances.
- (b.) To hear and determine appeals under section thirty-six of the Petty Civil Courts Ordinance, 1911.
- (c.) To revise proceedings of inferior courts under section thirty-two of the Judicature Ordinance, No. 34.
- (d.) To hear appeals from interlocutory orders.
- (e.) To hear and determine appeals in all actions and matters in which prior to the first day of January, 1918 the Court exercised a summary jurisdiction under sections thirty-three and thirty-four of the Judicature Ordinance, No. 34.
- (f.) To hear and determine applications for the giving of security for costs to be occasioned by any appeal to the Court of Appeal.
- (g.) To hear and determine applications for a stay of execution on any judgment, order or decision appealed from pending the determination of such appeal by the Court of Appeal.
- (h.) To hear and determine appeals from the Official Receiver in Bankruptcy.
- (i.) To hear and determine appeals in applications for prohibition.
- (j.) To hear and determine appeals in any of the following proceedings and matters :
 - (i.) Proceedings analogous to proceedings on the Crown side of the King's Bench Division of the High Court of Justice in England.
 - (ii.) Proceedings analogous to proceedings on the Revenue side of the King's Bench Division of the High Court of Justice in England.

(iii.) Cases of *habeas corpus*, in which a Judge directs that a rule *nisi* for the writ, or the writ be made returnable before a Full Court.

(iv.) Appeals from a judge in chambers and applications for new trials where the action has been tried with a jury.

4. No Order made by consent of parties or as to costs only, which by law are left to the discretion of the Court, shall be subject to an appeal to the Court of Appeal except by leave of the judge making the Order.

Orders by consent of parties and as to costs.

5. Nothing in this Ordinance shall affect any appeals to the Full Court which may be pending at the commencement of this Ordinance.

Pending appeals.

6. Nothing in this Ordinance shall prejudice or affect the right of any person to appeal to His Majesty in Council.

Appeals to Privy Council.

7. This Ordinance shall come into operation on such day as may be fixed by the Governor by Proclamation.

Commencement.

SCHEDULE.

WEST INDIAN COURT OF APPEAL ACT, 1919.

9 & 10 GEO. 5, C. 47.

AN Act to provide for the establishment of a Court of Appeal for certain of His Majesty's Colonies in the West Indies. [15th August, 1919.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) There shall be a Court of Appeal for the West Indian Colonies to which this Act applies, which shall be called the West Indian Court of Appeal, and is in this Act referred to as "the Court of Appeal."

Constitution of West Indian Court of Appeal.

(2) The colonies to which this Act applies shall be the colonies of Trinidad and Tobago, British Guiana, Barbados, the Leeward Islands, Grenada, St. Lucia, and St. Vincent.

Provided that His Majesty may, by Order in Council from time to time, add any other colony to the number of colonies to which this Act applies, or direct that this Act shall no longer apply to any colony specified in the Order if, in any such case, His Majesty is satisfied that due provision in that behalf has been made by the Legislature of the colony in question.

(3) The Judges of the Court of Appeal shall be the Chief Justices of the colonies to which this Act, for the time being, applies:

Provided that—

- (a.) If the Chief Justice of the Colony in which the Court of Appeal is at any time sitting is unable from any cause to sit, the Governor of the colony may appoint a person appearing to him to be duly qualified instead of such Chief Justice to sit and hear either a particular appeal or all appeals to be heard during the whole of any particular sittings of the court in that colony; and
- (b.) His Majesty may by letters patent appoint an additional judge of the Court of Appeal who shall be a barrister of not less than eight years standing.

The expression "Chief Justice" in this Act, in the case of the colonies of Grenada, St. Lucia, and St. Vincent, means the senior substantive Chief Justice in those colonies, and, in the case of other colonies to which this Act applies, includes any person for the time being acting in the capacity of Chief Justice.

(4) His Majesty may, by Order in Council, direct that the Court of Appeal shall sit in two or more divisions, and may assign any colony to any division, with the consent of such colony, expressed by resolution of the legislature thereof, but every judge of the court may sit in any division.

(5) The Court of Appeal shall have, and use as occasion may require, a seal, having a device or impression of the Royal Arms, with the inscription "The West Indian Court of Appeal."

(6) The Court of Appeal shall be duly constituted if it consists of not less than three judges and of an uneven number of judges.

(7) The determination of any question before the Court of Appeal shall be according to the opinion of the majority of the members of the court hearing the case.

(8) A judge of the Court of Appeal shall not sit as a judge on the hearing of an appeal from any judgment or order made by himself or made by any court, if he was present and acting as a member of the court at the time when the decision appealed from was made, or at the argument of the case decided.

Precedence
of judges.

2.—(1) The Chief Justice of Trinidad, if present, and, in his absence, the senior substantive Chief Justice, shall be president of the Court of Appeal.

(2) The Chief Justices shall rank as between themselves according to the respective dates of their appointments as Chief Justices.

(3) An acting Chief Justice shall not preside, and shall rank after the last appointed substantive Chief Justice, and acting Chief Justices shall rank as between themselves according to the respective dates of their appointments as acting Chief Justices:

Provided that, if an additional judge of the Court of Appeal is appointed by His Majesty under this Act, that judge shall rank after the last-appointed substantive Chief Justice and before the senior acting Chief Justice.

(4) A person appointed under this Act to sit in the Court of Appeal instead of a Chief Justice shall rank after the last-appointed acting Chief Justice.

Jurisdiction
of Court of
Appeal.

3.—(1) The Court of Appeal shall have jurisdiction and power to hear and determine appeals (including reserved questions of law) from any of the courts of the colonies to which this Act for the time being applies, subject, however, to the provisions of this Act, and to any provision which may be made by the Legislature of any of those colonies as to appeals from that colony, and to rules of court made under this Act.

(2) The process of the Court of Appeal shall run throughout the colonies to which this Act applies, and any judgment, decree, or order of the Court of Appeal shall have full force and effect in every such colony, and shall be executed and enforced in like manner as if it were an original judgment, decree, or order of the court from which the appeal is brought, and, for all purposes of and incidental to the hearing and determination of any appeal within its jurisdiction, the Court of Appeal shall have all the power, authority, and jurisdiction vested in the court from which the appeal is brought.

(3) In the hearing of an appeal from any colony, the law to be applied shall be the law in operation in that colony.

4.—(1) His Majesty may, by Order in Council, provide for the appointment of a registrar or registrars and all other necessary officers of the court, and make such provision with respect to such registrars and officers as appears necessary or expedient. Registrars and assessors.

Pending the making of any such Order in Council, the registrars of the supreme courts of the colonies to which this Act for the time being applies shall be ex-officio registrars of the Court of Appeal.

(2) The court may, in any case in which it appears to it to be expedient, call in the aid of one or more assessors specially qualified and hear such cases wholly or partially with the assistance of such assessors.

The remuneration (if any) to be paid to such assessors shall be determined by the court.

5.—(1) Subject to the provisions of this Act, the judges of the Court of Appeal, or a majority of them, of whom the president shall be one, may make Court rules of court for regulating—

- (a) the time and place of the sittings of the Court of Appeal, and the selection of judges for any such sittings; and
- (b) the delivery of judgments in the Court of Appeal; and
- (c) generally, the practice and procedure of the Court of Appeal or any matters relating thereto (including the right of audience in the Court of Appeal), or to the duties of the officers thereof, or to the costs of or fees upon proceedings therein.

(2) Before any such rules of court are made, a draft thereof shall be submitted to the Governments of the colonies to which this Act for the time being applies, and no such rules of court affecting appeals from any colony in particular shall be made unless the draft has been approved in such manner as the Legislature of that colony may determine.

(3) Any such rules shall, subject to disallowance by His Majesty, come into operation on a day specified in the rules for the purpose, and any disallowance by His Majesty shall take effect as from the date to be directed by the Secretary of State and published in the *Gazette* in which official notices are published in each of the colonies to which this Act for the time being applies but without prejudice to any proceedings taken before such publication.

(4) Any fees paid in pursuance of any such rules shall be applied and dealt with in such manner as may be directed by His Majesty in Council.

6. The expenses of the Court of Appeal shall be borne by the colonies to which this Act for the time being applies in such proportion as may from time to time be fixed by His Majesty in Council. Expenses.

7. Subject to any provision which may be made by the Legislature of any colony to which this Act for the time being applies, whereby appeals from any court in that colony are to be made in the first instance to the Court of Appeal, nothing in this Act shall prejudice or affect the right of any person to appeal to His Majesty in Council. Saving for jurisdiction of Privy Council.

Repeal, short
title and com-
mencement.
52 & 53 Vict.
c. 33.

8.—(1) The Windward Islands Appeal Court Act, 1889, is hereby repealed, and any appeals pending in the court established under that Act shall, subject to rules of court made under this Act, be transferred to the Court of Appeal.

(2) This Act may be cited as the West Indian Court of Appeal Act, 1919.

(3) This Act shall come into operation on the first day of July, nineteen hundred and twenty, or on such earlier date as may be fixed by His Majesty by Order in Council.

Passed in Council this Fourteenth day of May, in the year of Our Lord one thousand nine hundred and twenty.

T. B. JACKSON,
Acting Clerk of the Council.
