

CHAPTER 64.

PETTY CIVIL COURTS.

AN ORDINANCE RELATING TO PETTY CIVIL COURTS.

[1st May, 1911.]

*Ordinances*  
 No. 9 of 1911,  
 " 35 of 1917,  
 " 13 of 1921,  
 " 63 of 1921,  
 " 29 of 1922,  
 " 29 of 1925,  
 25, 8, 19,  
 Short title.<sup>13b</sup>

1. This Ordinance may be cited as the Petty Civil Courts Ordinance.

2. In this Ordinance and in all rules under this Ordinance—

Interpretation.

“ Action ” means any proceeding commenced by the issue of a summons out of a Court;

“ Bailiff ” means the bailiff of the district and his assistants;

“ Clear days ” means that in all cases in which any particular number of days is prescribed for the doing of any act, or for any other purpose, the same is to be reckoned exclusive both of the first and of the last day;

“ Clerk ” means the Clerk of the Court or person lawfully acting as such Clerk, and includes Assistant Clerk;

“ Court ” means a Petty Civil Court under this Ordinance;

“ District ” means the district in and for which a Court is held;

“ Foreign Court ” means the Court of a district into which process is issued from another Court;

“ Foreign District ” means a district other than the district from the Court of which the process is issued;

“ Home Court ” means the Court from which process is originally issued;

“ Judge ” means the Judge of the Court or person lawfully acting as such Judge;

“ Judgment ” means the final decision of the Court in any action;

“ Party ” means party to an action or a person served with notice of or in any action, and includes a body politic or corporate;

“ Prescribed ” means prescribed by the rules made under this Ordinance for the time being in force; and where no such rule applies, then shall mean according to the practice and forms in use in the Courts heretofore holden in the said respective districts;

“ Proceeding ” means any proceeding in a Court other than an action;

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“ Process ” includes summons, notice, execution, summons under the Debtors Ordinance, and any other step in any action or founded on any judgment in an action;

“ Return-day ” means the day appointed in any summons or proceeding for the appearance of the defendant or any other day fixed for the trial of any action or matter;

“ Rules of Court ” includes forms;

“ Trial ” means the hearing of any action in Court.

Districts.

3. The several Petty Civil Courts heretofore held shall, subject as herein is provided, continue to be held under the provisions of this Ordinance; and it shall be lawful for the Governor, by proclamation, to divide the Colony, or any part thereof, into districts and to order that a Court shall be held in each or any of such districts, and also to appoint or change the place of holding of any such Court, or to consolidate any two or more of such districts, or to order that the holding of any such Court be discontinued, and also to declare by what name and at what place each such Court shall be held.

Port-of Spain Court.

4. Subject to the powers of the Governor by proclamation otherwise to appoint, a Court shall be held in Port-of-Spain for the magisterial district of St. George West; and such Court may, subject as aforesaid, continue to be designated the Port-of-Spain District Court. (*As amended by 13 of 1921, s. 3.*)

5. (1) The Courts shall hold public sittings at such places and on such days as the Governor may from time to time, by proclamation, appoint, and, until otherwise so appointed, at the places and times at which the same Courts respectively have hitherto been held: Provided that it shall be lawful for the Judge at his discretion to adjourn any Court to any day or hour that he may deem convenient.

Sittings.

Adjournment.

(2) There shall be no sitting of the Port-of-Spain District Court in the month of September, and the Judge of any other Court may adjourn over the month of September if he shall think fit.

Vacation.

6. The offices of the Courts shall be open daily, except on Sunday, Christmas Day, Good Friday and the day thereafter, Easter Tuesday, and any other public holiday, from the hour of ten o'clock in the morning to four o'clock in the evening for the granting of summonses, issuing of writs of execution, and for all other necessary business of the Court.

Office hours:

Holidays.

7. The Magistrates shall be the Judges of the Courts in their respective districts. In the magisterial district of St. George West the Magistrate and the Assistant Magistrate shall be the Judges of the Court. (*Substituted by 63 of 1921, s. 2.*)

Judges.

*Repealed & replaced by s. 2 of Ord. 26 of 1936*

8. (1) The Clerk of the Peace for the magisterial district of St. George West shall, for the purposes of this Ordinance and of the rules thereunder, be the Chief Clerk of the Port-of-Spain District Court; and the expressions "Chief Clerk" and "Clerk" in such Ordinance and rules shall, as regards the said Court, include the said Clerk of the Peace and his assistant clerks. (*Substituted by 13 of 1921, s. 4.*)

Clerks.

(2) The several Clerks of the Peace and their assistant clerks shall be Clerks of the Petty Civil Courts of their respective districts. (*Added by 29 of 1925, s. 19.*)

(3) Every clerk and bailiff shall, on appointment and before entering on the duties of his office, give sufficient security to an amount to be approved by the Governor for the due accounting for all money received by him and for the performance of his duties.

Security.

Deputies.

9. It shall be lawful for the Governor to appoint a deputy or deputies to discharge the duties of any Judge, clerk, or bailiff in case of illness or absence or for other reason.

Jurisdiction.

10. All Courts shall have jurisdiction to try any action (savé as by this Ordinance hereinafter excepted) in which the sum claimed shall not exceed the sum of twenty-five pounds :

Provided that no Court shall, in any action, give judgment otherwise than for a stated sum as debt or damages and costs as the case may be, or for the defendānt or for the striking out of the action as the case may be; and no equitable relief or remedy, nor any judgment or order in the nature of a mandamus or injunction, shall be granted by such Court.

Exceptions  
from  
jurisdiction.

11. No action shall be brought in a Court in respect of any of the following causes of action; that is to say, replevin, any claim to recover possession or establish any title to or interest in land of or in which the title to any corporeal or incorporeal hereditaments (save as hereinafter otherwise provided) is in question, or in which the validity of any devise, bequest, or limitation under any will or settlement may be disputed, or any action for seduction, breach of promise of marriage, criminal conversation, libel or slander, slander of title, or infringement of patent or merchandise mark or copyright, or in respect of any malicious prosecution or false imprisonment, or for any breach of statutory duty, or in respect of any action in which the validity or legality of anything done in the execution or discharge of any public office or employment or any liability or alleged liability arising from the holding of any such office or employment shall be in dispute. And if it shall be made to appear in the course of the hearing that any claim or any part thereof is in fact in respect of any of the causes of action in this section mentioned, then such claim or such part thereof, as the case may be, shall forthwith be struck out with or without costs as to the Judge shall seem just.

Cases in-  
volving title.

12. (1) If, in any action for damages for trespass to land, it appears in the course of the hearing that it will be necessary for the Judge to decide a *bonâ fide* dispute

as to title to land, the Judge shall strike out the action as in the last preceding section mentioned :

Provided that—

- (a) if in his opinion the issues really in dispute between the parties do not involve such title; or
- (b) with the consent of all the parties to the action; or
- (c) without such consent, if in his opinion the value of the land in question is not more than twenty-five pounds, and there is no substantial point of law involved,

the Judge may proceed to judgment.

(2) The consent of the parties shall, where given, be entered in the record of the proceedings and signed by the parties or their respective solicitors or counsel.

(3) The decision of the Judge shall be final on the question of whether or not a substantial point of law is involved. (*Substituted by 35 of 1917, s. 2.*)

13. In case any action shall be brought in respect of the recovery of any money by way of wages, or for damages for any alleged assault, or for the detention or conversion of goods, or for trespass to enclosed lands, or in respect of any other claim or cause of action, and in the opinion of the Judge the same could have been adequately dealt with by a Magistrate under the provisions of the Summary Conviction Offences (Procedure) Ordinance, or of any other Ordinance conferring on a Magistrate the power to award payment or damages or compensation to the plaintiff in respect of any debt or claim whatsoever, the Judge shall, unless for good cause it appears to him otherwise just, strike out such action at the hearing, and such striking out shall be without prejudice to any right of the plaintiff to proceed before a Magistrate, if he shall be entitled to do so :

Cases triable  
by Magis-  
trates.

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Provided that it shall not be deemed good cause for allowing such action to continue, that the time had gone by for commencing proceedings in the Court of summary jurisdiction at the commencement of the action.

14. Any person may, subject to the provisions of this Ordinance, be sued in the Court of the district in which he resides or carries on business; and by leave of the Judge,

Jurisdiction  
as to  
defendants.

but not otherwise, any person not resident within such district may be sued in the Court of such district in respect of any debt contracted by him within the district or for damages in respect of any wrongful act committed therein or in respect of any breach of any contract made or to be performed therein.

Infants.

15. Any person under the age of twenty-one years may prosecute any action under this Ordinance for any sum of money not greater than twenty-five pounds which may be due to him for wages or piecework, or for work as a servant, in the same manner as if he were of full age; and any person above the age of fourteen and under the age of twenty-one may be sued under this Ordinance for any debt not exceeding twenty-five pounds contracted for necessaries, in the same manner as if such person at the time of contracting such debt had been of full age, and the burden of establishing that the person contracting such debt was, at the time of contracting the same, under the age of fourteen years shall be on the defendant setting up the same.

Trustees,  
executors,  
etc.

16. Any trustee, executor, or administrator may sue or be sued under this Ordinance in like manner as if he were a party in his own right, and judgment and execution shall be such as in the like case would be given or issued in the Supreme Court.

Partners.

17. Any two or more persons claiming or being liable as co-partners may sue or be sued in the name of their respective firms, if any; and it shall be sufficient if any of such co-partners be served with process, and judgment may be obtained and execution issued against one or all the persons liable as such co-partners.

Married  
women and  
infants.

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*repealed  
replaced  
by sec 3 of Ord.  
26 of 1936.*

18. Subject to the provisions of section 15 of the Married Women's Property Ordinance, married women may, with leave of the Judge, sue or defend without their husbands or without a next friend, on giving such security (if any) for costs as the Judge may require. Infants may sue as plaintiffs by their next friends, and may defend by their guardians, but nothing herein contained shall affect the right or liability of any infant to sue or be sued under section 15 of this Ordinance.

19. All persons may be joined in one action as plaintiffs in whom any right to relief in respect of or arising out of the same transaction or series of transactions is alleged to exist, whether jointly, severally, or in the alternative, where if such persons brought separate actions any common question of law or fact would arise: Provided that if upon the application of any defendant it shall appear that such joinder may embarrass or delay the trial of the action, the Judge may order separate trials or make such other order as may be expedient. Any judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who shall not be found entitled to relief, unless the Judge in disposing of the costs shall otherwise direct.

Joinder of  
plaintiffs.

20. The plaintiff may, at his option, join as parties to the same action all or any of the parties severally, or jointly and severally, liable on any one contract, including parties to bills of exchange or promissory notes; and every such person against whom judgment shall have been obtained under this Ordinance, and who shall have satisfied such judgment, shall be entitled to demand and recover contribution from any other person jointly liable with him.

Joinder of  
defendants.

21. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

Idem.

22. (1) Subject to the provisions of this Ordinance and the rules thereunder, a plaintiff may unite in the same action several causes of action, so however that the sum claimed in any action does not exceed twenty-five pounds; but if at any time it appears to the Judge that such causes of action cannot be conveniently tried and disposed of together, he may order separate trials, or may exclude any of such causes of action; and may order the proceedings to be amended accordingly, and may make such order as to costs as may be just.

Joinder of  
causes.

Husband and wife.

(2) Claims by or against husband and wife may be joined with claims by or against either of them separately. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

Splitting causes.

23. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions; but any plaintiff having a cause of action for more than twenty-five pounds may elect entirely to abandon the excess of his demand, and in such case judgment shall be in full discharge of all demands in respect of such cause of action, and entry of the judgment shall be made accordingly.

Partnership or intestacy or legacy.

24. Any demand not exceeding twenty-five pounds which is claimed as the balance of a partnership account or the amount or part of the amount of a distributive share under an intestacy or of any legacy under a will may be sued for in an action.

Death of parties.

25. (1) Where a sole plaintiff or defendant, or one or more of several plaintiffs or defendants, shall die before judgment, the action shall not abate if the cause of action survive or continue.

(2) Where one or more of several plaintiffs or defendants shall die after judgment, proceedings thereon may be taken by the survivors or survivor or against the survivors or survivor, without leave of the Court.

Applications.

26. Save as otherwise expressly provided, all applications respecting any action or proceeding shall be made in open Court to the Judge, and, except where the Judge thinks fit to permit the same to be made *ex parte*, shall be made on notice to the party to be affected thereby :

Provided that applications to sue any person not resident in the district under section 14 of this Ordinance shall not be made in open Court, but such applications may be made in writing in the prescribed form, and a fee of sixpence shall be payable in respect of the filing of every such application.

Forms of proceedings.

27. All summonses and other process shall be in the prescribed form, but no process which, in the opinion of the Judge, substantially contains the prescribed information,

details, and particulars shall be deemed invalid or insufficient by reason of any want of form or variation in form.

28. In the event of any process being, in the opinion of the Judge, insufficient or substantially defective, it shall be lawful for the Judge, in his discretion, on such terms (if any) as to postponement, costs, and otherwise as he shall think fit, to amend the same or to permit the party in default to amend the same : Amendment of process.

Provided that such power of amendment shall not be exercised where the Judge is of opinion that the omission or irregularity has been intentional, for purpose of delay, evasion, or deception, or otherwise not in good faith.

29. All affidavits for use in a Court may be sworn either before a Commissioner of Affidavits or before the Judge or before a Clerk. (*Substituted by 29 of 1922, s. 2.*) Affidavits.

30. At the trial the Judge shall try the whole matter of the action and give judgment thereon, or make any order or give any direction he may consider necessary to enable him to give a final judgment upon a day to which the trial may be adjourned, and also may make such order as to costs as he may think fit. General jurisdiction at trial.

31. The Judge at the hearing, or, by consent of the parties, the Clerk in entering up judgment by confession or for non-appearance to a default summons under the rules, may make orders concerning the time or times, and by what instalments (if any) any debt or damages or costs for which judgment shall be obtained shall be paid; and all such moneys shall be paid into Court unless otherwise directed, and in case of default made in payment of such judgment or of any such instalments, execution may issue against the person making such default in respect of the balance of the debt payable at the time of such default in all respects as if no order for payment by instalments had been made. Time for payment.  
Instalments.

32. Every order and judgment of any Judge made under any of the provisions of this Ordinance shall, subject as in sections 34 and 35 of this Ordinance provided, and subject to the provisions of section 34 of the Judicature Ordinance, be final and conclusive between the parties; but the Judge shall have power at his discretion to strike Judgment to be final.  
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out the action with or without costs and without giving any other judgment thereon, in any case in which satisfactory proof shall not have been given to him entitling either the plaintiff or the defendant to judgment, but such striking out shall not be a bar to any fresh action.

Certiorari.  
Cap. 35.

**33.** Except as provided in and by section 34 of the Judicature Ordinance, no action or proceeding in a Court under this Ordinance in which the sum claimed shall be ten pounds or under shall be removable into the Supreme Court by any writ or process.

New trial.

**34.** The Judge shall have power, on application made on notice, in his discretion to set aside any judgment pronounced by him and grant a new trial of any action tried by him on any of the grounds on which the Supreme Court may grant a new trial of any action tried in such Court, and on such terms as to costs or security for costs, amendment, particulars, the payment of money into Court, and otherwise, as he shall deem just. And the Judge may, on sufficient cause, in his discretion at any time, on application *ex parte*, stay execution for such time as he shall think fit to permit of any notice being given or of any other application being made on notice.

Stay of  
execution.

Appeal in  
cases over  
£10.  
Cap. 35.

**35.** (1) Notwithstanding section 34 of the Judicature Ordinance, there shall be a right of appeal to the Full Court from any judgment or order in any action under this Ordinance where the sum claimed is over ten pounds, and in all such cases notes of evidence shall be taken by the Judge in his own proper handwriting. The rules of practice and procedure governing appeals to the Full Court in civil matters shall apply to appeals under this section.

(2) Upon notice of appeal being filed, the Registrar of the Supreme Court shall notify the Judge thereof, and the Judge shall forthwith send to the Registrar of the Supreme Court a copy of the notes of evidence and the record of the proceedings of the case as to which notice of appeal has been given.

Defence and  
counter-  
claim by  
defendant.

**36.** (1) The defendant may, by notice of special defence or by special leave of the Judge on such terms as the Judge may think fit, at the day of hearing set up any special defence, or, by way of counter-claim, set-off and rely upon

any debt or liquidated demand not exceeding twenty-five pounds against the plaintiff's claim, and such set-off or counter-claim shall have the same effect as a cross-action, so as to enable the Court to pronounce final judgment upon the claim and cross-claim. The Judge may at his discretion adjourn any hearing to admit of a claim and set-off or counter-claim being duly heard together, and may require the defendant to deliver written particulars of any such alleged set-off or counter-claim. And if the original claim is stayed or discontinued or dismissed, the defendant shall be at liberty either to withdraw any set-off or counter-claim preferred under the provisions hereof without prejudice to any further action by him in respect thereof, or to proceed with the trial of the same.

(2) Unless special leave has been given as above mentioned, no evidence in support of any ground of defence or set-off to any claim whatever involving any allegation of fact beyond a denial of the facts necessary to entitle a plaintiff to judgment shall be admitted at the hearing of any action, unless the prescribed notice of such defence or set-off has been given by the defendant in the prescribed manner.

(3) A defendant shall not be at liberty for the purpose of a set-off or counter-claim to split any alleged debt or liquidated demand due to him from the plaintiff of a greater sum than twenty-five pounds, but he may abandon any excess thereof over twenty-five pounds. But if the defendant satisfies the Judge at the hearing that the plaintiff is indebted to him in respect of a debt or liquidated demand in a sum greater than twenty-five pounds, it shall be lawful for the Judge in his discretion to stay execution on the judgment against the defendant for such time as he may deem sufficient to enable the defendant to take proceedings to recover such debt or liquidated demand from the plaintiff in due course of law, or he may, if the plaintiff proves his case, stay execution for such time as he may think fit to enable the defendant to proceed in like manner.

**37.** (1) Any party may appear at the hearing to conduct his action in person or may be represented by a barrister or solicitor. No costs shall be granted in respect of any appearance or other services by a barrister in an action in which the sum claimed is ten pounds or under.

Appearance  
of parties  
and  
advocates.

(2) Any person may appear and conduct the case of his wife or child or servant being a member of his household.

But subject thereto no person, not being a barrister or solicitor duly retained, shall be heard on behalf of any party to any action or other proceeding.

Summonses  
to witnesses.

38. (1) Either of the parties to any action or other proceeding under this Ordinance may obtain from the Clerk summonses for witnesses to appear at the hearing of the action or proceeding and give evidence, or to give evidence and produce any books, deeds, papers, writings, or articles in their possession or control.

Service of  
summonses.

(2) Summonses to witnesses may, by leave of the Judge, be served by the party applying for the same or by his solicitor or by someone in the permanent or exclusive employment of the party or his solicitor. It shall be sufficient if such summons be served a reasonable time before the return day.

Refusal to  
give evi-  
dence, etc.

(3) Every person on whom any summons shall have been served and who shall refuse or neglect without sufficient cause to appear and give evidence, or to give evidence and produce any books, deeds, papers, writings, or articles required by such summons to be produced, and also every person present in Court who shall be required to give evidence and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine not exceeding five pounds as the Judge shall direct, and the whole or any part of such fine may, in the discretion of the Judge, be paid to the party injured by such refusal or neglect or to the Treasurer for the use of the Colony.

Power to  
administer  
oath to and  
examine  
witnesses.

39. On the hearing or trial of any action or other proceeding under this Ordinance, the parties thereto and all other persons may be examined (either on behalf of the plaintiff or the defendant) on oath. Such oath shall be administered by or in the presence of the Judge.

Costs.

40. The awarding of costs of actions tried in Court shall be in the discretion of the Judge; and the Judge may in his discretion award to the successful party such sums actually incurred in respect of the summoning and attendances of necessary witnesses as he may think just; but subject thereto the costs if awarded shall be computed by the Clerk according to the prescribed scale.

41. In cases in which judgment is obtained by confession or for want of appearance or defence, the costs shall be allowed as prescribed, and shall be computed by the Clerk and added to the amount of the judgment. The costs according to the prescribed scale shall be inclusive of all work done in obtaining the evidence of witnesses or taking proof of such evidence and preparing any notice, summons, particulars, or other documents and in conducting any case before the Court.

Costs on judgment by confession, etc.

42. The bailiff of each district shall serve process and levy execution transmitted to him in the prescribed manner for service or levy within his district in any action commenced in the Court.

Service of process.

43. (1) Execution shall be issued by the Clerk of the Court in which judgment has been obtained in the prescribed form to the bailiff of the district within which execution is to be levied, and shall be executed against the personal chattels of the judgment debtor, except the tools or implements of his trade to the value of five pounds.

Execution.

(2) No goods which shall be taken in execution shall be sold until five days at the least next after the day on which such goods shall have been taken, and such goods shall be sold by public auction, and three days' notice at least of the intended sale of such goods shall be given by affixing such notice in some conspicuous place in the office of the Court, and all such sales shall be made for cash only.

Sale of goods taken in execution.

(3) A Judge may, by order, suspend the issue or enforcement of execution in any case. And when order has been made under the provisions of section 34 of this Ordinance to rehear a case, such order shall operate as a stay of execution pending the rehearing, and when order has been made under the provisions of section 31 hereof for the payment of any debt by instalments, such order shall operate as a stay of execution for such time as such instalments continue to be regularly paid under such order.

Stay of execution.

44. Where a party against whom judgment for an amount exceeding ten pounds exclusive of costs has been obtained under this Ordinance has no goods or chattels which can be conveniently taken to satisfy such judgment, the judgment creditor may apply to a Judge of the Supreme Court in Chambers for an order that such judgment be

Judgment may be made a judgment of the Supreme Court in certain cases.

made a judgment of the Supreme Court, and such Judge, upon proof of the judgment and of the service or substituted service upon the judgment debtor of a summons to show cause why the application should not be granted, and upon an affidavit showing that the judgment debtor had an opportunity of being heard on the merits in opposition to the judgment, may order that the judgment be made a judgment of the Supreme Court, and thereupon such judgment shall have the same force and effect and be registrable in the same manner and the same proceedings may be had thereon as in the case of a judgment of the Supreme Court.

Debtor's  
Summons.

45. Except as in any other Ordinance provided, the Court shall have power to order the attachment of debts due to any person who is a debtor under a judgment of the Court, and to order the attendance of a debtor for examination as to his property and as to debts owing to him.

Procedure in  
attachment.

46. For the purpose of exercising the powers in the last preceding section conferred, the Judge shall have and exercise, to the extent in that section provided, the powers for the time being exercisable by the Supreme Court or a Judge thereof in respect of discovery and attachment of debts according to the Rules and Orders of the Supreme Court relating to the attachment of debts, or so much of the same as is applicable to the Judge of the Petty Civil Court, and such rules and orders shall apply *mutatis mutandis* to all proceedings taken for the attachment of debts in a Petty Civil Court under the provisions hereof: Provided that no debt shall, under the provisions of this section, be attachable in any proceeding to a greater extent than is sufficient to satisfy the debt or damages and costs recoverable in such proceeding against the debtor.

Arbitration.

47. The Judge may refer any action to the arbitration of some person chosen or assented to by the parties, or may refer any question of account to the Clerk. The award of such arbitrator shall be deposited with the Clerk, and upon reading such award the Judge shall give his judgment or make such order as he may deem fit, with or without costs, including the costs of such arbitrator.

48. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of the Court, or in respect of the value or proceeds thereof, by any person, it shall be lawful for the bailiff, as well before as after any action brought against him, to obtain a summons in the prescribed form without any fee for the same, calling before the Court as well the party issuing such process as the party making such claim, and the Judge shall adjudicate upon such claim, and make such order between the parties in respect thereof and of the costs of the proceedings as to him shall seem fit, and shall also adjudicate between such parties, or either of them, and the bailiff with respect to any damage or claim or to damages arising or capable of arising out of the execution of such process by the bailiff, and make such order in respect thereof and of the costs of the proceedings as to him shall seem fit; and such orders shall be enforced in like manner as any order in any action brought in such Court, and shall be final and conclusive as between the parties and as between them, or either of them, and the said bailiff; and upon the issue of such summons, any action which shall have been brought in any Court in respect of such claim, or of any damage arising out of the execution of such process, shall be stayed.

Interpleader.

49. If any bailiff shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any goods levied under process of the Court, the person so offending shall be liable to a fine not exceeding five pounds, to be recovered by order of the Court or before a Magistrate as hereinafter provided, and it shall be lawful for the bailiff or any member of the Constabulary Force in any such case to take the offender into custody (with or without warrant) and bring him before the Court or Magistrate accordingly.

Obstruction of officers.

*Repealed & replaced by sec. 4 of Ord. 26 of 1926*

50. If the bailiff or any clerk or other officer of the Court, acting under or under colour or pretence of the process of the Court, shall be charged with extortion or misconduct, or with any neglect of duty, or with not duly paying or accounting for any money levied by him under the authority of this Ordinance, it shall be lawful for the Judge to enquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties in like manner as the attendance of

Misconduct of officers.

witnesses in any case may be enforced, and to make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs as he shall think just, and also, if he shall think fit, to impose such fines upon such bailiff, clerk, or other officer, not exceeding five pounds for each offence, as he shall deem adequate.

Actions against officer of Court.

51. If any person shall bring any suit in the Supreme Court in respect of any grievance committed by any clerk, bailiff, or officer of the Court under or under colour or pretence of the process of the said Court, and the plaintiff shall, upon the trial of the action, not be awarded greater damages than the sum of twenty-five pounds, no costs shall be awarded to the plaintiff in such action unless the Judge trying such action shall certify in Court upon the record that the action was fit to be brought in the Supreme Court.

Actions for small debts in Supreme Court.

52. If any action, other than an action for damages for trespass to land, be commenced in the Supreme Court which might have been entered and tried in any Court held under this Ordinance, the plaintiff may have judgment in such action for the amount recovered by him if successful, but without any costs; and if the defendant succeeds he shall be entitled to his costs as between solicitor and client, unless in either case the Judge before whom the action was tried shall certify upon the record that the action was a fit and proper one to be brought in the Supreme Court.

Enforcement of fines, penalties, etc.

53. Payment of any fine, penalty, or forfeiture imposed by any Judge under the authority of this Ordinance may be enforced upon the order of the Judge in like manner as payment of any debt adjudged in the Court, or the Judge may order the same to be paid forthwith, or in default of such payment may commit the offender to gaol for a period of imprisonment with or without hard labour in accordance with the provisions of section 63 of the Summary Conviction of Fines Act, 1936, unless the said fine, penalty, or forfeiture be sooner paid.

Amended by sec. 5 of Ord 26 of 1936

List of unclaimed moneys.

54. The Clerk in each district shall, in the months of January, April, July, and October in each year, make out a correct list of all sums of money belonging to suitors in the Court which shall have been paid into Court, and which shall have remained unclaimed for three months

before the first day of the said months of January, April, July, and October respectively, specifying the names of the parties for whom or on whose account the same was so paid into Court; and a copy of such list shall be put up and remain during business hours in some conspicuous part of the office of the Court; and all sums of money which shall have been paid into Court to the use of any suitor or suitors therein and which shall have remained unclaimed for the period of six months after the same shall have been so paid into Court, shall be paid into the Treasury, and shall, if unclaimed for the period of three years after the same shall have been so paid into the Treasury, be applicable as part of the general funds of the Colony and shall be carried to the account of such funds; and no person shall be entitled to claim any sum which shall have remained unclaimed for three years.

55. The Judge of the Port-of-Spain Court may make rules for regulating the practice and procedure of the Courts and for prescribing forms of summonses, notices, particulars, and other process used therein and any matters relating thereto, or to the duties of the officers, or to the fees to be taken in respect of all proceedings and the costs to be allowed to parties to such proceedings, and otherwise for giving effect to this Ordinance. (*As amended by 13 of 1921, s. 6.*)

Rules and forms.

56. (1) Rules made under the provisions of the last preceding section shall not have any force or effect until they have been approved by the Governor and the Legislative Council, and when so approved shall have the same force and effect as if they were contained in this Ordinance; and such rules or any of them may be disallowed by His Majesty in the same manner and with the same consequences as in the case of an Ordinance. Any such rules approved as aforesaid shall, subject to disallowance by His Majesty, come into operation on the day appointed in such rules in that behalf, or if no day is so appointed, then on such day as the Governor, by proclamation, appoints.

Approval of rules.

(2) Disallowance by His Majesty under this section shall take effect upon and from the day on which the proclamation notifying the same is published in the *Royal Gazette*, but shall not affect any proceedings taken before such publication.

Judge may suspend payment of fees.

57. Notwithstanding anything contained in this Ordinance or in the rules made thereunder, a Judge shall have power, in any proceeding in which good cause appears to him for so doing, either to remit any fees payable therein or to suspend payment of any fees until the conclusion of such proceeding, in which case he may then direct such fees to be paid as costs by any party to the proceeding by whom he has power to order costs to be paid. (*Added by 29 of 1922, s. 4.*)

Unqualified persons preparing documents, etc., for reward.

58. Any person not being a solicitor of the Supreme Court or a clerk in the permanent employ of such solicitor who shall prepare for reward any notice, summons, particulars, or other process or documents in any action or for use in any Court held under this Ordinance shall be liable, on summary conviction thereof before a Magistrate or Justice, to a penalty not exceeding two pounds for the first offence, and not exceeding ten pounds nor less than three pounds for any subsequent offence; and it shall be lawful for the Judge in his discretion, on its being made to appear in the course of any trial before him that any person present in Court has been guilty of such offence, summarily to proceed to enquire into the guilt of such person, and if he shall convict such person to impose such penalty as aforesaid in the same manner as if he were sitting as a Magistrate in a Court of summary jurisdiction and such person had been duly summoned before him to answer such offence: Provided that a conviction or acquittal of any such person so dealt with shall be a bar to any subsequent proceedings against such person in respect of the same offence.