

See 11/1927
34/1927

CHAPTER 35.

JUDICATURE.

Ordinances

No. 34,
,, 81, ss. 14 &
15,
,, 23 of 1914,
,, 24 of 1916,
,, 35 of 1920,
,, 46 of 1921,
,, 3 of 1923,
,, 25 of 1925.

Short title.

AN ORDINANCE RELATING TO THE SUPREME COURT AND TO
THE ADMINISTRATION OF JUSTICE.

[20th March, 1880.]

1. This Ordinance may be cited as the Judicature Ordinance.

Interpretation.

2. In this Ordinance—

“ Action ” means a civil proceeding commenced by writ, or in such other manner as may be prescribed by Rules of Court, and does not include a criminal proceeding by the Crown;

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

“ Court ” means the Supreme Court constituted by this Ordinance;

“ Defendant ” includes every person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceeding;

“ Judgment ” includes decree;

“ Matter ” includes every proceeding in the Court not in a cause;

“ Order ” includes rule;

“ Party ” includes every person served with notice of or attending any proceeding, although not named on the record;

“ Petitioner ” includes every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant;

- “ Plaintiff ” includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise;
- “ Pleading ” includes any petition or summons, and also includes the statements in writing of the claim or demand of any plaintiff and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant;
- “ Registrar ” means the Registrar of the Court;
- “ Rules of Court ” includes forms;
- “ Statutory Provision ” includes any provision contained in this Ordinance or in any Rules of Court made pursuant to this Ordinance and approved by the Governor and Legislative Council and not disallowed by His Majesty;
- “ Suit ” and “ Action ” are synonymous.

Constitution and Judges of the Court.

3. There shall be one Supreme Court in the Colony, which shall be a Superior Court of Record, and such Court shall be called the Supreme Court of Trinidad and Tobago. Supreme Court.

4. (1) ^{See S. 2 of 24/1957 for new (H)} The Supreme Court shall consist of not more than three and not less than two Judges, of whom one shall be called the Chief Justice of Trinidad and Tobago and shall be the President of the Court, and the other or others shall be called the Puisne Judge or Puisne Judges of Trinidad and Tobago, and shall, if more than one, be called the First and Second Puisne Judges according to the terms of their respective appointments. *(Substituted by 23 of 1914, s. 3.)* Judges of the Court.

(2) The Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of any Judge.

5. Every Judge of the Court shall be appointed by Letters Patent under the Public Seal of the Colony by the Governor, in accordance with such instructions as he may receive through one of His Majesty's Principal Secretaries Appointment of Judges

of State, and shall hold his office during His Majesty's pleasure, subject to any conditions contained in any regulations made by or under the authority of His Majesty for His Majesty's Colonial Service, and shall receive such salary as the Governor, with the sanction of the Legislative Council, may appoint. The acceptance by any Judge of the Court of any other office or place of profit or emolument not authorized by law shall be and be deemed *de facto* an avoidance of his office of Judge, and his salary as Judge shall cease accordingly from the time of his acceptance of such other office or place.

Absence of
Chief Justice.

6. Any act required or authorized to be done by, before, or in the name of the Chief Justice may be done by, before, or in the name of a Puisne Judge of the Court in case of the absence on leave or otherwise, indisposition, or inability to attend of the Chief Justice.

Acting
Judges.

7. (1) Whenever the office of any Judge of the Court is vacant, or whenever any Judge is absent from the Colony, or is, by reason of illness, interest in any cause or matter, or for any other reason, incapable of acting, or whenever in the opinion of the Governor the due administration of justice so requires, the Governor may, in the name of His Majesty, by Letters Patent under the Public Seal of the Colony, appoint some person, being a barrister-at-law of five years standing at least, to act as Judge of the Court.

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

(3) Every person so appointed and acting under such appointment shall, so far as may be necessary for the purposes of his appointment, have all the powers of a Judge of the Court, and all acts done within the scope of his appointment by any person so appointed and acting as aforesaid shall be as valid as if done by a Judge, whether in Court or Chambers or otherwise. (*Substituted by 25 of 1925, s. 2.*)

Full Court.

8. (1) Any two Judges of the Court shall be sufficient to constitute a Full Court.

(2) Where the Full Court sits to hear appeals from a single Judge, whether final or interlocutory, ~~or to deter~~

See S 4 of
24/1931
in the
all the

~~mine a question of law reserved during the trial of a person convicted of an indictable offence, the Judge whose judgment or order is appealed from or who presided at such trial shall not sit in such Full Court.~~

(3) Where the two Judges hearing an appeal ~~or sitting to determine a question of law reserved~~ as aforesaid differ in opinion, the judgment in the Court below shall stand.

(4) Where the Full Court sits otherwise than for the hearing of appeals ~~or for the determination of a question of law reserved~~ as aforesaid and the two Judges constituting it differ in opinion, they shall not give judgment if there is a third Judge of the Court in the Colony, and the cause or matter shall be reheard and determined by the three Judges of the Court. If, however, there is no third Judge of the Court in the Colony, the opinion of the senior Judge sitting shall prevail. (*Substituted by 23 of 1914, s. 4.*)

See § 42
34/1937

Seals of the Court.

9. The Court shall have and use as occasion requires a seal. Such seal shall bear an impression of the Royal Arms within an exergue or label surrounding the same, with the inscription, "Supreme Court of Trinidad and Tobago." Seals.

The Court shall also have and use as occasion requires two or more duplicates of the seal. (*Substituted by 24 of 1916, s. 3.*)

Officers of the Court.

10. (1) There shall be a Registrar of the Court, who shall have the custody of the seal of the Court, and all records, documents, and papers thereof, and shall perform such duties as may be prescribed by Rules of Court under this Ordinance. Registrar.

(2) The Registrar shall also have powers and discharge duties corresponding to the powers and duties of the King's Coroner and Attorney and Master of the Crown Office attached to the King's Bench Division of the High Court of Justice in England so far as such powers or

duties relate to any judicial proceedings. (*Substituted by 25 of 1925, s. 3.*) *rel. & 2/1/1924 p. 1. S. C.*

Registrar to have powers of Judge in Chambers.

11. (1) The Registrar shall have power and jurisdiction to do such of the things and transact such of the business as, by virtue of any enactment, or by custom, or by the Rules and practice of the Court, are now done and transacted by a Judge of the Court sitting in Chambers as may from time to time be prescribed by Rules of Court: Provided that the Registrar shall have no jurisdiction in respect of matters relating to the liberty of the subject.

Appeal from Registrar.

(2) Any person affected by any order or decision of the Registrar sitting in Chambers may appeal to the Full Court or a Judge as may be provided by Rules of Court, and the Rules of Court relating to appeals from a Judge in Chambers shall apply to an appeal from the Registrar. (*Added by 25 of 1925, s. 4.*)

Deputy Registrar.

12. There shall be a Deputy Registrar of the Court, who shall have all the powers and may perform all the duties of the Registrar except where otherwise provided by Rules of Court. (*Substituted by 25 of 1925, s. 3.*)

Appointment and salaries of Registrar and Deputy Registrar.

13. The Registrar and Deputy Registrar shall be appointed by the Governor in the name of His Majesty, by Letters Patent under the Public Seal of the Colony, and shall hold office during His Majesty's pleasure and subject to any conditions contained in any Regulations made by or under the authority of His Majesty for His Majesty's Colonial Service, and shall receive such salaries as the Governor, with the sanction of the Legislative Council, shall appoint. (*Substituted by 25 of 1925, s. 3.*)

Sub-Registrar, San Fernando.

14. There shall be a Sub-Registrar of the Court at San Fernando, to be appointed by the Governor, who shall have the custody of a duplicate seal of the Court for use at San Fernando, and shall, in the absence of the Registrar, perform such duties in reference to proceedings at San Fernando as may be prescribed by Rules of Court, and, subject to such Rules, such duties shall be analogous to the duties performed by the Registrar. Such Sub-Registrar shall receive such salary as the Governor, with the sanction of the Legislative Council, shall appoint. (*Substituted by 25 of 1925, s. 3.*)

15. There shall be a Sub-Registrar of the Court in Tobago, to be appointed by the Governor, who shall have the custody of a duplicate seal of the Court for use in Tobago, and shall, subject to Rules of Court, in the absence of the Registrar, have such powers and perform such duties in reference to proceedings in Tobago as the Registrar of the Court has and performs in reference to proceedings in the Court in Trinidad. Such Sub-Registrar shall receive such salary as the Governor, with the sanction of the Legislative Council, shall appoint. (*Substituted by 25 of 1925, s. 3.*)

Sub-
Registrar,
Tobago.

16. Any act done or document signed by the Registrar or any Sub-Registrar of the Court shall not be liable to objection on the ground that it ought to be done or signed by another of them.

Common
powers of
Registrars.

17. The Registrar shall be Marshal of the Colony and shall perform all the duties, have all the rights and powers, and be subject to all the liabilities and obligations appertaining to that office at the commencement of this Ordinance.

Registrar to
be Marshal.

18. The Deputy Registrar shall be Deputy Marshal of the Court at Port-of-Spain, and the Chief Clerk in the Registry of the Court shall be the Second Deputy Marshal of the Court at Port-of-Spain; and the Sub-Registrars of San Fernando and Tobago shall be Deputy Marshals of the Court at San Fernando and Tobago respectively. Such Deputy Marshals and Second Deputy Marshal shall, subject to Rules of Court, have all the powers and may perform all the duties of the Marshal. (*Added by 25 of 1925, s. 4.*)

Deputy
Marshals.

Jurisdiction and Law.

19. It is hereby declared that the Common Law, Doctrines of Equity, and Statutes of general application of the Imperial Parliament which were in force in England on the first day of March, 1848, shall, subject to the terms of any Ordinance of the Colonial Legislature in operation at that date, be deemed to have been introduced into, and enacted in, the Colony on the first day of March aforesaid, and, subject to the terms of such last mentioned Ordinances, and of any Ordinances passed subsequently thereto, to have been in force in the Colony as from that date. (*Added by 23 of 1914, s. 2.*)

Declaratory
enactment
as to Common
Law, etc.

upheld 452 of 11/19/47 which see p. no. 2-0

General
jurisdiction
of the Court.

20. All such jurisdiction as is vested in the High Court of Justice in England shall be deemed to be vested in the Court, but the jurisdiction of the said High Court as a Court for Divorce and Matrimonial Causes shall be excepted, and no such jurisdiction shall be vested in the Court.

Jurisdiction
in lunacy.

21. All such jurisdiction in relation to the custody of the persons and estates of idiots, lunatics, and persons of unsound mind as is in England vested in the Lord Chancellor or other person or persons entrusted by His Majesty with the care and commitment of such persons and estates, shall be vested in the Court.

Statutory
jurisdiction
of Court.

22. All jurisdiction which by or by virtue of any Order in Council, Ordinance, or other enactment is vested in any Court hitherto having jurisdiction in the Colony shall be transferred to and vested in the Court, and the jurisdiction so transferred shall include the jurisdiction which was vested in or capable of being exercised by all or any one or more of the Judges of any such former Court sitting in Court or Chambers or elsewhere when acting as Judges or a Judge in pursuance of any Order in Council, Ordinance, or other enactment, and shall include all powers given to any such former Court or to any such Judges or Judge by any Order in Council, Ordinance, or other enactment, and also all ministerial powers, duties, and authorities incident to any and every part of the jurisdiction so transferred.

Mode of
exercise of
jurisdiction.

23. The jurisdiction by this Ordinance vested in the Court shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance or other statutory provision.

Declaratory
order.

24. No action shall be open to objection on the ground that a merely declaratory decree or order is sought.

Powers of
single Judge.

25. Except in respect of the causes and matters which are by statutory provision directed to be heard and determined by a Full Court, any single Judge sitting in Court may exercise all or any part of the jurisdiction by this Ordinance vested in the Court, and when sitting for the purpose of such exercise shall be deemed to constitute a Court; and any single Judge sitting in Chambers may exercise all or any part of the jurisdiction aforesaid in all

such causes and matters and in all such proceedings in any causes or matters as hitherto have been heard in Chambers by a single Judge.

26. Subject to any statutory provision, every action and proceeding and all business arising out of the same shall, so far as is practicable and convenient, be heard, determined, and disposed of before a single Judge; and all proceedings in an action subsequent to the hearing or trial and down to and including the final judgment or order, except any proceedings on appeal, shall, so far as is practicable and convenient, be had and taken before the Judge before whom the trial or hearing took place.

Original
hearing.

27. In every civil cause or matter commenced in the Court, law and equity shall be administered according to the rules following:—

Law and
equity to be
concurrently
administered.

(1) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, which heretofore could only have been given by a Court of Equity, the Court and every Judge thereof shall give to such plaintiff or petitioner such and the same relief as ought to be given by the High Court of Justice in England in an action or proceeding for the same or the like purpose.

(2) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the Court and every Judge thereof shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the High Court of Justice in England ought to give if the same or the like matters were relied on by way of defence in any action or proceeding instituted in that Court for the same or the like purpose.

(3) The Court and every Judge thereof shall also have power to grant to any defendant in respect of any equitable

estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant properly claims by his pleading, and as the Court or any Judge thereof might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim pursuant to any Rule of Court or any order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim, as if he had been duly sued in the ordinary way by such defendant.

(4) The Court and every Judge thereof shall recognise and take notice of all equitable estates, titles, and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would recognise and take notice of the same in any action or proceeding duly instituted therein.

(5) No cause or proceeding at any time pending in the Court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto: Provided always, that nothing in this Ordinance contained shall disable the Court from directing a stay of proceedings in any cause or matter pending before it if it thinks fit; and any person, whether a party or not to any such cause or matter, who would have been entitled to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule, or order contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the Court,

by motion in a summary way, for a stay of proceedings in such cause or matter, either generally or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such order as may be just.

(6) Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and to the other express provisions of this Ordinance, the Court and every Judge thereof shall recognise and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations, and liabilities existing by the Common Law or by Spanish Law, or by any custom, or created by any Order in Council, Ordinance, or other Statute, in the same manner as the same have hitherto been recognised and given effect to.

(7) The Court, in the exercise of the jurisdiction vested in it by this Ordinance, in every cause or matter pending before it, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to such Court seems just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

28. (1) In the administration by the Court of the assets of any person whose estate may prove to be insufficient for the payment in full of his debts and liabilities, and in the winding up of any company under the Companies Ordinance whose assets may prove to be insufficient for the payment of its debts and liabilities and the costs of winding up, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt; and all persons who in any such case would be entitled to prove for and receive dividends out of the estate of any such deceased person, or out of the assets of any such company, may come in under the decree or order for

Administra-
tion of assets
of insolvent
estates.

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the administration of such estate, or under the winding up of such company, and make such claims against the same as they may respectively be entitled to by virtue of this Ordinance.

Statutes of Limitation inapplicable to express trusts.

(2) No claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations.

Equitable waste.

(3) An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such estate.

Merger.

(4) There shall not be any merger by operation of law only of any estate, the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Suits for possession of land by mortgagors.

(5) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land, as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof has been given by the mortgagee, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relating thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.

Assignment of debts and choses in action.

(6) 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 such 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 such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the concurrence of the assignor : Provided always, that if the debtor, trustee,

or other person liable in respect of such debt or chose in action has had notice that such assignment is disputed by the assignor or anyone claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same.

(7) Stipulations in contracts, as to time or otherwise, which are not deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in all Courts the same construction and effect as they would have received in equity. Stipulations
not of the
essence of
contracts.

(8) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court in all cases in which it appears to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally or upon such terms and conditions as the Court thinks just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and whether the estates claimed by both or by either of the parties are legal or equitable. Injunctions
and receivers.

(9) In questions relating to the custody and education of infants the rules of equity shall prevail. Infants.

(10) Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the rules of equity and the rules of the Common Law with reference to the same matter, the rules of equity shall prevail. Cases of
conflict not
enumerated.

Sittings of the Court.

29. Subject to any statutory provision, the Court and each of the Judges thereof shall have power at any time and at any place in the Colony to sit and act for the transaction of any part of the business of such Court or Judges, Power to sit
at any time.

or for the discharge of any duty which by any Order in Council, Ordinance, or otherwise is required to be discharged.

Sittings of the Court for criminal cases,

30. (1) Sittings of the Court for the trial of criminal cases shall be held at Port-of-Spain, San Fernando, and Scarborough, at such times as shall be appointed by the Chief Justice with the concurrence of a Puisne Judge.

and for Tobago civil cases and appeals from Magistrates.

(2) Sittings of the Court for the trial of civil cases and for hearing appeals from the decisions of Magistrates shall be held at Scarborough at such times as shall be appointed by the Chief Justice with the concurrence of a Puisne Judge.

(3) Notice of any appointments made under this section shall be published in the *Royal Gazette*. (*Substituted by 3 of 1923, s. 2.*)

Special criminal sittings.

31. The Governor may at any time, by warrant under his hand and the Seal of the Colony, require the Judges of the Court to appoint special sittings, to be held at such time or times as may be directed by the warrant, for the trial of any particular criminal case or cases or class of criminal cases, and such Judges shall appoint and hold sittings accordingly, and, so far as is necessary in order to comply with the exigency of the warrant, shall lay all other business aside.

Appeals.

General right of appeal.

32. (1) Subject to the provisions of this Ordinance, in any cause or matter, not being a criminal proceeding, an appeal shall lie from any judgment given or order made or refused by a single Judge.

Matters reserved to Full Court.

(2) Provided that, notwithstanding the provisions of the West Indian Court of Appeal Act, 1919, which said Act is set out in the Schedule to this Ordinance, an appeal shall lie to the Full Court (and the Full Court shall have exclusive jurisdiction) in all or any of the following matters, that is to say:—

- (a) Appeals from a Judge or Registrar in Chambers;
- (b) Appeals from interlocutory orders;

- (c) Appeals in all actions and matters in which, prior to the first day of January, 1918, the Court exercised a summary jurisdiction;
- (d) Appeals in applications for prohibition;
- (e) Appeals in proceedings analogous to proceedings either on the Crown side, or on the Revenue side, of the King's Bench Division of the High Court of Justice in England;
- (f) Appeals under sub-section (2) of section 99 of the Bankruptcy Ordinance; Cap. 52.
- (g) Appeals under section 20 of the Married Women's Property Ordinance; Cap. 53.
- (h) Appeals under section 46 of the Land Acquisition Ordinance; Cap. 168.
- (i) Appeals under section 172 of the Companies Ordinance; Cap. 180.
- (j) Applications for the giving of security for costs to be occasioned by any appeal to the Full Court or to the West Indian Court of Appeal;
- (k) Applications for a stay of execution on any judgment, order, or decision appealed from pending the determination of such appeal by the Full Court or by the West Indian Court of Appeal;
- (l) Applications to extend the time for appealing to the Full Court;
- (m) Applications for leave to appeal in *formá pauperis* to the Full Court or to the West Indian Court of Appeal;
- (n) Applications for new trials;
- (o) Cases of Habeas Corpus in which a Judge directs that a rule *nisi* for the writ, or the writ, be made returnable before the Full Court;
- See § 41 (2) (p)
- 454/19
- (p) ~~Questions of law reserved in criminal cases under section 65 of the Criminal Procedure Ordinance;~~ Cap. 5.
- (q) Cases stated under section 38 of the Building Societies Ordinance; Cap. 278.

(r) All and any other matters in which by any Ordinance, whether passed before or after the commencement of this Ordinance, a right of appeal to the Full Court is or shall be expressly given.

(3) Subject to the provisions of this Ordinance, and notwithstanding the provisions of the West Indian Court of Appeal Act, 1919, the Full Court shall also have exclusive jurisdiction—

See Schedule. (a) to hear and determine appeals from Magistrates under the Summary Conviction Offences (Procedure) Ordinance;

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(b) to hear and determine questions of law arising on cases stated by Magistrates under section 155 of the Summary Conviction Offences (Procedure) Ordinance;

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(c) to hear and determine appeals under section 35 of the Petty Civil Courts Ordinance;

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(d) to revise proceedings of inferior Courts under section 34 of this Ordinance;

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(e) to hear and determine appeals under section 46 of the Agricultural Contracts Ordinance.

(4) Provided that no order made by the consent of parties or as to costs only, which by law are left to the discretion of the Court, shall be subject to any appeal except by leave of the Judge making the order.

(5) No appeal to the West Indian Court of Appeal shall lie from any judgment given or order made or refused by the Full Court.

(6) Nothing in this section contained shall prejudice or affect the right of any person to appeal to His Majesty in Council. (*Substituted by 25 of 1925, s. 5.*)

Appeals from Magistrates.

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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.

*See S 17 of
7/1925 for
added proviso*

(2) Appeals under the Summary Conviction Offences (Procedure) Ordinance arising in Tobago shall be heard and determined by a single Judge, who shall, for the purposes of such appeals, have and exercise all the powers and authorities of the Full Court, and his decision shall be final and without appeal. *(Added by 25 of 1925, s. 6.)*

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see §§ 4 & 19 E 6 in New (2)

34. (1) Upon application by or on behalf of the Attorney-General, the Court may, if it thinks fit, order any Judge, Magistrate, or Justice presiding in any inferior Court, to send to the Registrar the record of proceedings in any case, and may also, if it thinks fit, require in addition to such record a statement showing in detail the proceedings taken in reference to the whole case or any particular matter, and if it appears to the Court that there has been any material error in the proceedings of such inferior Court, the Court may set aside or vary any judgment, order, or proceedings of such inferior Court, and pass such judgment or order and remit the case or matter to the inferior Court with such directions as justice requires.

Power to revise proceedings of inferior Courts.

(2) It shall be in the discretion of the Court to exercise the powers given to it by this section either without hearing any person or after hearing such persons as it thinks fit, and the Court may, if it thinks fit, direct that an order *nisi* be served upon such persons as the Court thinks fit, and upon making absolute any such order *nisi* may order the costs to be paid by all or any of the parties served as the Court thinks just.

(3) "Inferior Court" in this section means the Court of any Magistrate or Justice or Justices, and any Court presided over by any person acting as a Judge under any Ordinance relating to Petty Civil or District Courts.

35. The Court may, upon application by or on behalf of the Attorney-General, if it appears to the Court that any inquest is, either by reason of the defective report of a District Medical Officer or for any other cause, inadequate, notwithstanding anything in the Coroners Ordinance or any other Ordinance, issue a writ *ad melius inquirendum*, directed either to the Coroner whose inquest is inadequate, or to such Coroner together with any other person or persons, or to any person or persons other than such Coroner, whom the Court thinks fit.

Power to issue writ *ad melius inquirendum*.

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Court Vacations.

Vacations.

36. 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 or to appeals under the Summary Conviction Offences (Procedure) Ordinance. During such vacations at least one Judge shall remain in the Colony. (*Substituted by 3 of 1923, s. 3.*)

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Urgent matters.

37. 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.

Special Powers.

Power to dismiss actions for assault.

38. (1) An action brought in the Court for damages for assault which, in the opinion of the Court, could have been adequately dealt with by a Magistrate or by a Petty Civil Court may, if the Court thinks it just, be dismissed with or without costs, but so that such dismissal shall not prejudice any right of the plaintiff to proceed before a Magistrate or a Petty Civil Court if he shall be entitled to do so.

(2) The jurisdiction conferred by this section may be exercised by any Judge of the Court at the hearing of the action or at any time before the hearing on application being made to him in Chambers. (*S. 2 of 35 of 1920 incorporated.*)

Court or Judge may allow interest in certain cases.

39. Upon all debts or sums certain, payable at a certain time or otherwise, the Court or Judge before whom the action shall be tried, may, if the Court or Judge shall think fit, allow interest to the creditors at a rate not exceeding the current rate of interest, from the time when such debts or sums certain were payable if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the

time of payment : Provided that interest shall be payable in all cases in which it is now payable by law. (S. 14 of 81 incorporated.)

40. The Court or Judge on the trial may, if they or he shall think fit, give damages in the nature of interest, over and above the value of the goods, at the time of the conversion or seizure, in all actions in the nature of trover or trespass *de bonis asportatis*, and over and above the money recoverable in all actions on policies of assurance. (S. 15 of 81 incorporated.)

Damages in the nature of interest.

Miscellaneous.

41. (1) Any person who, not being a barrister or advocate or a person duly qualified according to law to practise as a conveyancer, draws or prepares, either directly or indirectly, for or in expectation of any fee, gain, or reward, or receives any fee, gain, or reward for drawing or preparing, any deed or conveyance, and

Prohibition of unqualified persons practising as conveyancers.

(2) Any person who, not being either—

(a) a barrister or advocate or person duly qualified according to law to practise as a conveyancer; or

(b) a solicitor of the Court or a Notary Public, draws or prepares, directly or indirectly, for or in expectation of any fee, gain, or reward, or receives any fee, gain, or reward for drawing or preparing, any deed, conveyance, or other legal document whatsoever, shall be liable, on summary conviction before a Magistrate or Justice, to a penalty not exceeding twenty-five pounds : Provided that this section shall not apply to any person drawing or preparing any will or other testamentary papers.

(3) Proceedings for penalties under this section may be commenced at any time within two years from the time when the cause of complaint arose. (*As amended by 46 of 1921, s. 2.*)

42. The Chief Justice, with the concurrence of a Puisne Judge, may make rules for carrying this Ordinance into effect, and in particular for all or any of the following matters, that is to say :—

Power to make Rules of Court.

(1) For regulating the sittings of the Court and the Judges thereof sitting in Chambers, and the period to be observed as a vacation;

- (2) For regulating the pleading, practice, and procedure in the Court;
- (3) Generally, for regulating any matters relating to the practice and procedure of the Court, or to the duties of the officers thereof, or to the costs of or fees upon proceedings therein.

Approval of
Rules of
Court by
Legislative
Council.

43. (1) Subject to the provisions of this Ordinance, Rules of Court made under this Ordinance 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 an Ordinance, and 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 this behalf, or, if no day is so appointed, on such day as the Governor by proclamation appoints.

(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*, and shall not affect any proceedings taken before such publication.

Approval of
West Indian
Court of
Appeal Rules.
See Schedule.

44. The approval required by section 5 of the West Indian Court of Appeal Act, 1919, to the draft rules to be made under the said Act shall be signified by resolution of the Legislative Council. (*Added by 25 of 1925, s. 7.*)

Section 32).

SCHEDULE. (a)

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."

(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

Constitution of
West Indian
Court of
Appeal.

(a) Added by 25 of 1925, s. 10.

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.

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. Precedence of Judges.

(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.

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. Jurisdiction of Court of Appeal.

(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.

Registrars
and assessors.

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.

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.

Rules of 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 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.

Expenses.

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.

Saving for
jurisdiction
of Privy
Council.

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.

Repeal, short
title, and com-
mencement.

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.