

# THE BURMA COURTS ACT, 1875.

## CONTENTS.

PREAMBLE.

### CHAPTER I.

#### PRELIMINARY.

SECTIONS.

1. Short title.  
Extent.  
Commencement.
2. Repeal of Acts.
3. Interpretation-clause.

### CHAPTER II.

#### LAW TO BE ADMINISTERED.

4. Certain decisions to be according to Native law.
5. Law to be administered in Court of Recorder of Rangoon.

### CHAPTER III.

#### OF THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERETO.

##### (a). *Grades of Courts.*

6. Grades of Courts.
7. Confirmation of existing Courts and presiding officers.

##### (b). *Number and local Jurisdiction of Courts.*

8. Power to vary number of Courts.
9. Power to vary local jurisdiction of Courts of grades (a), (b), (c), (d), (e) and (f).
10. Place for holding Court.  
Seal to be used.
11. Superintendence over Courts.

##### (c). *Civil Jurisdiction.*

12. Civil jurisdiction of Courts.

##### (d). *Special*

[Price ten annas three pies.]

*(d). Special Civil Jurisdiction.*

## SECTIONS.

13. Chief Commissioner may give special jurisdiction.
14. Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes.
15. Power to extend Small Cause jurisdiction to rupees 1,000.
16. Exercise by one Court within limits of another of same class, of powers of latter.
17. Power to confer powers of Deputy Commissioner's Court.

*(e). Civil Procedure.*

18. Procedure when subject-matter of suit is situate within jurisdiction of different Courts.
19. Presiding officer of Court not to try suit or appeal in which he is interested ;  
but in case of Courts subordinate to Judicial Commissioner, to transfer to superior Court ;  
Procedure thereon.  
Appeal to Judicial Commissioner from order passed by him in other capacity or in which he is interested.
20. Power to distribute business.  
Language of plaints and record of evidence.

*(f). Civil Appeals.*

21. Appeals to lie from Courts of original jurisdiction.
22. Time allowed for presenting appeals to Commissioner.
23. Transfer of civil appellate jurisdiction to Judicial Commissioner.
24. Confirmation of decision of Lower Court without summoning respondent.
25. Reference to Judicial Commissioner.
26. Procedure on such reference.  
Costs of reference.
27. When Judicial Commissioner may receive second appeal.
28. When decision of first Appellate Court to be final.
29. Reference to Judicial Commissioner when decision of Lower Court confirmed on certain points.
30. Procedure of Judicial Commissioner thereupon.
31. Reference by Judicial Commissioner to High Court.  
Procedure thereupon.
32. Provision as to costs.
33. Assessors for trial of civil appeals and references.
34. Power to call for record.

*(g). Criminal Jurisdiction.*

35. Criminal jurisdiction—
  - (a) of Judicial Commissioner,
  - (b) of Commissioner,
  - (c) of Judge of Maulmain.

36. Power

## SECTIONS.

36. Power of Chief Commissioner to transfer criminal jurisdiction.
- (h). *Petitions to Judicial Commissioner when exercising transferred Jurisdiction.*
37. Application of Acts VII of 1870 and IX of 1871 to certain petitions to Judicial Commissioner.
- (i). *Appointment and Removal of Officers.*
38. Appointment of officers.
39. Suspension and removal of presiding officers.
40. Appointment of ministerial officers of Courts (a) and (b) mentioned in section 6.
41. Power to fine, suspend or remove such officers.
42. Recovery of fines.
43. Chief Commissioner's control over appointments, &c., of ministerial officers.
- (k). *Holidays.*
44. List of holidays.

## CHAPTER IV.

## OF THE COURT OF THE RECORDER OF RANGOON.

(a). *The Recorder.*

45. The Court of the Recorder of Rangoon.  
Appointment of Recorder.  
Place of holding Court.  
Seal to be used.
46. Provision for discharge of duties of Recorder in case of vacancy in his office.

(b). *Civil Jurisdiction.*

47. Local limits of ordinary civil jurisdiction of Recorder.
48. Civil jurisdiction of Recorder.
49. No appeal from Recorder's Court in certain cases.  
When appeal lies to High Court.
50. Assessors in civil suits.
51. Miscellaneous jurisdiction.
52. Recorder's powers in respect of Small Cause Court, Rangoon.
53. Grant of new trial.  
Review of judgment.  
Security from applicant for either.
54. Power to state case for decision of High Court.
55. Decree contingent thereon.

56. Full

3

## SECTIONS.

- 56. Full bench to deal with cases referred.
- 57. Procedure on reference.  
Costs of reference to High Court.
- 58. Transfer of suits to Recorder's Court.  
Trial of such suits.
- 59. Disposal of suit where Recorder is interested.  
Jurisdiction of Judicial Commissioner in cases transferred.

*(c). Criminal Jurisdiction.*

- 60. Recorder to exercise powers of Session Court.
- 61. Power to revise proceedings of Magistrates.
- 62. Jurisdiction as to European British subjects and persons charged jointly with them.
- 63. Procedure.  
Liability of military officers to serve as jurors.  
List of officers liable to serve.  
Officer summoned not excusable except for urgent military duty.
- 64. Sentence of death to be referred to High Court.

*(d). Admiralty Jurisdiction.*

- 65. Admiralty jurisdiction of Recorder.

*(e). Insolvent Jurisdiction.*

- 66. Insolvent jurisdiction of Recorder.

*(f). Rules, Forms and Registers.*

- 67. Power to make rules of practice.
- 68. Rules for service and execution of process.  
Table of fees.  
Publication of rules and tables.  
Rules now in force.
- 69. Registers and returns.

*(g). Ministerial Officers.*

- 70. Appointment and removal of ministerial officers.

*(h). Holidays.*

- 71. Holidays and vacations.

## CHAPTER V.

## OF THE SPECIAL COURT.

- 72. Constitution of Special Court.  
Precedence in Special Court.
- 73. Place of holding Special Court.  
Seal to be used.

74. Rules

## SECTIONS.

74. Rules and fees for Special Court.  
Ministerial officers.
75. Appeals from certain orders of Judicial Commissioner and Judge of Maulmain.
76. Judicial Commissioner and Recorder may sit as Special Court at the request of either.
77. Chief Commissioner may direct cases to be tried by Special Court.
78. Decree of Special Court to be deemed a decree of Original Court.
79. Special Court to be deemed a High Court in certain criminal matters.
80. Rules as to finding of Special Court in case of difference of opinion.
81. Case to be deemed pending.
82. Procedure of High Court on reference.  
Costs of reference.
83. Special Court to be deemed a High Court under Acts VII of 1870 and IX of 1871.

## CHAPTER VI.

## OF ADVOCATES.

- (a). *In the Court of the Recorder and the Courts subordinate to him.*
84. Licensing of advocates.  
Rules regarding qualifications and admission.  
Saving of agent for Secretary of State, &c.  
Advocates, &c., of High Courts.
85. License may be suspended or withdrawn.
- (b). *In the Court of the Judicial Commissioner and the Courts subordinate thereto.*
86. Licensing of advocates.  
Rules for their qualification and admission.
87. Saving of agents of Government, suitors, co-suitors and advocates of High Courts.
- (c). *In the Special Court.*
88. Persons entitled to appear, &c., in Special Court.
- (d). *Advocates' Fees.*
89. Fees liable to taxation.

## CHAPTER VII.

## CHAPTER VII.

## MISCELLANEOUS.

## SECTIONS.

90. Power to make rules as to costs.
91. Power to make rules for recording judgments, taking down evidence and admission of affidavits.  
Power to exempt from provisions of Procedure Codes relating to such subjects, and to permit admission of affidavits.
92. Remuneration to assessors appointed at desire of suitor.
93. Amendment of section 7, Act XV of 1869.
94. Powers of Small Cause Court Judge in Rangoon.
95. Saving of Acts XIX of 1841, XL of 1858, IX of 1861, as regards British Burma,  
and of Act XIV of 1859 as regards Pegu.
96. Application of Act No. XIII of 1874.
97. Civil Procedure Code applied to British Burma.
98. Regulations extended to British Burma.

1875.]

## ACT No. XVII OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 16th  
September 1875).*

An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.

**WHEREAS** it is expedient to consolidate and amend the law relating to the Courts in British Burma, and to extend to that province certain Regulations of the Bengal Code; It is hereby enacted as follows:—

Preamble.

### CHAPTER I.

#### PRELIMINARY.

**1.** This Act may be called "The Burma Courts Act, 1875." Short title.

It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma; Extent.

And it shall come into force on the passing thereof. Commencement.

**2.** Acts No. VII of 1872 (*to consolidate and amend the law relating to the Courts in British Burma*), and No. I of 1873 (*to amend the Burma Courts Act, 1872*) are repealed. But all rules made, directions given and powers conferred under either of the said Acts shall be deemed to have been respectively made, given and conferred hereunder. Repeal of Acts.

And nothing herein contained shall render invalid the trials mentioned in section fourteen of the latter Act.

**3.** In

Interpretation-clause.

3. In this Act—unless there be something repugnant in the subject or context—

“ Chief Commissioner.”

“ Chief Commissioner” means the Chief Commissioner of British Burma :

“ High Court.”

“ High Court” means the High Court of Judicature at Fort William in Bengal ; and

“ Judicial Commissioner.”

“ Judicial Commissioner” means the Judicial Commissioner of British Burma.

CHAPTER II.

LAW TO BE ADMINISTERED.

Certain decisions to be according to Native law.

4. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindú law in cases where the parties are Hindús,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in British Burma.

In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Law to be administered in Court of Recorder of Rangoon.

5. Except as provided in section four, all questions arising in suits before the Recorder of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

CHAPTER III.



## CHAPTER III.

OF THE COURT OF THE JUDICIAL COMMISSIONER  
AND THE COURTS SUBORDINATE THERETO.*(a). Grades of Courts.*

6. Besides the Courts of Small Causes, the Court of the Recorder of Rangoon and the Special Court hereinafter mentioned, there shall be six grades of Civil Courts in British Burma, (namely) :—

Grades of  
Courts.

(a) the Court of the Extra Assistant Commissioner of the third class :

(b) the Courts of the Extra Assistant Commissioner of the second class, the Extra Assistant Commissioner of the first class, and the Assistant Commissioner :

(c) the Court of the Deputy Commissioner :

(d) the Court of the Judge of the Town of Maulmain :

(e) the Court of the Commissioner ; and

(f) the Court of the Judicial Commissioner.

7. All existing Courts, corresponding to the Courts mentioned in clauses (a), (b), (c), (d), (e) and (f) of section six, and the presiding officers and the local limits of the jurisdiction thereof, respectively, shall be deemed to have been respectively established, appointed and fixed under this Act.

Confirmation  
of existing  
Courts and  
presiding  
officers.

*(b). Number and local Jurisdiction of Courts.*

8. The Governor General in Council may from time to time vary the number of Courts of each grade established under this Act.

Power to  
vary number  
of Courts.

9. The Chief Commissioner may, with the previous sanction of the Governor General in Council, from time to time vary the local limits of the jurisdiction of any Court mentioned in section six, clauses (a), (b), (c), (d), (e) and (f).

Power to  
vary local ju-  
isdiction of  
Courts of  
grades (a),  
(b), (c), (d),  
(e) and (f).

## 10. Every such Court shall—

(a) be held at such place or places as may from time to time be directed by the Chief Commissioner ;

Place for  
holding  
Court.

or

or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit, and

Seal to be used.

(b) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner.

Superintendence over Courts.

11. The general superintendence over all the Courts mentioned in section six, clauses (a), (b), (c), (d) and (e), is vested in, and the said Courts shall be subordinate to, the Judicial Commissioner; and, subject to such general superintendence, the Commissioner shall control the Courts of the Deputy Commissioners within his Division; and the Deputy Commissioner shall control the Courts of grades (a) and (b) within his district.

(c). *Civil Jurisdiction.*

Civil jurisdiction of Courts.

12. The Courts mentioned in the first column of the subjoined table shall ordinarily have such civil jurisdiction respectively, for the adjudication of suits as is specified in the second column thereof:—

Name and grade of Court.	Extent of jurisdiction.
(a). The Court of the Extra Assistant Commissioner of the third class.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed five hundred rupees.
(b). The Court of the Extra Assistant Commissioner of the second class, the Court of the Extra Assistant Commissioner of the first class, and the Court of the Assistant Commissioner.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed three thousand rupees.
(c). The Court of the Deputy Commissioner.	Powers of a Civil Court in all suits, whatever be the amount or value of the subject-matter thereof. Powers of a District Judge. Power to hear appeals from decrees and orders in original suits and proceedings of the Courts of grades (a) and (b), where such appeal is allowed by law.

Power

special jurisdiction.

sioner of the first or second class, with power to try suits, the subject-matter of which does not exceed in amount or value five thousand rupees.

Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes.

14. The Chief Commissioner may invest any presiding officer of the Courts of grades (a) and (b) mentioned in section six with the powers of a Judge of a Court of Small Causes, to hear and determine suits of a nature cognizable by a Court of Small Causes, and the subject-matter of which is of such amount or value as the Chief Commissioner thinks fit, not exceeding five hundred rupees.

Any Court so invested shall, in the exercise of the powers so conferred, be governed by the provisions of the law for the time being in force regulating the procedure of Courts of Small Causes outside the towns of Calcutta, Madras and Bombay.

Power to extend Small Cause jurisdiction to Rs. 1,000.

15. The Chief Commissioner may extend the jurisdiction of any Court of Small Causes to suits of a nature cognizable by such Courts, of which the subject-matter does not exceed in amount or value one thousand rupees.

Exercise by one Court within limits of another of same class, of powers of latter.

16. The Chief Commissioner may empower the presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d) or (e), to exercise the powers which might be exercised by the presiding officer of any other Court of the same grade within the local limits of the jurisdiction of the latter Court.

Power to confer powers of Deputy Commissioner's Court.

17. The Chief Commissioner may confer upon the officer in chief executive charge of any district the powers which might be exercised within such district by the Court of a Deputy Commissioner.

(e). *Civil Procedure.*

Procedure when subject-matter of suit is situate within jurisdiction of different Courts.

18. Where a suit is brought for immovable property situate within the local limits of the jurisdictions of different Courts included in the same Division, application for authority to proceed with the same shall be made to the Commissioner of the Division.

If the said Courts belong to different Divisions, the application shall be made to the Judicial Commissioner

sioner through the Commissioner of the Division in which the Court wherein the suit was instituted is included.

If either of the said Courts is the Court of the Recorder of Rangoon, the application shall be made to the Special Court hereinafter mentioned.

**19.** No presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d), (e) or (f) shall, unless with the consent of the parties, or by the direction of the Chief Commissioner, try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal:

Presiding officer of Court not to try suit or appeal in which he is interested;

When any such suit, appeal or proceeding comes before the presiding officer of any Court subordinate to the Judicial Commissioner, he shall forthwith, unless the parties apply that he proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances of such transmission.

but in case of Courts subordinate to Judicial Commissioner, to transfer to superior Court.

Such Court shall thereupon try the case itself, or transfer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter.

Procedure thereon.

In the event of an appeal being preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself, or transfer it to the Court of the Recorder of Rangoon.

Appeal to Judicial Commissioner from order passed by him in other capacity or in which he is interested.

**20.** Notwithstanding anything contained in the Code of Civil Procedure, section six, every Deputy Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits and the amount or value of their subject-matter as he from time to time, with

Power to distribute business.

the

sioner through the Commissioner of the Division in which the Court wherein the suit was instituted is included.

If either of the said Courts is the Court of the Recorder of Rangoon, the application shall be made to the Special Court hereinafter mentioned.

**19.** No presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d), (e) or (f) shall, unless with the consent of the parties, or by the direction of the Chief Commissioner, try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal :

Presiding officer of Court not to try suit or appeal in which he is interested ;

When any such suit, appeal or proceeding comes before the presiding officer of any Court subordinate to the Judicial Commissioner, he shall forthwith, unless the parties apply that he proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances of such transmission.

but in case of Courts subordinate to Judicial Commissioner, to transfer to superior Court.

Such Court shall thereupon try the case itself, or transfer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter.

Procedure thereon.

In the event of an appeal being preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself, or transfer it to the Court of the Recorder of Rangoon.

Appeal to Judicial Commissioner from order passed by him in other capacity or in which he is interested.

**20.** Notwithstanding anything contained in the Code of Civil Procedure, section six, every Deputy Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits and the amount or value of their subject-matter as he from time to time, with

Power to distribute business.

the

the sanction of the Judicial Commissioner, prescribes in this behalf,

and may also, with the like sanction, direct the business of the said Courts to be distributed among them in such way as he thinks fit :

provided that no Court shall try any suit where the amount or value of the subject-matter exceeds its proper jurisdiction.

Language of  
plaints and  
record of evi-  
dence.

Notwithstanding anything contained in the same Code, sections 26 and 172, complaints may be written and evidence may be taken down in such language or languages as the Chief Commissioner from time to time directs in this behalf.

(f). *Civil Appeals.*

Appeals to lie  
from Courts  
of original  
jurisdiction.

**21.** Subject to any express provision to the contrary contained in any Act for the time being in force in British Burma, an appeal shall lie from the decrees and orders of the Courts of original civil jurisdiction in British Burma to the Courts empowered by this Act to hear appeals from such decrees and orders.

All such appeals presented between the fifth day of April, 1872, and the passing of this Act, shall be deemed to have been presented under this section.

Time allowed  
for present-  
ing appeals  
to Commis-  
sioner.

**22.** The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order.

Transfer of  
civil appel-  
late jurisdic-  
tion to Judi-  
cial Commis-  
sioner.

**23.** The Chief Commissioner may direct that the civil appellate jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

The Chief Commissioner may also at any time direct that any appellate jurisdiction which has been so transferred to the Judicial Commissioner shall

revert

revert to the Commissioner from whom it was so transferred.

24. The Appellate Court may confirm the decision of the Lower Court without summoning the respondent, if upon perusal of the judgment of the Lower Court and of the petition of appeal in the presence of the appellant or his pleader, there appear to the Appellate Court to be no reason to alter the decision appealed from.

Confirmation of decision of Lower Court without summoning respondent.

25. When in the trial of any civil appeal the Appellate Court entertains a doubt in regard to a question of law or usage having the force of law, or as to the construction of a document, or as to the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the point as to which it is in doubt, and refer it, with the Court's own opinion thereon, for the decision of the Judicial Commissioner.

Reference to Judicial Commissioner.

26. The Judicial Commissioner shall, after considering the point so referred, send a ruling thereon to the Court by which the reference was made; and such Court shall, on the receipt of such ruling, proceed to dispose of the case in conformity therewith.

Procedure on such reference.

The costs, if any, consequent on any such reference to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

Costs of reference.

27. If in any suit the decision of the Deputy Commissioner or of the Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

When Judicial Commissioner may receive second appeal.

28. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

When decision of first Appellate Court to be final.

29. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a question

Reference to Judicial Commissioner

when deci-  
sion of Lower  
Court con-  
firmed on cer-  
tain points.

question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, the party aggrieved by such decision may apply to such Court to draw up a statement of the point as to which he considers such Court to have made an incorrect ruling, and to submit it to the Judicial Commissioner, or to allow him to appeal on the same point to the Judicial Commissioner.

Such application or appeal shall not be admitted, unless it is made within the period prescribed by law for petitions of appeal. And if the statement is drawn up, or the appeal is allowed, the applicant shall be chargeable with the fee prescribed by law for petitions of appeal.

In the case of an application to draw up a statement, if the Court consider that there is a question of law or custom having the force of law, or as to the construction of a document or admissibility of evidence affecting the merits of the case, it shall draw up a statement of the same and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case, to the Judicial Commissioner.

If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of such reasons shall, on application to the Court, be furnished to any party to the suit.

The costs of a statement drawn up under this section shall be costs in the cause. The costs of an application under this section to be allowed to appeal shall, if the appeal be allowed, be disposed of by the Court of appeal.

Procedure of  
Judicial  
Commission-  
er thereupon.

**30.** The Judicial Commissioner shall, with as little delay as possible, proceed to try the case referred, as if it were an appeal instituted in his Court, except that it shall not be necessary for the parties to be present :

the Judicial Commissioner shall send a copy of his judgment to the Court by which the case was submitted



submitted, and the said Court shall dispose of the case in conformity with such judgment.

**31.** When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal made or case referred under this Act, he may make a reference to the High Court, and shall send the record of the said appeal or case and all the proceedings connected therewith to the said Court.

Reference by  
Judicial  
Commis-  
sioner to  
High Court.

The procedure prescribed by section thirty shall, *mutatis mutandis*, be followed by the High Court in the disposal of references made under this section.

Procedure  
thereupon.

**32.** The costs, if any, consequent on such reference shall be disposed of by the Judicial Commissioner.

Provision as  
to costs.

**33.** For the trial of any civil appeal or reference under this Act, the Judicial Commissioner may constitute two or more persons assessors of his Court. Such persons shall attend during the trial and shall deliver their opinions in writing to be recorded on the proceedings. But the decision of the case shall rest with the Judicial Commissioner.

Assessors for  
trial of civil  
appeals and  
references.

No officer of the Judicial Commissioner's Court shall be appointed an assessor under this section.

**34.** In any case in which a Court of first appeal has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section twenty-nine, the Judicial Commissioner may call for the record of the case, and may, on receipt of such record, proceed to try the case as if it were an appeal instituted in his own Court.

Power to call  
for record.

And in any case in which a Court of first appeal has submitted such a statement, but, in the opinion of the Judicial Commissioner, the statement is unduly limited, or justice cannot be done without rehearing the case, the Judicial Commissioner may proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send to the Court of first appeal a copy of his judgment in any case

case

case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

(g). *Criminal Jurisdiction.*

Criminal jurisdiction—  
(a) of Judicial Commissioner,

**35.** The Judicial Commissioner shall be deemed to have and to have had the powers of a High Court under the Code of Criminal Procedure in criminal matters in relation to all Courts in British Burma, except that of the Recorder of Rangoon, and except those of Magistrates within the local limits of the ordinary civil jurisdiction of the said Recorder :

(b) of Commissioner,

The Commissioner shall be deemed to have and to have had the powers of a Sessions Judge :

(c) of Judge of Maulmain.

The Judge of the Town of Maulmain shall have the powers of a Sessions Judge.

Power of Chief Commissioner to transfer criminal jurisdiction.

**36.** The Chief Commissioner may direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases, and either for a specified time or until further orders. The Chief Commissioner may also at any time direct that any jurisdiction so transferred shall revert to the Commissioner from whom it was transferred.

(h). *Petitions to Judicial Commissioner when exercising transferred Jurisdiction.*

Application of Acts VII of 1870 and IX of 1871 to certain petitions to Judicial Commissioner.

**37.** When the civil or criminal appellate jurisdiction of any Commissioner has, under section twenty-three or section thirty-six, been transferred to the Judicial Commissioner,

(a) all petitions and other documents presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Court Fees Act, 1870, be deemed to have been presented to the Commissioner : and

(b) all appeals and applications presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Indian Limitation Act, 1871, be deemed to have been

been presented to him in the exercise of his ordinary jurisdiction.

(i). *Appointment and Removal of Officers.*

**38.** The presiding officers of all the Courts under this Act, except that of the Extra Assistant Commissioner of the third class, shall be appointed by the Governor General in Council. Appointment of officers.

Extra Assistant Commissioners of the third class shall be appointed and may be removed by the Chief Commissioner.

**39.** The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor General in Council. Suspension and removal of presiding officers.

The presiding officer of any such Court, except the Courts of the Judicial Commissioner and the Recorder of Rangoon, may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor General in Council.

**40.** The ministerial officers of the Courts of grades (a) and (b) mentioned in section six shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate. Appointment of ministerial officers of Courts (a) and (b) mentioned in section 6.

The ministerial officers of all other Courts under this Act shall be appointed by the presiding officers thereof;

provided that the appointment of every ministerial officer of a Court subordinate to the Judicial Commissioner, whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

**41.** Every Court of the grades (a) and (b) mentioned in section six may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office. Power to fine, suspend or remove such officers.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order; and may of his

own

own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of a Court subordinate to him.

The presiding officer of any of the Courts of grades (c), (d), (e) and (f) mentioned in section six, and of any Court of Small Causes, may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary; but in the case of Courts subordinate to the Judicial Commissioner, every such removal, suspension or fine shall be subject to review by him.

Recovery of fines.

42. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

Chief Commissioner's control over appointments, &c., of ministerial officers.

43. The Chief Commissioner shall have a power of general control over all appointments and removals of ministerial officers under this Act.

(k). *Holidays.*

List of holidays.

44. Subject to the orders of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in his Court and the Courts subordinate to him.

Such list shall be published in the *British Burma Gazette*, and the days therein mentioned shall be observed accordingly.

CHAPTER IV.

OF THE COURT OF THE RECORDER OF RANGOON.

(a). *The Recorder.*

The Court of the Recorder of Rangoon.  
Appointment of Recorder.

45. There shall continue to be a Court, to be called the Court of the Recorder of Rangoon.

The Recorder shall be appointed by the Governor General in Council, and shall be a Barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

He

He shall hold his Court ordinarily in the Town of Rangoon; but the Chief Commissioner may direct him on any particular occasion to hold his Court at Maulmain, Akyab or Bassein, for the trial of civil suits or appeals transferred to him, or of criminal cases in which European British subjects are concerned.

Place of holding Court.

The Recorder shall use a seal of such form and dimensions as are for the time being prescribed in this behalf by the Chief Commissioner.

Seal to be used.

46. Upon the occurrence of any vacancy in the office of Recorder of Rangoon, and during any absence of the Recorder, the Chief Commissioner may direct the Judicial Commissioner or any Commissioner to perform the duties of the Recorder;

Provision for discharge of duties of Recorder in case of vacancy in his office.

and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill or officiate in the office of the Recorder, and has entered upon the discharge of the duties of such office, or until the Recorder resumes his duties.

(b). *Civil Jurisdiction.*

47. The present local limits of the jurisdiction of the Recorder of Rangoon shall be the local limits of the ordinary civil jurisdiction of the Recorder appointed under this Act; but the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, vary such limits.

Local limits of ordinary civil jurisdiction of Recorder.

48. The Court of the Recorder shall have jurisdiction in the adjudication of suits of every description, except those which are cognizable by a Court of Small Causes, if, in the case of immoveable property, the subject-matter of the suit is situate, or if, in all other cases, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works

Civil jurisdiction of Recorder.

for

for gain, within the limits mentioned in section forty-seven.

A corporation or company having an office within such limits shall, when the cause of action, or a material part thereof, has arisen in British Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

No appeal from Recorder's Court in certain cases.

**49.** There shall be no appeal from the decree or order of the Recorder passed in any original suit or proceeding where the amount or value of the subject-matter does not exceed three thousand rupees.

When appeal lies to High Court.

But where the amount or value of the suit or proceeding in the Recorder's Court exceeds three thousand rupees, and is less than ten thousand rupees, an appeal shall lie to the High Court: provided that the amount or value of the matter in dispute on appeal must exceed the former sum and be less than the latter.

Assessors in civil suits.

**50.** For the trial of civil suits the Recorder may constitute one or more persons assessor or assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder.

No officer of the Recorder's Court shall be appointed an assessor under this section.

Miscellaneous jurisdiction.

**51.** The Recorder shall within the local limits of his ordinary civil jurisdiction, exercise the powers of a District Judge; and he shall also exercise the powers of a District Judge under Act No. IV of 1869 (*The Indian Divorce Act*) throughout British Burma.

Recorder's powers in respect of Small Cause Court, Rangoon.

**52.** The Recorder shall, in respect of the Court of Small Causes in Rangoon, exercise and perform the powers and duties of a High Court.

Grant of new trial.

**53.** The Recorder may, if he thinks fit, grant a new trial in any suit tried by him, if, in suits relating to land or other immovable property, such new trial be applied for within three months from the date of the

the decision, and, in all other cases, if it be applied for within thirty days from the date of the decision.

Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review be applied for within the period allowed for making such applications.

Review of judgment.

Provided also that the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review, or for the costs of the new trial or review.

Security from applicant for either.

**54.** If in any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, arises, on which the Recorder entertains any doubt, he may, either of his own motion, or on the application of the parties to the suit or either of them, draw up a statement of the case, and refer such statement, with his own opinion, for the decision of the High Court.

Power to state case for decision of High Court.

**55.** The Recorder may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the decision of the High Court on the point referred; but no execution shall be issued in any case in which a reference has been made to the High Court, until the receipt of its decision on such reference.

Decree contingent thereon.

**56.** Cases referred under section fifty-four for the decision of the High Court shall be dealt with by a bench of two or more Judges of that Court.

Full bench to deal with cases referred.

**57.** The parties to the case may appear and be heard in the High Court in person, or by an advocate or pleader; but they shall not be bound so to appear; and the High Court, when it has heard and considered the case, shall transmit a copy of its decision, under the seal of the Court and the signature of the proper officer, to the Recorder, who shall, on the receipt thereof, dispose of the case conformably to the decision of the High Court.

Procedure on reference.

Costs,

Costs of reference to High Court. Costs, if any, consequent on the reference of a case for the decision of the High Court, shall be costs in the suit.

Transfer of suits to Recorder's Court. **58.** The Chief Commissioner may direct the transfer to the Recorder's Court of any suit or appeal which may have been instituted in any other Court in British Burma.

Trial of such suits. Every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in such case and it had been instituted in his Court.

Disposal of suit where Recorder is interested. **59.** When any suit or proceeding comes before the Recorder of Rangoon, to or in which he is a party or personally interested, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Recorder to try the case himself, or transfer it to the Court of the Judicial Commissioner.

Jurisdiction of Judicial Commissioner in cases transferred. The Judicial Commissioner shall have the same jurisdiction in the adjudication of cases so transferred as the Recorder has in suits and proceedings cognizable by him under this Act, and the provisions of sections fifty-three to fifty-seven inclusive shall, *mutatis mutandis*, apply to such cases.

(c). *Criminal Jurisdiction.*

Recorder to exercise powers of Session Court. **60.** The Recorder shall exercise the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the local limits of his ordinary civil jurisdiction and (on the occasion and for the purpose mentioned in section forty-five, clause three,) at Maulmain, Akyab and Bassein :

Provided that sentences of death passed by him as a Court of Session shall be subject to the confirmation of the Special Court.

For the purposes of section 64A of the Code of Criminal Procedure, the Court of the Recorder shall be deemed to be a High Court.

Power to revise proceedings. **61.** The Recorder shall have all the powers of a High Court under the Code of Criminal Procedure in



in respect of the Magistrates within the local limits of his ordinary civil jurisdiction and the proceedings of such Magistrates.

**62.** The Recorder shall have the powers of a High Court under the Code of Criminal Procedure for the trial of, and otherwise with reference to, European British subjects and persons charged jointly with European British subjects ;

and all commitments of European British subjects and of persons charged jointly with European British subjects, on charges of offences committed within British Burma, which would according to the law of criminal procedure for the time being in force be made to a High Court, shall be made to his Court.

**63.** The proceedings on trials held by the Recorder for the trial of European British subjects, shall be regulated by the Code of Criminal Procedure :

Provided that European officers in the military service, commissioned and non-commissioned, resident within ten miles of the place of sitting of the Court, shall be liable to serve as jurors for the trial of European British subjects.

The officer commanding the station where the Recorder is about to hold a Court of Session shall, when required, send in to the Court a list containing the names of all officers so liable to serve.

The summons to any such officer to serve as a juror shall be sent through the officer commanding the station ; but no officer shall be excused from attendance, unless the officer commanding the station shall certify in writing to the Court that the presence of the officer summoned is required elsewhere on urgent military duty : and in such certificate the commanding officer shall supply the name of some other officer for service upon the jury.

**64.** Sentences of death passed in the exercise of the powers conferred by section sixty-two shall not be carried out without the confirmation of the High Court, to which such sentences shall be referred.

(d). *Admiralty*

*(d). Admiralty Jurisdiction.*Admiralty  
jurisdiction  
of Recorder.

65. Throughout British Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions as may now be exercised by the said High Court.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure; and in all such cases to which the rules contained in the said Code are not applicable, the procedure shall be in accordance with the rules for the time applicable to like cases in the High Court.

An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section, subject to the laws, rules and orders for the time being in force regarding appeals to the High Court under the Code of Civil Procedure.

*(e). Insolvent Jurisdiction.*Insolvent  
jurisdiction  
of Recorder.

66. Within the Towns of Rangoon, Maulmain, Akyab and Bassein, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercisable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof, in Calcutta.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the 11th & 12th of Victoria, chapter twenty-one.

The Recorder shall, with the previous sanction of the Chief Commissioner, appoint a person to be official assignee in all insolvencies to be prosecuted in the Court of the Recorder; and the provisions of the

said

said Statute relating to official assignees shall, *mutatis mutandis*, apply to the assignee so appointed.

Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof,

and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

Any person thinking himself aggrieved by any adjudication, order or proceeding of the Court of the Recorder under this section may present, within one month thereafter, a petition to the Special Court; and such Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

The Recorder may, from time to time, with the previous sanction of the Chief Commissioner, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given; and such rules, on being published in the *British Burma Gazette*, shall have the force of law.

No conveyance, letter-of-attorney, or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section, shall be chargeable with stamp-duty.

(f). *Rules, Forms and Registers.*

67. The Recorder may—

(a) make and issue general rules for regulating the practice and procedure of his Court and the levy of costs in suits therein;

(b) prescribe forms for every proceeding in his Court for which he thinks that a form should be provided; and

(c) from time to time alter any such rule or form.

Power to  
make rules of  
practice.

The rules so made, and the forms so framed, shall be published in the *British Burma Gazette*, and after being so published shall be observed and used in the said Court :

Provided that such rules and forms shall be consistent with the Codes of Civil and Criminal Procedure and any other law for the time being in force in British Burma, and shall, before they are so published, have received the sanction of the Chief Commissioner.

Rules for service and execution of process.

Table of fees.

Publication of rules and tables.

Rules now in force.

Registers and returns.

**68.** The Recorder may, with the previous sanction of the Chief Commissioner, make, and from time to time alter, rules to regulate the service and execution of the processes of his Court within the local limits of his jurisdiction; and may from time to time settle tables of fees to be allowed to the persons employed in such service or execution.

All such rules and tables shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Rules heretofore made to regulate the service and execution of process under Act No. XXI of 1863 (*to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Maulmain in British Burma; and to establish Courts of Small Causes in the said Towns*), or Act No. III of 1866 (*to confer certain increased powers on the Registrars of the Recorders' Courts in British Burma and for other purposes*) and now in force shall continue in force until superseded by rules made under this Act.

**69.** The Recorder shall keep such registers and books and accounts, and submit to the Chief Commissioner such statements and returns as may, subject to the approval of the Governor General in Council, be prescribed by the Chief Commissioner.

The Recorder shall also comply with such requisitions for information as are made by the Chief Commissioner, and, generally, in matters not judicial, shall be subject to the control of the Chief Commissioner.

(g). *Ministerial*

*(g). Ministerial Officers.*

70. The ministerial officers of the Court of the Recorder of Rangoon shall be appointed by the Recorder, who may also remove or suspend them, or fine them in an amount not exceeding one month's salary; but the suspension or removal of any officer drawing a salary of one hundred rupees or upwards shall be subject to the orders of the Chief Commissioner.

Appointment and removal of ministerial officers.

*(h). Holidays.*

71. The Recorder shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in his Court, and shall submit the same for the sanction of the Chief Commissioner.

Holidays and vacations.

Such list, when it has received such sanction, shall be published in the *British Burma Gazette*, and the said holidays and vacations shall be observed accordingly.

## CHAPTER V.

## OF THE SPECIAL COURT.

72. The Special Court under this Act shall ordinarily be constituted by the Judicial Commissioner and the Recorder of Rangoon sitting together; but the Chief Commissioner may direct any Commissioner to sit in the Court, during the hearing of any case, as an additional Judge. Such Commissioner shall record his opinion in the case, and in case of a difference of opinion, the opinion of the majority shall be the decision of the Court.

Constitution of Special Court.

When the Judicial Commissioner and Recorder sit together as a Special Court, the senior officer, according to priority of appointment, shall have the precedence in the Court so formed.

Precedence in Special Court.

73. The Special Court shall ordinarily be held in the Town of Rangoon; but the Chief Commissioner may direct it to be held at any other place in British Burma.

Place of holding Special Court.

The

Seal to be used.

The Special Court shall use a seal of such form and dimensions as the Chief Commissioner from time to time directs.

Rules and fees for Special Court.

**74.** The Judicial Commissioner and the Recorder of Rangoon may from time to time, with the previous sanction of the Chief Commissioner—

(a) make rules for regulating the times and places of the sittings of the Special Court, the reception of applications relating to appeals to such Court, and the distribution of business between the Judges composing it; provided that such rules are consistent with this Act and other laws for the time being in force in British Burma;

(b) make rules to regulate the service and execution of the process of the Special Court; and

(c) settle a table of fees to be allowed to persons employed in such service or execution.

Such rules and table shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Ministerial officers.

The Judicial Commissioner and Recorder may also appoint, suspend or remove the ministerial officers of the Special Court: Provided that the suspension or removal of any officer drawing a salary of one hundred rupees and upwards shall be subject to the orders of the Chief Commissioner.

Provided also that in case the Judicial Commissioner and Recorder differ in opinion as to any matter mentioned in this section, such matter shall be referred to the Chief Commissioner, whose order thereon shall be final.

Appeals from certain orders of Judicial Commissioner and Judge of Maulmain.

**75.** Appeals from orders and decrees passed by—

(a) the Judicial Commissioner in the exercise of any jurisdiction transferred to him under section twenty-three, or

(b) the Judge of the Town of Maulmain in civil suits and proceedings,

shall, where an appeal is allowed by law, be heard and determined by the Special Court.

**76.** If

**76.** If in any civil suit or appeal, or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, the one Court wishes to obtain the opinion of the other on any question of fact or law, or usage having the force of law, or the construction of a document, or wishes to obtain the assistance of the other for the determination of the case pending before it, such Court shall record a memorandum to that effect; and after the receipt of a copy of such memorandum by the other Court, the said Judicial Commissioner and Recorder shall sit together as soon as may be convenient, and shall form a Special Court for the disposal of the said question or for the determination of the case so pending.

Judicial Commissioner and Recorder may sit as Special Court at the request of either.

In case of difference of opinion, that of the Court which sought the opinion of the other shall prevail.

**77.** The Chief Commissioner may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, shall be transferred to and tried before the Special Court.

Chief Commissioner may direct cases to be tried by Special Court.

**78.** Any decree or sentence passed by a Special Court as above constituted on a memorandum recorded under section seventy-six, or in a case tried under section seventy-seven, shall issue as, and be deemed to be, a decree or sentence of the Court from which the case was referred to the Special Court.

Decree of Special Court to be deemed a decree of original Court.

**79.** With reference to all trials held by the Judicial Commissioner or the Recorder of Rangoon in the exercise of any original criminal jurisdiction (including jurisdiction transferred under section thirty-six), and to sentences passed on such trials, the Special Court shall be deemed to be, for the purposes of appeal and otherwise, a High Court:

Special Court to be deemed a High Court in certain criminal matters.

Provided that nothing in the former part of this section applies to sentences of death passed by the Recorder on European British subjects or on persons charged jointly with European British subjects.

**80.** Whenever,

Rules as to finding of Special Court in case of difference of opinion.

**80.** Whenever, in cases tried by the Judicial Commissioner and Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises, the following rules shall be observed :—

(a) In cases coming before the Special Court by way of appeal, and not being criminal cases, if the Judicial Commissioner and Recorder do not concur in a judgment varying the decision appealed from, such decision shall be upheld. Provided that, if the difference of opinion arise as to some point of law, or custom having the force of law, or the admissibility of evidence or construction of a document affecting the merits of the case, and if either the Judicial Commissioner or the Recorder be of opinion that the point should be referred to the High Court, they shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

(b) In criminal cases and in cases not coming before the Special Court by way of appeal, the Judicial Commissioner and the Recorder shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

Case to be deemed pending.

**81.** Where in any case a statement is forwarded under section eighty, the case shall be deemed to be pending in the Special Court until it is finally decided under the provisions hereinafter contained.

Procedure of High Court on reference.

**82.** The High Court shall proceed to decide any point stated under section eighty as if it were an appeal instituted in such Court, except that it shall not be necessary for the parties to appear either personally or by agent. A copy of the decision of the High Court shall be sent to the Special Court, and such Court shall proceed to dispose of the case conformably with that decision.

Costs of reference.

The costs, if any, consequent on the statement under section eighty, of any case for the opinion of the High Court, shall be costs in the suit or appeal.

**83.** For



**83.** For the purposes of the Court Fees Act, 1870, the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

Special Court to be deemed a High Court under Acts VII of 1870 and IX of 1871.

For the purposes of the Indian Limitation Act, 1871, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Civil Procedure or under the Code of Criminal Procedure, as the case may be.

## CHAPTER VI.

### OF ADVOCATES.

(a). *In the Court of the Recorder and the Courts subordinate to him.*

**84.** No person shall be permitted to appear, plead or act as the advocate of any suitor in the Court of the Recorder, or in any Court subordinate to him, unless such person has been licensed thereto by the Recorder, either generally or specially.

Licensing of advocates.

The Recorder may make rules for the qualification and admission of proper persons to act as advocates in such Courts, and may from time to time cancel, vary or add to, any such rules :

Rules regarding qualifications and admission.

Provided that nothing in this section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading or acting on his own behalf or on behalf of a co-suitor :

Saving of agent for Secretary of State, &c.

Provided also that any person, who for the time being is an advocate, vakil or attorney-at-law of any of the High Courts of Judicature in India, shall be entitled, without any such license, to act as an advocate for any suitor in the Court of the Recorder and the Courts subordinate to him.

Advocates, &c., of High Courts.

**85.** The

License may be suspended or withdrawn.

**85.** The Recorder may, for any sufficient reason, by order suspend or withdraw any license granted under section eighty-four.

Any person aggrieved by such order may appeal to the High Court, and for the purposes of the Limitation Act, his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

(b). *In the Court of the Judicial Commissioner and the Courts subordinate thereto.*

Licensing of advocates.

**86.** No person shall be permitted to appear, plead or act as the advocate of any suitor, or of any appellant, complainant or accused person, in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, unless such person is licensed thereto by the Judicial Commissioner, either generally or specially.

Rules for their qualification and admission.

The Judicial Commissioner may from time to time make rules—

(a) for the qualification, admission and enrolment of proper persons to appear, plead or act as aforesaid; and

(b) for the suspension or dismissal of any such persons who are guilty of fraudulent or grossly improper conduct.

All such rules shall be published in the *British Burma Gazette*.

Any person appearing, pleading or acting in contravention of any such rule, shall be liable, by order of the Court, to a fine not exceeding five hundred rupees.

Saving of agents of Government, suitors, co-suitors and advocates of High Courts.

**87.** Notwithstanding anything contained in section eighty-six, or in any rule made thereunder,

any person may appear, plead or act as the agent for the Crown or for the Secretary of State for India in Council;

and any suitor may appear, plead or act on behalf of himself or a co-suitor;

and

and any person who for the time being is an advocate, vakil or attorney-at-law of any High Court may appear, plead or act as the advocate of any suitor in the Court of the Judicial Commissioner or any Court subordinate thereto.

And nothing contained in section eighty-six, or in any rule made thereunder, shall be deemed to affect the second clause of section 186 of the Code of Criminal Procedure.

(c). *In the Special Court.*

88. All persons for the time being licensed to appear, plead or act in the Court of the Recorder or the Court of the Judicial Commissioner shall be also entitled to appear, plead or act (as the case may be) in the Special Court.

Persons entitled to appear, &c., in Special Court.

(d). *Advocates' Fees.*

89. The fees to be received by any advocate, for business done in any Court under this Act, shall at all times be subject to the control and taxation of the presiding Judge; and no such fees shall be recoverable unless they have been allowed on taxation by the said Judge, or such officer as he appoints in this behalf.

Fees liable to taxation.

---

CHAPTER VII.

MISCELLANEOUS.

90. The Judicial Commissioner may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

Power to make rules as to costs.

The Recorder of Rangoon may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

And the Special Court may from time to time make rules regulating the fees payable to practitioners

tioners

tioners and the control and taxation of costs in such Court.

Power to make rules for recording judgments, taking down evidence and admission of affidavits.

**91.** The Judicial Commissioner, the Recorder of Rangoon, and the Judges of the Special Court may respectively make rules to provide for—

(a) the recording of their respective judgments, orders and sentences :

(b) the taking down in their respective Courts of the evidence of witnesses ; and

(c) the admission in their respective Courts of affidavits as evidence of the matters to which such affidavits respectively relate.

Power to exempt from provisions of Procedure Codes relating to such subjects,

And the Chief Commissioner, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder, or the Special Court (as the case may be) from the operation of such parts of the Code of Civil Procedure and the Code of Criminal Procedure as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

and to permit admission of affidavits.

Remuneration to assessor or appointed at desire of suitor.

**92.** If any assessor is appointed under section thirty-three or section fifty at the desire of the parties, or any of them, such parties or party shall deposit such sum as the Judicial Commissioner or Recorder, as the case may be, decides to be reasonable compensation to such assessor for his time and trouble. Such sum shall be recoverable as costs in the cause.

Amendment of section 7, Act XV of 1869.

**93.** Instead of the last paragraph of section seven of the Prisoners' Testimony Act, 1869, the following shall be read :—

“ For the purposes of this Act, every jail in British Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner ; and the Recorder of Rangoon may issue orders, under this section or sections three

or

or four, and may also issue commissions under Part III of this Act, in any jail in British Burma."

94. Notwithstanding anything contained in Act No. XI of 1865, section fifteen, the Government of India shall have, and be deemed to have had, power from time to time to invest any person with the powers of a Judge of the Court of Small Causes in the Town of Rangoon, or elsewhere in British Burma, without specifying any time during which he shall exercise such powers. And all persons so invested shall be deemed to have been duly invested under the same section.

Powers of  
Small Cause  
Court Judge  
in Rangoon.

95. Notwithstanding any repeal effected by the Burma Courts Act, 1872, section five, the following Acts, namely,—

Act No. XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in case of successions*), and

Saving of  
Acts XIX of  
1841, XL of  
1858, IX of  
1861, as  
regards  
British  
Burma,

Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*),

are hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout British Burma :

And Act No. XIV of 1859 (*to provide for the limitation of suits*) as amended by Act No. XIV of 1862, shall be deemed to have been in force throughout the province of Pegu from the same day down to and including the thirty-first day of March 1873.

and of Act  
XIV of 1859  
as regards  
Pegu.

96. The Judge of the Town of Maulmain shall, for the purposes of the European British Minors Act, 1874, sections two and eight, be deemed to be a Deputy Commissioner : provided that appeals from his orders under that Act shall lie to the Special Court.

Application  
of Act No.  
XIII of 1874.

97. Save as otherwise provided by this Act, the Code of Civil Procedure shall be, and shall on and from the fifth day of April, 1872, be deemed to have been, in force throughout British Burma.

Civil Proce-  
dure Code  
applied to  
British  
Burma.

98. The

Regulations  
extended to  
British  
Burma.

98. The unrepealed parts of the following Regulations of the Bengal Code shall, *mutatis mutandis*, be deemed to extend to British Burma, namely :—

Regulation V of 1799, section seven—Wills and Intestacies of Natives ;

„ V of 1817—Hidden treasure ; and

„ III of 1818—State Prisoners.