

THE LOWER BURMA COURTS ACT, 1889.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Definitions.

CHAPTER II.

LAW TO BE ADMINISTERED.

4. Law to be administered by Courts under this Act.

CHAPTER III.

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

Grades, Location and Control of Civil Courts.

5. Grades of Civil Courts.
6. Confirmation of existing Civil Courts.
7. Number and local jurisdiction of Civil Courts.
8. Place of sitting and seal of Civil Courts.
9. Superintendence and control over Civil Courts.

Ordinary Civil Jurisdiction.

10. Jurisdiction of the several grades of Civil Courts.

Special Civil Jurisdiction.

11. Enhancement of original jurisdiction of certain Civil Courts.
12. Power to invest certain Courts with Small Cause Court jurisdiction.
13. Exercise by one Civil Court of jurisdiction within local jurisdiction of another such Court.
14. Power to confer powers of Court of Deputy Commissioner on certain district-officers.

Civil

Civil Procedure.

SECTIONS.

15. Procedure where the presiding officer of a Court is personally interested in a case.
16. Power of Deputy Commissioner to distribute business.
17. Language of plaints and of record of evidence in Civil Courts.

Civil Appeals and References.

18. Time for appeal to Commissioner.
19. Transfer of civil appellate jurisdiction to Commissioner and Judicial Commissioner.
20. Conferment of appellate powers on Assistant and Extra Assistant Commissioners.
21. Reference to Judicial Commissioner during progress of an appeal.
22. Admission of second appeals by Judicial Commissioner.
23. Finality of concurrent decisions of original and first appellate Courts on matters of fact.
24. Reference or appeal to Judicial Commissioner with respect to concurrent decisions of original and first appellate Courts on questions of law.
25. Disposal of references under last foregoing section.
26. Power to call for record where reference or appeal to Judicial Commissioner has been wrongly refused.
27. Reference of questions of law by Judicial Commissioner to High Court.

Criminal Jurisdiction.

28. Judicial Commissioner as High Court.
29. Divisional Commissioners as Courts of Session.
30. Court of Session for Town of Maulmain.
31. Power to transfer criminal jurisdiction of Commissioner to Judicial Commissioner.

Provisions with respect to transferred Jurisdiction.

32. Application of Acts VII of 1870 and XV of 1877 to certain transferred proceedings.

Appointment and Removal of Officers.

33. Appointment of Civil Judges.
34. Suspension and removal of Civil Judges.
35. Appointment of ministerial officers of Civil Courts.
36. Power to fine or remove such officers.

CHAPTER IV.

THE COURT OF THE RECORDER.

The Recorder.

SECTIONS.

37. Court of Recorder of Rangoon.

Civil Jurisdiction.

38. Variation of local limits of ordinary civil jurisdiction of Recorder.

39. Civil jurisdiction of Recorder.

40. Appeal from original decrees and orders of Recorder.

41. New trial and review by Recorder.

42. Reference of cases by Recorder to High Court and procedure thereon.

43. Procedure where Recorder is personally interested in a case.

44. Recorder as High Court for certain purposes.

Criminal Jurisdiction.

45. Recorder as Court of Session for Rangoon.

46. Recorder as High Court for Burma in reference to proceedings against European British subjects.

47. Effect of the last foregoing section with respect to Shan States.

48. Recorder as High Court for certain purposes.

Admiralty Jurisdiction.

49. Admiralty jurisdiction of Recorder.

Insolvency Jurisdiction.

50. Insolvency jurisdiction of Recorder.

51. Power to vest in Judge of Town of Maulmain the insolvency jurisdiction vested in Recorder in that Town.

52. Inapplicability of Chapter XX, Act XIV, 1882, to Rangoon and Maulmain.

53. Temporary continuance of insolvency jurisdiction of Recorder at Bassein and Deputy Commissioner at Akyab.

Registers and Returns.

54. Books and accounts, and statements and returns, to be kept and furnished by Recorder.

Ministerial

Ministerial Officers.

SECTIONS.

- 55. Appointment and removal of ministerial officers.
- 56. Discharge of non-judicial functions by Registrar.

Exceptional Provisions.

- 57. Discharge of functions of Recorder in case of vacancy in his office.
- 58. Transfer of civil cases from other Courts in Lower Burma to Court of Recorder.
- 59. Transfer of cases from Court of Recorder to Court of Judicial Commissioner.
- 60. Appointment of Additional Recorder.
- 61. Disposal of business by Additional Recorder.

CHAPTER V.

THE SPECIAL COURT.

- 62. Constitution of Special Court.
- 63. Sittings, seal and officers of Special Court.
- 64. Appeals to Special Court from Judge of Maulmain.
- 65. Trial of cases before Special Court by order of Local Government.
- 66. Special Court as High Court in certain criminal matters.
- 67. Sittings of Special Court at request of Judicial Commissioner or Recorder.
- 68. Decree of Special Court to be deemed decree of other Court in certain cases.
- 69. Rules as to finding of Special Court in case of difference of opinion.
- 70. Procedure of High Court on reference under the last foregoing section.
- 71. Special Court to be deemed a High Court for the purposes of Acts VII of 1870 and XV of 1877.
- 72. Substitution of Additional Recorder for Judge of Town of Maulmain for purposes of this Chapter.

CHAPTER VI.

ADVOCATES.

In the Court of the Recorder and the Courts subordinate thereto.

- 73. Licensing of advocates by Recorder.
- 74. Suspension or withdrawal of license by Recorder.

In

In the Court of the Judicial Commissioner and the Courts subordinate thereto.

SECTIONS.

75. Licensing of advocates by Judicial Commissioner.

Provisos.

76. Provisos to the two last foregoing sections.

In the Special Court.

77. Advocates in Special Court.

Discipline and Fees.

78. Penalty for acting as an advocate without authority.

79. Taxation of fees of advocates.

80. Rules as to fees of advocates.

Touting.

81. Penalty for receiving or giving commission.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Court of Small Causes of Rangoon.

82. Court of Small Causes of Rangoon.

83. Enhancement of powers of Judge of Court of Small Causes of Rangoon.

84. Court-fees on applications to Recorder for exercise of revisional jurisdiction over Court of Small Causes of Rangoon.

85. Refund of fees paid on applications to Recorder for revision.

Court of the Judge of the Town of Maulmain.

86. Conferment of subsidiary jurisdiction in small causes in Maulmain.

87. Jurisdiction of the Court under Act XIII of 1874.

Powers, Holidays and other Matters.

88. Powers with respect to ministerial officers of Courts.

89. Power of Local Government to make rules as to process-serving establishments.

90. Mode

SECTIONS.

90. Mode of appointment and conferring powers.
91. Powers to make rules as to fees and other matters in Courts of Judicial Commissioner and Recorder and in Special Court.
92. Power to make rules as to judgments, evidence and affidavits in Courts of Judicial Commissioner and Recorder and in Special Court.
93. Differences of opinion between Judicial Commissioner and Recorder as administrative representatives of Special Court.
94. Holidays.
95. Continuance of proceedings of abolished Courts.
96. Publication of rules in Burma Gazette.

Laws.

97. Modification of certain enactments.
98. Amendment of sections 7 and 8, Act XV of 1869.
99. Saving of Act XL of 1858 and Bengal Regulations V of 1799 and III of 1818.
100. Certain references to Act VII of 1874 to be read as references to Act XVII of 1884.
101. Conferment of Magisterial and other powers upon police-officers in Salween and Arakan Hill Districts.
102. Correction of schedule to Regulation IX of 1874.
103. Saving of Regulations in force in the Hill District of Arakan.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—ENACTMENTS MODIFIED.

THE THIRD SCHEDULE.—ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.

ACT No. XI OF 1889.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the Assent of the Governor General on the 30th May, 1889.)

An Act to consolidate and amend the law relating to the Courts, and declare the effect of certain enactments, in Lower Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts, and to declare the effect of certain enactments, in Lower Burma; and whereas the Secretary of State for India in Council has sanctioned and approved the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Lower Burma Courts Act, 1889.

(2) Save in so far as it applies expressly or by necessary implication to other parts of British India (inclusive of Upper Burma and the Shan States), it extends to Lower Burma only; and

(3) It shall come into force at once.

Repeal.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) Any enactment or document referring to any of the enactments in that schedule touching Courts in Burma, or to any enactment repealed by any of those enactments, or to any enactment repealed by the Burma Courts Act, 1872, shall, so far as may be, be construed

VII of

(Chapter I.—Preliminary.—Section 3.)

construed as referring to this Act or to the corresponding portion thereof; and

(3) All rules, orders and appointments made, limits fixed, directions given, powers and jurisdiction conferred, lists, tables and notifications published, and seals, forms, registers, books, accounts, statements and returns prescribed, under any of the said enactments shall, so far as may be, be deemed to have been respectively made, fixed, given, conferred, published and prescribed under this Act.

(4) No trial had, decree made, order passed or proceeding taken by any Court before the day on which this Act comes into force shall, if not invalid before that day, become invalid by reason of any repeal effected by this Act.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) "Lower Burma" means the territories for the time being comprised in Lower Burma under sub-sections (1) and (2) of section 2 of the Upper Burma Laws Act, 1886:

XX of 1886.

(2) "Shan States" means the territories for the time being notified under sub-section (3) of section 8 of the Upper Burma Laws Act, 1886, as Shan States for the purposes of that section and sections 6 and 7 of that Act:

(3) "Upper Burma" means the whole of Burma except Lower Burma and the Shan States:

(4) "High Court" means the High Court of Judicature at Fort William in Bengal:

(5) "Judicial Commissioner" means the Judicial Commissioner of Lower Burma:

(6) "Recorder" means the Recorder of Rangoon: and

(7) "Special Court" means the Special Court constituted under this Act.

CHAPTER II.

(Chapter II.—Law to be administered.—Section 4.
Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Section 5.)

CHAPTER II.

LAW TO BE ADMINISTERED.

Law to be administered by Courts under this Act.

4. (1) Where, in any suit or other 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 Hindu law in cases where the parties are Hindus,

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 Lower Burma.

(2) Subject to the provisions of sub-section (1) and of any other enactment for the time being in force, all questions arising in suits before the Recorder 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.

(3) In cases not provided for by sub-section (1) or sub-section (2), or by any such other enactment as aforesaid, the Court shall act according to justice, equity and good conscience.

CHAPTER III.

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

Grades, Location and Control of Civil Courts.

Grades of Civil Courts.

5. Besides the Courts of Small Causes, the Court of the Recorder and the Special Court, and the Courts established

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 6-9.)

VIII of 1874. established under the Arakan Hills Civil Justice Regulation, 1874, there shall be six grades of Civil Courts in Lower Burma, namely:—

- (a) the Court of the Myo-òk;
- (b) the Courts of the Extra Assistant Commissioner 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.

6. All existing Courts of the grades specified in the last foregoing section shall be deemed to have been established under this Act. Confirmation of existing Civil Courts.

7. The Local Government may, of its own authority, vary the number of Courts of the grade specified in clause (a) or (b) of section 5, and the local limits of the jurisdiction of any such Court, and, with the previous sanction of the Governor General in Council, the number of Courts of the grade specified in clause (c) or (e) and the local limits of the jurisdiction of any such Court or of the Court of the Judge of the Town of Maulmain. Number and local jurisdiction of Civil Courts.

8. Every Court of a grade specified in section 5 shall— Place of sitting and seal of Civil Courts.

- (a) be held at such place or places as the Local Government directs 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
- (b) use a seal of such form and dimensions as the Local Government prescribes.

9. (1) The general superintendence and control over all Courts of the grades specified in clauses (a), (b), (c), (d) and (e) of section 5 shall be vested in, Superintendence and control over Civil Courts.
and

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Section 10.)

and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to such general superintendence and control of the Court of the Judicial Commissioner, the control over all the Courts in a division which are of the grades specified in clauses (a), (b) and (c) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of the Court of the Commissioner, the control over all the Courts in a district which are of the grades specified in clauses (a) and (b) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner.

Ordinary Civil Jurisdiction.

Jurisdiction
of the several
grades of
Civil Courts.

10. Subject to the provisions of this Act and of the Code of Civil Procedure, the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, the Courts mentioned in the first column of the following table shall have such civil jurisdiction, respectively, as is specified in the second column thereof:—

XIV of 1
IX of 18

Grade and name of Court.	Extent of jurisdiction.
1	2
(a) The Court of the Myo-òk.	Powers of a Civil Court for the adjudication of any suit of value not exceeding five hundred rupees.
(b) The Court of the Extra Assistant Commissioner and the Court of the Assistant Commissioner.	Powers of a Civil Court for the adjudication of any suit of value not exceeding three thousand rupees.

(c) The

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Section 11.)

Grade and name of Court.	Extent of jurisdiction.
1	2
(c) The Court of the Deputy Commissioner.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Power to hear appeals from original decrees and orders of Courts of Myo-òks, Extra Assistant Commissioners and Assistant Commissioners.
(d) The Court of the Judge of the Town of Maulmain.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Powers of a Provincial Court of Small Causes for the adjudication of any suit cognizable by such a Court and of value not exceeding one thousand rupees.
(e) The Court of the Commissioner.	As regards the Courts subordinate to the Court of the Commissioner, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. Power to hear appeals from original decrees and orders of Courts of Deputy Commissioners.
(f) The Court of the Judicial Commissioner.	Powers of a High Court in relation to all Civil Courts in Lower Burma, except the Special Court, the Court of the Recorder and the Court of Small Causes of Rangoon. Power to hear appeals from original decrees and orders of Courts of Commissioners.

Special Civil Jurisdiction.

11. (1) The Local Government may, by notification in the Burma Gazette, invest any Myo-òk with the powers of a Civil Court for the adjudication of suits of value not exceeding three thousand rupees, and any Extra Assistant Commissioner or Assistant Commissioner with such powers for the adjudication of suits of value not exceeding five thousand rupees.

Enhancement of original jurisdiction of certain Civil Courts.

(2) A

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 12-14.)

(2) A Myo-òk, or an Extra Assistant Commissioner or Assistant Commissioner, who has been invested with powers under sub-section (1) shall, for the purposes of section 191 of the Code of Civil Procedure, be deemed to be a successor to any Judge who has been prevented, from any such cause as is mentioned or referred to in that section, from concluding the trial of any suit which, if it were about to be instituted, would be cognizable by such Myo-òk or such Extra Assistant Commissioner or Assistant Commissioner in exercise of those powers. XIV of 1886

Power to invest certain Courts with Small Cause Court jurisdiction.

12. The Local Government may, by a like notification, confer, within such local limits as it thinks fit, upon any Myo-òk, Extra Assistant Commissioner or Assistant Commissioner the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding one hundred rupees in the case of a Myo-òk, or five hundred rupees in the case of an Extra Assistant Commissioner or Assistant Commissioner, as it thinks fit, and may withdraw any jurisdiction so conferred. IX of 1887

Exercise by one Civil Court of jurisdiction within local jurisdiction of another such Court.

13. The Local Government may, by a like notification, empower the presiding officer of any Court of a grade specified in clause (a), (b), (c) or (e) of section 5 to exercise within the local limits of the jurisdiction of any other Court of the same grade all or any of the powers which might be exercised by the presiding officer of the other Court.

Power to confer powers of Court of Deputy Commissioner on certain district-officers.

14. (1) The Local Government may, by a like notification, confer upon the officer in chief executive charge of any district the powers which might be exercised within the district by the Court of a Deputy Commissioner.

(2) Where such powers are so conferred upon such an officer, the officer shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Section 15.)

Commissioner and his Court the Court of a Deputy Commissioner.

Civil Procedure.

15. (1) The presiding officer of a Court of a grade specified in clause (a), (b), (c), (d) or (e) of section 5 shall not, without the consent of the parties or authority from the Court to which he is immediately subordinate, adjudicate upon any suit or other proceeding to which he is a party or in which he is personally interested, or upon any appeal from a decree or order passed by himself.

Procedure where the presiding officer of a Court is personally interested in a case.

(2) When any such proceeding or appeal comes before the presiding officer of any such Court, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(3) The Court to which the record is so transmitted shall thereupon either authorise such presiding officer to proceed with the case or itself dispose thereof under section 25 of the Code of Civil Procedure.

XIV of 1882.

(4) In either of the following cases, namely :—

(a) if an appeal is preferred to the Judicial Commissioner from a decree or order which was passed by him in any other capacity or in which he is personally interested,

(b) if an application is made to him for the revision of such a decree or order,

he shall, unless the parties consent to his proceeding with the case himself, transmit the record to the Local Government with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Recorder.

16. Notwithstanding

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 16-20.)

Power of Deputy Commissioner to distribute business.

16. Notwithstanding anything in the Code of Civil Procedure, a Deputy Commissioner may, by written order, direct that any business cognizable under this Act by his Court and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit :

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Language of plaints and of record of evidence in Civil Courts.

17. Notwithstanding anything in the same Code, plaints may be written and evidence may be taken down in such language or languages as the Local Government directs in this behalf.

Civil Appeals and References.

Time for appeal to Commissioner.

18. (1) The period of limitation for an appeal to the Court of the Commissioner shall be forty-two days.

(2) In the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.

XV of 18

Transfer of civil appellate jurisdiction to Commissioner and Judicial Commissioner.

19. (1) The Local Government may, by order notified in the Burma Gazette, direct that the civil appellate jurisdiction of the Court of any Commissioner or Deputy Commissioner shall be transferred to the Court of the Judicial Commissioner or Commissioner, respectively, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

(2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the cancelling order.

Conferment of appellate powers on

20. (1) The Local Government may, by notification

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 21-22.)

tion in the Burma Gazette, confer upon any Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-ôk, Extra Assistant Commissioner or Assistant Commissioner, and upon any Extra Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-ôk or Extra Assistant Commissioner, and may withdraw such power.

Assistant and Extra Assistant Commissioners.

(2) An Assistant Commissioner or Extra Assistant Commissioner upon whom power to hear appeals has been conferred under sub-section (1) shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner.

21. (1) When in the trial of any civil appeal an Appellate Court subordinate to the Court of the Judicial Commissioner entertains a doubt in regard to a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the question in regard to which it entertains the doubt, and refer it, with the Court's own opinion on the question, for the decision of the Judicial Commissioner.

Reference to Judicial Commissioner during progress of an appeal.

(2) The Judicial Commissioner shall, after considering the question so referred, send a ruling thereon to the Court by which the reference was made, and that Court shall, on the receipt of the ruling, proceed to dispose of the case in conformity therewith.

(3) 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.

22. If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner reverses or modifies an original decree or order, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of

Admission of second appeals by Judicial Commissioner.

the

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 23-24.)

the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

23. If the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a matter of fact, the appellate decree or order shall be final.

24. (1) If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, any party considering himself aggrieved by such appellate decree or order may apply to the Court of the Deputy Commissioner or Commissioner, as the case may be, either to draw up a statement of the question and submit the statement to the Judicial Commissioner, or to allow him to appeal on the question to the Judicial Commissioner.

(2) Such application shall not be admitted unless it is made within the period prescribed for an appeal to the Court of the Deputy Commissioner or Commissioner, as the case may be.

(3) If the Court, on an application for the drawing up of a statement, considers that there is a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, it shall draw up a statement of the question and of such facts only of the case as are necessary to explain it, and shall submit the statement, together with the record of the case, to the Judicial Commissioner.

(4) If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of the reasons shall, on application

Finality of concurrent decisions of original and first appellate Courts on matters of fact.

Reference or appeal to Judicial Commissioner with respect to concurrent decisions of original and first appellate Courts on questions of law.

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 25-26.)

application to the Court, be furnished to any party to the case.

(5) In the case of an application to be allowed to appeal to the Judicial Commissioner, the period during which the application was pending in the Court of the Deputy Commissioner or Commissioner shall, if the appeal is allowed, be excluded in the computation of the period of limitation for an appeal to the Judicial Commissioner.

25. (1) When a case has been referred with a statement under the last foregoing section, the Judicial Commissioner shall, on payment in respect of the statement of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court, and shall send a copy of his judgment and of his decree or order in the case to the Court by which the statement was submitted.

Disposal of references under last foregoing section.

(2) If the statement appears to the Judicial Commissioner to be unduly limited, he may amend it as he thinks fit.

(3) Notwithstanding anything in sub-section (1), it shall not be necessary for any party to the case referred to be present either personally or otherwise at the trial thereof by the Judicial Commissioner.

26. (1) In any case in which the Court of a Deputy Commissioner or Commissioner has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section 24, the Judicial Commissioner may call for the record of the case, and may, on receipt of the record and on payment of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court.

Power to call for record where reference or appeal to Judicial Commissioner has been wrongly refused.

(2) Where the Judicial Commissioner so tries the case,

(Chapter III.—*The Court of the Judicial Commissioner and the Courts subordinate thereto.*—Section 27.)

case, he shall send a copy of his judgment and of his decree or order therein to the Court of the Deputy Commissioner or Commissioner, as the case may be.

Reference of questions of law by Judicial Commissioner to High Court.

27. (1) If any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence arises in a case before the Court of the Judicial Commissioner under this Act, and the Judicial Commissioner, by reason of such question arising, entertains any doubt as to the decision to be passed in the case, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(2) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Judicial Commissioner a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) Where the Judicial Commissioner makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure. XIV of 188

(5) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Criminal

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 28-31.)

Criminal Jurisdiction.

28. Except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the Court of the Judicial Commissioner shall be the highest Court of criminal appeal or revision for the whole of Lower Burma beyond the limits of the ordinary civil jurisdiction of the Recorder. Judicial Commissioner as High Court.

X of 1882.

29. (1) Subject to the provisions of sections 7 and 9 of the Code of Criminal Procedure, 1882, with respect to the alteration of the limits of sessions divisions and the appointment of Additional Sessions Judges to exercise jurisdiction in Courts of Session, each division for the time being administered by a Commissioner shall be a sessions division, the Court of the Commissioner shall be the Court of Session for the sessions division, and the Commissioner shall be the Judge of the Court of Session. Divisional Commissioners as Courts of Session.

(2) For the purposes of sub-section (1) the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder and the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be deemed not to be included in the divisions in which they are respectively situate.

30. The area for the time being comprised within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be a sessions division, that Court shall be the Court of Session for the sessions division, and the Judge of that Court shall be the Judge of the Court of Session. Court of Session for Town of Maulmain.

31. (1) The Local Government may, by order notified in the Burma Gazette, 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. Power to transfer criminal jurisdiction of Commissioner to Judicial Commissioner.

(2) The

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 32-35.)

(2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceeding pending at the date of the cancelling order.

Provisions with respect to transferred Jurisdiction.

Application of Acts VII of 1870 and XV of 1877 to certain transferred proceedings.

32. When any civil or criminal appellate jurisdiction has been transferred under section 19 or section 31—

- (a) fees shall be payable under the Court-fees Act, 1870, and any rules thereunder, at the rates at which they would be payable in the Court from which the jurisdiction was transferred; and
- (b) all appeals and applications presented to a Court in the exercise of the jurisdiction so transferred shall, for the purposes of the law relating to limitation, be deemed to have been presented to the Court in the exercise of its ordinary jurisdiction.

Appointment and Removal of Officers.

Appointment of Civil Judges.

33. (1) The Judicial Commissioner shall be appointed by the Governor General in Council.

(2) The presiding officers of Courts of the grades specified in clauses (a), (b), (c), (d) and (e) of section 5 may be appointed by the Local Government.

Suspension and removal of Civil Judges.

34. (1) The presiding officer of a Court of a grade specified in any clause of section 5 may be suspended or removed by the Governor General in Council.

(2) The presiding officer of any such Court, except the Court of the Judicial Commissioner, may be suspended or removed by the Local Government.

Appointment of ministerial officers of Civil Courts.

35. (1) The ministerial officers of Courts of the grades specified in clauses (a) and (b) of section 5 shall

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Section 36. Chapter IV.—The Court of the Recorder.—Section 37.)

shall be appointed by the Deputy Commissioner to whose Court those Courts are subordinate.

(2) The ministerial officers of Courts of other grades specified in section 5 shall be appointed by the presiding officers of those Courts.

(3) The foregoing sub-sections are subject to the proviso that the appointment of a ministerial officer to an office in a Court of a grade specified in clause (a), (b), (c), (d) or (e) of section 5 shall, if the monthly salary attached to the office exceeds fifty rupees, be subject to the sanction of the Judicial Commissioner.

36. (1) A Court of a grade specified in clause (a) or (b) of section 5 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 or remove such officers.

(2) The Deputy Commissioner may on appeal or otherwise remit or reduce any fine imposed under sub-section (1), and may himself dismiss or suspend, or fine up to the amount of one month's salary, any ministerial officer of his own Court or of any Court subordinate to his Court.

(3) A Court of a grade specified in clause (d), (e) or (f) of section 5 may dismiss or suspend any of its ministerial officers or fine any such officer in an amount not exceeding one month's salary.

CHAPTER IV.

THE COURT OF THE RECORDER.

The Recorder.

37. (1) There shall continue to be a Court to be called the Court of the Recorder of Rangoon.

Court of Recorder of Rangoon.

(2) The

(Chapter IV.—The Court of the Recorder.—Sections 38-39.)

(2) 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.

(3) He shall ordinarily hold his Court at Rangoon, but the Local Government may direct him on any particular occasion to hold his Court at any other place in Lower Burma for the trial of any civil case transferred to him, or at any other place in Lower Burma or Upper Burma for the trial of any criminal case in which a European British subject is concerned.

(4) A direction given by the Local Government under sub-section (3) with respect to any criminal case shall take effect notwithstanding anything in section 336 of the Code of Criminal Procedure, 1882. X of 188

(5) The Recorder shall use a seal of such form and dimensions as the Local Government prescribes.

Civil Jurisdiction.

38. The Local Government may, with the previous sanction of the Governor General in Council, vary the local limits of the ordinary civil jurisdiction of the Recorder.

39. (1) Subject to the provisions of this Act and of the Provincial Small Cause Courts Act, 1887, and IX of 18
any other enactment for the time being in force, the Recorder shall have the powers of a District Judge within the local limits of his ordinary civil jurisdiction, and may adjudicate upon any suit, without restriction as regards the value, if, in the case of immoveable property, the subject-matter of the suit or any part thereof is situate, or if, in any other case, 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

Variation of local limits of ordinary civil jurisdiction of Recorder.

Civil jurisdiction of Recorder.

(Chapter IV.—The Court of the Recorder.—Sections 40-41.)

servant or agent carries on business or works for gain, within those limits.

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

40. Save as otherwise provided by any enactment for the time being in force, an appeal shall lie to the High Court from an original decree or order passed by the Recorder in any suit or other civil proceeding of which the amount or value of the subject-matter is less than ten thousand rupees.

Appeal from original decrees and orders of Recorder.

41. (1) The Recorder may, if he thinks fit, grant a new trial in any suit or other civil proceeding disposed of by him, if in a suit relating to immoveable property the new trial is applied for within ninety days from the date of the decree, and if in any other case it is applied for within thirty days from the date of the decree or order :

New trial and review by Recorder.

Provided that nothing in this section shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review is applied for within the period allowed for making the application :

XIV of 1882.

Provided also that the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying therefor to give sufficient security for due compliance with the terms of the decree or order to which the application relates, or for payment of the costs of the new trial or review, or for both purposes.

(2) Where a person has become liable as surety under the second proviso to sub-section (1), the security may be realised in manner provided by section 253 of the Code of Civil Procedure.

42. (1) If

(Chapter IV.—The Court of the Recorder.—Sections 42-43.)

Reference of cases by Recorder to High Court and procedure thereon.

42. (1) If in any case before the Recorder any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case arises on which the Recorder entertains any doubt, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(2) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Recorder a copy of its judgment under the signature of its Registrar, and the Recorder shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) Where the Recorder makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.

XIV of 1

(5) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Procedure where Recorder is personally interested in a case.

43. (1) When any suit or other civil proceeding comes before the Recorder to which he is a party or in which he is personally interested, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Local Government, with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Judicial Commissioner.

(2) In

(Chapter IV.—The Court of the Recorder.—Sections 44-46.)

(2) In the disposal of a case so transferred the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in a like case, and the decree or order made in the case by the Judicial Commissioner shall, for the purposes of the law relating to appeal, be deemed to be made by the Recorder.

44. The Court of the Recorder shall—

(a) for the purposes of the Suits Valuation Act, 1887, and

(b) in respect of the Court of Small Causes of Rangoon,

be deemed to be a High Court.

Recorder as High Court for certain purposes.

VII of 1887.

Criminal Jurisdiction.

45. The area for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder shall be a sessions division, the Court of the Recorder shall be the Court of Sessions for the sessions division, and the Recorder shall be the Judge of the Court of Session.

Recorder as Court of Session for Rangoon.

46. (1) The Recorder shall be the High Court for the whole of Burma (inclusive of Upper Burma and the Shan States) in reference to proceedings against European British subjects and persons jointly charged with European British subjects.

Recorder as High Court for Burma in reference to proceedings against European British subjects.

(2) When the Recorder, as the High Court for Burma under sub-section (1) in reference to such proceedings, passes sentence of death, the proceedings shall be submitted to the High Court of Judicature at Fort William in Bengal, and the sentence shall not be executed unless it is confirmed by that High Court.

(3) When proceedings are submitted to the High Court under sub-section (2), that Court shall, as a High Court, deal therewith, under the provisions,

mutatis

(Chapter IV.—The Court of the Recorder.—Sections 47-49.)

mutatis mutandis, of Chapter XXVII of the Code of Criminal Procedure, 1882, as if they had been submitted by a Court of Session and the Recorder were the Sessions Judge. X of 188

(4) If in any case before the Recorder as a High Court under this section any such question arises as is referred to in section 42, and the Government Advocate certifies that in his opinion there is an error in the decision of the question, the Recorder shall make a reference to the High Court in the manner required by that section, and shall, on receipt of the copy of the judgment of the High Court, review the case or such part of it as may be necessary, and may thereupon reduce or remit any sentence which he has passed.

Effect of the last foregoing section with respect to Shan States.

47. So far as the last foregoing section relates to the Shan States, it shall come into force therein at once notwithstanding anything in section 8, sub-section (2), of the Upper Burma Laws Act, 1886, or in section 3, sub-section (1), of the Shan States Act, 1888. XX of 1
XV of 1

Recorder as High Court for certain purposes.

48. The Court of the Recorder shall—

(a) for the purposes of section 527 of the Code of Criminal Procedure, 1882, and X of 188

(b) in respect of the Magistrates within the local limits of its ordinary civil jurisdiction and the proceedings of such Magistrates,

be deemed to be a High Court.

Admiralty Jurisdiction.

Admiralty jurisdiction of Recorder.

49. (1) Throughout Lower 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

(Chapter IV.—The Court of the Recorder.—Section 50.)

tions as may now be exercised by the said High Court.

(2) 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 cases to which the rules contained in that Code are not applicable, the procedure shall be in accordance with the rules for the time being applicable to like cases in the High Court.

(3) 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.

Insolvency Jurisdiction.

50. (1) Within the local limits of the ordinary civil jurisdiction of the Recorder, and of the jurisdiction of the Court of the Judge of the Town of Maulmain, 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.

Insolvency
jurisdiction
of Recorder.

(2) 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 Statute 11 and 12 Victoria, chapter 21, as amended by any enactment for the time being in force.

(3) The Recorder shall, with the previous sanction of the Local Government, appoint a person to be official assignee in all insolvencies prosecuted in the Court of the Recorder, and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis*, and subject to the other provisions of this section, apply to the assignee so appointed.

(4) Every

(Chapter IV.—The Court of the Recorder.—Section 51.)

(4) 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.

(5) Any person considering himself aggrieved by any adjudication, order or proceeding of the Recorder under this section may, within thirty days from the date thereof, present a petition to the Special Court, and that 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.

(6) The Recorder may from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given.

(7) 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.

Power to
vest in Judge
of Town of
Maulmain
the insol-
vency juris-
diction vested
in Recorder
in that Town.

51. (1) The Local Government may, by order notified in the Burma Gazette, direct that, from a date to be therein specified, the jurisdiction vested by the last foregoing section in the Recorder within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be vested in the Judge of that Town.

(2) While any such order is in force, the last foregoing section shall, within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain, have effect as if it referred to the Judge of that Town instead of to the Recorder, and all cases
pending

(Chapter IV.—The Court of the Recorder.—Sections 52-54.)

pending at the date of the order shall be disposed of accordingly :

Provided that the Recorder may withdraw from the Court of the Judge and dispose of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(3) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the cancelling order.

XIV of 1882.

52. Nothing in Chapter XX of the Code of Civil Procedure shall apply to any Court having jurisdiction within the local limits of the ordinary civil jurisdiction of the Recorder or of the civil jurisdiction of the Court of the Judge of the Town of Maulmain.

Inapplicability of Chapter XX, Act XIV, 1882, to Rangoon and Maulmain.

XVII of 1875.
XIV of 1885.

53. The provisions of section 66 of the Burma Courts Act, 1875, and section 2 of the Burma Courts Act, 1885, shall continue to apply, as if this Act had not been passed, to any proceedings pending immediately before the commencement of this Act in the Courts of the Recorder and the Deputy Commissioner of Akyab as Courts for the Relief of Insolvent Debtors within the towns of Bassein and Akyab under those sections.

Temporary continuance of insolvency jurisdiction of Recorder at Bassein and Deputy Commissioner at Akyab.

Registers and Returns.

54. (1) The Recorder shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Local Government such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Local Government.

Books and accounts, and statements and returns, to be kept and furnished by Recorder.

(2) The Recorder shall also comply, in such form and manner as the Local Government may deem proper, with such requisitions as may be made by the

Local

(Chapter IV.—The Court of the Recorder.—Sections 55-57.)

Local Government for records of, or papers belonging to, the Court of the Recorder or any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

Ministerial Officers.

Appointment and removal of ministerial officers.

55. The ministerial officers of the Court of the Recorder, including the Registrar of the Court, shall be appointed, and may be dismissed or suspended, or fined in an amount not exceeding one month's salary, by the Recorder, but the suspension or dismissal of any such officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

Discharge of non-judicial functions by Registrar.

56. (1) Any non-judicial or quasi-judicial act which is required by the Code of Civil Procedure to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code, may in the Court of the Recorder be done by the Registrar of the Court or by such other officer of the Court as the Recorder may direct.

XIV of 1882

(2) The Recorder may from time to time, by rule made with the previous sanction of the Local Government, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of subsection (1).

Exceptional Provisions.

Discharge of functions of Recorder in case of vacancy in his office.

57. Upon the occurrence of any vacancy in the office of Recorder and during any absence of the Recorder, the Local Government may direct the Judicial Commissioner or any Commissioner to discharge the functions of the Recorder, and the Judicial Commissioner or the Commissioner so directed shall

thereupon

(Chapter IV.—The Court of the Recorder.—Sections 58-60.)

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 performance of the duties of such office, or until the Recorder resumes his duties.

58. (1) The Local Government may direct the transfer to the Court of the Recorder of any civil case which may be pending in the Court of the Judicial Commissioner or in any Court subordinate to the Court of the Judicial Commissioner.

Transfer of civil cases from other Courts in Lower Burma to Court of Recorder.

(2) Subject to the other provisions of this Act, every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in the case and it had been instituted in his Court.

59. (1) The Local Government may transfer to the Court of the Judicial Commissioner any particular case or class of cases which may be pending in the Court of the Recorder.

Transfer of cases from Court of Recorder to Court of Judicial Commissioner.

(2) In the disposal of any such case the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in such a case.

(3) All decrees, orders and sentences made or passed by the Judicial Commissioner in cases transferred to him under this section shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

60. (1) The Governor General in Council may, by notification in the Gazette of India, appoint, to be an Additional Recorder and to sit as such in the Court of the Recorder, such person as he thinks fit being a

Appointment of Additional Recorder.

barrister

(Chapter IV.—The Court of the Recorder.—Section 61. Chapter V.—The Special Court.—Section 62.)

barrister of not less than five years' standing, or a person who has for at least three years served as a District Judge or exercised the like powers as those of a District Judge.

(2) A person so appointed shall hold his office during the pleasure of the Governor General in Council.

Disposal of
business by
Additional
Recorder.

61. (1) An Additional Recorder appointed under the last foregoing section shall sit at such of the places at which the Recorder's Court can be held as the Local Government directs, and shall dispose of such cases pending in the Recorder's Court as the Local Government or, subject to the control of that Government, the Recorder may from time to time direct, and in the disposal of such cases shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases.

(2) All decrees, orders and sentences made or passed in such cases by an Additional Recorder shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

(3) The Local Government may cancel any direction under sub-section (1) requiring the Additional Recorder to dispose of a case.

CHAPTER V.

THE SPECIAL COURT.

Constitution
of Special
Court.

62. (1) The Special Court shall ordinarily be constituted by the Judicial Commissioner and the Recorder sitting together.

(2) But

(Chapter V.—The Special Court.—Sections 63-65.)

(2) But the Local Government may direct that for the hearing of any particular case or class of cases the Special Court shall be constituted by the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together, and the Local Government may cancel any such direction.

(3) As members of the Special Court, the Judicial Commissioner and the Recorder shall have precedence over the Judge of the Town of Maulmain, and shall, as between themselves, have precedence according to priority of appointment.

(4) For the purposes of the last foregoing sub-section a Judicial Commissioner or Recorder substantively appointed shall be deemed to have precedence, by reason of priority of appointment, over an officiating Recorder or Judicial Commissioner, as the case may be.

63. (1) The Special Court shall ordinarily be held at Rangoon, but the Local Government may direct it to be held at any other place in Lower Burma.

Sittings, seal and officers of Special Court.

(2) The Special Court shall use a seal of such form and dimensions as the Local Government prescribes.

(3) The Judicial Commissioner and the Recorder may appoint, suspend or dismiss the ministerial officers of the Special Court:

Provided that the suspension or dismissal of any officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

64. Appeals from decrees and orders passed by the Judge of the Town of Maulmain in suits and other civil proceedings shall, where such appeals are allowed by law, be heard and determined by the Special Court.

Appeals to Special Court from Judge of Maulmain.

65. The Local Government may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or

Trial of cases before Special Court by order of Local Government.

in

(Chapter V.—The Special Court.—Sections 66-69.)

in the Court of the Recorder shall be transferred to and tried before the Special Court.

Special Court as High Court in certain criminal matters.

66. With reference to trials held by the Judicial Commissioner in the exercise of the original criminal jurisdiction of a Court of Session under section 31 of this Act or of a High Court under section 526 of the Code of Criminal Procedure, 1882, or by the Recorder in exercise of the original jurisdiction of a Court of Session, and to sentences passed on such trials, the Special Court shall, for the purposes of the said Code, be deemed to be a High Court.

X of 1882.

Sittings of Special Court at request of Judicial Commissioner or Recorder.

67. 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, the Court wishes to obtain the opinion of the Special Court on any question of fact or law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, or to obtain the assistance of the Special Court for the determination of the case pending before it, such Court shall record a memorandum to that effect, and the Special Court shall, as soon as may be convenient, sit for the disposal of the question or for the determination of the pending case.

Decree of Special Court to be deemed decree of other Court in certain cases.

68. Any decree, order or sentence passed by the Special Court in a case tried under section 65, or on a memorandum recorded under section 67, shall issue as, and be deemed to be, a decree, order or sentence of the Court from which the case was referred to the Special Court.

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

69. (1) Whenever, in cases before the Judicial Commissioner and the Recorder sitting together as the Special Court, a difference of opinion arises, the following rules shall be observed:—

- (a) In cases coming before the Special Court under section 67, the opinion of the Court which sought the opinion of the Special Court shall prevail unless the difference of opinion

(Chapter V.—The Special Court.—Section 69.)

opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and both members of the Special Court concur in stating the question and forwarding such statement, with their respective opinions on the question, to the High Court.

- (b) In cases coming before the Special Court by way of appeal, and not being criminal cases or cases provided for by clause (a) of this sub-section, if both members of the Special Court do not concur in a judgment varying the decree or order appealed from, such decree or order shall be upheld :

Provided that, if the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and either member of the Special Court is of opinion that the question should be referred to the High Court, both members shall state the question and forward such statement, with their respective opinions on the question, to the High Court.

- (c) In criminal cases and in cases not coming before the Special Court by way of appeal and not being cases provided for by clause (a) of this sub-section, both members of the Special Court shall state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

(2) Whenever, in cases before the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together as the Special Court, a difference of opinion arises, the decision shall be in accordance with the opinion of the majority of the members of the Court.

(Chapter V.—The Special Court.—Sections 70-72.)

Procedure of High Court on reference under the last foregoing section.

70. (1) On receiving a statement forwarded in any case under the last foregoing section, the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Special Court a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner and the Recorder sitting together as the Special Court shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(2) Until the case is so disposed of, it shall be deemed to be pending in the Special Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case.

Special Court to be deemed a High Court for the purposes of Acts VII of 1870 and XV of 1877.

71. (1) For the purposes of the Court-fees Act, VII of 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.

(2) For the purposes of the Indian Limitation Act, 1877, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Criminal Procedure, 1882, or under the Code of Civil Procedure, as the case may be.

Substitution of Additional Recorder or Judge of Town of Maulmain for purposes of this Chapter.

72. If at any time there is an Additional Recorder appointed under section 60, the foregoing provisions of this Chapter with respect to the Judge of the Town of Maulmain shall, while the Additional Recorder holds office, be construed as referring to the Additional Recorder and not to the Judge of the Town of Maulmain.

(Chapter VI.—Advocates.—Sections 73-75.)

CHAPTER VI.

ADVOCATES.

In the Court of the Recorder and the Courts subordinate thereto.

73. (1) Subject to the other provisions of this Chapter, no person shall be permitted to appear, plead or act as an advocate in the Court of the Recorder, or in any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or in the Court of the Judicial Commissioner when the Judicial Commissioner is disposing of a case transferred to him under section 43 or section 59, unless such person has been licensed thereto by the Recorder, either generally or specially.

Licensing of advocates by Recorder.

(2) The Recorder may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts.

74. (1) The Recorder may, for any sufficient reason, by order suspend or withdraw any license granted by him under the last foregoing section.

Suspension or withdrawal of license by Recorder.

(2) Any person aggrieved by an order of the Recorder under sub-section (1) may appeal to the High Court, and, for the purposes of the Indian Limitation Act, 1877, his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

XV of 1877.

XIV of 1882.

In the Court of the Judicial Commissioner and the Courts subordinate thereto.

75. (1) Subject to the other provisions of this Chapter, no person shall be permitted to appear, plead or act as an advocate in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, or in the Court of the

Licensing of advocates by Judicial Commissioner.

Recorder

(Chapter VI.—Advocates.—Sections 76-77.)

Recorder when the Recorder is disposing of a case transferred to his Court under section 15 or section 58, unless such person has been licensed thereto by the Judicial Commissioner, either generally or specially.

(2) The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts, and for the suspension or dismissal of any such advocates who are guilty of fraudulent or grossly improper conduct.

Provisos.

Provisos to
the two last
foregoing
sections.

76. The two last foregoing sections and any rules thereunder shall be subject to the following provisos, namely:—

- (a) any person having general or special authority from the Local Government may, without any license from the Recorder or the Judicial Commissioner, appear, plead or act for the Secretary of State for India in Council;
- (b) a party may, without any such license, appear, plead or act on behalf of himself or a co-party;
- (c) a person who for the time being is an advocate, vakil or attorney-at-law of any of the High Courts of Judicature in India may, without any such license, appear, plead or act as an advocate; and
- (d) nothing in the sections or the rules shall be deemed to affect section 340 of the Code of Criminal Procedure, 1882.

X of 1882

In the Special Court.

Advocates in
Special Court.

77. Any person for the time being authorised by or under the foregoing provisions of this Chapter to appear

(Chapter VI.—Advocates.—Sections 78-81.)

appear, plead or act in the Court of the Recorder or in the Court of the Judicial Commissioner may also appear, plead or act, as the case may be, in the Special Court.

Discipline and Fees.

78. Any person appearing, pleading or acting in any Court in contravention of the foregoing provisions of this Chapter or the rules thereunder shall be liable, by order of the Court, to a fine which may extend to five hundred rupees.

Penalty for acting as an Advocate without authority.

79. 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 Judge or such officer as he appoints in this behalf.

Taxation of fees of advocates.

80. (1) The Judicial Commissioner may from time to time make rules regulating the fees payable to advocates in his own Court and in Courts subordinate to him; and

Rules as to fees of advocates.

(2) The Recorder may from time to time make rules regulating the fees payable to advocates in his own Court and in the Court of Small Causes of Rangoon; and

(3) The Judicial Commissioner and the Recorder may from time to time make rules regulating the fees payable to advocates in the Special Court.

Touting.

81. (1) Whoever commits any of the following offences:—

Penalty for receiving or giving commission.

(a) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured his employment in any legal business;

(b) retains any gratification out of remuneration paid or delivered or agreed to be paid or delivered

(Chapter VII.—Supplemental Provisions.—Section 82.)

delivered to any legal practitioner for such employment ;

- (c) being a legal practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other legal practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) The expression "legal practitioner" in sub-section (1) means any person licensed as an advocate under section 73 or section 75 or appearing, pleading or acting as an advocate under section 76, clause (c), without a license.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Court of Small Causes of Rangoon.

Court of
Small Causes
of Rangoon.

82. (1) The Governor General in Council shall be deemed to have had authority, under section 15 of Act XI of 1865, from time to time to invest any person for an unlimited time with the powers of a Judge of the Court of Small Causes of Rangoon.

(2) The persons who have since the thirtieth day of June, 1887, held, or are at the commencement of this Act or may be thereafter holding, office by the names of First Judge and Second Judge of the Court of Small Causes of Rangoon shall be deemed to have been appointed to the offices of Judge and Additional Judge, respectively, under section 6, sub-section (1), and section 8, sub-section (1), of the Provincial Small Cause Courts Act, 1887.

IX of 1887

(3) Notwithstanding anything in section 8, sub-section (2), of that Act, the Local Government may make

(Chapter VII.—Supplemental Provisions.—Section 83.)

make rules restricting, in such manner as it thinks fit, the functions which the Judge of the Court of Small Causes of Rangoon may assign to the Additional Judge of that Court, and any rules or instructions made or issued before the commencement of this Act for defining the respective functions of the Judges of that Court shall be deemed to have been lawfully made or issued, and shall, until they are varied by the Local Government, be deemed after the commencement of this Act to be rules under this sub-section.

XIV of 1852.

(4) Notwithstanding anything in the Code of Civil Procedure, all or any proceedings, written or oral, before the Additional Judge of the Court of Small Causes of Rangoon shall be in such language as the Local Government may prescribe.

IX of 1887.

83. (1) The Local Government may, by order notified in the Burma Gazette, direct that such suits of a civil nature as are not excepted from the cognizance of a Court of Small Causes by section 15, sub-section (1), of the Provincial Small Cause Courts Act, 1887, and are of value exceeding one thousand and not exceeding two thousand rupees, shall be cognizable by the Judge of the Court of Small Causes of Rangoon as if they were suits cognizable by him under the said Act, and thereupon so much of that Act as relates to—

Enhancement of powers of Judge of Court of Small Causes of Rangoon.

- (a) the exclusion of the jurisdiction of any other Court in such suits,
- (b) the practice and procedure of Courts of Small Causes,
- (c) appeal from certain orders of those Courts and revision of cases decided by them, and
- (d) the finality of their decrees and orders subject to such appeal and revision as are provided by the said Act,

shall apply to such suits and to the trial thereof and the decrees and orders therein.

(2) The

(Chapter VII.—Supplemental Provisions.—Sections 84-86.)

(2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the cancelling order.

Court-fees on applications to Recorder for exercise of revisional jurisdiction over Court of Small Causes of Rangoon.

84. In the first schedule to the Court-fees Act, VII of 1870, 1870, after No. 13, the following shall be inserted, namely:—

Number.		Proper fee.	
"14. Application to the Court of the Recorder of Rangoon for the exercise of the revisional jurisdiction of a High Court over the Court of Small Causes of Rangoon under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.	Two rupees.	
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal."	XIV of 1882 IX of 1887.

Refund of fees paid on applications to Recorder for revision.

85. If the Recorder, on an application under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887, on which a fee has been paid under the Court-fees Act, 1870, as amended by the last foregoing section, sets aside or modifies the decree or order of the Court of Small Causes, or remands the case for a fresh decision, he may grant to the applicant a certificate authorising him to receive back from the Collector the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, he may think proper to order to be refunded.

Court of the Judge of the Town of Maulmain.

Conferment of subsidiary jurisdiction in small

86. (1) The Local Government may, by notification in the Burma Gazette, confer, within the local limits

(Chapter VII.—Supplemental Provisions.—Sections 87-88.)

limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain,—

causes in Maulmain.

(a) upon any Extra Assistant Commissioner or Assistant Commissioner at Maulmain the jurisdiction of an Additional Judge of a Court of Small Causes, and

(b) upon the chief ministerial officer of the Court of the Judge of the Town of Maulmain all or any of the powers conferred or conferable by or under the Provincial Small Cause Courts Act, 1887, upon the Registrar of a Court of Small Causes.

IX of 1887.

(2) For purposes connected with the exercise of jurisdiction and powers so conferred, the provisions of the Provincial Small Cause Courts Act, 1887, shall, so far as they can be made applicable, apply as if the Court of the Judge of the Town of Maulmain were a Court of Small Causes, and the Judge of that Town and the Extra Assistant Commissioner or Assistant Commissioner were respectively the Judge and the Additional Judge of the Court, and the chief ministerial officer were the Registrar thereof.

(3) The Local Government may withdraw any jurisdiction or powers conferred under this section.

XIII of 1874. 87. The Judge of the Town of Maulmain shall, for the purposes of the European British Minors Act, 1874, sections 2 and 8, be deemed to be a Deputy Commissioner :

Jurisdiction of the Court under Act XIII of 1874.

Provided that appeals from his orders under that Act shall lie to the Special Court.

Powers, Holidays and other Matters.

88. (1) The Local Government shall have a power of general control over all appointments and punishments of ministerial officers of Courts under this Act.

Powers with respect to ministerial officers of Courts.

(2) Any fine imposed on a ministerial officer of such a Court may, unless the order imposing it otherwise

(Chapter VII.—Supplemental Provisions.—Sections 89-91.)

wise directs, be recovered by deduction from such officer's salary.

Power of Local Government to make rules as to processes serving establishments.

89. The Local Government may, with the previous sanction of the Governor General in Council, make rules with respect to the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and authorities, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870, or under this Act.

VII of 1870

Mode of appointment and conferring powers.

90. The Local Government may, when it is empowered by this Act to make any appointment or confer any powers, appoint, or confer the powers on, any person either specially by name or generally by virtue of his office.

Powers to make rules as to fees and other matters in Courts of Judicial Commissioner and Recorder and in Special Court.

91. (1) The Judicial Commissioner, so far as regards his own Court and the Courts subordinate thereto, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to the fees to be charged in respect of any of the following matters, namely:—

- (a) the making of copies and translations;
- (b) the inspection of records, books and registers; and
- (c) any other matter in respect of which fees are for the time being chargeable under the authority of the High Court in any part of the Bengal Division of the Presidency of Fort William.

(2) The Recorder may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules,—

- (a) so far as regards his own Court and any Court with respect to which the Court of the Recorder is under section 44 or section 48 to

be

(Chapter VII.—Supplemental Provisions.—Section 92.)

be deemed to be a High Court, as to any of the following matters, namely :—

- (i) the regulation of practice and procedure;
- (ii) the service and execution of processes, and the fees to be charged therefor;
- (iii) subject to the provisions of section 554 of the Code of Criminal Procedure, 1882, and section 644 of the Code of Civil Procedure, the forms to be used for any proceedings; and
- (iv) any matter specified or referred to in clause (a), clause (b) or clause (c) of sub-section (1); and

(b) so far as regards his own Court and the Court of the Judge of the Town of Maulmain, as Courts for the Relief of Insolvent Debtors under this Act, as to the remuneration to be allowed to the official assignees and to the other officers of those Courts.

(3) The Judicial Commissioner and the Recorder, so far as regards the Special Court, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to any of the following matters, namely :—

- (a) the regulation of the times and places for the sitting of the Court;
- (b) the distribution of business among the Judges thereof; and
- (c) any matters specified or referred to in clause (a) of sub-section (2).

92. (1) The Judicial Commissioner and the Recorder for their respective Courts, and the Judicial Commissioner and the Recorder for the Special Court, may also make rules to provide for—

- (a) the recording of judgments, orders and sentences;

(b) the

Power to make rules as to judgments, evidence and affidavits in Courts of Judicial Commissioner and

(Chapter VII.—Supplemental Provisions.—Sections 93-95.)

Recorder and
in Special
Court.(b) the taking down of the evidence of witnesses;
and(c) the admission of affidavits as evidence of the
matters to which such affidavits relate: and

(2) The Local Government, 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 Criminal Procedure, 1882, and the Code of Civil 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.

X of 1882.
XIV of 188Differences
of opinion
between
Judicial
Commis-
sioner and
Recorder as
administra-
tive repre-
sentatives of
Special
Court.

93. If the Judicial Commissioner and the Recorder differ in opinion as to the appointment, suspension or dismissal of a ministerial officer of the Special Court under section 63, sub-section (3), or as to any rule for the Special Court under section 91, sub-section (3), or section 92, the difference shall be referred to the Local Government, and the order of that Government thereon shall be final.

Holidays.

94. (1) The Judicial Commissioner and the Recorder, respectively, with the approval of the Local Government, shall publish in the Burma Gazette, before the commencement of each calendar year, a list of days to be observed in that year as holidays in their own Courts and the Courts respectively subject to their authority.

(2) A judicial act done by a Court on a day specified in the list as a day to be observed by the Court as a holiday shall not be invalid by reason only of its having been done on that day.

Continuance
of proceed-
ings of abo-
lished Courts.

95. (1) Where a Court has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case which, if that Court had not ceased to have jurisdiction, might have been had therein

(Chapter VII.—Supplemental Provisions.—Sections 96-98.)

therein may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure or in any other enactment for the time being in force.

96. No rule made under this Act shall take effect until it has been published in the Burma Gazette.

Publication of rules in Burma Gazette.

Laws.

97. In the enactments mentioned in the second schedule, for the words specified in the third column of that schedule, there shall be substituted the words specified in the fourth column thereof.

Modification of certain enactments.

98. (1) For the last paragraph of section 7 of the Prisoners' Testimony Act, 1869, the following shall be substituted, namely:—

Amendment of sections 7 and 8, Act XV of 1869.

“For the purposes of this Act, every jail in Lower 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 section 3 or 4, and may also issue commissions under Part III of this Act, in any jail in Lower Burma.”

(2) For the second paragraph of section 8 of the same Act the following shall be substituted, namely:—

“To obtain the removal of a person confined in a jail situate beyond the limits of Lower Burma for the purpose of giving evidence in any criminal matter in any Court within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, the Recorder shall have the power conferred on a Judge of a High Court by the former part of this section, and the other provisions of such part shall, *mutatis mutandis*, apply.”

99. (1) Act

XIV of 1882.

XV of 1869.

(Chapter VII.—Supplemental Provisions.—Sections 99-101.)

Saving of Act XL of 1858 and Bengal Regulations V of 1799 and III of 1818.

99. (1) Act XL of 1858 is hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout Lower Burma.

(2) The unrepealed portions of Regulation V of 1799, section 7, and Regulation III of 1818, of the Bengal Code, shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma, and the former of those enactments shall have effect, and, so far as may be necessary to validate anything heretofore done thereunder by the Local Government, shall be deemed to have had effect, as if the Local Government were therein referred to instead of the Governor General in Council.

Certain references to Act VII of 1874 to be read as references to Act XVII of 1884.

100. The references in section 1 of the Burma District Cesses and Rural Police Act, 1880, and section 2 of the Rangoon Tramways Act, 1883, to the British Burma Municipal Act, 1874, and in section 1 of the Rangoon Port Commissioners Act, 1879, to the Chief Commissioner of British Burma under the British Burma Municipal Act, 1874, section 28, shall be deemed to be, and on and from the third day of January, 1885, to have been, references to the Burma Municipal Act, 1884, and to the Local Government under the Burma Municipal Act, 1884, section 60, clause (c), respectively.

II of 1880
XXII of 1883.
VII of 1884
XV of 1884

XVII of 1884.

Conferment of magisterial and other powers upon police-officers in Salween and Arakan Hill Districts.

101. In the tracts of country respectively known as the Salween District and the Hill District of Arakan section 20 of Act V of 1861 shall not apply to any police-officer appointed under section 4 of that Act, and notwithstanding anything in the Code of Criminal Procedure, 1882, the Local Government shall be deemed to have, and always to have had, power to confer on any such police-officer in either of those tracts all or any of the powers conferred or conferable by or under that Code on any Magistrate in regard to particular cases or to a particular class or particular classes of cases or to cases generally.

X of 1882

102. To

(Chapter VII.—Supplemental Provisions.—Sections 102-103. The First Schedule.—Enactments repealed.)

IX of 1874.

102. To the first division (*Acts*) of the schedule to the Arakan Hill District Laws Regulation, 1874, the enactments specified in the third schedule shall be added.

Correction of schedule to Regulation IX of 1874.

103. Save as expressly provided by this Act nothing therein shall be construed to affect any Regulation in force at the commencement of this Act in the Hill District of Arakan under the Statute 33 Victoria, chapter 3, section 1.

Saving of Regulations in force in the Hill District of Arakan.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title.	Extent of repeal.
1	2	3
<i>Acts of the Governor General in Council.</i>		
XVI of 1872	Burma Spirit Duty Act, 1872.	The whole, in so far as it may not already have been repealed.
VII of 1874	British Burma Municipal Act, 1874.	The whole.
XVII of 1875	Burma Courts Act, 1875.	So much as has not been repealed.
XIII of 1877	Burma Embankment Act, 1877.	The portion of section 8 beginning with the words "and nothing" and ending with the words "of this Act."
XI of 1880	Burma Courts Act, 1880.	The whole.
X of 1884	Burma Courts Act, 1884.	The whole.
XIV of 1885	Burma Courts Act, 1885.	The whole.
XVI of 1886	Lower Burma Gaols Delivery Act, 1886.	The whole.
XX of 1886	Upper Burma Laws Act, 1886.	So much of the second schedule as relates to Bengal Regulation XI of 1812 (<i>Removal of Foreign Emigrants</i>) and to Acts XV of 1859 (<i>Inventions</i>), XXVII of 1860 (<i>Collection of Debts on Successions</i>), XIII of 1872 (<i>Patterns and Designs</i>) and XI of 1865 (<i>Mufussal Small Cause Courts</i>).

Regulations

(The First Schedule.—Enactments repealed. The Second Schedule.—Enactments modified.)

THE FIRST SCHEDULE—continued.

Number and year.	Title.	Extent of repeal.
1	2	3
<i>Regulations under the Statute 33 Victoria, chapter 3, section 1.</i>		
IX of 1874	Arakan Hill District Laws Regulation, 1874.	The first and second paragraphs of section 4, the whole of sections 6 to 9 (both inclusive) and so much of the schedule as relates to Acts III of 1846 (<i>Boundary-marks</i>), XXXIII of 1852 (<i>Enforcement of Judgments</i>), XV of 1859 (<i>Patents</i>), VIII of 1860 (<i>Electric Telegraphs</i>), XXVII of 1860 (<i>Collection of Debts on Successions</i>), III of 1871 (<i>Paper Currency</i>), IX of 1871 (<i>Limitation</i>), XI of 1872 (<i>Foreign Jurisdiction and Extradition</i>), and VII of 1874 (<i>British Burma Municipal Act</i>).
VII of 1886	Upper Burma Criminal Justice Regulation, 1886.	Section 1, sub-section (2), of the schedule.

THE SECOND SCHEDULE.

ENACTMENTS MODIFIED.

(See section 97.)

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
<i>Acts of the Governor General in Council.</i>			
IV of 1869	Indian Divorce Act.	In section 3, clause (1), the words "in British Burma—the High Court of Judicature at Fort William in Bengal." In section 3, clause (2), the words— "in the Non-Regulation Provinces, other than British Burma and Sindh—a Commissioner of a division; in Pegu—the Recorder at Rangoon; in Arakan—the Recorder at Rangoon until a Recorder's Court is established at Akyab and thenceforward the Recorder at Akyab;	The words— "in Burma—the Special Court constituted under the Lower Burma Courts Act, 1889;" The words— "in the Non-Regulation Provinces, other than Sindh and the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon and of the civil jurisdiction of the Court of the Judge of the Town of Maulmain—a Commissioner of a division; in Sindh—the Judicial

(The Second Schedule.—Enactments modified. The Third Schedule.—Enactments to be added to Schedule to Regulation IX of 1874.)

THE SECOND SCHEDULE—continued.

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4

Acts of the Governor General in Council—continued.

		in the Tenasserim Provinces—the Recorder at Maulmain; in Sindh—the Judicial Commissioner in that Province.”	Commissioner of that Province; in the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Maulmain, respectively;”.
X of 1882	Code of Criminal Procedure, 1882.	In section 4, clause (j), the words “the Senior Judge of a Chief Court:”.	The words “the Senior Judge of the Chief Court of the Punjab and the Recorder of Rangoon;”.
		In section 266, the words “the Chief Court of the Punjab,”.	The words “the Chief Court of the Punjab, the Court of the Recorder of Rangoon,”.

Regulations under the Statute 33 Victoria, chapter 3, section 1.

IX of 1874	Arakan Hill District Laws Regulation, 1874.	In section 5, the words from and inclusive of “Act No. XXXI of 1860” down to and inclusive of the word “but”.	The words “Notwithstanding anything in the Indian Arms Act, 1878, or in any rule under that Act,”.
VII of 1886	Upper Burma Criminal Justice Regulation, 1886.	In the schedule, section 1, sub-section (1), the words— “(i) in reference to proceedings against European British subjects, the Recorder of Rangoon; and (ii) in reference to proceedings against other persons”.	The words “except in reference to proceedings against European British subjects or persons jointly charged with European British subjects—”.

THE THIRD SCHEDULE.

ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.

(See section 102.)

Number and year.	Subject.	Extent of application.	Modifications.
*	*	*	*
XIII of 1874	European British Minors.	The whole Act.	
XIV of 1874	Scheduled Districts	The whole Act, except section 10.	
XV of 1874	Laws Local Extent	The whole Act, except sections 4, 5, 6 and 7.	
V of 1875	Unattested Sepoys	The whole Act.	
VII of 1875	Burma Fisheries	The whole Act.	
IX of 1875	Majority	The whole Act.	