

THE LOWER BURMA COURTS ACT, 1900
(VI OF 1900).

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Saving of Regulations in force in Hill District of Arakan,

CHAPTER II.

THE CHIEF COURT.

4. Establishment of Chief Court.
5. Constitution of Chief Court.
6. Appointment of Chief Judge.
7. Rank and precedence of Chief Judge and Judges of Chief Court.
8. Civil and criminal jurisdiction of Chief Court.
9. Exercise of jurisdiction by Judges of Chief Court.
10. Constitution of full bench and other benches.
11. Power to refer question to full bench.
12. Review in certain criminal cases.
13. Magistrate in Rangoon to commit to Chief Court.
14. Appeal from Judge of Chief Court exercising original civil jurisdiction.
15. Rule of decision where Judges differ.
16. Procedure in exercise of civil jurisdiction.
17. Ministerial officers of Chief Court.
18. Superintendence and control of subordinate Courts.
19. Power to Chief Court to make rules.
20. Registers, books, accounts, returns, statements and reports.

CHAPTER III.

THE SUBORDINATE CIVIL COURTS.

Grades of Courts.

21. Grades of Civil Courts.
22. Superintendence and control.

Territorial

Territorial Divisions and Establishment of Courts.

SECTIONS.

- 23. Civil divisions, districts, subdivisions and townships.
- 24. Establishment of Courts.

Jurisdiction of Courts.

- 25. Original jurisdiction of Divisional, District, Sub-divisional and Township Courts.
- 26. Power to invest certain Courts with Small Cause Court powers.
- 27. Enhancement of powers of Judge of Court of Small Causes of Rangoon.
- 28. Appellate jurisdiction of the Courts.
- 29. Period of limitation for appeals to the Divisional Court.
- 30. Second appeals to the Chief Court.

Administrative Control.

- 31. Power of Courts to transfer cases.
- 32. Delegation of powers of District Court with respect to administrative control.
- 33. Judges not to try cases in which they are personally interested.

Appointment of Judges and Ministerial Officers of Subordinate Courts.

- 34. Appointment of Judges.
- 35. Appointment of ministerial officers.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

- 36. Place of sitting.
- 37. Seal.
- 38. Vacations.
- 39. Language of Courts.
- 40. Advocates of abolished Courts.
- 41. Power to Local Government to make rules as to process-serving establishment.
- 42. Continuance of jurisdiction of abolished Courts.

CHAPTER V.

PROVISION FOR PENDING AND PAST PROCEEDINGS.

- 43. Pending proceedings.
- 44. Appeals after commencement of Act against decrees and orders passed before.
- 45. Execution of past decrees and orders.

CHAPTER VI.

CHAPTER VI.

GENERAL.

SECTIONS.

- 46. Rules to have effect as if enacted by Act.
- 47. Amendment of certain enactments.
- 48. Repeals.

THE FIRST SCHEDULE.

ENACTMENTS AMENDED.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

ACT NO. VI OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March,
1900.)

An Act to consolidate and amend the law relating to the Courts in Lower Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in Lower Burma;

And whereas the Secretary of State for India has given his previous sanction to the passing of this Act, as required by section 46 of the Government of India Act, 1833, read with section 3 of the Government of India Act, 1858;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Lower Burma Courts Act, 1900.

Short title,
extent and
commence-
ment.

(2) Save in so far as it applies expressly or by necessary implication to other parts of British India, this Act extends to Lower Burma only.

(3) This Act shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Burma" includes all the territories for the time being administered by the Lieutenant-Governor of Burma:

(b) "land-suit" means a suit relating to immovable property or to any right or interest in immovable property:

(c) "Lower

(Chapter I.—Preliminary.—Section 3. Chapter II.
—The Chief Court.—Sections 4-5.)

- (c) "Lower Burma" means the territories for the time being included in Lower Burma :
- (d) "Rangoon Town" means the local limits of the original civil jurisdiction of the Recorder of Rangoon immediately before the commencement of this Act unless and until the Local Government, with the previous sanction of the Governor General in Council, shall otherwise direct :
- (e) "Shan States" means the territories for the time being included in the Shan States :
- (f) "small cause" means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 :
- (g) "unclassed suit" means a suit which is neither a land-suit nor a small cause : and
- (h) "value", used with reference to a suit or appeal, means the amount or value of the subject-matter of the suit or appeal.

IX of 1887

Saving of
Regulations
in force in
Hill District
of Arakan.

3. Save as expressly provided by this Act, nothing herein shall be construed to affect any Regulation in force at the commencement of this Act in the Hill District of Arakan.

CHAPTER II.

THE CHIEF COURT.

Establish-
ment of Chief
Court.

4. On and from the commencement of this Act there shall be established for Lower Burma a Chief Court, hereinafter referred to as "the Chief Court".

Constitution
of Chief
Court.

5. The Chief Court shall consist of four or more Judges, who shall be appointed by the Governor General

(Chapter II.—The Chief Court.—Sections 6-8.)

General in Council and shall hold office during his pleasure, and of whom two shall ordinarily be barristers of not less than five years' standing.

6. The Governor General in Council may, in his discretion, from time to time, appoint one of the Judges of the Chief Court to be the Chief Judge, and may, during any vacancy of the office of Chief Judge, and during any absence of the Chief Judge, appoint one of the other Judges of the Chief Court to perform the duties of the Chief Judge until a new Chief Judge has been appointed and has entered upon the discharge of the duties of his office, or until the Chief Judge has returned from such absence, as the case may be.

Appointment
of Chief
Judge.

7. (1) The Chief Judge (if any), whether permanent or officiating, shall have rank and precedence before the other Judges of the Chief Court.

Rank and
precedence of
Chief Judge
and Judges
of Chief
Court.

(2) Save as aforesaid, the Judges shall have rank and precedence according to the seniority of their appointments as such Judges:

Provided that a Judge permanently appointed shall be deemed to be senior to, and shall have rank and precedence before, an officiating Judge.

(3) In the construction of this Act the expression "the Senior Judge" shall mean the Judge for the time being entitled to the first place in rank and precedence.

8. (1) The Chief Court shall be the highest Civil Court of appeal, and the highest Court of criminal appeal and revision in and for Lower Burma, and shall—

Civil and
criminal
jurisdiction
of Chief
Court.

(a) be the High Court for the whole of Burma (inclusive of the Shan States) in reference to proceedings against European British subjects and persons jointly charged with European British subjects;

(b) have power, as a Court of original jurisdiction, to try European British subjects

and

(Chapter II.—The Chief Court.—Section 9.)

and persons charged jointly with European British subjects, committed to it for trial by any Magistrate and Justice of the Peace exercising jurisdiction in any part of Burma (inclusive of the Shan States);

(c) be the principal Civil and Criminal Court of original jurisdiction for the Rangoon Town; and

(d) have within the Rangoon Town such powers and authorities with respect to the persons and property of insolvent debtors and with respect to their creditors as are for the time being exercisable by a Court for the Relief of Insolvent Debtors under the Indian Insolvency Act, 1848.

11 & 12 Vict
c. 21.

(2) Orders made by the Chief Court in the exercise of its jurisdiction with respect to insolvent debtors shall have the same force and effect throughout British India as if they had been made by the High Court of Judicature at Fort William in Bengal in the exercise of its jurisdiction under the Indian Insolvency Act, 1848, and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to the persons and property of insolvents applying for relief to the Chief Court, and the procedure in the cases of such insolvents shall be, as far as may be practicable, in accordance with the procedure prescribed by the said Statute as amended by any enactment for the time being in force.

11 & 12 Vict.
c. 21.

(3) Nothing in Chapter XX of the Code of Civil Procedure shall apply to any Court having jurisdiction within the Rangoon Town.

XIV of 1882

Exercise of
jurisdiction
by Judges
of Chief
Court.

9. (1) Except as otherwise provided by this Act or by any other enactment for the time being in force, and subject to any rules made under this Act, the jurisdiction of the Chief Court may be exercised by a single Judge of the Court.

(2) The

(Chapter II.—The Chief Court.—Sections 10-12.)

(2) The Chief Court may, with the sanction of the Local Government, make rules to provide, in such manner as it may think fit, for the exercise of any of its powers by a bench of two or more Judges of the Court.

10. (1) The Chief Court may make rules declaring what number of Judges, not being less than three, shall constitute a full bench of the Chief Court, and may by such rules prescribe the mode of determining which Judges shall sit as a full bench when a full bench sitting becomes necessary.

Constitution of full bench and other benches.

(2) Subject to the provisions of sub-section (1), the Senior Judge of the Chief Court may determine which Judge in each case or class of cases shall sit alone, and which Judges shall constitute any bench.

11. Any single Judge of the Chief Court and any bench of Judges thereof, not being a full bench, may in any case refer for the decision of a bench of two Judges or of a full bench any question of law or custom having the force of law, or of the construction of any document, or of the admissibility of any evidence, arising before the Judge or bench, and shall dispose of the case in accordance with the decision of the bench to which the question has been referred.

Power to refer question to full bench.

12. Where in any case any such question as is referred to in section 11 has been decided by a Judge of the Chief Court exercising the jurisdiction of the Chief Court as a Court having power to try European British subjects committed to it for trial, or as the principal Criminal Court of original jurisdiction for the Rangoon Town, and no reference has been made under the provisions of that section or of section 434 of the Code of Criminal Procedure, 1898, the Chief Court may, on its being certified by the Government Advocate that in his opinion the decision should be further considered, review the case or such part of it as may be necessary, and finally determine the question, and may thereupon alter the judgment, order

Review in certain criminal cases.

or

(Chapter II.—The Chief Court.—Sections 13-15.)

or sentence passed by the Judge, and pass such judgment, order or sentence as it thinks right.

Magistrate
in Rangoon
to commit
to Chief
Court.

13. Notwithstanding anything in the Code of Criminal Procedure, 1898, Magistrates exercising jurisdiction in the Rangoon Town when committing prisoners for trial shall commit them to the Chief Court. V of 189

Appeal from
Judge of
Chief Court
exercising
original civil
jurisdiction.

14. Except as otherwise provided by any enactment for the time being in force, an appeal from any decree made by a single Judge of the Chief Court or from any order made by a single Judge of the Chief Court when an appeal from such order is permitted by any law for the time being in force,—

- (a) in the exercise of its original jurisdiction as the principal Civil Court of original jurisdiction for the Rangoon Town, or
- (b) in the exercise of its original jurisdiction with respect to insolvent debtors and their creditors, or
- (c) in the exercise of its original jurisdiction in cases withdrawn from other Courts under section 25 of the Code of Civil Procedure, or XIV of 1
- (d) in the exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section,

shall lie to a bench of the Chief Court consisting of two other Judges of the Chief Court.

Rule of deci-
sion where
Judges
differ.

15. Except as otherwise provided by any enactment for the time being in force,—

- (a) where there is a difference of opinion among the Judges composing any bench of the Chief Court, the decision shall be in accordance with the opinion of the majority of those Judges ;

(b) if

(Chapter II.—The Chief Court.—Sections 16-17.)

(b) if there is no such majority, then,—

(i) if the bench is a full bench, the decision shall be in accordance with the opinion of the Senior Judge of the bench ;

(ii) in other cases, the bench before which the difference has arisen shall refer it to a full bench, and shall dispose of the case in accordance with the decision of the full bench.

16. (1) The Chief Court, when sitting as a Court of Civil Judicature, shall take evidence and record judgments and orders in the manner required by the Code of Civil Procedure, unless it has, with the previous sanction of the Governor General in Council, made rules for regulating these matters.

Procedure in exercise of civil jurisdiction.

(2) If the Chief Court has so made rules for regulating these matters, the Governor General in Council may declare that any of the provisions of the Code of Civil Procedure with respect thereto shall not apply to the Chief Court.

(3) So much of section 579 of the Code of Civil Procedure as requires the decree to contain the memorandum of appeal, and to be signed and dated by the Judge or Judges who passed it, shall not apply to the Chief Court in the exercise of its appellate jurisdiction.

17. (1) Subject to any rules and restrictions which may be prescribed by the Governor General in Council, the Senior Judge of the Chief Court may appoint Registrars and Assistant Registrars, an Official Assignee, a Receiver and such other ministerial officers as may be necessary for the administration of justice by the Chief Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or by any other enactment for the time being in force.

Ministerial officers of Chief Court.

(2) The appointment of the Registrars, Assistant Registrars, Official Assignee and Receiver shall be subject to the sanction of the Local Government.

(3) The

(Chapter II.—The Chief Court.—Sections 18-19.)

(3) The officers appointed under this section shall exercise such powers and discharge such duties as the Chief Court may direct.

(4) Any officer appointed under this section may be suspended or dismissed by the Senior Judge of the Chief Court :

Provided that a Registrar, Assistant Registrar, Official Assignee or Receiver shall not be dismissed without the previous sanction of the Local Government.

Superintendence and control of subordinate Court.

18. (1) The general superintendence and control over all other Civil Courts in Lower Burma shall be vested in, and all such Courts shall be subordinate to, the Chief Court.

(2) The Senior Judge of the Chief Court or a Judge of the Chief Court appointed by him shall from time to time visit and inspect the proceedings of the Civil Courts subordinate to the Chief Court, and shall give such directions in matters not provided for by law as may be necessary to secure the due administration of justice.

Power to Chief Court to make rules.

19. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Chief Court, with the previous sanction of the Local Government, may, by notification in the local official Gazette, make rules, consistent with this Act and any other enactment for the time being in force,—

(a) declaring what persons shall be permitted to practise as petition-writers in the Courts in Lower Burma, regulating the conduct of business of persons so practising, and determining the authority by which breaches of rules under this clause shall be tried ;

(b) providing for the translation of any papers filed in the Chief Court, and the copying or printing of any such papers or translations, and requiring from the persons at

whose

(Chapter II.—The Chief Court.—Section 19.)

whose instance or on whose behalf papers are filed, payment of the expenses thereby incurred ;

- (c) regulating the procedure in cases where any person is entitled to inspect a record of any Court in Lower Burma or to obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies ;
- (d) prescribing the travelling and other expenses to be allowed to witnesses in civil cases, and the fees to be allowed to commissioners appointed by the Courts in Lower Burma ;
- (e) determining in what cases advocates and pleaders shall be permitted to address the Courts in Lower Burma in English ;
- (f) conferring and imposing on the ministerial officers of the Chief Court and of the Courts subordinate to it such powers and duties of a non-judicial or quasi-judicial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed ;
- (g) prescribing forms to be used in the Courts subordinate to it for such proceedings, books, entries, statistics and accounts as it thinks necessary ;
- (h) providing for the visitation and inspection of the Courts subordinate to it and the supervision of the working thereof ; and
- (i) regulating all such matters as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of the Chief Court and of the Courts subordinate to it, and maintaining proper discipline among those officers.

(2) Whoever

(Chapter II.—The Chief Court.—Section 20. Chapter III.—The Subordinate Civil Courts.—Sections 21-22.)

(2) Whoever commits a breach of any rule made under sub-section (1), clause (a), shall be punishable with fine which may extend to fifty rupees.

Registers,
books, ac-
counts, re-
turns, state-
ment and
reports.

20. The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Chief Court, and shall comply, in such form and manner as the Local Government may deem proper, with any requisitions which the Local Government may make for records of, or papers belonging to, the Chief Court or any Court subordinate to it, or for certified copies of, or extracts from, those records or papers, or for returns, statements or reports.

CHAPTER III.

THE SUBORDINATE CIVIL COURTS.

Grades of Courts.

Grades of
Civil Courts.

21. (1) Besides the Chief Court, the Courts of Small Causes established under the Provincial Small Cause Courts Act, 1887, and the Courts established IX of 1887. under any other enactment for the time being in force, there shall be four grades of Civil Courts in Lower Burma, namely :—

- (a) the Divisional Court ;
- (b) the District Court ;
- (c) the Subdivisional Court ; and
- (d) the Township Court.

(2) Every Court mentioned in the list in sub-section (1) shall be of a lower grade than the Court mentioned immediately above it, and shall be subordinate to all Courts above it in the said list.

Superintend-
ence and
control.

22. Subject to the general superintendence and control of the Chief Court, the Divisional Court shall superintend and control all other Courts in the local

(Chapter III.—The Subordinate Civil Courts.—
Sections 23-25.)

local area within its jurisdiction; and, subject as aforesaid and to the control of the Divisional Court, the District Court shall superintend and control all other Civil Courts in the local area within its jurisdiction.

Territorial Divisions and Establishment of Courts.

23. (1) For the purposes of this Act, the Local Government shall divide Lower Burma outside the Rangoon Town into such civil divisions, and each civil division into such civil districts, as may be approved by the Governor General in Council, and may divide each civil district into such civil subdivisions, and each civil subdivision into such civil townships, as it may think fit, or may constitute in each civil district such civil subdivisions and such civil townships as it may think fit.

Civil divisions, districts, subdivisions and townships.

(2) The Local Government may, with the previous sanction of the Governor General in Council, alter the limits or the number of the said civil divisions and districts, and, of its own authority, the limits or the number of the said civil subdivisions and townships.

24. The Local Government shall establish—

- (a) a Divisional Court for each civil division;
- (b) a District Court for each civil district;
- (c) a Subdivisional Court for each civil subdivision; and
- (d) a Township Court for each civil township.

Establishment of Courts.

Jurisdiction of Courts.

25. Subject to the provisions of the Code of Civil Procedure, the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force,—

- (a) the Township Court shall have jurisdiction to hear and determine any suit or original proceeding

Original jurisdiction of Divisional District, Subdivisional and Township Courts.

(Chapter III.—The Subordinate Civil Courts.—
Sections 26-27.)

proceeding of a value not exceeding five hundred rupees :

(b) the Subdivisional Court shall have jurisdiction to hear and determine any suit or original proceeding of a value not exceeding three thousand rupees :

(c) the District Court shall have jurisdiction to hear and determine any suit or original proceeding without restriction as regards the value, except proceedings under the Indian Divorce Act, 1869, and shall be deemed to be the Court of a District Judge as defined by clause (15) of section 3 of the General Clauses Act, 1897 :

IV of 1869

X of 1897.

(d) the Divisional Court shall have such jurisdiction to hear and determine any suit or original proceeding as is by this section conferred upon a District Court, and shall also have jurisdiction to hear and determine any original proceeding under the Indian Divorce Act, 1869, and shall be deemed the District Court under that Act for all districts comprised in the civil division.

IV of 1869.

Power to invest certain Courts with Small Cause Court powers.

26. The Local Government may, by notification in the local official Gazette, invest any District, Subdivisional or Township Court with the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, up to such value not exceeding five hundred rupees as it may think fit, to be exercised in cases arising within the limits of the Court's jurisdiction or in any specified area within such limits, and may withdraw any jurisdiction so conferred.

IX of 1887

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

27. (1) The Local Government may, by notification in the local official 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),

(Chapter III.—The Subordinate Civil Courts.—
Section 28.)

IX of 1887. 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—

- (a) the exclusion of the jurisdiction of any other Court in such suits,
- (b) the practice and procedure of Courts of Small Causes,
- (c) appeals 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 Local Government may, by notification in the local official Gazette, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the order of cancellation.

28. (1) Subject to the provisions 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 to which appeals are hereinafter declared to lie, shall respectively have authority to hear appeals from the decrees and orders of the Courts subordinate to them passed in the exercise of their original jurisdiction—

(a) an appeal from a decree or order of a Township Court shall lie to the District Court :

(b) an appeal from a decree or order of a Sub-divisional Court shall lie to the Divisional Court :

(c) an appeal from a decree or order of a District Court shall, where the value of the suit in such Court

is

(Chapter III.—The Subordinate Civil Courts.—
Sections 29-30.)

is five thousand rupees or upwards, lie to the Chief Court, and in any other case to the Divisional Court :

(d) an appeal from a decree or order of a Divisional Court when exercising original jurisdiction shall lie to the Chief Court :

Provided that the Local Government may, by notification in the local official Gazette, direct that appeals from original decrees and orders of any specified District or Subdivisional Court shall lie to the Chief Court, in which case an appeal from any such decree or order of any Court so specified shall, so long as such notification continues in force, lie to the Chief Court.

(2) Where an order specified in section 588, clause (29), of the Code of Civil Procedure, is made by a District Court in exercise of the jurisdiction of a Court of Small Causes, an appeal therefrom shall lie to the Chief Court.

XIV of 188

Period of limitation for appeals to the Divisional Court.

29. The period of limitation for an appeal to the Divisional Court under clause (b) or clause (c) of section 28 shall be sixty days, and, 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 1877

Second appeals to the Chief Court.

30. (1) In addition to the second appeals permissible under section 584 of the Code of Civil Procedure, a second appeal shall lie to the Chief Court from an appellate decree of a Court subordinate thereto on any ground which would be a good ground of appeal if the decree had been passed in an original suit, whenever the decree of the Appellate Court varies or reverses otherwise than as to costs the decree of the Court below :

XIV of 188

Provided that no such second appeal shall lie—

(a) in the case of a small cause, unless the value of the cause exceeds five hundred rupees, or

(b) in

(Chapter III.—The Subordinate Civil Courts.—
Section 31.)

(b) in the case of an unclassed suit, unless the value of the suit exceeds five hundred rupees or the suit is of the nature described in sub-section (1) of section 13 of the Burma Laws Act, 1898.

III of 1898.

(2) The period of limitation for an appeal to the Chief Court under this section shall be ninety days, and, 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.

V of 1877.

Administrative Control.

31. (1) The Divisional Court may exercise, as regards the Courts under its control, 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 of
Courts to
transfer
cases.

V of 1882.

(2) In addition to the powers referred to in sub-section (1), a Divisional Court and a District Court may, by order in writing, direct that any case or class of cases which may be instituted in such Court, or in any Court subordinate thereto, shall be disposed of by an Additional Judge of such Court or by any other Court subordinate thereto, or by an Additional Judge of any such subordinate Court, as the case may be :

Provided that no direction under this section shall empower any Court to exercise jurisdiction beyond the pecuniary limits of its jurisdiction.

(3) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

V of 1882.

of 1870.

(4) When a case has been withdrawn or transferred under section 25 of the Code of Civil Procedure or under this section, any fees payable in such case under the Court-fees Act, 1870, or under rules made under

(Chapter III.—The Subordinate Civil Courts.—
Sections 32-34.)

under this Act, shall be payable at the rates which would have been applicable in the Court from which the case has been withdrawn or transferred.

Delegation
of powers of
District
Court with
respect to
administra-
tive control.

32. The District Court may, with the previous sanction of the Local Government, delegate to any Subdivisional Court in the civil district the powers conferred on the District Court by section 31 of this Act and by section 25 of the Code of Civil Procedure, to be exercised by the Subdivisional Court in any specified portion of the district within the area of the jurisdiction of the District Court. XIV of 1881

Judges not
to try cases
in which
they are
personally
interested.

33. (1) No Judge or Additional Judge of a Court under this Act shall hear or determine any suit, appeal or other proceeding to which he is a party, or in which he is personally interested.

(2) When any such suit, appeal or other proceeding comes before any Judge of a subordinate Court, he shall forthwith transmit the record of the case to the Court empowered to transfer cases to which he is subordinate, with a report of the circumstances attending the reference, and such superior Court shall thereupon hear and determine the case or transfer it to some other Court.

(3) When any such suit, appeal or proceeding comes before an Additional Judge of a subordinate Court, he shall forthwith transmit the record of the case to the Judge of the Court, who shall hear and determine the case.

*Appointment of Judges and Ministerial Officers of
Subordinate Courts.*

Appointment
of Judges.

34. (1) The Judges of the Divisional, District, Subdivisional and Township Courts shall be appointed by the Local Government.

(2) The Local Government may, whenever it thinks it necessary or expedient so to do, appoint an Additional Judge or Judges to any Divisional, District, Subdivisional

(Chapter III.—The Subordinate Civil Courts.—
Section 35. Chapter IV.—Supplemental Provi-
sions.—Section 36.)

Subdivisional or Township Court, and any officer so appointed an Additional Judge shall exercise the jurisdiction of the Court to which he is appointed, and the powers of the Judge thereof subject to any general or special orders of the Local Government as to the class or value of suits or appeals which he or officers of his rank or grade may try, hear or determine, and subject also, in respect of the distribution of the business of the Court, to the control of the Judge thereof.

(3) An officer may be appointed an Additional Judge of one or more Courts, and an officer who is a Judge of one Court may be appointed an Additional Judge in another Court or in other Courts.

35. (1) The ministerial officers of the Divisional Court and of the District Court shall be appointed by the Judges of those Courts respectively. Appointment of ministerial officers.

(2) The ministerial officers of the Subdivisional and Township Courts shall be appointed by the District Court.

(3) Every appointment made under this section shall be subject to such rules as the Local Government may, by notification in the local official Gazette, make in this behalf, and, in dealing with any matter under this section, the District Court shall act subject to the control of the Divisional Court.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

36. Every Civil Court shall be held at such place or places as the Local Government may, by notification in the local official Gazette, direct, or, in the absence of any such direction, at any place within the local limits of the jurisdiction of the Court. Place of sitting.

37. Every

(Chapter IV:—Supplemental Provisions.—Sections 37-41.)

Seal.

37. Every Civil Court shall use a seal of such form and dimensions as the Local Government may prescribe on all processes and orders issued, and on all decrees passed by it.

Vacations.

38. (1) Subject to the approval of the Local Government, the Chief Court shall prepare and publish in the local official Gazette a list of days to be observed in each year as holidays in the Chief Court and the Civil Courts subordinate thereto.

(2) A judicial act done by a Court on a day specified in a list published under sub-section (1) shall not be invalid by reason only of its having been done on that day.

Language of Courts.

39. Plaints, petitions and applications to a Court may be written, and evidence may be taken down, in such language or languages as the Local Government may direct in this behalf.

Advocates of abolished Courts.

40. (1) Every person entitled immediately before the commencement of this Act to appear, plead or act in the Court of the Recorder of Rangoon or in the Court of the Judicial Commissioner, Lower Burma, shall be entitled to be enrolled as an Advocate of the Chief Court, and to practise therein and in the Courts subordinate thereto, subject to the provisions of the Legal Practitioners Act, 1879, and to any rules applicable to Advocates made thereunder.

XVIII of 1879.

(2) Every person entitled immediately before the commencement of this Act to appear, plead or act in any Court or Courts subordinate to the Court of the Recorder of Rangoon or to the Court of the Judicial Commissioner, Lower Burma, shall be entitled to practise as a pleader in such Courts or in the corresponding Court or Courts under this Act, subject to the provisions of the Legal Practitioners Act, 1879, and to any rules applicable to pleaders made thereunder.

XVIII of 1879.

Power to Local Government to

41. The Local Government, with the previous sanction of the Governor General in Council, may, notwithstanding

(Chapter IV.—Supplemental Provisions.—Section 42. Chapter V.—Provision for pending and past Proceedings.—Section 43.)

VII of 1870. withstanding anything in the Court-fees Act, 1870, make rules as to process-
make rules with respect to the establishments to be serving estab-
maintained for the service and execution of processes lishment.
issued by Civil and Criminal Courts and Revenue
Courts and authorities, and rules so made may be de-
clared by the Local Government to be in supersession
of all or any rules made under sections 22 and 23 of
the said Act.

42. (1) Where any Court under this Act has from Continuanca
any cause ceased to have jurisdiction with respect of jurisdic-
to any case, any proceeding in relation to the case which, tion of
if that Court had not ceased to have jurisdiction, abolished
might have been had therein, may be had in the Court Courts.
to which the business of the former Court has been
transferred.

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

XIV of 1882.

CHAPTER V.

PROVISION FOR PENDING AND PAST PROCEEDINGS.

43. (1) All proceedings instituted before the com- Pending
mencement of this Act in the High Court of Judica- proceedings.
ture at Fort William in Bengal, and arising out of any
civil or criminal proceeding in any Court in Burma,
shall be continued in that High Court as if this Act
had not been passed.

(2) Every proceeding pending in any Civil Court
in Lower Burma at the commencement of this
Act shall be deemed to be transferred to the Court
exercising the jurisdiction under this Act, which cer-
responds to the jurisdiction of the Court in which the
proceeding was instituted, and the Court to which any
such proceeding is transferred, shall proceed to try,
hear

(Chapter V.—Provision for pending and past Proceedings.—Section 44.)

hear and determine the matter as if it had been instituted in such Court :

Provided that nothing herein contained shall be construed to extend the period of limitation to which any suit or appeal may be subject.

(3) Every criminal proceeding pending in the Court of the Judicial Commissioner for Lower Burma or in the Court of the Recorder of Rangoon at the commencement of this Act shall be deemed to be transferred to the Chief Court.

(4) Every insolvency proceeding pending in the Court of the Judge of the Town of Moulmein at the commencement of this Act shall be deemed to be transferred to the District Court of Amherst, and the said District Court shall in such proceedings exercise the jurisdiction which the said Judge would have had if this Act had not been passed, and an appeal shall lie from the decision of the said District Court therein to the Chief Court.

44. Appeals from decrees and orders passed and not appealed against before the commencement of this Act shall lie as follows, namely :—

- (a) when the appeal would before that date have lain to the High Court of Judicature at Fort William in Bengal, or to the Special Court, the Court of the Recorder of Rangoon or the Court of the Judicial Commissioner of Lower Burma—to the Chief Court ;
- (b) when the appeal would before the commencement of this Act have lain to the Court of the Commissioner—to the Divisional Court ;
- (c) when the appeal would before the commencement of this Act have lain to the Court of the Deputy Commissioner or to the Court of an Assistant Commissioner or of an Extra Assistant Commissioner empowered to

Appeals after commencement of Act against decrees and orders passed before.

(Chapter V.—Provision for pending and past Proceedings.—Section 45.)

XI of 1889.

to hear appeals under section 20 of the Lower Burma Courts Act, 1889—to the District Court :

Provided that nothing herein contained shall be construed to extend the period of limitation to which any suit or appeal may be subject.

45. (1) All decrees passed and orders made before the commencement of this Act by the High Court of Judicature at Fort William in Bengal and all sentences and orders passed in the exercise of criminal jurisdiction by the Court of the Recorder of Rangoon or by the Court of the Judicial Commissioner for Lower Burma shall be deemed, for the purposes of execution, to have been passed or made by the Chief Court.

Execution of past decrees and orders.

(2) All decrees passed and orders made before the commencement of this Act by a Court mentioned in the first column of the following table shall, for the purposes of execution, be deemed to have been passed or made by the Court set opposite to it in the second column of that table exercising jurisdiction over the area in which the Court in the first column had jurisdiction, and every decree which, before the commencement of this Act, shall have been sent for execution to a Court mentioned in the first column of that table shall be deemed to have been sent for execution to the corresponding Court in the second column exercising jurisdiction over the same area.

1	2
The Special Court	} The Chief Court.
The Court of the Recorder of Rangoon	
The Court of the Judicial Commissioner of Lower Burma	
The Court of the Commissioner	The Divisional Court.
The Court of the Judge of the Town of Moulmein	} The District Court.
The Court of the Deputy Commissioner	
The Court of the Assistant Commissioner	} The Subdivisional Court.
The Court of the Extra Assistant Commissioner	
The Court of the Myoök	The Township Court.

CHAPTER VI.

GENERAL.

Rules to have effect as if enacted by Act.

46. All rules made under this Act shall, on publication, have effect as if enacted by this Act.

Amendment of certain enactments.

47. The enactments mentioned in the first schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Repeals.

48. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE.

ENACTMENTS AMENDED.

(See section 47.)

Year.	No.	Short title,	Amendment.
<i>Part I.—Acts of the Governor General in Council.</i>			
1866	XXVII	The Indian Trustees Act, 1866.	<i>In the definition of High Court in section 2, after the word Punjab insert the words and the Chief Court of Lower Burma.</i>
"	XXVIII	The Trustees' and Mortgagees Powers Act, 1866.	<i>In the definition of High Court in section 1, after the word Punjab add the words and the Chief Court of Lower Burma.</i>
1869	IV	The Indian Divorce Act, 1869.	(1) <i>In section 3, clause (I), for the words the Special Court constituted under the Lower Burma Courts Act, 1889, substitute the words the Chief Court of Lower Burma.</i> (2) <i>In section 3, clause (2), for the words the areas for the time being 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 Moulmein, substitute the word Burma.</i> (3) <i>In the same clause, for the words the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Moulmein respectively, substitute the words Burma—a Judge of a Divisional Court.</i>
1870	VII	The Court-fees Act, 1870.	<i>For the words and figures in the first column of No. 14 of the first schedule substitute the following :—</i> 14. <i>Application to the Chief Court of Lower Burma for the exercise of its revisional jurisdiction under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887.</i>
1877	II	The Probate and Administration Act, 1877.	<i>For clause (c) of section 1 substitute the following :—</i> (c) <i>the Chief Court of Lower Burma, and previous to its establishment the Court of the Recorder of Rangoon.</i>

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—continued.

Year.	No.	Short title.	Amendment.
<i>Part I.—Acts of the Governor General in Council—continued.</i>			
1877	XV	The Indian Limitation Act, 1877.	In Nos. 151 and 162 of the second schedule, after the word Punjab insert the words or the Chief Court of Lower Burma.
1879	III	The Destruction of Records Act, 1879.	In section 3, after the word Bombay insert the words and the Chief Court of Lower Burma.
„	XVIII	The Legal Practitioners Act, 1879.	In section 41, subsection (4), after the word Punjab insert the words and the Chief Court of Lower Burma.
1880	V	The Burma Boundaries Act, 1880.	In section 19, for the words following the words an appeal shall lie down to the end of the section substitute the following :— —in Lower Burma to the Chief Court of Lower Burma. —in Upper Burma to the Judicial Commissioner of Upper Burma. In section 21, for the words and the Recorder of Rangoon substitute the words of Upper Burma and the Chief Court of Lower Burma.
1881	V	The Probate and Administration Act, 1881.	In section 59, for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.
1882	XIV	The Code of Civil Procedure.	In section 4, for the figures 1889 following the words the Lower Burma Courts Act, substitute the figures 1900. For clause (d) of section 6 substitute the following :— (d) of the Chief Court of Lower Burma sitting as an Insolvent Court under the Statute 11 and 12 Victoria, Chapter 21 ; In the third paragraph of section 39, after the word Punjab insert the words or of the Chief Court of Lower Burma.

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—continued.

Year.	No.	Short title.	Amendment.
<i>Part I.—Acts of the Governor General in Council—continued.</i>			
1882	XIV —contd.	.	<p>In section 360 A, for the words or Bombay substitute the words Bombay or Rangoon.</p> <p>For clause (b) of section 538 substitute the following:—</p> <p>(b) the Chief Court of Lower Burma.</p> <p>In section 648, for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.</p>
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	<p>For sub-clause (4) of section 2 substitute the following:—</p> <p>(4) The Chief Court of Lower Burma.</p>
1898	V	The Code of Criminal Procedure, 1898.	<p>In section 4, clause (d), for the words Recorder of Rangoon substitute the words Chief or Senior Judge of the Chief Court of Lower Burma.</p> <p>In section 4, clause (j), for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.</p> <p>In section 25, for the words the Judges of the High Courts and the Recorder of Rangoon substitute the words and the Judges of the High Courts.</p> <p>In section 266, for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.</p> <p>In section 364, sub-section (1), after the word Punjab insert the words or the Chief Court of Lower Burma.</p> <p>In section 365 omit the word and after Royal Charter, and after the word Punjab insert the words and the Chief Court of Lower Burma.</p>
1899	II	The Indian Stamp Act, 1899.	<p>In section 57, between sub-clauses (d) and (e) insert—</p> <p>(1) if it arises in Burma—to the Chief Court of Lower Burma;</p>

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—concluded.

Year.	No.	Short title.	Amendment.
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Part I.—Acts of the Governor General in Council—concluded.

1899	IX	The Indian Arbitration Act, 1899.	For section 23 <i>substitute the following</i> :— 23. (1) This Act shall apply within the local limits of the ordinary civil jurisdiction of the Chief Court of Lower Burma in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted within those local limits. (2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a presidency-town.
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Part II.—Regulation made under the Government of India Act, 1870 (33 Vict., c. 3).

1874	VIII	The Arakan Hills Civil Justice Regulation, 1874.	In section 76, <i>for the words</i> Judicial Commissioner, <i>wherever they occur, substitute the words</i> Chief Court; <i>for the words in his Court substitute the words in the</i> Chief Court; <i>and for the words his judgment substitute its</i> judgment.
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Part III.—Acts of the Lieutenant-Governor of Burma in Council.

1898	III	The Burma Municipal Act, 1898.	In section 63, sub-section (5), <i>for the words</i> Judicial Commissioner <i>substitute the words</i> Chief Court of Lower Burma, <i>if the case has arisen in Lower Burma; or to the</i> Judicial Commissioner of Upper Burma, <i>if the case has arisen in Upper Burma.</i> In section 63, sub-section (6), <i>before the words</i> the Judicial Commissioner, <i>wherever they occur, insert the words</i> the Chief Court <i>or.</i> In section 64, sub-sections (5) and (6), <i>for the word</i> Recorder, <i>wherever it occurs, substitute the words</i> Chief Court of Lower Burma.
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(The Second Schedule.—Enactments repealed.)

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 48.)

Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1864	XVII	The Official Trustees Act, 1864.	Sub-section (3) of section 34.
1865	X	The Indian Succession Act, 1865.	In the definition of " High Court " in section 3, <i>the words</i> and for the purposes of sections 242, 242A, 246A and 277A, shall include the Court of the Recorder of Rangoon.
1873	X	The Indian Oaths Act, 1873.	The explanation to section 7.
1874	II	The Administrator General's Act, 1874.	Sub-section (3) of section 68.
1879	III	The Destruction of Records Act, 1879.	The second paragraph of section 2.
1882	VII	The Powers of Attorney Act, 1882.	Section 4, clause (f).
"	XIV	The Code of Civil Procedure.	In the penultimate paragraph of section 287 <i>the words</i> As regards his own Court and the Court of Small Causes at Rangoon, the Recorder of Rangoon shall be deemed to be a " High Court " within the meaning of this paragraph. In section 386, <i>the words</i> or the Court of the Recorder of Rangoon. Section 614.
1883	V	The Indian Merchant Shipping Act, 1883.	Section 15, sub-section (2).
1884	VI	The Inland Steam-vessels Act, 1884.	Section 89, sub-section (2).
1889	XI	The Lower Burma Courts Act, 1889.	So much as has not been repealed.
1890	VIII	The Guardians and Wards Act, 1890.	So much of the schedule as relates to Act XI of 1889.

(The Second Schedule.—Enactments repealed.)

THE SECOND SCHEDULE—concluded.

Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor General in Council—concluded.</i>			
1891	XII	The Repealing and Amending Act, 1891.	So much of the second schedule as relates to Act XI of 1889.
"	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	So much of the schedule as relates to Act XI of 1889.
1898	V	The Code of Criminal Procedure, 1898.	Section 185, sub-section (2). In section 487, <i>the words</i> and the Recorder of Rangoon.
1900	III	The Prisoners' Act, 1900.	The second and third paragraphs of section 49.