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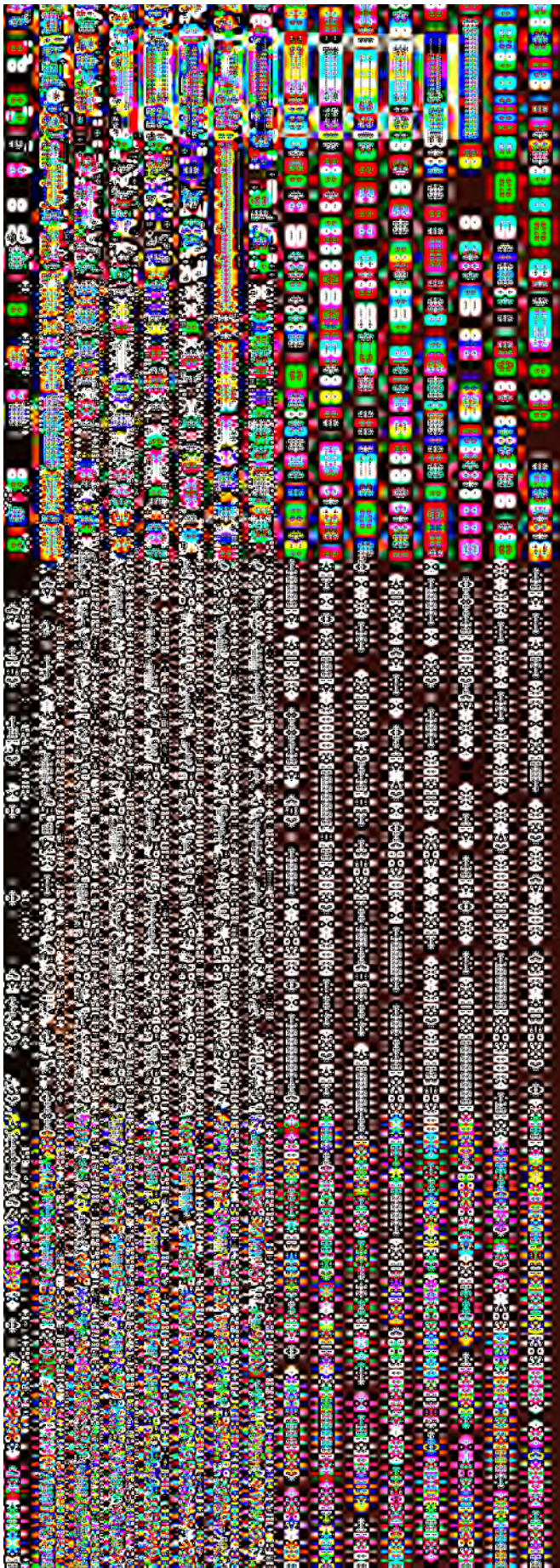
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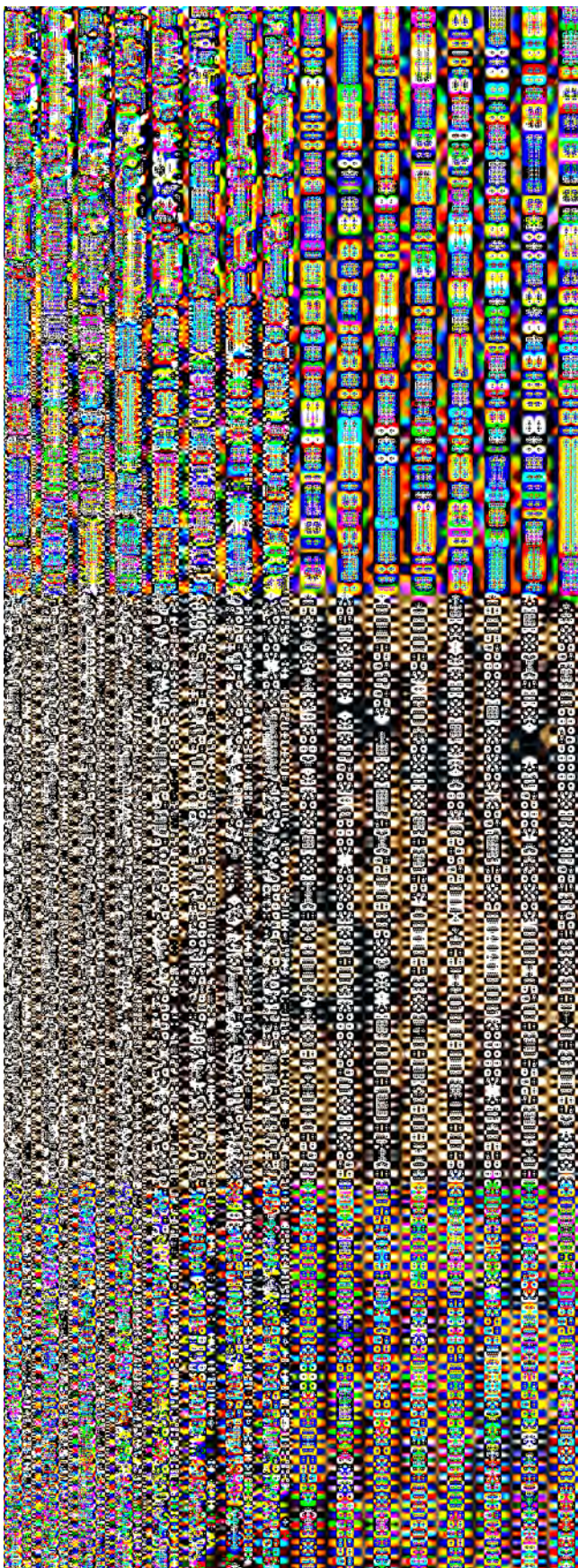
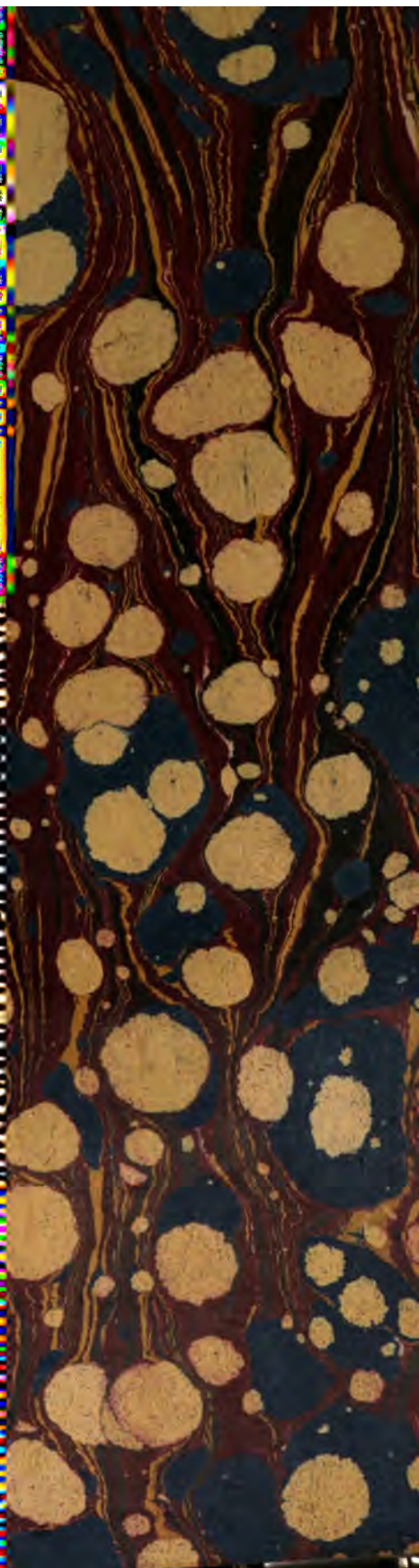
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# CONSULAR JURISDICTION

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IN

HER MAJESTY'S PROTECTORATE OF THE  
NIGER COAST,

WITH AN

ANALYTICAL INDEX

TO THE

*AFRICA ORDERS IN COUNCIL, 1889, 1892, and 1893.*

COMPILED BY

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SOLICITOR OF THE SUPREME COURT, AND SOLICITOR OF THE SUPREME COURT OF  
THE GOLD COAST COLONY.

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## TABLE OF CONTENTS.

PREFACE - - - - -	PAGE iii
TABLE OF ACTS OF PARLIAMENT IN FORCE RELATING TO CONSULS -	vii
TABLE OF DECIDED CASES RELATING TO CONSULS - - -	ix

---

### CHAPTER I.

INTRODUCTORY - - - - -	1
------------------------	---

---

### CHAPTER II.

THE FOREIGN JURISDICTION ACTS - - - - -	4
---	---

---

### CHAPTER III.

THE TREATIES - - - - -	8
------------------------	---

---

### CHAPTER IV.

THE ORDERS IN COUNCIL - - - - -	12
---------------------------------	----

---

### CHAPTER V.

THE APPLIED ACTS - - - - -	28
----------------------------	----

---

### CHAPTER VI.

COLONIAL ORDINANCES HAVING EFFECT IN THE PROTECTORATE - -	30
---	----

---

### GENERAL ANALYTICAL INDEX OF THE ORDERS IN COUNCIL

AND OF THE RULES THEREUNDER - - -	35—88
-----------------------------------	-------

## APPENDICES.

	PAGE
No. 1.—THE AFRICA ORDER IN COUNCIL, 1889	89
„ 2.—THE AFRICA ORDER IN COUNCIL, 1892	180
„ 3.—THE AFRICA ORDER IN COUNCIL, 1893	182
„ 4.—QUEEN'S REGULATIONS (Medical and Sanitary Regulations, 1894)	183
„ 5.—CONSULAR INSTRUCTIONS, 1891	189
„ 6.—SCALE OF FEES AND DUTIES	193, 198
„ 7.—BOUNDARY NOTICES	200



## PREFACE.

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DURING the last few years, whilst resident in various places in the British Possessions on the West Coast of Africa, the writer devoted considerable attention to the laws affecting this portion of the continent. The growing importance of the newly-created British Protectorate in the Niger Districts has been the means of his attention having been drawn to the nature of the Consular Jurisdiction of Her Majesty exerciseable in this Protectorate.

Although for some purposes, as in appeals, removal for trial, deportations, &c., the Consular Courts in the Niger Coast Protectorate are in a measure connected with Colonial Courts, the unprofessional person must not confuse Consular Jurisdiction with that possessed by the Colonial Courts.

The subject of Her Majesty's jurisdiction, exercised in places not within her dominions, is not generally familiar; few works exist bearing on the subject; and beyond Treaties, Acts of Parliament, and Orders in Council made thereunder, there is little information to be found. Of these, the Orders in Council from time to time issued are the basis of all Consular Jurisdiction. The Orders in Council affecting the Protec-

torate are the Africa Orders of 1889, 1892, and 1893.

The plan of the present Work is to provide a complete Analytical Index of these Orders and the Rules thereunder. This, it is hoped, will be found useful to all those to whom the administration of justice in the Protectorate is entrusted, as also to others interested in the subject. The number of the *London Gazette*, in which the principal Order appeared, being now out of print, it has been thought that the value of the Work will be increased by the Appendix containing the Orders *in extenso* for handy reference. A few short chapters explanatory of the general scope of the Treaties, the Foreign Jurisdiction Acts, and Acts applied thereby, and the Orders in Council, are first given. During last year it was found desirable to adopt, under section 15 of the Order of 1889, certain Ordinances of the Gold Coast Colony, viz., Ordinances relating to the Customs, Post Office, Constabulary, and Fire Arms and Ammunition. Such Consular Instructions and Queen's Regulations as have been issued under the Orders are also set out in the Appendix, together with the Schedule of Fees in force, Boundary Notices, and Table of the Customs Duties.

A list of the Acts of Parliament affecting Consuls, as also a Table of decided Cases which appear to bear on Consular Jurisdiction generally, are prefixed to the Work.

LONDON, 1895.



## TABLE OF ACTS OF PARLIAMENT RELATING TO CONSULS.

---

- 1 & 2 Geo. 4, c. 28.
- 4 Geo. 4, c. 91.
- 6 Geo. 4, c. 87 (Churches and Chapels).
- 4 & 5 Will. 4, c. 24 (Superannuation Act, 1834).
- 5 & 6 Vict. c. 45 (Copyright).
- 6 & 7 Vict. c. 13.
- 6 & 7 Vict. c. 94 (Foreign Jurisdiction Act, 1843).
- 12 & 13 Vict. c. 68 (Consular Marriage Act, 1849).
- 12 & 13 Vict. c. 96 (Admiralty Offences (Colonial) Act, 1849).
- 14 & 15 Vict. c. 99, sects. 7 and 11 (Evidence Act, 1851).
- 17 & 18 Vict. c. 104 (Merchant Shipping Act, 1854).
- 18 & 19 Vict. c. 42.
- 19 & 20 Vict. c. 113 (Foreign Tribunals Evidence Act, 1856).
- 20 & 21 Vict. c. 75 (Siam).
- 21 & 22 Vict. c. 95, s. 31.
- 21 & 22 Vict. c. 108, s. 120.
- 22 Vict. c. 20 (Evidence by Commission Act, 1859).
- 22 Vict. c. 26 (Superannuation Act, 1859).
- 22 Vict. c. 108, s. 120.
- 22 & 23 Vict. c. 63 (British Law Ascertainment Act, 1859).
- 23 & 24 Vict. c. 121.
- 23 & 24 Vict. c. 122 (Admiralty Offences (Colonial) Act, 1860).
- 24 & 25 Vict. c. 11 (Foreign Law Ascertainment Act, 1861).
- 24 & 25 Vict. c. 31 (Territories adjoining Sierra Leone).
- 24 & 25 Vict. c. 121, s. 4.
- 26 & 27 Vict. c. 35 (South Africa).
- 28 & 29 Vict. c. 63.
- 28 & 29 Vict. c. 116 (Foreign Jurisdiction Amendment Act, 1865).
- 29 & 30 Vict. c. 87 (Foreign Jurisdiction Amendment Act, 1866).
- 30 & 31 Vict. c. 124, s. 11 (Merchant Shipping Act, 1867).
- 31 & 32 Vict. c. 61 (Consular Marriage Act, 1868).
- 32 & 33 Vict. c. 15 (Pensioners sitting in Parliament).
- 32 & 33 Vict. c. 43 (Diplomatic Salaries, 1869).
- 33 & 34 Vict. c. 14 (Naturalization Act, 1870).

viii      ACTS OF PARLIAMENT RELATING TO CONSULS.

- 33 & 34 Vict. c. 55 (Siam and Straits Settlements).
- 34 & 35 Vict. c. 8.
- 34 & 35 Vict. c. 49 (Irish).
- 35 & 36 Vict. c. 19.
- 36 & 37 Vict. c. 59.
- 37 & 38 Vict. c. 94, s. 51 (Conveyancing (Scotland) Act, 1874).
- 38 & 39 Vict. c. 51.
- 38 & 39 Vict. c. 85 (Foreign Jurisdiction, 1875).
- 39 & 40 Vict. c. 46 (Slave Trade).
- 39 & 40 Vict. c. 53, s. 1 (Superannuation Act, 1876).
- 41 & 42 Vict. c. 67 (Foreign Jurisdiction Act, 1878).
- 42 & 43 Vict. c. 38.
- 44 & 45 Vict. c. 58, s. 94.
- 44 & 45 Vict. c. 69 (Fugitive Offenders Act, 1881).
- 46 & 47 Vict. c. 57 (Patents, &c., 1883).
- 47 & 48 Vict. c. 31 (Colonial Prisoners Removal Act).
- 48 & 49 Vict. c. 63 (Patents, &c., 1885).
- 48 & 49 Vict. c. 74 (Evidence by Commission Act, 1885).
- 49 & 50 Vict. c. 33 (Copyright).
- 49 & 50 Vict. c. 37 (Patents, 1886).
- 50 & 51 Vict. c. 28 (Merchandise Marks, 1887).
- 50 & 51 Vict. c. 54.
- 50 & 51 Vict. c. 67 (Superannuation Act, 1887).
- 51 & 52 Vict. c. 50 (Patents, 1888).
- 52 Vict. c. 10 (Commissioners for Oaths Act, 1889).
- 52 & 53 Vict. c. 23.
- 52 & 53 Vict. c. 52 (Official Secrets Act, 1889).
- 53 & 54 Vict. c. 37 (Foreign Jurisdiction Act, 1890).
- 53 & 54 Vict. c. 47 (Marriage Act, 1890).
- 54 & 55 Vict. c. 36 (Salaries and Fees, 1891).
- 54 & 55 Vict. c. 50.
- 54 & 55 Vict. c. 74 (Foreign Marriage Act, 1891).
- 55 & 56 Vict. c. 23 (Foreign Marriage Act, 1892).
- 55 & 56 Vict. c. 40 (Superannuation Act, 1892).



## TABLE OF CASES RELATING TO CONSULS.



*Abbott v. Abbott*, L. R. 6 P. C. 220.  
*Abdul-Messih v. Farra*, L. R. 13 App. 441.  
*Alison's Trusts*, In re, 31 L. T. R. 638.  
*Andros v. Andros*, L. R. 24 Ch. Div. 637.  
*Atkinson v. Newcastle Waterworks*, 2 Ex. D. 448.  
*Att.-Gen. of Hong-Kong v. Kwok-a-Sing*, L. R. 5 P. C. 179.

"*Baltica*," *The*, 11 M. P. C. C. 141.  
*Bank of Australasia v. Nias*, 16 Q. B. 731.  
*Barber*, In re, *Trusts of Mrs.*, 5 L. J., N. S., O. P. 81.  
*Barber v. Lamb*, 8 C. B., N. S. 95, and 29 L. J. C. P. 234.  
*Bateman v. Service*, L. R. 6 App. 386.  
*Bayley*, In re, *So*, N. B. 823.  
*Beamish v. Beamish*, 9 Clark, *House of Lords' Cases*, 274.  
*Bell v. Kennedy*, L. R. 1 Scotch Appeals, 320.  
*Bethell*, *Re*, *Bethell v. Hildyard*, L. R. 38 Ch. Div. 220.  
*Black v. Ottoman Bank*, 15 M. P. C. C. 472.  
*Bourgeoise*, *Re*, L. R. 41 Ch. Div. 310.  
*Brinkley v. Att-Gen.*, L. R. 15 Prob. Div. 76.  
*Brooke v. Brooke*, 11 *House of Lords*, 213.  
*Bulkeley v. Schutz*, L. R. 3 P. C. 196, 764.  
*Burrows v. Jemino*, 2 *Strange*, 733.  
*Butler v. Freeman*, *Ambler*, 303.

*Calvin's Case*, 7 *Coke*, 1.  
*Campbell v. Hall*, 20 *State Trials*, 323.  
*Catherwood v. Caslon*, 13 *Mee. & Wel.* 261.  
*Catterall v. Catterall*, 1 *Rob.* 582.  
*China Merchants S. N. Co. v. Bignold*, L. R. 7 App. 512.  
*Counhaye*, *Re*, L. R. 8 Q. B. 410.  
*Cowper*, In re, 16 C. B. 225.

*Dalrymple v. Fitzpatrick*, 2 *Hagg. Consist. Rep.* 59.  
*Darling*, In re, 2 C. B. 347.  
*Davey v. Maltwood*, 2 M. & G. 424.  
*Day v. Savadge*, *Hobart*, 87.  
*De Geer v. Stone*, 22 Ch. Div. 243.  
*De Leina v. Haldimand*, 1 C. & P. 183.  
*Dent v. Smith*, L. R. 4 Q. B. 414.

Eady, Re, 6 D. P. C. 616.

Fawcus, Re, L. R. 13 Q. B. D. 241.

"Fox," The, Edwards, Ad. Rep. 311.

"Franconia," The, R. v. Keyn, L. R. 2 Ex. Div. 63.

Grant v. Easton, L. R. 13 Q. B. 302

"Greifswald," The, Swa. 430.

Haggard v. Pelicier Frères, Times 5 : 12 : 91.

Haggitt v. Ineff, 5 De G. M. & G. 910.

"Halley," The, L. R. 2 P. C. 193.

Hart v. Gumpach, L. R. 4 P. C. 439.

Harvey v. Farnie, L. R. 6 Pro. Div. 53.

Harvey v. Fitzpatrick, 23 L. J. R. Ch. 564.

"Hochung," The, v. "The Lapwing," L. R. 7 App. 612.

Hood v. Stallybrass, L. R. 3 App. 880.

Hutchinson, Re, Ex parte, 6 L. J. C. P. 137 ; 17 L. J. C. P. 111.

Ibrahim v. Syed Bibi, Indian L. R. 12 Madras Series, 63.

Imperial Royal Danubian S. N. Co. v. Greek Oriental S. N. Co., 2 M. P. C. C., N. S. 435.

"Indian Chief," The, 3 Rob. Ad. Rep. 29.

Ince v. Thorburn, L. R. 11 App. 115.

Jacobs v. Crédit Lyonnais, L. R. 12 Q. B. 600.

Jefferys v. Boosey, 4 House of Lords, 926.

Lacon v. Higgins, 3 Starkie, 183.

"Laconia," The, 2 M. P. C. C., N. S. 161.

Lautour v. Teesdale, 8 Taunt. 830.

Lee v. Bude, &c., Rail. Co., L. R. 6 C. P. 582.

"Le Louis," 11 Dodson, 245.

Leroux v. Brown, 22 L. J. C. P. 3.

Leveux v. Berkeley, 13 L. J. Q. B. 244.

Lewis v. Jewhurst, 15 L. T. N. S. 275.

Magee, Re, L. R. 15 Q. B. D. 332.

Maclean v. Crystall, Perry, Oriental Cases, 75.

Macleod v. Att.-Gen. N. S. Wales, L. R. App. Cases, 455.

Maltass v. Maltass, 1 Rob. Ecc. Rep. 70.

Marseilles, &c., Rail. Co., Re Smallpage, L. R. 30 Ch. Div. 598.

Messina v. Petrococcchino, L. R. 4 P. C. C. 144.

Middleton v. Janverin, 2 Hagg. Consist. Rep. 446.

Missouri Steamship Co., L. R. 42 Ch. Div. 321.

New Chile Gold Mining Co. v. Blanco, 4 Times L. R. 346.

Niboyet v. Niboyet, L. R. 4 P. D. 1.

"Nina," The, L. R. 2 P. C. 38.

Nogent, Re, 6 Beavan, 42.

Papayanni v. Russian S. N. Co. "The Laconia," 2 M. P. C. C., N. S. 161.

Pitts v. La Fontaine, L. R. 5 App. 564 ; L. R. 6 App. 482.

- Queen v. Millis*, 10 Clark & Finnely, 534.
- Reg. v. Anderson*, L. R. 1 O. C. R. 161.
- Reg. v. Azzopardi*, 2 Moody, Crown Cases, 288.
- Reg. v. Cass*, L. R. 10 Q. B. D. 76.
- Reg. v. Hutchinson*, Show. 6.
- Reg. v. Keyn*, L. R. 11 Ex. Div. 63.
- Reg. v. Lopez*, Dearsley & B. 525.
- Reg. v. Roche*, 1 Leach, 134.
- Reg. v. Wilson*, L. R. 3 Q. B. D. 42.
- Ruding v. Smith*, 2 Hagg. Consist. Rep. 371.
- Russell v. Cambefort*, L. R. 23 Q. B. D. 526.
- Scrimshire v. Scrimshire*, 2 Hagg. Consist. Rep. 395.
- Sharpe v. Sharpe*, L. R. 1 P. & D. 611.
- Shedden v. Patrick*, 1 Macqueen, 535.
- "Smyrna," *The*, 2 M. P. C. C., N. S. 435.
- Simonin v. Mallac*, 2 Swa. & Tristram, 67.
- Sorensen v. Reg.*, 11 M. P. C. C. 141.
- Sottomayor v. De Barros*, L. R. 3 P. Div. 1.
- Swire v. Francis*, L. R. 3 App. 106.
- Tamvaco v. Simpson*, L. R. 1 C. P. 363.
- Tapp v. Jones*, L. R. 9 C. P. 418.
- Tootal's Trusts*, Re, L. R. 23 Ch. Div. 532.
- Treffitz v. Canelli*, L. R. 4 P. O. 277.
- Undy v. Undy*, L. R. 1 Scotch App. 458.
- Waldegrave Peerage*, 4 Clark & Finnely, 649.
- Waldron v. Coombe*, 3 Taunt. 162.
- Wall's Case* (Governor).
- Warrender v. Warrender*, 11 Clark & Finnely, 529.
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# CONSULAR JURISDICTION

IN

## THE NIGER COAST PROTECTORATE.

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### CHAPTER I.

#### INTRODUCTORY.

THE attention that has been bestowed upon Africa by this and other European Powers in recent years has resulted in the establishment of "Protectorates" and "spheres of influence" over various parts of that continent.

A notification of a British Protectorate over the Niger Districts was published in the *London Gazette* in 1885, comprising the territories on the line of coast between Lagos and the western river bank of the mouth of the Rio del Rey, and territories on both banks of the Niger from Lokoja to the sea. On the 18th October, 1887, a further notification was published reciting that, under and by virtue of certain treaties concluded between the month of July, 1884, and that date, the territories mentioned were under the protection of Her Majesty. The territories are as before named, except that the territories on the banks of the Niger are described as "all the territories in the basin of the Niger and its affluents, subject to the government of the Royal Niger Company."

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These territories form no part of the British dominions, and consequently the Queen cannot legislate for her subjects residing in these countries in the same way as for those in countries which have come to the Crown by conquest or cession—the jurisdiction of Her Majesty in foreign countries being derived either by treaty or by sufferance.

By the Foreign Jurisdiction Acts Her Majesty has been empowered to exercise jurisdiction thus obtained.

These Acts are the foundation of the Orders in Council providing for the jurisdiction of the Consular Courts. Three Orders in Council affecting this region have been issued thereunder—the Africa Orders in Council, 1889, 1892, and 1893. The first is a very important Order, and may be said to be the warrant for all consular jurisdiction in the Protectorate; the second is a short Order (outcome of the General Act of the Conference of Berlin extending jurisdiction to foreigners in the Protectorate who are subjects of the signatory Powers to the General Act); and the third applying the Order of 1889 to natives of any of Her Majesty's Protectorates when in the local jurisdictions. By the Order in Council of 1889 jurisdiction extends to British subjects, foreigners who submit themselves to the Court, and to all persons with "respect to whom any State, king, or chief, or government, whose subjects or under whose protection they are, has, by any treaty or otherwise, agreed with Her Majesty for or consented to the exercise of power or authority by Her Majesty." This carries jurisdiction over the natives of the country (British subjects, including persons enjoying protection) as also subjects of European States. The Berlin Act contemplated the establishment of Protectorates in

Africa and of an existing British Protectorate on the Niger; and by Article 35 the Act recognized the obligation to ensure the establishment of authority in occupied regions sufficient to protect existing rights and the freedom of trade; and this country undertook to protect foreign merchants and all the trading nationalities in all those portions of the Niger which were or might be under its sovereignty or protection, as if they were British subjects. This is confirmed by the Brussels Act; and consent of the signatory Powers to whatever jurisdiction might be found necessary to be assumed by this country in the Protectorate, both civil and criminal, cannot be denied.

It should be noticed, however, that no power is assumed by the Order over subjects whose Government have not consented to the exercise of jurisdiction.



## CHAPTER II.

### THE FOREIGN JURISDICTION ACTS.

THE power of Consular Officers to exercise jurisdiction in countries out of the Queen's dominions depends on the rights which have been granted by treaty or otherwise, by those countries, and the extent to which Her Majesty may be pleased by Orders in Council to exercise jurisdiction thus obtained by virtue of the powers conferred on Her Majesty by Acts of Parliament. In 1843 the first Foreign Jurisdiction Act was passed, and since that date several other Acts dealing with the subject have been added. All these Acts, by an Act of 53 & 54 Vict. c. 37 (the Foreign Jurisdiction Act, 1890), have been repealed and consolidated. Under one or other of these Acts all power in modern times for Her Majesty to exercise jurisdiction out of her dominions is derived, and these may be therefore referred to as the enabling Acts. By the consolidating Act of 1890 it is provided that any Order in Council made in pursuance of any enactment repealed, should, if in force at the passing thereof, continue in force until altered or revoked as if made in pursuance of that Act, and should be deemed to have been made under the Act of 1890; and any Order in Council referring to any enactment

repealed should be construed to refer to the corresponding enactment in the consolidating Act.

On a reference to the Act of 1890 it will be seen that the preamble recites that by treaty, capitulation, grant, usage, sufferance, and other lawful means, Her Majesty has jurisdiction within divers foreign countries. These expressions may be covered by the two general heads, "treaty" and "sufferance."

The Act proceeds to enact that it is lawful for Her Majesty to hold, exercise, and enjoy any jurisdiction she has, or may hereafter have, within a foreign country, in the same and as ample a manner as if the same had been acquired by cession or conquest of territory (the allusion to cession and conquest of territory, it is to be noted, does not confer additional powers outside Her Majesty's jurisdiction, but is confined to the mode of exercise of the jurisdiction that has been granted by treaty). Section 2 is important as referring specially to countries without regular government. It provides that Her Majesty shall have jurisdiction over her subjects for the time being resident in or resorting to countries not subject to any government from whom jurisdiction might have been obtained in manner provided by the Act, and practically gives Her Majesty power to exercise unlimited jurisdiction in such places. The following sections enact that things done in pursuance of jurisdiction in a foreign country shall be as valid as if they had been done according to the local law of the foreign country. Questions that may arise as to the existence or extent of jurisdiction, are to be decided by a reference to a Secretary of State, whose decision is to be final. By section 5, Her Majesty has power, by Order in Council, to direct that certain Acts referred to in the ~~schednle~~ shall extend with or without any exceptions,

adaptations, or modifications in the Order mentioned to any foreign country, and thereupon these enactments shall, to the extent of jurisdiction, operate as if the country were a British possession and Her Majesty in Council the legislature thereof. In the succeeding Chapters will be noticed the Acts referred to.

Persons charged with offences cognizable by a Consular Court may, by warrant, be sent for trial to a British possession appointed by Order in Council, and the accused may, before being sent for trial, tender for examination any competent witness whose evidence is material, and whom he alleges he is unable to produce at the trial; and the section deals with the mode of taking such evidence and its transmission to the Court that is to try and its admissibility in that Court. Where an offender is sentenced to death by a Consular Court, the sentence is to be carried out in such place as directed by Order in Council. Deportation and detention, according to the Order, is to be as lawful as if the Order were to have effect in the foreign country.

Section 9 provides power for the Queen in Council to confer on any Court in any British possession any jurisdiction, civil or criminal, original or appellate, which may lawfully be assigned to any Consular Court.

Sections following provide power by Order in Council to revoke or vary any Order. All Orders made are to be laid before Parliament; Orders repugnant to any Act or Order made thereunder are to be subject to that Act or Order, and not to be void if repugnant only to the law of England. For protection of persons acting under the Act or Orders, and limits the time for commencing proceedings. Section 14 refers to subjects on vessels within a certain radius of China and Japan, and has no reference to the scope of this work. Sections follow including

subjects of the several Powers and States of India as persons enjoying Her Majesty's protection, and defining expressions used in the Act, and powers of repeal or variation of certain stated Acts of Parliament.

Under the Foreign Jurisdiction Acts, 1843—1878 (consolidated by the Act of 1890), the Africa Order in Council of the 15th October, 1889, was made, which forms the warrant for all consular jurisdiction in Africa. Before, however, proceeding to notice the provisions of this important Order reference will first be made to the treaties.



## CHAPTER III.

### THE TREATIES.

THE treaties with the kings and chiefs in the Niger districts are numerous, but though in all cases not quite identical are to the same purport and effect. Preliminary treaties with the chiefs of several of the districts were first entered into, and followed, in some instances, by a fuller treaty afterwards. They all recite that the Queen and the kings and chiefs of the several districts, being desirous of maintaining and strengthening the relations of peace and friendship that had long existed between them, Her Majesty had nominated (in most cases) her Consul in the district to conclude a treaty for the purpose. The Articles in the treaties are mostly as follows :—

ART. I.—Her Majesty, in compliance with the request of the kings, chiefs, and people, undertakes to extend to them, and to the territory under their authority and jurisdiction, her gracious favour and protection.

ART. II.—The kings and chiefs agree and promise to refrain from entering into any correspondence, agreement, or treaty, with any foreign nation or power except

with the knowledge and sanction of Her Majesty's Government.

ART. III.—It is agreed that full and exclusive jurisdiction, civil and criminal, over British subjects and their property in the territory, is reserved to Her Britannic Majesty, to be exercised by such consular or other officers as Her Majesty shall appoint for that purpose. The same jurisdiction is likewise reserved to Her Majesty in the said territory over foreign subjects enjoying British protection who shall be deemed to be included in the expression "British subject" throughout the treaty.

ART. IV. — All disputes between the kings and chiefs, or between them and British or foreign traders, or between the aforesaid kings and chiefs and neighbouring tribes, which cannot be settled amicably between the two parties, shall be submitted to the British consular or other officers appointed by Her Majesty to exercise jurisdiction in the territory, for arbitration and decision or for arrangement.

ART. V.—The kings and chiefs engage to assist the British consular or other officers in the execution of such duties as may be assigned to them, and, further, to act upon their advice in matters relating to the administration of justice, the development of the resources of the country, the interests of commerce, or in any other matter in relation to peace, order, and good government and the general progress of civilisation.

ART. VI.—The subjects and citizens of all countries may freely carry on trade in every part of the territories of the kings and chiefs, parties thereto, and in any houses and factories therein, when, in the estimation of the British consular or other officers, the state of the country

of the kings and chiefs will admit of the trade being so extended.

ART. VII.—All ministers of the Christian religion shall be permitted to reside and exercise their calling within all territories of the kings and chiefs, who hereby guarantee to them full protection. All forms of religious worship and religious ordinances may be exercised within the territories, and no hindrance shall be offered thereto.

ART. VIII.—If any vessel should be wrecked within the territories, the kings and chiefs will give them all the assistance in their power, will secure them from plunder, and also recover and deliver to the owners or agents all the property which can be saved. If there are no such owners or agents on the spot, then the property shall be delivered to the British consular or other officer. The kings and chiefs further engage to do all in their power to protect the persons and property of the officers, crew, and others on board such wrecked vessels. All claims for salvage dues in such cases shall, if disputed, be referred to the British consular or other officer for arbitration and decision.

ART. IX.—The treaty shall come into operation so far as may be practicable from the date of its signature.

In all the treaties with the kings and chiefs of the various districts included in the Niger Coast Protectorate Articles I. and II. are inserted, and in other cases all the above nine articles have been followed, with the exception in some that Article VI. is modified and shortened. In the treaty with the Bonny chiefs, Article VI., besides pro-

viding for the subjects of all countries carrying on trade in the territories, it is stated that in the markets opened by Bonny the sole and extensive right to trade in palm oil shall belong to the Bonny people.

Treaties in these forms have been concluded with the principal tribes and peoples in the Protectorate, including Old Calabar, Opobo, Bonny, New Calabar, Forcados, Warri and Benin. The treaties will be found fully set out in the valuable collections by Sir Edward Hertslet.



## CHAPTER IV.

### THE ORDERS IN COUNCIL.

THREE Orders in Council have been issued which affect the Protectorate—viz., the Africa Order in Council, 1889 (15th October, 1889); the Africa Order in Council of 1892 (28th June, 1892); and the Africa Order in Council, 1893 (17th July, 1893).

The first, after reciting that Her Majesty had power and jurisdiction in the parts of Africa mentioned in the Order, and the Foreign Jurisdiction Acts, 1843 to 1878, deals with interpretation of terms used in the Order and the application of the Order. The limits of the Order, by section 4, are the continent of Africa, with the maritime and interior territorial waters and the islands adjacent thereto, but the powers are to be exercised only within and for the local jurisdictions to be constituted for the purposes of the Order. (By Consular Instructions a Secretary of State may constitute, alter, or abolish local jurisdictions, but certain parts of the continent and British possessions are to be excluded from such provisions.)

Section 7 expressly refers to the Protectorate of the Niger Districts in relation to the constitutions of local jurisdictions with reference to the whole or any part of that region. (By Consular Instructions of 1891

the Oil River Protectorate, now styled the Niger Coast Protectorate, is constituted a local jurisdiction.)

The powers conferred by the Order within a local jurisdiction extend, by section 10, "in so far as by treaty, grant, usage, sufferance, or other lawful means, Her Majesty has power," to—

- (1) British subjects;
- (2) Their property within the local jurisdiction, including British ships, and persons and property on board;
- (3) Foreigners submitting themselves to the jurisdiction; and
- (4) Foreigners whose Government has agreed for or consented to the exercise of jurisdiction over them.

Subject to the provisions of the Order, the powers to be exercised in a local jurisdiction are to include all Her Majesty's power and authority under the Foreign Jurisdiction Acts. The terms "British subject" and "foreigners" are defined by the interpretation clauses: the first includes a "person enjoying Her Majesty's protection" residing and being in the parts of Africa mentioned, and the latter means a person who is not a British subject as defined, whether a native or not. "Native," means a native of Africa not being under Her Majesty's protection, nor the subject of any non-African Power.

Part II. deals with General Law. The jurisdiction is declared to be :—

For the judicial hearing and determination of matters in difference between British subjects, or between foreigners and British subjects, or

For the administration and control of the property  
or persons of British subjects ; or  
For the repression or punishment of crimes or  
offences committed by British subjects ; or  
For the maintenance of order among British  
subjects.

This jurisdiction is to be exercised, so far as circumstances admit, upon the principles and in conformity with the substance of the law for the time being in force in and for England, and according to the course, procedure, and practice before Courts of Justice and Justices of the Peace in England. Except as to offences under the Order, acts to be punishable must be punishable in England. A Secretary of State is empowered to declare laws and ordinances of any of the African possessions, with modifications and adaptations, shall have effect as if they had been applied by the Order. Under this section various ordinances of the Gold Coast Colony have been adapted and are noticed later.

Provisions of any treaties respecting any place in a local jurisdiction are to have effect as part of the law to be enforced under the Order: effect is to be given to them notwithstanding they may be inconsistent with the law in force in England.

Crimes, offences, wrongs, and breaches of contract against or affecting natives of Africa or foreigners, committed by persons subject to the Order, are cognizable or punishable under the Order with the consent of such natives or foreigners, but no consent by foreigners who are subjects of any of the signatory Powers to the Berlin Act, 1885, is necessary (*vide* Order in Council of 1892, *post*) ; and by Article XVIII. all other powers and authorities therein mentioned are to continue to exist

concurrently and independently of the powers and of the Order (various Acts being referred to).

Part III. relates to the Constitution of the Courts, districts, and places where Courts may be held, and Courts of Appeal. (By the Consular Instructions of 1891 the Supreme Court of the Colony of Lagos is the Court of Appeal for the Protectorate.)

Part IV. relates to the General Powers of the Courts and Procedure.

The Consular Courts are to be Courts of Law and of Equity.

Every Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding, and, with consent of the parties, refer any suit or proceeding to arbitration.

Part V. relates to Special Powers:—

Every Court shall be a Court of Bankruptcy, and, as far as circumstances admit, have jurisdiction therein over British subjects and their debtors and creditors, or foreigners submitting to the jurisdiction, as belongs to any judicial authority in bankruptcy in England, but no submission by foreigners, subjects of the signatory Powers to the Berlin Act, is necessary by the Order in Council of 1892.

Every Court shall be a Vice-Admiralty Court, and for vessels and persons coming within the district as ordinarily belongs to Vice-Admiralty Courts in the colonies.

Every Court shall be a Court of Probate, and, as far as circumstances admit with respect to property of British subjects, appearing to have at the time of death a fixed place of abode in the district, shall have jurisdiction as belongs to Probate Courts in England.

ART. XXXIX.—Persons having any testamentary writings of any British subject in their possession are forthwith to deliver the original to the Court and deposit it there.

ART. XL.—Until administration granted, personal property of British subjects in the district is to vest in judge.

ART. XLI. provides for penalty for dealing with property of deceased British subjects without probate or administration.

ART. XLII.—On the death of a British subject without fixed place of abode the Court is to take possession of the personal property, or put it under seal, and so keep it until it can be dealt with according to law.

ART. XLIII.—In cases of apparent intestacies, Court may grant administration to judge or an officer of the Court, and provide for the expenses of administration.

ART. XLIV.—Where the value of the property does not exceed 100*l.* the Court may, without probate or administration, pay debts and charges, and pay the balance to such persons as a Secretary of State directs.

Part VI. relates to Criminal Law and Procedure. The crimes punishable under the Order are:—

- (1) Acts or omissions punishable in England on indictment with death, penal servitude, or imprisonment, as treasons, felonies, or misdemeanours.
- (2) Acts or omissions declared to be punishable as offences against the Order.

Piracy by British subjects, wherever committed, is within the power of the Court.



Offences against the Order are:—

Levying war, or taking part in any operation of war, against any king, chief, tribe, or power.

Aiding or abetting any persons in carrying on war, insurrection, or rebellion.

(Deportation may be added to the punishment for these offences.)

Acting in contravention of any treaty, or of any of the Queen's regulations to be made under the Order, or of any rules or regulations in force under the Order of 1872.

Disturbing religious ceremonies or publicly insulting ministers of any religion, or place, or object of religious worship, whether in relation to native or other form of religion or superstition.

Smuggling with intent to avoid payment of any duty payable to a recognised chief, king, Government, tribe, or people.

Obstructing officers executing process, disturbing Courts when sitting, intimidating suitors, insulting members of any Court, assessors, or officers of the Court during sittings, or going to or coming from, and committing acts which would be contempt of court in England.

For these last-mentioned offences persons may be apprehended with or without warrant, or Court may direct offender to be tried in a separate prosecution, or proceedings, as other offences against the Order.

Doing acts from which grave danger to public order is likely to be occasioned. In these offences the Court is to have same power as it has in relation to apprehended breaches of the peace.

Extorting money or other misconduct as a clerk or

officer of Court. (Charges may be inquired into in a summary way.)

Failure to comply with an order for contribution towards support of wife or child.

Offences against the Merchandise Marks Act, 1887.

Offences against the Patents, Designs, and Trade Marks Acts, 1883 to 1888.

Offences against any statute or order relating to copyright.

For offences against such statutes, proviso that copy shall be published in every Consular Court, and persons shall not be punishable before one month after the publication thereof.

Prosecution by foreigners not to be entertained without written consent of Court; consent may be withheld if Court not satisfied similar acts punishable in State or Power of which the prosecutor is a subject. (Subjects of the signatory Powers to the Berlin Act are, however, justiciable by the Courts as British subjects. See Order in Council of 1892, *post.*)

Punishment for offences against the Order where no other punishment or penalty specified, imprisonment not exceeding three months or fine not exceeding 100*l.*, or both.

Criminal Procedure is dealt with by Articles LVII. to LXXXI. Every Court may cause to be apprehended and brought before it any British subject being within its district and charged with having committed a crime in the district, and if the crime is triable or to be tried in Her Majesty's dominions, may take the preliminary examination and commit for trial, and cause him to be taken to the place of trial.

By Article LXI., where the crime is punishable with death or penal servitude for twenty years or upwards,

when satisfied there is reasonable ground for putting accused on his trial, Court shall cause him to be removed for trial in one of the African possessions, if the attendance of the necessary witnesses for the prosecution and defence can be secured, otherwise the Court shall commit for trial in the district. In other crimes, by Article LXII. punishable with imprisonment for twelve months or upwards, there is a discretionary power to Court to order accused's removal for trial, or to commit for trial in the district.

Persons tried before a Consular Court under these two Articles are to be tried by the Court with assessors, unless accused consents to be tried without assessors. Other crimes and offences against the Order are to be tried by the Consular Court, with or without assessors.

Punishments are to be awarded, as far as circumstances admit, according to the law of England in like cases, and to the mode of their infliction. In assaults the Court may order payment of damages to a sum not exceeding 20*l.*, in addition to or in lieu of a fine.

Sentences of imprisonment are to be carried into effect in such prisons as a Secretary of State directs.

Sentences of death are to be carried out in one of the African possessions.

A Secretary of State may remit or commute any sentence of a Consular Court. In every case of sentence of death, minutes of the trial are to be transmitted to a Secretary of State, and the sentence must be confirmed by him.

A Secretary of State may direct prescribed Court of Appeal to review sentences.

Warrants issued in Her Majesty's dominions for the apprehension of British subjects charged with crime committed in the jurisdiction of the issuing authority,

may be backed by the Court, and when so backed are to be sufficient authority to apprehend the accused and to deliver him to persons having authority to receive and carry him to Her Majesty's dominions.

By Article LXXVIII. adaptations of the Admiralty Offences (Colonial) Act, 1849, and the Admiralty Offences (Colonial) Act, 1860, and of section 11 of The Merchant Shipping Act, 1867, are set out, and so far as there repeated and adapted, "but not further or otherwise," are to extend to all places in the local jurisdictions.

Art. LXXIX.—The Fugitive Offenders Act, 1881, is applied subject to exceptions and qualifications that the Act is to apply only to British subjects; the principal consular officer is substituted for the governor, superior court, judge, magistrate or justice of the peace in a British possession; the report necessary to be given fugitive; provisions of section 6 as to Habeas Corpus not to apply; Consular Court not bound to return fugitive unless satisfied proceedings taken with consent of governor of the British possession.

Art. LXXX. applies the Colonial Prisoners Removal Act, 1884, to the local jurisdiction, and substitutes the principal consular officer for the governor of a possession.

Art. LXXXI.—Nothing in the Order is to affect Her Majesty's prerogative of pardon.

Part VII. deals with Appeals in Civil Matters.

Part VIII. deals with Evidence in Civil and Criminal Cases and the Compulsory Attendance of British Subjects as Witnesses. British subjects wilfully giving false evidence to be deemed guilty of perjury.

Judicial notice is to be taken of the Order in Council, of the appointment of the consular officers and

constitution and limit of the jurisdiction, and districts, and consular seals and signatures, and of any rule and regulation made or in force under the Order; no proof is to be required of any such facts. A person attending to give evidence shall not be compelled or allowed to do so, or to produce any document, if principal consular officer signifies personally or in writing to Court that the giving or production thereof would be injurious to Her Majesty's service. The provisions of the Evidence Act, 1851, the Foreign Tribunals Evidence Act, 1856, sects. 7 and 11, the Evidence by Commission Acts of 1859 and 1885, the British Law Ascertainment Act, 1859, and the Foreign Law Ascertainment Act, 1861, are extended to all places in the local jurisdiction.

Part IX. relates to Assessors, their nomination, number, and in what cases they may be dispensed with, and mode of recording their dissent, and punishment for failure to attend.

Part X. relates to Rules of Procedure, powers for framing rules with approval of Secretary of State, to what matters they may extend, and for their publication and sale of copies, and provides that rules in the schedule may be used "with such modifications as circumstances require."

Part XI. deals with Treaties and Queen's Regulations. Every consul is to have power to make Queen's regulations for securing the observance of treaties, or of any native or local law or custom relating to trade, commerce, revenue, or other matter, and for the peace, order, and good government of British subjects, and also for requiring returns of exports and imports, and for the governance and superintendence of prisons. Queen's regulations so made are not to have effect until allowed

by Secretary of State. Any regulations under the West Africa Order of 1872 are to remain in force until revoked by Secretary of State.

Part XII. relates to Civil Suits by or against Foreigners and Foreign Tribunals, and provides for the filing of a consent by the foreigner to the jurisdiction, and, if required, a certificate of his Government that no objection is made by that Government to the jurisdiction, and, if required, for security for costs, and to abide by the decision of the Court or in appeal. (But it must be borne in mind that by the Order in Council of 1892, subjects of any of the signatory Powers to the Berlin Act are justiciable as British subjects, and their consent is not necessary.) Counterclaims in such suits are not to be instituted; but after the termination of such suits, defendant may commence a suit to establish any claims he may have; and as to stay of execution in such cases, Court may order the attendance of any witness before a foreign or native court in any place within its "particular jurisdiction."

Part XIII. deals with Deportation and Removal. Courts may, in addition to or in lieu of any other sentence, order persons convicted to give security for future good behaviour, and in default may order him to be deported forthwith, or after undergoing any sentence passed on him, to the prescribed African possession or to such other part of Her Majesty's dominions as a Secretary of State may with the concurrence of the Commissioners of the Treasury direct; and where it appears to the Court there is reason to believe a person is about to commit a breach of the peace, or his conduct is likely to produce or excite such, and provides for the manner of executing orders of deportation. An order

for deportation may be limited or unlimited as to time. To return without written consent of Court or of a Secretary of State, is made an offence against the order, and, in addition to a punishment therefor, the person is liable to be again deported on a fresh warrant. This part also deals with procedure in cases of removal for trial or execution of sentence, and for the issue of warrants for the purpose of carrying out the provisions of the order.

Part XIV. relates to Registration. Registration of British subjects is compulsory. Failure to register is an offence against the Order punishable with a fine not exceeding £5, and any Court or authority may, if it thinks fit, decline to recognise him as a British subject.

Part XV.—Official. Consular officers may perform any acts, not of a judicial character, which they might by law or usage or sufferance have performed had the Order not been made. Persons acting as consular officers may, unless the consular officer otherwise directs, continue to complete the hearing of any proceedings civil or criminal, notwithstanding authority determined. The limitation of actions against consular officers is provided for.

Part XVI.—Fees, Fines and Penalties are to be accounted for, paid and applied, as Secretary of State, with concurrence of Treasury, directs. Expenses of removal and deportation are in a similar way provided for.

Part XVII. contains Supplemental Provisions as to the application of Imperial Acts, Laws, or other Orders in Council, to the jurisdiction and their construction, and in case of any difficulty occurring a Secretary of State may direct by and to whom and in what manner

anything is to be done thereunder. All sums are to be calculated in English money, or its equivalent, with the consent of the Court.

Her Majesty may appoint any consul-general, judge, commissioner, or other person, to exercise appellate jurisdiction within the limits of his appointment. Such persons to have in civil and criminal matters an extraordinary original jurisdiction, concurrent with the judge of any such Court, to be exercised in such classes of cases or particular cases as subject to the terms of his appointment and to any instructions a Secretary of State thinks fit to direct; and shall have such other powers over the consular court and officers as his appointment or commission may specify, and in cases where he does not exercise original jurisdiction an appeal may be brought to him in like manner as an appeal to the Court of Appeal, and by his leave a further appeal shall be made to the Court of Appeal, and rules may be made for the purposes of this Article.

Part XVIII. deals with Commencement and Publication of the Order, Rules and Regulations thereunder, Repeals, and Temporary Provisions. In the schedule to the Order, referred to in Article 96, rules and forms are appended—these may be used with such modifications as circumstances require. The rules are divided into three groups, *i.e.*, general rules relating to both civil and criminal proceedings (with forms), rules and forms applying to civil proceedings only, and rules and forms applying to criminal proceedings. These require no special notice here, and will be found in the schedule to the Order, and all matters dealt with by them are noticed in the General Index.



The second Order—the Africa Order in Council of 1892 (28th June, 1892)—is a short supplementary Order, and recites the powers and jurisdiction conferred by treaty and sufferance in the parts of Africa mentioned in the Order of 1889, and proceeds to recite the declaration in the general Act of the Conference of Berlin with respect to occupations in Africa by any of the signatory Powers thereto, that the establishment of authority in protected territories was an obligation resting upon the respective protecting Powers, and that it was necessary, in order to the due fulfilment of the obligation as respects places in the limit of the Order which should have been declared to be under her Majesty's protection, that the subjects of the signatory Powers should be justiciable under the Order in like manner as British subjects, and that for the purpose the provisions of the Order, as far as practicable, should be extended, and that it was expedient that the powers of a Secretary of State should be extended to provide for the application of Acts and enactments in force in British India and places within the limits of the Order.

ART. I.—Deals with the definition of terms referred to in the Order.

ART. II.—Where any places are declared to be a Protectorate in the limits of the Order of 1889 all provisions of the Order of 1889 are to extend to foreigners to whom the Order applies except Part XIV. (which relates to registration), and all such foreigners are to be justiciable by the Courts constituted for the Protectorate under the same conditions as British subjects, and Part XII. and so much of the rest of the Order as requires the consent of any foreigner is to be of no force in the Protectorate as respects foreigners to whom the Order is to apply.

ART. III.—A Secretary of State may declare that any Act or enactment in force in British India shall have effect in any place within the limits of any local jurisdiction. This Article is not likely to have any application to places on the West Coast.

Article IV. directs that the two Orders may be cited together as the Africa Orders in Council 1889 and 1892.

By the third Order—the Africa Order in Council, 1893—it is provided that natives of any British Protectorate outside any local jurisdiction should, when within the local jurisdictions, be deemed to be British protected persons within the meaning of the Order of 1889, and that the expression “treaty” should extend to any treaty, convention, or international agreement to which Her Majesty is or might be a party, whether any state, government, king, chief, or tribe having authority in any local jurisdiction is or is not a party thereto.

Instructions for the guidance of consular officers in giving effect to the Africa Order in Council 1889 were issued in 1891 under the powers of the Order.

Local jurisdictions by these instructions were constituted: besides Madagascar four other local jurisdictions are constituted—the Niger Coast Protectorate (then “Oil River Protectorate”), the Congo Free State, the British sphere on the east coast, exclusive of Zanzibar, and the British sphere north of the Zambesi.

Reference is made to Article 15 in the Order as to the application of colonial laws, but since these instructions were issued under this Article some of the Ordinances of the Gold Coast Colony have been applied.

Courts of Appeal from the Courts of the respective

local jurisdictions are constituted: the Supreme Court of the Colony of Lagos for the Niger Coast Protectorate; the Gold Coast for the Congo Free State; Bombay for the sphere on the east coast; the Cape of Good Hope for the sphere north of the Zambesi; and Mauritius for Madagascar.

A scale of fees is annexed to the instructions to be adopted under the Order.

Instructions relating to the place of deportation are given, and direct that such an order should name the place as appears most convenient with regard to the place of birth or domicile of the person to be deported; the previous consent of the Governments of Cape Colony or Natal should be obtained before any deportation made to these two colonies; in determining not merely the place of deportation, but also of the trial and punishment of persons in British possessions, it should be borne in mind that the expenses, as far as practicable, should be defrayed by the government of the possession to which the persons belong.

## CHAPTER V.

### THE APPLIED ACTS.

UNDER section 5 of the Foreign Jurisdiction Act, 1890, power to extend, by Order in Council, the enactments in the first schedule to the Act is given with or without any exceptions, adaptations, or modifications, to any foreign country in which Her Majesty has jurisdiction. Twelve Acts are set out in this schedule, and the whole of eight of these Acts can be applied, while parts and sections only of the other four are extendible. Ten of these enactments have been extended or adapted by the Africa Order in Council of 1889, the two enactments that have not been applied at all being the Merchant Shipping Act, 1854, Part X., and the Conveyancing (Scotland) Act, 1874, sect. 51.

The provisions of Article 78 of the Order of 1889 are to be deemed adaptations for the purpose of the Order, of the Admiralty Offences (Colonial) Act, 1849, the Admiralty Offences (Colonial) Act, 1860, and the Merchant Shipping Act, 1867, sect. 11, and so far as they are repeated and adapted by the Article, but not further or otherwise, are to extend to all places within the limits of each local jurisdiction.

The Fugitive Offenders Act, 1881, is applied to

each local jurisdiction as if such were a British possession, subject to conditions, exceptions, and qualifications mentioned in the Article, which are that the Act is only to apply in the case of British subjects; the principal British consular officer is substituted for officers referred to in the Act. The enactment concerning sending a report of the issue of the warrant or certificate of committal or discharge to be given to a fugitive, and enactments as to habeas corpus are excepted. The consular officers are not to be bound to return an offender unless satisfied that proceedings are with the consent of the governor of the British possession. For the purposes of Part II. of the Act, each local jurisdiction constituted, together with Her Majesty's African possessions, is to be deemed one group of British possessions.

By Article XCI.,

The Evidence Act, 1851, sects. 7 and 11,  
The Foreign Tribunals Evidence Act, 1856,  
The Evidence by Commission Act, 1859,  
The Evidence by Commission Act, 1885,  
The British Law Ascertainment Act, 1859, and  
The Foreign Law Ascertainment Act, 1861,

are all completely extended: the first as if the district were a British colony, and the five latter with adaptations substituting the Court for the Supreme Court, or a Judge of a Court in a Colony, or for a Supreme Court in a Colony respectively.

Although not one of the Acts in the schedule to the Foreign Jurisdiction Act, 1890, by Article LXXX. of the Order the Colonial Prisoners Removal Act, 1884, is applied to each local jurisdiction as if the same were a British possession, and the principal consular officer is substituted for the governor of a British possession.

## CHAPTER VI.

## COLONIAL ORDINANCES HAVING EFFECT IN THE PROTECTORATE.

UNDER Article XV. of the Order in Council, 1889, four Ordinances of the Gold Coast Colony, modified and adapted, have effect, and are to be administered in the Protectorate. These are:—

The Niger Coast Customs Ordinance, 1894 ;  
The Niger Coast Post Office Ordinance, 1894 ;  
The Niger Coast Constabulary Ordinance, 1894 ; and  
The Niger Coast Fire Arms Ordinance, 1894 (a).

*The Customs Ordinance* deals with all matters regulating the Customs Department ; its commencement, application, and interpretation of terms are provided for in the preliminary sections. The Ordinance is to commence from the date fixed by the Commissioner after the same shall have been publicly exhibited in the

(a) It has not been thought necessary to include these Ordinances in this volume, as a supply of each has been separately printed and are obtainable, and the Ordinances are readily at hand in the volume of Laws of the Gold Coast Colony in Force April 7th, 1887, and can be read *mutatis mutandis* for the Protectorate.

consulate, and is to extend to the Niger Coast Protectorate and to the Protectorate waters.

Part I.—Relates to the appointment of officers and ports, and powers and duties of officers; the collection and management of duties; drawbacks and allowances; disputes as to duty and complaints; and disputes between merchants and customs officers and the investigation thereof.

Part II.—Relates to the importation and warehousing of goods.

Part III.—To exportation.

Part IV.—To the coasting trade.

Part V.—Refers to bonds and securities relating to the customs.

Part VI.—To false declarations.

Part VII.—To smuggling.

Part VIII.—To legal proceedings.

And there is a schedule of forms to be used.

*The Post Office Ordinance* deals with the establishment and regulations of the postal department.

Part I.—The first section, gives the interpretation to be placed on terms used throughout the Ordinance.

Part II.—Refers to stamps, duties, revenue and expenditure.

Part III.—To mail packets.

Part IV.—To delivery of postal matter.

Part V.—To posting.

Part VI.—To dead letters.

Part VII.—Contains regulations as to ship's letters.

Part VIII.—Deals with offences and penalties.

Part IX.—To legal proceedings.

Part X.—Provides for the protection of officers.

*The Constabulary Ordinance* deals with the constitution and government of the constabulary. In the preliminary section signification of terms used in the Ordinance are set out.

Part I.—Relates to the appointments and duties of officers, sergeants, corporals, and privates.

Part II.—To enlistment and discharge.

Part III.—Officers are to be justices of the peace and all members of the force constables with powers to arrest in certain cases.

Part IV.—Relates to offences against discipline.

Part V.—To punishment.

Part VI.—To procedure.

Part VII.—To the form of proceedings.

Part. VIII.—To offences relating to members of the force.

Part IX.—To sentences.

Parts X. and XI.—Contain miscellaneous provisions as to members of the force, and provide for the defence of the Protectorate by the force; the Army Act to apply with certain alterations, as to constitution of Court for trial of offences and proceedings relating to the same, revision of sentences by commissioner, and employ of force under command of officer having immediate commission from Her Majesty.



*The Firearms Ordinance* has been adapted to carry out the general Act of the Brussels Conference of 1890 and to regulate the importation and storage and disposal of firearms and ammunition into the Protectorate. The Ordinance is to commence from such date as shall be fixed by Her Majesty's Commissioner after having been publicly exhibited in the consulate. The Commissioner, by proclamation, is to appoint places for the storage or deposit of firearms and ammunition imported into the Protectorate, and to fix a time within which persons who, at the commencement of the Ordinance, are in possession of firearms other than flint-lock guns shall present same to be marked as provided by the Ordinance. It is believed that proclamations have already been issued for these purposes. Except in certain specified cases, arms of precision, such as rifles, magazine guns, or breechloaders, cannot be withdrawn from the warehouses appointed, either for sale or otherwise; and there are provisions as to the withdrawal of flint-lock guns and common gunpowder, and their sale and destination.



## GENERAL ANALYTICAL INDEX.

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- O.* ..refers to the Africa Order in Council of 1889.  
*O.*<sup>2</sup> ..refers to the Africa Order in Council of 1892.  
*O.*<sup>3</sup> ..refers to the Africa Order in Council of 1893.  
*R.* ..refers to the Rules appended to the Africa Order in Council of 1889.
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### A.

- ABSENCE OF PARTIES AT HEARING**, *R.* 21.
- ACCESSORIES TO MURDER AND MANSLAUGHTER**, powers of Court regarding, *O.* 78.
- ACCUSED**,  
    security by, for his appearance, *O.* 26.  
    escaping to another district, *O.* 76.
- ACCUSER**, payment of expenses of prosecution by, *O.* 66.
- AQUITTAL**, not to be ordered where attempt to commit the crime proved, *O.* 68.
- ACTING CONSULAR OFFICER**, cases heard by, *O.* 106.
- ACTING CONSUL-GENERAL, CONSUL OR VICE-CONSUL** (if authorized) to hold and form Consular Court, *O.* 19.
- ACTION**,  
    to be commenced by summons, *R.* 9 (2).  
    for assault, person convicted of assault, not liable to, *O.* 67.  
    notice of, necessary for anything done or omitted under Order, *O.* 107.  
    must be commenced within three months after any Act or omission complained of under Order, *O.* 107.  
    plaintiff not to succeed if tender of amends made before, *O.* 107.  
    further, persons punished not liable to, *O.* 67—83.
- ACTS OF PARLIAMENT REFERRED TO.** (See *Statutes.*)  
    how not affected by Order, *O.* 18.  
    application of, *O.* 79, 80, 91, 110.
- ADAPTATIONS**,  
    from colonial laws may be applied, *O.* 15.  
    of Acts of Parliament, *O.* 78, 81.
- ADDING PARTIES**, whose presence essential to a just decision, *R.* 12 (3).

**ADDRESS FOR SERVICE,**

- where plaintiff out of district, R. 13 (1).
- where plaintiff only temporarily in district, R. 13 (1).

**ADJOURNMENTS,** Court may extend or adjourn time for doing acts, &c. before or after appointed time, R. 48 (2).

**ADMINISTERING,** without probate or administration, liable to penalty, O. 41.

**ADMINISTRATION,**

- letters of, over property of British subjects, O. 38.
- letters of, where deceased had not a fixed abode in district not impeachable only for, O. 38.
- letters of, may be dispensed with where estate under 100*l.*, O. 44.

**ADMIRALTY JURISDICTION,** O. 37.

Vice-, Courts, O. 37.

Offences Act (Colonial), 1849, adaptation of, O. 78.

Offences Act (Colonial), 1860, adaptation of, O. 78.

directions as to sale, &c. of Order, O. 116.

**ADMISSION OF BARRISTERS AND SOLICITORS,** O. 25.

**AFFIDAVIT,**

- meaning of, O. 3.
- Registrar to take, O. 29.

**AFFIRMATIONS,** Registrar may take, O. 29.

**AFRICA,**

- Acts of Parliament relating to, O. 18.
- limits of Order, O. 4.
- West, Orders in Council, 1872 and 1885; O. 49, 99, 113.

**AFRICAN POSSESSIONS,**

- includes all colonies in Africa, O. 3.
- judges of, to have powers under Order, O. 20.
- Superior Courts of, to be Appeal Courts, O. 21, 112.
- excluded from local jurisdictions, O. 6.
- laws and ordinances, application, O. 15.
- powers, &c. of judge of Superior Court of, O. 19.
- Superior Courts of, review of sentences by, O. 74, 75.
- Supreme Courts, appeals to, O. 82.
- removal for trial to, O. 61.
- execution of sentences in, O. 72.

**AGREEMENT.** (See *Treaty*.)

**AMENDMENT,**

- in what cases permissible, O. 35.
- for errors and mistakes, and non-compliance with practice rules, Court may make, R. 48 (4).

**APPARENT INTESSTACIES—ADMINISTRATION,**

- to judge or officer of Court, O. 43.
- officers to be indemnified by Court, O. 43.
- commission chargeable for administering, O. 43.
- commission and expenses, first charge on property, O. 43.
- commission, how provided for, O. 43.
- proceedings on estate under 100*l.*, O. 43.

**APPEAL,**

Courts of, *O.* 21.  
only to be where authorized under Order, *O.* 21.  
against proceedings by arbitrators, *O.* 34.  
to lie to prescribed Court, when, *O.* 82.  
leave to, granted by Court of Appeal, *O.* 82.  
time within which to, *O.* 82.  
stay of execution and terms of, *O.* 82.  
Consular Court may state a case for opinion of Court of, *O.* 82.  
matters not provided for on, to be same as on application for new trial, *O.* 82.  
Court, decisions of, to be subject to appeal in same manner as other appeals, *O.* 82.  
appeal to Her Majesty in Council, conditions of, *O.* 82.  
Court of, sentences may be directed to be reviewed by, *O.* 74.  
minutes of cases to be transmitted to, *O.* 75.  
findings of Court of, to be carried into effect by Consular Court, *O.* 75.  
Court may direct stay of execution pending review, *O.* 75.  
to persons appointed to exercise appellate jurisdiction in local jurisdiction, *O.* 112.  
Court may direct security before execution for performance of Order on appeal, *R.* 46 (2).  
Court may on staying execution require appellant to give security pending appeal, *R.* 46 (3).  
time of, *R.* 42.  
application for leave to (when necessary) to be made one month from decision, *R.* 42 (1).  
where leave not necessary notice to be given within two months from decision, *R.* 42 (2).  
notice of, *R.* 43.  
appellant to transmit written notice of, stating extent and grounds of, *R.* 43 (1).  
appellant within seven days after notice to give security as Court directs, *R.* 43 (2).  
appellant at time of notice to pay into Court an estimated sum for costs of transmitting record, *R.* 43 (3).  
Court to serve notice of, on respondent, *R.* 44.  
respondent within fourteen days from service of notice to give notice of cross appeal (if any), *R.* 44.  
Court to make up record to include notes of evidence, &c., *R.* 45 (1).  
all documents forming record to be numbered and secured by seal and forwarded to Court of Appeal, *R.* 45 (2).  
no original documents to be transmitted as part of record, *R.* 45 (3).  
after transmission of record Appeal Court to be in possession of the whole action, *R.* 45 (4).  
Order made by Court of Appeal to be transmitted to Court below and there enforced, *R.* 45 (5).  
on leave for, or notice of, Court may suspend execution, *R.* 46 (1).

**APPEALS, *O.* 82, *R.* 42—46.**

for regulation of, Rules may be framed, *O.* 95. (*See Rules.*)

**APPELLATE JURISDICTION,**

conferred on Superior Courts of Colonies, *O.* 21.  
 person may be appointed to exercise, in local jurisdiction, *O.* 112.  
 powers of persons appointed to exercise, in local jurisdiction,  
*O.* 112.

**APPLICATION, ETC.,**

of the Order, *O.* 3—11.  
 to be made for judgments to be drawn up, *R.* 25 (1).  
 to dismiss action for want of prosecution, *R.* 16.  
 for search warrant, *R.* 79. (*See Search Warrant.*)

**APPLICATIONS TO COURT,** may be made orally, *R.* 48 (1).

**APPOINTMENT,**

of officers, *O.* 19.  
 how admitted in evidence, *O.* 19.  
 consular seal to appointments, *O.* 19.

**APPREHENDED BREACHES OF THE PEACE,** deportation may be ordered,  
*O.* 102.

**APPREHENSION OF BRITISH SUBJECTS** charged with crime committed in  
 District, *O.* 57.

**ARBITRATION AND RECONCILIATION,**

Courts to promote reconciliation, *O.* 34.  
 with consent of parties Court may refer suits pending before it,  
*O.* 34.  
 reference to, made rule of Court, *O.* 34.  
 award to be final, *O.* 34.

**ARBITRATOR,** appointment of, *O.* 34.

**ARREST, *O.* 32, *R.* 39.**

person failing to obey order may be arrested on warrant, *R.* 39.  
 in criminal case arising wholly or partly in jurisdiction, *O.* 26.  
 application for warrant for, *R.* 39 (1).  
 form of warrant, *R.* 39 (2).  
 for disobedience to Order person liable to be detained until Order  
 complied with or security given, *R.* 39 (3).  
 imprisonment of person disobeying order where no longer possible  
 to obey, *R.* 39 (3).  
 for disobedience to Orders, followed by sequestration, *R.* 40 (1).  
 (*See Sequestration.*)  
 warrant of, in criminal proceedings, *R.* 53. (*See Warrant.*)  
 of accused, for removal to Court having jurisdiction, *O.* 26.  
 warrant of, may be issued and executed on Sunday, *R.* 80 (1).  
 of British subjects, *O.* 57.

**ARRESTS to enforce judgments, *O.* 32.**

**ASSAULT,**

of officers of Court, bail discretionary, *O.* 60.  
 person committing, may be ordered to pay damages, *O.* 67.  
 damages may be in addition to or in lieu of fine, *O.* 67.  
 damages for, recoverable as a fine, *O.* 67.  
 person convicted of, not liable to an action, *O.* 67.  
 with intent to rob, *O.* 69.

**Assessors, O. 92.**

- trial with, what cases compulsory, O. 63.
- consent by accused for trial without, O. 63.
- Court may summon not less than two or more than four British subjects, O. 92.
- when Court may proceed with one only or without any, O. 92.
- not to have voice in decision, O. 92.
- dissenting from decision, dissent how recorded, O. 92.
- entitled to copy of the minutes, O. 92.
- cases where amount in dispute or claim under 300*l.* discretionary appointment, O. 93.
- punishment of persons refusing to attend as, O. 94.
- fine for refusal to attend as, mode of recovery, O. 94.
- in absence of, Court may continue trial without, in urgent cases, R. 5 (7).
- file of proceedings to be open to inspection of, R. 7 (4).
- being all prevented from continuing to serve new trial with fresh assessors may be had, R. 5 (7).
- prevented from continuing to serve Court may proceed with remainder, R. 5 (6).
- excused from attendance, R. 5 (5).
- minutes of proceedings open to, O. 28.
- trial with, when discretionary, O. 64.
- list of qualified persons to be kept by each Court, R. 5.
- summoning of, R. 5 (2).
- form of summons for, R. 5 (4).
- in suits by or against foreigners, O. 100.

**Association, included in person, O. 3.**

**Attachment,**

- rules may be made as to, O. 96.
- of debts, R. 31. (See *Execution.*)

**Attempted Crimes, how dealt with, O. 68.**

**Attendance of Witnesses, R. 1.**

**Auxiliary, Consular Courts to be, to each other, O. 23.**

**Award,**

- to be final, O. 34.
- decree may be entered in conformity with, O. 34.
- when open to appeal, O. 34.
- proceedings after, O. 34.
- enforcement of, O. 34 and O. 96.

**B.**

**Backing Warrants, issued in any of Her Majesty's dominions, and arrest of offenders thereunder, O. 77.**

**Bail,**

- to be by recognizance to appear, R. 56 (1).
- form of, R. 56 (1).

**BAIL—continued.**

- sureties for, in discretion of consul, R. 56 (2).
- on completion of recognizance accused to be discharged from custody, R. 56 (3).
- person out on, failing to appear, recognizance to be forfeited and liable to arrest, R. 56 (4).
- when to be allowed, O. 60, 75.
- when discretionary, O. 60.

**BANKRUPTCY,**

- Courts of, O. 36.
- jurisdiction in, O. 36.
- law enforced in England to apply, O. 36.

**BARRISTERS, admission of, O. 25.****BILLS OF SALE, made as security in regard to crimes committed, O. 32.****BOATS FORFEITED, R. 78. (See *Sale of Goods forfeited.*)****BOND for security of costs, R. 13 (2).****BREACHES OF CONTRACT, affecting natives and foreigners cognizable with consent under Order, O. 17.****BREAKING AND ENTERING BUILDINGS,**

- powers of Court in offence of, O. 70.
- open doors, R. 79. (See *Search Warrant.*)

**BRINGING PERSONS BEFORE THE COURT IN CRIMINAL PROCEEDINGS,**

- arrested persons to be brought up within forty-eight hours, R. 55 (1).
- if not brought up in forty-eight hours reasons of delay to be recorded, R. 55 (2).

**BRITISH POSSESSIONS,**

- Fugitive Offenders Act, 1881, to apply to local jurisdiction, as if, O. 79.
- Colonial Prisoners Removal Act, the like.
- British Law Ascertainment Act, 1859, extended, O. 91.

**BRITISH PROTECTED PERSON, O. 3, O.<sup>s</sup> 2.**

- natives of any British Protectorate outside local jurisdiction, when within jurisdiction to be deemed such, O.<sup>s</sup> 2.

**BRITISH SHIPS, persons belonging to, may be summoned as assessors, O. 92.****BRITISH SUBJECT,**

- meaning of, O. 3.
- British subjects and their property affected, O. 10.
- ships and boats, persons and property on board affected, O. 10.
- subjects, bankruptcy of, jurisdiction of Courts, O. 36.
- wills of, to be deposited in Court, O. 39.
- death of, in district, property to vest in judge until administration granted, O. 39.
- piracy by, triable wherever committed, O. 47.



**BRITISH SUBJECT—continued.**

- murders and manslaughter by (or accessories to), jurisdiction over, *O.* 78.
- jurisdiction over, for crimes on high seas or admiralty jurisdiction, *O.* 78.
- ship, offences committed on board of, *O.* 78.

**BRITISH SUBJECTS,**

- Fugitive Offenders Act, 1881, only to apply to, *O.* 79.
- may be summoned to give evidence, *O.* 83.
- when warrants may be issued, *O.* 84.
- giving false evidence, perjury, *O.* 87.
- may be summoned as assessors, *O.* 92.
- power to apprehend and try, *O.* 57.
- suits by, against foreigners when entertained, *O.* 100.
- counterclaims by, in suits by foreigners not permissible, *O.* 100.
- co-plaintiff with foreigner, security for costs will not be ordered, *O.* 100.
- co-plaintiff with foreigner, liable for all costs, *O.* 100.
- resident in district must register in Consular Court, *O.* 104.
- arriving in Protectorate must register within one month, *O.* 104.
- failure to register, Courts may decline to recognise him as British subject, *O.* 104.
- registration of, *O.* 104.
- subjects of the signatory Powers to the Berlin Act, 1885, justiciable by the Courts as, *O.*<sup>2</sup> 2.

**BURGLARY,**

- powers of Court in, *O.* 70.

**C.****CAPE COLONY,**

- a colony persons may be removed to for trial and execution of sentence, *O.* 72A.

**CAPITULATIONS, *O.* 10.****CASES AND CASES FORFEITED, *R.* 78. (See *Sale of Goods.*)****CAUSE BOOK,**

- to be kept by every Court, *R.* 10.
- what entries to be made therein, *R.* 10.
- form of, *R.* 10.

**CAUSES OF ACTION,**

- plaintiff may unite several causes in same action, *R.* 11 (1).
- Court may order separate trials, when, *R.* 11 (2).

**CERTIFICATE,**

- of dismissal of charge, *R.* 70, 71. (See *Dismissal of Charge.*)
- of registration, *O.* 104.

**CHANGE OF PARTIES TO ACTION, *R.* 19. (See *Parties.*)**

- or transmission of interest, of parties to action, *R.* 19 (1).

**CHARGE,**

- prosecutor is to prefer, R. 50 (2).
- consul to make a minute in writing of, with particulars of names and substance of offence, R. 50 (3).
- form of, R. 50 (3).
- description of offences to follow words in Acts of Parliament or of Africa Order or in similar words, R. 54.

**CHILD,**

- summary order for support of, O. 54.
- illegitimate, support of, O. 54.

**CIVIL APPEALS,**

- rules as to, O. 95. (See *Rules*.)
- suits, conduct of, to be without excessive regard to technicalities, O. 95.
- proceedings, rules may be framed as to, O. 95—98. (See *Rules*.)

**CIVIL CASES,**

- minutes of proceedings to be drawn up, O. 28.
- costs in, O. 31.
- appeals, O. 82.
- evidence, witnesses, &c., O. 83—91.
- heard with assessors. (See *Assessors*.)

**CIVIL JURISDICTION,**

- to be exercised according to law in England, O. 13.
- in what cases Courts can act, O. 26.

**CIVIL PROCEEDINGS,**

- to be by action, R. 9.
- pending at commencement of Order, O. 114.
- procedure, O. 22—35, 95—98.

**COLONIAL LAWS,**

- Secretary of State may apply, O. 15.
- Courts, Vice-Admiralty, jurisdiction of, to apply, O. 37.
- Courts, acts of, how affected by the Order, O. 18.
- laws, how affected by the Order, O. 18.

**COLONIAL PRISONERS REMOVAL ACT, 1884, O. 80.****COLONY,**

- meaning of, O. 3.
- execution of sentence in, O. 72.
- Courts Act, O. 18.
- Admiralty Offences Acts, O. 78.

**COMMENCEMENT OF ORDER,**

- what repeats to take place, O. 113.
- time of, O. 115.

**COMMISSION, Her Majesty's, O. 19.****COMMISSION,**

- may be charged by officers administering a deceased's estate, O. 43.
- expenses, first charge on property, O. 43.
- how provided for, O. 43.

**COMMISSIONER,**

- appointment, *O.* 19.
- may be appointed to exercise appellate jurisdiction, *O.* 112.
- the like extraordinary jurisdiction in certain cases, *O.* 112.
- powers over District Courts and officers, *O.* 112.
- powers over consular and other officers, *O.* 112.
- appeals to, in cases where he does not exercise original jurisdiction, *O.* 112.

**COMMISSIONERS**, persons included as, *O.* 19.

**COMMISSIONS,**

- persons not holding Consular, may be appointed as judges, *O.* 19.

**COMMITTAL,**

- for trial to Colonial Courts, *O.* 57.
- of judgment debtor, *R.* 33. (See *Judgment Debtor.*)

**COMMITMENT**, warrant of, may be issued and executed on Sunday, *R.* 80.

**COMMUTING SENTENCES**, by Secretary of State, *O.* 74.

**CONFISCATIONS.** (See *Forfeiture.*)

**CONGO TERRITORIES**, local jurisdictions, *O.* 7.

**CONSENT OF COURT**, necessary for prosecutions by foreigners under Acts relating to copyright, trade marks, &c., when, *O.* 55.

**CONSENT OF NATIVES AND FOREIGNERS,**

- when necessary, *O.* 10, 17.
- of foreigners, subjects of signatory Powers to Berlin Act, not required, *O.* 2.

**CONSENT OF PARTIES**, to continue trial when assessors are prevented from serving, *R.* 5 (7).

**CONSTITUTION OF COURTS**, *O.* 19.

**CONSUL,**

- empowered to make Queen's regulations, *O.* 99.
- to give certificate of registration of British subjects, *O.* 104.
- persons included as, *O.* 19.
- general powers, *O.* 105.
- every, to aid in execution of summonses, warrants, and Orders, *R.* 80 (2).

**CONSUL-GENERAL,**

- may admit persons as barristers and solicitors, *O.* 25.
- make rules for admission of persons to practise, *O.* 25.
- may be appointed to exercise appellate jurisdiction, *O.* 112.
- appellate jurisdiction in certain cases, *O.* 112.
- extraordinary jurisdiction in certain cases, *O.* 112.
- powers over District Courts and officers, *O.* 112.
- powers over consular and other officers, *O.* 112.
- appeals to, in cases where he does not exercise original jurisdiction, *O.* 112.

CONSUL-GENERAL, CONSUL, OR VICE-CONSUL, if authorized, to hold and form a Consular Court, *O.* 19.

CONSULAR AGENT, *O.* 3.

CONSULAR COURT, registration of British subjects in, *O.* 104.

CONSULAR COURTS,  
persons appointed to exercise appellate jurisdiction to have powers over, *O.* 104.  
appeals from, to persons having appellate jurisdiction, *O.* 104.  
to be auxiliary to each other, *O.* 23.  
general powers, *O.* 105.  
terms included in, *O.* 19.  
jurisdiction vested in, to be exercised in own district, *O.* 22.

CONSULAR COURTS TO BE COURTS OF RECORD, *O.* 24.

CONSULAR COURTS TO BE COURTS OF LAW AND EQUITY, *O.* 24.

CONSULAR DISTRICT,  
definition of, *O.* 3.  
officers, definition of, *O.* 3.  
officers may take possession of property of deceased persons, *O.* 41.  
officers, the like where deceased had no fixed abode in district, *O.* 42.

CONSULAR INSTRUCTIONS,  
meaning of "prescribed" in connection with, *O.* 3.  
may constitute or alter local jurisdictions, *O.* 5.  
how published, *O.* 5.  
Act, 6 Geo. IV. c. 87, *O.* 96.

CONSULAR OFFICER,  
includes person acting as consul-general, consul, vice-consul, or consular agent, *O.* 3.  
may be appointed to act concurrently or separately, *O.* 19.  
may perform acts not of a judicial character, *O.* 105.  
persons acting as, may complete hearing of civil and criminal matters after ceasing to act, unless otherwise directed, *O.* 106.  
under Fugitive Offenders Act, substituted for what persons, *O.* 79.  
not bound to return fugitive unless proceedings taken with consent of Government of British Possession, *O.* 79.  
under Colonial Prisoners Removal Act, substitute for what persons, *O.* 80.  
may signify evidence about to be given, injurious to Her Majesty's service, *O.* 90.  
may frame rules, *O.* 95—98. (See *Rules.*)  
powers of judge, &c., over, *O.* 112.

CONTEMPT OF COURT,  
an offence against Order, *O.* 51.  
apprehension and punishment of persons guilty of, *O.* 51.

CONTRACT, breaches of, affecting natives and foreigners cognizable under Order, *O.* 10, 17.

CONVENTION. (See *Treaty*.)  
with Congo State, O. 7.

CONVICTION, R. 75. (See *Imprisonment on Conviction*.)

CONVICTION AND SENTENCE,  
to be entered on minutes, R. 69.  
the like in respect of any order for security for good behaviour,  
R. 69.  
the like in respect of any order of deportation or payment of  
damages, R. 69.  
certified copy of, to be transmitted to place selected for execution  
of sentence, R. 75 (2).

COPYRIGHT ACTS, relating to, offences against, an offence against the  
Order, when, O. 55.

CORPORATIONS, included in person, O. 3.

COSTS,  
in civil cases, O. 31.  
in criminal cases, O. 32.  
to be in the discretion of the Court, R. 24 (1).  
of whole action, in discretion of Court, R. 24 (1).  
of particular proceedings in actions, ditto, R. 24 (1).  
of whole action, of successful party, not to be ordered against,  
R. 24 (2).  
of particular proceedings, Court may order successful party to pay,  
R. 24 (2).  
may be ordered to be paid out of any fund or property, R. 24 (3).  
ordered to be paid, Court may order stay until payment of,  
R. 24 (4).  
if practicable to be fixed by Court at time of making order or  
judgment, R. 24 (5).  
fixing amount of, principles to be observed in, R. 24 (6).  
charges of sequestration proceedings and remuneration of seques-  
trators, R. 40 (3). (See *Sequestration*.)  
of amendments of errors and mistakes, R. 48 (4).  
on re-hearing and reviewing judgment in civil cases, O. 27.  
fees, &c., provisions as to, O. 31.  
costs, charges, and expenses in civil cases Court may order out of  
particular funds, O. 31.  
of removal and deportation, how defrayed, O. 109.  
security for, when plaintiff is out of district, R. 13 (2).  
security by plaintiff who has left or is about to leave district, R.  
13 (3).  
of malicious, frivolous, and vexatious prosecutions, mode of  
recovery, O. 66.  
enforced payment of, O. 32, 96.  
suits by or against foreigners, O. 100.

COUNTER CLAIM,  
in suits by foreigners, O. 100.  
defendant may set off any right or claim, by way of, R. 18 (1).  
notice to be given to Court, R. 18 (2).  
notice to be served on plaintiff four days before hearing, R. 18 (2).  
form of, R. 18 (2).  
Court may refuse defendant permission to avail himself of, R. 18 (3).

## COURT,

- defined, *O. 3, 19.*
- Consular defined, and constitution, *O. 19.*
- general powers, jurisdiction, &c., *O. 22—35, 105.*
- to keep a list of persons qualified to be assessors, *R. 5 (1).* (And see *Assessors.*)
- to summon assessors, *R. 5 (2).*
- to summon assessors according to order on list, *R. 5 (3).*
- may excuse attendance of assessors generally or in particular cases, *R. 5 (5).*
- may discharge person acting as assessor, *R. 5 (5).*
- may continue trial with remaining assessor if others prevented continuing to serve, *R. 5 (6).*
- may continue trial in like cases without assessors in urgent cases, *R. 5 (7).*
- cause book to be kept for all actions, *R. 10.*
- may order separate trials in certain cases of joinder of causes of action, *R. 11 (2).*
- may order security for costs by plaintiff who has left or is about to leave district, *R. 13 (3).*
- powers of, to amend, *O. 35.*
- terms included in, *O. 19.*
- may order costs to be paid by any party, *O. 31.*
- includes person exercising jurisdiction, *O. 3.*
- to have seal, *O. 19, 110.*
- powers of, to order payment of expenses of malicious, frivolous, and vexatious prosecutions, *O. 66.*
- district, *O. 19.*
- judges of. (See *Judge.*)
- appointment and removal of officers, *O. 19.*

COURT OF APPEAL, *O. 21, 82.*

- appeal to lie to, when, *O. 82.*
- rules of procedure, *O. 95—98.*
- terms may be prescribed regarding appeal to, *O. 82.*
- Consular Court may state a case for opinion of, *O. 82.*
- judgment of, Consular Court to give effect to, *O. 82.*
- decision of, appealable to Her Majesty in Council, conditions relating to, *O. 82.*
- evidence before, *O. 90.*

## COURTS,

- to be Courts of Bankruptcy, *O. 36.*
- power of to re-hear civil cases, *O. 27.*
- may order security to abide result of arbitration, *O. 34.*
- powers of Consul-General over, *O. 112.*
- trial with assessors, *O. 92.*
- to be Courts of Record, *O. 24.*
- to be Courts of Law and Equity, *O. 24.*
- probate, *O. 38—44.*
- power over acts endangering public order, *O. 52.*
- jurisdiction in cases of support of wife and child, *O. 54.*
- criminal procedure, *O. 57—81*
- power over prisons, *O. 72, 73.*
- to give effect to instructions of Court of Review, *O. 75.*

**COURTS—continued.**

- registration at, *O.* 104.
- may encourage reconciliation, *O.* 34.
- refer suits with consent of parties to arbitration, *O.* 19.
- may back warrants issued in any of Her Majesty's dominions and arrest, *O.* 77.
- cases heard by acting consular officers, *O.* 106.
- may, on failure to give security order deportation for crimes and offences, *O.* 102.
- the like in apprehended breaches of the peace, *O.* 102.
- removal for trial or execution of sentence, *O.* 103.
- Court of Appeal, appeal to, from person having appellate jurisdiction, *O.* 112.
- practice observed in England to be followed, *O.* 13, 14.
- Superior, of African Possessions, powers, &c., *O.* 20.
- Superior, of African Possessions, a Court of Appeal, *O.* 21.
- Supreme, of African Possessions, a Court of Appeal, *O.* 82, 112.
- Superior, of African Possessions, review of sentences, &c. by, *O.* 74, 75.
- constitution of, *O.* 19, 20, 110.
- general powers of, and general procedure, *O.* 22—35.
- to be auxiliary to each other, *O.* 23.
- special powers (bankruptcy, probate, &c.), *O.* 36—44.
- held by Consul-General of Zanzibar, a Court of Appeal, *O.* 21.
- admission of barristers and solicitors, *O.* 25.
- jurisdiction over matters arising wholly or partly within their districts, *O.* 26.
- power to review judgments, *O.* 27.
- minutes of proceedings and their preservation, *O.* 28.
- Registrar, *O.* 29.
- costs, fees, penalties, &c., *O.* 31, 32.
- power to levy moneys recoverable under Merchant Shipping Acts, *O.* 33.
- power to settle litigation, *O.* 34.
- decree of, *O.* 34.
- informalities, mistakes, and omissions, *O.* 35.
- Vice-Admiralty, *O.* 37.
- obstruction, disturbance, and contempt of, *O.* 51.
- misconduct of officers, *O.* 53, 60.
- criminal procedure, *O.* 57—81.
- accused escaping from district of one Court to another, *O.* 76.
- power to back warrant issued in British dominions, *O.* 77.
- jurisdiction where death or criminal act happened within its jurisdiction, *O.* 78.
- jurisdiction over crimes committed on high seas or within Admiralty jurisdiction, *O.* 78.
- evidence, *O.* 83—91.
- rules of procedure, *O.* 95—98.
- powers in suits by or against foreigners, *O.* 100, 101.
- suits, &c. for things done or omitted under this Order, *O.* 107.
- appellate jurisdiction of Consul-General, *O.* 112.
- Colonial, acts of, how affected by this Order, *O.* 18.
- foreign, *O.* 100, 101.
- Egyptian, *O.* 6.

**CRIMES,**

- meaning of, *O.* 3.
- jurisdiction over, *O.* 12, 13.
- an act not a crime in England, no crime unless so by Order, *O.* 14.
- trials of, with assessors compulsory in certain cases, *O.* 63.
- what crimes triable with or without assessors, *O.* 63.
- against foreigners and natives, punishment of, *O.* 17.
- punishable under Order, list of, *O.* 45.
- declared offences against the Order punishable, *O.* 45.
- punishable as offences against Order, being also crimes against law of England triable either way, *O.* 45.
- accused not punishable both for crime and offence against Order, *O.* 46.
- of piracy by British subject triable wheresoever committed, *O.* 45.
- by British subjects punishable according to Order, *O.* 12.
- power to try British subjects for, *O.* 57.
- incitement to commit, *O.* 71.
- on the High Seas, *O.* 78.
- within Admiralty jurisdiction, *O.* 78.

**CRIMINAL CASES,**

- costs in, *O.* 32.
- law and procedure, *O.* 45.
- procedure, *O.* 57.
- evidence, witnesses, &c., *O.* 83—91.
- prosecution for contempt of court, &c., *O.* 51.
- trial with assessors. (See *Assessors.*)

**CRIMINAL JURISDICTION,**

- in what cases Court can act, *O.* 26.
- proceedings, minutes to be drawn up, *O.* 28.
- to be administered as in England, *O.* 18.
- law and procedure, *O.* 13, 22—35, 45—81.

**CRIMINAL PROCEEDINGS,** to be begun by a charge, *R.* 50 (1). (See *Charge.*)

**CROSS EXAMINATION** of witnesses before trial, *R.* 20 (4). (See *Depositions.*)

**CROSS-SUIT,** suits by or against foreigners, *O.* 100.

**CUSTODY** pending removal, *O.* 103.

**D.****DAMAGES,**

- for assault may be ordered, *O.* 67.
- persons applying for injunction for, to enter into recognizance as security for, *R.* 41 (2). (See *Injunctions.*)
- how recoverable, *O.* 67.

**DEATH OF PARTY,** *R.* 19.

- person interested in action may obtain order for enabling or compelling proper parties to carry on proceedings, *R.* 19 (1).
- persons served with such Orders may apply to Court to discharge same, *R.* 19 (2).



DEATH, SENTENCE OF, *O.* 45, 61, 72.

to be carried out in one of the African possessions, *O.* 72.

DEBTS, attachment of, *R.* 31. (See *Execution, Garnishee, &c.*)

DECEASED BRITISH SUBJECT, property, *O.* 36—44.

DECLARATIONS,

registrar to take, *O.* 29.

by witness, Court may take instead of an oath, *R.* 2 (2).

DECREE OF COURT, may be entered in conformity with award, *O.* 34.

DEFECTIVE, actions becoming, by death or change of parties, how cured, *R.* 19 (1).

DEPENDANT,

appearing without plaintiff, Court may order costs in his favour, *R.* 21 (1).

dismissal by Court for second failure of plaintiff to attend, to have effect as judgment for him, *R.* 21 (2).

not appearing after proof of summons, Court may hear action, *R.* 21 (4 and 5).

order made against, in absence of, Court may re-hear on terms, *R.* 21 (6).

may set off any right or claim by way of counterclaim, *R.* 18 (1).

counterclaim, Court may refuse permission to avail himself of it, *R.* 18 (3).

to give security for appearance before Court having jurisdiction, *O.* 26.

joinder of persons as, *R.* 12 (2).

Court may strike out names of parties improperly joined, *R.* 12 (2).

Court may add persons, essential to a just decision, *O.* 28.

DEFINITION OF TERMS, *O.*<sup>s</sup> 19, *O.*<sup>s</sup> 1, *O.*<sup>s</sup> 3.

DEPORTATION,

order for, on conviction, to be entered on minutes, *R.* 69.

issue of warrant, for failure to give security, *R.* 76.

warrant of, *R.* 76.

costs of, *O.* 32.

for levying war, aiding insurrection or rebellion, *O.* 48.

place to be sent to, *O.* 48.

in crimes and offences, in default of security for good behaviour,

persons may be deported, *O.* 102.

persons may be deported forthwith or after undergoing sentence, *O.* 102.

to be to the prescribed possession, *O.* 102.

may be to any part of Her Majesty's dominions, as Secretary of State directs, *O.* 102.

concurrence of Her Majesty's Treasury, in what cases necessary, *O.* 102.

in apprehended breaches of the peace, after failure to give security, *O.* 102.

order for, to be executed as removals from district, *O.* 102.

to places directed by Secretary of State, provisions as to, *O.* 102.

expenses of, may be ordered to be paid, *O.* 102.

**DEPORTATION—continued.**

report to be made to the Secretary of State of every order for, forthwith, *O.* 102.  
 person returning while order is in force without consent, *O.* 102.  
 a warrant to be issued for, *O.* 103.  
 warrant, endorsement of, pending removal, *O.* 103.  
 on arrival at place deported to, person to be discharged, *O.* 103.  
 when warrant provides for further deportation, person deported to remain in custody at first place sent to, *O.* 103.  
 expenses of, how defrayed, *O.* 109 (and see *O.* 32, 102).  
 order for, may be remitted by Secretary of State, *O.* 102.

**DEPORTATION AND REMOVAL, *O.* 102—103.****DEPOSIT,**

for security for costs, *R.* 13 (2).  
 of testamentary papers, *O.* 39.  
 of money for good behaviour, *O.* 102.

**DEPOSITIONS BEFORE TRIAL, *R.* 20.**

evidence of witness about to leave district may be taken, *R.* 20 (1).  
 evidence of persons not likely to be present at trial may be taken, *R.* 20 (1).  
 evidence to be taken as at trial, *R.* 20 (2).  
 evidence to be signed by witness and sealed by Court, *R.* 20 (3).  
 not to be admitted in evidence unless deponent was available for cross-examination, *R.* 20 (4).  
 for special reasons to be recorded, may be admitted at trial notwithstanding deponent was not cross-examined, *R.* 20 (4).  
 to be preserved in Public Office, *O.* 28.  
 rules as to taking and transmitting for use in a colony or in England may be made, *O.* 96.

**DESIGNS,**

Acts relating to offences against Patents, Designs, and Trade Marks Acts, offences under order when, *O.* 55.

**DISCHARGE, imprisonment not a, *O.* 32.****DISCHARGE OF ACCUSED,**

after preliminary examination, where no grounds for putting on trial, *R.* 59.

**DISMISSAL,**

for failure to proceed, *R.* 16.  
 of action not disposed of within twelve months from service, *R.* 16.  
 for failure to proceed, on application by parties, *R.* 16.  
 for failure to proceed, without application by parties, *R.* 16.

**DISMISSAL OF CHARGE, *R.* 70.**

order to be entered on minutes with any order for costs against prosecutor, *R.* 70 (1).  
 form of order for, *R.* 70 (1).  
 certificate to be sealed and furnished accused on application, *R.* 70 (2).  
 certificate of, to be a bar to any subsequent charge in Africa for same matter, *R.* 70 (3).

**DISOBEDIENCE TO ORDER,**

person prosecuting order may apply for arrest, R. 39 (1).  
Court may issue warrant to take the body of the disobedient person and detain in custody, R. 39 (2).  
person arrested liable to be detained until order complied with or security given, R. 39 (3).  
where no longer possible to obey order, imprisonment or fine may be inflicted on person arrested, R. 39 (3).

**DISSENT OF ASSESSORS** from decision, how to be recorded, O. 92.

**DISTRESS,**

judgments enforced by, O. 32, 96.  
imprisonment in default of, O. 32.

**DISTRICT,**

judgments not to be enforced out of, R. 28 (2).  
for special reasons Court may direct judgment to be enforced out of, R. 28 (3).

**DISTRICTS,**

places in, appointed for Consular Courts, by Secretary of State, O. 19.  
meaning of, O. 19.  
places in, may be appointed for Courts, O. 19.  
disputes arising in, by what Courts dealt with, O. 26.  
escape of offenders from, how to be dealt with, O. 76.

**DISTURBANCE OF COURT**, when sitting, an offence against order, O. 51.

**DOCUMENTARY EVIDENCE**, R. 4.

**DOCUMENTS,**

production of, as evidence, O. 83.  
to be marked when put in, R. 4 (1).  
returned after preliminary examination or trial, R. 4 (2).  
issued from Courts to be sealed, R. 6.  
requiring service, R. 14 (4). (See *Service*.)  
affecting H.M.'s service, production of, O. 90.  
production before foreign or native tribunals, O. 101.

**DOMINIONS OF HER MAJESTY**, warrants issued in, may be backed in the Protectorate and accused persons arrested, O. 77.

**DUTY**, attempt to evade. (See *Smuggling*.)

**E.**

**EGYPTIAN COURTS**, places subject to, excluded from local jurisdictions, O. 6.

**EMBEZZLEMENT**, powers of Court, O. 70.

**ENFORCEMENT,**

of submission to arbitration, O. 34.  
of award, O. 34.

**ENGLAND,**

sentences to be as in, for crimes on high seas, &c., *O.* 78.  
 principles and substance of law of, to be observed, *O.* 13.  
 jurisdiction in bankruptcy in, *O.* 36.  
 procedure and practice of Courts of justice and justices of the  
 peace in, to be followed, *O.* 13.  
 laws of, inconsistency in treaties with, how dealt with, *O.* 16.  
 laws of, in mode of inflicting punishments to be followed, *O.* 65.  
 crimes punishable on indictment in, are punishable under the  
 Order, *O.* 45.

**ENGLISH MONEY,** sums of money, fines, and penalties, to be calculated  
 in, *O.* 111.

**EQUITY, COURTS OF,** *O.* 24.

**ESCAPE,** of person charged to another district, powers of Court, *O.* 76.

**ESTATE,** administration of, not exceeding 100*l.*, *O.* 44.

**EVIDENCE,**

British subjects may be summoned to give, *O.* 83.  
 failure to attend to give, *O.* 83.  
 person punishable for failure to give, *O.* 84.  
 material, in criminal cases, Court may summon person to attend,  
*O.* 84.  
 person failing to obey summons, warrant may be issued, *O.* 84.  
 warrant, when can be issued, without summons, *O.* 84.  
 civil cases, Court may order expenses to be defrayed, *O.* 85.  
 what ceremony in administering oath, *O.* 86.  
 false, person giving, guilty of perjury, *O.* 87.  
 judicial notice to be taken of what matters, *O.* 88, 89.  
 injurious to Her Majesty's service, when not to be given, *O.* 90.  
 Act, 1851, sects. 7 and 11, to extend, *O.* 90.  
 The Foreign Tribunals Evidence Act, 1856, extended, *O.* 91.  
 by Commission Act, 1859, to extend, *O.* 91.  
 by Commission Act, 1885, to extend, *O.* 91.  
 The British Law Ascertainment Act, 1859, to extend, *O.* 91.  
 Foreign Law Ascertainment Act, 1861, to extend, *O.* 91.  
 of British subject before foreign tribunal may be secured, *O.* 101.  
 oral, *R.* 3.  
 Court to take note of substance of all oral evidence, *R.* 3.  
 documentary, *R.* 4.  
 of witnesses before trial, *R.* 20. (See *Depositions.*)  
 of approval, &c., of rules, *O.* 97.

**EXAMINATION of accused before removal for trial,** *R.* 57. (See  
*Preliminary Examination.*)

**EXAMINATION,** cross-examination and re-examination, *R.* 3 (1).

**EXECUTION,**

on conviction, *R.* 75. (See *Imprisonment on Conviction.*)  
 for moneys ordered to be paid in criminal proceedings, *R.* 77.  
 (See *Payment of Money.*)  
 time and place of, *R.* 80.  
 not to issue against party not served with judgment, *R.* 28 (1).

**EXECUTION—continued.**

- may not in general be enforced out of district, R. 28 (2, 3).
- application for, by party entitled to benefit of judgment, R. 28 (4).
- in default of payment of instalments, may be for whole sum remaining unpaid, R. 28 (5).
- of judgment, by seizure and sale of goods, R. 29 (3).
- by attachment of debts or by sale of lands, R. 29 (3).
- Court to execute warrant of seizure and sale to levy money due and costs of execution, R. 30 (1).
- amount due and costs of execution to be endorsed on warrant, R. 30 (2).
- sale of goods seized to be made by order of Court, R. 30 (3).
- sale to be conducted under direction of Court, R. 30 (3).
- no steps to be taken on sale without demand of judgment creditor, R. 30 (4).
- judgment creditor liable for any damage, R. 30 (5).
- sale not to be made until at least five days following seizure, R. 30 (6).
- sale of goods of perishable nature, R. 30 (6).
- sale of goods on written request of judgment debtor, R. 30 (6).
- sale of goods under order of Court for special reasons, R. 30 (6).
- goods to be deposited in fit place, or remain in custody of fit person, or be in possession of officer pending sale, R. 30 (7).
- sale not to take place unless goods proved to belong to judgment debtor, R. 30 (8).
- sale not to take place unless goods in jurisdiction of Court, R. 30 (8).
- claim by third party to goods seized to be decided in summary way, R. 30 (9).
- claims to goods seized by native of Africa or foreigner, special conditions, R. 30 (10).
- officer executing warrant may seize money or securities belonging to judgment debtor, R. 30 (11).
- Court to hold property or instruments seized as security for amount to be levied or amount levied, R. 30 (12).
- judgment creditor may sue in name of judgment debtor for moneys payable under instruments seized, R. 30 (13).
- on payment into Court or to officer, warrant to be suspended and property delivered up, R. 31 (14).
- by attachment of debts, R. 31.
- judgment creditor to satisfy Court that garnishee indebted and within jurisdiction, R. 31 (1).
- Court may summon garnishee for examination, R. 31 (2).
- garnishee disputing liability or alleging debt due to third person, Court may take necessary proceedings to determine liability, R. 31 (3).
- third person and other witnesses may be summoned to attend, R. 31 (3).
- Court may bar or otherwise deal with third person's claim, R. 31 (3).
- Court when satisfied liquidated sum due from garnishee, may order payment into Court of amount sufficient to satisfy judgment, R. 31 (4).
- form of order on garnishee (order absolute), R. 31 (4).

**EXECUTION—continued.**

garnishee disobeying order, Court may issue warrant of seizure of his goods, R. 31 (5).  
 payment by garnishee or execution levied against, valid discharge to him, R. 31 (6).  
 by sale of lands, R. 32.  
 when Court satisfied no other property, Court may issue warrant for sale of interests in lands, R. 32 (1).  
 form of warrant, R. 32 (1).  
 form of warrants for sale of land, R. 32 (1).  
 proceeds of sale of lands to be paid into Court, R. 32 (2).  
 before issue of warrant Court may inquire into judgment debtor's interest, R. 32 (3).  
 Court may summon judgment debtor and other witnesses at inquiry, R. 32 (3).  
 imprisonment of judgment debtor not to affect right of execution against goods, R. 37 (1).  
 of judgments other than for payment of money to be by arrest or sequestration, R. 38 (1).  
 by arrest or sequestration, memorandum to be endorsed on copy of judgment served, R. 38 (2).  
 stay of, pending appeal, R. 46 (1). (*See Appeal.*)

**EXHIBITED,**

copy of Order in Council to be exhibited in Public Office, O. 115.  
 to be kept conspicuously, in each Consular Court, O. 116.

**EXPENSES,**

of and preliminary to trial, may be ordered to be paid by convicted person, O. 66.  
 of imprisonment, and the like, O. 66.  
 administration in cases of apparent intestacy, O. 43.  
 punishment of offender, O. 66.  
 of prosecution, payment by accuser, O. 66.  
 of witnesses, O. 32, 85.  
 in suits by or against foreigners, O. 100.  
 of deportation and removal, O. 102, 109.

**EXPIRY** of time appointed for doing any act, &c., Court may further extend or adjourn the time, R. 48 (2).

**EXTORTION**, officers of Court guilty of, punishment for, O. 53.

**F.**

**FAILURE**, to proceed, Court may dismiss action for, R. 16.

**FEEs,**

civil cases, O. 31.  
 rules as to fixing and enforcing, may be made, O. 32, 96.  
 and expenses, O. 108, 109.  
 fines, penalties, &c., levied or received to be accounted for as Secretary of State directs, O. 108.

**FEEs—continued.**

- probate, *O.* 41.
- to be sanctioned by Treasury, *O.* 96, 108.
- in suits by or against foreigners, *O.* 100.
- for registration of British subject, *O.* 104.
- application of, *O.* 108.
- to be paid in English money or its equivalent, *O.* 111.

**FELONIES**, punishable on indictment in England punishable under order, *O.* 45.

**FELONY**, *O.* 45.

- bail discretionary, except in murders, *O.* 60.

**FEMALES**, registration of, how dealt with, *O.* 104.

**FEMININE** included in masculine, *O.* 3.

**FILE OF PROCEEDINGS,**

- minutes and all documents in the case to be filed in a continuous file, *R.* 7 (2).
- to be preserved among the records, *R.* 7 (3).
- open to inspection of assessors, *R.* 7 (4).
- not to be inspected by other persons except by order of Secretary of State, *R.* 7 (4).
- written judgments to be filed on, *R.* 23 (2).

**FINES,**

- how enforced, *O.* 32, 96.
- for levying war, &c., *O.* 48.
- for smuggling, *O.* 50.
- for obstruction, disturbance, and contempt of Court, *O.* 51.
- for misconduct of officers of Court, *O.* 53.
- for offences when no penalty specified, *O.* 56.
- in cases of assault, *O.* 67.
- exceeding 100*l.*, review of, *O.* 74.
- for failure of assessor to attend trial, *O.* 94.
- for failure to attend foreign tribunals as witness, *O.* 101.
- application of, *O.* 108.
- to be paid in English money, or its equivalent, &c., *O.* 111.

**FOREIGN,**

- ship, crimes by British subjects on, *O.* 78.
- Tribunals Evidence Act, 1856, extended, *O.* 91.
- Law Ascertainment Act, 1861, extended, *O.* 91.
- Courts, *O.* 100.

**FOREIGN TRIBUNALS,**

- attendance of witnesses before, *O.* 101.
- Court cannot order attendance anywhere beyond its own district, *O.* 101.
- failure of witness to attend an offence against the Order, *O.* 101.

**FOREIGNER(s),**

- meaning of, *O.* 3.
- includes natives of Africa, *O.* 3.

**FOREIGNER(s)**—*continued*.

- bankruptcy of, *O.* 36.
- and British subject, matters between, *O.* 12, 100.
- natives of British protectorates outside local jurisdiction when within, to be deemed British protected persons, *O.*<sup>3</sup> 2.
- consent of, not required of subjects of signatory Powers to Berlin Act, *O.*<sup>3</sup> 2.
- foreigners submitting, affected by the Order, *O.* 10.
- foreigners whose Government consents to exercise of power, *O.* 10, *O.*<sup>3</sup> 1.
- crimes against, cognizable with consent of, *O.* 17.
- prosecutions by, under Acts relating to patents and trade marks, &c., conditions, *O.* 55.
- proceedings in civil suits by and against, *O.* 100.
- to file consent, *O.* 100.
- if required, to file certificate of their Government not objecting to the jurisdiction, *O.* 100.
- if required, to give security for costs and abide by decision, *O.* 100.
- in suits by, counterclaim not to be brought without leave, *O.* 100.
- suits by, defendants' cross suits, how dealt with, *O.* 100.
- judgments obtained when to be stayed, *O.* 100.
- not required to give security where co-plaintiff British subject, *O.* 100.
- suits by, British subject co-plaintiff with, liable for all costs, *O.* 100.
- suits by or against. Assessors, *O.* 100.
- to whom Order of 1892 applies, definition of, *O.*<sup>3</sup> 1.

**FORFEITURE,**

- of goods (and ship) smuggled, *O.* 50.
- sale of things forfeited, *O.* 96.
- application of, *O.* 108.
- enforcement of, *O.* 96.

**FORMS,**

- to be used may be drawn up, *O.* 95.
- of indictment, *O.* 96.

**FRIVOLOUS,**

- prosecutions, costs of, powers of Court, *O.* 66.
- mode of recovery of costs, *O.* 66.

**FUGITIVE,**

- Offenders Act, 1881, to apply with exceptions and qualifications, *O.* 79.
- report of issue of warrant, &c., excepted, *O.* 79.

**G.**

**GAMBIA**, offences committed in adjacent territories, *O.* 18.

**GAOLERS**, appointment of, *O.* 73.



**GARNISHMENT,**

process rules may be made as to, *O.* 96.  
 examination of, *R.* 31 (2).  
 order absolute against, *R.* 31 (4).

**GARNISHMENT** of debts, *R.* 31. (See *Execution.*)

**GENERAL LAW,**

administered in conformity with substance of law in England,  
*O.* 13.  
 administered in conformity to practice of Courts of Justice and  
 Justices of the Peace, *O.* 13.

**GENERAL** powers of Court, *O.* 22, *R.* 48.

**GENERAL** procedure, *O.* 22.

**GENERAL PROVISIONS,**

in criminal matters, *R.* 72.  
 accused competent, but not compellable, to give evidence, *R.* 72 (1).  
 the like in cases of husband or wife of accused, *R.* 72 (1).  
 accused or husband or wife examined as ordinary witnesses,  
*R.* 72 (2).  
 adjournment of preliminary examination or trial to be from day  
 to day, *R.* 73 (1).  
 adjournments, when accused in custody not to be for more than  
 fourteen days, *R.* 73 (2).  
 adjournment to be to a stated time and place, *R.* 73 (3).  
 pending adjournment, Court may permit accused to be at large or  
 kept in custody, or admit to bail, *R.* 73 (3).  
 form of warrant of commitment during adjournment, *R.* 73 (4).  
 Court may proceed at adjourned hearing if accused not present,  
 for reasons to be stated, *R.* 73 (5).  
 security for good behaviour, form of recognizance, *R.* 74.

**GOLD COAST,**

a colony to which persons may be removed for trial or execution  
 of sentence, *O.* 72A.  
 offences committed in adjacent territories, *O.* 18.

**GOODS**, distress and sale of, *O.* 31.

**GOODS FORFEITED**, *R.* 78. (See *Sale of Goods Forfeited.*)

**GOVERNMENT** of a foreign subject, waiver to jurisdiction by, *O.* 100.

**H.**

**HABEAS CORPUS** under Fugitive Offenders Act, 1881, excepted, *O.* 79.

**HARD LABOUR**, *O.* 45, 48, 72.

**HEARING,**

absence of parties at, *R.* 21 (1).  
 plaintiff not appearing, action may be struck out, *R.* 21 (1).  
 defendant only appearing, Court may order costs in his favour,  
*R.* 21 (1).

**HEARING**—*continued*.

plaintiff not appearing second time, Court may dismiss summons, R. 21 (2).  
 dismissal to have effect as judgment for defendant, R. 21 (2).  
 defendant not appearing after proof of service, Court may hear action, R. 21 (4, 5).  
 judgment may be given in defendant's absence, R. 21 (5).  
 on proof, defendant's absence excusable, and of a defence, Court may hear action, R. 21 (6).  
 to take place in open Court, R. 22 (1).  
 Court may postpone or adjourn as justice requires, R. 22 (2).  
 in criminal proceedings, R. 67. (See *Trial*.)

**HER MAJESTY** in Council, appeal to, when allowed, O. 82.

**HIGH SEAS**, crimes on, O. 78.

**HOUSEBREAKING**, O. 70.

## I.

**ILLEGITIMATE CHILDREN**, summary order for support of, O. 54.

**IMPERIAL ACTS**,

application of, O. 110.  
 construction of, O. 110.

**IMPRISONMENT**

of judgment debtor, R. 34—37. (See *Judgment Debtor*.)  
 in default of distress, O. 32.  
 in default of distress not a discharge, O. 32.  
 (or other punishment) expenses of, accused may be ordered to pay, O. 66.  
 in what prisons, O. 72.  
 in Colonies when, O. 72.  
 in what possessions, O. 72.  
 expenses of. (See *Expenses*.)  
 with hard labour, O. 45, 48, 72.  
 on conviction, form of warrant for, R. 75 (1).  
 warrant of removal for, R. 75 (1).  
 warrant of removal for, grounds for issue to be entered on minutes, R. 75 (2).  
 warrant of removal for, on issuing, certified copy of conviction and sentence and notice of warrant to be sent proper officer in place selected, R. 75 (2).  
 terms not exceeding two years, O. 48.  
     three months, O. 50, 56.  
     one month, O. 66, 101.  
     six days, O. 94.  
     twelve hours, O. 51.  
 for twelve months or upwards, O. 62, 74.  
 sentences of, prisons, O. 72.

**INCITING TO COMMIT CRIMES**,

how punishable, O. 71.  
 mode of trial, O. 71.

INDIA, subjects of Princes and States in, O. 3.

INDIOTMENT,  
acts punishable on, O. 45.  
form of, O. 96.

INFORMALITIES, O. 35.

INJUNCTIONS AND ORDERS,  
before actions, R. 41.  
on proof of urgency Court may order injunction, R. 41.  
Court may make order to sequester money or goods or stop  
clearance of vessels or hold to bail or attach property, R. 41 (1).  
before order Court to require person applying to enter into  
recognizance for security for damages, R. 41 (2).  
order not to remain in force more than twenty-four hours, and  
wholly to cease if action not brought within that time, R. 41 (3).  
order for, to be dealt with in action as Court thinks just, R. 41 (4).

INSPECTION  
of file of proceedings by assessors, R. 7 (4).  
of file of proceedings by other persons, order for necessary,  
R. 7 (4).

INSTALMENTS,  
Court may order payment by, R. 26 (1).  
default of payment of, execution may issue for whole debt  
remaining due, R. 28 (5).

INSULTING officers of Court, assessors and others, during sittings an  
offence against Order, O. 51.

INSURRECTION,  
offence against Order, punishment for, O. 48.  
aiding and abetting, O. 48.

INTERIOR WATERS, within limits of Order, O. 4.

INTERNATIONAL AGREEMENT. (See *Treaty*.)

INTERPRETATION OF TERMS, O. 3, 19, R. 1.  
&c., of the Order, O. 3—11.

INTERRUPTING COURT, persons may be removed for, O. 51.

INTESTACIES, proceedings in estates under 100*l.*, O. 44.

INTESTACY, apparent, administration may be granted to the judge or  
officers of Court, O. 43.

INTESTATE, British subject dying, property of to vest in judge until  
administration granted, O. 40.

INTIMIDATION OF SUITORS, an offence against Order, O. 51.

INVALID, no actions to be treated as, on account of technical errors,  
R. 48 (3).

INVENTORY of property of deceased persons, when to be taken, O. 42.

IRRELEVANT, oppressive, or vexatious questions may be disallowed,  
R. 3 (2).

ISLANDS adjacent, within limits of Order, O. 4.

## J.

JOINDER OF CAUSES OF ACTION,  
may be made, R. 11 (1).  
separate trials may be ordered, R. 11 (2).

JOINT AND SEVERAL,  
causes of action, R. 12 (1).  
defences, R. 12 (2).

JUDGE,  
defined, O. 19.  
may be appointed to exercise appellate jurisdiction, O. 112.  
to sign minutes of all proceedings, O. 28.  
when registrar, O. 30.  
property of intestates to vest in, when, O. 40.  
holding Her Majesty's commission, O. 19.  
not holding Her Majesty's commission, O. 19.  
may be appointed in any district or region, O. 19.  
limitation of appointment, O. 19.  
to have same powers as exercised by Consular Courts, O. 19.  
how removable, O. 19.  
may be assigned concurrent powers, O. 19.  
Secretary of State may direct any designation for, O. 19.  
persons included as, O. 19.  
of African Colonies to have power and authority of Courts under  
Order within any prescribed local jurisdiction, O. 20.  
extraordinary jurisdiction in certain cases, O. 112.  
powers over District Courts and officers, O. 112.  
appeals in cases where he does not exercise original jurisdiction,  
O. 112.

JUDGMENT(s),  
review of, O. 27.  
how enforced, O. 32.  
enforced by distress, O. 31.  
rules for execution of judgments may be framed, O. 95. (See  
*Rules*.)  
service of, R. 14. (See *Service*.)  
issued from Court to be sealed, R. 6.  
execution of, R. 28—32. (See *Execution*.)  
creditor, R. 29. (See *Execution*.)  
to be delivered in open Court, R. 23 (1).  
to be recorded on minutes, R. 23 (1).  
where grounds of, stated in writing, copy to be filed on file of  
proceedings, R. 23 (2).  
when reserved parties to be served with notice to attend and hear,  
R. 23 (3).

**JUDGMENT(s)—continued.**

notice not necessary when Court names day when judgment will be delivered, R. 23 (3).  
all parties deemed to have notice of same when pronounced at hearing, R. 23 (4).  
the like when parties served with notice to attend and hear, R. 23 (5).  
on application of any party to action judgment to be drawn up, R. 25 (1).  
form of, R. 25 (1).  
to be copied in full on minutes, R. 25 (1).  
to be sealed by Court, R. 25 (2).  
to be handed party applying, R. 25 (2).  
cannot be served, enforced or appealed against, until drawn up, R. 25 (3).  
any party to an action entitled to an office copy of, R. 25 (4).  
operation of, R. 26.  
for payment of money, may order payment at once or by instalments, R. 26 (1).  
requiring any act done, or to abstain from doing anything, to take effect at once or after specified time, R. 26 (2).  
Court may stay execution on, at any time on terms, R. 26 (3).  
moneys ordered by, to be paid into office of Court unless otherwise directed, R. 27.

**JUDGMENT DEBTOR, R. 29. (See *Execution*.)**

seizure and sale of goods of, R. 30 (1). (See *Execution*.)  
may satisfy execution by payment into Court or to officer executing warrant, R. 30 (14). (See *Execution*.)  
attachment of debts of, R. 31. (See *Execution*.)  
examination of as to debts due to, R. 31 (2). (See *Execution*.)  
sale of lands belonging to, where no other property available, R. 32. (See *Execution*.)  
committal of, R. 33.  
Court may summon to be examined, as to ability to pay unsatisfied judgment, R. 33 (1).  
form of summons to, R. 33 (1).  
on appearance of, may be examined as to circumstances under which debt incurred, R. 33 (2).  
may be examined as to ability to satisfy debt, R. 33 (2).  
Court may adjourn examination of and require security for his appearance, R. 33 (3).  
in default of security, Court may commit him to custody until adjourned hearing, R. 33 (3).  
Court may summon and examine witnesses as to circumstances under which debt incurred, and of judgment debtor's ability to pay, R. 33 (2).  
if Court satisfied he has had sufficient means to pay and refuses and neglects to do so, may commit to prison, R. 34 (1).  
if Court satisfied he has made any gift, transfer, or concealment of property, with intent to defraud, Court may commit to prison, R. 34 (2).  
if Court satisfied that debt contracted by fraud or breach of trust, may commit him to prison, R. 34 (3).

JUDGMENT DEBTOR—*continued*.

- if Court satisfied forbearance obtained by fraud, Court may commit to prison, R. 34 (4).
- if Court satisfied that debt wilfully contracted without reasonable expectation of ability to pay, may commit to prison, R. 34 (5).
- committal to prison of, may be for any time not exceeding forty days, R. 34 (5).
- form of warrant for committal of, R. 34 (5).
- grounds of order against to be recorded on minutes, R. 34 (5).
- on examination of, Court may rescind or alter or make further order as to payment, R. 35.
- expenses of maintenance in prison to be paid by judgment creditor, R. 36 (1).
- expenses so paid may be recovered from judgment debtor, R. 36 (1).
- expenses to be estimated by Court and paid by judgment debtor in manner directed, R. 36 (2).
- in default of payment of expenses judgment debtor may be discharged, R. 36 (3).
- imprisonment of, not to operate as satisfaction of debt, R. 37 (1).
- imprisonment of, not to protect debtor from imprisonment for any new fraud, R. 37 (1).
- imprisonment of, not to deprive creditor of right to execution against goods, R. 37 (1).
- on payment of amount ordered with costs, to be discharged, R. 37 (2).

## JUDGMENTS AND ORDERS, R. 25.

## JUDICIAL

- instrument or document, Secretary of State may assign distinctive name to be used in, O. 8.
- notice to be taken of the Order, O. 88.
- officers. (See *Officers*.)

## JURISDICTION(s),

- persons exercising, under Order in Council, O. 3.
- local, how constituted, O. 5.
- places excluded from, O. 6.
- British possessions excluded from, O. 6.
- possessions of European Powers excluded from, O. 6.
- Liberia excluded from, O. 6.
- places affected by other Orders, O. 6.
- power to constitute for whole or part of Niger Coast Protectorate, O. 7.
- distinctive name may be assigned to local jurisdictions, O. 8.
- powers constituted, how far to extend, O. 10.
- powers conferred, extend to British subjects and their property within the local jurisdiction, O. 10.
- when British subject absent, O. 10.
- British ships and boats and persons and property on board included, O. 10.
- foreigners submitting themselves, O. 10.
- foreigners whose Government has consented to, O. 10.

**JURISDICTION(s)**—*continued*.

- powers exercised in, to include all conferred by Foreign Jurisdiction Acts, *O.* 11.
- to be exercised according to provision of Order, *O.* 12.
- appellate, conferred on Colonial Courts, *O.* 21.
- vested in Consular Courts, to be within own district, *O.* 22.
- civil and criminal, exercisable as in England, *O.* 12, 13, 26, 27.
- practice of English Courts to be observed, *O.* 13.
- criminal, definition of crimes, *O.* 14.
- Colonial laws may be applied to, *O.* 15.
- in what cases, *O.* 26.
- in bankruptcy, *O.* 36.
- in cases of murder and manslaughter and accessories to, *O.* 78.
- in Admiralty, over crimes committed on high seas, *O.* 78.
- rules for the effectual exercise of, may be framed, *O.* 95—98.
- (See *Rules*.)
- treaty provisions to be observed, *O.* 16.
- appellate, of consul-general, judge, &c., *O.* 112.

**JUSTICES OF THE PEACE** in England, procedure before, to be followed, *O.* 13.

**K.**

**KEEPERS OF PRISONS**, appointment, *O.* 73.

**L.****LAGOS**,

- a colony, persons may be removed to, for trial or execution of sentence, *O.* 72A.
- offences committed in adjacent territories, *O.* 18.

**LANDS**,

- may be sold to enforce judgments, *O.* 31.
- sale of, *R.* 32. (See *Execution*.)

**LARCENY**, powers of Court regarding, *O.* 70.

**LAW**, general, *O.* 12—18.

**LAW AND EQUITY**,

- Courts of, *O.* 24.
- British Ascertainment Act, *O.* 91.
- Foreign Ascertainment Act, *O.* 91.

**LAW OF ENGLAND**,

- provisions of treaties repugnant to, *O.* 16.
- civil and criminal jurisdiction to be in conformity with the substance of, *O.* 13.
- punishments imposed by, to be regarded, *O.* 65.

**LAWS**,

- imperial application of, *O.* 110.
- in African possessions, power of Secretary of State to declare them to be administered, *O.* 15.
- colonial, how affected by the Order, *O.* 18.

**LEVYING WAR,**

offence against Order, *O.* 48.

aiding or abetting any person in, *O.* 48.

**LIBEL** on Court or judges, &c., *O.* 51.

**LIBERIA** excluded from local jurisdictions, *O.* 6.

**LIMITATION** of actions, for anything done or committed under Order, *O.* 107.

**LIMITATIONS** as to exercise of powers by Consular Courts, *O.* 19.

**LIMITS OF ORDER,**

set out, *O.* 4.

summonses, warrants and orders may be executed in, *R.* 80 (2).

**LITIGATION**, power to settle, *O.* 34.

**LOCAL JURISDICTIONS,**

treaty provisions to have effect in, *O.* 16.

adaptations of Acts to extend to all places in, *O.* 78.

Fugitive Offenders Act, 1881, qualifications respecting, *O.* 79.

under Colonial Prisoners Removal Act, *O.* 80.

powers of Order exercisable only within, *O.* 4.

constituted for purposes of Order, *O.* 4.

power of Secretary of State to constitute or alter, *O.* 5.

notification of, how published, *O.* 5.

parts excluded, *O.* 6.

British possessions excluded, *O.* 6.

countries of European Powers excluded, *O.* 6.

Liberia excluded from, *O.* 6.

places affected by other Orders, *O.* 6.

power to constitute, for whole or part of Niger Coast Protectorate, *O.* 7.

distinctive name may be assigned to, *O.* 8.

powers constituted, how far to extend, *O.* 10.

powers conferred extend to British subjects and their property within the local jurisdiction, *O.* 10.

when British subjects absent from, *O.* 10.

foreigners submitting themselves, *O.* 10.

foreigners, where their Government has consented to jurisdiction, *O.* 10.

powers exercised in, to include all conferred by Foreign Jurisdiction Acts, *O.* 11.

all jurisdiction to be exercised in, to be according to provisions of Order, *O.* 12.

Colonial Ordinances may be applied to, *O.* 15.

Madagascar to form one, *O.* 9.

all other places within limits of Order to form one, *O.* 9.

application of Foreign Jurisdiction Act, 1878, to, *O.* 78.

application of Admiralty Offences (Colonial) Act, 1849, to, *O.* 78.

application of Admiralty Offences (Colonial) Act, 1860, to, *O.* 78.

application of Merchant Shipping Act, 1867, to, *O.* 78.

application of Colonial Prisoners Removal Act, 1884, to, *O.* 80.



## M.

**MADAGASCAR,**

- jurisdiction in, Preamble.
- subjects of Indian Princes and States resident in, &c., *O.* 3.
- limits of Order, *O.* 4.
- to form one local jurisdiction, *O.* 9.
- application of Fugitive Offenders Act, 1881, *O.* 79.
- Order in Council, 1869, *O.* 113.

**MAKING UP AND TRANSMITTING RECORD,** *R.* 45. (*See Appeal.*)

**MALICIOUS PROSECUTIONS,**

- expenses of, powers of Court to deal with, *O.* 66.
- mode of recovery of costs of, *O.* 66.

**MALICIOUSLY,** and without reasonable cause, applying for search warrants, damages for, *R.* 79 (8).

**MANSLAUGHTER,** accessories to, powers of Court regarding, *O.* 78.

**MARITIME AND INTERIOR WATERS,** within limits of Order, *O.* 4.

**MARRIAGE** by parties to action, order may be obtained enabling proper parties to carry on proceedings, *R.* 19 (1).

**MASCULINE,** includes feminine, *O.* 3.

**MAURITIUS,** *O.* 3.

**MEANINGS OF TERMS AND EXPRESSIONS,** *O.* 3, *R.* 1.

**MERCHANDISE MARKS ACT,** 1887, offences against, punishable as offences against the Order, when, *O.* 55.

**MERCHANT SHIPPING ACTS,**

- moneys recoverable under, *O.* 33.
- Act 1867, section 11, adaptations of, *O.* 78.

**MINUTES AND FILE OF PROCEEDINGS,** *R.* 7.

- to be in writing, signed and sealed, *R.* 7 (1).
- all documents in the case to be filed, *R.* 7 (2).

**MINUTES OF PROCEEDINGS,** *O.* 28.

- to be signed by judge, *O.* 28.
- open for inspection of assessors, *O.* 28.
- with depositions, to be preserved in public office, *O.* 28.
- to record reasons for delay, after 48 hours, in bringing accused before Court, *O.* 58.
- to record time of appearance of accused, *O.* 58.
- reasons for refusal to admit to bail, to be recorded thereon, *O.* 60.
- reasons for non-cross-examination of witnesses examined before trial to be recorded on, *R.* 24.
- judgment of Court to be recorded on, *R.* 23 (1).
- judgment when drawn up to be copied in full on, *R.* 25 (1).
- of cases under review by Court of Appeal, to be transmitted to, *O.* 75.
- return of, by Court of Appeal, *O.* 75.
- assessors may record dissent from decisions on, *O.* 92.

N.

F

**MINUTES OF PROCEEDINGS—continued.**

- assessors entitled to copy of, *O.* 92.
- grounds of order for committal of judgment debtor to be recorded on, *R.* 34 (5).
- conviction and sentence to be entered on, *R.* 69. (See *Conviction.*)
- order of dismissal of charge to be entered on, *R.* 70 (1).
- issue of warrant of removal for imprisonment to be entered on, *R.* 75 (2).
- of trial, in case of sentence of death, to be transmitted to Secretary of State, *O.* 74.

**MISCONDUCT OF OFFICERS OF COURT**, punishment for, *O.* 53.

**MISDEMEANOURS**, triable on indictment in England, are crimes under Order, *O.* 45.

**MISTAKE** may be met by amendment, *O.* 35.

**MODIFIED COLONIAL LAWS** may be applied, *O.* 15.

**MONEY,**

- to be calculated and paid in English money, *O.* 111.
- to be calculated and paid, with consent of Court, in equivalent to English money, in local currency, produce, or approved bills of exchange, *O.* 111.
- ordered to be paid, must be paid into Court, *R.* 27 (1).
- ordered to be paid, Court may direct to whom to be paid, *R.* 27 (1).
- to be paid out to person entitled, *R.* 27 (2).
- payment of, in criminal proceedings, *R.* 77. (See *Payment of Money.*)

**MONTH**, meaning of, *O.* 3.

**MOROCCO** excluded from local jurisdiction, *O.* 6.

**MORTGAGES** made as security in regard to crimes, void, *O.* 32.

**MURDER, *O.* 78.**

- in cases of, bail not to be granted, *O.* 60.
- accessories to, powers of Court regarding, *O.* 78.

**N.**

**NATAL**, a colony, persons may be removed to, for trial or execution of sentence, *O.* 72A.

**NATIVES OF AFRICA,**

- meaning of, *O.* 3.
- natives not British subjects, *O.* 3.
- when foreigners, *O.* 3.
- within limits of Order, *O.* 3.
- crimes against, cognizable under Order, with consent, *O.* 17.
- of British protectorates outside local jurisdiction, when within, to be deemed British protected persons, *O.* 3 2.

NEW TRIAL, when assessors prevented serving, R. 5 (7).

NIGER DISTRICTS,

local jurisdictions constituted or altered for, O. 7.

local jurisdictions for any part of, O. 7.

NIGHT TIME, search warrants not to be executed in, R. 79 (7).

NOTES,

of evidence at trial to be preserved, O. 28.

all oral evidence, notes to be taken of, R. 3 (3).

NOTICE OF ACTION,

necessary by intending plaintiff for anything done or omitted under Order, O. 107.

notices issued from Court to be sealed, R. 6.

of appeal, R. 43. (See *Appeal*.)

of set-off or counterclaim, to be given Court, R. 18 (2).

of set-off or counterclaim, to be served on plaintiff four days before hearing, R. 18 (2).

O.

OATH,

meaning of, O. 3.

form of, R. 2 (1).

Court may permit declaration instead of, R. 2 (2).

Registrar to administer, O. 29.

examination of witnesses on, O. 86.

OBSTRUCTING,

officers executing process, offences against Order, O. 51.

proceedings of Court, persons may be removed for, O. 51.

OFFENCE,

included in crime, O. 3.

jurisdiction over, O. 12, 13.

what acts to be deemed, O. 14.

against foreigners, punishment of, O. 17.

OFFENCES,

against order, are crimes under Order, O. 45, 46.

list of, O. 48.

what to be tried by assessors, O. 63, 64.

against natives, punishment of, O. 17.

punishment of, when no penalty specified, O. 56.

attempted, but not completed, O. 68.

incitement to commit, O. 71.

power to try British subjects for, O. 57.

OFFICER OF COURT,

assault on, bail discretionary, O. 60.

neglect of duty by, bail discretionary, O. 60.

powers of Consul-General, judge, &c., over, O. 112.

**OFFICERS TO COURTS,**

- mode of appointment, *O.* 19.
- duties of, *O.* 19.
- remuneration of, *O.* 19.
- removal of, *O.* 19.
- number and description of, *O.* 19.
- of Court, grant of letters of administration to, in apparent intestacies, *O.* 43.
- administering, to act under direction of Court, *O.* 43.
- administering, commission on gross value chargeable, *O.* 43.
- administering, commission and expenses, first charge on property, *O.* 43.
- obstruction of, &c., *O.* 51.
- misconduct of, *O.* 53.
- misconduct of, question of bail, *O.* 60.

**OFFICIAL, *O.* 105—107.**

**OMISSIONS** may be met by amendment, *O.* 35.

**OPERATION OF JUDGMENTS AND ORDERS, *R.* 26.** (*See Judgments.*)

**ORAL EVIDENCE, *R.* 3.**

- applications may be, *R.* 48 (1).

**ORANGE FREE STATE**, excluded from local jurisdictions, *O.* 6.

**ORDER, *R.* 25.** (*See Judgments and Orders.*)

- issued from Court to be sealed, *R.* 6.
- person prosecuting may apply for warrant for arrest of party disobeying, *R.* 39 (1).
- party disobeying, Court may issue warrant to detain disobedient person in custody, *R.* 39 (2).
- person arrested for disobedience to, may be detained until order complied with, or security given, *R.* 39 (3).
- person arrested for disobedience to, may be imprisoned or fined, if order no longer possible to be obeyed, *R.* 39 (3).
- for trial after preliminary examination, *R.* 60.
- for removal for trial, *R.* 61. (*See Removal for Trial.*)
- for appointment of prisons, *O.* 73.
- for security for good behaviour to be entered on minutes on conviction, *R.* 69.
- for deportation or payment of damages on conviction, to be entered on minutes, *R.* 69.
- of dismissal of charge, effect of, *R.* 70 (3). (*See Dismissal of Charge.*)
- operations of, *R.* 26. (*See Operations of Judgments.*)
- payment of money under, *R.* 27. (*See Judgment.*)
- orders before action, *R.* 41. (*See Injunctions.*)
- service of, *R.* 14. (*See Service.*)
- execution of, *R.* 28—32. (*See Execution.*)
- of arrest issued in British dominions, Court may back, *O.* 77.
- stay of, in cross suits (foreigners), *O.* 99.
- for deportation, *O.* 102.
- public, acts endangering. (*See Peace, Breach of.*)
- maintenance of, regulations for, *O.* 99.

## ORDERS IN COUNCIL,

- not to abridge or affect powers otherwise derived, *O.* 18.
- other, application of, *O.* 110.
- commencement of, *O.* 113—115.
- publication of, *O.* 115.
- repeal of West Africa Order of 1885, *O.* 113.
- proof of publication, *O.* 115.
- copy to be exhibited in each Consular Court, *O.* 116.
- printed copies to be supplied and sold at reasonable prices, *O.* 116.
- officers appointed to give necessary directions thereunder, *O.* 116.
- West Africa, 1872 and 1885, *O.* 49, 99, 113.
- Madagascar, 1869, *O.* 113.

ORDINANCES IN AFRICAN POSSESSIONS, power of Secretary of State to declare them to be administered, *O.* 15.

## P.

PARDON, nothing in Order to affect Her Majesty's prerogative of, *O.* 81.

PARTICULARS OF CLAIM, to be contained in summons, *R.* 9 (3).

## PARTIES,

- change of, by death or otherwise, *R.* 19.
- on change of, order may be obtained for curing defects, *R.* 19 (1).
- change of, parties served with order may apply to discharge same, *R.* 19 (2).
- parties, *R.* 12.
- persons may be joined as plaintiffs, *R.* 12.
- jointly, severally, or in the alternative, *R.* 12 (1).
- may be joined as defendants jointly, &c., &c., *R.* 12 (2).
- Court may strike out, improperly or unnecessarily joined, *R.* 12 (3).
- Court may add parties essential to a just decision, *R.* 12 (3).
- failing to proceed with action, Court may dismiss, *R.* 16.
- absence of, at hearing, *R.* 21. (See *Plaintiff; Defendant.*)
- to treaties, kings and chiefs in local jurisdictions, definition of treaty, *O.* 3.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883—1888, offences against, offences under Order, when, *O.* 55.

## PAYMENT INTO COURT,

- of all moneys ordered by any judgment or order, *R.* 27 (1).
- of money under judgments or orders, may be made as Court directs, *R.* 27 (1).
- into Court in satisfaction of plaintiff's claim, *R.* 17 (1).
- where action for debt or damages, by way of satisfaction or amends, *R.* 17 (1).
- to be to proper officer, *R.* 17 (2).
- officer to give receipt for, *R.* 17 (2).
- defendant to give plaintiff notice of, *R.* 17 (3).
- money to be paid out to plaintiff, or to his authorized solicitor, *R.* 17 (4).

**PAYMENT INTO COURT—continued.**

plaintiff may accept sum in satisfaction of causes for which paid in, R. 17 (5).  
plaintiff to give defendant notice if he accepts same in satisfaction, R. 17 (5).  
Court to make order as shall be just in the action, R. 17 (5).

**PAYMENT OF MONEY,**

ordered as a fine, damages or costs in criminal proceedings to be enforced as a judgment, R. 77 (1).  
if, after execution by seizure, order not satisfied, Court may commit person, R. 77 (2).  
term for which person may be committed, R. 77 (2).  
prisoner entitled to be discharged on payment of amount ordered and expenses, R. 77 (3).

**PAYMENT OUT OF COURT,**

to plaintiff, R. 17 (4).  
to plaintiff's solicitor on authority, R. 17 (4).  
to person entitled, R. 27 (2).

**PEACE,**

breach of the, apprehended, O. 52, 102.  
maintenance of, regulations for, O. 99.  
endangered by offences against religion, O. 49.

**PENAL SERVITUDE, O. 45, 61.****PENALTY,**

for neglect to deposit will, O. 39.  
for neglect to obtain administration, O. 41.  
for failure to register, O. 104.  
for obstruction, disturbance, and contempt of Court, O. 51.  
for acts endangering public order, O. 52.  
misconduct of officers of Court, O. 53.  
for neglect to support wife and child, O. 54.  
how to be accounted for, O. 108.  
pecuniary, how enforced, O. 32, 96.  
for smuggling, O. 50.  
rules for imposing, may be framed, O. 95. (See *Rules*.)  
punishment when penalty is not specified, O. 56.  
for breach of rules, O. 97.  
application of, O. 108.  
to be paid in English money, &c., O. 111.

**PENALTY AND PUNISHMENT, when none specified, what, O. 56.****PENDING,**

proceedings at commencement of Order, O. 114.  
appeals, how effected, O. 114.  
proceedings, Court may direct procedure and practice prescribed by Order to be followed, O. 114.

**PERJURY, O. 87.****PERSON, corporations included in, O. 3.**

PIRACY by British subjects, *O.* 47.

PLACE OF EXECUTION OF WARRANTS, &c., to be anywhere within limits of Order, *R.* 80 (2).

PLACE OF TRIAL,  
in criminal proceedings, *R.* 71.  
public to have right of access to, *R.* 71.

PLACES, may be appointed for holding Courts, *O.* 19.

PLAINTIFF,  
out of district, to file in Court address for service within district, *R.* 13 (1).  
out of district, to give security for costs by deposits or bond, *R.* 13 (2).  
who has left or about to leave district, to give security or stay of proceedings, *R.* 13 (3).  
not appearing, Court may strike out action, *R.* 21 (1).  
not appearing, Court may order costs of any defendant appearing, *R.* 21 (1).  
not appearing a second time, Court may dismiss summons, *R.* 21 (2).  
not appearing, dismissal to have effect as judgment for defendant on merits, *R.* 21 (2).  
appearing after proof of service, Court may hear action in defendant's absence, *R.* 21 (4), (5).

PLAINTIFFS,  
joinder of persons as, *R.* 12 (1), (3).  
persons improperly joined as, may be struck out, *R.* 12 (3).

PLURAL includes singular, *O.* 3.

POSSESSIONS, BRITISH, Secretary of State may fix place for deportation to, *O.* 102.

POWERS,  
under statutes, orders, colonial laws or treaties, to exist concurrently, *O.* 18.  
of amendment of proceedings, *O.* 35.  
conferred by the Order, to include those conferred by Foreign Jurisdiction Acts, *O.* 11.  
of Secretary of State. (*See Secretary of State.*)  
of Order exercisable only within local limits, *O.* 4.  
extend to British subjects and their property in local jurisdiction, *O.* 10.  
extend to British ships and boats, *O.* 10.  
persons and property on board British ships, *O.* 10.  
foreigners who submit themselves, *O.* 10.  
whose Government consents, *O.* 10.  
subjects of foreign, prosecuting proceedings relating to copyright and trade marks, &c., consent of Court when necessary, *O.* 55.  
signatory to the Berlin Act, 1885, *O.* 1 (and preamble).

PRACTICE RULES, non-compliance with, may be excused, *R.* 48 (4).

**PRELIMINARY EXAMINATION,**

- before committal of accused for trial in Colonial Courts, *O.* 57.
- to inquire if attendance of witnesses at place of trial can be secured, *R.* 57.
- to determine if accused ought to be removed or tried in district, *R.* 57.
- to be conducted in presence of accused, *R.* 58 (1).
- Consul to take down evidence of witnesses tendered, *R.* 58 (2).
- evidence so taken to be called depositions, *R.* 58 (2).
- form of depositions, *R.* 58 (2).
- depositions to be read over and signed by witnesses, *R.* 58 (3).
- after hearing evidence, if no reasonable ground for putting accused on trial, Court may discharge him, *R.* 59.
- if otherwise, Consul to make order for removal of accused under Article 60 of Order, *R.* 60.
- or in like case to make order for trial before proper Court, *R.* 60.
- order made on, to be recorded on minutes, *R.* 60.
- order made to state charge sustainable on the evidence, *R.* 60.
- form of orders for trial, *R.* 60.

**PRELIMINARY EXPENSES** before trial and of imprisonment, Court can order to be paid, *O.* 66.

**PREROGATIVE** of pardon, *O.* 81.

**PRESCRIBED,**

- meaning of, *O.* 3.
- Courts, *O.* 21.
- Consular District, *O.* 3.

**PRINCIPLES,**

- and substance of law in England, to be followed, *O.* 13.
- to be observed in fixing costs, *R.* 24 (6).

**PRINT**, meaning of, *O.* 3.

**PRINTED COPIES OF ORDER** to be provided and sold, *O.* 116.

**PRISONS,**

- when no suitable prison, removal of prisoner, *O.* 72.
- Secretary of State may appoint places for, *O.* 72.
- Consular Courts may appoint any building or place a prison, *O.* 73.
- appointment of gaolers, &c., *O.* 73.
- governance, visitation, &c., *O.* 99.

**PRISONER'S DEPORTATION.** (See *Deportation.*)

**PRISONER'S REMOVAL.** (See *Colonial Prisoners—Removal and Deportation.*)

**PRIVY COUNCIL**, appeal to, *O.* 82.

**PROBATE,**

- Courts of, *O.* 38.
- when deceased had fixed abode in district, *O.* 38.
- grant not impeachable when no fixed abode in district, *O.* 38.
- may be dispensed with where estate under 100*l.*, *O.* 44.



**PROBATE—continued.**

- deposit of testamentary papers, *O.* 39.
- property of intestate to vest in judge until administration, *O.* 40.
- taking possession of property of deceased, *O.* 42.
- apparent intestacy, administration in, *O.* 43.
  - expenses, *O.* 43.
- law in England to apply, *O.* 38.
- of wills of British subjects over all property in the district, *O.* 38.
- effectually to discharge persons dealing with an executor, *O.* 38.
- grant of probate or administration, defect in, *O.* 38.
- penalty for administering without probate, *O.* 41.
- power of Secretary of State, *O.* 44.
- commission for administering, when chargeable, *O.* 43.

**PROCEDURE AND PRACTICE, Rules of, *O.* 95—98. (See *Rules.*)**

- power of Secretary of State to regulate, *O.* 110.

**PROCEEDINGS,**

- pending, *O.* 114.
- not to be invalidated by failure to comply with provisions as to publication, &c., *O.* 115.
- file of, *R.* 7.

**PROCESS, to compel appearance in criminal proceedings, to be by summons or warrant, *R.* 51.****PROCURING COMMITTAL OF CRIME,**

- how punishable, *O.* 71.
- mode of trial, *O.* 71.

**PRODUCTION OF DOCUMENTS,**

- as evidence, *O.* 83.
- may be ordered before foreign tribunal in district of Court, *O.* 101.
- affecting Her Majesty's service, *O.* 90.

**PROOF of publication not required, *O.* 115.****PROPERTY,**

- of deceased not exceeding 100*l.*, *O.* 44.
- attachment of, *O.* 96.

**PROPERTY AND RIGHTS,**

- of British subjects affected by the Order, *O.* 10.
- search warrant for, *R.* 79. (See *Search Warrant.*)
- of British subjects, jurisdiction over, *O.* 12.
- of deceased British subjects, *O.* 36—44.
- transfer of, *O.* 32.

**PROSECUTIONS,**

- costs of, *O.* 32, 66.
- malicious, &c., *O.* 66.
- persons punished, not liable to further, *O.* 68—70.

**PROTECTED BRITISH PERSON,**

- registration, *O.* 104.
- to include natives of British protectorates outside local jurisdiction when within, *O.*<sup>s</sup> 2.

**PROTECTION**, person enjoying, included in "British subject," *O.* 3.

**PROTECTORATES**, foreigners in, subjects of the signatory powers, jurisdiction over, *O.*<sup>2</sup> 2.

**PROTECTORATES (BRITISH)**, outside local jurisdictions, natives of, to be deemed British protected persons when within, *O.*<sup>2</sup> 2.

**PUBLIC ORDER**, apprehended grave danger to, power of Court relating to, *O.* 52.

**PUBLICATION**,  
 of rules, to be made under Order, *O.* 97.  
 of any kind, endangering public order, *O.* 52.  
 of Acts relating to Copyright Designs and Trade Marks, *O.* 55.  
 Merchandise Marks Act, 1887, and the Patents, Designs and Trade Marks Acts, 1883—1888, *O.* 55.  
 of order, *O.* 115, 116.

**PUNISHMENT**,  
 of offences when no penalty is specified, *O.* 56.  
 of crimes to be according to the Order, *O.* 12.  
 infliction of, laws of England to be followed in, *O.* 65.  
 expenses of. (*See Expenses.*)

## Q.

**QUEEN'S REGULATIONS**,  
 acting in contravention to, an offence against Order, *O.* 49.  
 as to observance of treaties may be made, *O.* 99.  
 as to observance of native or local laws and customs, may be made, *O.* 99.  
 for the peace, order and good government of British subjects, may be made, *O.* 99.  
 for requiring returns of exports and imports, *O.* 99.  
 as to prisons, may be made, *O.* 99.  
 when allowed by Secretary of State and published, to have effect, *O.* 99.  
 made under the West Africa Order of 1872, how far in force, *O.* 99.  
 breach of an offence against the Order, *O.* 99.

## R.

**REBELLION**,  
 offence against Order, punishment for, *O.* 48.  
 aiding and abetting, *O.* 48.

**RECEIVING STOLEN PROPERTY**, powers of Court, *O.* 70.

**RECOGNIZANCE**,  
 for good behaviour, *O.* 102.  
 bail to be by, *R.* 56 (1).  
 for appearance of accused, sureties discretionary, *R.* 56 (2).  
 on completion of, accused to be discharged from custody, *R.* 56 (3).  
 forfeited, on failure of accused to appear, *R.* 56 (4).

RECONCILIATION, Courts may encourage, *O.* 34.

RECORD,

Court of, every Consular Court to be, *O.* 24.  
transmission of, *R.* 45. (See *Appeal.*)

RECORDS, file of proceedings to be preserved among, *R.* 7 (3).

REGISTRAR,

to administer oaths, *O.* 29.  
judge shall act as, if no other officer appointed, *O.* 30.

REGISTRATION, *O.* 104.

necessary every January at Consular Court, *O.* 104.  
on arriving in Protectorate, mode of, *O.* 104.  
not required oftener than once a year, *O.* 104.  
of a man, includes wife, *O.* 104.  
head of family comprises all females being relatives, *O.* 104.  
Consul to give certificate, *O.* 104.  
name of wife to be indorsed on husband's certificate, *O.* 104.  
names of females to be indorsed on certificate of head of family,  
*O.* 104.  
fee to be paid, 2s. 6d., *O.* 104.  
fee may be uniform or varying up to 5s. if Secretary of State  
directs, *O.* 104.  
persons to attend personally for purpose of, *O.* 104.  
failure to comply, an offence against order, *O.* 104.  
failure to comply, penalty for, *O.* 104.  
failure to comply, Court may decline to recognize person as  
British subject, *O.* 104.  
of foreigners subjects of Signatory Powers to Berlin Act, 1885,  
not necessary, *O.* 2.

REGULATIONS. (See *Rules*, *O.* 95—98; *Queen's Regulations*, *O.* 99.)

acts declared punishable as offences against, crimes under Order,  
*O.* 45.  
acting in contravention to, offences against Order, *O.* 49, 99.  
judicial notice to be taken of, *O.* 88.  
existing, revocation of, *O.* 98, 99.  
made under other Orders, *O.* 99.  
power of Consul to make and alter, *O.* 99.  
for observance of treaties, *O.* 99.  
for maintenance of order, *O.* 99.  
for requiring trade returns, *O.* 99.  
respecting prisons, *O.* 99.  
approval by Secretary of State, *O.* 99, 115.  
breach of, *O.* 99.

RE-HEAR, Courts may re-hear civil cases, *O.* 27.

RE-HEARING OF PARTIES in arbitration proceedings, only on ground  
decree not in conformity with award, *O.* 34.

RELIGION, offences against, *O.* 49.

RELIGIOUS WORSHIP, persons endangering peace by disturbing, guilty of an offence, *O.* 49.

REMANDS,

- not to be for more than seven days, *O.* 59.
- special, to be recorded on minutes, *O.* 59.
- in no case for more than fourteen days, unless illness of accused, or other necessity, *O.* 59.

REMISSION OF SENTENCES by Secretary of State, *O.* 74.

REMOVAL,

- for trial or execution of sentence, warrant to be issued, *O.* 103.
- pending, warrant to be indorsed and person arrested and detained, *O.* 103.
- on arrival at the place named, person to be handed to gaoler or other officer, *O.* 103.
- warrant for, sufficient for all persons acting under it, *O.* 103.
- warrant of, to be issued in duplicate, *O.* 103.
- expenses of, how defrayed, *O.* 109.

REMOVAL AND DEPORTATION, *O.* 102, 103.

REMOVAL FOR IMPRISONMENT, *R.* 75. (See *Imprisonment on Conviction.*)

warrant of, may be issued and executed on Sunday, *R.* 80 (1).

REMOVAL FOR TRIAL,

- to Colonial Courts, in what cases, *O.* 61.
- when discretionary, *O.* 62.
- or for execution of sentence, to what Colonies, *O.* 72A.
- to what possessions, considerations to be observed as to determining, *O.* 72A.
- removal for trial, *R.* 61.
- Consul to issue warrant for, *R.* 61 (1).
- form of warrant, *R.* 61 (2).
- warrant to be issued in duplicate, *R.* 61 (2).
- pending execution of warrant, bail discretionary, *R.* 61 (3).
- pending execution, warrant to be indorsed if accused remains in custody, *R.* 61 (3).
- Consul to transmit copy, depositions and order for, to Court that is to try, *R.* 61 (4).

REPEALS, *O.* 113.

- not to affect past operations of former Orders, *O.* 113.
- not to affect existing rights, &c., *O.* 113.
- not to affect validity of any former Rules, *O.* 113.
- not to revive anything thereby repealed, *O.* 113.

RESTRICTIONS CONTAINED IN ORDER, powers and authorities under Foreign Jurisdiction Acts to be subject to, *O.* 11.

RETURNS OF TRADE, *O.* 99.

REVIEW OF JUDGMENTS AND ORDERS,

- in civil cases, *O.* 27.
- of sentences. (See *Sentences.*)

REVIEW OF JUDGMENTS AND ORDERS—*continued*.  
of fines. (See *Fines*.)

REVOCATION of rules and regulations. (See *Rules*, §c.)

RIOT, bail discretionary, *O.* 60.

ROB, assault with intent to, *O.* 69.

ROBBERY, powers of Court in cases of, *O.* 69.

RULE OF COURT, agreement for arbitration may be made a, *O.* 34.

RULES,

- to be framed without excessive regard to technicalities, *O.* 95.
- framed under Article 95, to be approved by Secretary of State, *O.* 95.
- framed in cases of urgency, how to have effect, *O.* 95.
- in Schedule to Order, may be used with modifications as required, *O.* 95.
- to be exhibited in each Court, *O.* 97.
- printed copies to be sold at reasonable prices, *O.* 97.
- no penalty for breach to be enforced until rules exhibited one month, *O.* 97.
- evidence of framing, approval and publication, what, *O.* 97.
- made under other Orders, how affected by new rules, *O.* 98, 99.
- may be made as to granting and enforcing warrants, enforcing awards, judgments, &c., *O.* 96.
- enforcing payment for damages, costs, &c., *O.* 96.
- garnishee and attachment proceedings, *O.* 96.
- enforcement of attendances of witnesses, *O.* 96.
- taking depositions, *O.* 96.
- appointing forms of indictment or charge in criminal proceedings, *O.* 96.
- for fixing fees, &c., *O.* 96.
- for admission of barristers and solicitors, *O.* 25.
- judicial notice to be taken of, *O.* 88.
- violation of, *O.* 49.

RULES OF PROCEDURE,

- affecting conduct of civil suits, *O.* 95.
- may be made as to appellate jurisdiction in local jurisdiction, *O.* 112.
- commencement of, *O.* 115.
- Consular officer may frame, *O.* 95, 112—115.
- Consular officer may frame rules as to execution of judgments, *O.* 95.
- rules as to appeals in civil and criminal cases, *O.* 95.
- rules necessary for the exercise of the jurisdiction of Courts under the Order, *O.* 95.
- to be approved by Secretary of State, *O.* 95, 115.
- breach of, *O.* 97.
- existing, revocation of, *O.* 98.

S.

SAFE CUSTODY of accused pending review of sentence, *O.* 75.

**SALE,**

of copies of Rules and Order, *O.* 97, 116.  
of lands, *R.* 32. (See *Execution.*)

**SALE OF GOODS FORFEITED, R.** 78.

Consul may issue warrant for, *R.* 78 (1).  
form of warrant for, *R.* 78 (1).  
warrant to authorize and direct sale by public auction, *R.* 78 (2).  
proceeds of, to be paid into Court, *R.* 78 (3).  
officer executing warrant may deduct expenses of sale, *R.* 78 (3).

**SATISFACTION AND AMENDS,** money may be paid into Court by way of,  
*R.* 17. (See *Payment into Court.*)

**SEAL,**

each Court to have, *O.* 19.  
of the Court substituted for any other seal mentioned in Imperial  
Acts, &c., *O.* 110.  
of Court requisite on every summons, judgment, order, notice, &c.,  
issued, *R.* 6.  
Consular, judicial notice to be taken of, *O.* 88.  
Consular, presumption of genuineness of, *O.* 89.

**SEALING, R.** 6.

**SEAMEN'S WAGES,** how recoverable, *O.* 33.

**SEARCH WARRANTS, O.** 96.

Rules as to granting and enforcing may be framed, *O.* 96.  
for property connected with crimes and offences, *R.* 79.  
Consul may issue, on oath of credible witness where reasonable  
suspicion exists, *R.* 79 (1).  
on application for, information to be taken down in writing and  
signed, *R.* 79 (2).  
information to describe goods and premises and grounds of  
suspicion, *R.* 79 (2).  
officer executing, may be assisted by other persons, *R.* 79 (3).  
only to apply to premises and goods named therein, *R.* 79 (4).  
form of, *R.* 79 (4).  
may direct officer to arrest occupier of premises if goods found  
there, *R.* 79 (5).  
officer executing, may break open doors if refused admittance,  
*R.* 79 (6).  
not to be executed in the night time, *R.* 79 (7).  
Consul may order payment of damages to occupier if search  
warrant applied for maliciously or without reasonable cause,  
*R.* 79 (8).  
may be issued and executed on Sunday, *R.* 80 (1).  
may be executed anywhere in the limits of that Order, *R.* 80 (2).  
every Consul to aid in execution of, *R.* 80 (2).

**SEAS, HIGH.** (See *High Seas.*)

**SECRETARY OF STATE,**

means one of Her Majesty's Principal Secretaries of State, *O.* 3.  
may constitute or alter local jurisdictions, *O.* 5.

SECRETARY OF STATE—*continued*.

- instructions, how published, *O. 5.*
- power to assign designations to local jurisdictions, *O. 8.*
- may declare Ordinances in British Possessions shall have effect in Protectorate, *O. 15.*
- the like as regards Acts in force in British India, *O.<sup>s</sup> 3.*
- may appoint places for Courts, *O. 19.*
- may appoint officers for Courts, *O. 19.*
- to approve rules for admission of barristers and solicitors, *O. 25.*
- in probate cases, &c., *O. 43.*
- may direct division of estates of deceased persons under 100*l.*, *O. 44.*
- minutes of punishments for contempt of Court to be sent to, *O. 51.*
- to appoint prisons, and power over sentences, *O. 72.*
- may remit or commute sentences, *O. 74.*
- to confirm sentences of death, *O. 74.*
- sentences of death, minutes of trial to be sent to, *O. 74.*
- may direct sentences to be reviewed by Court of Appeal, *O. 74.*
- may direct stay of execution pending review by Court of Appeal, *O. 74.*
- rules framed by consular officers to have approval of, *O. 95, 115.*
- may direct to what possession person deported to be removed to, *O. 102.*
- report of deportations to be made to, *O. 102.*
- may remit orders for deportation, *O. 102.*
- may consent to return of person deported, *O. 102.*
- may order security for good behaviour on return of person deported, *O. 102.*
- may fix fee for registration of British subjects, *O. 104.*
- may direct how fees, fines, penalties, &c., shall be accounted for, *O. 108.*
- may direct how expenses of removal and deportation shall be defrayed, *O. 109.*
- decision of, as to application of Imperial Acts, &c., *O. 110.*
- may designate what officer to perform acts referred to in Imperial Acts, *O. 110.*
- power of, in cases of original jurisdiction, *O. 112.*
- rules framed and approved by, time of commencement of, *O. 115.*
- may issue directions as to sale and price of copies of Order, *O. 116.*
- may order inspection of file of proceedings, *R. 7 (4).*
- power to authorize appointment of District Courts, *O. 19.*
- power to appoint judges, judicial officers, and commissioners, *O. 19.*
- power over officers of the Courts, *O. 19.*

## SECURITY,

- for good behaviour, order for, on conviction, to be entered on minutes, *R. 69.*
- on appeal, *R. 43 (2).* (*See Appeals.*)
- on stay of execution pending appeal, *R. 46.* (*See Appeal.*)
- for appearance before Court having jurisdiction, *O. 26.*
- against crimes committed, bills of sale, mortgages, &c., not to avail, *O. 32.*

**SECURITY—continued.**

- pending review by Court of Appeal, *O.* 75.
- by way of bail pending review of sentence, *O.* 75.
- for surrender of offender in proper district, *O.* 76.
- for costs by foreigner, may be ordered, *O.* 100.
- for costs by plaintiff out of district or only temporarily therein, *R.* 13 (2).
- for costs by plaintiff who has left or is about to leave district, *R.* 13 (3).
- for future good behaviour, *O.* 102.

**SEIZURE AND SALE, *R.* 30. (See *Execution.*)**

- of ships, goods, and lands, *O.* 31.
- of ships for seamen's wages, *O.* 33.

**SENTENCES,**

- of imprisonment, where to be carried into effect, *O.* 72.
- removal of prisoner to African possessions, when, *O.* 72.
- of death, to be carried out in one of the African possessions, *O.* 72.
- not to be carried out without confirmation of Secretary of State, *O.* 74.
- of death and imprisonment, provisions of Foreign Jurisdiction Act to be observed, *O.* 72.
- of imprisonment, power of Secretary of State, *O.* 72.
- may be remitted or commuted by Secretary of State, *O.* 74.
- of death, minutes of trial to be sent to Secretary of State, *O.* 74.
- may be reviewed by Court of Appeal by direction of Secretary of State, *O.* 74.
- for crimes on high seas or under Admiralty jurisdiction, to be as in England, *O.* 78.
- suspension of execution of, *O.* 75.
- of deportation, remission, *O.* 102.

**SEQUESTRATION, *R.* 40.**

- party prosecuting order against whom warrant of arrest issued and cannot be found, may apply for warrant of, *R.* 40 (1).
- the like where party taken and detained in custody without obeying order, *R.* 40 (1).
- warrant of, to direct sequestrators to seize all real and personal estate within district and receive rents and profits until contempt cleared, *R.* 40 (2).
- Court may order payment of charges and remuneration to sequestrators out of proceeds, *R.* 40 (3).
- form of warrant, *R.* 40 (2).

**SERVICE, *R.* 14.**

- to be effected by an officer and to be personal, *R.* 14 (1).
- personal, how effected, *R.* 14 (2).
- to be by leaving copy and producing original, *R.* 14 (2).
- not to be made on Sunday without leave, *R.* 14 (3).
- not to be before 6 A.M. or after 6 P.M., *R.* 14 (3).
- otherwise than by officers, Court may direct, *R.* 14 (1).
- of notice of appeal, *R.* 44. (See *Appeal.*)
- of summons, to be at least seven days before hearing, *R.* 15 (1).
- of summons, date and place to be indorsed on original, *R.* 15 (2).



**SET-OFF AND COUNTER-CLAIM, R. 18.**

defendant may set-off any right or claim, R. 18 (1).

notice of, to be given to Court in writing, R. 18 (2).

notice of, to be served on plaintiff four days before hearing, R. 18 (2).

Court may refuse defendant permission to avail himself of, R. 18 (3).

**SET-OFF** in suits by foreigners, O. 100.

**SHIPS.** (See *Vessels*.)

**SHIPS, SEIZURE AND SALE OF,**  
to enforce judgments, O. 31.

for compelling payment of seamen's wages, O. 33.

ships forfeited, R. 78. (See *Sale of Goods Forfeited*.)

**SIERRA LEONE,**

a colony to which persons may be removed for trial or execution of sentence, O. 72A.

crimes committed in adjacent territories, O. 18.

**SIGNATORY POWERS**, subjects of, are foreigners to whom Order applies, O.<sup>s</sup> 1.

**SIGNATURES,**

consular, judicial notice to be taken of, O. 88.

presumption as to genuineness of, O. 89.

**SINGULAR** includes plural, O. 3.

**SLAVE TRADE ACTS**, O. 3, 18.

**SMALL ESTATES**, proceedings when property under 100*l.*, O. 44.

**SMUGGLED GOODS**, sale of, R. 78. (See *Sale of Goods*.)

**SMUGGLING, O. 50.**

with intent to evade duties payable to native chiefs, an offence against Order, O. 50.

punishment for, O. 50.

**SOLE ASSESSOR** prevented from attending, proceedings to be stayed, R. 5 (7).

**SOLICITORS**, admission of, O. 25.

**SOUTH AFRICAN REPUBLIC**, excluded from local jurisdictions, O. 6.

**SPECIAL POWERS OF COURT** in Bankruptcy, Probate, &c., O. 36.

**STATUTES,**

1821. 1 & 2 Geo. IV. c. 28 (West African Settlements), O. 18.

1825. 6 Geo. IV. c. 87 (Consular Act), O. 96.

1843. 6 & 7 Vict. c. 94 (Foreign Jurisdiction—Transportation), O. 61, 72.

1849. 12 & 13 Vict. c. 96 (Admiralty Offences, Colonies), O. 78.

1851. 14 & 15 Vict. c. 99 (Law of Evidence Amendment), O. 91.

1856. 19 & 20 Vict. c. 113 (Evidence), O. 91.

STATUTES—*continued.*

- 1859. 22 V. c. 20 (Evidence), *O.* 91.
- 1859. 22 & 23 Vict. c. 63 (Law), *O.* 91.
- 1860. 23 & 24 Vict. c. 122 (Admiralty Offences, Colonies), *O.* 78.
- 1861. 24 & 25 Vict. c. 11 (Foreign Law), *O.* 91.
- 1861. 24 & 25 Vict. c. 31 (West African Settlements), *O.* 18.
- 1863. 26 & 27 Vict. c. 35 (South Africa), *O.* 18.
- 1867. 30 & 31 Vict. c. 124 (Merchant Shipping), *O.* 78.
- 1871. 34 & 35 Vict. c. 8 (West African Settlements), *O.* 18.
- 1873. 36 & 37 Vict. c. 59 (Slave Trade), *O.* 18.
- 1876. 39 & 40 Vict. c. 46 (Foreign Jurisdiction—Slave Trade, India), *O.* 3.
- 1878. 41 & 42 Vict. c. 67 (Foreign Jurisdiction), *O.* 78.
- 1879. 42 & 43 Vict. c. 38 (Slave Trade, East Africa), *O.* 18.
- 1881. 44 & 45 Vict. c. 69 (Fugitive Offenders), *O.* 79.
- 1884. 47 & 48 Vict. c. 31 (Colonial Prisoners), *O.* 80.
- 1884-85. 48 & 49 Vict. c. 74 (Evidence), *O.* 91.

## STAY,

- of proceedings where assessors prevented continuing to serve, *R.* 5 (7).
- of proceedings pending security for costs, *R.* 13 (3).
- of execution on appeal, *R.* 46. (See *Appeal.*)

STEALING, *O.* 69, 70.

STOLEN PROPERTY, powers of Court, *O.* 70.

STRIKING out names of parties improperly joined in actions, *R.* 12 (3).

SUBMISSION TO ARBITRATION, *O.* 34.

SUCCESSFUL PARTIES, costs of, *R.* 24 (2). (See *Costs.*)

SUFFERANCE, power and jurisdiction by, *O.* Preamble.

## SUITS,

- facilitating settlement of, *O.* 34.
- rules of procedure, *O.* 95.
- by or against foreigners. (See *Foreigners.*)
- for things done or omitted under this Order, *O.* 114.
- which may be heard with or without Assessors. (See *Assessors.*)

## SUMMARY,

- inquiries into charges of extortion and misconduct by officers, *O.* 53.
- orders for support of wife, and children under sixteen, *O.* 54.

## SUMMONED,

- assessors to be, according to their place on list, *R.* 5 (3).

## SUMMONS,

- issued from Court, to be sealed, *R.* 6.
- service of, *R.* 14. (See *Service.*)
- service of, to be at least seven days before hearing, *R.* 15 (1).
- date and place of service to be indorsed on original, *R.* 15 (2).
- to be sealed, *R.* 9 (3).
- in civil actions, form of, *R.* 9 (3).
- in civil action, to contain particulars of claim and notice of time and place of trial, *R.* 9 (3).

**SUMMONS—continued.**

- persons charged on, to be brought up within forty-eight hours after service, *O.* 58.
- to assessors, how served, *R.* 5 (4).
- to assessors, form of, *R.* 5 (4).
- of witnesses, civil and criminal cases, *O.* 83.
- of witnesses, criminal cases, *O.* 84.
- of witnesses, failure to obey, *O.* 84.
- issue of warrant, *O.* 84.

**SUMMONS IN CRIMINAL PROCEEDINGS, *R.* 52.**

- charge need not be sworn to unless Consul requires, *R.* 52 (1).
- form of, *R.* 52 (2).
- to state substance of charge, &c., *R.* 52 (2).
- to be served by officers of Court, *R.* 52 (3).
- may be executed anywhere in limit of that Order, *R.* 80 (2).
- of witnesses in cases of misconduct of officers of Court, *O.* 53.

**SUNDAY,**

- warrants may be issued and executed on, *R.* 80 (1).
- Sundays in computation of time, *R.* 47. (*See Time.*)

**SUPERIOR COURTS. (*See Courts.*)**

**SUPERSTITIOUS CEREMONIES**, disturbing, offence against Order, *O.* 49.

**SUPPLEMENTAL**, *O.* 110—112.

**SUPPORT** of wife and child, *O.* 54.

**SUPREME COURTS. (*See Courts.*)**

**SURETIES** for appearance of accused, discretionary on allowing bail, *R.* 56 (2).

**T.****TECHNICAL OR FORMAL ERRORS,**

- not to invalidate actions, *R.* 48 (3).
- Court may correct, *R.* 48 (4).

**TECHNICALITIES**, framing of rules as to, *O.* 95.

**TENDER** of amends may be made in respect of any act or omission under Order, *O.* 107.

**TERMS**, interpretation, *O.* 3, 19, *O.*<sup>s</sup> 1, *O.*<sup>s</sup> 3.

**TERRITORIAL WATERS**, within limits of Order, *O.* 4.

**TESTAMENTARY WRITINGS,**

- to be deposited in Court after knowledge of death, *O.* 39.
- penalty for neglect to deposit, *O.* 39.

**THEFT**, *O.* 69, 70.

**TIME,**

- and place of execution of summonses, warrants and orders, R. 80.
- of appeal, R. 42. (See *Appeals*.)
- to be reckoned exclusively of first, and inclusively of last day, R. 47 (1).
- when clear days mentioned, how reckoned, R. 47 (1).
- Sundays not to be reckoned where prescribed days less than six, R. 47 (2).
- when, expires on Sunday, following day allowed in computation, R. 47 (3).

**TITLES**, definition, O.<sup>s</sup> 19.

**TRADE MARKS ACTS**, offences against, offences under Order, when, O. 55.

**TREASON**, O. 45.

**TREASURY,**

- fees to be sanctioned by, O. 96, 108.
- concurrence of, as to application of fees and defrayal of expenses of removal and deportation, O. 102, 108, 109.
- finer, forfeitures, penalties, &c., O. 108.
- directions as to sale, &c., of Order, O. 116.

**TREATY,**

- defined, O. 3, O.<sup>s</sup> 3.
- power and jurisdiction by, O. Preamble.
- provisions of, to be observed where inconsistent with English law, O. 16.
- includes convention, agreement, arrangement, O. 3, O.<sup>s</sup> 3.
- acting in contravention to, an offence, O. 49.
- International Association of the Congo, O. 7.
- how, not affected by this Order, O. 18.
- violation of, O. 49.
- Queen's Regulations for securing observance may be made, O. 99.
- international agreement, to which kings, chiefs, &c., in local jurisdiction are not parties, included in treaty, O.<sup>s</sup> 3.

**TRIAL,**

- of British subjects, O. 57.
- place of, in criminal proceedings, R. 71.
- to be in open Court, with right of access to public, R. 71.
- with assessors, O. 92, 93, 94.
- with assessors, new, when first assessors prevented from serving, R. 5 (7).
- time and place to be entered on summons, R. 9 (3).
- committal for, to Colonial Courts, O. 57.
- to take place within reasonable time, O. 58.
- within district, when witnesses' attendances cannot be secured in colonies, O. 61.
- within district, when discretionary, O. 62.
- with assessors, when compulsory, O. 63.
- when accused consents to be tried without assessors, O. 63.
- evidence of witnesses before trial may be taken when witness about to leave district, R. 20 (1). (See *Depositions before trial*.)

**TRIAL—continued.**

- the like, when witness ill or infirm, R. 20 (1).
- order for, after preliminary examination, R. 60. (See *Preliminary Examination*.)
- order for removal for, R. 61. (See *Removal*.)
- order for, before Court, R. 62.
- notice to prosecutor of time and place for, R. 65.
- form of notice of, R. 65.
- in absence of prosecutor, Court may dismiss charge, R. 66 (1).
- in criminal proceedings, R. 67. (See *Hearing*.)
- place of, to be an open Court, R. 71.
- removal for, O. 61, 62, 103.
- expenses of. (See *Expenses*.)
- of accused, who escapes from one district to another, O. 76.
- of accused before Court of district, R. 62.
- Consul to make note on minutes of reasons for not removing, R. 62 (1).
- Consul may bind prosecutor and witnesses to appear, R. 62 (2).
- form of recognizance for binding witnesses, R. 62 (2).
- on refusal of prosecutor or witnesses to enter into recognizance, Court may order either to be kept in custody, R. 62 (3).
- form of warrant to be issued in such cases, R. 62 (3).
- pending trial, accused may be admitted to bail or kept in custody, R. 62 (4).
- form of warrant in latter case, R. 62 (4).
- accused person entitled to copy of the charge, R. 62 (5).
- accused entitled to copy of depositions on payment, R. 62 (5).
- Consul may dispense with payment if he thinks fit, R. 62 (5).
- Consul to inform accused on committing for trial that he can have copy charge and depositions, R. 62 (5).
- date of, to be named in order, and prisoner informed at the time thereof, R. 62 (6).
- date of trial not to be more than fourteen days after preliminary examination, R. 62 (6).
- public not to have right of access at preliminary examination, R. 63.
- notice to be given by Court to prosecutor of time and place for, R. 65.
- in absence of prosecutor, charge to be dismissed, unless reasons for adjournment recorded, R. 66 (1).
- form of dismissal, R. 66 (1).
- no charge can be heard in absence of accused, R. 66 (2).
- substance of charge to be stated, and accused asked if he admits or denies the truth thereof, R. 67 (1).
- Court may convict if accused admits truth of the charge, R. 67 (2).
- if truth of charge denied, the Court to hear evidence, R. 67 (3).
- if accused asserts previous conviction or acquittal, Court to inquire into same before hearing evidence, R. 67 (4).
- if accused appears of unsound mind, Court may make order for his safe keeping, R. 67 (5).
- after hearing evidence, Court to consider whole matter and convict, or dismiss charge, R. 68.

TRIBUNALS, foreign or native, attendance of British subjects before,  
O. 101. (See *Courts*.)

TUNIS, excluded from local jurisdictions, O. 6.

## U.

UNSUCCESSFUL PARTIES, R. 24 (2). (See *Costs*.)

URGENT NECESSITY, in case of, Court may continue trial in absence of  
assessors, R. 5 (7).

## V.

## VESSELS,

power to seize and sell, O. 33.  
Admiralty jurisdiction concerning, O. 37.  
forfeiture of, for smuggling, O. 50.  
crimes on board, O. 78.  
foreign, crimes on board, O. 78.

## VEXATIOUS PROSECUTIONS,

Court may deal with expenses of, O. 66.  
mode of recovery of expenses, O. 66.

## VICE-ADMIRALTY,

jurisdiction, O. 37.  
Courts, every Court to be, O. 37.  
jurisdiction in Colonial Courts, Courts to have same jurisdiction  
as, O. 37.

## VICE-CONSUL, O. 3.

may hold and form a Consular Court, O. 19.

## W.

WAGES. (See *Seaman's Wages*.)

WAR, levying, an offence against the Order, punishment for, O. 48.

## WARRANT,

apprehension of person committing contempt of Court, &c., with  
or without, O. 51.  
for appointment of prisons, O. 73.  
persons charged on, to be brought up within forty-eight hours  
after its execution, O. 58.  
to convey escaped offender to proper district, O. 76.

## WARRANT FOR ARREST,

of persons disobeying orders, R. 39 (1). (See *Arrest*.)  
form of warrant, R. 39 (2).  
of sequestration after arrest for disobedience to orders, R. 40 (1).  
(See *Sequestration*.)

**WARRANT OF ARREST,**

in criminal proceedings, R. 53.  
not to be issued unless charge sworn to, R. 53 (1).  
may be issued if summons appears ineffective, R. 53.  
may be issued if accused fail to appear on summons and proof of service, R. 53 (3).  
form of, R. 53 (4).  
to state substance of charge, R. 53 (4).  
return of, R. 53 (4).  
to remain in force until executed, R. 53 (4).  
arrested persons to be brought up within forty-eight hours, or reasons for delay to be recorded, R. 55 (1) (2).  
search, enforcement of, O. 96.

**WARRANTS,**

issued under Her Majesty's authority out of local jurisdiction may be backed, and offenders arrested under, O. 77.  
to compel attendance of witness, O. 84.  
rules as to granting and enforcing may be made, O. 96.  
of deportation, O. 102, 103.  
arrest of offender by indorsement, and detention pending removal, O. 103.  
of removal, O. 103.  
to be in duplicate, O. 103.  
may be issued and executed on Sunday, R. 80.  
may be executed anywhere in limits of Order, R. 80.

**WEST AFRICA,**

Orders of 1872, breach of regulations under, an offence, O. 49.  
Queen's Regulations under, how far in force, O. 99.  
Order of 1885 repealed, O. 113.

**WIFE, summary order for support of, O. 54.****WILL,**

of deceased British subject, O. 39.  
person having in his control, to deposit in Court, O. 39.  
penalty for neglect to deposit, O. 39.

**WITNESSES,**

expenses of, O. 32, 85.  
rules as to compelling attendance of, may be made, O. 96.  
attendance before foreign tribunals may be ordered, O. 101.  
in cases of misconduct of officers of Court, O. 53.  
in cases of removal for trial, O. 61, 62.  
attendance of, before Colonial or English Court, O. 61, 62, 96.  
summoning of, O. 83, 84, 96.  
failure to attend, O. 83, 84, 96.  
attendance cannot be ordered out of district of Court, O. 101.  
failure to attend before foreign tribunal, O. 101.  
British subject present in Court may be required to give evidence, R. 1.  
form of oath for, R. 2.  
depositions to be preserved, O. 28.  
expenses, payment of, O. 32, 85.

**WITNESSES—continued.**

- attendance not securable, trial may be in district, *O.* 61, 62.
- on what ceremony oath to be administered to, *O.* 86.
- false evidence by, perjury, *O.* 87.
- about to leave district, may be examined before trial, *R.* 20. (See *Depositions before Trial.*)
- the like, when ill or infirm, *R.* 21. (See *Depositions before Trial.*)
- punishment of, *O.* 83, 101.
- examination on oath, *O.* 86.
- perjury by, *O.* 87.
- not compelled to give evidence affecting Her Majesty's service, *O.* 90.

**WRITING**, meaning of, *O.* 3.

**Z.****ZANZIBAR,**

- excluded from local jurisdictions, *O.* 6.
- Consul-General, powers and authority of, *O.* 20
- Court held by Consul-General of, a Court of Appeal, *O.* 21.

**ZULULAND**, a colony to which persons may be removed for trial and execution of sentence, *O.* 72A.



## APPENDICES.

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### APPENDIX I.

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#### **The Africa Order in Council, 1889.**

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At the Court at Balmoral, the 15th day of October, 1889.

Present,

The QUEEN'S Most Excellent Majesty.

Lord Chancellor.

Viscount Cross.

Mr. Chaplin.

WHEREAS, by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in the parts of Africa mentioned in this Order, and in the Island of Madagascar :

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Acts, 1843 to 1878, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Africa Order in Council, 1889.

2. This Order is divided into parts as follows:—

Parts.		Articles.
I.	Interpretation and Application .. ..	3—11
II.	General Law .. .. .	12—18
III.	Constitution of Courts .. .. .	19—21
IV.	General powers of Courts and General Procedure .. .. .	22—35
V.	Special powers of Courts (Bankruptcy, Probate, &c.) .. .. .	36—44
VI.	Criminal Law and Procedure .. .. .	45—80
VII.	Appeals .. .. .	81
VIII.	Evidence .. .. .	82—90
IX.	Assessors .. .. .	91—93
X.	Rules of Procedure .. .. .	94—97
XI.	Treaties and Queen's Regulations .. .. .	98
XII.	Foreigners and Foreign Courts .. .. .	99—100
XIII.	Deportation and Removal .. .. .	101—102
XIV.	Registration .. .. .	103
XV.	Official .. .. .	104—106
XVI.	Fees and Expenses .. .. .	107—108
XVII.	Supplemental .. .. .	109—111
XVIII.	Commencement, Publication, Repeals, and Temporary Provisions .. .. .	112—115

#### PART I.—INTERPRETATION AND APPLICATION.

3. In this Order, unless the subject or context otherwise requires—

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State;

“Prescribed” means prescribed by any Consular instructions, or by any order or notification signed or authorized by a Secretary of State;

“Consular officer” includes any person for the time being acting by virtue of Her Majesty’s commission or with the authority or approval of a Secretary of State as Consul-General, Consul, or Vice-Consul, or Consular Agent;

“Consular district” means the limits within which a Consular officer is authorized to act, or such limits as may be prescribed with reference to any Consular officer or Court;

“African possession of Her Majesty” means any colony or possession of Her Majesty in Africa, and includes Mauritius;

“Treaty” includes any Convention, Agreement, or Arrangement made by or on behalf of Her Majesty with any State or

Government, King, Chief, people, or tribe, and any regulation appended thereto ;

“ Court ” means any Court or person exercising jurisdiction under this Order ;

“ British subject ” includes a person enjoying Her Majesty’s protection, and includes, by virtue of 39 & 40 Vict. c. 46, subjects of the several Princes and States in India in alliance with Her Majesty, residing and being in the parts of Africa mentioned in this Order or in the Island of Madagascar ;

“ Foreigner ” means a person, whether a native or subject of Africa or not, who is not a British subject as herein defined ;

“ Native ” means a native or subject of any country within the limits of this Order, not being a British subject, nor the subject of any non-African Power ;

“ Person ” includes a corporation or association of persons ;

“ Oath ” or “ Affidavit ” includes affirmation and declaration ;

“ Month ” means calendar month ;

The plural includes the singular, and the singular the plural, and the masculine the feminine.

Expressions referring to print or to writing include either print or writing, or a combination of both.

“ Crime ” includes offence.

4. The limits of this Order shall be the continent of Africa, with the maritime and interior territorial waters thereof, and the islands adjacent thereto, and the Island of Madagascar and its dependencies and their territorial waters ; but the powers by this Order given shall be exercised only within and for the local jurisdictions constituted, or to be constituted, for the purposes of this Order.

5. Subject to the provisions of this part of this Order, a Secretary of State from time to time, by any Consular instructions, or by any notification under his hand, may constitute, alter, or abolish local jurisdictions for the purposes of this Order. Any such instructions or notifications shall be published within the particular jurisdictions to which they relate, in the manner directed by the last part of this Order for the publication of this Order, or in such other manner as a Secretary of State directs in any particular case.

6. There shall be excluded from every local jurisdiction all parts of any of the following places :—

(1.) Any place for the time being comprised within the limits of

the ordinary territorial jurisdiction of the Courts of any African possession of Her Majesty as herein defined, or of the Courts of any possession of any other non-African Power.

(2.) The territories of Morocco, Tunis, Liberia, Zanzibar, the South African Republic, and the Orange Free State.

(3.) Any other place in which any other Order in Council under the Foreign Jurisdiction Acts (except any Order applying this Order, or any part thereof, and in so far as this Order, or any part thereof, is so applied) is for the time being in force.

(4.) Any place for the time being subject to the jurisdiction of the Egyptian Courts.

7. For preventing doubts, it is declared that the power of constituting, altering, or abolishing local jurisdictions for the purposes of this Order may be exercised with reference to the whole or any part or parts of any of the districts or territories for the time being included in Her Majesty's Protectorate of the Niger districts, or in any other existing or future Protectorate, or any part or parts of the territories for the time being under the Government of the International Association of the Congo, or under the Government of the Free States under its administration, subject to, and in accordance with, the provisions of the Convention between Her Majesty and the said International Association, signed at Berlin the 16th December, 1884.

8. A Secretary of State, by any notification constituting or altering a local jurisdiction, may assign thereto a distinctive name or designation which may be used in any judicial or official instrument or document.

9. Until a Secretary of State otherwise provides under this part of this Order, Madagascar with its dependencies and territorial waters shall form one local jurisdiction for the purposes of this Order, and all other places within the limits of this Order (exclusive of the places which are hereby excluded from every local jurisdiction) shall form one local jurisdiction for the purposes of this Order.

10. The powers conferred by this Order within a local jurisdiction constituted under this Order shall extend to the persons and matters following, in so far as by Treaty, grant, usage, sufferance, or other lawful means, Her Majesty has power or authority in relation to such persons and matters, that is to say :—

(1.) British subjects as herein defined.

(2.) The property and personal and proprietary rights and obligations of British subjects within the local jurisdiction (whether such subjects are or are not within the jurisdiction), including British ships with their boats and the persons and property on board thereof, or belonging thereto.

(3.) Foreigners as herein defined who submit themselves to a Court, in accordance with the provisions of this Order.

(4.) Foreigners as herein defined, with respect to whom any State, King, Chief, or Government, whose subjects, or under whose protection they are, has, by any Treaty, as herein defined, or otherwise agreed with Her Majesty for, or consented to, the exercise of power or authority by Her Majesty.

11. Subject to the provisions and restrictions contained in this Order, and in particular to the provisions which define the law to be administered under this Order, the powers and authorities conferred by and to be exercised under this Order shall, within each local jurisdiction, comprise and include all power and authority whatsoever which, under the Foreign Jurisdiction Acts or otherwise, Her Majesty is capable of conferring for the purposes expressed in this Order, and all such power and authority are hereby conferred.

## PART II.—GENERAL LAW.

12. All Her Majesty's jurisdiction exercisable in any local jurisdiction constituted under this Order for the judicial hearing and determination of matters in difference between British subjects, or between foreigners and British subjects, or for the administration or control of the property or persons of British subjects, or for the repression or punishment of crimes or offences committed by British subjects, or for the maintenance of order among British subjects, shall be exercised under and according to the provisions of this Order, and not otherwise.

13. Subject to the other provisions of this Order, the civil and criminal jurisdiction aforesaid shall, so far as circumstances admit, be exercised upon the principles of and in conformity with the substance of the law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before Courts of Justice and Justices of the Peace in England, according to their respective jurisdictions and authorities.

14. Except as to offences made or declared such by this Order, or by any Regulation or Rule made under it—

Any act other than an act that would by a Court of Justice having criminal jurisdiction in England, be deemed a crime or offence, making the person doing such act liable to punishment in England shall not, in the exercise of criminal jurisdiction under this Order, be deemed a crime or offence, making the person doing such act liable to punishment.

15. A Secretary of State may from time to time, by order published in such manner as he directs, declare that any of the laws or ordinances for the time being in force in any African possession of Her Majesty as herein defined, and not inconsistent with this Order, shall have effect and be administered under this Order in relation to any place or places within the limits of any local jurisdiction, with such modifications or adaptations as may be necessary; and thereupon such laws or ordinances, as so modified or adapted, shall have effect in accordance with such order, as if they had been applied by this Order.

16. The provisions of any treaty with Her Majesty or Her successors for the time being in force with respect to any place within the limits of any local jurisdiction, shall have effect as part of the law to be enforced under this Order in relation to such place, and in case of inconsistency between such provisions and the law in force in England, or anything contained in this Order, effect shall be given to such provisions.

17. Crimes, offences, wrongs, and breaches of contract against or affecting the person, property, or rights of natives of Africa, or other foreigners as herein defined, committed by persons subject to this Order, are punishable or otherwise cognizable under the provisions of this Order, with the consent of such natives or foreigners, in the same manner as if they were committed against or affected the person, property, or rights of British subjects.

18. This Order shall not, except as herein expressly provided, abridge, affect, or interfere with any power or authority exercisable otherwise than under this Order, whether by virtue of any statute or Order in Council, or of any colonial law, or of any treaty or otherwise, and whether exercisable by Her Majesty or by any colonial legislature, or colonial or consular or other Court, or under any Commission, and in particular shall not interfere with any power or authority exercisable under or by virtue of the Act 1 & 2

Geo. IV. c. 28, or under or by virtue of the Acts 24 & 25 Vict. c. 31, and 34 & 35 Vict. c. 8 (relating to offences committed in territories adjacent to Sierra Leone, Gambia, Gold Coast, Lagos, and the adjacent protectorates), or under or by virtue of the Act 26 & 27 Vict. c. 35 (relating to South Africa), or the Acts 36 & 37 Vict. c. 59, or 42 & 43 Vict. c. 38 (both relating to the slave trade), or "The British Settlements Act, 1887" (50 & 51 Vict. c. 54), or under or by virtue of any enactment for the time being substituted for or amending any of the said Acts: and all powers and authorities in this Article mentioned shall continue to exist concurrently with and independently of the powers and authorities exercisable under this Order.

### PART III.—CONSTITUTION OF COURTS.

#### *Consular Courts.*

19. Every person for the time being holding Her Majesty's commission as a Consul-General, Consul, or Vice-Consul, or acting in any of such capacities by the authority of a Secretary of State, shall, if so authorized by a Secretary of State, hold and form a Consular Court under this Order, in and for such district, within any local jurisdiction constituted by or under this Order, and at such place or places within such district as a Secretary of State directs, and subject to any prescribed limitations or restrictions as to the exercise of the powers and authorities conferred by this Order.

In case Her Majesty is pleased to direct the appointment of a person not holding such commission, nor acting as aforesaid, to perform as a judge or judicial officer or commissioner in or for any district, place, or region to which this Order applies, all or any of the judicial powers or authorities by this Order vested in a Consular Court, a person so appointed by authority of a Secretary of State, in such form as the Secretary of State directs, shall in like manner hold and form a Court, and for the purposes of, and subject to, any limitations contained in his appointment, shall have all the same powers and authorities which under this Order can be exercised by a Consular Court, and shall be removable by authority of a Secretary of State; and it shall be lawful for a Secretary of State, by any such appointment or otherwise, to make provision for assigning to such judge or judicial officer or Commissioner, and to any person acting as Consul-General, Consul, or Vice-

Consul for the same district, place, or region, or any part thereof, respectively, such of the powers or authorities exercisable under this Order, to be exercised by them, either separately or concurrently, as the Secretary of State from time to time directs, and under such description or designation as he directs.

Throughout this Order the expressions "Consular Courts" or "Court," or "Consul" or "Judge" (when used in relation to a Court), include a Consul-General, Consul, Vice-Consul, or other judge, judicial officer, commissioner, or person exercising power or authority under this Article; and expressions referring to the district of a Court or to a district refer to a district for or within which any person is appointed to act under this Article.

It shall be lawful for a Secretary of State, or for any Consul as herein defined, with the authority of a Secretary of State, from time to time by order in writing, to appoint places at which Courts shall be held for any district, and to determine the number and description of the officers (if any) to be attached to any such Court, and the mode of their appointment and removal, and their duties and remuneration, and any matters incident to any of such purposes.

A printed copy of any such appointment, authority, or order, as in this Article mentioned, purporting to bear the seal of a Consul or of a Court, shall in all causes and matters be admitted as evidence of the contents, and due making and publication thereof.

Each Court shall have such seal as may be prescribed by any such Order as aforesaid.

20. Every judge of a Superior Court of any African possession of Her Majesty, and the Consul-General of Zanzibar, may exercise within the limits of any prescribed local jurisdiction constituted by or under this Order, any power or authority which can be exercised by any Court under this Order.

#### *Courts of Appeal.*

21. The Superior Court of any African possession of Her Majesty, and the Superior Court exercising jurisdiction in Bombay, shall be Courts of Appeal from the prescribed Courts acting under this Order, but the appellate jurisdiction hereby conferred shall be exercised by any such Court of Appeal only where an appeal to that Court of Appeal is authorized in the particular case in the manner provided by this Order.

In the case of the Colony of the Cape of Good Hope or of the



Colony of Natal, an appeal cannot be authorized until and unless the Court authorizing the appeal is satisfied that provision for entertaining such appeal has been made by the Legislature of that colony.

**PART IV.—GENERAL POWERS OF COURTS AND GENERAL  
PROCEDURE.**

22. Except as otherwise provided by this Order, Her Majesty's jurisdiction, civil and criminal, exercisable under this Order, shall, to the extent and in the manner provided by this Order, be vested in the Consular Courts, each for and within its own district.

23. The several Courts acting under this Order shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

24. Every Consular Court shall, in the exercise of every part of its respective jurisdiction, be a Court of Record.

Every Consular Court shall be a Court of Law and of Equity.

25. Any Consul-General to whom a district within the limits of this Order is assigned, may from time to time admit fit persons to practise in the Courts of such districts as barristers and solicitors, or in either of those capacities; and may from time to time, subject to the approval of one of Her Majesty's Principal Secretaries of State, make rules for regulating the admission of persons to practise as aforesaid in such Courts.

26. In any matter, civil or criminal, a Court within whose district (in civil matters) the matter of complaint wholly or in part arose or happened, or the subject in dispute is wholly or partly situate, or the contract in question was wholly or partly made, or the breach thereof wholly or partly occurred, or the defendant resides or carries on business, or (in criminal matters) the crime was wholly or partly committed, or the accused person happens to be, shall have jurisdiction, and may deal with the case, as if every material fact or thing had happened or was situate within its district; but any such Court, if, in its opinion, justice or convenience so requires, may decline or suspend the exercise of jurisdiction, and may, if it thinks necessary or just, require security from the defendant or accused person for his appearance before some other Court having jurisdiction in the matter, and for obedience to any judgment or order of such other Court; and further,

in a criminal case, if necessary, may arrest and commit the accused person, and cause him to be removed under warrant and in custody, to be dealt with by such other Court.

27. Every Court acting under this Order shall have power to rehear any civil matter, and to review its judgments or orders in any civil case in which, in the opinion of the Court, justice so requires, on such terms as to costs and otherwise as the Court thinks just.

*Minutes.*

28. In every case, civil or criminal, heard in any Court, proper minutes of the proceedings shall be drawn up, and shall be signed by the judge or officer before whom the proceedings are taken, and sealed with the seal of the Court, and shall, where assessors are present, be open for their inspection and for their signature if concurred in by them.

The minutes, with depositions of witnesses and notes of evidence taken at the trial by the judge or officer, shall be preserved in the public office of the Court.

*Registrar.*

29. Any registrar of the Court, or person acting as registrar, and any other officer of the Court, designated in this behalf by the judge of the Court, may administer oaths and take affidavits, declarations, and affirmations.

30. The judge of any Court shall be and act as the registrar of the Court, if there is no other person appointed to be registrar there.

*Costs, Fees, &c.*

31. In a civil case any Court may order such costs, or costs, charges, and expenses, as to the Court seem reasonable, to be paid by any party to the proceedings, or out of any fund to which the proceedings relate.

32. All costs and all charges and expenses of witnesses, prosecutions, punishments, and deportations, and other charges and expenses, and all fees, fines, forfeitures, and pecuniary penalties payable under this Order, and all judgments, may be enforced by arrest or by distress and seizure and sale of ships, goods, and lands, and in default of sufficient distress, by imprisonment; and no bill of sale, or mortgage, or transfer of property, made with a view to

security in regard to crimes committed, shall be of any avail to defeat any provision of this Order.

Imprisonment in default of distress shall not, except as may be provided by rules of procedure made under this Order, operate as a discharge or satisfaction.

33. Where money ordered by the Court to be paid is due for seamen's wages, or is other money recoverable under the Merchant Shipping Acts or other law relating to ships, and the person ordered to pay has not paid as ordered, the Court, in addition to other powers for compelling payment, shall have power to direct that the amount unpaid be levied by seizure and sale of the ship.

#### *Arbitration and Reconciliation.*

34. Every Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding pending before it.

A Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator and other things as may seem fit, and may, if it thinks fit, take from the parties, or any of them, security to abide by the result of the reference.

In any such case the award shall be final and conclusive.

On the application of any party a decree of the Court may be entered in conformity with the award, and such decree shall not be open to any appeal or rehearing whatever, except on the ground that it is not in conformity with the award.

Every agreement for reference to arbitration or submission to arbitration by consent may, on the application of any party, be made a rule of a Court having jurisdiction in the matter of the reference or submission, which Court shall thereupon have power and authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings before and after the award in such manner and on such terms as may be just.

#### *Informalities.*

35. No proceeding under this Order shall be invalidated by any informality, mistake, or omission so long as, in the opinion of any

Court before which any question arises, the essential requisites of law and justice have been complied with, or may be met by amendment.

PART V.—SPECIAL POWERS (BANKRUPTCY, PROBATE, &c.).

36. Every Court shall be a Court of Bankruptcy, and as such shall, as far as circumstances admit, have for and within its own district, with respect to British subjects and to their debtors and creditors, being either British subjects or foreigners submitting to the jurisdiction of the Court, all such jurisdiction as for the time being belongs to any judicial authority having for the time being jurisdiction in bankruptcy in England.

37. Every Court shall be a Vice-Admiralty Court, and as such shall, for and within its district and for vessels and persons coming to and within the district of the Court, have all such jurisdiction as for the time being ordinarily belongs to Vice-Admiralty Courts in Her Majesty's possessions abroad.

38. Every Court shall be a Court of Probate, and as such shall, as far as circumstances admit, have, for and within its district with respect to the property of British subjects appearing to the Court to have at the time of death their fixed places of abode in the district of the Court, all such jurisdiction as for the time being belongs to any Court exercising probate jurisdiction in England.

Probate or administration granted by a Court shall have effect over all the property of the deceased within the district, and shall effectually discharge persons dealing with an executor or administrator thereunder, and that notwithstanding any defect afterwards appears in the grant.

Such a grant shall not be impeachable by reason only that the deceased had not at the time of his death his fixed place of abode within the particular jurisdiction.

39. Any person having in his possession or under his control any paper or writing of a deceased British subject being or purporting to be testamentary, shall forthwith deliver the original to the Court within the district whereof such person is at the time of his first knowledge of the death of the deceased, and deposit it there.

Any person neglecting to do so for fourteen days after having knowledge of the death of the deceased shall be liable to such penalty, not exceeding 50*l.*, as the Court thinks fit to impose.

40. From the death of a British subject, having at the time of his death his fixed place of abode in the district of a Court, intestate, until administration granted, his personal property in the district of the Court shall be vested in the Judge of the Court.

41. If any person other than one of Her Majesty's Consular officers takes possession of or in any manner administers any part of the personal property of any person deceased without obtaining probate or administration within three months after the death of the deceased, or within one month after the termination of any suit or dispute respecting probate or administration (if there is any such which is not ended within two months after the death of the deceased), he shall be liable to such penalty not exceeding 100% as the Court having jurisdiction in the matter of the property of the deceased thinks fit to impose; and in every such case the same fees shall be payable by the person so administering as would have been payable by him if he had obtained probate or administration.

42. Where a British subject not having at the time of death his fixed place of abode in the district of a Court dies there, the Court within whose district he dies shall, where the circumstances of the case appear to the Court so to require, forthwith on the death of the deceased, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the Court (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep the property until it can be dealt with according to law.

43.—(1.) In a case of apparent intestacy, where the circumstances of the case appear to the Court so to require, for reasons recorded in the minutes, the Court may, if it thinks fit, of its own motion, or otherwise, grant administration to the Judge or an officer of the Court.

(2.) Any officer so appointed shall act under the direction of the Court, and shall be indemnified thereby.

(3.) A commission of  $2\frac{1}{2}$  per cent. on the gross value may be charged on an estate administered under this Article.

(4.) All expenses incurred on behalf of the Court in the execution of this Article and the said commission shall be the first charge on the personal property of the deceased in the district of the Court; and the Court shall, by sale of part of that property or otherwise, provide for the discharge of those expenses and the payment of the said commission.

44. Where it appears to the Court that the value of the property or estate of a deceased person does not exceed 100*l.* the Court may, without any probate or letters of administration, or other formal proceeding, pay thereout any debts or charges, and pay, remit, or deliver any surplus to such persons in such manner as a Secretary of State from time to time directs, and shall not be liable to any action, suit, or proceedings in respect of anything done under this Article.

#### PART VI.—CRIMINAL LAW AND PROCEDURE.

45. The crimes punishable under this Order are—

(1.) Any acts or omissions which are for the time being punishable in England on indictment, with death, penal servitude, or imprisonment, as treasons, felonies, or misdemeanours.

(2.) Acts or omissions by this Order, or by any regulations made by virtue of this Order, declared to be punishable as offences against this Order.

46. In case an act or omission is punishable both as a crime under the law in force in England and as an offence against this Order, the accused person may be tried and punished for such act or omission, either as a crime, as aforesaid, or as an offence against this Order, but he shall not be liable to be tried or punished in both ways.

47. Any British subject may be proceeded against, tried, and punished under this Order for the crime of piracy wheresoever committed.

#### *Offences against this Order.*

48. If any British subject does any of the following things without Her Majesty's authority, that is to say :—

Levies war, or takes any part in any operation of war against, or aids or abets any person in carrying on war, insurrection, or rebellion against any King, Chief, tribe, or Power, every person so offending shall be deemed guilty of an offence against this Order, and, on conviction thereof, shall be liable (in the discretion of the Court before which he is convicted) to be punished by imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 1,000*l.* or by a fine not exceeding 1,000*l.* without imprisonment.

In addition to such punishment, every such conviction shall of itself, and without further proceedings, make the person convicted liable to deportation, and the Court before which he is convicted may order that he be deported to such place as the Court directs.

49. A person shall be deemed guilty of an offence against this Order—

(1.) Who wilfully or knowingly acts in contravention of any such Treaty as defined in this Order, or of any regulations appended thereto.

(2.) Who acts in contravention of any of the Queen's regulations to be made under this Order, or of any rules or regulations for the time being in force made under the authority of the West Africa Order in Council of 1872.

(3.) Who, without reasonable and lawful excuse (proof of which shall lie on the accused person), endangers peace by disturbing any religious ceremony or observance, or publicly insulting any minister of any religion, or violating or insulting any place or object of religious worship, or doing any other act of a similar nature, whether in relation to any native or other form of religion or superstition.

50. A person shall be deemed guilty of an offence against this Order—

Who smuggles or imports into or exports from any place any goods with intent to avoid payment of any duty payable thereon to any recognized Chief or King, Government, tribe, or people, or any goods the importation or exportation whereof (as the case may be) into such place is prohibited by any such Chief, King, Government, tribe, or people of such place.

A person convicted of an offence against this Article shall be liable to imprisonment for any term not exceeding three months, or fine not exceeding 50%, or both of those punishments; and any goods smuggled or imported in contravention of this Article may, on conviction of the offender, or if he absconds or evades trial, be declared forfeited to Her Majesty, together with any ship, boat, cask, case, or receptacle, wholly or partly belonging to the offender, and containing such goods.

51. If any person subject to the criminal jurisdiction of a Court does any of the following things, namely:—

(1.) Wilfully by act or threat obstructs any officer of or person executing any process of the Court in the performance of his duty;  
or

(2.) Within or close to the room or place where the Court is sitting wilfully misbehaves in a violent, threatening, or disrespectful manner to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto; or

(3.) Wilfully insults any member of the Court, or any assessor, or any person acting as a clerk or officer of the Court during his sitting or attendance in Court, or in his going to or returning from Court; or

(4.) Does any act in relation to the Court or a Judge thereof, or a matter pending therein, which, if done in relation to a Superior Court in England, would be punishable as a contempt of such Court, or as a libel on such Court, or the Judges thereof, or the administration of justice therein;

Such person shall be liable to be apprehended by order of the Court with or without warrant, and on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, to be punished with a fine not exceeding 10*l.*, or with imprisonment not exceeding twenty-four hours. A minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment, and a copy of the minute shall be forthwith sent to the Secretary of State.

Provided that, if the Court thinks fit, instead of proceeding under the preceding provisions, it may direct or cause the offender to be tried in a separate criminal prosecution or proceeding in which the offender shall be liable to be tried and punished for his offence as an offence against this Order.

Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

52. If any person subject to the criminal jurisdiction of a Consular Court does any act or makes any publication of such kind, and under such circumstances, that, in the opinion of the Consular Court, grave danger to public order is thereby occasioned, the Court shall have the same powers as it has in relation to apprehended breaches of the peace.

53. If any clerk or officer of a Court acting under pretence of the process or authority of the Court is charged with extortion or with not duly paying any money levied, or with other misconduct, the Court may (without prejudice to any other liability or punishment to which the clerk or officer would in the absence of the



present provision be liable) inquire into the charge in a summary way, and for that purpose summon and enforce the attendance of all necessary persons in like manner as the attendance of witnesses and others may be enforced in a suit, and may make such Order thereupon for the repayment of any money extorted, or for the due payment of any money levied, and for the payment of such damages and costs as the Court thinks just; and the Court may also, if it thinks fit, impose such fine upon the clerk or officer not exceeding 100*l.* for each offence, as seems just.

54. A Consular Court shall have jurisdiction to make an Order requiring a person to contribute in such manner as the Court directs to the support of his wife or child, whether legitimate or not, being in the opinion of the Court under the age of 16 years. Any such Order may be made in a summary way as if the neglect to provide for the support of such wife or child were an offence against this Order, and a failure to comply with any such Order shall be deemed to be an offence against this Order, and shall be punishable accordingly, and the Court may direct any penalty imposed for such offence to be applied for the support of such wife or child in such manner as the Court thinks fit.

55. Any act which, if done in the United Kingdom or in a British possession, would be an offence against any of the following Statutes of the Imperial Parliament or Orders in Council, that is to say :—

“The Merchandise Marks Act, 1887;”

“The Patents, Designs, and Trade Marks Acts, 1883 to 1888.”

Any Act, Statute, or Order in Council for the time being in force, relating to copyright, or to inventions, designs, or trade marks;

Any Statute amending or substituted for any of the above-mentioned Statutes—

Shall, if done by a British subject within the limits of this Order, be punishable as an offence against this Order, whether such act is done in relation to any property or right of a British subject, or of a foreigner or native, or otherwise:

Provided—

(1.) That a copy of any such Statute or Order in Council shall be published in every Consular Court, and shall be there open for inspection by any person at all reasonable times; and a person shall not be punished under this Article for anything done within

the district of a Court before the expiration of one month after such publication therein ;

(2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained without the consent in writing of the Court, which may withhold such consent, unless it is satisfied that effectual provision exists for the punishment in Consular or other Courts of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject, in relation to or affecting the interests of British subjects.

56. Where any act or omission is by virtue of this Order, or of any Regulation made under this Order, an offence against this Order, and no penalty or punishment is specified in respect thereof, such offence shall be punishable with imprisonment for not exceeding three months, or fine not exceeding 100*l.*, or both.

*Criminal Procedure.*

57. Every Court may cause to be apprehended and brought before it any British subject being within the district of the Court and charged with having committed a crime in the district of the Court, and may deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order ; or where the crime is triable, and is to be tried, in Her Majesty's dominions, may take the preliminary examination, and commit the accused for trial, and cause or allow him to be taken to the place of intended trial.

58.—(1.) Where a person, subject to the criminal jurisdiction of the Court, is charged with an offence on a summons or warrant issuing out of the Court, he shall be brought before the Court within forty-eight hours after service of the summons or execution of the warrant, unless in any case circumstances unavoidably prevent his being brought before the Court within that time, which circumstances shall be recorded in the Minutes.

(2.) In every case he shall be brought before the Court as soon as circumstances reasonably admit, and the time and circumstances shall be recorded in the Minutes.

59.—(1.) Where an accused person is in custody, he shall not be remanded at any time for more than seven days, unless circumstances appear to the Court to make it necessary or proper that he should be remanded for a longer time, which circumstances, and the time of remand, shall be recorded in the Minutes.

(2.) In no case shall a remand be for more than fourteen days at

one time, unless in case of illness of the accused person or other case of necessity.

60.—(1.) Except in cases of murder, an accused person may be admitted to bail at any stage of the proceedings.

(2.) Where the offence charged is one of the following, it shall be in the discretion of the Court to admit the accused to bail or not, according to the circumstances, namely :—

Felony (not being murder).

Riot.

Assault on an officer of the Court in the execution of his duty, or on any person acting in his aid.

Neglect or breach of duty by an officer of the Court.

(3.) In all other cases except murder the Court shall admit the accused to bail, unless in any instance the Court, having regard to the circumstances, see good reason to the contrary, which reason shall be recorded in the Minutes.

61. Where a person is charged before a Consular Court with a crime punishable with death or penal servitude for twenty years or upwards, the Court, on being satisfied by information or evidence on oath that there is reasonable ground for putting such person upon his trial for such crime, shall cause him to be removed for trial to one of the African possessions of Her Majesty, if the Court is satisfied that the attendance of the necessary witnesses for the prosecution and defence respectively at the proposed place of trial can be secured, but otherwise shall commit him for trial within the district.

In case a person is so removed for trial, the provisions of "The Foreign Jurisdiction Act, 1843," section 4, shall be observed.

62. In the case of any crime other than as in the last preceding Article mentioned, and which is by the law administered in the Consular Court punishable with imprisonment for twelve months or upwards, or with any greater punishment, it shall be in the discretion of the Consular Court, regard being had to all the circumstances of the case, and in particular to the practicability of procuring the necessary witnesses for the prosecution and defence to attend at a trial elsewhere than within the district, either to cause the accused person to be removed for trial as in the last preceding Article mentioned, or to commit him for trial within the district.

63. A person tried before a Consular Court for a crime to which

either of the two last preceding Articles applies shall, if practicable, be tried by the Court with Assessors, unless he consents to be tried without Assessors.

64. A person charged with a crime which is not punishable with imprisonment for twelve months or upwards, or with any greater punishment, or charged with an offence against this Order, shall be tried by the Consular Court, with or without Assessors, as the Court thinks fit.

65. Every Court and authority in imposing and inflicting punishments shall have regard, so far as circumstances admit and subject to the other provisions of this Order, to the punishments imposed by the law of England in like cases, and to the mode in which the same are inflicted in England.

66. Any Court may order any person convicted before it of any crime or offence to pay all or any part of the expenses of or preliminary to his trial, and of his imprisonment or other punishment.

Where it appears to any Court that any charge made before it is malicious, or is frivolous and vexatious, the Court may order all or any part of the expenses of the prosecution to be paid by the person making the charge.

In either of the two last-mentioned cases, the amount ordered to be paid shall be deemed a debt due to the Crown, and may, by virtue of the order, without further proceedings, be levied on the property of the person convicted or making the charge, as the case may be, or may be enforced by imprisonment for not exceeding one month or until payment.

67.—(1.) The Court may, if it thinks fit, order a person convicted of an assault to pay to the person assaulted, by way of damages, any sum not exceeding 20*l*.

(2.) Damages so ordered to be paid may be either in addition to or in lieu of a fine, and shall be recoverable in like manner as a fine.

(3.) The person convicted shall not be liable to an action for the assault.

68. If, on a trial, the Court is of opinion that the accused attempted to commit the offence with which he is charged, but did not complete it, he shall not be therefore acquitted, but the Court may find him guilty of the attempt, and may adjudge him to be punished as if he had been charged with the attempt.

He shall not be liable to be afterwards prosecuted for the offence.

69. If, on the trial of a person charged with robbery, the Court is of opinion that the accused committed an assault with intent to rob, but did not commit robbery, he shall not be therefore acquitted, but the Court may find him guilty of the assault, and may adjudge him to be punished as if he had been charged with the assault.

He shall not be liable to be afterwards prosecuted for the assault.

70. If on a trial for any of the following offences, namely, burglary, or stealing in a dwelling-house, or breaking and entering and stealing in a shop, warehouse, or counting-house, or a building within the curtilage of a dwelling-house, or larceny, or feloniously receiving property stolen, embezzled, or otherwise feloniously taken, obtained, or disposed of, the facts proved authorize a conviction for one of those offences, not being the offence charged, the Court may find the accused guilty of that other offence, and may adjudge him to be punished, as if he had been charged with that other offence. He shall not be liable to be afterwards prosecuted for that other offence.

71. If any person procures or endeavours to procure or incites any other person to commit a crime or offence, he shall be punishable on conviction in the same manner as if he were convicted of an attempt to commit that crime or offence. If the crime or offence is actually committed in pursuance of the procurement or incitement, both persons may be tried and punished for that crime or offence as principal offenders.

72. Sentences of imprisonment passed by a Consular Court shall be carried into effect in such prisons and in such manner as a Secretary of State from time to time directs.

If there be no such prison, or if, by reason of the condition of any such prison, or the state of health of the prisoner, or on any other ground, the Consular Court thinks that the sentence ought not to be carried into effect in such prison, the prisoner shall, by warrant under the hand and seal of the Consul, be removed in custody to one of Her Majesty's African possessions, there to undergo his sentence.

Any sentence of imprisonment under this Order may be with or without hard labour, as the Court directs.

A sentence of death shall be carried into effect in one of Her Majesty's African possessions.

When a person is sent to a colony for execution of a sentence of death or imprisonment, the provisions of the 5th section of "The Foreign Jurisdiction Act, 1843," shall be observed.

72A. Whenever under this Order a person is to be removed for trial, or for the execution of a sentence of imprisonment or death, to one of Her Majesty's African possessions, he shall be removed to one of the following possessions of Her Majesty, that is to say :—

Sierra Leone,  
Gold Coast,  
Lagos,  
Mauritius,  
Seychelles,  
Cape Colony,  
Natal,  
Zululand.

Provided—

(1.) That a person shall not be so removed to the Cape Colony or Natal without the consent of the Government of the Cape Colony or Natal (as the case may be) ;

(2.) That a person shall not be removed to Mauritius or Seychelles, except from Madagascar or its dependencies or territorial waters, without the consent of a Secretary of State ; and

(3.) That, subject as aforesaid, in determining to which of the above-mentioned possessions the person is to be removed, regard shall be had to the place of birth or domicile of the person removed, and to any considerations with respect to convenience of trial and the attendance of witnesses, and subject thereto the removal shall be directed to be made to the nearest of the above-mentioned possessions to which the person can be removed.

73. It shall be lawful for a Consular Court, from time to time, by order or warrant under the seal of the Court, to appoint any building or place specified in such order or warrant to be a prison for any purpose of this Order, either generally or in relation to a particular case, or for a limited time, and to appoint such persons as the Court thinks fit to be gaolers, keepers, or officers of any such prison.

74. A Secretary of State may remit or commute, in whole or in part, any sentence of a Consular Court.

In every case of sentence of death the Minutes of the trial shall be transmitted to a Secretary of State, and the sentence shall not be carried into effect until confirmed by him.

When a Consular Court sentences a person to imprisonment exceeding twelve months, or fine exceeding 100*l.*, or in any other case, if a Secretary of State by any general or particular instruction so directs, the sentence shall be submitted to the prescribed Court of Appeal for review in the manner hereafter in this Order prescribed.

75. Where a sentence is under this Order submitted for review, the Consular Court shall transmit the Minutes of the case, with such observations as the Consul thinks necessary, and the Court of Appeal shall return the Minutes, with such instructions as they think fit to give, either as to findings of fact, or as to law, or as to mitigation of sentence, and the Consular Court shall give effect to such instructions.

Pending the review of a sentence, the Consular Court may suspend the execution of the sentence, but is not obliged so to do unless so directed by the Court to whom the case is submitted, or by a Secretary of State. In either case the Consular Court may (unless otherwise directed) take such security by way of bail or otherwise, and if necessary by commitment to prison for safe custody, as it thinks necessary for submission to the ultimate sentence.

76. Where a person charged with having committed a crime or offence in the district of one Court escapes or removes from that district, and is found within the district of another Court, the Court within the district of which he is found may proceed in the case to examination, indictment, trial, and punishment, or in a summary way (as the case may require), in the same manner as if the crime or offence had been committed in its own district; or may, on the requisition or with the consent of the Court of the district in which the crime or offence is charged to have been committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge and be dealt with according to law.

Where any person is to be so sent in custody a warrant shall be issued by the Court within the district of which he is found, and such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to the Court of the district within which the crime or offence was committed, according to the warrant.

77. Where a warrant or order of arrest is issued by a competent

authority in Her Majesty's dominions for the apprehension of a British subject, who is charged with having committed a crime or offence within the jurisdiction of the authority issuing the warrant or order, and who is, or is supposed to be, in the district of a Court, and the warrant or order is produced to the Court, the Court may back the warrant or order; and the same when so backed shall be sufficient authority to any person to whom the warrant or order was originally directed, and also to any constable or other officer of the Court by which it is backed, to apprehend the accused at any place where the Court by which the warrant or order is backed has jurisdiction, and to deliver him on board any ship in African waters into the custody of any person having authority to receive and carry him in custody to Her Majesty's dominions.

78.—(1.) In cases of murder or manslaughter, if either the death or the criminal act which wholly or partly caused the death happened within the jurisdiction of a Court acting under this Order, such Court shall have the like jurisdiction over any British subject who is charged either as the principal offender or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both such criminal act and the death had happened within such jurisdiction.

(2.) In the case of any crime committed on the high seas, or within the Admiralty jurisdiction, by any British subject on board a British ship, or on board a foreign ship to which he did not belong, a Court acting under this Order shall have jurisdiction as if the crime had been committed within the district of such Court. In cases tried under this provision no different sentence can be passed from the sentence which could be passed in England if the crime were tried there.

(3.) The foregoing provisions of this Article shall be deemed to be adaptations, for the purposes of this Order and of "The Foreign Jurisdiction Act, 1878," of the following enactments described in the first schedule to that Act (that is to say):—

"The Admiralty Offences (Colonial) Act, 1849."

"The Admiralty Offences (Colonial) Act, 1860."

"The Merchant Shipping Act, 1867," section 11. And the said enactments shall, so far as they are repeated and adapted by this Article (but not further or otherwise), extend to all places within the limits of every local jurisdiction constituted under this Order.

79. "The Fugitive Offenders Act, 1881," shall apply to each local jurisdiction constituted under this Order as if such local



jurisdiction were a British possession, subject to the conditions, exceptions and qualifications following:—

- (1.) The said Act shall apply only in the case of British subjects.
- (2.) The principal British Consular officer for the time being in the jurisdiction, or person acting as such by authority of a Secretary of State, is for the purposes of the said Act substituted for the Governor of a British possession, and for a superior Court, or a Judge thereof, in a British possession, and for a Magistrate or Justice of the Peace in a British possession.
- (3.) So much of the 4th and 5th sections of the said Act as relates to the sending a Report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be excepted.
- (4.) So much of the 6th section of the said Act as relates to *habeas corpus*, and as requires the expiration of fifteen days before issue of a warrant, shall be excepted.
- (5.) The said Consular officer shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.

For the purposes of Part II. of the said Act, Madagascar and Mauritius shall be deemed to be one group of British possessions, and any other local jurisdiction constituted under this Order shall be deemed, together with Her Majesty's African possessions other than Mauritius, to be one group of British possessions.

80. "The Colonial Prisoners Removal Act, 1884," shall apply to each local jurisdiction constituted under this Order as if each local jurisdiction constituted under this Order were a British possession and part of Her Majesty's dominions, subject as follows:—

The principal Consular officer in any district shall, in relation to such district, be substituted for the Governor of a British possession.

81. Nothing in this Order shall be deemed to affect Her Majesty's prerogative of pardon.

#### PART VII.—APPEALS.

82. In civil matters an appeal shall lie from a Consular Court to the prescribed Court of Appeal by the leave of the Consular Court, or without such leave where leave is given by the Court of Appeal.

The appeal shall be brought within such time and in such manner, as regards the form and transmission of the appeal, and as to stay of execution and otherwise, as may be prescribed by any rules of procedure made under this Order, or as in any case by any special leave or order the said Court of Appeal may direct.

A Consular Court may, before deciding any civil matter, state a case in writing for the opinion of the prescribed Court of Appeal, and shall give effect to such opinion, and when a case has been so stated, no appeal shall be brought against the decision of the Consular Court in conformity therewith unless by leave of the same Court of Appeal.

As regards matters not provided for by this Article, the procedure on appeal in the Court of Appeal may be the same as the ordinary procedure of that Court upon the hearing of any application for a new trial, or upon a case stated or reserved for the opinion of the Court, and the judgment or order of such Court in the appeal shall be certified under its seal to the Consular Court which shall give effect thereto.

The decision of a Court of Appeal under this Order shall be subject to appeal to Her Majesty in Council, in the same manner and on the same conditions as to the amount involved and otherwise as any other decision of the same Court of Appeal.

#### PART VIII.—EVIDENCE.

83.—(1.) In any case, criminal or civil, and at any stage thereof, the Court, either of its own motion, or on the application of any party, may summon a British subject to attend to give evidence, or to produce documents, or to be examined.

(2.) If the person summoned, having reasonable notice of the time and place at which he is required to attend, fails to attend and be sworn, and give evidence, or produce documents, or submit to examination accordingly, and does not excuse his failure to the satisfaction of the Court, he shall be guilty of an offence against this Order.

(3.) A person punished under this Article shall not be liable to an action in respect of the same matter; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

84.—(1.) In a criminal case, where it is proved that a British subject is likely to give material evidence, either for the prosecution

or for the defence, and that he will not voluntarily attend to give evidence, the Court may issue a summons for his attendance.

(2.) If he does not obey the summons, and does not excuse his failure to the satisfaction of the Court, then, after proof of service of the summons, the Court may issue a warrant to compel his attendance.

(3.) Where it is proved that he will not attend to give evidence unless compelled to do so, the Court may issue a warrant in the first instance.

85. In civil cases any Court may, where the circumstances appear to justify it, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed by the parties or any of them.

86. Any person appearing before a Court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form or with the ceremony that he declares to be binding on his conscience.

87. Any British subject wilfully giving false evidence in any suit or proceeding, civil or criminal, or on any arbitration, or in any affidavit, shall be deemed guilty of wilful and corrupt perjury.

88. Judicial notice shall be taken of this Order, and of the commencement thereof, and of the appointment of Consular or other officers, and of the constitution and limits of any jurisdiction, Court, or district, and of Consular seals and signatures, and of any Rules or Regulations made or in force under this Order, and no proof shall be required of any of such matters.

89. Every signature or seal affixed to any instrument purporting to be the signature of any Consular officer or person acting under this Order, or to be the seal of any of Her Majesty's Courts, shall, for all purposes under this Order, without any proof thereof, be presumed to be genuine, and shall be taken as genuine until the contrary is proved.

90. A person attending to give evidence before the Court, or the Court of Appeal, shall not be compelled or allowed to give any evidence or produce any document if, in the opinion of the principal Consular Officer having authority in the district in which the Court is held signified by him personally or in writing to the Court, the giving or production thereof would be injurious to Her Majesty's service.

91.—(1.) The provisions of “The Evidence Act, 1851,” 14 & 15 Vict. c. 99, sections 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the district were in a British Colony.

(2.) The following Acts, namely :—

“The Foreign Tribunals Evidence Act, 1856,”

“The Evidence by Commission Act, 1859,”

“The Evidence by Commission Act, 1885,”

or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to all places and Courts to which this Order applies with the adaptations following, namely :—

In the said Acts the Court is hereby substituted for a Supreme Court or a Judge of a Court in a Colony.

(3.) The following Acts, namely :—

“The British Law Ascertainment Act, 1859,”

“The Foreign Law Ascertainment Act, 1861,”

or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same are hereby extended to all places and Courts to which this Order applies, with the adaptations following, namely :—

In the said Acts the Court is hereby substituted for a Superior Court in a Colony.

#### PART IX.—ASSESSORS.

92. Where a Court proceeds, in pursuance of this Order, to hear and determine any case, civil or criminal, with Assessors, the Court shall nominate and summon as Assessors not less than two and not more than four indifferent British subjects of good repute, resident in the district of the Court or belonging to a British ship.

Where, however, by reason of local circumstances, the Court is able to obtain the presence of one fit person only as Assessor, the Court may sit with him alone as Assessor; and where for like reasons the Court is not able to obtain the presence of any fit person as Assessor, the Court may (notwithstanding anything in this Order) sit without an Assessor; but in every such case the Court shall record in the Minutes of Proceedings its reasons for sitting with one Assessor only, or without an Assessor.

An Assessor shall not have voice or vote in the decision of the Court in any case, civil or criminal ; but an Assessor dissenting in a civil case from any decision of the Court, or in a criminal case from any decision of the Court, or the conviction, or the amount of punishment awarded, may record in the Minutes of Proceedings his dissent and the grounds thereof ; and an Assessor dissenting shall be entitled to receive gratis a certified copy of the Minutes.

93. Where a suit relates to money, goods, or other property of a less amount or value than 300*l.*—and does not relate to or involve, directly or indirectly, a question respecting any matter at issue of the amount or value of 300*l.* or upwards—and is not brought for recovery of damages of a greater amount than 300*l.*—the Court may hear and determine the case without Assessors.

In all other civil cases the Court (subject to the provisions of this Order respecting inability to obtain an Assessor) shall hear and determine the case with Assessors.

94. If any person summoned to act as Assessor fails, without lawful excuse, to attend at the trial, or at any adjournment thereof, or to continue to serve throughout the trial, he shall be liable, under a summary order of the Court, to a fine not exceeding 10*l.* to be levied by attachment and sale of his goods within the district, and in default of recovery thereby of the fine, to be imprisoned for any time not exceeding six days, if the fine is not sooner paid.

#### PART X.—RULES OF PROCEDURE.

95. Every Consular officer holding a Court for any district may from time to time frame Rules for any purpose for which it is in this Order expressed or implied that Rules of Procedure or Practice are to be made, and the execution of judgments or orders, and for the regulation of appeals in civil and in criminal cases, and of re-hearings, and generally for the purpose of making any provision proper or necessary for the proper or effectual exercise of the jurisdiction of Courts under this Order, and may thereby impose reasonable penalties, and may provide for the enforcement of any judgment or order by imprisonment for not exceeding one month.

Rules affecting the conduct of civil suits shall be so framed as to secure, as far as may be, that cases shall be decided on their merits according to substantial justice, without excessive regard to technicalities of pleading or procedure, and without unnecessary delay.

Rules framed under this Article shall not have effect unless and until they are approved by a Secretary of State, save that in case of urgency declared in any Rules framed by the Consular officer, the same shall have effect unless and until they are disapproved by a Secretary of State, and notification of such disapproval is received and published by the Consular officer.

The Rules, Regulations, and Forms contained in the Schedule to this Order may be used with such modifications as circumstances require, and shall be deemed to have been duly made and approved under this Order, but may be altered with the approval of a Secretary of State in relation to any district in the same manner as other Rules made under this Order.

96. Provision may, amongst other things, be made by Rules under this Order authorising the Court to grant and enforce search warrants, and to enforce awards, and to enforce by distress, or by attachment or commitment, judgments or orders of the Court, or payment of any damages, costs, penalties, fines, or forfeitures, and for the sale of things forfeited, and for garnishee process, and for attachments of property in order to compel appearance or submission to the jurisdiction or process of the Court, and authorising the Court to compel, by fine, distress, or recognizance, or in default of security by commitment, the attendance of witnesses before the Court, or before a Colonial or English Court to which a case is sent for trial, and to fix and enforce the fees to be taken in respect of any proceedings under this Order, not exceeding, as regards any matters provided for by the Act of 6 Geo. IV. c. 87, fees fixed and allowed from time to time by any Order in Council made under that Act, and to take and transmit depositions of witnesses for use at trials in a Colony or in England, and to appoint forms of indictment or charge in criminal proceedings: Provided that the scales of all fees fixed under the provisions of this Order shall have been sanctioned by the Commissioners of Her Majesty's Treasury.

97. A copy of the Rules for the time being in force shall be kept exhibited conspicuously in each Court and Consulate.

Printed copies shall be provided and sold at such reasonable price as the Consular officer from time to time directs.

No penalty shall be enforced in any Court for the breach of any Rule until the Rule has been so exhibited in the Court for one month, unless the person offending is proved to have had express notice of the Rule.

A printed copy of any Rule, purporting to be certified under the

hand of the Consular officers shall be for all purposes conclusive evidence of the due framing, approval, and publication of the contents thereof.

98. From and after the commencement of any Rules made under this Order, all Rules and Regulations theretofore in force in the district in respect of the same matter in respect whereof Rules are made under this Order shall cease to operate.

#### PART XI.—TREATIES AND QUEEN'S REGULATIONS.

99. Every Consul, according to the authority to be assigned to him under this Order, shall have power to make and alter Regulations (to be called Queen's Regulations) for the following purposes (that is to say) :—

(1.) For securing the observance of any Treaty for the time being in force relating to any place to which this Order applies, or of any native or local law or custom whether relating to trade, commerce, revenue, or any other matter.

(2.) For the peace, order, and good government of British subjects within any such place in relation to matters not provided for by this Order.

(3) For requiring Returns to be made of the nature, quantity, and value of articles exported from or imported into his district, or any part thereof, by or on account of any British subject or in any British ship, and for prescribing the times and manner at or in which and the persons by whom such Returns are to be made.

(4.) For the governance, visitation, care, and superintendence of prisons.

Any Regulations under this Article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such Regulations, or of any Treaty or any native or local law or custom, the observance of which is provided for by such Regulations.

Any Regulations made under this Article shall, when allowed by a Secretary of State, and published as he directs, have effect as if contained in this Order.

Any Rules or Regulations heretofore made under the authority of the West Africa Order in Council, 1872, or of any Order in Council repealed by this Order, and which are in force at the time of the commencement of this Order, and which are not expressly repealed by this Order, shall, notwithstanding the repeal of that

Order, continue in force until revoked by a Secretary of State, but shall be subject to the provisions of this Order, and so far as they are inconsistent with any provision of this Order, or with any Regulations or Rules made under this Order, this Order, and any Regulations or Rules made under it, shall have effect.

A breach of any such Regulations shall be deemed to be an offence against this Order, and shall be punishable accordingly in addition to any forfeiture as aforesaid.

## PART XII.—FOREIGNERS AND FOREIGN COURTS.

### *Suits by or against Foreigners.*

100.—(1.) Where a foreigner desires to institute to take a suit or proceeding of a civil nature against a British subject, or a British subject desires to institute or take a suit or proceeding of a civil nature against a foreigner, the Court may entertain the suit or proceeding, and hear and determine it (and if all parties desire, or the Court directs a trial with Assessors, then with Assessors) at a place where such a trial might be had if all parties were British subjects, and in all other respects according to the ordinary course of the Court.

(2.) Provided that the foreigner (i.) first files in the Court his consent to the jurisdiction of the Court; and (ii.) also, if required by the Court, obtains and files a certificate in writing from a competent authority of his own Government, to the effect that no objection is made by that Government to the foreigner submitting in the particular cause or matter to the jurisdiction of the Court; and (iii.) also, if required by the Court, gives security to the satisfaction of the Court, to such reasonable amount as the Court directs, by deposit of money or otherwise, to pay fees, costs, damages, and expenses, and to abide by and perform the decision to be given by the Court or on appeal.

(3.) A counter-claim or cross suit cannot be brought or instituted in the Court against a plaintiff, being a foreigner, who has submitted to the jurisdiction, by a defendant, except by leave of the Court first obtained.

(4.) The Court, before giving leave, requires proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation and delay.

(5.) Nothing in this Article prevents the defendant from insti-



tuting or taking in the Court against the foreigner, after the termination of the suit or proceeding in which the foreigner is plaintiff, any suit or proceeding that the defendant might have instituted or taken in the Court against the foreigner if no provision restraining counter-claims or cross suits had been inserted in this Order.

(6.) Where a foreigner obtains in the Court an order against a defendant being a British subject, and in another suit that defendant is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

(7.) Where a plaintiff, being a foreigner, obtains in the Court an Order against two or more defendants, being British subjects, jointly, and in another suit one of them is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the Order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit, without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(8.) Where a foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it is not necessary for the foreigner to make deposit or give security for costs, unless the Court so directs; but the co-plaintiff British subject is responsible for all fees and costs.

#### *Foreign Tribunals.*

101.—(1.) Where it is shown to a Court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a native or foreign Court, or before a native or foreign judicial officer, or in a Court, or before a judicial officer of any State in amity with Her Majesty, the Court may, if it thinks fit, in a case and in circumstances in which it would require his attendance before itself, order that he do attend and give evidence and produce documents as so required. The order may be made subject to conditions as to payment or tender of expenses or otherwise.

(2.) A Court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(3.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court, or if he refuses to give evidence, or wilfully gives false evidence, or fails to produce documents which he is properly required to produce, he is, independently of any other liability, guilty of an offence against this Order, and for every such offence, on conviction thereof, by summary trial, is liable to a fine not exceeding 100*l.*, or to imprisonment for not exceeding one month in the discretion of the Court.

#### PART XIII.—DEPORTATION AND REMOVAL.

102.—(1.) Where a person is convicted before a Court of any crime or offence, the Court may in addition to or in lieu of any other sentence order him to give security to the satisfaction of the Court, by recognizance, deposit of money, or otherwise, for future good behaviour, and in default of such security may order him to be deported forthwith, or after undergoing any other sentence which may be passed upon him, to the prescribed African possession of Her Majesty, or to such other part of Her Majesty's dominions as a Secretary of State, with the concurrence of the Commissioners of Her Majesty's Treasury, from time to time, directs in this behalf.

(2.) Where, upon or without any complaint or charge made, it appears to a Court that there is reason to believe that any person is about to commit a breach of the peace, or that his conduct is likely to produce or excite a breach of the peace, the Court may order him to give security as above mentioned for peace and good behaviour, and in default may order him to be deported as aforesaid.

(3.) An order for deportation shall be executed in the manner provided by this Order, with respect to the removal of persons from a district. It may, in any case with reference to which the Secretary of State, by any general or special directions, so directs, provide for the deportation of the person to whom it refers, in the first instance to any place to which such person can, under this Order, be deported, and also for his further deportation from that place to any other place to which he could lawfully have been deported in the first instance.

(4.) The Court, as part of an order for deportation, may order that the person to be deported pay all or any part of the expenses of his deportation, to an amount specified in the order.

(5.) A report of every order for deportation, stating the grounds thereof and the proceedings thereunder, shall forthwith be made to a Secretary of State, who may at any time remit such order.

(6.) An order for deportation may be expressed to be in force for a time to be limited therein, or for an unlimited time.

(7.) If a person deported from a district returns while the order is in force, without the written consent of the Court or of a Secretary of State, which consent may be given subject to any terms as to security for good behaviour or otherwise, he is guilty of an offence against this Order, and in addition to any other punishment for such offence he may be again deported on a fresh warrant under the original order or under a new order.

103. Where a person is to be removed from a district, either for trial in another district, or in England, or in a Colony, or for the execution of a sentence in a Colony, or under an order of deportation, a warrant for the purpose shall be issued by the Judge of the Court under his hand and seal, and the person may, under such warrant, be taken to and put on board of one of Her Majesty's ships, or some other fit ship, and shall be conveyed in such ship or otherwise to the place named in the warrant.

Pending removal, the person shall, if the Court so orders, by indorsement on the warrant, be arrested and detained in custody or in prison until an opportunity for removal occurs.

On arrival at the place named in the warrant, the person, if removed under an order of deportation, shall be discharged, or otherwise shall be handed over to the proper gaoler, constable, magistrate, or officer.

Where a warrant of deportation provides for further deportation from the place to which the person is first deported to some other place, the person shall, on his arrival at such first-mentioned place, be delivered with the warrant into the custody of the Chief Magistrate or officer of police at that place who shall detain him, and shall forthwith report the case to the Governor or person administering the Government at that place, who shall either cause him to be further deported with and in accordance with the warrant, and in the meantime to be detained in custody for any necessary period not exceeding three months, or, if the circum-

stances of the case appear to render his discharge expedient, shall discharge him from custody.

A warrant of removal is sufficient authority to the person to whom it is directed or delivered for execution, and to the person in command of any ship, and to every person acting under the warrant or in aid of any such person, to take, receive, detain, convey, and deliver the person named therein in the manner thereby directed, and generally is sufficient authority for anything done in execution or intended execution of the warrant.

A warrant of removal must be issued in duplicate, and the person executing it must on arriving at the place named, deliver one of the duplicates with the prisoner to the proper gaoler, constable, magistrate or officer.

#### PART XIV.—REGISTRATION.

104.—(1.) Every British subject resident in a Consular district, being of the age of twenty-one years or upwards, or being married, or a widower or widow, though under that age, must, in every January, register himself at the Consular Court of the district within which he is resident.

(2.) Every British subject not resident in a Consular district, arriving within the district of a Consular Court, unless borne on the muster-roll of a British or foreign vessel, must, within one month after arrival, register himself at the Consular Court.

(3.) But this provision does not require any person to register himself oftener than once in a year, beginning 1st January.

(4.) The registration of a man comprises the registration of his wife, if living with him; and

(5.) The registration of the head, male or female, of a family comprises the registration of all females, being relatives of such head, in whatever degree, living under the same roof with him at the time of his registration.

(6.) The Consul shall yearly give to each person registered a certificate of registration, signed by the Consul, and sealed with his Consular seal.

(7.) The name of a wife, if her registration is comprised in her husband's, shall, unless in any case the Consul sees reason to the contrary, be indorsed on the husband's certificate.

(8.) The names and descriptions of females whose registration is comprised in that of the head of the family shall, unless in any

case the Consul sees reason to the contrary, be indorsed on the certificate of the head of the family.

(9.) Every person on every registration shall pay a fee of 2*s.* 6*d.*

(10.) The amount of the fee may be uniform for all persons, or may vary according to the position and circumstances of different classes, if the Secretary of State from time to time so directs, but may not in any case exceed 5*s.*

(11.) Every person by this provision required to register himself must, unless excused by the Consul, attend personally for that purpose at the Court, on each occasion of registration.

(12.) If any person fails to comply with the requirements of this Article, and does not excuse his failure to the satisfaction of the Consul, he is guilty of an offence against this Order, and shall be liable to a fine not exceeding 5*l.*, and any Court or authority may, if it thinks fit, decline to recognize him as a British subject.

#### PART XV.—OFFICIAL.

105. Except as in this Order expressly provided, nothing in this Order shall preclude any of Her Majesty's Consular officers from performing any act not of a judicial character, which Her Majesty's Consular officers might by law or by virtue of usage or sufferance, or otherwise, have performed if this Order had not been made.

106. Whenever an Acting Consular officer has commenced the hearing of any cause or matter, civil or criminal, he may, unless the Consular officer otherwise directs, continue and complete the hearing and determination thereof, notwithstanding that his authority to act as such Consular officer has otherwise ceased by reason of the expiration of the time for which he was appointed to act, or by reason of the happening of any event by which his authority is determined.

107. Any suit or proceeding shall not be commenced in any of Her Majesty's Courts against any person for anything done or omitted in pursuance or execution or intended execution of this Order, or of any Regulation or Rule made under it, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one clear month before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or in case of a continuation of damage within three months next after the doing of such damage has ceased.

The plaintiff in any such suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof; and if no tender is made the defendant may by leave of the Court at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and Order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary suit.

#### PART XVI.—FEES AND EXPENSES.

108. All fees, fines, forfeitures, confiscations, and pecuniary penalties, and all commissions levied or received under this Order shall be accounted for, paid, and applied as a Secretary of State with the concurrence of the Commissioners of Her Majesty's Treasury from time to time directs.

109. Subject to the other provisions of this Order, all expenses of removal of prisoners and others, and the expenses of deportation, and of the sending of any person to England, shall be defrayed in such manner as a Secretary of State with the concurrence of the Commissioners of Her Majesty's Treasury from time to time directs.

#### PART XVII.—SUPPLEMENTAL.

110. Where, by virtue of any Imperial Act or of this Order or otherwise any provisions of any Imperial Acts, or of any Law, or of any Orders in Council, other than this Order are applicable within any local jurisdiction or district constituted under this Order, or any form, regulation, or procedure prescribed or established under any such Act or Law, are, or is, so applicable, the same shall be deemed applicable so far only as the constitution and jurisdiction of the Courts acting under this Order and the local circumstances permit, and for the purpose of facilitating application may be construed or used with such alterations and adaptations as may be necessary, and anything required to be done by or to any Court, Judge, officer, or authority, may be done by or to a Court, Judge, officer, or authority having the like or analogous functions, or by any officer designated by a Secretary of State, or by the Court (as the case may require) for that purpose, and the seal of the Court may be substituted for any other seal; and in case any difficulty occurs in the application it shall be lawful for a Secretary of State to direct by, and to whom, and in what manner,

anything is to be done, and such Act, law, order, form, regulation, or procedure shall be construed accordingly.

111. Sums of money, fines, forfeitures, penalties, or fees payable under this Order, shall be calculated and paid in English money, or, with the consent of the Court, in its equivalent in local currency or produce, or bills of exchange, approved by the Court.

112. In case Her Majesty appoints any Consul-General, Judge, Commissioner or other person to exercise within the whole or part of any local jurisdiction constituted under this Order appellate jurisdiction in relation to Consular Courts within the limits of his appointment, the following provisions shall have effect :—

(1.) He shall have in all civil and criminal matters an extraordinary original jurisdiction concurrent with that of the Judge of any such Court, and such extraordinary jurisdiction shall be exercised in such classes of cases or particular cases as subject to the terms of his appointment or commission and to any instructions of a Secretary of State he thinks fit to direct.

(2.) He shall have such other powers or authorities over the Consular Courts and the officers thereof as his appointment or commission may specify, and all Consular or other officers in executing this Order shall, so far as such powers or authorities extend, conform to his directions.

(3.) In cases in which he does not exercise original jurisdiction, an appeal from a Consular Court may be brought to him in the like cases and manner in which under this Order an appeal may be brought to the Court of Appeal, and by his leave a further appeal shall lie in like manner to the Court of Appeal.

Rules of Procedure under this Order may be made for any of the purposes of this Article.

#### PART XVIII.—COMMENCEMENT, PUBLICATION, REPEALS, AND TEMPORARY PROVISIONS.

113. From the commencement of this Order the West Africa Order in Council, 1885, and the Order in Council for Madagascar, dated the 4th February, 1869, shall be repealed, but this repeal shall not affect the past operation of those Orders, or any existing right, title, obligation, or liability, or the validity of any Rules or Regulations made or confirmed under those Orders, or revive anything thereby repealed.

114. Nothing in this Order, or in any Rules made under it,

shall apply to, or in any manner affect, any suit or proceeding, either of a civil or of a criminal nature, pending at the commencement of this Order, either with reference to the original proceedings therein or with reference to any appeal therein, or otherwise, subject, nevertheless, as follows :—

In any suit or proceeding, whether of a civil or of a criminal nature, the Court before which the same is pending at the commencement of this Order, after hearing the parties, or of its own motion, or on the application of either party, or by consent, may, if it seems fit, from time to time direct that the procedure and practice prescribed by this Order or by any Rule made under it be followed in any respect.

115. This Order shall commence and have effect as follows :—

(1.) As to the making of any warrant or appointment under this Order, immediately from and after the date of this Order.

(2.) As to the framing of Rules of Procedure or Regulations and the approval thereof by one of Her Majesty's Principal Secretaries of State, immediately from and after the date of this Order.

(3.) As to the repeal of former Orders, and as to all other matters and provisions comprised and contained in this Order, as regards each district immediately from and after the expiration of one month after this Order is first exhibited in the public office of the principal Consular officer for that district; for which purpose he is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof; and notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.

(4.) Proof shall not in any proceeding or matter be required that the provisions of this Article have been complied with, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

116. A copy of this Order shall be kept exhibited conspicuously in each Consular Court.

Printed copies shall be provided and sold at such reasonable price as the Consular officer, subject to any direction of a Secretary of State, may fix.

And the Most Honourable the Marquis of Salisbury and the



Right Honourable Lord Knutsford, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

C. L. PEEL.

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SCHEDULE referred to in foregoing Order in Council.

RULES and REGULATIONS for procedure in Civil and Criminal Cases.  
(Under Part X. of the Africa Order in Council of 1889.)

(Expressions in these Rules and Regulations have the same meanings as in the Africa Order in Council, 1889.)

PART A.—GENERAL.

*Application of Part A.*

THE provisions in Part A apply to all proceedings, civil and criminal.

1. *Attendance of Witnesses.*

(1.) In any proceeding, and at any stage thereof, the Court may summon a British subject to attend to give evidence or to produce documents. (Form A 2.)

(2.) Any British subject present at any proceeding in Court, may be required by the Court, if the Court thinks fit, to give evidence, or to produce documents.

2. *Witnesses' Oath or Declaration.*

(1.) Each witness, before giving evidence, takes an oath, according to such ceremonies or in such form as he deems binding on his conscience. In ordinary cases the form will be as follows:—"I swear that I will speak the truth, the whole truth, and nothing but the truth. So help me God."

(2.) But the Court, if satisfied in the case of an intended witness that the taking of an oath would not bind his conscience, may permit him, instead of taking an oath, to make a declaration that he will, in giving evidence, tell the truth, the whole truth, and nothing but the truth.

3. *Oral Evidence.*

(1.) Subject to the direction of the Court in any particular case, each witness, after examination, is subject to be cross-examined and

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re-examined. After re-examination he shall not be further questioned or recalled, except through or by leave of the Court.

(2.) The Court may disallow any questions put in cross-examination which appear to the Court to be irrelevant, oppressive, or merely vexatious.

(3.) The Court takes a note of the substance of all the oral evidence given before it, in a narrative form, but putting down, if there appears reason for doing so, the terms of any particular question or answer.

#### 4. *Documentary Evidence.*

(1.) Every document tendered and admitted in evidence is put in and read.

(2.) Every document put in is marked by the Court at the time with a distinguishing letter or number, and is retained by the Court till the end of the preliminary examination or trial (as the case may be), when it is returned to the party who put it in, or from whose custody it came, unless the Court, for any reason, orders it to be detained in the custody of the Court.

#### 5. *Assessors.*

(1.) Every Court keeps a list of persons resident in the district who are qualified under Part IX. of the "Africa Order in Council, 1889," to be assessors.

(2.) When the presence of assessors is likely to be required at any civil or criminal trial, the Court summons from among the persons whose names are on the list as many as it thinks necessary.

(3.) So far as is practicable, the persons liable to attend as assessors are summoned in regular order, according to the place of their names in the list.

(4.) The summons to a person to attend as assessor is in writing under the seal of the Court, and is served on him by being delivered to him personally, unless he is at the time of service absent from his usual place of abode, in which case it may be left for him there with some adult inmate. (Form A 3.)

(5.) The Court may, on reasonable cause shown, excuse from attendance generally, or in any particular case, any person summoned, or liable to be summoned, as assessor, and may for like cause discharge from attendance in any particular case any person who is acting as assessor therein.

(6.) If in the course of a trial one or more of the assessors is, or are prevented by sufficient cause from continuing to serve, the trial may, if the Court thinks fit, proceed with the aid of the remaining assessor or assessors, if any.

(7.) If in any case the sole assessor is, or all the assessors are

prevented from continuing to serve, the proceeding shall be stayed, and a new trial held with another assessor or assessors. But in a case of urgent necessity, or by consent of the parties or their agents, the Court may continue the trial, recording the fact and the reason for so acting in the Minutes.

#### 6. *Sealing.*

Every summons, judgment, order, notice, or other document issued from the Court is sealed with the seal of the Court.

#### 7. *Minutes and File of Proceedings.*

(1.) In every case Minutes of the proceedings at each stage are drawn up in writing, signed by the Consul, and sealed with the seal of the Court.

(2.) The Minutes and all other documents in the case are filed in a continuous file, called the file of proceedings.

(3.) The file of proceedings must be carefully preserved among the records of the Consulate.

(4.) The file of proceedings in any case is open to the inspection of the assessors engaged in that case, but may not be inspected by any other person except by order of the Secretary of State.

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### GENERAL FORMS (A).

#### FORM A 1.

(General Heading.)

*(To be used in all documents issued by the Court.)*

The Consular Court for the district of  
Held at under the Africa Order in Council, 1889.  
Civil Jurisdiction.  
[or  
Criminal Jurisdiction.]

*With this addition in a Civil Proceeding—*

*A. B. . . . Plaintiff.*

*and*

*C. D. . . . Defendant.*

*With this addition in a Criminal Proceeding—*

*In the matter of a charge against A. B.*

## FORM A 2.

*Summons to Witness.*

(General Heading.)

To                      of                      .  
 You are required to attend this Court at                      on the                      day of  
                     at                      o'clock                      , to give evidence in the above action  
 (or, concerning the above); [and you are required to bring with you  
 (specify documents)].

(Seal.)

## FORM A 3.

*Summons to Assessor.*

(General Heading.)

To                      of                      .  
 You are required to attend this Court at                      on the                      day of  
                     , at                      o'clock, to act as assessor at the trial of the above  
 action (or, of the above charge) [or, generally, of certain actions (or,  
 certain charges) then appointed to be heard].

(Seal.)

## PART B.—CIVIL.

8. *Application of Part B.*

The provisions in Part B. apply to civil proceedings only.

## CIVIL PROCEEDINGS.

9. *Action; Summons.*

- (1.) Civil proceedings are taken by action.
- (2.) An action is commenced by a summons.
- (3.) A summons is a document in the Form B 1, or some form to the like effect, which is issued from the Court on the application of the plaintiff. It contains a concise statement of the particulars of the plaintiff's claim, and gives the defendant notice of the time and place of trial. It is sealed with the seal of the Court.

10. *Cause-book.*

Every Court keeps a book called the Cause-book, in which are entered all actions brought in that Court, numbered consecutively in each year with a short statement of the particulars of each action, and a note of the several proceedings therein. (Form B 2.)

#### 11. *Joinder of Causes of Action.*

(1.) A plaintiff may unite in the same action several causes of action or complaint.

(2.) But the Court, if it thinks that such causes of action, or some of them, cannot be conveniently tried together, may order separate trials.

#### 12. *Parties.*

(1.) All persons may join as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative.

(2.) All persons may be joined as defendants against whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative.

(3.) The Court may at any stage strike out the names of parties improperly or unnecessarily joined, and may, after due notice given to the persons affected, add the names of parties whose presence is essential to a just decision of the matter in dispute.

#### 13. *Plaintiff out of District.*

(1.) Where a plaintiff, taking out a summons, either alone or jointly with any other person, is out of the district or only temporarily therein, he must file at the office of the Court, when the summons is issued, a written statement of a fit place within the district where notices and other papers issuing from the Court may be served on him.

(2.) He must also give security for costs by deposit or by bond for such amount as the Court directs.

(3.) The Court may, at any stage of the proceedings, order a plaintiff, who has left or is about to leave the district, to give security, or further or better security, for costs, to such an amount as the Court thinks fit, and may direct proceedings to be stayed in the meanwhile.

#### 14. *Service.*

(1.) Service is effected by an officer of the Court, and is personal, unless in any case the Court thinks fit otherwise to direct.

(2.) Personal service is effected by showing to the person to be served the original document, and by leaving with him a copy of the document of which service is intended.

(3.) Service shall not, without the leave of the Court, be made on Sunday, or before 6 A.M. or after 6 P.M. on any other day.

(4.) This rule applies to the service of a summons, orders, judgments, and all other documents required by these Rules or the practice of the Court to be served.

*15. Service of Summons.*

(1.) The summons is delivered by the plaintiff to the officer of the Court for service on the defendant (except in cases where the Court thinks fit otherwise to direct) at least seven days before the day named in the summons for the hearing of the action.

(2.) The date and place of service are indorsed on the original summons by the person serving it.

*16. Dismissal for Failure to Proceed.*

If an action entered in the cause-book is not proceeded with and disposed of within twelve months from service of the summons, the Court may, if it thinks fit, upon or without application by any party, order the same to be dismissed for failure to proceed.

*17. Payment into Court in Satisfaction.*

(1.) Where an action is brought to recover a debt or damages, any defendant may, at any time after service of the summons, pay into the office of the Court a sum of money by way of satisfaction or amends.

(2.) It shall be paid to the proper officer, who shall give a receipt for the same.

(3.) The defendant shall give the plaintiff notice that he has paid in that money, stating in respect of what claim.

(4.) Money so paid in may, unless the Court otherwise orders, be paid out to the plaintiff, or to his solicitor on the written authority of the plaintiff.

(5.) The plaintiff may, after receipt of notice of payment in, accept the amount in satisfaction of the causes of action in respect of which it is paid in ; in which case he shall give notice thereof to the defendant, and the Court shall make such order thereon as shall be just.

*18. Set-off and Counter-claim.*

(1.) A defendant may set off or set up, by way of counter-claim against the claim of the plaintiff, any right or claim.

(2.) Notice of set-off or counter-claim must be given in writing to the Court, so that it may be served on the plaintiff at least four days before the day fixed for the hearing of the action. (Form B 3.)

(3.) If in the opinion of the Court the set-off or counter-claim cannot be conveniently tried in the pending action, the Court may refuse permission to the defendant to avail himself of it in that action.

*19. Death of Party or other Change.*

(1.) Where, after action brought, any change or transmission of interest or liability occurs in relation to any party to the action, or

any party to the action dies, or (being a woman) marries, or the action in any other way becomes defective or incapable of being carried on, any person interested may obtain from the Court any order requisite for curing the defect, or enabling or compelling proper parties to carry on the proceedings.

(2.) But any person served with such an order may, within such time, not exceeding fourteen days, as the Court in the order or otherwise directs, apply to the Court to discharge the order.

#### 20. *Depositions before Trial.*

(1.) At any time after an action is begun, and before the trial, the Court may take the evidence of a witness who is about to leave the district, or who, from illness or old age or any other sufficient cause, is not likely to be able to be present at the trial.

(2.) The evidence of such witness is taken in like manner, as nearly as may be, as evidence is taken at the trial.

(3.) The note of the evidence is signed by the witness at the time, and sealed with the seal of the Court. It is called a deposition.

(4.) A deposition may not, except for special reasons to be recorded in the Minutes, be admitted in evidence at the trial unless it is shown that the party against whom it is offered had an opportunity of cross-examining the deponent.

#### 21. *Absence of Parties at Hearing.*

(1.) If at the time appointed for the hearing the plaintiff does not appear, the Court may strike out the action, and make such order as to costs in favour of any defendant appearing as the Court thinks just.

(2.) If the plaintiff a second time in like manner fails to appear, the Court shall, unless it sees good reason to the contrary, dismiss the summons, which dismissal shall have the like effect as a judgment for the defendant on the merits at the hearing.

(3.) If at the time appointed for the hearing the plaintiff appears, but the defendant, or any of the defendants, does not appear, the Court, before hearing the action, inquires into the service of the summons on the absent party or parties.

(4.) The Court, if not satisfied respecting service on every party, may order that further service be made as the Court directs, and may adjourn the hearing for that purpose.

(5.) The Court, on being satisfied respecting service on every party, may, if it thinks fit, proceed to hear the action, notwithstanding the absence of the defendant, or of any of the defendants.

(6.) If the Court hears the action, and makes an order against a defendant in his absence, the Court may afterwards, on such terms as

the Court thinks fit, re-hear the action, on proof that his absence was excusable, and that he has a defence on the merits.

*22. Hearing.*

- (1.) The hearing takes place in open Court.
- (2.) The Court may postpone or adjourn the hearing when and as often as justice requires.

*23. Judgment.*

- (1.) The judgment of the Court is delivered in open Court, and recorded in the Minutes.
- (2.) Where the grounds of the judgment are stated in writing, the written statement, or a copy signed by the Consular Officer holding the Court, is filed on the file of proceedings.
- (3.) Where the Court reserves judgment, the parties are served with notice to attend and hear judgment, unless the Court at the hearing states the day on which judgment will be delivered.
- (4.) All parties are deemed to have notice of the judgment if pronounced at the hearing.
- (5.) All parties served with notice to attend and hear judgment are deemed to have notice of the judgment when pronounced.

*24. Costs.*

- (1.) In every action the costs of the whole action, and of each particular proceeding therein, and the costs of every proceeding in the Court, are in the discretion of the Court, as regards the person by whom they are to be paid.
- (2.) But the Court shall not order the successful party in an action to pay to the unsuccessful party the costs of the whole action, although the Court may order the successful party, notwithstanding his success in the action, to pay the costs of any particular proceeding therein.
- (3.) The Court may order any costs to be paid out of any fund or property to which an action or proceeding relates.
- (4.) Where the Court orders costs to be paid by any party, the Court may, if it thinks fit, order all proceedings by, or on behalf of that party in the same action or proceeding, or connected therewith, to be stayed until the costs are paid.
- (5.) When the Court adjudges or orders any costs to be paid, the amount of such costs is, if practicable, fixed by the Court at the time of making the judgment or order, and named therein.
- (6.) In fixing the amount of costs the principle to be observed is that the party who is in the right is to be indemnified for the expense to which he has been necessarily put in establishing his claim, defence,



or counter-claim, but the Court takes into account all the circumstances of the case.

*25. Judgments and Orders.*

(1.) Upon the application of any party to an action a judgment or order shall be drawn up in the Form B 4, or some Form to the like effect. It shall, when drawn up, bear the date of the day when it was given or made, and shall be copied in full in the Minutes.

(2.) When a judgment or order is drawn up the Court certifies it by affixing to it the seal of the Court, and the order so certified is handed to the party applying for it.

(3.) Until a judgment or order has been drawn up and certified it cannot be served or enforced, or appealed against.

(4.) Any party to an action is entitled, on paying a reasonable sum for the expense of copying, to an office copy (that is, a copy certified by the seal of the Court) of any judgment or order which has been drawn up and entered.

*26. Operation of Judgment.*

(1.) A judgment or order for the payment of money may, as the Court thinks fit, order the money to be paid either at once or by specified instalments, or after the expiration of a specified time.

(2.) A judgment or order requiring any person to do any act other than the payment of money, or to abstain from doing anything, may, according as the Court directs, take effect at once or after the expiration of a specified time.

(3.) The Court may at any time stay execution of a judgment or order upon such terms as it thinks fit.

*27. Payment of Money ordered to be paid.*

(1.) All money ordered by any judgment or order of the Court to be paid by any person must be paid into an office of the Court unless the Court otherwise directs.

(2.) Money so paid in is paid out by the Court to the person entitled thereto.

*28. Execution. Generally.*

(1.) Execution of a judgment or order does not issue against a party who has not been served with the judgment or order.

(2.) A judgment or order may not, in general, be served or enforced out of the district of the Court.

(3.) But the Court may, for special reasons to be recorded in the Minutes, direct that any particular judgment or order be served or enforced out of that district.

(4.) When the Court is satisfied that a judgment or order has been

served and not obeyed, the Court, on the application of the person entitled to the benefit of the judgment or order, unless it sees good reason to the contrary, issues execution.

(5.) When default is made in paying an instalment under a judgment or order ordering the payment of money by instalments, execution may issue for the whole sum then remaining unpaid unless the Court otherwise directs.

*29. Execution of Judgments or Orders for the Payment of Money.*

(1.) The person entitled to the benefit of a judgment or order for the payment of money is called the judgment creditor.

(2.) The person bound by such judgment or order is called the judgment debtor.

(3.) Execution of the judgment or order for the payment of money is—

- (a.) By seizure and sale of the judgment debtor's goods, or
- (b.) By attachment of debts due to the judgment debtor, or
- (c.) By both the above-mentioned processes, or
- (d.) In certain cases, by sale of the judgment debtor's lands.

*30. Seizure and Sale.*

(1.) On the application of a judgment creditor the Court issues a warrant of seizure and sale, directing an officer of the Court therein named to levy the money due, together with the costs of the execution, by seizure and sale of the goods of the judgment debtor wheresoever found within the district. (Form B 5.)

(2.) The sum due, and the further sum to be levied for costs of the execution, are indorsed on the warrant.

(3.) The sale of the goods seized shall be made by order of the Court, and shall be conducted under the direction of the Court, and by a person nominated by the Court.

(4.) But no steps shall be taken therein without the demand of the judgment creditor.

(5.) The judgment creditor shall be liable for any damage recoverable in consequence of any proceeding taken at his instance.

(6.) The sale shall not be made until after the end of five days at least next following the day of seizure, unless the goods are of a perishable nature, or on the request, in writing, of the judgment debtor, or under order of the Court, made for reasons recorded in the Minutes.

(7.) Until sale the goods shall be deposited by the officer in some fit place, or they may remain in the custody of a fit person approved by the Court, and put into possession by the officer.

(8.) The Court shall not order the sale of the goods seized unless it

is proved that they belong to the judgment debtor, and are in a place where the Court has jurisdiction.

(9.) Where a claim is made by a third party to the goods, or part thereof, the same, if made by a British subject, or British-protected person, shall be decided by the Court in a summary way, as between the claimant and the judgment creditor.

(10.) If the claim is made by a native of Africa or foreigner, the Court may, if it thinks fit, either oblige the judgment creditor to establish his claim before selling the goods, or sell the goods and require the judgment creditor to defend any claim.

(11.) The officer executing a warrant of seizure and sale may, by virtue thereof, seize any money, bank-notes, bills of exchange, promissory notes, bonds, or securities for money belonging to the judgment debtor.

(12.) The Court shall hold the property or instruments seized, other than money and securities immediately convertible into money, as security for the amount directed to be levied, or so much thereof as is not otherwise levied, for the benefit of the judgment creditor.

(13.) The judgment creditor may sue in the name of the judgment debtor, or in the name of any person in whose name the judgment debtor might have sued, for the recovery of the money secured or made payable by any instrument seized, when the time for suing arrives.

(14.) If before or after seizure the judgment debtor, by payment into Court, or to the officer executing the warrant, satisfies the execution, the warrant shall be superseded, and the goods and property and instruments seized shall be released and delivered up.

### 31. *Attachment of Debts.*

(1.) Execution by way of attachment of debts is granted when the judgment creditor satisfies the Court that another person (called the garnishee) is indebted to the judgment debtor, and is within the jurisdiction of the Court.

(2.) The Court may summon the garnishee and the judgment debtor to attend and be examined.

(3.) If the garnishee upon such examination disputes his liability to the judgment debtor, or alleges that the debt sought to be attached belongs to some third person, the Court takes such proceedings as it thinks necessary to determine the garnishee's liability, and may, if such third person is within the jurisdiction, summon such third person or any other necessary witness to attend, and may bar or otherwise deal with such third person's claim.

(4.) If the garnishee admits, or the Court after such proceedings as aforesaid is satisfied, that there is a liquidated sum then due from the

garnishee to the judgment debtor, the Court may order the garnishee to pay into Court the amount so due, or so much thereof as is sufficient to satisfy the claim of the judgment creditor. (Form B 6.)

(5.) If the garnishee disobeys the order for payment, the Court may issue a warrant of seizure and sale against his goods.

(6.) Payment made by, or execution levied upon, the garnishee under an order for payment, is a valid discharge to him as against the judgment debtor to the amount paid or levied.

### 32. *Sale of Lands.*

(1.) When the judgment debtor is beneficially entitled to any interest in any lands within the district, and the Court is satisfied that there is no other property of the judgment debtor available for execution, the Court may, on the application of the judgment creditor, issue a warrant directing an officer of the Court to sell the interests of the judgment debtor in such lands at such time and in such manner as under the circumstances the Court think just and reasonable. (Form B 7.)

(2.) The proceeds of the sale shall be paid into Court.

(3.) Before issuing such warrant, the Court may inquire, if it thinks fit, into the nature and extent of the judgment debtor's interest, and for the purpose of such inquiry may summon the judgment debtor and other witnesses to attend.

### 33. *Committal of Judgment Debtor.*

(1.) Where a judgment or order for the payment of money remains after service wholly or in part unsatisfied, whether execution has issued or not, the Court may, on the application of the judgment creditor, summon the judgment debtor to attend and be examined as to his ability to pay. (Form B 8.)

(2.) The judgment debtor if he appears, and whether the judgment debtor appears or not, any other witnesses whom the Court thinks fit to summon may then be examined on oath as to the circumstances under which the judgment debtor incurred the debt or liability and as to his ability then and since and at the time of the examination, to satisfy such debt or liability.

(3.) The Court may, if it thinks fit, adjourn the examination from time to time, and require from the judgment debtor security for his appearance, and in default of his finding security, may, by order, commit him until the adjourned hearing, to the custody of an officer of the Court.

### 34.

If it appears to the Court, by the examination of the judgment debtor or other evidence—

(1.) That the judgment debtor then has, or, since the making of the

order, has had sufficient means to pay the money directed to be paid by him, and he refuses or neglects to pay the same according to the order; or

(2.) That, with intent to defraud his creditors, or any of them, he has made or suffered any gift, delivery, or transfer of any property, or charged, removed, or concealed any property; or

(3.) That the debt or liability in question has been contracted or incurred by him, by or by reason of fraud, or false pretence, or breach of trust, committed by him; or

(4.) That forbearance thereof was obtained by him by fraud or false pretence; or

(5.) That the debt or liability was wilfully contracted or incurred by him without his having at the same time a reasonable expectation of being able to pay or discharge it;

Then, and in any such case, the Court may, if it thinks fit, by order commit him to prison for any time not exceeding forty days, and may issue its warrant accordingly. (Form B 9.)

The order, and the grounds on which it is made, must be recorded in the Minutes.

35.

On the examination, the Court, if it thinks fit, whether it makes an order for commitment or not, may rescind or alter any order for the payment of money, by instalments or otherwise, and may make any further or other order, either for payment of the whole amount forthwith, or by instalments, or in any other manner, as the Court thinks fit.

36.

(1.) The expenses of the judgment debtor's maintenance in prison shall be defrayed, in the first instance, by the judgment creditor, and may be recovered by him from the judgment debtor, as the Court directs.

(2.) The expenses shall be estimated by the Court, and shall be paid by the judgment creditor at such times and in such manner as the Court directs.

(3.) In default of payment, the judgment debtor may be discharged, if the Court thinks fit.

37.

(1.) Imprisonment of a judgment debtor under the foregoing provisions shall not operate as a satisfaction or extinguishment of the debt or liability to which the order relates, or protect the debtor from being anew imprisoned for any new fraud, or other default making him liable to be imprisoned, or deprive the judgment creditor of any right to have execution against his goods, as if there had not been such imprisonment.

(2.) The judgment debtor, on paying at any time the amount ordered to be paid, and all costs and expenses, shall be discharged.

38. *Execution of Judgments or Orders other than those for the Payment of Money.*

(1.) A judgment or order which orders a person to do any act other than the payment of money, or to abstain from doing anything, is executed by arrest, or by sequestration, or by both processes.

(2.) The copy of such a judgment or order served on the person required to obey it is indorsed with a memorandum in the words or to the effect following :

"If you, the within-named *A. B.*, neglect to obey this order within the time therein appointed, you will be liable to be arrested, and your property may be sequestered."

39. *Arrest.*

(1.) Where the person directed to do or abstain from doing the act fails to obey the order, the person prosecuting the order may apply to the Court for a warrant for the arrest of the disobedient person.

(2.) Thereupon the Court shall, unless it sees good reason to the contrary, issue a warrant ordering and empowering an officer of the Court therein named to take the body of the disobedient person, and detain him in custody until further order. (Form B 10.)

(3.) He shall be liable to be detained in custody until he has obeyed the Order in all things that are to be immediately performed, and has given such security as the Court thinks fit to obey the order in other respects (if any), at the future times thereby appointed ; or, in case of his no longer having the power to obey the order, then until he has been imprisoned for such time, not exceeding thirty days, or until he has paid such fine, not exceeding ten pounds, as the Court thinks fit.

40. *Sequestration.*

(1.) In case the person against whom a warrant of arrest issues is not and cannot be found, or is taken and detained in custody without obeying the order, then the person prosecuting the order may apply to the Court for a warrant of sequestration against his property.

(2.) The warrant of sequestration empowers and directs the person or persons therein named, called the sequestrators, to enter upon and seize all the real and personal estate within the district of the person against whom the order issues, and to keep the same and the rents and profits thereof until such last-named person shall appear before the Court and clear his contempt, or until the Court shall otherwise order. (Form B 11.)

(3.) The Court may order, out of the proceeds of the sequestration,

payment of all charges attending its execution, including such reasonable remuneration to the sequestrators as the Court may allow.

41. *Injunctions and Orders before Action.*

(1.) On proof of urgency or other peculiar circumstances, the Court may, if it thinks fit, before service of a summons and without notice, make an order of injunction, or an order to sequester money or goods, or to stop the clearances of a vessel, or to hold to bail, or to attach property.

(2.) Before making the order the Court shall require the person applying for it to enter-into a recognisance, with or without a surety or sureties, as the Court thinks fit, as security for his being answerable in damages to the person against whom the order is sought.

(3.) The order shall not remain in force more than twenty-four hours, and shall, at the end of that time, wholly cease to be in force, unless within that time an action is regularly brought by the person obtaining the order.

(4.) The order shall be dealt with in the action as the Court thinks just.

APPEALS.

42. *Time of Appeal.*

(1.) In the case of a judgment or order which cannot be appealed from without leave, leave to appeal may not be applied for after one month from the delivery of the decision of the Court.

(2.) In other cases notice of appeal must be given within two months from the date of the decision.

43. *Notice of Appeal.*

(1.) The appellant transmits to the Court a written notice of appeal stating concisely the extent and the grounds of his appeal.

(2.) He must, within seven days after transmitting such notice, give such security as the Court directs, that he will prosecute the appeal and pay the costs if unsuccessful.

(3.) He must, within the same time, pay into Court the sum estimated by the Court as the cost of making up and transmitting the record to the Court of Appeal.

44. *Service.*

When the appellant has complied with the conditions of Rule 46, the Court serves the notice of appeal on the respondent, who shall, within fourteen days from the service thereof, give notice of cross appeal, if any.

*45. Making up and transmitting Record.*

(1.) The Court then makes up the record of appeal, which includes certified copies of the summons, of any orders made in the action, of all written and documentary evidence admitted or tendered, of the notes of the oral evidence, and of the notice of appeal.

(2.) The several pieces are fastened together and numbered consecutively, and the whole is secured by the seal of the Court, and forwarded by the Court to the Court of Appeal.

(3.) No original document shall, except under special circumstances, be transmitted as part of the record.

(4.) After the record of appeal is transmitted until the appeal is disposed of, the Court of Appeal is in possession of the whole action as between the parties to the appeal.

(5.) The order made on the appeal by the Court of Appeal is, when duly certified and transmitted to the Court below, enforced by the latter Court in the same manner as one of its own orders.

*46. Stay of Execution on Appeal.*

(1.) When leave to appeal or a notice of appeal is given before the judgment or order appealed against has been obeyed or enforced, the Court may, as it thinks fit, either direct immediate execution, or suspend execution pending the appeal.

(2.) If the Court directs immediate execution, it may require the person entitled to execution to give security before execution for the performance of the order to be made on appeal.

(3.) If the Court suspends execution it may require the appellant to give security before the order for suspension issues to the amount of the judgment or order appealed against.

*47. Time.*

(1.) Where any particular number of days is prescribed for doing anything by these Rules, or by any judgment order or Rule of the Court, the same shall be reckoned exclusively of the first day and inclusively of the last, unless clear days are mentioned.

(2.) Where the days prescribed are less than six days, Sundays are not to be reckoned in the computation.

(3.) Where the time prescribed for doing anything by these Rules, or by any judgment order or Rule of the Court expires on Sunday, the act or proceeding will be done or taken in due time if done or taken on the next day.



48. *General Powers of the Court.*

(1.) Every application in the course of an action may be made to the Court orally and without previous formality, unless in any case the Court otherwise directs.

(2.) The Court may, as often as it thinks fit, and either before or after the expiration of the time appointed by these Rules, or by any Judgment Order or Rule of the Court, extend or adjourn the time for doing any act or taking any proceeding.

(3.) No action or proceeding shall be treated by the Court as invalid on account of any technical or formal error.

(4.) All errors and mistakes may be corrected, and all amendments made, and non-compliance with any of the rules of practice excused, by the Court upon such terms as to costs or otherwise as it thinks just and reasonable.

## FORMS. (CIVIL.)

## II.—CIVIL (IN GENERAL).

## B 1.

*Summons for Commencement of Action.*

(General Heading.)

To C. D., of [ ], defendant.

You are required to attend this Court on [Thursday] the day of , 18 , at [ten] o'clock A.M., being the time appointed for the hearing of an action brought against you by the plaintiff, A. B., of , the particulars of the claim being stated below.

If you fail to attend according to this summons, the plaintiff may proceed, and the Court may give judgment in your absence.

(Seal.)

*Particulars of Claim.*

The plaintiff's claim is—

[To recover £ for the price of goods sold.]

or

[To recover £ for the use and occupation of a house.]

or

[To have an account taken of the partnership dealings between the plaintiff and defendant, and to have the affairs of the partnership wound up.]

or

[For £ for damages for negligence in the custody of goods, and for wrongful detention thereof.]

N.

L

*or*

• [As executor (*or* administrator) of K. L., late of \_\_\_\_\_, deceased,  
for \_\_\_\_\_.]

or

[Against the defendant as executor (or administrator) of *M. N.*,  
late of \_\_\_\_\_, deceased, for \_\_\_\_\_.]  
[Or as the case may be.]

[Print on form.] NOTE.—The officer of the Court may fill up the particulars if the plaintiff requests him to do so.

### *Indorsements on Original Summons.*

**In the Consular Court for**

**B. v. D.**  
**Summons**  
**with**

### Particulars of Claim.

Issued under the Africa Order in Council of 1889, Rule .  
For hearing on [Thursday], the day of , 18 , at [10]  
o'clock in the morning.

Served by \_\_\_\_\_ on the within-named *C. D.*, on [Thursday], the  
day of \_\_\_\_\_, at \_\_\_\_\_ o'clock, at \_\_\_\_\_ personally [*or as the*  
*case may be.*]

(Signature of officer effecting service.)

**[Print on form.]** **NOTE.**—This should be filled up forthwith after service, by the officer effecting it.

**B 2.**

*Form of Cause Book.*

Suits in the year 18 .

No. of Action.	Date of Original Summons.	Name, Description, and Place of Abode of Plaintiff.	Name, Description, and Place of Abode of Defendant.	Particulars of Claim.	Date of Hearing. Date of Judgment.	Date of Appeal. Judgment on Appeal.	Particulars of Execution ordered.	Return of Execution.	Review.	Appeal.
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B 3.

*Notice of Set-off or Counter-claim.*

(General Heading.)

To the Court.

Take notice that the defendant will rely on a set-off or counter-claim of which the following are the particulars :—

(Signed)

Defendant.

[*This notice, unless the Court requires the counter-claim to be separately tried, is to be sealed by the Court and served by the Officer of the Court on the plaintiff.*]

B 4.

*Judgment at Trial (as drawn up).*

(General Heading.)

(Date.)

This action having on the            day of            come on for trial

It is this day adjudged that            .

(Seal.)

B 5.

*Warrant of Seizure and Sale.*

(General Heading.)

To X. Y., Officer of this Court.

You are hereby commanded to seize the goods of C. D., and by sale thereof, or of a sufficient part thereof, to levy the sum of £            , and also interest thereon at the rate of            per centum per annum from the            day of            ,\* which said sum of money and interest were in this action by Order dated the            day of            ordered to be paid by the defendant C. D. to E. F. And further the sum of £            for costs in the said Order mentioned, together with interest thereon at the rate of            per centum per annum from the            day of            ,\* and forthwith after the execution of this warrant you shall return the same to this Court, with the place, time, and mode of execution indorsed thereon, and with the money levied thereunder.

(Seal.)

\* Day of the Judgment or Order, or day on which money directed to be paid, or day from which interest is directed by the Order to run, as the case may be.

## B 6.

*Order to Garnishee to pay Judgment Creditor.*

(General Heading.)

Whereas, the above-named *A. B.* [judgment debtor] has been ordered by this Court in the above action to pay to the above-named *C. D.* [judgment creditor] £ , the whole of which sum is [or of which sum £ are] still unpaid; and whereas it has been proved to the Court that you are indebted to the said *A. B.* in £ : you are hereby required to pay to the said *C. D.* the debt so due from you to the said *A. B.*, or so much thereof as may be sufficient to satisfy the sum due under the said Order from the said *A. B.* to the said *C. D.*; and in default of your doing so, take notice that execution may issue against you.

(Seal.)

## B 7.

*Warrant for Sale of Lands.*

(General Heading.)

To , Officer of the Court.

You are hereby commanded to sell the right, title, and interests of the above-named *C. D.* [judgment debtor] in the lands, tenements, and hereditaments specified in the Schedule hereunder written [*here insert any directions as to the time and mode of sale*]: and forthwith, after the execution of this warrant, you are to return the same to this Court, with the place, time, and mode of execution indorsed thereon, and with the proceeds of such sale.

Schedule :

(Seal.)

## B 8.

*Judgment Debtor Summons.*

(General Heading.)

To , the above-named defendant.

You are hereby required to appear before this Court at on the day of , at o'clock in the forenoon, then and there to be examined respecting your ability to satisfy the Judgment recovered [or Order made] against you in the above suit.

(Seal.)

## B 9.

*Warrant for Committal of Judgment Debtor.*

(General Heading.)

To X. Y.,                      , Officer of the Court.

The Court has this day ordered that the above-named C. D. be imprisoned as a judgment debtor for                      from the day of the Order                      . You are therefore hereby commanded, you, the said X. Y., to take the body of the said C. D., and convey him to the above-mentioned prison, and there deliver him to the keeper thereof with this warrant.

And you, the keeper of that prison, to receive the said A. B. into your custody, and there to keep him safely for the time aforesaid.

Dated this                      .

(Seal.)

## B 10.

*Warrant of Arrest [for Disobedience to a Judgment or Order.]*

(General Heading.)

To X. Y., Officer of this Court, and to the Keeper of the Prison at                      .

It has been shown to the Court that C. D., the above-named defendant [plaintiff] has failed to obey a Judgment [or Order] of the Court, dated                      , whereby the said C. D. was required to                      .

You are therefore hereby required, you, the said X. Y., to take the body of the said C. D., and to convey him to the above-mentioned prison, and there deliver him to the keeper thereof, with this warrant.

And you, the keeper of that prison, to receive the said A. B. into your custody, and there keep him safely until the Court makes order to the contrary.

Dated, &amp;c.                      .

(Seal.)

## B 11.

*Warrant of Sequestration.*

(General Heading.)

To P. Q. [and X. Y.]

It has been shown to the Court that C. D., the above-named defendant [plaintiff], has failed to obey a Judgment [or Order] of the Court, dated                      , whereby the said C. D. was required to                      .

You are therefore hereby authorised and commanded to enter upon and seize all the real and personal estate of the said C. D. within the

district of this Court, and to collect and receive the rents and profits thereof, and to detain and keep the same under sequestration in your hands until the said *C. D.* shall appear before the Court and clear his contempt, or the Court shall make other Order.

(Seal.)

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B 12.

*Affidavit of attesting Witness in Proof of the Execution of a Will or Codicil dated after 31st December, 1837.*

(General Heading.)

In the matter of *A. B.*, deceased.

I, *C. D.*, of \_\_\_\_\_, make oath and say that I am one of the subscribing witnesses to the last Will [*or Codicil, as the case may be*] of *A. B.*, late of \_\_\_\_\_, deceased, the said Will [*or Codicil*] being now hereto annexed, bearing date \_\_\_\_\_, and that the testator executed the said Will [*or Codicil*] on the day of the date thereof, by signing his name at the foot or end thereof [*or in the testimonium clause thereof, or in the attestation clause thereto, as the case may be*], as the same now appears thereon, <sup>(1)</sup> in the presence of me and of \_\_\_\_\_, the other subscribed witness thereto, both of us being present at the same time, and we thereupon attested and subscribed the said Will [*or Codicil*] in the presence of the testator.

*C. D.*

Sworn at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, }  
18 \_\_\_\_\_, before me, X. Y. }

<sup>(1)</sup> If the signature is in the testimonium clause or attestation clause, insert, "intending the same for his final signature to his Will."

---

B 13.

*Oath for Executor.*

(General Heading.)

In the matter of *A. B.*, deceased.

I, *C. D.*, of <sup>(1)</sup> \_\_\_\_\_, make oath and say that I believe the paper writing [*or the paper writings*] hereto annexed and marked by me <sup>(2)</sup> to contain the true and original last Will [*or last Will with Codicils*] of *A. B.*, late of \_\_\_\_\_, deceased, and that I am the sole executor [*or one of the executors*] therein named [*or executor according to the tenor thereof, executor during life, executrix during widowhood, or as the case may be*], and that I will faithfully administer the personal property of the testator by paying his just debts and the legacies given by his Will [*or Will and Codicils*], so far as his

personal property shall extend and the law bind me; that I will exhibit an inventory, and render an account of my executorship, whenever lawfully required; that the testator died at , on the day of , 18 ; that at the time of his death he had his fixed place of abode at , within the jurisdiction of this Court; and that the whole of his personal property does not amount in value to the sum of , to the best of my knowledge, information, and belief. C. D.

Sworn at , this day of , }  
18 , before me, E. F.

(<sup>1</sup>) Insert besides the name, &c., of the deponent his relationship, if any, to the testator.

(<sup>2</sup>) Each testamentary paper is to be marked by the persons sworn and the person administering the oath.

Where more executors than one are appointed, and all are not sworn, a memorandum should be made in the margin of the oath that power is to be reserved to the other executors or executor, or that they have or he has renounced.

#### B 14.

#### *Oath for Administrator with Will annexed.*

(General Heading.)

In the matter of *A. B.*, deceased.

I, *C. D.*, of make oath and say that I believe the paper writing [or the paper writings] hereto annexed, and marked by me (<sup>1</sup>) to contain the true and original last Will [or last Will with Codicils] of *A. B.*, late of , deceased; that the executor therein named is dead without having taken probate thereof [or as the fact may be]; that I am the residuary legatee in trust named therein [or as the fact may be, stating the relationship, if any, of the deponent to the testator]; that I will faithfully administer the personal property of the testator, by paying his just debts and the legacies given by his Will [or Will and Codicils] so far as his personal property shall extend and the law bind me, and distributing the residue of his personal property according to law; that I will exhibit an inventory and render an account of my administration whenever lawfully required; that the testator died at , on the day of , 18 ; that at the time of his death he had his fixed place of abode at , within the jurisdiction of this Court; and that the whole of his personal property does not amount in value to the sum of , to the best of my knowledge, information, and belief. C. D.

Sworn at , this day of , }  
18 , before me, E. F.

(<sup>1</sup>) Each testamentary paper is to be marked by the persons sworn and the person administering the oath.

## B 15.

*Oath for Administrator (not with Will annexed).*

(General Heading.)

In the matter of *A. B.*, deceased.

I, *C. D.*, of \_\_\_\_\_, make oath and say that *A. B.*, late of \_\_\_\_\_, deceased, died intestate, a bachelor, without parent, brother or sister, uncle or aunt, nephew or niece, and that I am his lawful cousin german and one of his next of kin [*this must be altered in accordance with the circumstances of the case*]; that I will faithfully administer the personal property of the deceased, by paying his just debts and distributing the residue of his property according to Law; that I will exhibit an inventory and render an account of my administration whenever lawfully required; that the deceased died at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_; that at the time of his death he had his fixed place of abode at \_\_\_\_\_, within the jurisdiction of this Court; and that the whole of his personal property does not amount in value to the sum of \_\_\_\_\_, to the best of my knowledge, information, and belief.

*C. D.*

Sworn at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, }  
18 \_\_\_\_, before me, *E. F.*

## B 16.

*Probate.*

(General Heading.)

Be it known, that on the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_, the last Will [*or the last Will with \_\_\_\_\_ Codicils*] (a copy whereof is hereto annexed) of *A. B.*, late of \_\_\_\_\_ deceased, who died on \_\_\_\_\_, at \_\_\_\_\_, and who at the time of his death had his fixed place of abode at \_\_\_\_\_, within the jurisdiction of this Court, was proved and registered in this Court; and that the administration of the personal property of the said deceased was granted by this Court to *C. D.*, the sole executor [*or as the case may be*] named in the said Will, he having been first duly sworn.

*X. Y.*,

H. B. M. Consul at  
(Seal.)

To be written  
in margin  
{ Sworn under  
that the Testator died on  
or about the day of \_\_\_\_\_,  
18 \_\_\_\_.



## B 17.

*Letters of Administration with Will annexed.*

(General Heading.)

Sworn under  
and that the Testator died on  
or about the day of  
18 .

Be it known, that *A. B.*, late of , deceased, who died on the day of , at , and who had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, made and duly executed his last Will [*or his last Will with Codicils thereto*], and did therein name [*according to the facts*]. And be it further known that on the day of , 18 , Letters of Administration with the said Will [*and Codicils*] annexed of the personal property of the deceased were granted by this Court to *C. D.* [*insert the character in which the grant is taken*], he having been first duly sworn.

X. Y.,  
H. B. M. Consul at  
(Seal.)

---

## B 18.

*Letters of Administration (not with Will annexed).*

(General Heading.)

Sworn under  
that the Intestate died on or  
about the day of  
18 .

Be it known, that on the day of , 18 , Letters of Administration of the personal property of *A. B.*, late of , deceased, who died on the day of , 18 , at , intestate, and who had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, were granted by this Court to *C. D.*, of , the widow [*or as the case may be*] of the said intestate, she having been first duly sworn.

X. Y.  
H. B. M. Consul at  
(Seal.)

---

## B 19.

*Double Probate.*

(General Heading.)

Be it known, that on the       day of       , 18       , the last Will [with       Codicils] of *A. B.*, late of       , deceased, who died on       , at       , and who at the time of his death had his fixed place of abode at       , within the jurisdiction of this Court, was proved and registered in this Court, and that administration of his personal property, and any way concerning his Will, was granted by this Court to *C. D.*, one of the executors named in the said Will [or Codicil], he having been first duly sworn, power being reserved of making the like grant to *E. F.*, the other executor named in the said Will. And be it further known that on the       day of       , 18       , the said Will of the said deceased was also proved in this Court, and that the like administration was granted by this Court to the said *E. F.*, he having been first duly sworn.

X. Y.,

H. B. M. Consul at

(Seal.)

Former grant Jan.       , 18       under the same sum.

## B 20.

*Letters of Administration de Bonis non.*

(General Heading.)

Be it known, that *A. B.*, late of       , deceased, died on       , 18       , at       , intestate, and had at the time of his death his fixed place of abode at       , within the jurisdiction of this Court, and that since his death, namely, on the       day of       , 18       , Letters of Administration of his personal property were granted by this Court to *C. D.*, [insert the relationship or character of administrator] (which Letters of Administration now remain on record in this Court), who, after taking such administration upon him, partly administered the personal property of the deceased, and afterwards, namely, on       , died, leaving part thereof unadministered, and that on the       day of       , 18       , Letters of Administration of the personal property so left unadministered were granted by this Court to       , he having been first duly sworn.

X. Y.,

H. B. M. Consul at

(Seal.)

Sworn under  
that the Testator died on or  
about the       day of       ,  
18       .

Sworn under  
that the Testator died on or  
about the       day of       ,  
18       .

## B 21.

*Administration Bond.*

Know all men by these presents, that we, *A. B.*, of \_\_\_\_\_, *C. D.*, of \_\_\_\_\_, and *E. F.*, of \_\_\_\_\_, are jointly and severally bound unto *G. H.*, the Judge of Her Majesty's Court for \_\_\_\_\_, in the sum of \_\_\_\_\_, to be paid to the said *G. H.*, or the Judge of the said Court for the time being; for which payment we bind ourselves and each of us, for the whole, our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals. Dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

*A. B.* (L.S.)

*C. D.* (L.S.)

*E. F.* (L.S.)

The condition of the above-written obligation is such, that if the above-named *A. B.*, the intended Administrator of the personal property of *I. J.*, late of \_\_\_\_\_, deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_ [left unadministered by \_\_\_\_\_], do make a true and perfect inventory of the personal property of the deceased [or left unadministered], which has or shall come into [his] possession, or into the possession of any person for [him], and the same so made do exhibit into Her Majesty's Court at \_\_\_\_\_ whenever required by law so to do; and the same personal property, and all other the personal property of the deceased, which shall, at any time after the making and exhibition of such inventory, come into the possession of the said *A. B.*, or of any person for [him], do well and truly administer according to law; (that is to say), do pay the debts which the deceased owed at [his] death, and all the residue of the said personal property do deliver and pay to such person or persons as shall be entitled thereto under the Act of Parliament intituled "*An Act for the better settling of Intestates' Estates*," and further, do make a true and just account of [his] administration whenever lawfully required; and in case it shall hereafter appear that any Will was made by the deceased, and the executor or executors therein named do exhibit the same for probate, then if the said *A. B.*, being thereunto required, do duly render and deliver up the Letters of Administration granted to him, then this obligation shall be void, and otherwise shall remain in full force.

Signed, sealed, and delivered before this Court.

(Seal.)

## B 22.

*Administration Bond for Administrators with Will annexed.*

Know all men by these presents, that we, *A. B.*, of \_\_\_\_\_, *C. D.*, of \_\_\_\_\_, and *E. F.*, of \_\_\_\_\_, are jointly and severally bound unto *G. H.*, Her Majesty's Consul-General, in the sum of \_\_\_\_\_, to be paid to the said *G. H.* or the Consul-General for the time being, for which payment we bind ourselves and each of us, the whole, our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals. Dated the day of \_\_\_\_\_, 18 .

*A. B.* (L.S.)

*C. D.* (L.S.)

*E. F.* (L.S.)

The condition of the above-written obligation is such, that if the above-named *A. B.*, the intended Administrator with Will annexed of the personal property of *I. J.*, late of \_\_\_\_\_, deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_, do make a true and perfect inventory of the personal property of the deceased, [left unadministered by \_\_\_\_\_], which has or shall come into [his] possession, or into the possession of any person for [him], and the same so made do exhibit into Her Majesty's Court at \_\_\_\_\_ whenever required by law so to do, and the same personal property [so left unadministered], and all other the personal property of the deceased which shall at any time after the making and exhibition of such inventory come into the possession of the said *A. B.*, or of any person for [him], do well and truly administer, (that is to say) do pay the debts which the deceased owed at [his] death, and then the legacies given by the said Will annexed to the said Letters of Administration as far as such personal property will extend, and the law bind [him], and all the residue of the said personal property do deliver and pay unto such person or persons as shall be by law entitled thereto, and further do make a true and just account of [his] said administration whenever lawfully required, then this obligation shall be void, and otherwise shall remain in full force.

Signed, sealed, and delivered before this Court.

(Seal.)

## B 23.

*Declaration of the Personal Property of a Testator or an Intestate.*

(General Heading.)

A true declaration of all the personal property of *A. B.*, late of \_\_\_\_\_, deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, and

had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, which have at any time since his death come to the possession or knowledge of *C. D.*, the administrator with the Will annexed of the said *A. B.* [*or administrator, as the case may be*], made and exhibited upon and by virtue of the oath [*or solemn affirmation*] of the said *C. D.*, as follows:—

First, I declare that the deceased was at the time of his death possessed of or entitled to .. .. .

[*The details of the deceased's property must be here inserted, and the value inserted opposite to each particular.*]

Lastly, I say that no personal property of the deceased has at any time since his death come to my possession or knowledge, save as is hereinbefore set forth.

*C. D.*

On the       day of       , 18       , the said *C. D.* was duly sworn to [*or solemnly affirmed*] the truth of the above-written inventory, Before me [*person authorized to administer oaths*].

#### B 24.

#### *Justification of Sureties.*

(General Heading.)

In the matter of *A. B.*, deceased.

We, *C. D.*, of       , and *E. F.*, of       , severally make oath and say that we are the proposed sureties in the penal sum of       on behalf of *G. H.*, the intended administrator of the personal property of *A. B.*, late of       , deceased, for his faithful administration thereof; and I, the said *C. D.*, for myself make oath and say that I am, after payment of all my just debts, well and truly worth in money and effects the sum of       ; and I, the said *E. F.*, for myself make oath and say that I am, after payment of all my just debts, well and truly worth in money and effects the sum of       .

Sworn by the deponents, *C. D.* and *E. F.*, at       , } *C. D.*  
this       day of       , 18       . } *E. F.*

Before me,

X. Y.

## B 25.

*Renunciation of Probate and Administration with Will annexed.*

(General Heading.)

In the matter of *A. B.*, deceased.

Whereas *A. B.*, late of , deceased, died on the day of , 18 , at , having had at the time of his death his fixed place of abode at within the jurisdiction of this Court; and whereas he made and duly executed his last Will, dated the day of , 18 ,<sup>(1)</sup> and thereof appointed *C. D.* executor and residuary legatee in trust [*or as the case may be*]:

Now I, the said *C. D.*, do hereby declare that I have not intermeddled in the personal property of the deceased, and will not hereafter intermeddle therein, with intent to defraud creditors, and further, do hereby expressly renounce all right to probate of the said Will [and Codicils, *if any*], and to administration with the said Will [and Codicils, *if any*] annexed of the personal property of the deceased.

In witness whereof I have hereto set my hand and seal, this day of , 18 .

*C. D.* (L.S.)

Signed, sealed, and delivered by the above-named *C. D.*, in the presence of *G. H.*

<sup>(1)</sup> If there are Codicils their dates should be also inserted.

## B 26.

*Renunciation of Administration.*

(General Heading.)

Whereas *A. B.*, late of , deceased, died on the day of , 18 , at , intestate, a widower, having had at the time of his death his fixed place of abode at , within the jurisdiction of this Court: and whereas I, *C. D.*, of , am his lawful child, and his only next of kin [*or as the case may be*]:

Now I, the said *C. D.*, do hereby declare that I have not intermeddled in the personal property of the deceased, and further, do hereby expressly renounce all right to administration thereof.

In witness whereof I have hereto set my hand and seal, this day of , 18 .

*C. D.* (L.S.)

Signed, sealed, and delivered by the said *C. D.*, in the presence of *G. H.*

## B 27.

*Order to a Person to bring in a Paper purporting to be Testamentary.*

(General Heading.)

The            day of            , 18    .

To C. D., of            .

Whereas it appears by a certain affidavit filed in this Court on the day of            , 18    , and made by            , of            , that a certain original paper, being or purporting to be testamentary, namely [*here describe the paper*], bearing date the            day of            , 18    , is now in your possession or under your control.

Now this is to command you, in Her Majesty's name, that within eight days after service hereof on you, inclusive of the day of such service, you do bring into and leave in this Court the said original paper, or in case the said original paper be not in your possession or under your control, that you, within eight days after the service hereof on you, inclusive of the day of such service, do file in this Court an affidavit to that effect, and therein set forth what knowledge you have of and respecting the said paper.

(Seal.)

## B 28.

*Affidavit of Handwriting.*

(General Heading.)

In the matter of C. D., deceased.

I, A. B., of            , make oath and say I knew and was well acquainted with C. D., late of            , deceased, who died on the            day of            , at            , for many years before and down to his death, and that during that time I have frequently seen him write and sign his name, whereby I have become well acquainted with his handwriting and signature, and having now with care and attention inspected the paper writing hereunto annexed, purporting to be the last Will of the said C. D., beginning thus,            , ending thus,            , dated the            day of            , and signed thus "C. D.," I say that I believe [the whole body and contents of the said Will, together with] the signature "C. D.," thereto, to be of the handwriting of the said C. D., deceased.

A. B.

Sworn at            , this            day of            , 18    , }  
                  before me, E. F.

## B 29.

*Affidavit of Finding and Condition of Will.*

(General Heading.)

In the matter of *E. F.*, deceased.

I, *A. B.*, of \_\_\_\_\_, make oath and say that I am the sole executor named in the paper writing hereto annexed, purporting to be the last Will of *E. F.*, late of \_\_\_\_\_, deceased (who died on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, and had at his death his fixed place of abode at \_\_\_\_\_, within the jurisdiction of this Court), the said Will bearing date the \_\_\_\_\_ day of \_\_\_\_\_, beginning thus, \_\_\_\_\_, ending thus, \_\_\_\_\_, and being signed thus, "*E. F.*," and that [*here describe the finding of the Will, and the various obliterations, interlineations, erasures, and alterations (if any), and the general condition of the Will, and state any other matters requiring to be accounted for, and clearly trace the Will from the possession of the deceased in his lifetime up to the time of the making of this Affidavit*]; and I lastly say that the same paper writing is now in all respects in the same condition as when found [*or as the case may be*].

*A. B.*

Sworn at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_, }  
before me, *I. J.*

## B 30.

*Affidavit of Search.*

(General Heading.)

In the matter of *C. D.*, deceased.

I, *A. B.*, of \_\_\_\_\_, make oath and say that I am the sole executor named in the paper writing hereto annexed, purporting to be the last Will of *C. D.*, late of \_\_\_\_\_, deceased (who died on the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_, at \_\_\_\_\_, and had at the time of his death his fixed place of abode at \_\_\_\_\_, within the jurisdiction of this Court), the said Will beginning thus, "\_\_\_\_\_", ending thus, "In witness whereof I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and fifty-four" [*or as the case may be*], and being signed thus, "*C. D.*" And referring particularly to the fact that the blank spaces originally left in the said Will for the insertion of the day and the month of the date thereof have never been supplied [*or that the said Will is without date, or as the case may be*], I further say that I have made inquiry of [*E. F.*, the solicitor of the said deceased], and that I have also made diligent and careful search in all places where the said deceased usually kept his papers of



moment, in order to ascertain whether he had or had not left any other Will, but that I have been unable to discover any other Will. And I lastly say that I believe the deceased died without having left any Will, Codicil, or Testamentary Paper whatever other than the said Will by me hereinbefore deposed to.

A. B.

Sworn at , this day of , 18 , }  
before me, G. H.

---

B 31.

*Notice to Prohibit Grant of Probate or Administration.*

(General Heading.)

In the matter of A. B., deceased.

Let nothing be done in the matter of A. B., late of , deceased, who died on the day of , at , and had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, without warning being given to C. D., of , [or to E. F., of the attorney of G. H., of ].

Dated this day of , 18 .

(Signed) C. D., of , [or E. F., of , the attorney of G. H., of ].

---

B 32.

*Warning to Persons Filing Notice to Prohibit Grant.*

(General Heading.)

In the matter of A. B., late of , deceased.

To C. D., of [or to E. F., of , attorney of G. H., of ].

You are hereby warned, within six days after the service of this warning upon you, inclusive of the day of such service, to come to this Court and file therein an affidavit setting forth your [or your client's] interest in this matter; and in default of your so doing this Court will proceed to all such acts and things as shall be needful to be done in this matter.

NOTE.—This warning is issued at the instance of R. S., of , [here state what interest R. S. has, and if under a Will or Codicil state its date].

(Seal.)

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## B 33.

*List of Probates and Administration.*

Her Majesty's Court at .

The [1st] day of [August], 18[ ].

List of Probates and Administrations granted by this Court up to the  
1st day of July, 18 , and not included in any previous List.

Date of Grant.	Name in full of Deceased.	His or her Business, Profession, or other Description.	Place of his or her Death.	Time of his or her Death.	Name and Description of each Executor or Administrator taking Probate or Administration.	Value of the Personal Property.

(Signed) X. Y.,  
Her Majesty's Consul at .

(Seal.)

## PART C.—CRIMINAL.

49. *Application of Part C.*

The provisions in Part C. apply to criminal proceedings only.

50. *Charge.*

- (1.) Criminal proceedings are begun by a charge.
- (2.) The charge is made before the Consul by the person preferring it (called the prosecutor).
- (3.) The Consul makes at the time a Minute in writing of the charge, stating the name of the prosecutor, the name of the person against whom the charge is made (called the accused), and the substance of the offence. (Form C 1).

51. *Process to Compel Appearance.*

If the accused is not already in custody, his appearance is compelled by summons or by warrant according to the circumstances of the case.

*52. Summons.*

(1.) For the issuing of a summons, it is not necessary that the charge be sworn to unless in any case the Consul so requires.

(2.) A summons to compel appearance is a document under the seal of the Court in the Form C 2, or some form to the like effect. It states the substance of the charge, and names a time and place at which the accused is commanded to appear.

(3.) The summons is served by an officer of the Court.

*53. Warrant of Arrest.*

(1.) A warrant to arrest the accused is not issued in the first instance unless the charge is sworn to by the prosecutor or some other person.

(2.) If the charge is sworn to, and the procedure by way of summons appears to the Consul to be ineffective, a warrant may issue in the first instance instead of a summons.

(3.) If the accused having been in the first instance summoned fails to obey the summons, the Consul may on proof of service of the summons issue a warrant.

(4.) A warrant of arrest is a document under the Seal of the Court in the Form C 3, or some Form to the like effect, addressed to the officer of the Court. It states the name of the accused and the substance of the charge, and requires the person executing it to arrest the accused and bring him before the Court. It need not be made returnable at any particular time, and remains in force until executed.

*54. Form of Charge.*

The description of an offence in the words of any Act of Parliament under which the offence arises, or if the offence charged is one against the Africa Order then in the words of that Order, or in either case in similar words, is sufficient.

*55. Bringing Persons arrested before the Court.*

(1.) Where a person is arrested on a charge under a warrant he must, if practicable, be brought before the Court within forty-eight hours from the time of his arrest.

(2.) If in any case more than forty-eight hours elapse between the arrest of the accused and his being brought before the Consul, the fact, and the reason for the delay, must be recorded in the Minutes.

*56. Bail.*

(1.) The mode of giving bail is by recognizance binding the accused to appear as and when required. (Forms C 13, C 14.)

(2.) The recognizance is entered into by the accused with or without sureties, as the Consul thinks fit.

(3.) On the completion of the recognizance the accused is discharged from custody.

(4.) If a person out on bail fails to appear when required, the Court, in addition to forfeiting his recognizance, may, if it thinks fit, issue a warrant for his arrest. (Form C 3.)

#### 57. *Preliminary Examination.*

The object of a preliminary examination is to inquire whether there is reasonable ground for putting the accused upon his trial, and whether the attendance of the necessary witnesses at the place of trial can be secured, and to determine whether the accused ought to be removed for trial or tried in the district.

#### 58. *Procedure at Preliminary Examination.*

(1.) The preliminary examination is conducted by the Consul in the presence of the accused.

(2.) At the preliminary examination the Consul takes down in writing the evidence of the witnesses for the prosecution and of the witnesses (if any) tendered for examination by the accused, and enters it in the Minutes. The evidence of a witness when so taken down is called a deposition. (Form C 5.)

(3.) The deposition of each witness is read over to the witness as soon as his evidence is finished, and signed by him at the time.

#### 59. *Discharge of the Accused.*

If the Consul, after hearing the evidence, is of opinion that there is no reasonable ground for putting the accused on his trial, the accused, if in custody, is discharged.

#### 60. *Order for Trial.*

If the Consul considers the evidence sufficient to put the accused on his trial, he either makes an order for the removal of the accused for trial to one of the places named in Article 60 of the Africa Order in Council, 1889, or makes an order for the trial of the accused before the proper Court. In either case the order made, which is recorded in the Minutes (Forms C 6, C 7), states the charge as it appears to the Consul to be sustainable on the evidence.

#### 61. *Order for Removal of Trial.*

If an order is made for the removal of the accused for trial, the following provisions apply :—

(1.) The Consul forthwith issues a warrant of removal.

(2.) A warrant of removal for trial is a document in the Form C 16, or some similar Form, sealed with the seal of the Court, and addressed to an officer of the Court. It is issued in duplicate, and both copies are delivered to the person executing it.

(3.) Pending the execution of the warrant the Consul either admits the accused to bail, or orders him to be kept in custody. In the latter case the warrant of removal is indorsed in the Form C 16, or in some similar Form.

(4.) The Consul transmits copies, certified under his hand and under the seal of the Court, of the depositions and of the order for removal for trial to the Court before which the accused person is ordered to be tried.

#### 62. *Order for Trial before the Court.*

If an order is made for the trial of the accused before the Court of the district, the following provisions apply :—

(1.) The Consul makes a special note in the Minutes of his reasons for not removing the trial.

(2.) The Consul may bind by recognizance the prosecutor and the witnesses for the prosecution and for the defence to appear at the trial and prosecute or give evidence. (Forms C 13, C 14.)

(3.) If the prosecutor or any of the witnesses, being a British subject or under British protection, refuses to enter into such recognizance, the Court may order him to be kept in custody until the trial, unless in the meantime he enters into such recognizance. In such case the Consul issues a warrant of commitment in Form C 15, or some similar Form.

(4.) Until the trial, the Consul either admits the accused to bail or orders him to be kept in custody. In the latter case, the Consul issues a warrant of commitment in the Form C 4, or some Form to the like effect.

(5.) The accused person ordered for trial is entitled to a copy of the charge, and on payment of a sum not exceeding 6*d.* per one hundred words, or, if the Consul thinks fit, without payment, to a copy of the depositions. The Consul, when ordering the accused for trial, informs him of this provision.

(6.) The date of the trial is named in the order for trial, and the prisoner is informed of such date at the time when the order is made. Except for special reasons to be recorded in the Minutes, the date named for trial must be not later than fourteen days after the close of the preliminary examination.

#### 63. *Place of Preliminary Examination.*

The public have no right of access to the place in which a preliminary examination is held.

#### 65. *Notice to Prosecutor of Trial.*

Notice is given by the Court to the prosecutor of the time and place appointed for the trial. (Form C 8.)

**66. *Absence of Parties.***

(1.) If at the appointed time and place the prosecutor is not present the Court dismisses the charge, unless for some reason, to be recorded in the Minutes, it sees fit to adjourn the trial. (Form C 10.)

(2.) Except in the case provided for by Rule 73 (5), no charge can be heard in the absence of the accused.

**67. *Hearing.***

If at the time and place appointed for the trial, or adjourned trial, both the prosecutor and the accused are present, the Court and (if the case is tried with assessors) the assessors proceed to hear and dispose of the charge.

(1.) The substance of the charge is stated to the accused, and he is asked if he admits or denies the truth.

(2.) If he admits the truth of the charge the Court may convict him.

(3.) If he denies the truth of the charge the Court proceeds to hear the evidence.

(4.) If he asserts that he has been previously convicted or acquitted of the same charge, the Court inquires into and ascertains the truth of his answer before proceeding to hear the evidence.

(5.) If he appears to be of unsound mind the Court may from time to time make such order for his safe keeping as the Court thinks fit.

**68.**

After hearing the evidence, the Court considers the whole matter, and either convicts the accused or dismisses the charge.

**69. *Conviction and Sentence.***

In cases of conviction the Court enters on the Minutes the conviction and the sentence (if any), together with any order which the Court may make ordering the person convicted to give security for future good behaviour, or to be deported, or to pay damages or costs. (Form C 9.)

**70. *Dismissal.***

(1.) When a charge is dismissed an order of dismissal is entered on the Minutes, together with any order requiring the prosecutor to pay costs which the Court may make. (Forms C 10, C 11.)

(2.) A certificate of dismissal, sealed with the seal of the Court, is, on the application of the accused, furnished to him by the Court. (Form C 12.)

(3.) Such certificate is conclusive evidence of the dismissal of the charge, and a bar to any subsequent charge in Africa against the accused in respect of the same matter.

### 71. *Place of Trial.*

The place of trial is an open Court, and the public have a right of access thereto.

### GENERAL PROVISIONS.

#### 72. *Accused and Husband or Wife competent Witnesses.*

(1.) In all criminal proceedings, including preliminary examinations, the accused and the husband or wife of the accused are competent, but not compellable, to give evidence.

(2.) When the accused, or the husband or wife of the accused, offer themselves as witnesses, they take the oath or declaration required of witnesses, and are examined and subject to be cross-examined in the same way as ordinary witnesses.

#### 73. *Adjournment, &c.*

(1.) Where a preliminary examination or trial cannot conveniently be finished in a single day, it is resumed, if possible, on the next day, and so on from day to day (except Sundays) until it is brought to an end.

(2.) But the Court may, in the presence and hearing of the parties, and for reasons to be recorded in the Minutes, postpone or adjourn a preliminary examination or trial when and so often as justice requires, but if the accused is kept in custody no postponement or adjournment shall be for more than fourteen days.

(3.) Such postponement or adjournment must be to a stated time and place, and in the interval the Court may, in its discretion, either suffer the accused to go at large, or order him to be kept in custody, or admit him to bail.

(4.) If the accused is ordered to be kept in custody the Consul issues a warrant of commitment in the Form C 4, or some Form to the like effect.

(5.) If at the time and place to which a preliminary examination or trial has been postponed or adjourned the accused does not appear, the Court may, if it thinks fit, for reasons to be recorded in the Minutes, proceed as if the accused were present.

#### 74. *Security to be of Good Behaviour.*

When the Court requires a person to give security to keep the peace, or to be of good behaviour, a recognizance in the Form C 13, or some similar Form, may be used.

### EXECUTION.

#### 75. *Imprisonment.*

(1.) Where on a conviction the offender is sentenced to be imprisoned, the Court issues a warrant of imprisonment (Form C 19), or a warrant of removal for imprisonment. (Form C 17.)

(2.) When a warrant of removal for imprisonment is issued, the Court enters on the Minutes the grounds for issuing such warrant. The Court in such case transmits to the proper gaoler, constable, magistrate, or officer, in the place selected for the execution of the sentence, a certified copy of the conviction and sentence, and a written notice that a warrant of removal for imprisonment has been issued.

#### 76. *Deportation.*

When a person makes default in giving security to keep the peace or be of good behaviour as required by the Court, the Court may issue a warrant of deportation. (Form C 18.)

#### 77. *Payment of Money.*

(1.) Where the Court orders money to be paid by an accused person or by a prosecutor, by way of fine or damages, or for costs, the order may be enforced by seizure and sale, in the same manner as a judgment in an action for payment of money.

(2.) If after execution by seizure and sale the order remains wholly or in part unsatisfied, the Court may issue a warrant of commitment (Form C 20), committing the person who has disobeyed the order to prison, without hard labour, for a term not exceeding one month for every 20% or part thereof then unpaid, unless the money and all expenses of the commitment and conveyance to prison, the several amounts of which are specified in the warrant, are sooner paid.

(3.) Upon payment or tender by the prisoner, or some person on his behalf, of the amounts specified in the warrant, the prisoner is entitled to be discharged if he is in custody for no other matter.

#### 78. *Sale of Goods forfeited.*

(1.) When any goods smuggled or imported in contravention of Article 50 of the Africa Order in Council, 1889, or any ship, boat, cask, or case, or receptacle containing such goods, are, on conviction of the offender, declared forfeited to Her Majesty, the Consul may issue a warrant of sale. (Form C 21.)

(2.) The warrant is addressed to an officer of the Court, and authorizes and directs him to sell by public auction the goods therein named.

(3.) The officer pays the proceeds of the sale into Court, and the Court may deduct therefrom a reasonable sum for the expenses of the sale.

#### 79. *Search Warrant.*

(1.) If it is made to appear to the Consul by the oath or declaration of a credible witness that there is reasonable cause to suspect that any British subject or person under British protection has on his premises any property or thing, on or by or with respect to which



any crime or offence cognizable by the Consul has been committed, the Consul may issue a search warrant.

(2.) The information of the applicant for a search warrant is taken down in writing and signed by him. It must describe the goods, the premises on which they are suspected to be, and the grounds for the suspicion.

(3.) The search warrant is directed to an officer therein named, and he alone has authority to execute it, but in executing it he may be assisted by other persons.

(4.) The search warrant authorizes and directs the officer to search the premises therein named, and those only, for the goods therein named, and those only, and to seize and bring before the Consul any of the said goods which he there finds. The goods and premises named in the warrant are those described in the information of the applicant. (Form C 23.)

(5.) The search warrant may also authorize and direct the officer to arrest the occupier of the premises if any of the goods are there found.

(6.) If the premises are closed, and the officer, after demanding admission and showing his authority, is refused entrance, he may break open the doors.

(7.) A search warrant may not be executed in the night-time.

(8.) If it appears to the Consul that a search warrant has been applied for maliciously and without reasonable and probable cause, he may, in addition to any punishment to which the applicant may be liable for giving false evidence order him to pay damages to the occupier of the premises searched.

#### 80. *Time and Place of Execution.*

(1.) A warrant of arrest, or of commitment, or of removal, or a search warrant, may be issued or executed on Sunday.

(2.) Any summons, warrant, or Order, issued or made by a Consul in a criminal proceeding, may be executed anywhere within the limits of that Order, and every Consul is to aid in the execution thereof.

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### CRIMINAL FORMS (C.)

#### C 1.

##### *Charge.*

##### (General Heading.)

*C. D.*, of [labourer], charges that [*state the offence*].

*The Charge may be stated as follows (for instance):*

(a.) On the        day of        , at        , the above-named *A. B.* did unlawfully assault and beat the said *C. D.* [being then one of the

officers of Her Britannic Majesty's Consul at , and being then and there in the due execution of his office as such officer].

(b.) On the day of , at , the above-named *A. B.* did threaten to shoot the said *C. D.*, and that he, the said *C. D.*, believes that he is in danger of receiving bodily injury from the said *A. B.*

(c.) On the day of , at , the above-named *A. B.* did unlawfully and knowingly, by certain false pretences, obtain from the said *C. D.* the sum of in money [or a certain valuable security (namely) a banker's order for the payment of , and of the value of ], the same being the property of the said *C. D.*, with intent thereby then and there to cheat and defraud the said *C. D.* of the same.

(d.) On the day of , at , the above-named *A. B.* did feloniously forge a certain bill of exchange for payment of , with intent thereby then and there to defraud.

(e.) On the day of , at , the above-named *A. B.* did feloniously steal the sum of in money, the same being the property of the said *C. D.* (Seal.)

## C 2.

*Summons to Accused.*

(General Heading.)

To *A. B.*, of [labourer].

You have this day been charged [on oath], before this Court, for that you [*stating shortly the offence charged, as in Form C 1*].

Therefore you are hereby commanded to appear before this Court on [*Saturday next*] the day of , at [10 o'clock in the forenoon], at [ ], to answer to the said charge, and to be further dealt with according to law. (Seal.)

## C 3.

*Warrant of Arrest.*

(General Heading.)

To *X. Y.*, and other Officers of the Court.

The above-named *A. B.* is charged before this Court for that he [*stating shortly the offence charged, as in Form C 1*].

Therefore you are hereby commanded to arrest the said *A. B.*, and to bring him before this Court to answer the said charge, and to be dealt with according to law.

Dated this

(Seal.)

## C 4.

*Warrant of Commitment for Safe Custody of the Accused during an Adjournment of the Hearing, or where the Hearing is not at once proceeded with, or after an Order for Trial.*

(General Heading.)

To X. Y., Officer of this Court, and to the keeper of [ ] prison, [ ].

The hearing of the above charge is adjourned [or is ordered to take place on ], [or cannot be at once proceeded with], and it is necessary that the above-named A. B. should in the meantime be kept in safe custody.

Therefore you are hereby commanded, you, the above-named X. Y., forthwith to convey the said A. B. to the above-mentioned prison, and there deliver him to the keeper thereof, together with this warrant. And you, the keeper of the said prison, to receive the said A. B. into your custody in the said prison, and there safely keep him until the day of instant, and then to have him before this Court at [10 o'clock in the forenoon] of the same day, at [ ], to answer further to the said charge, and to be further dealt with according to law.

Dated this . day of

(Seal.)

## PRELIMINARY EXAMINATION.

## C 5.

*Deposition.*

(General Heading.)

In the presence and hearing of the above-named A. B. [accused], C. D., of , deposes on oath as follows:—

*[State the evidence as nearly as possible in the words used by the witness; let the deposition be read over to him; and then let him sign it.]*

*If the accused offers himself or his wife or husband as a witness, the deposition will begin as follows:—*

The above-named A. B. offers himself as a witness, and deposes on oath as follows [or, P. Q., the wife or husband of the said A. B., offers himself as a witness, and, in the presence and hearing of the said A. B., deposes on oath as follows]:—

## C 6.

*Order for Removal for Trial.*

(General Heading.)

The Court having heard and considered the evidence at the preliminary examination, orders that the above-named *A. B.* be removed to , there to be put on his trial before , on the following charge:—

For that he, &c. [*state charge as it appears to the Consul to be sustainable on the evidence*].

Dated this

(Seal.)

## C 7.

*Order for Trial before the Court.*

(General Heading.)

The Court having heard and considered the evidence at the preliminary examination, orders that the above-named *A. B.* be put on his trial before this Court sitting with assessors on the following charge:—

For that he, &c. [*state charge as it appears to the Consul to be sustainable on the evidence*].

And the Court orders that the said trial be held at . on .

Dated this

(Seal.)

## C 8.

*Notice to Prosecutor of Trial.*

(General Heading.)

Take notice that the above charge will be heard by this Court at , on the day of , at o'clock.

Dated this

(Seal.)

## TRIAL.

## C 9.

*Conviction and Sentence.*

(General Heading.)

The above-named *A. B.* stands convicted before the Court for that [*state offence and time and place thereof*].

Thereupon the Court sentences the said *A. B.* for his said offence

[here insert such one or more of the following paragraphs as is applicable to the case]:—

- (a.) To be imprisoned [and kept to hard labour] [or to be kept in penal servitude] for                    ;
  - (b.) To pay the sum of £                    as a fine for his said offence ;
  - (c.) To pay to C. D., the prosecutor, the sum of £                    , as damages in respect of the said offence ;
  - (d.) To pay to C. D. the sum of £                    for the costs of the said C. D. ;
  - (e.) To give security for his future good behaviour by entering forthwith [or within                    days] into a recognizance [with two sureties] in the sum of £                    ;
  - (f.) To be deported forthwith [or after the expiration of the said term of imprisonment or penal servitude, or in default of giving security within                    ] to                    .
- The said sum of                    [or several sums of                    ] are to be paid into Court on or before the                    day of                    [or forthwith].  
(Seal.)

## C 10.

*Dismissal on Non-appearance of Prosecutor.*

(General Heading.)

The prosecutor not appearing, the Court dismisses the above-mentioned charge.

(Seal.)

## C 11.

*Dismissal on Merits.*

(General Heading.)

The Court having considered the matter of the above-mentioned charge determines that the same is not proved, and dismisses it.

(Seal.)

[If prosecutor ordered to pay costs add to C 10 or C 11 :

And the Court orders that C. D., the prosecutor, do pay to the said A. B. the sum of                    for the costs of the said A. B.

The said sum is to be paid into Court on or before the                    day of                    (or                    forthwith).]

## C 12.

*Certificate of Dismissal.*

(General Heading.)

This Court hereby certifies that a charge preferred by *C. D.* against the above-named *A. B.* for that

[*State the charge as originally preferred, or as amended, or as set out in the Order for trial.*]

was this day considered and dismissed by this Court [*or was this day, the prosecutor not appearing in support thereof, dismissed by this Court.*]

Dated this            day of            .

(Seal.)

## C 13.

*Recognizance (without Sureties).*

(General Heading.)

I, the undersigned, acknowledge myself to owe our Sovereign Lady Queen Victoria the sum written opposite my signature hereto, to be raised by seizure and sale of my goods if the condition hereon indorsed is not fulfilled.

Dated this            day of            .

Signature.	Address.	Description.	Sum.
<i>A. B.</i> ..    ..			

## [Indorsement.]

The condition of the within-written recognizance is as follows:—  
[*as the case may be.*]

(a.) *Bail for Appearance of Accused.*

If the within-named *A. B.* appears before this Court on            , at            , to answer the within-mentioned charge, then the said recognizance shall be void, and otherwise it shall be in force.

(b.) *For Good Behaviour of Accused.*

If the within-named *A. B.* keeps the public peace and is of good behaviour towards all persons (and especially towards *P. Q.*) during            , then the said recognizance shall be void and otherwise it shall be in force.

(c.) *To Prosecute or give Evidence.*

If the within-named *C. D.* appears before this Court on \_\_\_\_\_, at \_\_\_\_\_, and then and there prosecutes  $\left[ \begin{array}{l} \text{and,} \\ \text{or,} \end{array} \right\}$  gives evidence on] the within-mentioned charge, then the said recognizance shall be void, and otherwise it shall be in force.

## C 14.

*Recognizance (with Sureties).*

## (General Heading.)

We, the Undersigned, severally acknowledge ourselves to owe to our Sovereign Lady Queen Victoria the sums set opposite our respective signatures, hereto to be raised by seizure and sale of our several goods if the condition hereon indorsed is not fulfilled.

Dated this \_\_\_\_\_.

Signatures.	Addresses.	Description.	Sums.
<i>A. B.</i> .. ..			
<i>L. M.</i> .. ..			
<i>N. O.</i> .. ..			

(Indorsement as in C 13.)

## C 15.

*Warrant of Commitment for Refusal to enter into Recognizance.*

## (General Heading.)

To *X. Y.*, Officer of this Court, and to the Keeper of the [ ] Prison at [ ].

*E. F.*, of [labourer], being now examined as a witness before this Court concerning the above-mentioned charge, and being required to enter into a recognizance to give evidence concerning the same on the trial thereof [*or as the case may be*] refuses to do so.

Therefore, you are hereby commanded, you, *X. Y.*, to take the said *E. F.* and convey him to the above-mentioned prison, and there deliver him to the keeper thereof, with this warrant;

And you, the keeper of that prison, to receive the said *E. F.* into your custody there, and to keep him there safely until after the trial of the said charge, unless he, in the meantime, consents to enter into such recognizance as aforesaid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

(Seal.)

## WARRANTS.

## C 16.

*Warrant of Removal for Trial.*

(General Heading.)

To X. Y., and other Officers of the Court.

This Court having ordered that the above-named *A. B.* be removed for trial to , there to be put on his trial before [*the Supreme Court of Sierra Leone, or as the case may be*].

You are hereby commanded, with proper assistance, to convey the said *A. B.* to , and there deliver him to the proper gaoler, constable, magistrate, or other officer of the said Supreme Court, together with this warrant, or the duplicate thereof.

(Seal.)

[*Indorsement of Committal where Removal cannot be at once effected.*]

To X. Y., Officer of the Court.

The execution of the within warrant cannot be at once proceeded with.

Therefore, you are hereby commanded to receive the within-named *A. B.* into your custody, and there safely keep him until you are able to execute the within warrant.

(Seal.)

## C 17.

*Warrant of Removal for Imprisonment.*

(General Heading.)

To X. Y., and other Officers of the Court.

The above-named *A. B.* having been on the       day of convicted before this Court for that [*state offence*].

The Court did thereupon sentence the said *A. B.* for his said offence to be imprisoned for       [*with hard labour*].

You are therefore hereby commanded, with proper assistance, to convey the said *A. B.* to [       ], that the said sentence may there be carried into effect, and you are there to deliver him to the magistrate, gaoler, or other officer to whom it may appertain, to give effect to any sentence passed by the Supreme Court there exercising criminal jurisdiction, together with this warrant or a duplicate thereof.

(Seal.)

[*Indorsement of Committal pending removal (if necessary) as in Form C 16.*]



C 18.

*Warrant of Deportation.*

(General Heading, in cases where deportation is ordered on conviction.)

To X. Y., and other Officers of the Court.

A. B., of , having been on ordered by this Court to be deported from the district of the Court to .

You are therefore hereby commanded, with proper assistance, to remove the said A. B., and to convey him to , and there to discharge him from your custody.

(Seal.)

C 19.

*Warrant of Imprisonment.*

(General Heading.)

To X. Y., Officer of this Court, and to the Keeper of the Prison at .

The above-named A. B. is sentenced by this Court to be imprisoned [and to be kept to hard labour] for from this day.

Therefore you are hereby commanded, you, X. Y., to convey the said A. B. to the above-mentioned prison, and there deliver him to the keeper thereof, with this warrant.

And you, the keeper of that prison, to receive the said A. B. into your custody, there and then to imprison him [and keep him to hard labour] for the time aforesaid.

Dated this .

(Seal.)

C 20.

*Warrant of Imprisonment, where Order for Payment not satisfied by Seizure and Sale.*

(General Heading.)

To X. Y., Officer of this Court, and to the Keeper of the Prison at .

At the hearing of the above-mentioned charge the above-named A. B. [or C. D., the prosecutor] was ordered by the Court to pay the sum of £ , of which sum £ [or the whole of which sum] after execution remains unpaid.

You are therefore hereby commanded, you, X. Y., to convey the within-named A. B. [or C. D.] to the prison at [ ], and there deliver him to the keeper thereof with this warrant.

And you the keeper of that prison, to receive the said A. B. [or

N.

N

*C. D.*] into your custody there, and there to imprison him without hard labour for [*forty days*] from the date of this warrant, unless the said sum of [£        ], with the further sum of [£        ], as and for the expenses of the intended execution of the said warrant and of his commitment, and of the conveying of him to prison, is sooner paid.

Dated this        day of        , 18    .

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C 21.

*Warrant for Sale of Goods forfeited.*

(General Heading.)

To X. Y., Officer of the Court.

The Court having, in pursuance of the Africa Order, 1889, on the conviction of the above-named *A. B.* on the above-mentioned charge, declared forfeited to Her Majesty Queen Victoria the following goods :

[*Set out list of goods.*]

You are hereby commanded to forthwith seize the said goods and to sell the same at a convenient time and place by public auction, and forthwith after the execution of this warrant, you are to return the same to the Court, with the place, time and mode of execution indorsed thereon, and with the proceeds of such sale.

Dated this        .

(Seal.)

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C 22.

*Information to ground Search Warrant.*

(Heading.)

In Her Britannic Majesty's Consular Court for the district of  
Held at        , under the Africa Order in Council, 1889.

Criminal Jurisdiction.

*C. D.*, of        , on his oath [*or having made the declaration allowed by        of the General Rules of Procedure*] complains that on the following goods of the value of        , viz. :

[*Describe goods.*]

were unlawfully carried away from        to        by some person or persons unknown, and that he has reasonable cause to suspect, and does suspect, that those goods, or some of them, are concealed in the premises [*describe them*] occupied by *A. B.*, of        ; for he, the said *C. D.*, says that

[*State grounds for suspicion that goods are there.*]

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## C 23.

*Search Warrant.*

(Heading as in C 22.)

To X. Y., an Officer of this Court.

C. D., of , has this day made information on oath before this Court that [*copy from information (Form ) down to for he*].

And it appears to this Court that [according to reasonable suspicion] the said goods, or some of them, are concealed as aforesaid.

You are therefore hereby authorized and commanded, with proper assistance, by day or night [*or in case of reasonable suspicion only, in the day time*] to enter the said [*dwelling house*] of the said A. B., and there to diligently search for the said goods, and if the same, or any thereof, are found on search, to bring the goods so found [and also the said A. B.] before this Court, to be dealt with according to law.

(Seal.)

## APPENDIX II.

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**The Africa Order in Council, 1892.**

*Windsor, 28th June, 1892.*

At the Court at Windsor, the 28th day of June, 1892.

Present,

The QUEEN'S Most Excellent Majesty.

Lord President.

Lord Steward.

Secretary Lord Knutsford.

WHEREAS by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in the parts of Africa mentioned in "The Africa Order in Council, 1889";

And whereas by the General Act of the Conference of Berlin signed in 1885, the several Powers who were parties thereto (in this Order referred to as the Signatory Powers) declared, with respect to occupations in Africa by any of the Signatory Powers, that the establishment of authority in protected territories was an obligation resting upon the respective protecting Powers;

And whereas, in order to the due fulfilment of the said obligation as respects territories and places, within the limits of the above-mentioned Order, which Her Majesty shall have declared to be under the protection of Her Majesty, it is necessary that the subjects of the Signatory Powers, other than Her Majesty, should be justiciable under the said Order in like manner as British subjects, and for this purpose that the provisions of the said Order referring to British subjects should, as far as practicable, be extended to the subjects of those Powers;

And whereas it is expedient that the powers conferred upon a Secretary of State by "The Africa Order in Council, 1889," should be extended so as to provide for the application to territories and places within the limits of that Order, of such Acts and enactments for the time being in force in British India as may be deemed necessary for the due administration of justice:

Now, therefore, Her Majesty, by virtue and in exercise of the powers by "The Foreign Jurisdiction Act, 1890," or otherwise, in Her Majesty vested, is pleased, by and with the advice of her Privy Council, to order, and it is hereby ordered, as follows:—

1. In this Order the expression "foreigners to whom this Order applies" means subjects of any of the Signatory Powers (except Her Majesty) or of any other Power which has consented that its subjects shall be justiciable under the Africa Order in Council, 1889, and this Order.

Other expressions, defined in the Africa Order in Council, 1889, and used in this Order, have the same meaning.

2. Where Her Majesty has declared any territory or place within the limits of the Africa Order in Council, 1889, to be a Protectorate of Her Majesty, the provisions of that Order having reference to British subjects, except Part XIV. thereof, shall extend in like manner to foreigners to whom this Order applies, and all such foreigners shall be justiciable by the Courts constituted by the said Order for the Protectorate, under the same conditions as British subjects, and to the extent of the jurisdiction vested by law in those Courts; and Part XII. and so much of the rest of the Order as requires the consent of any foreigner as a condition of the exercise of jurisdiction shall be of no force or effect in the Protectorate, so far as respects foreigners to whom this Order applies.

3. A Secretary of State may, from time to time, by order published in such manner as he directs, declare that any Act or enactment for the time being in force in British India or any Presidency thereof, and not inconsistent with the Africa Order in Council, 1889, and this Order, shall have effect and be administered in relation to any place or places within the limits of any local jurisdiction with such modifications or adaptations as may be necessary, and thereupon such Acts or enactments, as so modified and adapted, shall have effect in accordance with such order as if they had been applied by the said Order.

4. This Order may be cited as "The Africa Order in Council, 1892." The Africa Order in Council, 1889, and this Order may together be cited as "The Africa Orders in Council, 1889 and 1892."

And the Most Honourable the Marquis of Salisbury, K.G., and the Right Honourable Viscount Cross, G.C.B., two of Her Majesty's Principal Secretaries of State, are to give the necessary directions herein, as to them may respectively appertain.

C. L. PREL.

## APPENDIX III.

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**The Africa Order in Council, 1893.**

At the Court at Windsor, the 17th day of July, 1893.

Present,

The QUEEN's Most Excellent Majesty.

Lord President.

Lord Steward.

Marquis of Ripon.

Sir Edmund Monson.

WHEREAS by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has jurisdiction in the parts of Africa mentioned in "The Africa Order in Council, 1889":

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890," or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as "The Africa Order in Council, 1893," and shall be construed as one with "The Africa Order in Council, 1889" (herein referred to as the principal Order).

2. Natives of any Protectorate of Her Majesty which is outside any local jurisdiction constituted under the principal Order, shall, when within that local jurisdiction, be deemed to be British-protected persons within the meaning of that Order.

3. The expression "Treaty," which is defined in Article three of the principal Order, shall be deemed to extend to any Treaty, Convention, or International Agreement to which Her Majesty is or may hereafter be a party, whether any State, Government, King, Chief, people, or tribe having power or authority in any local jurisdiction constituted under the principal Order is or is not a party thereto.

C. L. PEEL.

## APPENDIX IV.

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### **The Niger Coast Protectorate.**

#### **MEDICAL AND SANITARY REGULATIONS, 1894.**

1. These Regulations may be cited as "The Niger Coast Protectorate Medical and Sanitary Regulations, 1894."

2. In these Regulations, unless the context otherwise requires—"The Commissioner" means Her Majesty's Commissioner and Consul-General for the Niger Coast Protectorate, or any person for the time being administering the government of that Protectorate.

"Medical Officer" includes Principal Medical Officer, and every Assistant and District Medical Officer.

"Rules" mean Rules made under these Regulations.

#### *I.—Constitution of the Medical and Sanitary Staff.*

3. The Commissioner may appoint a Principal Medical Officer, and such Assistant and District Medical Officers, Sanitary Inspectors, and other officers as he may deem necessary for carrying these Regulations into effect, and may remove any officer so appointed. All persons now holding appointments in the Medical and Sanitary Departments, and all persons who shall be hereafter appointed under these Regulations, shall be subject to these Regulations and any Rules that may be made under them.

4. Every Medical Officer must be registered as a duly qualified practitioner under the Medical Acts in force in the United Kingdom at the time of his appointment.

5. The Commissioner may make such Rules, under and consistent with these Regulations, as may appear necessary for giving effect to the purposes of these Regulations.

#### *II.—The Principal Medical Officer.*

6. The Principal Medical Officer of the Protectorate, subject to the orders and directions of the Commissioner, shall have the

supervision, direction, and general superintendence of all District Medical Officers and their subordinates, and of all prisons, hospitals, and quarantine stations; and shall be responsible for all medical arrangements and sanitary duties within the Protectorate. The Principal Medical Officer shall submit to the Commissioner such Reports and Returns as may be required by the Rules, or as in particular cases may be required by the Commissioner.

7. The Principal Medical Officer may suspend any subordinate, below the rank of District Medical Officer, for neglect of duty or wilful disobedience of orders, pending the decision of the Commissioner.

8. The Principal Medical Officer shall have the right to board any vessel or vessels within the Protectorate at any time he may consider necessary for the discharge of his duty.

### III.—*District Medical Officers.*

9. Every District Medical Officer shall, subject to the Rules, be under the sole control of the Principal Medical Officer in all matters affecting the Medical and Sanitary Departments.

10. Each District Medical Officer shall send to the Principal Medical Officer such periodical or special Reports and Returns as may be prescribed by the Rules, or as may in particular cases be required by the Principal Medical Officer.

11. In the case of an outbreak of small-pox or other highly contagious or infectious disease, the following provisions shall apply:—

“(a.) Every occupier or master of a house shall report at once to the District Medical Officer any outbreak of small-pox or other contagious or infectious disease which may occur amongst any of the family or servants; and any occupier or master of a house who conceals the existence of the said disease, or wilfully neglects to report the same, is liable to a penalty not exceeding 10*l.*, or imprisonment not exceeding fourteen days.

“(b.) On a case being reported to the Medical Officer, or its coming to his knowledge that any such case has occurred, he shall at once give instructions for the immediate removal of every infected person or persons to some suitable place as may be determined on, and the said occupier or master, under the supervision of the Medical Officer, shall be responsible for the removal.

“(c.) The District Medical Officer shall at once inform the Vice-Consul of the existence of the case of small-pox or any other



highly contagious or infectious disease, and shall be responsible for the selection of a suitable site for the erection of huts for the isolation and treatment of the patients.

“(d.) On the removal of an infected person from any house, such house is to be thoroughly disinfected. The necessary cleansing and disinfection of the house is to be carried out by the occupiers under the directions of the District Medical Officer.

“(e.) If the Medical Officer ascertains, or has reason to suspect, the existence in any house of a case of small-pox not previously notified, he shall at once make an inspection of the said house, and any person or persons wilfully obstructing him in the exercise of his duty shall be liable to a penalty not exceeding 10*l.*, or imprisonment not exceeding fourteen days.

“(f.) In the event of an outbreak of small-pox, all inmates of premises in which the disease occurs shall be liable to undergo compulsory vaccination, or such isolation as the Medical Officer may deem necessary.

“(g.) After an epidemic has subsided the hut or huts in which the infected person or persons have been treated are to be burnt; in case of its being a permanent building, it must be thoroughly disinfected and whitewashed.

“(h.) In the event of any person or persons becoming infected or dying from cholera, yellow fever, small-pox, or other contagious or infectious disease, the premises in which they reside, or have resided, are to be thoroughly disinfected and cleansed, and all bedding and clothes in use by the infected person or persons at the time are to be burnt or otherwise destroyed.

“(i.) If the Medical Officer should deem it necessary, he may cause the infected premises to be isolated for the space of forty-eight hours, or such other period as he may consider sufficient to carry out the necessary disinfection. During the said isolation no person or persons shall be allowed to have any communication with the infected premises, nor shall the occupant of the infected premises be allowed to leave during the period of isolation.”

#### IV.—*Burial-grounds.*

12. The following Regulations shall apply to burials required to take place in a public burial-ground:—

“(1.) Every public burial-ground shall be under the supervision of the District Medical Officer, who shall see that they are kept in a thorough state of repair.

"(2.) All deaths occurring are to be reported within twelve hours to the District Medical Officer of the district. If a medical man has been in attendance, a medical certificate as to the cause of death shall be required.

"(3.) All burials are to take place within twenty-four hours of the death of the person or persons, except in the case of any infectious or contagious disease, in which case the burial shall take place as soon as possible.

"(4.) All intended interments must be notified to the District Medical Officer of the district.

"(5.) All burials shall be carried out under the direct supervision of the Sanitary Inspector or other person duly authorized by the District Medical Officer, who shall see that the grave is dug to a proper depth, &c., and a fee of 2s. 6d. will be charged for his services.

"(6.) All allotments and burial orders are to be obtained from the District Medical Officer.

"No burial is to take place without an order.

"(7.) Any person not complying with the above Regulations is liable to a fine not exceeding 10*l.*, or imprisonment, with or without hard labour, for a period not exceeding fourteen days.

"(8.) The above Regulations shall apply to all burials required to take place in a public burial-ground."

#### V.—*Sanitary Inspectors.*

13. Each Sanitary Inspector shall be under the immediate control of the District Medical Officer, and shall have power to enter and inspect all dwelling-houses and other buildings and premises, so as to enable him to examine their sanitary condition.

14. He shall also carry out and obey any order or orders which the Vice-Consul of the district, acting on the report of the Medical Officer, may consider necessary from time to time to promulgate in order to insure the health and sanitary condition of his district.

15. If the Sanitary Inspector finds any premises to be in such an insanitary condition as to be prejudicial to health, he shall forthwith report the matter to the Medical Officer; and if on inspection of the premises the Medical Officer is satisfied that the drains, privies, or surroundings are not in a sanitary condition, and therefore injurious to the public health, he shall notify the same to the occupier or occupiers of the said premises, and require him or

them to carry out such order as he shall deem necessary to the requirements of the case within a stated period. Any person not carrying out such order shall be liable to a penalty not exceeding 10*l.*, or fourteen days' imprisonment, with hard labour.

16. Every Sanitary Inspector shall perform such duties of inspection and reporting as may be required by the Rules, or as may in special cases be required by the District Medical Officer or Vice-Consul.

17. He shall also personally superintend, under the instructions of the District Medical Officer, all burials, and see that they are carried out in accordance with the provisions of these Regulations.

#### VI.—*Medical Officers of Ports.*

18. The District Medical Officer shall also be the Medical Officer of the port at which he is stationed, and shall have power to board any vessel within the Protectorate at any time he may consider necessary for the discharge of his duty.

19.—“(1.) The master of any vessel arriving at any port of the Niger Coast Protectorate, having on board a case or cases of any contagious or infectious disease, such as cholera, yellow fever, or small-pox, or arriving from an infected port, or having had a death or deaths on board since leaving the last port resulting from any such disease, shall, before bringing his ship to anchor, hoist the Commercial Code Signal Q, and keep the same flying until he is visited by the Medical Officer of the port.

“During the time that the vessel remains in quarantine the master of the said vessel shall cause to be hoisted the Commercial Code Signal Q, and no person may leave the vessel or have any communication with the shore or with any vessel or vessels which have been granted free pratique.

“(2.) Any master of a vessel giving false reports or concealing from the proper authorities the existence of any of the aforesaid diseases on board, or wilfully neglecting or refusing to obey or carry out the above Regulations, shall be guilty of an offence, and shall be liable to a fine not exceeding 100*l.*, or three months' imprisonment.”

20. The Medical Officer of a port may impose any quarantine he may think fit to meet the requirements of the case, and shall as soon as possible report the matter to the Principal Medical Officer.

21. On no account is pratique to be granted to any vessel whose papers, bills of health, &c., are not in order.

22. Certificates of health shall be issued by the Medical Officer of each port to the Chief Officer of Customs.

23. In the event of any vessel having to call at more than one port in the Niger Coast Protectorate, it shall not be necessary to issue a fresh bill of health from each port. The bill of health issued at the first port of entry will be sufficient if indorsed by the Medical Officer or Vice-Consul of each subsequent port.

24. All vessels entering any port of the Protectorate shall be subject to the sanitary laws of the port.

## APPENDIX V.

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INSTRUCTIONS FOR THE GUIDANCE OF HER MAJESTY'S  
CONSULAR OFFICERS IN GIVING EFFECT TO "THE AFRICA  
ORDER IN COUNCIL, 1889."

1. All previous instructions under this Order are hereby revoked, and the present instructions are substituted for them.

2. Article 5. The following are hereby constituted local jurisdictions for the purposes of this Order :—

- (1.) The Oil River Protectorate.
- (2.) The Congo Free State.
- (3.) The British sphere on the East Coast of Africa, exclusive of the dominions of His Highness the Sultan of Zanzibar.
- (4.) The British sphere north of the Zambesi.

3. Article 9. Madagascar, with its dependencies and territorial waters, is constituted a local jurisdiction under this Article. The other local jurisdictions, for the present constituted, are indicated above.

4. Article 15. No declaration under this Article as to the application of Colonial Laws or Ordinances appears to be necessary at present; but Her Majesty's Consular officers should report upon the subject, making any recommendations they may think needful.

5. Articles 18, 61, 78, 79, 80, and 91. A collection of the following Acts alluded to in the Order is annexed for information and guidance (Appendix A) :—

- 1 & 2 Geo. IV. cap. 28.
- 24 & 25 Vict., cap. 31.
- 34 & 35 Vict., cap. 8.
- 26 & 27 Vict., cap. 35.
- 36 & 37 Vict., cap. 59.
- 42 & 43 Vict., cap. 38.

50 & 51 Vict., cap. 54.

"The Foreign Jurisdiction Act, 1843" (repealed).

"The Foreign Jurisdiction Act, 1890."

"The Admiralty Offences (Colonial) Act, 1849."

"The Admiralty Offences (Colonial) Act, 1860."

"The Merchant Shipping Act, 1867," section 11.

"The Fugitive Offenders Act, 1881."

"The Colonial Prisoners Removal Act, 1884."

"The Evidence Act, 1851," sections 7 and 11.

"The Foreign Tribunals Evidence Act, 1856."

"The Evidence by Commission Act, 1859."

"The Evidence by Commission Act, 1885."

"The British Law Ascertainment Act, 1859."

"The Foreign Law Ascertainment Act, 1861."

6. Article 19. A seal should be adopted for each Court.

7. Article 21. The following are hereby constituted Courts of Appeal from the Courts of the respective local jurisdictions hereinbefore constituted, viz.:—

(1.) For the Oil River Protectorate the Court of Appeal shall be the Supreme Court of the Colony of Lagos.

(2.) For the Congo Free State the Court of Appeal shall be the Supreme Court of the Gold Coast Colony.

(3.) For the British sphere on the East Coast of Africa, exclusive of the dominions of His Highness the Sultan of Zanzibar, the Court of Appeal shall be the Supreme Court of Bombay.

(4.) For the British sphere north of the Zambesi the Court of Appeal shall be the Supreme Court of the Colony of the Cape of Good Hope.

(5.) For Madagascar the Court of Appeal shall be the Supreme Court of the Colony of Mauritius.

8. Article 55. A collection of the following Acts and Orders in Council respecting copyright, trade-marks, &c., and merchandize marks, is annexed (Appendix B):—

5 & 6 Vict., cap. 45. Copyright, 1842.

49 & 50 Vict., cap. 33. „ 1886.

46 & 47 Vict., cap. 57. Patents, &c., 1883.

48 & 49 Vict., cap. 63. „ 1885.

49 & 50 Vict., cap. 37. „ 1886.

51 & 52 Vict., cap. 50. „ 1888.

50 & 51 Vict., cap. 28. Merchandize Marks, 1887.

*Orders in Council.*

June 26, 1884. Patents, &c.  
January 27, 1885.       "  
September 17, 1885.   "  
July 12, 1887.       "  
November 17, 1888.   "  
May 28, 1889.       "  
May 28, 1889.       "  
November 28, 1887. Copyright.  
August 10, 1888.       "  
October 15, 1889.       "

These should be published at the Consular Court in conformity with proviso (1) of this Article.

9. Articles 95 and 96. Rules of Procedure are annexed to the Order in Council. Any fresh Rules which may be required from time to time should be framed by the Consular officer under these Articles, and submitted for the approval of Her Majesty's Secretary of State. When so approved they should be exhibited in each Court and Consulate, as provided in Article 97.

10. Article 96. Annexed is a scale of fees to be adopted under the Order. (Appendix C.)

11. Article 99. Queen's Regulations under this Article, as they are required from time to time, may be framed by the Consular officer, so far as necessary in his particular jurisdiction, and submitted for the approval of Her Majesty's Secretary of State. When so approved, they should be exhibited in each Court and Consulate.

12. Article 102. Under this Article, the officer exercising judicial powers under the Order should order the deportation to be made to such place as may appear to him most convenient, due regard being had to the place of birth or domicile of the person to be deported. No deportation should be made to the Cape Colony or Natal without the previous consent of the Governments of those Colonies.

13. The expenses of deportation, which may be defrayed by the officer, should be accounted for to Her Majesty's Secretary of State.

It is the desire of Her Majesty's Government that expenses incurred under this Order on account of persons born or domiciled in British Colonies or possessions abroad should, when not paid by the persons themselves, be, so far as practicable, defrayed by the

Governments of the Colonies or possessions to which the persons belong.

Officers administering the Order should bear this desire in mind in determining, not merely the place of deportation, but that of the trial and punishment of the persons in question.

14. Article 108. All fees, fines, &c., levied under the Order, should be accounted for to Her Majesty's Secretary of State.

15. Article 113. The West Africa Order in Council, 1885, and the Order in Council for Madagascar, 1869, are repealed from the commencement of this Order.

16. Article 115. Attention is directed to this section as to the time of commencement of the Order.

17. Article 116. Fifty copies of the Order have been supplied for the use of the Consular officer of each local jurisdiction.

One copy must be exhibited in each Consular Court.

Copies may be sold to the public at the price of 5s. each, and the Consular officer should apply to Her Majesty's Secretary of State for any further supply of copies which may at any time be required.

(Signed) SALISBURY.

Foreign Office, July 31, 1891.

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APPENDICES (A) and (B).

Collections of Acts and Orders in Council.



## APPENDIX VI.

## SCALE OF FEES.

<i>Service.</i>	£	s.	d.
For service of summons, petition, answer, motion-paper, notice, warrant, decree, order, or other document on a party, witness, juror, assessor, or other person under any branch whatever of the civil jurisdiction—			
Within one mile (English) of Court .....	0	2	6
Beyond, for every further complete mile .....	0	1	0
<i>Decision of Questions without formal Suit.</i>			
On summons for issue or special case .....	1	0	0
On issue or special case .....	0	10	0
On hearing .....	1	0	0
<i>Summary Procedure for Administration of Property of Deceased Persons.</i>			
On summons .....	1	0	0
On order .....	1	0	0
<i>Summary Orders before Suit.</i>			
On application for order .....	0	10	0
On recognizance .....	0	10	0
On order .....	0	5	0
<i>Bankruptcy and Liquidation by Arrangement or Composition.</i>			
On declaration by a debtor of inability to pay his debts....	0	5	0
On debtor's summons .....	0	5	0
On bankruptcy petition .....	5	0	0
On petition for arrangement or composition .....	1	0	0
On order for adjudication.....	1	0	0
On meeting or adjournment of meeting.....	1	0	0
On special resolution presented to the Registrar for registration.....	$\left\{ \begin{array}{l} \frac{1}{2} \text{ per cent. on the gross amount} \\ \text{of the assets, not exceeding} \\ \text{a total fee of 200}l. \end{array} \right.$		
On extraordinary resolution presented to the Registrar for registration..	$\left\{ \begin{array}{l} \frac{1}{2} \text{ per cent. on the gross amount} \\ \text{of composition, not exceeding} \\ \text{a total fee of 200}l. \end{array} \right.$		
On order of discharge .....	2	0	0
N.		0	

	£	s.	d.
On notice to creditors, each .....	0	0	3
On preparing advertisement.....	0	5	0
On execution of warrant .....	1	0	0
On keeping possession, per diem .....	0	10	0
On inventory, per diem.....	1	0	0

*Probate and Administration.*

On application for probate or administration.....	1	0	0
On oath for every executor, and administrator, and surety ..	0	10	0
On every security .....	1	0	0
On probate or letters of administration with will annexed .....	The like sum as is for the time being payable in England for stamp duty in like cases, not exceeding a total fee of 100 <i>l</i> .		
On letters of administration without will annexed .....	The like sum as is for the time being payable in England for stamp duty in like cases, not exceeding a total fee of 150 <i>l</i> .		
Where the Court appoints as administrator an officer of the Court ....	In addition to the foregoing, 1 per cent. on the value of the estate and effects, not exceeding (with the foregoing) a total fee of 200 <i>l</i> .		
	£	s.	d.
On filing account .....	0	10	0
On passing account .....	1	0	0

*Ordinary Suits.*

In every suit of any kind whatever, other than such as are before specified—

	On Summons or Petition.	On Hearing.
Where amount involved is—	£ s. d.	£ s. d.
Under 10 <i>l</i> . ....	0 2 6	0 2 6
10 <i>l</i> . and under 20 <i>l</i> . ....	0 2 6	0 5 0
20 <i>l</i> . and under 50 <i>l</i> . ....	0 7 6	0 10 0
50 <i>l</i> . or upwards .....	<div style="display: flex; justify-content: space-between;"> <div> <i>½</i> per cent. on amount involved, not exceeding a total fee of 25<i>l</i>. </div> <div> <i>½</i> per cent. on amount involved, not exceeding a total fee of 25<i>l</i>. </div> </div>	
Where judicial relief or assistance is sought, but not the recovery of money .....	1 0 0	1 0 0

SCALE OF FEES.

195

	£	s.	d.
On every summons, motion, application, or demand, taken out, made, or filed (not particularly charged) .....	0	5	0
On every rule .....	0	10	0
On every decree or order (not particularly charged) .....	0	2	6
On motion for new trial after trial with a jury .....	1	0	0
On order for adjournment of hearing rendered necessary by default of either party (to be paid by that party) .....	0	7	6
On every warrant of execution against goods—			
For less than 50l. ....	0	5	0
For 50l. or upwards .....	1	0	0
For keeping possession, per diem .....	0	10	0

*Appeal to Supreme Consular Court.*

On motion for leave to appeal .....	0	10	0
On every security .....	0	10	0
On order for leave to appeal .....	1	0	0

	On Petition or Motion.	On Hearing.
	£ s. d.	£ s. d.
On appeal against adjudication of bankruptcy .....	5 0 0	2 0 0
On appeal against allowance, suspension, or refusal of order of discharge in bankruptcy ..	5 0 0	2 0 0
On appeal where judicial relief or assistance is sought, but not the recovery of money ..	2 0 0	2 0 0
On any appeal other than such as are before specified ....	$\frac{1}{2}$ per cent. on amount involved, not exceeding a total fee of 25l.	$\frac{1}{2}$ per cent. on amount involved, not exceeding a total fee of 25l.

*Appeal to Her Majesty in Council.*

	£	s.	d.
On motion for leave to appeal .....	2	0	0
On every security .....	2	0	0
On order for leave to appeal .....	5	0	0
On record of appeal (including expense of trans- mission) .....	Such sum as the Court directs.		

*Miscellaneous.*

	£	s.	d.
On taxation of any bill of costs, for every ten folios, from each party to the taxation .....	0	5	0
On every deposition taken before trial .....	0	10	0
On balances of estates of deceased persons paid { 2½ per cent. on into Court otherwise than in a suit ..... } amount.			
On deposit or registration of bill of sale, will, deed of partnership, or other document .....	1	0	0
On notice of bill of sale filed .....	1	0	0
For taking inventory, per diem .....	1	0	0
For protest of a bill of exchange, and copy .....	1	0	0
For noting a bill of exchange .....	0	5	0
For copy of such notation .....	0	2	6
For taking an affidavit .....	0	5	0
For every exhibit .....	0	2	6
For drawing a will—			
If not exceeding 200 words .....	1	0	0
If exceeding that number, for every subsequent 100 words or fraction thereof .....	0	5	0
For filing any document whatever .....	0	5	0
For certifying signature or seal .....	0	5	0
For attendance at a sale—			
At request of parties interested or of local authorities, if absent less than two hours .....	2	0	0
At request of parties interested, for each additional hour or fraction thereof, 10s., with a maximum per day of .....	4	0	0
On reference to the archives .....	0	2	6
For certified copy of document in the archives—			
For first 100 words .....	0	2	6
For every further 100 words .....	0	1	0
For preparing contracts between travellers and persons in their employment or other persons .....	0	10	0
For certified copy of such documents—			
For first 100 words .....	0	2	6
For every further 100 words .....	0	1	0
For an official certified translation of any document—			
For first 100 words .....	0	10	0
For every further 100 words .....	0	5	0
For communication between two Consular Courts .....	0	10	0
For communication in writing to a foreign Consulate, or to local authority .....	0	10	0

SCALE OF FEES.

197

	£	s.	d.
For attendance of Consular officer at local office or Tribunal—			
Where amount involved is—			
Under 250 <i>l.</i> . . . . .	0	10	0
250 <i>l.</i> , and under 500 <i>l.</i> . . . . .	1	0	0
500 <i>l.</i> , and under 1,000 <i>l.</i> . . . . .	2	0	0
1,000 <i>l.</i> and upwards . . . . .	$\left\{ \begin{array}{l} \frac{1}{2} \text{ per cent. on amount involved,} \\ \text{not exceeding a total fee of} \\ 50l. \end{array} \right.$		
For attendance of Interpreter at Con- sular Court, if required by a party in a suit . . . . .	$\left\{ \begin{array}{l} \text{Such sum as the Court directs,} \\ \text{not exceeding 3l. per diem.} \end{array} \right.$		

*Criminal Matters.*

On every summons or warrant, unless specially directed by the Court to be issued . . . . .	0	2	6
On hearing in summary case . . . . .	0	2	6
On warrant of commitment . . . . .	0	1	6
On recognizance . . . . .	0	1	0
For service of notice on each juror or assessor . . . . .	0	2	6
On trial with a jury . . . . .	0	10	0
On record of sentence on a trial with a jury . . . . .	0	10	0

## APPENDIX VII.

## TABLE OF CUSTOMS DUTIES.

(1st October, 1894.)

	<i>s.</i>	<i>d.</i>
On Wine, Ale, Porter, and Beer of every sort, the Case of one dozen old Wine Bottles, or part thereof .....	0	6
On Brandy, Rum, Gin, Liqueurs, and Miscellaneous Spirits or Strong Waters, not being sweetened or mixed with any article, so that the degree of strength cannot be ascertained by Sykes' Hydrometer, where the degree of strength does not exceed proof. For each Imperial Gallon, or part thereof .....	1	0
And for every degree or part of a degree overproof, an additional duty the Imperial Gallon, or part thereof....	0	1
On Brandy, Gin, Rum, Liqueurs, and Miscellaneous Spirits or Strong Waters, these being sweetened or so mixed that the degree of strength cannot be ascertained as aforesaid. On each Imperial Gallon, or part thereof ..	1	0
On Unmanufactured Tobacco. The Pound, or part thereof..	0	2
On Gunpowder. The Pound, or part thereof.....	0	2
On Salt. Per Ton, or part thereof .....	4	0
On Lead, in any form. The Pound, or part thereof.....	0	1
On Flint-Lock Trade Guns, known as "Danes." Each ....	1	0

*Exemptions.*

All Goods imported with the sanction of the Consul-General for the service of any Public Department of the Protectorate.

Customs Duties will be paid in British currency, or one half by approved drafts on Banks in Great Britain, the other half in currency.

*Table of Prohibitions and Restrictions.*

- (a.) The following Goods are absolutely prohibited to be imported :—  
Coin, viz., false money, or counterfeit sterling.  
Coin; silver of the Realm, or any money purporting to be such, not being of the established standard in weight or fineness.  
Indecent or obscene prints, paintings, photographs, books, cards, lithographs, or other engravings, or any other indecent or obscene articles.
- (b.) The following Goods are prohibited to be imported, except subject to the restrictions on importation herein contained :—  
Infected cattle, sheep, or other animals, and hides, skins, horns, hoofs, or any other part of cattle, or other animals, which the Commissioner may, by Order in Council, prohibit in order to prevent any contagious distemper.  
Provisions, meat, and vegetables unfit for human food, which shall be destroyed or otherwise disposed of, as the Commissioner may direct.  
Machine guns, breech-loading rifles, cannons, smooth bore cap guns, magazine guns, revolvers, and their cartridges, bullets, caps, shot, or other ammunition: Provided that the Commissioner may by licence authorize any person to import and possess within the jurisdiction, for the purposes of sport or personal protection, any specified arms or ammunition.

## APPENDIX VIII.



THE following notices as to Provisional Boundaries were issued in 1894 :—

**Western Boundary.**

“Between Lagos and the Niger Coast Protectorate the line of demarcation commences on the seashore 10 miles to the north-west of the Benin River, and runs parallel to that river at a distance of 10 miles from it until it reaches the Lagos Creek. From that point it follows the boundary of the Benin country, which is included within the Niger Coast Protectorate.”

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**Eastern Boundary.**

(Extract from the Agreement, signed at Berlin, April 14, 1893, between Great Britain and Germany respecting the Rio del Rey.)

(1) “The point named in Section 2, Article IV. of the Anglo-German Agreement of July 1st, 1890, as the head or upper end of the Rio del Rey Creek shall be the point at the North-west end of the island lying to the west of Oron, where the two waterways, named Urufian and Ikankan, on the German Admiralty Chart of 1889-90 meet.

(2) “From this upper end of the Rio del Rey to the sea, that is to say, to the promontory marked West Huk on the above-mentioned chart, the right bank of the Rio del Rey waterway shall be the boundary between the Niger Coast Protectorate and the Colony of the Cameroons.

(3) “The German Colonial Administration engages not to allow any trade-settlements to exist or be erected on the right bank of the Rio del Rey Creek or waterway. In like manner the administration of the Niger Coast Protectorate engages not to allow any trade-settlements to exist or be erected on the western bank of the Backasay (Bakassey) Peninsula from the first creek below Archibong's (Arsibon's) village to the sea, and eastwards from this bank to the Rio del Rey waterway.”



**Western Boundary of the Territories of the Royal Niger Company.**

"On the west of the Niger River the boundary line starts at the middle of the mouth of the Forcados River, follows that river midway to the mouth of the Warri Creek, and follows that creek midway up to a point  $2\frac{1}{2}$  miles below the mouth of the creek leading to Oagbi and Akiabodo. From that point the line runs to the north-east for 10 miles, and thence due north for 50 miles. The line is drawn subject to modification by further delimitation, according to local requirements.

"The Royal Niger Company have agreed that their revenue-hulk in the Warri Creek shall be moored not less than 1 mile above the point on the creek where the line of delimitation ends."

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**Eastern Boundary of the Territories of the Royal Niger Company.**

"On the east of the Nun mouth of the Niger River the boundary is formed by a straight line commencing at a point midway between the Nun mouth and the mouth of the Brass River, and terminating at the town of Idu, it being understood that the line shall, if necessary, be diverted so as to secure to the Niger Coast Protectorate a zone of not less than 3 miles to the westward of the stream marked on Mr. Johnston's Map as forming a direct communication between Brass and Idu, and to secure to the Niger Company a zone of not less than 3 miles to the eastward of the main stream of the Niger. This line is subject to modification on further delimitation according to local requirements.

"It is to be understood that Idu is, until further arrangements shall be made, under the joint administration of the Royal Niger Company and the Niger Coast Protectorate. Natives belonging to either Protectorate resident in Idu will be dealt with by the administration of the Protectorate to which they belong. Natives of Idu will be under joint jurisdiction by arrangement between the two administrations."

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