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SCHEDULE.

CHAPTER 7.

COURTS.

An Ordinance to consolidate and amend the law relating to the Constitution of the Supreme Court and Magistrates' Courts of Sierra Leone and the Administration of Justice therein.

[1ST JANUARY, 1946.]

7 of 1945.
 3 of 1946.
 31 of 1946.
 7 of 1947.
 16 of 1952.
 11 of 1953.
 11 of 1955.
 4 of 1956.
 5 of 1957.
 31 of 1959.

Short title.

1. This Ordinance may be cited as the Courts Ordinance and shall apply to the Colony and the Protectorate.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—
 “ Judge ” includes the Chief Justice;

“ Master ” means the Master and Registrar of the Supreme Court and includes the Assistant Master or other person lawfully performing the duties of Master and Registrar.

PART I.—THE SUPREME COURT.

THE CONSTITUTION OF THE SUPREME COURT.

Constitution of Supreme Court and precedence of Judges.
 31 of 1959.

3. (1) There shall be constituted a court to be called the Supreme Court of Sierra Leone which shall be a superior court of record and shall consist of the Chief Justice and one or more Puisne Judges, and also of the Chief Justice of the Supreme Court of the Gambia; and the Chief Justice of the Supreme Court of the Gambia shall be a Puisne Judge of the Supreme Court of Sierra Leone.

(2) The Supreme Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of Chief Justice or of any Puisne Judge thereof.

(3) Any Judge of the Supreme Court may, subject to the provisions of this Ordinance and to any other Ordinance and any Rules of Court, exercise all or any part of the jurisdiction, civil and criminal, original, summary or appellate vested by this or any other Ordinance in the court.

(4) The Chief Justice shall be President of the Supreme Court and the Chief Justice of the Gambia shall rank next to him. The other Puisne Judges shall rank next amongst themselves according to the priority of their respective appointments; and as amongst themselves acting Puisne Judges shall rank in accordance with the seniority belonging to them respectively by virtue of their substantive or former appointments. When two or more Puisne Judges have been appointed on the same day, as amongst themselves such Puisne Judges shall rank as the Governor, in his discretion after consultation with the Chief Justice, may determine.

4. The Chief Justice and the Puisne Judges shall be appointed by Letters Patent under the Public Seal of the Colony by the Governor, in accordance with such instructions as he may receive from Her Majesty:

Appointment
of Chief
Justice and
Puisne
Judges.

Provided that no person shall be appointed to be a Judge of the Supreme Court unless—

(i) he is qualified to practise as an advocate in a court in England, Scotland, Northern Ireland or some other part of Her Majesty's dominions having unlimited jurisdiction either in civil or criminal matters; and

(ii) he has been qualified for not less than five years to practise as an advocate or a solicitor in such a court.

5. (1) Whenever the office of any Judge becomes vacant, by death or otherwise, it shall be lawful for the Governor to appoint a fit and proper person to fill such office until Her Majesty's pleasure be known, and in the case of the temporary absence from duty of any Judge owing to illness or any other cause or the temporary absence of any Judge on duty outside Sierra Leone, or whenever any Judge is temporarily officiating in a capacity other than that appertaining to his substantive office, it shall be lawful for the Governor to appoint a fit and proper person to fill the office of such Judge until he resumes the duties thereof.

How
vacancy in
judicial office
to be filled.

16 of 1952.

(2) If any person appointed by the Governor under this section to fill the office of judge dies or becomes incapable of performing the duties of such office, the Governor may appoint

another fit and proper person to fill such office until Her Majesty's pleasure be known or until such Judge resumes the duties thereof, as the case may be.

(3) Any person appointed under this section to fill the office of the Chief Justice or of a Puisne Judge shall have all the powers and shall perform all the duties conferred or imposed upon the Chief Justice or upon a Puisne Judge, as the case may be.

(4) The Governor may at any time terminate any appointment made under this section, notwithstanding that the office in respect of which it was made continues to be vacant or that the Judge in respect of whose office it was made has not resumed the duties of such office; and such termination shall be without prejudice to the appointment of the same or any other fit and proper person to fill such office in accordance with the provisions of this section.

Appointment
of a
temporary
Judge.

4 of 1956.

Cap. 169.

Sittings of
Supreme
Court.

6. (1) Notwithstanding the provisions of section 4 and without derogating from the powers of the Governor under section 5, the Governor, on the application of the Chief Justice, may from time to time appoint any fit and proper person to exercise temporarily the powers of a Judge for such period as the Governor may direct. Such person, while holding such appointment, shall have all the powers, authority and jurisdiction of a Judge.

(2) For the purposes of the Official Oaths Ordinance such person shall be deemed to be a Puisne Judge.

7. (1) Sessions of the Supreme Court shall be held in Freetown at such times as may be prescribed by or under rules of court and shall be held in such other places in the Colony and Protectorate and at such times as the Chief Justice shall appoint by notice in the *Gazette*.

(2) The Supreme Court shall be open throughout the year for the transaction of general legal business therein, and any Judge may, at any time, hear and determine any civil cause or matter pending in the court upon such notice to the parties and otherwise as shall seem just and reasonable:

Provided that during the vacation no such cause or matter shall be heard or determined unless all the parties thereto consent or the Court, for good and sufficient reasons to be recorded in the minutes of the proceedings, shall so direct.

31 of 1959.

(3) The Chief Justice may by order published in the *Gazette* divide Sierra Leone into judicial divisions and allocate to each

division such of the business of the court as may seem fit, and may appoint registrars, deputy registrars and assistant registrars for the divisions and confer and impose upon them such powers and duties as he shall see fit:

Provided that no registrar or deputy or assistant registrar shall have power to give or make a final judgment or order.

8. When and so often as any vacancy shall occur in the office of Master by death, resignation or otherwise, it shall be lawful for the Governor to nominate and appoint some fit and proper person to fill such vacant office, such person being an admitted barrister and solicitor of the Supreme Court, or a barrister, advocate, solicitor or law agent of one of the Superior Courts in England, Scotland, Northern Ireland or the Republic of Ireland:

Appointment
of Master.

Provided that the Governor, if he thinks fit, may, with the approval of the Secretary of State, nominate and appoint a person not possessing any of the above-recited qualifications.

9. The duties of the Master shall be—

Duties of
Master.

(a) to perform all such acts as he may be required by law to do and such acts as he may be required by a Judge to do;

(b) to tax all bills of costs submitted for taxation or referred to him by the Supreme Court or a Judge thereof;

(c) subject to rules of court to receive applications for and to seal probate and letters of administration in all cases where the right to such grant is not contested.

In the performance of his duties the Master shall have power to administer oaths and to take solemn affirmations and declarations in lieu of oath.

10. The Court shall have and use, as occasion may require, a seal bearing the device and impression of the Royal Arms with the inscription "Supreme Court of Sierra Leone."

Seal of Court.

JURISDICTION OF SUPREME COURT.

11. In addition to the jurisdiction conferred by this or any other Ordinance, the Supreme Court shall, within Sierra Leone and subject as in this Ordinance mentioned, possess and exercise all the jurisdiction, powers and authorities, which are vested in or capable of being exercised by Her Majesty's High Court of Justice in England:

Jurisdiction
of Supreme
Court to be
that of High
Court of
Justice in
England.

31 of 1959.

*

Provided that the Admiralty jurisdiction and authority of the Supreme Court shall be exercised by virtue and in pursuance of the provisions of the Colonial Courts of Admiralty Act, 1890, or any other Act of the Imperial Parliament:

Provided further that nothing in this Ordinance shall be deemed to invest the Court with jurisdiction in regard to—

(a) any question arising exclusively between natives—

(i) involving title to land situate within the Protectorate, or

(ii) relating to marriage or divorce by native customary law or any matrimonial claim founded on such a marriage, or

(iii) where the claim or matter in dispute does not exceed fifty pounds in value, or

(b) the administration of estates of deceased persons who are natives where such estates lie within the jurisdiction of any native court, or to oust the jurisdiction of any native court in such matters.

Practice and
procedure.

12. The jurisdiction conferred upon the Supreme Court by this Ordinance shall in respect of civil matters be exercised in the manner provided by this Ordinance and by such rules and orders of Court as may be made pursuant to this Ordinance and in criminal matters in the manner provided by the Criminal Procedure Ordinance, or by any Ordinance by which such Ordinance is replaced.

Cap. 39.

Authority as
regards
lunatics.

13. The Supreme Court shall have all and singular the powers and authorities of the Lord High Chancellor of England, with full liberty to appoint and control guardians of infants and their estates, and also keepers of the persons and estates of idiots, lunatics, and such as being of unsound mind are unable to govern themselves and their property.

TRIAL OF CASES.

Criminal
trials in
Colony.

14. (1) Any person charged with a criminal offence at any sessions of the Supreme Court held in the Colony shall—

(a) if such criminal offence is punishable by death, be tried by the Court with a jury consisting of twelve men, and

(b) if such criminal offence is not punishable by death, be tried by the Court with a jury consisting of twelve men, unless—

* The Colonial Courts of Admiralty Act, 1890, is printed in the last volume of this Edition.

(i) such person shall have elected to be tried by the Court with the aid of assessors; or

(ii) the Court shall have ordered such person to be tried by the Court with the aid of assessors in accordance with the Jurors and Assessors Ordinance.

Cap. 38.

(2) In every such excepted case such person shall be tried by the Court with the aid of assessors, under the provisions of the Jurors and Assessors Ordinance, or any Ordinance substituted for the same, instead of being tried by a Judge and jury.

15. (1) In criminal proceedings before the Supreme Court at any sessions held in the Protectorate the Supreme Court shall, subject as hereinafter provided, be assisted by two or more assessors who shall be selected by the Judge and may be summoned or directed by him to aid the Court accordingly, and,

Criminal trials in Protectorate.

(a) if the accused and the person who is, or was, primarily affected by the alleged offence are both natives such assessors shall be natives; or

(b) if the accused and the person who is, or was, primarily affected by the alleged offence are both non-natives such assessors shall be non-natives; or

(c) if the accused is a native and the person who is, or was primarily affected by the alleged offence, is a non-native, or such person is a native and the accused is a non-native, such assessors shall consist of natives and non-natives of equal number;

(d) if, in the case of a joint trial of several accused, one or more of the accused are non-natives and the other or others are natives such assessors shall consist of natives and non-natives of equal number:

Provided that if competent non-natives, who are required for the purpose of assisting the Court as aforesaid, are, in the opinion of the Court, not available, the Judge shall proceed to hear and determine the case without assistance.

(2) The opinion of each assessor in any such criminal proceedings shall be given orally and shall be recorded in writing by the Judge, but the decision shall be vested exclusively in the Judge, who shall record in writing the reasons for his decision.

31 of 1946.
7 of 1947.

16. Where any person stands committed to the Supreme Court for trial and such person is either—

(a) a non-native charged with a capital offence, or

(b) a native charged with the murder of a non-native, the trial shall be held in the Colony.

Trials of non-native or of native charged with murder of non-native to be in Colony.

Trial of civil causes and matters.

17. In any civil cause or matter before the Court, when the parties shall have joined issue on any question of fact, the trial of such issue or issues shall be before the Court constituted by a Judge sitting alone or with assessors as hereinafter provided; and the decision of the Court in every civil cause or matter so tried shall be of the same effect as the verdict of a jury, and shall be the judgment of the Court.

Assessors in civil cases.

18. The Supreme Court may, in any civil cause or matter summon two or more natives, who shall be selected by the Judge after consultation with the District Commissioner, to aid the Court as Assessors in deciding matters of native law and custom, but the decision shall be vested exclusively in the presiding Judge.

Effect of absence of assessors on proceedings in a trial with their assistance.

19. (1) If, in the course of any civil or criminal trial held in the Protectorate with the aid of two or more natives or two or more non-natives, at any time prior to the finding, any native or non-native, as the case may be, shall from any sufficient cause be prevented from attending throughout the trial, the trial shall proceed with the aid of the remaining non-natives or non-native, as the case may be.

(2) If, in the course of such a trial as is mentioned in sub-section (1), all the natives or non-natives, as the case may be, are from any sufficient cause prevented from attending throughout the trial, or if, in any case under paragraph (c) of sub-section (1) of section 15, either one or more natives or one or more non-natives is or are so prevented from attending throughout the trial, the proceedings in every such case shall be stayed and a new trial held.

ASSESSORS.

Penalty on assessors absent without excuse.

20. (1) Any native or non-native selected and summoned under section 15 or section 18 who shall not, without reasonable excuse (the burden of proof whereof shall rest on him), duly attend and be present at the time and place specified in such summons, and at all times appointed by the Court for adjournments, shall be guilty of a contempt of court and liable to a fine not exceeding twenty-five pounds.

Enforcement of penalty.

(2) Such punishment may be inflicted summarily on an order to that effect by the Court, and any fine imposed shall be recoverable by distress and sale of the goods and chattels of the person fined, by warrant of distress to be signed by the Master and Registrar of the Court, which warrant shall be issued by him, without further order of the Court, if the amount of the

fine is not paid within six days of being imposed, if imposed in the presence of the person fined, or within six days of its having come to his knowledge by notice or otherwise that the fine has been imposed, if imposed in his absence. In default of the recovery of the fine by such distress and sale, the person fined may be imprisoned for the space of twenty-one days, if the fine be not sooner paid:



Provided that it shall be lawful for the Court, if it shall think fit, to remit or reduce any fine so imposed.

(3) In cases where any person is so fined in his absence, the Master and Registrar shall forthwith send him a written notice of the fact, requiring him to pay the fine or to show cause within such time as the Court shall fix for not paying the same.

Notice to
persons fined
in absence.

21. (1) The Supreme Court may in any cause or matter make such allowances to assessors to cover the expenses of their attendance as it may deem reasonable.

Allowances
to assessors.

(2) In civil causes or matters such allowances shall be paid by the successful party and shall be recoverable from the unsuccessful party as ordinary costs of suit unless the Court shall otherwise order. In criminal causes or matters such allowances shall be paid out of the general revenue of Sierra Leone.

(3) No execution shall issue under any judgment in any civil cause or matter until all allowances made by the Court to any assessor or assessors in such cause or matter shall have been paid, unless the Court shall otherwise order.

APPEALS FROM AND TO SUPREME COURT.

22. Appeals from the decisions of the Supreme Court shall lie to and be heard and determined by the West African Court of Appeal in accordance with the West African Court of Appeal (Civil Cases) Ordinance, and the West African Court of Appeal (Criminal Cases) Ordinance.

Appeals from
Supreme
Court.

Cap. 14.

Cap. 15.

23. The Supreme Court shall have jurisdiction to hear and determine all appeals from the Magistrates' Courts in accordance with the provisions of the Appeals from Magistrates' Courts Ordinance, and any other Ordinance or Rules of Court conferring appellate jurisdiction or regulating the procedure of appeals to the Supreme Court.

Appeals to
Supreme
Court.

Cap. 16.

RULES OF COURT.

24. There shall be a Rules of Court Committee consisting of the Chief Justice, who shall be chairman, the Puisne Judge, the

Power to
make rules.

Attorney General and two barristers and solicitors appointed by the Governor.

The Rules of Court Committee shall be deemed to be duly constituted when not less than three members (two of whom shall be the Chief Justice and the Attorney General) are present at any meeting of the Committee and may make rules of court for the following purposes—

(a) regulating and prescribing the procedure (including the method of pleading) and the practice to be followed in all civil causes or matters whatsoever in or with respect to which the Supreme Court has jurisdiction, and any matters incidental to or relating to such procedure or practice, including the manner in which and the time within which any application may be made to the Court;

(b) regulating and prescribing the procedure and practice to be followed on the application for and grant of probate and letters of administration in contentious and non-contentious matters, the filing of accounts by executors and administrators to whom a grant of administration has been made by the Court within such period as may be provided and prescribing penalties not exceeding a fine of fifty pounds for failure to comply with any such rule;

(c) regulating the manner in which bills of costs are to be taxed by the Master and any matter relating to the costs of proceedings and the allowance of witnesses in any proceedings in the Supreme Court;

(d) prescribing the fees to be paid in any proceedings in the Supreme Court or to be paid to Commissioners for Oaths in respect of the administration of oaths;

(e) prescribing the sittings and vacations of the Supreme Court in its criminal and civil jurisdiction and of the matters consequential thereto;

(f) providing for the hearing during vacation of all such applications as may require to be immediately or promptly dealt with;

(g) transferring of causes and matters from one district, area, or place to another or from a Magistrate's Court to the Supreme Court;

(h) prescribing forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of the Supreme Court;

(i) providing for the establishment of District Registries and for the appointment and jurisdiction of District Registrars,

31 of 1946.

3 of 1946.

and for the areas in which such District Registrars shall exercise their jurisdiction.

(2) Rules of court made under this section shall come into force upon publication in the *Gazette* or from the date named therein and shall be laid before the House of Representatives at the first meeting thereof after such publication.

(3) All rules made under this section shall apply to all proceedings by or against the Crown or any department of Government unless otherwise expressly provided therein.

(4) The present practice and procedure of the Supreme Court shall continue and be in force and shall apply to the Colony and the Protectorate but may be varied or added to or declared to cease to be in operation by rules of court made under this section.

COMMISSIONERS FOR OATHS.

25. (1) The Chief Justice may, from time to time, appoint such persons, resident in Sierra Leone, as to him shall seem fit, Commissioners for Oaths, and may cancel any such appointment as he shall see fit; and every affidavit sworn before any Commissioner in the course of any action, suit or other proceeding pending in any Court, shall be as effectual, to all intents and purposes, as if such affidavit had been sworn before any Judge of the Court.

Commis-
sioners for
Oaths.

(2) Every such Commissioner for Oaths shall be entitled to administer oaths and to charge and take such fees for the performance of this duty as may be prescribed by rules of court.

(3) All persons appointed Commissioners for Oaths and holding office at the date of the coming into force of this Ordinance shall be deemed to have been appointed under this Ordinance.

PART II.—THE MAGISTRATES' COURTS.

26. (1) The areas of the Colony described in the Schedule hereto are hereby constituted Judicial Districts to be known as the Headquarters Judicial District, the Police District of Freetown and the Sherbro Judicial District, respectively.

Judicial
Districts.

(2) Each of the areas of the Protectorate declared to be a District for the purposes of the Protectorate Ordinance is hereby declared to be a Judicial District.

*
Cap. 60.

* These areas are set out in Schedule B of the Protectorate (Administrative Divisions) Order in Council (P.N. 66 of 1955) which is printed in the appropriate volume of subsidiary legislation.

Constitution
of Magis-
trates'
Courts.

27. There shall be and are hereby constituted Courts of Record subordinate to the Supreme Court to be known as Magistrates' Courts in and for each Judicial District.

Appointment
and
jurisdiction of
Police
Magistrates
ex-officio
Magistrates
and Court
officers.
16 of 1952.

28. (1) The Governor may appoint any fit and proper person to be a Police Magistrate, and every Police Magistrate so appointed shall have jurisdiction as a Magistrate throughout Sierra Leone and may be assigned to any Judicial District or transferred from one Judicial District to another by the Chief Justice and any Police Magistrate so assigned or transferred shall exercise jurisdiction as a Magistrate of the Magistrate's Court constituted in and for such Judicial District.

(2) Notwithstanding the provisions of sub-section (3), sub-section (4), sub-section (5) and sub-section (6) of this section, the Governor may direct that any Police Magistrate assigned or transferred to any Judicial District as aforesaid shall exercise jurisdiction therein in substitution for any Magistrate having jurisdiction therein by virtue of any of the provisions of such sub-sections.

(3) In addition to the jurisdiction conferred by sub-section (4) and sub-section (5) of this section, the Provincial Commissioner, South-western Province, the District Commissioner, Bonthe District and all other administrative officers assigned to the Bonthe District shall have jurisdiction as Magistrates in the Sherbro Judicial District.

(4) The Provincial Commissioner in charge of a province of the Protectorate shall have jurisdiction as a Magistrate in all the Judicial Districts of such province.

(5) The District Commissioner in administrative charge of a Judicial District and all administrative officers subordinate to him shall have jurisdiction as Magistrates in such Judicial District.

(6) The Governor may appoint any fit and proper person to officiate temporarily—

(a) as a Police Magistrate, or

(b) as a Magistrate of any Magistrate's Court for the purpose of enquiring into or hearing and determining any specified matter or matters within the jurisdiction of such Court,

and any person so appointed shall have all the powers and shall perform all the duties of a Police Magistrate, or of a Magistrate in respect of such specified matter or matters, as the case may be.

(7) If any Magistrate is unable from illness or any other sufficient cause to perform the duties of his office, such duties may be performed during the continuance of such inability by two or more Justices of the Peace.

(8) The Governor may appoint, for each Magistrate's Court, a fit and proper person to be the Clerk of the Court and such assistant clerks, bailiffs and other officers as he may deem necessary, and the Clerk of the Court and any assistant clerks, bailiffs or other officers so appointed shall be under the immediate direction and control of the Magistrate of such Court.

(9) Every Magistrate shall be *ex-officio* Coroner in and for the Judicial District in which he exercises jurisdiction as a Magistrate.

29. (1) The Criminal Procedure Ordinance shall apply to the Magistrates' Courts in the exercise of their criminal jurisdiction.

Criminal
Jurisdiction.
Cap. 39.

(2) In addition to any other civil jurisdiction which may be conferred upon Magistrates' Courts by any other Ordinance, every such Court shall have jurisdiction to hear and determine—

Jurisdiction
in civil cases.
31 of 1959.

(a) In the Colony: Any cause or matter other than an action founded upon libel, slander, false imprisonment, malicious prosecution, seduction or breach of promise for marriage, which may be lawfully brought before it and wherein the claim, debt, duty or matter in dispute does not exceed two hundred pounds in value, whether on balance of account or otherwise;

(b) In the Protectorate: Any cause or matter other than an action founded upon libel, slander, false imprisonment, malicious prosecution, seduction or breach of promise for marriage, where such cause or matter is between—

(i) non-natives, or

(ii) a native and a non-native, or

(iii) a native and the holder of a trading licence although a native and arises out of the latter's trading, wherein the claim, debt, duty or matter in dispute does not exceed two hundred pounds in value, whether on balance of account or otherwise, or, in claims for the recovery of possession, other than those under the Summary Ejectment (Protectorate) Ordinance, where the annual rental value of the property leased does not exceed one hundred pounds and the term of the lease does not exceed ten years.

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(3) No cause or matter which is within the civil jurisdiction of Magistrates' Courts or of the combined Courts established

Cap. 8.

under the Native Courts Ordinance, and to which one of the parties is a non-native, shall be instituted in any other Court.

Jurisdiction
of the
Magistrates'
Courts.
31 of 1959.

30. (1) Subject to the provisions of section 29 every Magistrate's Court shall have jurisdiction to do all lawful acts necessary to inquire into and dispose of or to hear and determine all civil and criminal matters arising within the district, area or place in and for which it is established, or transferred to it by the Supreme Court, and such jurisdiction shall be exercised by the Magistrate or Magistrates duly appointed to such Court:

Provided that—

(a) the jurisdiction conferred by this section may be exercised in the Sherbro Judicial District by any Magistrate exercising jurisdiction therein, in respect of any civil or criminal matter arising in the Bonthe Judicial District;

(b) the jurisdiction conferred by this section may, subject to any order made by the Supreme Court, be exercised in the Police District of Freetown by any Magistrate exercising jurisdiction therein, in respect of any civil or criminal matter arising within the area of the Lungi Airport in the Port Loko Judicial District, if the Magistrate is of the opinion that to hear the case in Freetown will tend to the general convenience of the parties or witnesses.

(2) Where in consequence of an inquiry held in the Sherbro Judicial District or Police District of Freetown any person is committed for trial to the Supreme Court for an offence committed in the Bonthe Judicial District or within the area of the Lungi Airport in the Port Loko Judicial District respectively, the provisions of Part I of this Ordinance relating to trials in the Protectorate shall apply to the proceedings before the Supreme Court.

(3) A Magistrate's Court may by summons require any person to attend and give evidence and any such summons may be served upon any person at any place within Sierra Leone. Where any such summons is served upon a person at a place not within the jurisdiction of the Magistrate's Court and the person so served shall not appear in obedience thereto, the Court may transmit a certificate of the default to the Court having jurisdiction in the place where such person is residing, and the last-mentioned Court shall thereupon proceed against such person as if the summons had been issued by itself.

Amendment
of Schedule.

31. The Governor may by order amend the Schedule to this Ordinance either by deleting, varying or adding to the par-

particulars contained therein in such manner as he may think necessary.

32. (1) Magistrates' Courts shall be held at such places and times as the Governor may direct. Notification of any such direction shall be published in the *Gazette*. Sittings of Court.

(2) In the absence of any such directions by the Governor Magistrates' Courts shall be held at the principal Government Stations in the districts or areas in which they are established:

Provided that should the presiding Magistrate deem it necessary in any case the Court may be held at any other time or place within the limits of its jurisdiction.

33. The Supreme Court may of its own motion or on the application of the presiding Magistrate or of any party to the proceedings on cause shown transfer— Power to Supreme Court to transfer cases.

(a) any matter pending before a Magistrate's Court in its civil jurisdiction to the Supreme Court or to another Magistrate's Court for hearing and determination there, and

(b) any proceedings before a Magistrate's Court in its criminal jurisdiction to any other Magistrate's Court for hearing and determination there.

34. Magistrates' Courts may in any trial held in the Protectorate call in the assistance of one or more persons to aid them as assessors in deciding matters of native law and custom, but the decision shall be vested exclusively in the presiding Magistrate. Power to call in assessors.

35. (1) The Rules of Court Committee established by section 24 may make rules of court— Power to make rules.

(a) regulating the practice and procedure in the Magistrates' Courts in civil matters;

(b) prescribing the fees to be charged in the Magistrates' Courts in civil matters;

(c) regulating the manner in which bills of costs are to be taxed by the Magistrate and any matter relating to the costs of proceedings and the allowance of witnesses in any proceedings in the Magistrates' Courts; 31 of 1959.

(d) providing for the submission to the Supreme Court of returns and records of proceedings in Magistrates' Courts;

(e) generally for carrying out the provisions of this Ordinance as regards the civil jurisdiction of Magistrates' Courts.

(2) Rules of court made under this section shall come into force upon publication in the *Gazette* or from the date named therein and shall be laid before the House of Representatives at the first meeting thereof after such publication.

(3) All rules made under this section shall apply to all proceedings by or against the Crown or any department of Government unless otherwise expressly provided therein.

PART III.—JUSTICES OF THE PEACE.

Appointment
and removal
of Justices.*

36. (1) The Governor may by order appoint any fit and proper person to be a Justice of the Peace for Sierra Leone or for any district or districts in Sierra Leone.

(2) The Governor may in like manner for such cause as may appear to him sufficient, remove any Justice of the Peace from his office.

PART IV.—GENERAL.

Certain laws
of England
to be in force
in Sierra
Leone.

37. Subject to the provisions of this and any other Ordinance, the common law, the doctrines of equity, and the statutes of general application in force in England on the 1st day of January, 1880, shall be in force in Sierra Leone.

Application
of native
laws and
customs by
Courts in the
Protectorate
in civil
matters.

38. Nothing in this Ordinance shall deprive the Supreme Court and the Magistrates' Courts, when determining matters arising in the Protectorate in their civil jurisdiction, of the right to observe and enforce the observance of, or shall deprive any person of the benefit of, any law or custom existing in the Protectorate and not being repugnant to natural justice, equity and good conscience, nor incompatible, either directly or by necessary implication, with any Ordinance applying to the Protectorate. Such native customary law shall, except where the circumstances, nature or justice of the case shall otherwise require, be deemed applicable in all causes and matters where the parties thereto are natives, and also in causes and matters between natives and non-natives where it shall appear to the Court that substantial injustice would be done to any party by a strict adherence to the rules of any law other than native customary law:

Provided that no party shall be entitled to claim the benefit of any local law or custom if it shall appear either from the express contract, or from the nature of the transaction out of which any cause or matter may have arisen that such party

* The Governor has delegated his powers under section 36 to the Deputy Governor (P.N. 3 of 1959).

agreed that his obligations in connection with such transactions should be regulated exclusively by English law; and in cases where no express rule is applicable to any matter in controversy, the Court shall be governed by the principles of justice, equity and good conscience.

39. No Judge, Magistrate, or other person acting judicially shall be liable to be sued in any civil court for any act done by him within the territorial limits of his jurisdiction in the discharge of his judicial duty, or for any order made by him in the discharge of such duty, whether or not within the limits of his jurisdiction, nor shall any order for costs be made against him, provided that he at the time in good faith believed himself to have jurisdiction to do or order the act complained of; and no officer of any court or other person bound to execute the lawful warrants or orders of any Judge, Magistrate, or other person acting judicially shall be liable to be sued in any civil court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.

Protection of
Judicial
Officers.

40. The language of all Courts established under this Ordinance shall be English.

Language of
Courts.

THE SCHEDULE.

(a) The Headquarters Judicial District.

All that area comprising the places and territories lying within the following limits, viz.:—From the point where the railway bridge crosses the Orugu River, down the right bank of that river to its junction with the Bunce River, thence along the left bank of the Bunce River to its junction with the Madonkia Creek, thence up the Madonkia Creek to a point shown on the map as Captain's Wharf, thence in an easterly direction along the line of boundary stones (between the Chiefdom of Kwaia and the Colony) to the head of the Songo Creek, otherwise known as the Kagbai River, thence down the right bank of the Songo Creek to its confluence with the Ribbi River, and down the right bank of that river to Yawri Bay, thence following the coast line in a south-westerly direction to Kent, thence following the coast line to Adonkia Creek, thence up the left bank of the Adonkia Creek to a point where the creek is crossed by the main road leading from Hamilton to Adonkia, and from that point in a straight line to where the railway bridge crosses the Orugu River; including also the Banana Islands, and all such islands and islets as are adjacent to the coast line from the mouth of the Ribbi River to the mouth of the Adonkia Creek.

(b) The Police District of Freetown.

All that part of the Colony which is bounded on the north and north-east by the Rokel River and Bunce Creek, on the west by the Atlantic

Ocean, on the south by the Adonkia Creek and a line drawn in an easterly direction from its source, leaving the Sugar Loaf to the left, to the southern most point in the dividing boundary of the Parishes of Saint John and Saint Thomas, and on the east by a line drawn from the last-named point to the Bassa Brook and thence along Bassa Brook and Hastings Creek to Bunce Creek aforesaid, together with Tasso Island.

(c) The Sherbro Judicial District.

All that area comprising:—

(1) York Island and the small islands adjacent thereto.

(2) That portion of the Sherbro Island which is bounded by the Sherbro River, by the Bendu water until it effects its junction with the Alipori Creek, by the Alipori Creek until it reaches the central bridge over the Bimbi Swamp, and by an imaginary straight line drawn from the central bridge over the Bimbi Swamp to the nearest point of the southern bank of the Bimbi Creek.
