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Original Office

1913

Abyssinia Order in Council

16 Dec

Sends copy of Off Com C to be submitted on 19 Dec & inquires whether copies will be required for use of Co.

Last previous Paper.

General Dept

I do not think that we are likely to require copies in the E. Afr. Dept.

H. V. R.

1892/13

Mr. Macpherson

Following the decision as to the Order in Council (C. 30442) it will be necessary to send the Abyssinia Order to the Colonies etc.

~~General Dept~~

~~Letter~~ to Mr. Macpherson

W.L. 17.12.13  
Jen 12/1/14

Ans 19 Dec 13

Subsequent Paper

The Clerk of the Council presents his  
 Compliments to the Under Secretary of State  
 for the Colonies and would be glad to be  
 informed, by the 20<sup>th</sup> instant, whether any  
 copies of the accompanying Draft Codes in  
 Council proposed to be submitted to the King  
 at the Council to be held on the 19<sup>th</sup> instant,  
 will be required for the use of the  
 Colonial Office.

Privy Council Office,  
 White Hall

16<sup>th</sup> December, 1919

19

19 Dec 1913

The Under Secretary of State  
for the Colonies presents his  
compliments to the Clerk  
of the Council, and begs  
<sup>(in reply to his comm. of 15th  
of Dec)</sup>

to inform him that no copies  
of the Draft O. in C. which  
was proposed to submit to  
the King on the 1<sup>st</sup> of  
December will be required  
for the use of the O. in C.

DRAFT 3 p.m.

The Clerk of the Council

MINUTE

- Mr. Dornie 19 12 13
- Mr. Read 19
- Mr. Fiddes.
- Sir H. Just.
- Sir J. Anderson
- Lord Emmott
- Mr. Harcourt.

to be sent

AT THE COURT AT BUCKINGHAM PALACE,

The 19th day of December, 1913.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY

**W**HEREAS by Treaty, grant, usage, sufferance, or other lawful means, His Majesty the King has power and jurisdiction in Abyssinia :

NOW, THEREFORE, His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

PART I.—PRELIMINARY AND GENERAL.

1. This Order is divided into parts, as follows :—

Parts.	Subject	Articles.
I.	Preliminary and General	1-8
II.	Constitution and Powers of Courts	9-26
III.	Criminal Matters	27-79
IV.	Civil Matters	80-104
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VII.	Native and Foreign Subjects and Tribunals	124-130
VIII.	Registration	131-150
IX.	Miscellaneous	151-167

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2. The limits of this Order are the dominions of the Emperor of Abyssinia.

3. In the construction of this Order, the following words and expressions have the meanings hereby assigned to them, unless there be something in the subject or context repugnant thereto, that is to say:—

“Administration” means letters of administration, including the same with will annexed or granted for special or limited purpose or limited in duration.

“British subject” includes a British protected person.

“Consul-General” means His Majesty's Envoy Extraordinary and Minister Plenipotentiary and Consul-General in Abyssinia, or the person for the time being acting as such with the authority or approval of the Secretary of State.

“Consular officer” means a Consul-General, Consul, Vice-Consul, Consular Agent, or pro-Consul of His Majesty resident in Abyssinia, including a person acting temporarily, with the approval of the Secretary of State, as or for a Consul-General, Consul, Vice-Consul, or Consular Agent of His Majesty so resident.

“Consulate” and “Consular office” refer to the Consulate and office of a Consular officer.

“The Court,” except when the reference is to a particular Court, means any Court established under this Order, subject, however, to the provisions of this Order with respect to powers and local jurisdictions.

“Foreigner” means a subject or citizen of a State in amity with His Majesty, other than Abyssinia.

“Legal practitioner” includes barrister-at-law, advocate, solicitor, writer to the Signet, and any person possessing similar qualifications.

“Month” means calendar month.

“Native” means a subject of the Emperor of Abyssinia.

“Oath” and “affidavit,” in the case of persons for the time being allowed by law to affirm or declare, instead of swearing, include affirmation and declaration, and the expression “swear,” in the like case, includes affirm and declare.

“Offence” includes crime, and any act or omission punishable criminally in a summary way or otherwise.

“Office copy” means a copy made under the direction of the Court, or produced to the proper officer of the Court for examination with the original, and examined by him and sealed with the seal of the Court.

“Person” includes Corporation.

“Pounds” means pounds sterling.

“Prescribed” means prescribed by Rules of Court.

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“Prosecutor” means complainant or any person appointed or allowed by the Court to prosecute.

“Proved” means shown by evidence on oath, in the form of affidavit, or other form, to the satisfaction of the Court or Consular officer acting or having jurisdiction in the matter, and “proof” means the evidence adduced to that effect.

“Rules of Court” means rules of Court made under the provisions of this Order.

“Secretary of State” means one of His Majesty's Principal Secretaries of State.

“The Treasury” means the Commissioners of His Majesty's Treasury.

“Treaty” includes any Capitulations, Convention, Agreement, or Arrangement, made by or on behalf of His Majesty with any State or Government, King, Chief, people, or tribe, whether His Majesty the Emperor of Abyssinia is or is not a party thereto.

“Will” means will, codicil, or other testamentary instrument.

Expressions used in any rules, regulations, or orders made under this Order shall, unless a contrary intention appears, have the same respective meanings as in this Order.

4.—(1) Words importing the plural or the singular may be construed as referring to one person or thing or to more than one person or thing, and words importing the masculine as referring to the feminine (as the case may require).

(2) Where this Order confers any power or imposes any duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(3) Where this Order confers a power or imposes a duty on, or with respect to, a holder of an office as such, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by, or with respect to, the holder for the time being of the office or the person temporarily acting for the holder.

(4) Where this Order confers a power to make any rules, regulations, or orders, the power shall, unless a contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, vary, or amend the rules, regulations, or orders.

(5) This Article shall apply to the construction of any rules, regulations, or orders made under this Order, unless a contrary intention appears.

(6) Where this Order refers to any specified Act or Acts of Parliament, such reference shall, unless a contrary intention appears, be deemed to include any Act or Acts amending or substituted for the same.

5. The jurisdiction conferred by this Order extends to the persons and matters following, in so far as by Treaty, grant, usage, sufferance, or other lawful means. His Majesty has jurisdiction in relation to such matters and things, that is to say:—

- (i) British subjects, as herein defined, within the limits of this Order.
- (ii) The property and all personal or proprietary rights and liabilities within the said limits of British subjects, whether such subjects are within the said limits or not.
- (iii) Natives and foreigners in the cases and according to the conditions specified in this Order, and not otherwise.
- (iv) Foreigners 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 His Majesty for, or consents to, the exercise of power or authority by His Majesty.

6. All His Majesty's jurisdiction exercisable in Abyssinia for the hearing and determination of criminal or civil matters or for the maintenance of order, or for the administration or control of property or persons, or in relation thereto, shall be exercised under and according to the provisions of this Order, and not otherwise.

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

8. If a question arises whether any place is or is not within the limits of this Order, such question shall be referred to the Consul-General, and a certificate under his hand and seal shall be conclusive on the question, and judicial notice shall be taken thereof.

#### PART II.—CONSTITUTION AND POWERS OF COURTS.

9. The Consul-General shall at such place or places as the Secretary of State directs hold a Court, in this Order called the Court of the Consul-General, for the purposes of his appellate and other jurisdiction under this Order.

10.—(1) Provincial Courts shall be held by Consular officers at such places in Abyssinia as may from time to time be appointed under this Order.

(2) The Consul-General may, by order in writing, with the previous or subsequent approval of the Secretary of State, appoint places at which Provincial Courts shall be held, and may assign the district in and for which each such

Court shall act, and may designate the Consular officers who shall hold such Court.

(3) All Orders made by the Consul-General under this Article shall be published as he may direct, and copies thereof shall be kept exhibited in a conspicuous place in each Consular office, and in each Court House, and printed copies shall be sold at such reasonable price as the Consul-General directs.

11. The Court of the Consul-General shall have a seal, bearing the style of the Court and such device as the Secretary of State approves.

12. In a Provincial Court the official seal of the Consular Officer holding the Court shall be used as the seal of the Court.

13. 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.

14. The Consul-General shall have in all matters, civil and criminal, an original jurisdiction concurrent with the jurisdiction of the several Provincial Courts, to be exercised subject and according to the provisions of this Order.

15. The Consul-General may, if and when he thinks fit, visit, in a magisterial or judicial capacity, any place in Abyssinia, and there enquire of, or hear and determine, any case, civil or criminal.

16.—(1) A Provincial Court may, of its own motion, or on the application of any person concerned, report to the Consul-General the pendency of any case, civil or criminal, which appears to the Provincial Court fit to be heard and determined by the Consul-General.

(2) The Consul-General shall thereupon direct in what mode and where the case shall be heard and determined, and the same shall be so heard and determined accordingly.

17. In any case pending, the Consul-General may, on the application of either party, order that the case be sent up to him, to be heard and determined by him, and the case shall be so heard and determined accordingly.

18. Every Court held under this Order shall, in the exercise of every part of its jurisdiction, be a Court of Record.

19. Each Court shall be auxiliary to every other Court in all particulars relative to the administration of justice, civil or criminal.

20.—(1) The provisions of the Evidence Act, 1851, 14 & 15 Vict., cap. 99, secs. 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the Courts, districts, and places to which this Order applies were in a British Colony.

(2) The following Acts, namely:—

the Foreign Tribunals Evidence Act, 1850,  
the Evidence by Commission Act, 1859,  
the Evidence by Commission Act, 1855,

or so much thereof as is for the time being in force, are hereby extended to all places and Courts to which this Order applies, with the adaptations following, namely:—

In the said Acts the Court of the Consul-General is hereby substituted for a Supreme 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, are hereby extended to all places and Courts to which this Order applies, with the adaptations following, namely:—

In the said Acts the Court of the Consul-General is hereby substituted for a Superior Court in a Colony.

21. 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.

22.—(1) Where, by virtue of this Order or otherwise, any Imperial Act, or any Law in force in India, or any Order in Council other than this Order or any Rules or Regulations thereunder, is or are applicable in any place within the limits of this Order, such Act, Law, Order in Council, Rules, or Regulations, 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 the application of any such Act, Law, Order in Council, Rules, or Regulations, it or they may be construed

with such alterations and adaptations not affecting the substance as may be necessary, and anything by such Act, Law, Order in Council, Rules, or Regulations 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 or to any officer designated by the Court for that purpose, and the seal of the Court may be substituted for any seal required by any such Act, Law, Order in Council, Rules, or Regulations; and in case any difficulty occurs in the application of any such Act, Law, Order in Council, Rules, or Regulations, it shall be lawful for the Secretary of State to direct by and to whom, and in what manner, anything to be done thereunder is to be done, and such Act, Law, Order in Council, Rules, or Regulations shall, in its or their application to matters arising within the limits of this Order, be construed accordingly.

(2) Where under any such Imperial Act, Law, Order in Council, Rules, or Regulations any publication is required to be made as respects any judicial proceeding in any "Gazette" or otherwise such publication shall in Abyssinia be made in such newspaper or by such other mode as the Court shall think fit to direct.

#### Assessors.

23. An Assessor shall be a competent and impartial British subject or foreigner of good repute, resident in the district of the particular Court and nominated and summoned by the Court for the purpose of acting as Assessor, provided that no foreigner shall be nominated or summoned to act as Assessor if a suitable British subject is available, and provided also that the validity of any proceedings in which a foreigner has acted as Assessor shall not be questioned on the ground that there was a suitable British subject available to act as Assessor.

24. There shall ordinarily be not fewer than two, and not more than four Assessors. Where, however, by reason of local circumstances, the Court is able to obtain the presence of one Assessor only, the Court may, if it thinks fit, sit with one Assessor only; and where, for like reasons, the Court is not able to obtain the presence of any Assessor, the Court may, if it thinks fit, sit without an Assessor—the Court, in every case, recording in the Minutes its reasons for sitting with one Assessor only or without an Assessor.

25. An Assessor shall not have any voice 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 his dissent, and the grounds thereof, and shall be entitled to receive, without payment, a certified copy of the Minutes.

26. Any British subject failing to attend as Assessor, on being summoned, shall be deemed guilty of a contempt of Court, and shall be liable to a fine not exceeding £10.

PART III.—CRIMINAL MATTERS.

27. Except as regards offences against any Treaties between His Majesty the King and Abyssinia, or against any Rules and Regulations for the observance thereof, or for the maintenance of order among British subjects in Abyssinia, made by or under the authority of His Majesty, or against any of the provisions of this Order—

Any act done by a British subject in Abyssinia that would not by a Court of Justice having criminal jurisdiction in British India be deemed a crime or offence making the person doing the act amenable to punishment in British India, shall not, in the exercise of criminal jurisdiction under this Order, be deemed a crime or offence making the person doing the act amenable to punishment.

28. Subject to the provisions of this Order, criminal jurisdiction under this Order shall, so far as circumstances admit, be exercised on the principles of, and in conformity with, the law in force in British India for the time being, and with the powers vested in the Courts of Justice and the Magistrates therein, according to their respective jurisdiction and authority.

29. 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 person to whom this Order applies 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.

30. 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 or offence within Abyssinia, and deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order.

31. For the purposes of criminal jurisdiction, every offence and cause of complaint committed or arising in Abyssinia shall be deemed to have been committed or to have arisen, either in the place where the same actually was committed or arose, or in any place in Abyssinia where the person charged or complained of happens to be at the time of the institution or commencement of the charge or complaint.

32.—(1) Where a British subject charged with a crime or offence escapes or removes from the Consular district within which the crime or offence was committed, and is found within another Consular district, the Court within whose district he is found may proceed in the case to preliminary examination or to trial and punishment (as the case may require), in like 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 within whose district the crime or offence was 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 to be dealt with according to law.

(2) Where any person is to be so sent in custody, a warrant shall be issued by the Court within whose district he is found, and that 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 within whose district the crime or offence was committed, according to the warrant.

*Apprehension and Custody of Accused Persons*

33.—(1) Where a person accused of an offence is arrested on a warrant issuing out of any Court, he shall be brought before the Court within forty-eight hours after the 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.

34.—(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 or other case of necessity.

35. Where any person is charged with any offence, and the trial thereof will take place before any Abyssinian Tribunal, or where any person has been sentenced to imprisonment by any Abyssinian Tribunal, the Court may, either by separate warrant or by endorsement on the warrant of the Abyssinian Tribunal, cause such person to be detained in custody either pending his trial or while he is serving his sentence, as the case may be.

36.—(1) The Court may, in its discretion, admit to bail a person accused of any of the following offences, namely:—

Any felony.

Riot.

Assault on any officer in the execution of his duty, or on any person acting in his aid.

Neglect or breach of duty by an officer.



But a person accused of treason or murder shall not be admitted to bail except by, or under the direction of, the Court of the Consul-General.

(2) In all other cases the Court shall admit the accused to bail unless the Court, having regard to the circumstances, sees good reason to the contrary, which reason shall be recorded in the Minutes.

(3) The Court of the Consul-General may admit a person to bail, although a Provincial Court has not thought fit to do so.

(4) The accused who is to be admitted to bail either on remand or on or after trial ordered, shall produce such surety or sureties as, in the opinion of the Court, will be sufficient to insure his appearance as and when required, and shall with him or them enter into a recognizance accordingly.

37.—(1) Where a person is charged with the commission of a crime or offence the cognizance whereof appertains to the Court, and it is expedient that the crime or offence be inquired of, tried, determined, and punished within His Majesty's dominions elsewhere than in England, the accused may (under the Foreign Jurisdiction Act, section 4) be sent for trial to Aden or Bombay.

(2) The Consul-General may, where it appears so expedient, by warrant under his hand and seal, cause the accused to be sent for trial to Aden or Bombay (as the case may require) accordingly.

(3) The 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 Aden or Bombay (as the case may be) according to the warrant.

(4) Where any person is to be sent to Aden or Bombay, the Court before which he is charged shall take the preliminary examination, and shall bind over such of the proper witnesses as are British subjects in their own recognizances to appear and give evidence on the trial.

38.—(1) All crimes which in British India are capital shall, subject to the provisions of this Order, be tried by the Consul-General, with an Assessor or Assessors.

(2) The Consul-General shall have an original jurisdiction to try all other crimes and offences. Where imprisonment for more than one year can be inflicted, the Consul-General shall, if practicable, try the case with an Assessor or Assessors.

39.—(1) When the crime or offence with which a person is charged before a Provincial Court is any crime or offence other than assault endangering life, cutting, maiming, arson, or housebreaking, and appears to the Court to be that such, if proved, it would be adequately punished by imprisonment, with or without hard labour, for not more than three months, or by a fine of not more than £20, the Court shall hear and determine the case by summary trial and without Assessors.

(2) In other cases the Court shall, subject to the provisions of this Order, hear and determine the case on a charge and with Assessors.

40.—(1) Where the crime or offence with which an accused person is charged before a Provincial Court appears to the Court to be such that, if proved, it would not be adequately punished by such punishment as the Court has power to impose, and the accused is not to be sent for trial to a British possession, the Court shall reserve the case to be heard and determined by or under the direction of the Consul-General.

(2) The Court shall take the depositions, and forthwith send them, with a minute of other evidence, if any, and a report on the case, to the Consul-General.

(3) The Consul-General shall direct in what mode and where, consistently with the provisions of this Order, the case shall be heard and determined, and the same shall be so heard and determined accordingly.

#### *Summary Procedure.*

41 Where the complaint discloses an offence which is not required to be heard on a charge, and the Court does not think fit to direct it to be heard on a charge, the accused may be tried summarily on the complaint: provided that no greater punishment shall be imposed than imprisonment with or without hard labour for three months, or a fine of £20, or both.

#### *Preliminary Examination.*

42.—(1) Where the accused is before the Court, and it appears to the Court that the complaint discloses an offence—

- (a) Which ought to be tried in or reported to another Court; or
- (b) Which ought to be tried before the same Court with Assessors:

the Court shall forthwith so inform the accused, and proceed to make a preliminary examination in the prescribed manner.

(2) If after such preliminary examination the accused is ordered to be tried, the Court shall bind by recognizance the prosecutor and every witness to appear at the trial to prosecute, or to prosecute and give evidence, or to give evidence (as the case may be).

43.—(1) If a British subject, having appeared as prosecutor or witness at a preliminary examination, refuses to enter into a recognizance to appear at the trial to prosecute or give evidence, the Court may send him to prison, there to remain until after the trial, unless in the meantime he enters into a recognizance.

(2) But if afterwards, from want of sufficient evidence or other cause, the accused is discharged, the Court shall order that the person imprisoned for so refusing be also discharged.

(3) Where the prosecutor or witness is not a British subject, the Court may require him either to enter into a recognizance or to give other security for his attendance at the trial, and, if he fails to do so, may in its discretion dismiss the charge.

44.—(1) The charge upon which an accused person is tried shall state the offence charged, with such particulars as to the time and place of the alleged offence, and the person (if any) against whom or the thing (if any) in respect of which it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) The fact that a charge is made is equivalent to a statement that every condition required by law to constitute the offence charged was fulfilled in the particular case.

(3) Where the nature of the case is such that the particulars above mentioned do not give such sufficient notice as aforesaid, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will give such sufficient notice.

(4) For the purpose of the application of any Statute law, a charge framed under the provisions of this Order shall be deemed to be an indictment.

45. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases following, that is to say—

(a) Where a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(b) If in one series of acts so connected together as to form the same transaction more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(c) If the acts alleged constitute an offence falling within two or more definitions or descriptions of offences in any law or laws, the accused may be charged with, and tried at one trial for, each of such offences.

(d) If several acts constitute several offences, and also when combined a different offence, the accused may be charged with, and tried at one trial for, the offence constituted by such acts when combined, or one or more of the several offences; but in the latter case shall not be punished with more severe punishment than the Court which tries him could award for any one of those offences.

(e) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all

or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the offences; and if it appears in evidence that he has committed a different offence for which he might have been charged, he may be convicted of that offence, although not charged with it.

46. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one is accused of committing an offence and another of abetting or attempting to commit that offence, they may be charged and tried together or separately, as the Court thinks fit.

47.—(1) Any Court, if sitting with Assessors, may alter any charge at any time before the opinions of the Assessors are expressed; if sitting without Assessors, at any time before judgment is pronounced.

(2) Every such alteration shall be read and explained to the accused.

(3) If the altered charge is such that proceeding with the trial immediately is likely, in the opinion of the Court, to prejudice the accused or the prosecutor, the Court may adjourn the trial for such period as may be necessary.

48.—(1) No error or omission in stating either the offence or the particulars shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

(2) When the facts alleged in certain particulars are proved and constitute an offence, and the remaining particulars are not proved, the accused may be convicted of the offence constituted by the facts proved, although not charged with it.

(3) When a person is charged with an offence and the evidence proves either the commission of a minor offence or an attempt to commit the offence charged, he may be convicted of the minor offence or of the attempt.

49.—(1) If the accused has been previously convicted of any offence, and it is intended to prove such conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date, and place of the previous conviction shall be stated in the charge.

(2) If such statement is omitted, the Court may add it at any time before sentence is passed.

(3) The part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted, as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of the subsequent offence.

(4) If he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted, as alleged in the charge.

(5) If he answers that he has been so previously convicted, the Court may proceed to pass sentence on him accordingly, but, if he denies that he has been so previously convicted, or refuses to, or does not answer such question, the Court shall then enquire concerning such previous conviction.

#### Punishments.

50. The powers of the Courts with respect to punishments are limited as follows:—

(1) The Court of the Consul-General may award in respect of an offence any punishment which may in respect of a similar offence be awarded in British India: provided that (a) imprisonment shall be substituted for penal servitude; and (b) the Court of the Consul-General shall not award a fine exceeding £500; or, in case of a continuing offence, in addition to imprisonment or fine, or both, a fine exceeding £1 for each day during which the offence continues after conviction.

(2) A Provincial Court may award imprisonment, not exceeding twelve months, and with or without a fine not exceeding £100; or a fine not exceeding £100, without imprisonment; or in case of a continuing offence, in addition to imprisonment or fine or both, a fine not exceeding 10s. for each day during which the offence continues after conviction. Provided that where a case has been reported to the Court of the Consul-General for directions, and the Court of the Consul-General has directed that the case shall be tried in the Provincial Court, the Provincial Court may award imprisonment not exceeding five years, or a fine not exceeding £200, but if the punishment awarded is imprisonment for more than twelve months, or a fine exceeding £100, the sentence shall be subject to confirmation by the Court of the Consul-General.

(3) But nothing in this Article shall be deemed to empower any Court to award for any offence any punishment not authorized by law in relation to that offence.

51. 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, or both.

52. (1) Where any person is sentenced to suffer the punishment of death, the Consul-General shall forthwith send a report of the sentence, with a copy of the Minutes of proceedings and notes of evidence in the case, and with any observations he thinks fit, to the Secretary of State.

(2) The sentence shall not be carried into execution without the direction of the Secretary of State in writing under his hand.

(3) The Secretary of State, if he does not direct that the sentence of death be carried into execution, shall direct what punishment in lieu of the

punishment of death is to be inflicted on the person convicted, and the person convicted shall be punished accordingly.

53.—(1) The Court may order a person convicted before it, by summary trial or on a charge, to pay all or any specified part of the expenses of his prosecution, or of his imprisonment or other punishment, or of both.

(2) Where it appears to the Court that a charge is malicious, or frivolous and vexatious, the Court may order the prosecutor to pay all or any specified part of the expenses of the prosecution.

(3) In these respective cases the Court may order that the whole, or such portion as the Court thinks fit, of the expenses so paid be paid over to the prosecutor or to the accused (as the case may be).

(4) In all cases the reasons of the Court for making or refusing any such order shall be recorded in the Minutes.

54.—(1) The Court may, if it thinks fit, order a person convicted before it, by summary trial or on a charge, of an assault, to pay to the person assaulted, by way of damages, a sum not exceeding £10.

(2) Damages so ordered to be paid may be either in addition to or in lieu of a penalty, and shall be recoverable in like manner as a penalty.

55.—(1) The Consul-General may, if he thinks fit, by warrant under his hand and seal, cause an offender convicted before any Court, and sentenced to imprisonment, to be sent to and imprisoned at any place in Abyssinia, approved for that purpose by the Secretary of State.

(2) The 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 at the place named, according to the warrant.

56.—(1) Where an offender convicted before any Court is sentenced to imprisonment, and it appears to the Consul-General expedient that the sentence be carried into effect within His Majesty's dominions, the offender may (under the Foreign Jurisdiction Act, section 7) be sent for imprisonment to Aden, Bombay, or Malta.

(2) The Consul-General may, by warrant under his hand and seal, cause the offender to be sent to Aden, Bombay or Malta (as the case may require), in order that the sentence may be there carried into effect accordingly.

(3) The 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 at the place named, according to the warrant.

57. The Secretary of State may, either with or without a recommendation from the Court, mitigate or remit any punishment awarded by any Court.

58. Nothing in this Order shall be deemed to affect His Majesty's prerogative of pardon.

*Inquests.*

59. (1) The Court shall have and discharge in relation to the deaths of British subjects within the District of the Court all the powers and duties vested in Magistrates authorized to hold inquests in British India.

(2) The jurisdiction of the Court under this Article shall be exercised subject to the following provisions:—

(a) Where a British subject is charged with causing the death, the Court may, without holding an inquest, proceed forthwith with the preliminary examination.

(b) Where a British subject is not charged with causing the death, the Court shall hold an inquest, taking the depositions of those who know the facts.

(c) If, during or after the inquest, a British subject is so charged, the depositions shall be read over in the presence of the witnesses and of the accused, who shall be entitled to cross examine each witness, and the procedure shall be as in other cases of preliminary examination.

(d) If after the inquest the Court does not see fit to cause any person to be charged, or if, at the conclusion of the preliminary examination, the accused is discharged, the Court shall certify its opinion of the cause of the death.

(e) When the inquest is held by a Provincial Court, the certificate and the depositions shall be sent forthwith to the Court of the Consul-General, and that Court may give any directions which may seem proper in the circumstances.

*Statutory and other Offences.*

60. 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:—

(a) The Merchandise Marks Act, 1887;

(b) The Patents, Designs, and Trade Marks Acts, 1883 to 1907;

(c) The Trade Marks Act, 1905;

(d) Any Statute amending or substituted for any of the above-mentioned statutes;

(e) Any Act, Statute, or Order in Council for the time being in force relating to copyright or to inventions, designs, or trade-marks, of which a copy is kept exhibited in the public office of the Consulate at Adis Ababa, and is there open for inspection by any person at all reasonable times;

shall, if done by a British subject within the limits of this Order, be punishable as an offence against this Order, and a person convicted thereof shall be liable, on conviction, to the penalty provided by the Act or enactment in question,

whether such act is done in relation to any property or right of a British subject, or of a foreigner or native, or otherwise howsoever.

Provided—

1. That no person shall be punished under this Order for an act which would be an offence against any Act, Statute, or Order in Council the exhibition of which is required by paragraph (c) above, unless such exhibition has commenced not less than one month before the act took place, or unless the person offending is proved to have had express notice of such Act, Statute, or Order in Council.

2. That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained unless either (a) an arrangement is in force between His Majesty's Government and the Government of the State or Power to which the prosecutor belongs, or (b) the Court is satisfied that effectual provision exists for the punishment in Consular or other Courts in Abyssinia of similar acts committed by the subjects of such State or Power in relation to or affecting the interests of British subjects. Where such an arrangement is in force the Consul-General may issue a notification to that effect, and the Court shall take judicial notice thereof.

61. The Foreign Jurisdiction Neutrality Order in Council, 1904, shall apply to all persons and to all property subject to this Order.

62.—(1) If a British subject—

(a) Imports or exports, or attempts to import or export, into or out of Abyssinia any goods, intending and attempting to evade payment of duty payable thereon to the Abyssinian Government;

(b) Imports or exports, or attempts to import or export, into or out of Abyssinia any goods the importation or exportation whereof into or out of Abyssinia is prohibited by law;

(c) Without a proper licence, sells or attempts to sell, or offers for sale, in Abyssinia any goods whereof the Abyssinian Government has by law a monopoly;

he shall be, on conviction, liable to imprisonment, with or without hard labour, for any term not exceeding six months, and with or without a fine not exceeding £100, or to a fine not exceeding £100 without imprisonment.

(2) Where a person is charged with such an offence as in this Article is mentioned, the Court may seize the goods in relation to which the alleged offence was committed, and may hold the same until after the hearing of the charge.

(3) If a person so charged is convicted, then those goods, whether they have been so seized or not, shall be forfeited to His Majesty the King; and the Court shall dispose of them, subject to any general or special directions of the Secretary of State, as the Court thinks fit.

63. If any British subject permits any house or premises in Abyssinia in his occupation or control to be used for the consumption or use of opium or hashish or any similar drug, he shall be liable on conviction to imprisonment with or without hard labour for any term not exceeding six months, and with or without a fine not exceeding £100.

64. Any British subject being in Abyssinia may be proceeded against, tried, and punished under this Order for piracy wherever committed.

65. If any British subject in Abyssinia violates or fails to observe any stipulation of any Treaty for the time being in force, in respect of the violation whereof any penalty is stipulated for in the Treaty, he shall be deemed guilty of an offence against the Treaty, and on conviction thereof under this Order shall be liable to a penalty in accordance with the stipulations of the Treaty.

66.—(1) Where by agreement among the Diplomatic or Consular Representatives in Abyssinia of foreign States, or some of them, in conjunction with the Abyssinian authorities, sanitary, or police, or port, or game, or other Regulations are established, and the same, as far as they affect British subjects, are approved by the Secretary of State, the Court may, subject and according to the provisions of this Order, entertain any complaint made against a British subject for a breach of those Regulations.

(2) Any person committing a breach of such Regulations shall, on conviction, be liable to the punishment, forfeiture, or fine therein prescribed, or, if no such punishment or fine is prescribed, he shall be liable, on conviction, to imprisonment with or without hard labour for a period not exceeding one month, or to a fine not exceeding £20.

(3) In any such case the fine recovered shall, notwithstanding anything in this Order, be disposed of and applied in manner provided by those Regulations. Where those Regulations contain no provisions as to the manner in which such fine shall be disposed of and applied, it shall be disposed of and applied in such manner as the Consul-General may direct.

67.—(1) Every person subject to the criminal jurisdiction of the Court who prints, publishes, or offers for sale any printed or written newspaper or other publication containing seditious matter, may, on conviction thereof, in addition to, or in lieu of, any other punishment, be ordered to give security for good behaviour, or to be deported.

(2) Where any printed or written newspaper or other publication containing seditious matter is printed, published, or offered for sale within the limits of the Order by a Company registered in the United Kingdom or in a British possession, the Court may, after notice to the Company, and on proof of the facts, require the Company to give security to abstain from such printing, publishing, or offering for sale in future. If the Company fail to give security, or if the Company is shown to have again printed, published, or offered for sale such newspaper or other publication containing seditious matter

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after giving such security, the Court may make an order prohibiting the Company from carrying on business within the limits of the Order, and may make such other orders as to the Court may seem just. The Court may also declare all the property of the Company within the limits of the Order to be forfeited to His Majesty the King, and shall dispose of it, subject to any general or special directions of the Secretary of State, as it thinks fit.

(3) Matter calculated to excite tumult or disorder, or to excite enmity between His Majesty's subjects and the Emperor of Abyssinia or the authorities or subjects of any Powers in amity with His Majesty, being within the limits of this Order, or between the Emperor of Abyssinia and his subjects, shall be deemed to be seditious matter within the meaning of this Article.

(4) An offence against this Article shall not be tried except on a charge and by the Court of the Consul-General.

(5) Notwithstanding anything in this Order, the charge may, for reasons to be recorded on the Minutes, be heard and determined before the Consul-General sitting without Assessors.

68.—(1) If a British subject is guilty—

(a) Of publicly deriding, mocking, or insulting any religion established or observed within Abyssinia, or

(b) Of publicly offering insult to any religious service, feast, or ceremony established or kept in any part of Abyssinia, or to any place of worship, tomb, or sanctuary belonging to any religion established or observed there, or belonging to the Ministers or professors thereof; or

(c) Of publicly and wilfully committing any act tending to bring any religion established or observed within Abyssinia, or its ceremonies, mode of worship, or observances, into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace;

he shall be deemed guilty of an offence against this Order, and shall for every such offence be liable, in the discretion of the Court, to imprisonment for not more than two years, with or without hard labour, and with or without a fine of not more than £100, or to a fine of not more than £100 alone.

(2) Notwithstanding anything in this Order, every charge against a British subject of having committed an offence under this provision shall be heard and determined by summary trial; and any Provincial Court shall have power to impose the punishment aforesaid.

(3) Consular officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

69.—(1) If any person subject to the criminal jurisdiction of a Court does any of the following things, namely—

(a) Wilfully by act or threat obstructs any officer of, or person executing any process of the Court in the performance of his duty; or

- (b) 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
- (c) 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
- (d) Does any act in relation to the Court or any member thereof, or a matter pending therein, which, if done in relation to a High Court in British India, 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 enquiry 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 £5, or with imprisonment not exceeding twenty-four hours.

- (2) 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.
- (3) 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.
- (4) Nothing herein shall interfere with the power of the Court to remove or exclude a person who interrupts or obstructs the business of the Court.

70. If any person subject to the criminal jurisdiction of a Court does any act or makes any publication of such kind, and under such circumstances, that, in the opinion of the Court, great 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.

71. In the application by the Court in the exercise of its criminal jurisdiction of the provisions of the Penal Code relating to false evidence, the words "judicial proceeding" in the said Code shall be deemed to include a proceeding before an Abyssinian Court, or a Court in Abyssinia of any State in amity with His Majesty.

72. If any person subject to the jurisdiction of the Court does any act in relation to proceedings in an Abyssinian Court, or before an Abyssinian judicial officer, or in a Court or before a judicial officer in Abyssinia of any State in amity with His Majesty, which, if done in the course of, or in relation to, any proceedings in the Court, would have been punishable as an offence,

such person shall be guilty of an offence, and shall be liable, on conviction, to such punishment as he would have been liable to if the offence had been committed in the course of, or in relation to, proceedings in the Court.

*Deportation of Offenders.*

73.—(1) Where it is proved that there is reasonable ground to apprehend that a British subject is about to commit a breach of the public peace, or that the acts or conduct of a British subject are or is likely to produce or excite a breach of the public peace, the Court may, if it thinks fit (for reasons recorded in the Minutes), cause him to be brought before it and require him to give security, to the satisfaction of the Court, to keep the peace, or for his future good behaviour, as the case may require.

(2) Where a British subject is convicted of a crime or offence before the Court, or before a Court in the sentence of which one of His Majesty's Consular officers concurs, the Court for the district in which he is may, if it thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may (if need be) cause him to be brought before the Court.

(3) In either of these cases, if the person required to give security fails to do so, the Court may order that he be deported from Abyssinia to such place as the Court directs.

(4) The place shall be a place in some part (if any) of His Majesty's dominions to which the person belongs, or the Government of which consents to the reception of persons deported under this Order.

(5) A Provincial Court shall report to the Consul-General any order of deportation made by it, and the grounds thereof, before the order is executed. The Consul-General may reverse the order, or may confirm it with or without variation, and in case of confirmation shall direct it to be carried into effect.

(6) The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

(7) He shall, as soon as is practicable, and in the case of a person convicted, either after execution of the sentence or while it is in course of execution, be embarked in custody, under the warrant of the Consul-General, on board one of His Majesty's ships of war, or, if there be no such ship available, then on board any British or other fit vessel bound to the place of deportation.

(8) The warrant shall be sufficient authority to the commander or master of the vessel to receive and detain the person therein named, and to carry him to and deliver him up at the place named, according to the warrant.

(9) 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 circumstances of the case appear to render his discharge expedient, shall discharge him from custody.

(10) The Court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed in such manner as the Secretary of State, with the concurrence of the Treasury, may direct.

(11) The Consul-General shall forthwith report to the Secretary of State any order of deportation made or confirmed by him, and the grounds thereof.

(12) If any person deported under this Order returns to Abyssinia without permission in writing of the Secretary of State (which permission the Secretary of State may give), he shall be deemed guilty of an offence against this Order, and shall, for every such offence, be liable to imprisonment for not more than one month, with or without hard labour, and with or without a fine of not more than £10, or to a fine of not more than £20 alone; and he shall also be liable to be forthwith again deported, and shall not be again entitled to registration under this Order.

#### *Appeal and Reserved Case.*

74.—(1) Where a person is convicted of any offence before any Court—

(a) If he considers the conviction erroneous in law, then, on his application, within the prescribed time (unless it appears merely frivolous, when it may be refused); or

(b) If the Court thinks fit to reserve for consideration of the Court of the Consul-General any question of law arising on the trial;

the Court shall state a case, setting out the facts and the grounds of the conviction, and the question of law, and send or deliver it to the Court of the Consul-General.

75.—(1) Where a case is stated under the last preceding Article, the Court, before whom the trial was had, shall, as it thinks fit, either postpone judgment on the conviction, or respite execution of the judgment, and either commit the person convicted to prison, or take security for him to appear and receive judgment, or to deliver himself for execution of the judgment (as the case may require) at an appointed time and place.

(2) The Court of the Consul-General, sitting without Assessors, shall hear and determine the matter, and thereupon shall reverse, affirm, or amend the judgment given, or set it aside, and order an entry to be made in the Minutes that, in the judgment of the Court of the Consul-General, the person ought not to have been convicted, or order judgment to be given at a

subsequent sitting of the Provincial Court, or order a new trial, or make such other Order as the Court of the Consul-General thinks just, and shall also give all necessary and proper consequential directions.

(3) The judgment of the Court of the Consul-General shall be delivered in open Court, after the public hearing of any argument offered on behalf of the prosecutor or of the person convicted.

(4) Before delivering judgment, the Court of the Consul-General may, if necessary, cause the case to be amended by the Provincial Court.

(5) The Court of the Consul-General shall not annul a conviction or sentence, or vary a sentence, or order a new trial, on the ground—

(a) Of any objection which, if stated during the trial, might, in the opinion of the Court of the Consul-General, have been properly met by amendment at the trial; or

(b) Of any error in the summoning of Assessors; or

(c) Of any person having served as Assessor who was not qualified; or

(d) Of any objection to any person as Assessor which might have been raised before or at the trial; or

(e) Of any informality in the swearing of any witness; or

(f) Of any error or omission in the charge, or any informality in procedure which, in the opinion of the Court of the Consul-General, did not affect the substance of the case or subject the convicted person to any undue prejudice.

76. There shall be no appeal in a criminal case to His Majesty the King in Council from a decision of the Court of the Consul-General, except by special leave of His Majesty in Council.

#### *General Provisions.*

77. It shall be lawful for a 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.

78. The Fugitive Offenders Act, 1881, shall apply to Abyssinia as if Abyssinia 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 Consul-General 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 Consul-General 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.

79. The Colonial Prisoners Removal Act, 1884, shall apply to Abyssinia as if Abyssinia were a British possession, and part of His Majesty's dominions, subject as follows:—

The Consul-General shall be substituted for the Governor of a British possession.

PART IV.—CIVIL MATTERS.

80. Subject to the provisions of this Order, the civil jurisdiction of every Court acting under this Order shall, as far as circumstances admit, be exercised on the principles of and in conformity with the law for the time being in force in British India.

Provided that in all matters relating to marriage, inheritance, or other questions involving religious law or custom, the Court shall, in the case of persons belonging to non-Christian communities, recognize and apply the religious law or custom of the person concerned.

81. Where no evidence is offered to the contrary, or where, upon the evidence before the Court, the Court is unable to determine the domicile of origin, a person of European descent to whom this order applies may be presumed to be domiciled in England.

82.—(1) The Court of the Consul-General may, if he thinks fit, hear any action with Assessors.

(2) A Provincial Court shall (subject to the provisions of this Order) hear with Assessors every action which involves the amount or value of £300 or upwards.

(3) In all other cases a Provincial Court may, as it thinks fit, hear the action either with or without Assessors.

Arbitration.

83.—(1) Any agreement in writing between any British subjects or between British subjects and natives or foreigners to submit present or future differences to arbitration, whether an Arbitrator is named therein or not, may be filed

in the Court by any party thereto, and, unless a contrary intention is expressed therein, shall be irrevocable, and shall have the same effect as an order of the Court.

(2) Every such agreement is in this Order referred to as a submission.

(3) If any action is commenced in respect of any matter covered by a submission, the Court, on the application of any party to the action, may by order stay the action.

84.—(1) In any action

(a) If all parties consent, or

(b) If the matters in dispute consist wholly or partly of matters of account, or require for their determination prolonged examination of documents or any scientific or local examination;

the Court may at any time refer the whole action, or any question or issue arising therein, for inquiry and report, to a special Referee.

(2) The report of the special Referee may be adopted wholly or partially by the Court, and if so adopted may be enforced as a judgment of the Court.

(3) The Court may also in any case, with the consent of both parties to an action, or of any parties between whom any questions in the action arise (such consent being signified by a submission) refer the action or the portions referred to in the submission to arbitration, in such manner and upon such terms as it shall think reasonable or just.

(4) In all cases of reference to a special Referee, or Arbitrator, under any order of the Court, the special Referee or Arbitrator shall be deemed to be an officer of the Court, and shall have such powers and authority, and shall conduct the reference or arbitration in such manner, as may be prescribed by any Rules of Court, and subject thereto as the Court may direct.

85. Subject to Rules of Court, the Court shall have authority to enforce any submission, or any award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court thinks fit.

Bankruptcy.

86. Each Court shall, as far as circumstances admit, have, for and within its own district, with respect to the following classes of persons being either resident in Abyssinia or carrying on business there, namely, British subjects and their debtors and creditors, being British subjects, or natives or foreigners submitting to the jurisdiction of the Court, all such jurisdiction in bankruptcy as for the time belongs to a Court exercising jurisdiction under the Presidency Towns Insolvency Act, 1909, or any Act amending or substituted for the same.



*Lunatics.*

87.—(1) The Consul-General shall, as far as circumstances admit, have for and within Abyssinia, with respect to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of lunatics as for the time being belongs to the High Court of Bombay with regard to the care and commitment of the custody of the persons and estates of lunatics within the Presidency of Bombay.

(2) A Provincial Court shall, as far as circumstances permit, have, in relation to British subjects, such jurisdiction relative to the custody and management of the persons and estates of lunatics as for the time being may be exercised by a Civil Court under the Lunacy (District Courts) Act, 1858, or any Act amending or substituted for the same.

(3) In any such case the Provincial Court may, of its own motion, or on the application of any person interested, take or authorize such steps as to the Court may seem necessary or expedient for the immediate protection of the person and property of any person appearing to the Court to be a lunatic, and may, from time to time, revoke, or vary, or supplement any order or proceeding taken in the matter.

(4) Subject to the provisions of this Article, and to any Rules of Court, a Provincial Court shall not proceed in any such matter except under and according to the directions of the Court of the Consul-General.

88. Sections 5 to 7 of the Lunatics Removal (India) Act, 1851 (14 & 15 Viet., cap. 81), shall apply to Abyssinia, with the substitution of "the Court of the Consul-General" for "the Supreme Court of Judicature at any of the Presidencies of India."

*Matrimonial Causes.*

89. The Consul-General shall, as far as circumstances admit, have for and within Abyssinia, with respect to British subjects, all such jurisdiction in matrimonial causes, except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to any Court exercising jurisdiction under the Indian Divorce Act, 1869, or any Act amending or substituted for the same.

*Probate and Administration.*

90.—(1) The Consul-General shall, as far as circumstances admit, have for and within Abyssinia, with respect to the wills and the property in Abyssinia of deceased British subjects, all such jurisdiction as for the time being belongs to a High Court under the Indian Succession Act, 1865, or any Act amending or substituted for the same.

(2) A Provincial Court shall have power to grant probate or letters of administration where there is no contention respecting the right to the grant.

and it is proved that the deceased was resident at his death within the particular jurisdiction.

(3) Probate or administration granted by a Court under this Order shall have effect over all the property of the deceased within Abyssinia, and shall effectually discharge persons dealing with an executor or administrator thereunder, notwithstanding that any defect afterwards appears in the grant. The grant shall not be impeachable by reason only that the deceased was not at the time of his death resident within the particular jurisdiction.

91. A British subject may in his lifetime deposit for safe custody, in the Court, his own will, sealed up under his own seal and the seal of the Court.

92.—(1) Where a Court of Probate in the United Kingdom or in any British possession to which the Colonial Probates Act, 1892, for the time being extends has granted probate or letters of administration or confirmation in respect of the estate of a deceased person, the probate letters or confirmation so granted may, on being produced to, and a copy thereof deposited with, the Court of the Consul-General, be sealed with the seal of that Court, and thereupon shall be of the like force and effect and have the same operation as if granted by that Court.

(2) The Court of the Consul-General may, if it thinks fit, on the application of any creditor, require before sealing that adequate security be given for the payment of debts due from the estate to creditors residing in Abyssinia.

(3) For the purposes of this Article a duplicate of any probate or letters of administration or confirmation sealed with the seal of the Court granting the same, or a copy thereof certified as correct by or under the authority of the Court granting the same, shall have the same effect as the original.

93.—(1) Each Consular officer shall endeavour to obtain, as early as may be, notice of the death of every British subject dying within the particular jurisdiction, whether resident or not, and all such information respecting his affairs as may serve to guide the Court with respect to the securing and administration of his property.

(2) On receiving notice of the death the Consular officer shall put up a notice thereof at the Court-house, and shall keep the same there until probate or administration is granted, or, where it appears to him that probate or administration will not be applied for or cannot be granted, for such time as he thinks fit.

94.—(1) Where a British subject dies in Abyssinia, or elsewhere, intestate, then, until administration is granted, his personal property in Abyssinia shall be vested in the Consul-General.

(2) The Court within whose jurisdiction any property of the deceased is situate shall, where the circumstances of the case appear to the Court so to

requires, forthwith on his death, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put any such property under the seal of the Court (in either case, if the nature of the property or other circumstances so require, making an inventory), and to keep it until it can be dealt with according to law.

95. If any person named executor in a will takes possession of and administers or otherwise deals with any part of the property of the deceased, and does not obtain probate within one month after the death or after the termination of any proceedings respecting probate or administration, he shall be liable to pay double the amount of any fees chargeable on obtaining probate, and he shall also be liable to a fine not exceeding £100.

96. If any person other than the person named executor or an administrator or an officer of the Court takes possession of and administers or otherwise deals with any part of the personal property of a deceased British subject, whether resident or not, he shall be deemed guilty of a contempt of Court, and shall be liable to a fine not exceeding £50.

97. Where a person appointed executor in a will survives the testator, but either dies without having taken probate or, having been called on by the Court to take probate, does not appear, his right in respect of the executorship wholly ceases; and, without further renunciation, the representation to the testator and the administration of his property shall go and may be committed as if that person had not been appointed executor.

98. (1) Where a British subject dies in Abyssinia, any other such subject having in his possession, or under his control, any paper or writing of the deceased, being, or purporting to be, testamentary, shall forthwith bring the original to the Court within whose particular jurisdiction the death happens, and deposit it there.

If any person fails to do so for fourteen days after having knowledge of the death of the deceased, he shall be guilty of an offence, and liable to a fine not exceeding £50.

(2) Where it is proved that any paper of the deceased, being or purporting to be testamentary, is in the possession or under the control of a British subject, the Court may, whether a suit or proceeding respecting probate or administration is pending or not, order him to produce the paper and bring it into Court.

(3) Where it appears to the Court that there are reasonable grounds for believing that any person has knowledge of any paper being or purporting to be testamentary (although it is not shown that the paper is in his possession or under his control), the Court may, whether a suit or proceeding for probate or administration is pending or not, order that he be examined respecting it before the Court or elsewhere, and that he do attend for that purpose, and after examination order that he do produce the paper and deposit it in Court.

99. Where it appears to the Court that the value of the property or estate of a deceased British subject does not exceed £100, 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 the 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 Act.

100. The Foreign Jurisdiction Probates Order in Council, 1908, shall apply to all persons and to all property subject to this Order.

101. Section 51 of the Conveyancing (Scotland) Act, 1874, and any enactment for the time being in force amending or substituted for the same, are hereby extended to Abyssinia, with the adaptation following namely:

The Court of the Consul-General is hereby substituted for a Court of Probate in a Colony.

*Appeal to Consul-General.*

102. (1) Where an action in a Provincial Court involves the amount of value of £25 or upwards, any party aggrieved by any decision of that Court, with or without Assessors, in the action shall have the right to appeal to the Court of the Consul-General against the same, on such terms and conditions as may be prescribed by Rules of Court.

(2) In any other case, the Provincial Court may, if it seems just and expedient, give leave to appeal on like terms.

(3) In any case the Court of the Consul-General may give leave to appeal on such terms as seem just.

103.—(1) The Court of the Consul-General may, if it thinks fit, on the application of any party, or of its own motion, order a rehearing of an action, or of an appeal, or of any arguments on a verdict or on any other question of law.

(2) The provisions of this Order respecting a hearing with Assessors shall extend to a rehearing of an action.

(3) If the party applying for a rehearing has by any order been ordered to pay money or do any other thing, the Court may direct either that the order be carried into execution, or that the execution thereof be suspended pending the rehearing, as it thinks fit.

(4) If the Court directs the order to be carried into execution, the party in whose favour it is given shall, before the execution, give security to the satisfaction of the Court for the performance of such order as shall be made on the rehearing.

(5) If the Court directs the execution of the order to be suspended, the party against whom it is given shall, before an order for suspension is given, give security to the satisfaction of the Court for performance of such order as shall be made on the rehearing.

(6) An application for a rehearing shall be made within the prescribed time.

*Appeal to His Majesty in Council.*

104. No appeal shall lie from the Court of the Consul-General, except in cases where leave to appeal to His Majesty the King in Council is granted either by the Court of the Consul-General or by His Majesty in Council.

PART V.—PROCEDURE, CIVIL AND CRIMINAL.

105. Summonses, orders, and other documents issuing from the Court shall be sealed with the seal of the Court.

106.—(1) In every case, civil or criminal, Minutes of the proceedings shall be drawn up, and shall be signed by the Consular Officer before whom the proceedings are taken, and shall, where the suit is heard with Assessors, be open for their inspection and for their signature if concurred in by them.

(2) These Minutes, with the depositions of witnesses, and the notes of evidence taken at the hearing or trial by the Consular officer, shall be preserved in the office of the Court.

107. Every Provincial Court shall execute any writ, order, or warrant issuing from the Court of the Consul-General, and shall take security from any person named therein for his appearance, personally, or by attorney, according to the writ, order, or warrant, or may cause such person to be taken in custody or otherwise to the Court of the Consul-General or elsewhere in Abyssinia according to the writ, order or warrant.

108. The Consul-General may make Rules of Court—

- (a) For regulating the pleading practice and procedure in the Courts established under this Order with respect to all matters within the jurisdiction of the respective Courts;
- (b) For regulating the means by which particular facts may be proved in the said Courts;
- (c) For prescribing any forms to be used;
- (d) For prescribing or regulating the duties of the officers of the said Courts;
- (e) For prescribing scales of costs and regulating any matters in connection therewith;
- (f) For prescribing and enforcing the fees to be taken in respect of any proceedings under this Order, not exceeding, as regards any matters provided for by the Consular Salaries and Fees Act, 1891, fees fixed and allowed from time to time by any Order in Council made under that Act;

(g) For prescribing the allowances to be made in criminal cases to complainants, witnesses, Assessors, interpreters, medical practitioners, and other persons employed in the administration of justice, and the conditions upon which an order may be made by the Court for such allowances;

(h) For taking and transmitting depositions of witnesses for use at trials in a British possession or in the United Kingdom;

(i) For regulating the mode in which legal practitioners are to be admitted to practise as such, and for withdrawing or suspending the right to practise on grounds of misconduct, subject to a right of appeal to His Majesty in Council;

(k) For prescribing and enforcing the fees to be taken in respect of proceedings in or by any Consular Court in relation to cases in Abyssinian Tribunals to which any British subject may be a party;

(l) For regulating the management and investment of property under the control of the said Courts;

(m) For regulating the procedure at inquests.

Where a power to make Rules is given by any Indian Act or law which is applicable to Abyssinia, the powers of this Article shall include a power to make such Rules for the purposes of that Act or law so far as applicable.

Rules framed under this Article shall not have effect until approved by the Secretary of State, and, so far as they relate to fees and costs, sanctioned by the Treasury; but in case of urgency declared in any such Rules the same shall have effect unless and until they are disapproved by the Secretary of State, and notification of such disapproval is recorded and published by the Consul-General.

Until such Rules have been made, or in relation to matters to which they do not extend, a Court may adopt and use any procedure or forms heretofore in use in the Consular Courts in Abyssinia, or any Regulations or Rules made thereunder and in force immediately before the commencement of this Order, with any modifications or adaptations which may be necessary.

100. The Court may, in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, dispense with the payment of any fee, in whole or in part.

110.—(1) Every person doing an act, or taking a proceeding in the Court as plaintiff in a civil case, or as making a criminal charge against another person, or otherwise, shall do so in his own name, and not otherwise, and either—

(a) By himself; or

(b) By a legal practitioner; or

(c) By his attorney or agent thereunto lawfully authorized in writing.

(2) Where the act is done, or proceeding taken, by an attorney (other than a legal practitioner), or by an agent, the power of attorney, or instrument authorizing the agent, or an authenticated copy thereof, shall be first filed in the Court.

(3) Where the authority has reference only to the particular proceeding, the original document shall be filed.

(4) Where the authority is general, or has reference to other matters in which the attorney or agent is empowered to act, an authenticated copy of the document may be filed.

(5) Where any person does any act, or takes any proceeding in the Court in the name or on behalf of another person, not being lawfully authorized thereunto, and knowing himself not to be so authorized, he shall be deemed guilty of a contempt of Court.

(6) Where in this Order appearance is referred to, appearance in person, or by a legal practitioner, attorney, or agent as aforesaid is meant, unless it is otherwise expressed.

111.—(1) In any case, civil or criminal, and at any stage thereof, the Court, either of its own motion or on the application of any party, may summon a British subject, being within the particular jurisdiction, 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 accordingly, and does not excuse his failure to the satisfaction of the Court, he shall (independently of any other liability) be deemed guilty of an offence against this Order, and be liable to a fine of not more than £100, or to imprisonment for not more than one month, in the discretion of the Court.

112. (1) In a criminal case, where the Court is satisfied that a British subject within the particular jurisdiction may be able 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 to be probable that a person who might be so summoned will not attend to give evidence unless compelled to do so, then the Court, instead of issuing a summons, may issue a warrant in the first instance.

(4) If any such person on his appearance, either in obedience to a summons or on being brought up under a warrant, refuses to take an oath, or having taken an oath to answer any question put to him, and does not excuse his refusal to the satisfaction of the Court, then the Court may, by

warrant, commit him to prison there to remain for not more than seven days, unless he in the meantime consents to answer duly on oath.

113. Where by this Order, or any order of the Court, or the course of the Court, any limited time from or after any date or event is appointed or allowed for the doing of any act, or the taking of any proceeding, and the time is not limited by hours, the following rules shall apply.

(i) The limited time does not include the day of the date or of the happening of the event, but commences at the beginning of the day next following that day;

(ii) The act or proceeding must be done or taken at latest on the last day of the limited time;

(iii) Where the limited time is less than six days, Sundays shall not be reckoned as part of the time.

114. The Court, on making any order which it is in its discretion to make, may make the order on such terms respecting time, costs, and other matters as the Court thinks fit.

115. If an officer of the Court employed to execute an order, by neglect or omission, loses the opportunity of executing it, then on complaint of the person aggrieved, the proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money.

116. If a clerk or officer of the Court, acting under pretence of the process or authority of the Court, is charged with extortion, or with not duly paying over money, or with other misconduct, the Court, if it thinks fit, 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 may for that purpose summon and enforce the attendance of all necessary persons as in a suit, and may make such order for the repayment of any money extorted, or for the payment over of any money, and for the payment of such damages and costs as the Court thinks just; and the Court may also, if it thinks fit, impose on the clerk or officer such fine, not exceeding £10 for each offence, as the Court thinks just.

117. 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, or under any Rules or Regulations to be made in pursuance of this Order, may be levied by distress and seizure and sale of goods and lands; and any bill of sale, or mortgage, or transfer of property, made with the view of avoiding such distress, seizure, or sale, shall not be permitted to defeat the provisions of this Order.

118. All fees, fines, forfeitures, and pecuniary penalties levied under this Order shall be carried to the public account, and be applied as the Secretary of State, with the concurrence of the Treasury, from time to time directs.

119. Wherever under this Order any person is to be taken for trial or imprisonment in the Court of the Consul-General, or elsewhere in Abyssinia, or at Aden, Bombay, or Malta, or elsewhere, the Court or other authority by this Order authorized to cause him to be so taken may for that purpose (if necessary) cause him to be embarked on board one of His Majesty's vessels of war, or, if there is no such vessel available, then on board any British or other vessel, at any port or place, whether within or beyond the particular jurisdiction or district of that Court or authority, and with a view to such embarkment, may (if necessary) cause him to be taken, in custody or otherwise, by land or by water from any place to the port or place of embarkment.

The writ, order, or warrant of the Court, by virtue whereof any person is to be so taken, shall be sufficient authority to every constable, officer, or other person acting thereunder, and to the commander or master of any vessel of war, or other vessel (whether the constable, officer, or other person, or the vessel, or the commander or master thereof is named therein, or not), to receive, detain, take, and deliver up such person according to the writ, order or warrant.

Where the writ, order, or warrant is executed under the immediate direction of the Court or authority issuing it, the writ, order, or warrant, shall be delivered to the constable, officer, or other person acting thereunder, and a duplicate thereof shall be delivered to the commander or master of any vessel in which the person to whom the writ, order, or warrant relates is embarked.

Where the writ, order, or warrant, issues from the Court of the Consul-General, and is executed by a Provincial Court, a copy thereof certified under the seal of the Court executing the same shall be delivered to the constable, officer, or other person acting thereunder, and to the commander or master of any vessel in which the person taken is embarked; and any such copy shall be for all purposes conclusive evidence of the order of which it purports to be a copy.

120.—(1) Subject to the other provisions of this Order, all expenses of removal of prisoners and others from or to any place in Abyssinia, and the expenses of sending any person to Aden, Bombay, or Malta, or elsewhere, shall be defrayed in such manner as the Secretary of State from time to time directs.

(2) Any master of a British ship when required shall be bound to take such persons for a reasonable remuneration, to be determined by the Consul-General, and in case of non-compliance shall be liable to a penalty not exceeding fifty pounds.

121. The Public Authorities' Protection Act, 1893, shall extend and apply to Abyssinia, as if Abyssinia were therein mentioned in place of the United

Kingdom, and as if this Order and any other Order relating to Abyssinia, and any Regulations or Rules made under any such Order, were therein referred to, in addition to any Act of Parliament.

122. The Court of the Consul-General, may, if it thinks fit, order that a Commission do issue for examination of witnesses at any place out of Abyssinia, on oath, by interrogatories or otherwise, and may, by order, give such directions touching the time, place, and manner of the examination, or anything connected therewith, as to the Court appear reasonable and just.

#### PART VI.—PROCEDURE ON APPEAL TO HIS MAJESTY IN COUNCIL.

123. Subject to the provisions of Article 104 of this Order, the following Rules shall apply to and govern appeals to His Majesty in Council.

##### Rules.

(1) In these rules, unless the context otherwise requires:—

“Appeal” means appeal to His Majesty in Council;

“His Majesty” includes His Majesty's heirs and successors;

“Judgment” includes decree, order, sentence, or decision;

“Court” means the Court of the Consul-General;

“Record” means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence, and judgments) proper to be laid before His Majesty in Council on the hearing of the appeal;

“Registrar” means the registrar or other proper officer having the custody of the records in the Court appealed from;

“Month” means calendar month.

Words in the singular include the plural, and words in the plural include the singular.

(2) Subject to the provisions of these rules, the Court may, at its discretion, grant leave to appeal from any judgment of the Court, whether final or interlocutory, if, in the opinion of the Court, the question involved in the appeal is one which, by reason of its great general or public importance or otherwise, ought to be submitted to His Majesty in Council for decision.

(3) Applications to the Court for leave to appeal shall be made within twenty-one days from the date of the judgment to be appealed from and the applicant shall give the opposite party notice of his intended application.

(4) Leave to appeal under rule 2 shall only be granted by the Court in the first instance.

(a) Upon condition of the appellant, within a period to be fixed by the Court but not exceeding three months from the date of the hearing of the application for leave to appeal, entering into good and sufficient security, to the satisfaction of the Court, in a sum not exceeding

£500 for the due prosecution of the appeal, and the payment of all such costs as may become payable to the respondent in the event of the appellant's not obtaining an order granting him final leave to appeal, or of the appeal being dismissed for non-prosecution, or of His Majesty in Council ordering the appellant to pay the respondent's costs of the appeal (as the case may be); and

(4) Upon such other conditions (if any) as to the time or times within which the appellant shall take the necessary steps for the purpose of procuring the preparation of the record and the dispatch thereof to England as the Court, having regard to all the circumstances of the case, may think it reasonable to impose.

(5) Where the judgment appealed from requires the appellant to pay money or perform a duty, the Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the appeal, as to the Court shall seem just; and in case the Court shall direct the said judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of the Court, for the due performance of such order as His Majesty in Council shall think fit to make thereon.

(6) The preparation of the record shall be subject to the supervision of the Court, and the parties may submit any disputed question arising in connection therewith to the decision of the Court, and the Court shall give such directions thereon as the justice of the case may require.

(7) The Registrar, as well as the parties and their legal agents, shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the appeal, and generally to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied or printed shall be enumerated in a list to be placed after the index or at the end of the record.

(8) Where in the course of the preparation of a record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included, the record, as finally printed (whether in Abyssinia or in England), shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

(9) The record shall be printed in accordance with the rules set forth in the schedule hereto. It may be so printed either in Abyssinia or in England.

(10) Where the record is printed in Abyssinia the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council forty copies of such record, one of which copies he shall certify to be correct

by signing his name on, or initialling, every eighth page thereof, and by affixing thereto the seal of the Court.

(11) Where the record is to be printed in England the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council one certified copy of such record, together with an index of all the papers and exhibits in the case. No other certified copies of the record shall be transmitted to the agents in England by or on behalf of the parties to the appeal.

(12) Where part of the record is printed in Abyssinia and part is to be printed in England, rules (10) and (11) shall, as far as practicable, apply to such parts as are printed in Abyssinia and such as are to be printed in England respectively.

(13) The reasons given by the Consul-General for or against any judgment pronounced in the course of the proceedings out of which the appeal arises shall by the Consul-General be communicated in writing to the Registrar, and shall by him be transmitted to the Registrar of the Privy Council at the same time when the record is transmitted.

(14) Where there are two or more applications for leave to appeal arising out of the same matter, and the Court is of opinion that it would be for the convenience of the Lords of the Judicial Committee and all parties concerned that the appeals should be consolidated, the Court may direct the appeals to be consolidated and grant leave to appeal by a single order.

(15) An appellant who has obtained an order granting him conditional leave to appeal may, at any time prior to the making of an order granting him final leave to appeal, withdraw his appeal on such terms as to costs and otherwise as the Court may direct.

(16) Where an appellant, having obtained an order granting him conditional leave to appeal, and having complied with the conditions imposed on him by such order, fails thereafter to apply with due diligence to the Court for an order granting him final leave to appeal, the Court may, on an application in that behalf made by the respondent, rescind the order granting conditional leave to appeal, notwithstanding the appellant's compliance with the conditions imposed by such order, and may give such directions as to the costs of the appeal and the security entered into by the appellant as the Court shall think fit, or make such further or other order in the premises as, in the opinion of the Court, the justice of the case requires.

(17) On an application for final leave to appeal the Court may enquire whether notice, or sufficient notice, of the application has been given by the appellant to all parties concerned, and, if not satisfied as to the notices given, may defer the granting of the final leave to appeal, or may give such other directions in the matter as, in the opinion of the Court, the justice of the case requires.

(18) An appellant who has obtained final leave to appeal shall prosecute his appeal in accordance with the rules for the time being regulating the general practice and procedure in appeals to His Majesty in Council.

(19) Where an appellant, having obtained final leave to appeal, desires prior to the despatch of the record to England, to withdraw his appeal, the Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn, and the appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed, without express Order of His Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

(20) Where an appellant, having obtained final leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of procuring the despatch of the record to England, the respondent may, after giving the appellant due notice of his intended application, apply to the Court for a certificate that the appeal has not been effectually prosecuted by the appellant, and if the Court sees fit to grant such a certificate, the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express Order of His Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

(21) Where at any time between the order granting final leave to appeal and the despatch of the record to England the record becomes defective by reason of the death, or change of status, of a party to the appeal, the Court may, notwithstanding the order granting final leave to appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the Court, is the proper person to be substituted or entered on the record in place of, or in addition to, the party who has died, or undergone a change of status, and the name of such person shall thereupon be deemed to be so substituted or entered on the record as aforesaid without express Order of His Majesty in Council.

(22) Where the record subsequently to its despatch to England becomes defective by reason of the death or change of status, of a party to the appeal, the Court shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of the Privy Council showing who, in the opinion of the Court, is the proper person to be substituted, or entered, on the record, in place of, or in addition to, the party who has died or undergone a change of status.

(23) The case of each party to the appeal may be printed either in Abyssinia or in England and shall, in either event, be printed in accordance with the rules set forth in the schedule hereto, every tenth line thereof being numbered in the margin, and shall be signed by at least one of the counsel who attends at the hearing of the appeal, or by the party himself if he conducts his appeal in person.

(24) The case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the appeal arises, the contentions to be urged by the party lodging the same, and the reasons of appeal. References by page and line to the relevant portions of the record as printed shall, as far as practicable, be printed in the margin, and care shall be taken to avoid, as far as possible, the re-printing in the case of long extracts from the record. The taxing officer, in taxing the costs of the appeal, shall, either of his own motion, or at the instance of the opposite party, enquire into any unnecessary prolixity in the case, and shall disallow the costs occasioned thereby.

(25) Where the Judicial Committee directs a party to bear the costs of an appeal incurred in Abyssinia, such costs shall be taxed by the proper officer of the Court in accordance with the rules for the time being regulating taxation in the Court.

(26) The Court shall conform with, and execute, any Order which His Majesty in Council may think fit to make on an appeal from a judgment of the Court in like manner as any original judgment of the Court should or might have been executed.

(27) Nothing in these rules contained shall be deemed to interfere with the right of His Majesty, upon the humble petition of any person aggrieved by any judgment of the Court, to admit his appeal therefrom upon such conditions as His Majesty in Council shall think fit to impose.

SCHEDULE.

I. Records and Cases in Appeals to His Majesty in Council shall be printed in the form known as Demy Quarto.

II. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8 1/2 inches in width.

III. The type to be used in the text shall be pica type, but long primer shall be used in printing accounts, tabular matter, and notes.

IV. The number of lines in each page of pica type shall be forty-seven or thereabouts, and every tenth line shall be numbered in the margin.

PART VII.—NATIVE AND FOREIGN SUBJECTS AND TRIBUNALS.

124. Where a native or foreigner desires to institute or take in the Court an action against a British subject, or a British subject desires to institute or take in the Court an action against a foreigner, the Court shall entertain the same, and the action shall be heard and determined either by the Consular officer sitting alone, or, if all parties consent, or the Court so directs, with

Assessors, but in all other respects according to the ordinary procedure of the Court.

Provided that the native or foreigner, if so required by the Court, first submits to the jurisdiction of the Court, and, if required by the Court, gives security to the satisfaction of the Court, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform such decision as shall be given by the Court originally or on appeal (as the case may require).

125. A cross suit shall not be instituted in the Court against a plaintiff, being a native or foreigner, who has submitted to the jurisdiction, by a defendant, without leave of the Court first obtained.

The Court, before giving leave, may require proof from the defendant that his claim arises out of the subject-matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation or delay.

Nothing in this provision shall prevent the defendant instituting or taking in the Court any suit or proceeding against the native or foreigner after the termination of the suit or proceeding in which the native or foreigner is plaintiff.

126.—(1) Where a native or foreigner obtains in the Court an order against a defendant, being a British subject, and in another suit that defendant is plaintiff, and the native or foreigner is defendant, the Court may, if it thinks fit, on the application of the 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.

(2) Where a plaintiff, being a native or foreigner, obtains an order in the Courts against two or more defendants, being British subjects jointly, and in another suit one of them is plaintiff, and the native or foreigner is defendant, the Court may, if it thinks fit, on the application of the 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 subject to require contributions from his co-defendants under the joint liability.

127. Where a native or foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it shall not be necessary for the native or foreigner to make deposit or give security for costs, unless the Court so directs, but the co-plaintiff British subject shall be responsible for all fees and costs.

128.—(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 His 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, or conviction thereof, by summary trial, is liable to a fine not exceeding £100, or to imprisonment for not exceeding one month, in the discretion of the Court.

129. No action shall be brought for the protection of any copyright, trade-mark, patent, or design by any person who is not a British subject, unless either—

- (a) An arrangement is in force between His Majesty's Government and the Government of the State or Power to which the plaintiff belongs; or
- (b) The Court is satisfied that effectual provision exists for the protection in Consular or other Courts in Abyssinia of the rights and interests of British subjects in copyrights, trade-marks, patents, and designs infringed by the subjects of such State or Power.

Where such an arrangement is in force, the Consul-General may issue a notification to that effect, and the Court shall take judicial notice thereof.

130.—(1) The Court may, upon the application of any British subject, native or foreigner, who has obtained a judgment or order for the recovery or payment of money in a native or foreign Court in Abyssinia against a person subject to the jurisdiction of that Court, and upon a certificate by the proper officer of the native or foreign Court that such judgment has been recovered or order made (specifying the amount), and that it is still unsatisfied, and that a British subject is alleged to be indebted to such debtor and is within the jurisdiction, order that all debts owing or accruing from such British subject (hereinafter called the garnishee) to such debtor shall be attached to answer the judgment or order, and, by the same or a subsequent order, may order the garnishee to pay his debt or so much as may be sufficient to satisfy the judgment or order of the native or foreign Court.

(2) The proceedings for the summoning of the garnishee, for the ascertainment of his liability, and for the payment of money ordered by the Court to



be paid, and all matters for giving effect to this Article, may be regulated by Rules of Court.

(3) An order shall not be made under this Article unless the Court is satisfied that the native or foreign Court is authorized to exercise similar powers in the case of a debt due from a person subject to the jurisdiction of that Court to a British subject against whom a judgment has been obtained in a Court established under this Order.

#### PART VIII.—REGISTRATION.

131. A register of British subjects shall be kept in the office of every Consular officer in Abyssinia.

132.—(1) Every British subject resident in Abyssinia, being of the age of 21 years or upwards, or being married, or a widower or widow, though under that age, shall in the month of January of every year register himself or herself at the Consulate of the Consular district within which he or she resides.

(2) A British subject arriving in Abyssinia may be registered either in the register of the Consular district in which he first arrives or in that of the district in which he goes to reside, and he must apply for registration within one month after arrival in Abyssinia.

Provided that a person who fails to apply for or to obtain registration within the time limited by this Article may be registered at any time if he excuses his failure to the satisfaction of the Consular officer.

133. The registration of a man shall comprise the registration of his wife, or wives, if living with him; and the registration of the head of a family shall comprise the registration of all females and minors, being his relatives, in whatever degree, living under the same roof with him at the time of his registration.

134. A person registered in any register of British subjects established previous to the making of this Order shall be registered under the provisions of this Order, unless the Consular officer is satisfied, after enquiry, that the previous registration was erroneous, or that such person is not entitled to registration under the provisions of this Order.

135.—(1) The Consular officer shall on the first registration of any person issue to him a certificate of registration, signed and sealed with his Consular seal.

(2) On the renewal of a registration, the old certificate of registration shall be produced, or its absence accounted for to the satisfaction of the Consular officer.

(3) The renewal of a registration shall, unless the Consular officer thinks fit to issue a new certificate, be effected by an endorsement on the old certificate.

(4) Where a new certificate is issued, the Consular officer may require the old certificate to be delivered up to him.

(5) The names and descriptions of females and minors whose registration is under the provisions of this Order comprised in that of the head of the family may be endorsed on the certificate of the family.

136. Every person who has not previously been registered applying to be registered under this Order shall, unless excused by the Consular officer, attend personally for that purpose at the Consulate, but no person applying for the renewal of his registration need attend personally unless directed by the Consular officer to do so.

137.—(1) Every person shall, on every registration of himself, and on every renewal of the registration pay a fee of 2s. 6d., or such other fee as the Secretary of State from time to time appoints. 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 5s.

(2) Where any person applies to be registered, he shall be entitled to the assistance of the Consular officer in the preparation of any affidavit that may be required without a fee.

138. If any British subject neglects to obtain registration under the provisions of this Order, he shall not be entitled to be recognized or protected as a British subject in Abyssinia, and shall be liable to a fine not exceeding two pounds for each instance of such failure, but he shall, although not registered, be subject to the jurisdiction of His Majesty's Courts in Abyssinia.

139.—(1) A person not of Asiatic or African descent, arriving in Abyssinia and applying to be registered as a British subject, shall be so registered if the Consular officer is satisfied, after such enquiry as he may deem fit, that he is entitled to the status of a British subject.

(2) A person of Asiatic or African descent arriving in Abyssinia and applying to be registered as a British subject, shall be so registered if he (a) produces a passport as a British subject from British India or a British possession or Protectorate; or (b) files an affidavit or sworn declaration showing that he was born within His Majesty's dominions or within the territory of any Prince or State in India, under the suzerainty or in alliance with His Majesty or in a British Protectorate, or that he has been naturalized in the United Kingdom; and (c) in either case gives satisfactory evidence of his identity.

140. A person born in Abyssinia, being the child of a British subject, may be registered as a British subject if it is proved that the father (a) was

registered as a British subject, or (b) being entitled was prevented from being so registered by causes for which he was not responsible.

141. The Consular officer may, without fee, register any British subjects, being minors, living in the houses of foreigners or Abyssinian subjects.

142. All registers kept before the making of this Order shall continue in force until superseded by registers kept under this Order.

143. A register of companies incorporated or registered in the United Kingdom, or in any British possession and carrying on business in Abyssinia shall be kept in the office of every Consulate in Abyssinia.

144. The Consulate in which companies shall be registered shall be that in the district of which their chief local office is situated, or their business is chiefly carried on.

145. On the registration of a Company at a Consulate there shall be deposited and filed, in the office of the Consulate a copy of the certificate of incorporation of the Company, or other document corresponding thereto, a statement showing the nominal capital of the Company, and the amounts thereof which have been subscribed and paid up respectively, and, if the Company has been incorporated under a law which provides for the periodical filing of a list of the shareholders, a copy of the last list so filed.

146. The Consular officer shall on the registration of a Company at the Consulate issue to the person making the registration a certificate, signed and sealed with the Consular seal, that the Company has been so registered.

147. (1) Every Company registered under this Order shall register the name and address of the manager or other chief local representative within Abyssinia, and shall from time to time as may be necessary register any alteration of the representative of the Company or in his address.

(2) Rules of Court made under Article 108 may provide that service of writs, notices, or other documents upon the person registered under this Article, or at his address, shall be good service of such documents upon the Company.

148. Registration of a Company under this Order shall not require to be renewed annually, but may be renewed from time to time as the parties may desire, and must be renewed when any change takes place in the name of the Company.

149. On every registration of a Company under this Order, and on every renewal thereof, there shall be payable a fee of £1, and on every registration under Article 147 there shall be payable a fee of 2s.

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150.—(1) A Company shall not be entitled to be recognised or protected as a British Company unless it is registered under this Order; but shall, although not so registered, be subject to the jurisdiction of His Majesty's Courts in Abyssinia.

(2) Nothing in this Article shall affect the right of the Secretary of State to direct that British protection shall not be accorded to a Company even though it has been registered under this Order.

#### PART IX.—MISCELLANEOUS.

151. The Consul-General shall have power to make and alter Regulations (to be called King'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 in Abyssinia, or of any 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 in Abyssinia 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 who is subject to this Order, and for prescribing the times and manner at or in which, and the persons by whom, such returns are to be made.

(4) For preventing the importation or exportation by British subjects of any munitions of war, or any parts or ingredients thereof, and for giving effect to any Treaty relating to the importation or exportation of the same.

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 local law or custom the observance of which is provided for by such Regulations.

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.

152.—(1) Regulations made under this Order shall not have effect unless and until they are approved by a Secretary of State; save that, in case of urgency declared in any such Regulations, the same shall take effect before that approval; and shall continue to have effect unless and until they are disapproved by a Secretary of State, and until notification of that disapproval has been received and published by the Consul-General.

(2) That approval where given, shall be conclusive, and the validity or regularity of any Regulations so approved shall not be called in question in any legal proceeding whatever.

153.—(1) All Regulations approved under this Order, whether imposing penalties or not, shall be printed, and a printed copy thereof shall be affixed,

and be at all times kept exhibited conspicuously, in the public office of each Consulate in Abyssinia.

(2) Printed copies of the Regulations shall be kept on sale at such reasonable price as the Consul-General from time to time directs.

(3) A printed copy of any Regulations purporting to be made under this Order, and to be certified under the hand of the Consul-General, shall be conclusive evidence of the due making of such Regulations.

154. The respective powers aforesaid extend to the making of Regulations for the governance, visitation, care, and superintendence of prisoners in Abyssinia, for the removal of prisoners from one prison to another, and for the infliction of corporal or other punishment on prisoners committing offences against the rules or discipline of a prison; but the provisions of this Order respecting penalties, and respecting the printing, affixing, exhibiting, and sale of Regulations, and the mode of trial of charges of offences against Regulations, do not apply to Regulations respecting prisons and offences of prisoners.

155.—(1) Not later than the 31st March in each year the Consul-General shall send to the Secretary of State a report on the operation of this Order up to the 31st January in that year, showing for the then last twelve months the number and nature of the proceedings, criminal and civil, taken in the Court under this Order, and the result thereof, and the number and amount of fees received, and containing an abstract of the registration list, and such other information, and being in such form, as the Secretary of State from time to time directs.

(2) Each Provincial Court shall, at such time as may be fixed by Rules of Court, furnish to the Court of the Consul-General an annual report of every case, civil and criminal, brought before it, in such form as the Court of the Consul-General directs.

156. A Court shall have jurisdiction to make an Order requiring a British subject 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.

157. Section 48 of the Conveyancing and Law of Property Act, 1881 (which relates to the deposit of instruments creating powers of attorney in the Central Office of the Supreme Court in England or Ireland) shall apply to Abyssinia with these modifications, that is to say, the Office of the Court of

the Consul-General is substituted for the Central Office, and Rules of Court under this Order are substituted for General Rules.

158. A person attending to give evidence before the Court shall not be compelled or allowed to give any evidence or produce any documents 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 His Majesty's service.

159. 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.

160. Nothing in this Order shall deprive His Majesty's Consular officers of the right to observe and to enforce the observance of, or shall deprive any person of the benefit of, any reasonable custom existing in Abyssinia, except where this Order contains some express and specific provision incompatible with the observance thereof.

161. Nothing in this Order shall be deemed to relieve any Consular officer of the duty, as far as there is proper opportunity, of promoting reconciliation and encouraging and facilitating the settlement in an amiable way, and without recourse to litigation, of matters in difference between British subjects, or between British subjects and foreigners in Abyssinia.

162. 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.

163. 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 His 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.

164.—(1) All proceedings which may have been taken in any Consular Court of His Majesty, or before any Consular officer, in Abyssinia previous to the making of this Order shall be deemed to have been valid, and no such proceedings shall be questioned upon the ground of any lack of authority on the part of the Court in or before which, or of the officer before whom, such proceedings were taken.

(2) Where any proceedings have been commenced in any Consular Court of His Majesty, or before any Consular officer, in Abyssinia, and are still pending at the date of this Order, all steps taken in the course of such proceedings shall be deemed to be valid, provided that they would have been valid if taken after the date of this Order.

(3) Any act done by any Consular officer or other person in Abyssinia before the making of this Order, which would have been valid if done after the making of this Order, shall be deemed to have been valid, and no action shall be entertained in any Court against such officer or person in respect of any such act.

165. 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 His Majesty's Principal Secretaries of State, immediately from and after the date of this Order.

(3) As to all other matters and provisions comprised and contained in this Order, immediately from and after the expiration of one month after this Order is first exhibited in the public office of the Consul-General; 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.

166. 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 a Consular officer, subject to any direction of a Secretary of State, may fix.

167. This Order may be cited as "The Abyssinia Order in Council, 1913."

And the Right Honourable Sir Edward Grey, Baronet, K.G., ~~one~~ one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein.

ALMERIC FITZROY.

**PUBLIC RECORD OFFICE**

**CO/533/126**

**END**

**TOTAL EXPOSURES →**

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OPERATOR.           ⇒JV  
REDUCTION.         ⇒12  
EMULSION NO.       ⇒292011  
DATE.                ⇒24/9/70

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