

THE JUDICATURE (SUPREME COURT) ACT

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JUDICATURE (SUPREME COURT)

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THE JUDICATURE (SUPREME COURT) ACT

[1st January, 1880.]

Cap. 180.	29 of 1971
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10 of 1960,	2 of 1976,
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50 of 1963,	38 of 1999,
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29 of 1966,	14 of 2008.
43 of 1968	
S. 2,	
49 of 1968,	
42 of 1969,	
3rd Sch.,	
32 of 1970,	
14 of 1971	
S. 8. and	
2nd Sch.,	
15 of 1971	
S. 41 and	
5th Sch.,	
25 of 1971,	

Preliminary

1. This Act may be cited as the Judicature (Supreme Court) Act. Short title.

2. In this Act—

“cause” includes any suit or other original proceeding, between a plaintiff and a defendant, and any criminal proceeding by the Crown;

Interpretation.

“defendant” includes every person served with any writ of summons or process, or served with notice of or entitled to attend any proceedings;

“judgment” includes decree;

“land” includes all corporeal or incorporeal hereditaments, or any legal or equitable estate therein;

3/2003
S. 2.

“matter” includes every proceeding in the Court not a cause;

“officers” includes clerks;

“party” includes every person served with notice of or attending any proceeding, although not named on the record;

“plaintiff” includes every person asking any relief (other-

wise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the same be taken by cause, suit, petition, motion, summons or otherwise;

4/1999
S. 2.

“the Registrar” means a person appointed as a Registrar pursuant to section 11;

“rules of court” includes forms;

“suit” includes action.

Application
of existing
enactments.
15/1962
S. 35.

3.—(1) Subject to subsection (2) all enactments relating to the Courts and Judges and officers whose jurisdictions and functions are hereby transferred to the Supreme Court, or to any of the Judges or officers thereof or wherein any of the Courts or Judges or officers are referred to, shall be construed, so far as relates to anything done after the commencement of this Act, as if the Supreme Court established by this Act, and the Judges and officers thereof, as the case may be, had been named therein instead of such Courts or Judges or officers.

15/1962
S. 35.

(2) After the 30th July, 1962—

- (a) all references in this or any other enactment to the High Court shall as respects enactments in force immediately prior to that date be construed as references to the Supreme Court; and
- (b) where in this or any other enactment reference is made to the Supreme Court in the exercise of its jurisdiction, such reference shall not include those powers exercised by the Supreme Court prior to the date aforesaid and thereafter reserved to the Court of Appeal or to any of the Judges of that Court.

*Constitution, Judges, Officers, their Salaries, the Seal and
Offices of the Supreme Court*

Consolidation
of the
Superior
Courts.

4. On the commencement of this Act, the several Courts of this Island hereinafter mentioned, that is to say—

JUDICATURE (SUPREME COURT)

The Supreme Court of Judicature,
The High Court of Chancery,
The Incumbered Estates' Court,
The Court of Ordinary,
The Court for Divorce and Matrimonial Causes,
The Chief Court of Bankruptcy, and
The Circuit Courts,

shall be consolidated together, and shall constitute one Supreme Court of Judicature in Jamaica, under the name of "the Supreme Court of Judicature of Jamaica", hereinafter called "the Supreme Court".

5.—(1) The Judges of the Supreme Court shall be the Chief Justice, a Senior Puisne Judge and not less than twenty-four nor more than forty other Puisne Judges.

Constitution of the Supreme Court.
14/2008
S. 2 (a).

(2) The Chief Justice shall be the President and the Chief Judge of the Supreme Court, and shall be styled "The Chief Justice of Jamaica".

(3) The Puisne Judges shall be styled "Puisne Judges of the Supreme Court of Judicature of Jamaica".

(4) The Minister may by order published in the *Gazette* amend subsection (1) so as to increase the number of Puisne Judges, which order shall be subject to affirmative resolution.

14/2008
S. 2 (b).

6.—(1) Judges of the Supreme Court shall have in all respects, save as in this Act otherwise provided, equal power, authority and jurisdiction.

Judges of the Court: their qualification, appointment and status.
15/1962
S. 35.

(2) No person shall be appointed to be a Judge of the Supreme Court unless he is a member of the Bar of Jamaica, England, Northern Ireland or Scotland—

39/1956
S. 2 (c).

42/1969
3rd Sch.

(a) of at least ten years standing; or

(b) of such number of years standing as added to a period during which he has held the office of a Resident Magistrate in Jamaica prior to his becoming a member of such Bar amounts to not less than ten years.

Vacancies.

7.—(1) The Supreme Court shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any Judge thereof.

(2) Where the office of any Judge of the Supreme Court becomes vacant by death or otherwise the Governor-General shall appoint a fit and proper person (who shall be qualified as required by law) to act in such office.

Illness or
absence of
Judges.

(3) Where any Judge of the Supreme Court by reason of leave, illness, absence from the Island or from any other cause is unable to perform his duties, the business of the Court shall devolve upon and be transacted by the remaining Judges of the Supreme Court:

Provided that in any such case and until such Judge is able to resume his duties, the Governor-General may appoint some fit and proper person (who shall be qualified as required by law) to act in the place of such Judge.

(4) Any person appointed to act under the provisions of subsection (2) or subsection (3) shall for all purposes be deemed, for the period of his acting appointment, to be a Judge of, and shall have and exercise jurisdiction in, the Supreme Court and may exercise all the powers conferred upon a Judge of the Supreme Court by this Act or any other enactment or by any rule or regulation made under this or any other enactment.

15/1962
S. 35.

Master of
the Court.
29/1966
S. 3(b).
14/2008
S. 3(a).

8.—(1) There shall be attached to the Supreme Court not less than four nor more than eight Masters, and each Master shall exercise such authority and jurisdiction of a Judge in Chambers as shall be assigned to him by rules of court.

(2) No person shall be appointed to be Master unless he either—

- (a) is a member of the Bar of Jamaica, England or Northern Ireland or a member of the Faculty of Advocates of Scotland, of at least five years' standing; or
- (b) has been a solicitor of the Supreme Court or of the Supreme Court of Judicature of England, Scotland or Northern Ireland for at least five years.

(3) The Constitution of Jamaica shall have effect as respects the office of Master as if it were one of the offices mentioned in subsection (2) of section 112 of the Constitution.

(4) The Minister may, by order published in the *Gazette*, amend subsection (1) so as to increase the number of Masters, which order shall be subject to affirmative resolution.

14/2008
S. 3 (b).

9.—(1) Where under this Act a Master has jurisdiction in relation to any matter, then, subject to this Act, he shall have and may exercise in relation to the matter all the powers of the Court or a Judge, including the power of making an order in such matter, which order may include provision for costs, certificate for counsel or other consequential matters; and any such order so made by a Master shall, subject to this Act, have the same effect as if it had been made by the Court or a Judge.

Powers of
the Master.
29/1966
S. 3 (b).
14/2008
S. 4 (a).

14/2008
S. 4 (a).

(2) Where under this Act a Master exercises jurisdiction in relation to any matter, then—

14/2008
S. 4 (b).

- (a) in relation to such matter, a Master shall have all the rights, powers, immunities and privileges of a Judge;
- (b) any party to the proceedings may, if he so desires, appear by counsel or solicitor.

14/2008
S. 4(b).

10.—(1) An appeal shall lie to the Court of Appeal from any order or decision of a Master made in the exercise of any jurisdiction conferred on him under this Act.

Appeals
from the
Master.
29/1966
S. 3(b).
14/2008
S. 5.

(2) No appeal from an order or decision of a Master

14/2008
S. 5.

under this section shall operate as a stay of proceedings unless a Master or the Court of Appeal so orders.

Officers of
the Court.
29/1966
S. 3 (c).
4/1999
S. 3.

11. There shall be attached to the Supreme Court the following officers, that is to say—

- one or more Registrars,
- one or more Deputy Registrars,
- a sufficient number of clerks,
- a Crier, and

such other officers as may be prescribed by rules of court.

The
Registrar,
his quali-
fications
and duties
and Circuit
Court
Clerks
duties.
46/1955.
S. 4.
42/1969
3rd Sch.

12.—(1) The Registrar shall be a member of the Bar of Jamaica or of England or of Northern Ireland or of the Faculty of Advocates of Scotland, or a Writer to the Signet, or a Solicitor of the Supreme Court or of the Supreme Court of Judicature of England, Scotland, or Northern Ireland, or a Law Agent admitted to practise in Scotland and shall not practise in any Court of this Island nor act as a conveyancer, pleader or legal adviser, and shall perform the following duties, that is to say—

keep account of all fees, fines and amounts of forfeited recognizances received in proceedings in the supreme Court;

furnish to the Accountant-General of this Island accounts of all stamps passing through the offices of the Supreme Court, and submit all such accounts for audit as public accounts;

examine, copy, enter, arrange, index and keep, proceedings and records of proceedings in the Supreme Court, and shall permit the public to search and take copies of the same in the office of the Supreme Court at reasonable hours;

attend the sittings of the Courts and Judges, take minutes, write out and enter up judgments and orders;

report as to the sufficiency or otherwise of the stamps upon documents tendered in evidence in the Supreme Court, and receive and account for deficiencies therein, and penalties in respect thereof;

enter satisfaction and assignments of judgments, and prepare and deliver appeal papers and papers of a like kind, and tax the costs of proceedings in the Supreme Court;

issue process of the Supreme Court, and keep account thereof, and of levies made and moneys received thereunder, and of returns thereto;

keep jury lists, and strike and make up panels of jurors;

make such investigations and take such accounts in relation to proceedings in the Supreme Court as the Court may direct, and shall have power for the above purposes to issue advertisements, summon parties and witnesses, and take examinations *viva voce*, or upon interrogatories, and the Court shall have power to enforce his orders as if they were those of a Judge;

have power to administer oaths, and take affidavits and declarations, in all proceedings in the Supreme Court;

transact all such ministerial business of the Supreme Court, and perform such other duties of a like kind, as are assigned to him by rules of court;

(2) Circuit Court Clerks shall perform the following duties, that is to say—

attend the sittings of Circuit Courts to which they are respectively assigned, prepare the calendars thereof and all indictments directed by the Director of Public Prosecutions;

at such sittings call jurors, arraign prisoners, receive and record verdicts, and administer oaths to witnesses and jurors;

keep minutes and records of proceedings and judgments of such Courts, and transmit the same to the Registrar;

generally perform such functions of the Registrar and such ministerial business of the Circuit Courts, as may be assigned to them by rules of court or by direction of a Judge.

Registrar
may make
orders.

13. Upon proof of urgency the Registrar, being a barrister or solicitor, may, in the absence of the Supreme Court Judges, make orders which can be made by a Judge in Chambers. An appeal shall lie from any such order to a Judge in Chambers on two days' notice.

Procedure
where cases
are not
concluded
by Master
or Regis-
trar.
49/1968
S. 2.

14.—(1) Where the hearing of any proceedings has commenced before a Master, and he ceases, either temporarily or permanently, to hold that office prior to the conclusion of the hearing—

- (a) if he has reserved judgment and ceases as aforesaid before he has delivered his judgment he may at any time lodge with the Registrar of the Supreme Court such judgment in writing; and such judgment shall as soon as possible thereafter be read in Chambers in accordance with the directions of the Chief Justice, and shall take effect in all respects as if the person who reserved judgment had continued to be a Master of the Supreme Court and had delivered judgment himself on the day that it was so read; or
- (b) he may, whether or not he has reserved judgment as aforesaid, be assigned at any time to be a Master of the Supreme Court for the purpose of concluding such hearing.

14/2008
S. 6.

14/2008
S. 6.

(2) In relation to the exercise of jurisdiction conferred upon the Registrar by this Act or any other enactment, the provisions of subsection (1) shall, *mutatis*

mutandis, apply to him as they apply to a Master of the Supreme Court.

15.—(1) There shall be attached to the Supreme Court such number of Deputy Registrars (each of whom is hereinafter referred to as the Deputy Registrar) as may from time to time be appointed by the Governor-General.

Appointment, qualification and duties of Deputy Registrars. 29/1966 S. 3 (e). 42/1969 3rd Sch.

(2) No person shall be appointed to be Deputy Registrar unless he is a member of the Bar of Jamaica, England or Northern Ireland or of the Faculty of Advocates of Scotland or a Solicitor of the Supreme Court or of the Supreme Court of Judicature of England, Scotland or Northern Ireland or a Writer to the Signet of Scotland.

(3) The Deputy Registrar shall subject to the general or special directions of the Registrar assist the Registrar in the performance of the duties of Registrar, and the Deputy Registrar shall in the exercise of his office have all and singular the like authorities, powers, duties, immunities and liabilities of the Registrar save and except the powers vested in the Registrar by virtue of section 13.

(4) Everything by this Act or any enactment amending or incorporated with the same appointed or authorized or required to be done or signed by the Registrar may be done or signed by the Deputy Registrar and shall be as valid and effectual as if done or signed by the Registrar.

16.—(1) There shall from time to time be appointed such number of shorthand writers who shall receive such salary as Government may determine.

Appointment and duties of shorthand writers. 10/1960 S. 2.

(2) Shorthand notes shall be taken of the proceedings at the trial of any person on indictment in the Supreme Court, and a transcript of the notes or any part thereof shall—

- (a) on any appeal or application for leave to appeal be made and furnished to the Registrar if he so directs; and

(b) be made and furnished to any party interested upon the payment of such charges as may be fixed by rules of court whether the person tried was or was not convicted, or in any case where the jury were discharged before verdict.

(3) Subject to the provisions of subsections (4) and (5) shorthand notes shall also be taken of the whole or of any part of the proceedings at the trial of civil actions or proceedings in the Supreme Court upon request in writing to the Registrar by any party thereto and a transcript of the notes or any part thereof shall—

(a) on any appeal be made and furnished to the Registrar if he so directs; and

(b) be made and furnished to any party interested upon the payment to the Registrar of such charge, not exceeding five cents per folio of one hundred and sixty words and not exceeding twenty-five per cent of such charge for each carbon copy thereof, as may be fixed by rules of court.

(4) The duties to be performed by the shorthand writers under subsection (2) shall take precedence of the duties to be performed by the shorthand writers under subsection (3).

(5) A fee of six dollars thirty cents per day of five hours and a further fee of one dollar and five cents for every hour or part of an hour over the first five hours, payable in advance unless a Judge otherwise orders, shall be paid to the Registrar for the attendance at the trial of a civil action or proceeding of a shorthand writer.

(6) Rules of court may make such provisions as is necessary for securing the accuracy of the notes to be taken and the verification of the transcript.

Bailiffs' additional duties.

17.—(1) The Bailiffs for the Resident Magistrates' Courts appointed under the Judicature (Resident Magistrates) Act shall in addition to the duties now devolving upon them

be Bailiffs for the Supreme Court and shall by themselves or deputies execute the process of the Supreme Court and shall serve all writs, documents or process issuing out of the Supreme Court entrusted to them for service and shall perform such duties in relation thereto and in such manner as may be prescribed by rules of court made in the manner prescribed by this Act.

(2) Any fees which by rules of court are made payable to Bailiffs shall be taken or retained by them as remuneration for the performance of their duties under this Act.

18.—(1) It shall be lawful for the Governor-General to appoint a Bailiff of the Supreme Court whose powers and duties shall be limited to executing the process of the said Court in its Admiralty Jurisdiction and to doing the various things which by the United Kingdom Act styled the Colonial Courts of Vice-Admiralty Act, 1890 (53 and 54 Vic., Chap. 27) or by any rules made under the provisions of the said Act are required to be done by the Bailiff of the said Court.

Power to appoint a Bailiff to execute the process of the Supreme Court in its Admiralty Jurisdiction.

(2) Such officer shall be styled the Admiralty Bailiff of the Supreme Court.

(3) Any fees which by the said Act, or the said rules are made payable to the Bailiff, or in the Bailiff's office, shall be taken by the Admiralty Bailiff and retained by him as his remuneration for the performance of his duties.

19. Every Bailiff shall be deemed to be an officer of the Supreme Court not only when executing any writ or other process of the Supreme Court sent to him by the Registrar for execution but also when serving any writ or other document entrusted to him for service in connection with any proceedings in the Supreme Court.

When Bailiff of Resident Magistrate's Court deemed officer of Supreme Court.

Salaries of
officers.
29/1966
S. 3 (f).
14/2008
S. 7.

20. There shall be paid to each Master and to officers appointed under this Act such salaries as are directed by this Act, and where no salaries are directed by this Act then such salaries as are determined by Government.

Employment of
experts by
the Court.

21. The Court may, when it thinks fit, obtain the assistance of accountants, actuaries and scientific persons, to enable it to determine any matter at issue in any cause or proceeding, and may allow reasonable fees and expenses to such persons to be taxed as costs in the proceeding.

Who may
administer
oaths, etc.

22.—(1) Every Justice may administer oaths and take affidavits, declarations and affirmations concerning any matter or proceeding in any Court in this Island and where the matter or proceeding shall be in the Supreme Court such Justice shall for such purpose be deemed to be an officer of the Court.

(2) Affidavits, declarations and affirmations concerning matters or proceedings in any Court in this Island may be sworn or taken—

(a) in any place which is part of the Commonwealth before any person having authority to administer an oath in such place or before a Jamaican or British High Commissioner, Envoy, Minister, Chargé d’Affaires, Secretary of Embassy or Legation, or any Jamaican or British Consul-General, Consul, Vice-Consul, Acting Consul or Consular Agent, exercising his functions in such place; and

(b) in any foreign state or country before any Jamaican or British Ambassador, Envoy, Minister, Chargé d’Affaires or Secretary of Embassy or Legation or any Jamaican or British Consul-General or Consul or Vice-Consul or Acting Consul or Con-

38/1999
S. 3 (a).

sular Agent exercising his functions in such foreign state or country; or

- (c) in any foreign state or country before any person having authority by the law of such state or country to administer an oath in such state or country.

(3) Any affidavit, declaration or affirmation purporting to have affixed, impressed or subscribed thereon or thereto the seal or signature of any person authorized by paragraph (a) or paragraph (b) of subsection (2) shall be admitted in evidence without proof of the seal or signature being the seal or signature of that person or of the qualification or official character of that person.

(4) Where any affidavit, declaration or affirmation is sworn or taken in any foreign state or country before any person authorized by paragraph (c) of subsection (2) the signature or seal of such person and his authority to administer an oath in such state or country shall be verified by a certificate of one of the officers set out in paragraph (b) of subsection (2) or by a certificate under the seal of the appropriate person having such power of verification in such state or country.

38/1999
S. 3 (b).

23. No officer of the Supreme Court shall directly or indirectly ask or receive any fee or gratuity in respect of any of the duties of his office.

Summary
jurisdiction
of
the Court
over its
officers.

If any officer of the Supreme Court acting under colour of the process of the Court is charged with misconduct, or with any wrongful act or neglect in the discharge of the duties of his office, the Court or a Judge may enquire into the matter in a summary way on such evidence as may appear reasonable and for that purpose may summon and enforce the attendance of all necessary parties and witnesses in like manner as the attendance of witnesses in any other case may be enforced, and may make such order for the

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payment of all damages and costs that may have been caused by any such act or neglect as it thinks just, and impose such fine upon the officer as it deems adequate; and in default of payment of any money so ordered to be paid payment of the same may be enforced as a judgment recovered in the Court.

This provision shall not take away any right of action for damages against any officer, but no action shall be commenced or continued for any act or omission of such officer after the Court has ordered compensation to be paid in respect of it under this section.

The death, absence or retirement of any officer charged with any duties under this Act shall not affect the performance of such duties, but such duties may be proceeded with in all respects by the person acting in the place of such officer as if no such death, absence or retirement had occurred.

Transfer of books and property of existing Courts to the Supreme Court.

24. All books, documents, papers and chattels belonging to any of the Courts whose jurisdiction is hereby transferred to the Supreme Court, shall belong to the Supreme Court.

The Seal.

25. The Chief Justice shall cause a seal to be provided for the Supreme Court.

Offices of the Court.

26. The offices of the Supreme Court shall be in Kingston.

Jurisdiction of Supreme Court of Judicature

Jurisdiction of the Court.
15/1962
S. 35.

27. Subject to subsection (2) of section 3 the Supreme Court shall be a superior Court of Record, and shall have and exercise in this Island all the jurisdiction, power and authority which at the time of the commencement of this Act was vested in any of the following Courts and Judges in this Island, that is to say—

The Supreme Court of Judicature,

[The inclusion of this page is authorized by L.N. 3/2001]

The High Court of Chancery,
 The Incumbered Estates Court,
 The Court of Ordinary,
 The Court for Divorce and Matrimonial Causes,
 The Chief Court of Bankruptcy, and
 The Circuit Courts, or
 Any of the Judges of the above Courts, or
 The Governor as Chancellor or Ordinary acting in any
 judicial capacity, and
 All ministerial powers, duties, and authorities, incident to
 any part of such jurisdiction, power and authority.

28. Such jurisdiction shall be exercised so far as regards procedure and practice, in manner provided by this Act, and the Civil Procedure Rules and the law regulating criminal procedure, and by such rules and orders of court as may be made under this Act; and where no special provision is contained in this Act, or in such Rules or law, or in such rules or orders of court, with reference thereto, it shall be exercised as nearly as may be in the same manner as it might have been exercised by the respective Courts from which it is transferred or by any such Courts or Judges, or by the Governor as Chancellor or Ordinary.

How
 jurisdic-
 tion to be
 exercised.
 Cap. 177
 (1953 Edtn.
 Omitted).

28A.—(1) The Court may, on the application of the person prosecuting a judgment or order for the payment of money, make an order for the sale of the land of a judgment debtor.

Power of
 Court to
 make order
 for sale of
 land.
 3/2003
 S. 3.

(2) The proceeds of the sale of the land of a judgment debtor shall be distributed among the persons found entitled thereto, according to their respective priorities.

(3) The order for sale of the land of a judgment debtor and all proceedings consequent thereon shall bind persons claiming any interest in the land through or under the judgment debtor, by any means, subsequent to the delivery of the land in execution, or to the commencement of the proceedings for a sale of the land.

Conduct of
sales of land
under order.
3/2003
S. 3.

28B. Subject to rules of court, all sales in execution of judgments or orders under section 28A shall be conducted in accordance with such orders as the Court may make.

Certificates
of purchase
and effect
thereof.
3/2003
S. 3.

28C.—(1) After the sale of the interest of any judgment debtor in any land, the Court shall grant a certificate to the person who has been declared the purchaser to the effect that he has purchased the judgment debtor's right, entitlement to and interest in the property sold.

(2) A certificate mentioned in subsection (1)—

- (a) shall be liable to tax under the Stamp Duty Act and Transfer Tax Act as a transfer, conveyance or assignment of the land, as the case may be;
- (b) when duly stamped, shall be taken and deemed to be a valid instrument of transfer, conveyance or assignment of the defendant's right, entitlement to and interest in the land sold; and
- (c) may be recorded in the same manner as any deed, transfer, conveyance or assignment.

Power of
Court to
make
charging
orders.
3 2003
S. 3.

28D. The Court may, on application of the person prosecuting a judgment or order for the payment of money, make a charging order in accordance with the Civil Procedure Rules, 2002 in relation to the enforcement of judgments.

Costs in civil
proceedings
in Court.
3 2003
S. 3.

28E.—(1) Subject to the provisions of this or any other enactment and to rules of court, the costs of and incidental to all civil proceedings in the Supreme Court shall be in the discretion of the Court.

(2) Without prejudice to any general power to make rules of court, the Rules Committee of the Supreme Court may make provision for regulating matters relating to the costs of civil proceedings including, in particular prescribing—

- (a) scales of costs to be paid—

- (i) as between party and party;
- (ii) the circumstances in which a person may be ordered to pay the costs of any other person; and
- (b) the manner in which the amount of any costs payable to the person or to any attorney shall be determined.

(3) Subject to the rules made under subsection (2), the Court may determine by whom and to what extent the costs are to be paid.

(4) In any proceedings mentioned in subsection (1), the Court may disallow, or (as the case may be) order the attorney-at-law concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with rules of court.

(5) In subsection (4) “wasted costs” means any costs incurred by a party—

- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any attorney-at-law or any employee of the attorney-at-law; or
- (b) which, in the light of any such act or omission occurring after they were incurred, the Court considers it is unreasonable to expect that party to pay.

29. The Judges of the Supreme Court shall act within the Circuits in all respects as the Judges of Assize, Oyer and Terminer and Gaol Delivery have heretofore done, and it shall be the duty of each, within the jurisdiction of the Courts respectively over which he shall preside, and at the times at which such Courts are respectively required to be held, to enquire by the oaths of good and lawful men of the parish in and for which such Courts shall be held, of all treasons, misprision of treason, felonies and misdemeanours whatsoever, and of the accessories to the same; and to hear and determine the same, and each of them according to law; and it shall be their duty, each within his Circuit, and at the several times at which the Courts of the said Circuit

Jurisdiction of Circuit Court Judges.

are held, to deliver the gaol and gaols within his said Circuit, doing therein what justice shall require; and at the times respectively aforesaid shall take verdicts upon issues and assessments of damages within such Circuit.

Sittings and Distribution of Business

Where Court
to be held
ordinarily
and
specifically.

30. The Supreme Court shall ordinarily hold its sittings in Kingston, but, subject to the provisions of this Act and to rules of court, the Court and the Judges thereof may sit and act at any time, and at any place, for the transaction of any part of the business of the Court or of such Judges.

Orders for
the holding
of Circuit
Courts.

31.—(1) The Chief Justice may from time to time make, and when made revoke, add to or alter orders appointing the times and places for the holding of Circuit Courts.

(2) Every order under subsection (1) shall be so framed as to provide that there shall be held a Circuit Court three times a year in each parish of the Island except the parish of Saint Andrew.

(3) Every order under subsection (1) shall be published in the *Gazette* and shall come into operation upon the date specified in such order.

(4) Every order under subsection (1) shall, so long as it continues in force, have the same effect as if it formed part of the provisions of this Act, and rules of court may be made for carrying any order under subsection (1) into effect as if the provisions of such order formed part of this Act.

(5) Notwithstanding anything in this section or in any order made under this section, the Chief Justice or any Puisne Judge may direct any Circuit Court Clerk—

(a) to postpone the opening of the Circuit Court of which he is the Clerk, from the day appointed for

such opening by any order under this section to any other day specified by the Chief Justice or any Puisne Judge, as the case may be; or

- (b) to adjourn the sitting of the Circuit Court to which he is the Clerk to any day specified by the Chief Justice or any Puisne Judge.

(6) Notwithstanding anything in this section or in any order made under this section the Chief Justice may direct that at any Circuit Court Judges may hold separate Courts. 1/1966
S. 2.

32.—(1) The Minister may from time to time make, and when made revoke, add to or alter orders— Arrangement and vacations of Circuit Courts.

- (a) arranging the Circuits and the number thereof and directing what parishes and towns shall be upon each Circuit; and
- (b) regulating the vacations to be observed by the Supreme Court and the offices thereof.

(2) The Minister may, under the provisions of this section, order that the whole Island shall constitute one circuit.

33. The jurisdiction of the Circuit Court appointed to be held in any parish shall extend over the whole of such parish, and over so much of any adjoining parish as lies within one mile of the boundary of such first-mentioned parish, and over the high seas in respect of crimes within the jurisdiction of the Supreme Court: The extent of the local jurisdiction of each Circuit Court.
14/1971
S. 8.

Provided always, that the Circuit Court for Kingston shall have jurisdiction over the parish of St. Andrew as if it formed part of the parish of Kingston:

Provided further that, for the purposes of this section, the boundaries of every parish shall be deemed to extend to such part, if any, of the sea as is constituted by law internal waters of which the shore or any part thereof is at the coast 14/1971
S. 8.

of that parish, and to the part of the sea within such distance beyond the inner limit of the territorial waters adjacent to that parish (including the portion of it taken to comprise the internal waters aforesaid, if any) as comprises the breadth of the territorial sea, without prejudice to the conferment of any concurrent jurisdiction by virtue of any other parish's boundaries being deemed to extend in manner aforesaid.

Change of venue in criminal cases.

34. It shall be lawful in all cases of criminal prosecutions for a Judge of the Supreme Court, on application either on behalf of the Crown or the accused, and on good cause shown, to change the venue and remove the trial from any one Court to any other, and such last-mentioned Court shall thereupon have jurisdiction in such case.

Transfer of trial from one parish to another.

35. Where for any reason whatsoever the trial of a person who has been committed to be tried for an indictable offence before a Circuit Court for any parish is either not proceeded with or not brought to a final conclusion before that Court, it shall be lawful for that Court, if in its discretion it thinks it convenient so to do, with a view either to expedite the trial or retrial or to save expense, and is satisfied that the accused will not thereby suffer hardship, to direct that the trial or retrial of the accused shall take place before a Circuit Court for some other parish and thereupon the trial shall proceed and take place in such parish in every respect as if the committal for trial had been in that parish.

Provisions as to commitments and recognizances when change made in arrangements for holding Circuit Courts.

36. When any change is made in the arrangements for holding the Circuit Courts, under which the commitment of any accused person to take his trial at any Circuit Court becomes a commitment to a Court without jurisdiction to try such person for his alleged offence, it shall be lawful for the Director of Public Prosecutions by writing under his hand, to direct that the commitment shall stand as a

commitment to the Court, which, under such change as aforesaid, has become the Court having jurisdiction to try such person and any such commitment shall be read and taken as altered in accordance with such direction; and on notice of such direction being given, under the hand of the Director of Public Prosecutions to the Superintendent of any prison, to which such accused person has been committed to await his trial, such Superintendent shall treat such commitment as altered accordingly; and on notice being given as aforesaid to any person under recognizance either personally to appear, or as surety for the appearance of some other person, at the time and place named in such first-mentioned commitment, the condition of such recognizance shall be deemed to be altered as to the time and place for such appearance in accordance with such direction as aforesaid.

37.—(1) Sittings of the Supreme Court shall, so far as is reasonably practicable, and subject to vacations, be held continuously throughout the year.

Sittings of the Supreme Court and vacation business.

(2) Provisions shall be made by rules of court for the hearing during vacations of urgent applications.

38. The place of trial of civil suits cognizable by the Supreme Court in the exercise of its common law or equity jurisdiction shall be regulated (subject to any order which may be made on a summons for directions) as follows—

Venue of civil suits and proceedings.

- (a) Where the cause of action arises wholly or in part within the Kingston Circuit, the trial shall ordinarily take place at the sittings of the Kingston Circuit Court.
- (b) Where the cause of action arises within any other Circuit the trial shall take place at the sittings of the Kingston Circuit Court, or at the Circuit

Court of the Circuit in which the cause of action arose (at the option of the plaintiff).

But in any case, upon reasonable cause being shown, the Court or a Judge may order any suit to be tried at the Kingston Circuit Court, or at any other convenient Circuit Court.

All other proceedings before the Supreme Court exercising civil jurisdiction shall, so far as is reasonably practicable, be held in Kingston.

Powers of
a single
Judge.

39. A single Judge of the Supreme Court may exercise, in Court or in Chambers, any part of the jurisdiction of the Court which before the passing of this Act might have been exercised in the like manner, or which may be directed or authorized to be so exercised by rules of court to be made under this Act.

In such cases a Judge sitting in Court shall be deemed to constitute a Court.

A Judge
on Circuit
or sitting
as an
Election
Court
constitutes
a Court.
29/1997
S. 16.

40. A Judge of the Supreme Court—
(a) holding a Circuit Court; or
(b) sitting as an Election Court,
constitutes a Court of the Supreme Court.

Reservation
of a case or
point of
law for
argument
before the
Court of
Appeal.

41. A Judge of the Supreme Court sitting in the exercise of the civil jurisdiction of the Court may reserve any case, or any point in a case, for the consideration of the Court of Appeal, or may direct any case or point in a case to be argued before the Court of Appeal, and the Court of Appeal shall have power to hear and determine any such case or point:

Provided that nothing herein shall take away the right of any party to any suit to have the issues for trial by jury submitted and left by the Judge to the jury before whom

the same comes for trial, with a proper and complete direction to the jury upon the law and as to the evidence applicable to such issues.

42. Motions for new trials of causes or matters upon which a verdict has been found by a jury, or by a Judge without a jury, and motions in arrest of judgment, or to enter judgment *non obstante veredicto*, or to enter a verdict for plaintiff or defendant, or to enter a non-suit or to reduce damages and special cases and special verdicts, shall be heard before the Court of Appeal.

Matters to be heard before the Court of Appeal.

43. Subject to the provisions of this Act and of the Civil Procedure Code and of rules of court, any Judge of the Supreme Court may order what matters in proceedings in the Court shall be investigated by the Registrar, and may direct the Registrar to take accounts and make enquiries, and may give such assistance and direction to the Registrar therein as he thinks fit:

References by the Court to the Registrar. Cap. 177 (1953 Edn. Omitted).

Provided that any person aggrieved by any act or decision of the Registrar may appeal thereupon to the Court. All acts and proceedings of the Registrar under the provisions of this section shall be subject to ratification by the Court, and when so ratified shall be binding on all parties in the same way as an order of the Court.

44. Nothing in this Act or in rules made under this Act, save as far as relates to the power of the Court for special reasons to allow depositions or affidavits to be read, shall affect the mode of giving evidence by the oral examination of witnesses in trials by jury, or the rules of evidence.

Evidence

Trial by Jury in Civil Proceedings

45.—(1) Subject as hereinafter provided, if, in relation to a civil cause or matter to be tried in the Supreme Court, an application is made by a party thereto, before the mode of trial is first determined, for the cause or matter to be tried with a jury, and the Court or a Judge is satisfied that—

Trial with jury. 43/1968. S. 2.

- (a) an allegation of fraud against that party; or
- (b) a claim in respect of slander, libel, false imprisonment, malicious prosecution, seduction or breach of promise of marriage,

is in issue, the cause or matter shall be ordered to be tried with a jury, unless the Court or Judge is of opinion that the trial thereof requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury, but, save as aforesaid, any civil cause or matter to be tried in the Supreme Court, may, in the discretion of the Court or a Judge, be ordered to be tried either with or without a jury.

(2) The provisions of subsection (1) shall be without prejudice to the power of the Court or a Judge to order that different questions of fact arising in any civil cause or matter be tried by different modes of trial, and where any such order is made the provisions of subsection (1) requiring trial with a jury in certain cases shall have effect only as respects questions relating to any such allegation or claim as is mentioned in that subsection.

Trial
without
jury.
43/1968
S. 2.

46. In every civil cause or matter to be tried in the Supreme Court, unless under the provisions of section 45 a trial with a jury is ordered, the mode of trial shall be by a Judge without a jury.

Costs

Costs.

47.—(1) In the absence of express provision to the contrary the costs of and incident to every proceeding in the Supreme Court shall be in the discretion of the Court, but nothing herein contained shall deprive a trustee, mort-

gatee or other person of any right to costs out of a particular estate or fund to which he would be entitled according to the rules acted upon in Courts of Equity before the commencement of this Act:

Provided that where any action or issue is tried by a jury costs shall follow the event unless upon application made, the Judge at the trial or the Court, for special cause shown and mentioned in the order, otherwise directs.

Any order of a Judge as to such last-mentioned costs may be appealed from, and may be discharged or varied by the Court of Appeal.

No costs shall be recoverable until they have been taxed by the Registrar or his deputy.

(2) In every legal proceeding in which one party shall be entitled to recover costs from the other party, the same fees shall be allowed for the services of solicitors employed at fixed salaries by the party so recovering costs, as if such solicitors were remunerated by fees in the ordinary way for their specific services in the proceeding in respect of which such party shall be entitled to costs.

Provisions regulating the administration of Law and Equity by the Supreme Court

48. With respect to the concurrent administration of law and equity in civil causes and matters in the Supreme Court the following provisions shall apply—

Provisions as to the concurrent administration of law and equity.

- (a) If a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against a deed, instrument or contract, or against a right, title or claim asserted by a defendant or respondent in such cause or matter, or to relief founded upon a legal right which before the passing of this Act could only have been given by a Court of Equity, the

Court and every Judge thereof shall give him such and the same relief as ought to have been given by the Court of Chancery before the passing of this Act.

- (b) If a defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by a plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of a plaintiff or petitioner, the Court and every Judge thereof shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, the same effect, by way of defence against the claim of the plaintiff or petitioner, as ought to have been given by the Court of Chancery before the passing of this Act.
- (c) The Court and every Judge thereof shall also have power to grant to a defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as he properly claims by his pleading, and as the Court or any Judge thereof might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner, and also all such relief relating to or connected with the original subject of the cause or matter and in like matter claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim pursuant to any rule of court or any order of the Court, or might properly have been granted against such person if he had been made a

defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter with the same rights in respect to his defence against such claim as if he had been duly sued in the ordinary way by such defendant.

- (d) The Court and every Judge thereof shall take notice of all equitable estates, titles and rights, and all equitable duties and liabilities, appearing incidentally in the course of any proceeding, in the same way as the Court of Chancery would have done in any proceeding instituted therein before the passing of this Act.
- (e) No proceeding at any time when pending in the Supreme Court shall be restrained by prohibition or injunction, but every matter of equity on which an injunction against the prosecution of such proceeding might have been obtained if this Act had not passed, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto; but nothing in this Act contained shall disable the Court from directing a stay of proceedings in any cause or matter pending before it if it think fit, and any person, whether a party or not to any such cause or matter, who would have been entitled if this Act had not been passed, to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the said Court, by motion in a summary way, for a stay of proceedings, either generally or so far as

may be necessary for the purposes of justice, and the Court shall thereupon make such order as is just.

- (f) Subject to the aforesaid provisions for giving effect to equitable rights and matters of equity, and to the other express provisions of this Act, the said Court and every Judge thereof shall give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations and liabilities, existing by the common law or by any custom, or created by any statute, in the same manner as the same would have been given effect to if this Act had not been passed by any of the Courts whose jurisdiction is hereby transferred to the Supreme Court.
- (g) The Supreme Court in the exercise of the jurisdiction vested in it by this Act in every cause or matter pending before it shall grant either absolutely or on such reasonable terms and conditions as to it seems just, all such remedies as any of the parties thereto appear to be entitled to in respect of any legal or equitable claim properly brought forward by them respectively in such cause or matter; so that as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and multiplicity of proceedings avoided.

Provisions
as to the
administra-
tion of law
in special
cases.

49. With respect to the law to be administered by the Supreme Court, the following provisions shall apply, that is to say—

- (a) In the administration by the Court of the assets of any person dying after the commencement of this Act, and whose estate may prove to be insufficient for the payment in full of his debts and liabilities (and in the winding up of any

company whose assets may prove to be insufficient for the payment of its debts and liabilities and the costs of winding up), the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being under the Bankruptcy Act with respect to the estates of persons adjudged bankrupt; and all persons who in any such case would be entitled to prove for and receive dividends out of the estate of any such deceased person (or out of the assets of any such company), may come in under the decree or order for the administration of such estate (or under the winding up of such company), and make such claims against the same as they may respectively be entitled to by virtue of this Act.

- (b) No claim of a *cestui que* trust against his trustee for any property held on an express trust, or in respect of any breach of any such trust, shall be held to be barred by any Statute of Limitations.
- (c) An estate for life without impeachment of waste shall not confer, or be deemed to have conferred, upon the tenant for life, any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such estate.
- (d) There shall not after the commencement of this Act be any merger by operation of law only, of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.
- (e) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of

any land as to which no notice of his intention to take possession, or to enter into the receipt of the rent and profits thereof, has been given by the mortgagee, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.

- (f) Any absolute assignment by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or other legal thing in action, of which express notice in writing has been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or thing in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not been passed) to pass and transfer the legal right to such debt or thing in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor;

Provided always that if the debtor, trustee, or other person liable in respect of such debt or thing in action, has had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or thing in action, he shall be entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may if he thinks fit pay the same into the Supreme Court under and in conformity with

the provisions of the laws for the relief of trustees.

- (g) Stipulations in contracts, as to time or otherwise, which would not before the commencement of this Act, have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in all Courts the same construction and effect as they would have heretofore received in equity.
- (h) A mandamus or an injunction may be granted or a receiver appointed, by an interlocutory order of the Court, in all cases in which it appears to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally or upon such terms and conditions as the Court thinks just, and if an injunction is asked either before or at or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted if the Court thinks fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.
- (i) In questions relating to the custody and education of infants the rules of equity shall prevail.
- (j) Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail.

Sale of Lands under Decree

Sale of
lands
under
decree.

50. On a decree for sale of lands an authenticated copy of the order of confirmation of the sale thereof, under the seal of the Court, and stamped with the *ad valorem* duty, as on a conveyance, shall be sufficient to divest the estates of all parties to the suit within the jurisdiction of the Court, and bound by such decree, and to vest the same in the purchaser, according to the terms and limitations to be embodied in the said order of confirmation of sale.

Interest on Judgments in Supreme Court

Interest on
judgment
debt, and
rate of.
25/1971
S. 2 (a).

51.—(1) Every judgment debt shall in the Supreme Court carry interest at the rate of six *per centum* per annum or such other rate per annum as the Minister may by order from time to time prescribe in lieu thereof, from the time of entering up the judgment, until the same shall be satisfied, and such interest may be levied under a writ of execution on such judgment.

Definition
of "judg-
ment".

(2) In this section the expression "judgment" shall include decree and order.

25/1971
S. 2 (b).

(3) Every order under subsection (1) shall be subject to negative resolution of the House of Representatives.

Abolition of Prerogative Writs of Mandamus, Prohibition and Certiorari

Orders of
mandamus,
prohibition
and cer-
tiorari to be
substituted
for preroga-
tive writs of
mandamus,
prohibition
and
certiorari.
56/1959
S. 2.

52.—(1) The prerogative writs of mandamus, prohibition and certiorari shall no longer be issued by the Supreme Court or any Judge thereof.

(2) In any case where the Supreme Court would, but for the provisions of subsection (1), have had jurisdiction to order the issue of a writ of mandamus requiring any act to be done, or a writ of prohibition prohibiting any proceedings or matter, or a writ of certiorari removing any proceedings or matter into the Supreme Court for any

purpose, the Court may make an order requiring the act to be done, or prohibiting or removing the proceedings or matter, as the case may be.

(3) The said orders shall be called respectively an order of mandamus, an order of prohibition and an order of certiorari.

(4) No return shall be made to any such order and no pleadings in prohibition shall be allowed, but the order shall be final, subject to any right of appeal therefrom.

(5) In any enactment references to any writ of mandamus, prohibition or certiorari shall be construed as references to the corresponding order and references to the issue or award of any such writ shall be construed as references to the making of the corresponding order.

Council of Judges

53. A Council of the Judges of the Supreme Court shall assemble once at least in every year, on a day or days to be fixed by the Chief Justice, for the purpose of considering the operation of this Act, and of the Civil Procedure Code and of the law regulating criminal procedure, and of the rules of court for the time being in force, and also the working of the several offices, and the arrangements relative to the duties of the Officers of the said Courts respectively, and of inquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the Supreme Court, or in any Court from which appeal lies to it.

Council of Judges to be held annually. Its functions. Cap. 177 (1953 Edn. Omitted).

Miscellaneous

54. All salaries of Judges and Officers appointed by or under this Act, and all other expenses of carrying out this Act, not otherwise provided for, shall be paid out of the Consolidated Fund.

Payments of salaries and expenses.

Fees
payable
in stamps.

55. All fees receivable in the Supreme Court under this Act, or under any rules made pursuant to this Act, shall be payable in stamps, subject to the provisions of the Stamp Duty Act, as fully as if they were specified in the Schedule to the Stamp Duty Act.