

*Admiralty Jurisdiction.***No. 2 of 1891.***(As amended by No. 15 of 1893.)***An Ordinance to amend the Law respecting the Exercise of Admiralty Jurisdiction in this Colony.**

Preamble.

**W**HEREAS by section 3 of an Act of the Imperial Parliament, called "The Colonial Courts of Admiralty Act, 1890," it is enacted that the Legislature of a British possession may by any colonial law—

- (a) Declare any court of unlimited civil jurisdiction, whether original or appellate, in that possession, to be a colonial court of admiralty, and provide for the exercise by such court of its jurisdiction under the said Act, and limit territorially, or otherwise, the extent of such jurisdiction; and
- (b) Confer upon any inferior or subordinate court in that possession such partial or limited admiralty jurisdiction under such regulations, and with such appeal (if any) as may seem fit: Provided that any such colonial law shall not confer any jurisdiction which is not by the said Act conferred upon a colonial court of admiralty:

And whereas it is expedient to declare the Supreme Court of the island of Ceylon a colonial court of admiralty, and to provide for the exercise by such court of its jurisdiction under the said Act, and to confer upon some of the district courts in this colony a partial or limited admiralty jurisdiction: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

**1** This Ordinance may be cited as "The Ceylon Courts of Admiralty Ordinance, 1891."

Supreme Court declared a colonial court of admiralty.

**2** It is hereby declared that the Supreme Court of the island of Ceylon shall be a colonial court of admiralty, and such court shall have jurisdiction, subject to the provisions and limitations contained in the said "Colonial Courts of Admiralty Act, 1890," over the like places, persons, matters, and things as the admiralty jurisdiction of the High Court in England, whether existing by virtue of any Statute or otherwise, and such colonial court of admiralty may exercise such jurisdiction in like manner and to as full an extent as the High Court in England, and shall have the same regard as that court to international law and the comity of nations.

Appointment of district courts for admiralty purposes.

**3** If at any time after the passing of this Ordinance it appears to the Governor in Executive Council expedient that any district court should have admiralty jurisdiction, it shall be lawful for the Governor, in Executive Council, by Proclamation to be published in the *Government Gazette*, to appoint that court to have admiralty jurisdiction accordingly, and to assign to that court as its district for admiralty

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purposes any part or parts of any one or more district or districts; and the district so constituted for that court, with the parts of the sea (if any) adjacent to that district to a distance of three miles from the shore thereof, shall be deemed its district for admiralty purposes; and accordingly the judge and all officers of the court shall have jurisdiction and authority for those purposes throughout that district as if the same was the district of the court for all purposes; and from a time to be specified in each such Proclamation, this Ordinance shall have effect in and throughout the district so constituted; and any such order may be from time to time varied as seems expedient, and a district court so appointed to have admiralty jurisdiction, and no other district court, shall for the purposes of this Ordinance be deemed a district court having admiralty jurisdiction.

**4** Any district court having admiralty jurisdiction shall have jurisdiction, and all powers and authorities relating thereto, to try and determine the following causes:

Extent of admiralty jurisdiction of district courts.

- (1) As to any claim for salvage in any cause in which the value of the property saved does not exceed ten thousand rupees, or in which the amount claimed does not exceed three thousand rupees.
- (2) As to any claim for towage, necessaries, or wages in any cause in which the amount claimed does not exceed one thousand and five hundred rupees.
- (3) As to any claim for damage to cargo or damage to ships by collision or otherwise, or damage done by any ship, in any cause in which the amount claimed does not exceed three thousand rupees.
- (4) Any cause in respect of any such claim or claims as aforesaid, but in which the value of property saved or the amount claimed is beyond the amount limited as above mentioned, when the parties agree, by a memorandum signed by them or by their attorneys or recognized agents, that any district court having admiralty jurisdiction and specified in the memorandum shall have jurisdiction.

**5** The colonial court of admiralty, on motion by any party to an admiralty cause pending in a district court, may, if it shall think fit, with previous notice to the other party, transfer the cause to the colonial court of admiralty, and may order security for costs, or impose such other terms as to the court may seem meet.

As to transfer from district court by order of Supreme Court.

**6** If during the progress of an admiralty cause in a district court it appears to the court that the subject-matter exceeds the limit in respect of amount of the admiralty jurisdiction of the court, the validity of any order or decree theretofore made by the court shall not be thereby affected, but (unless the parties agree, by a memorandum signed by them or by their attorneys or recognized agents, that the court shall retain jurisdiction) the court shall by order transfer the cause to the colonial court of admiralty; but that court may, nevertheless, if the judge of that court in

As to transfer of causes by order of district court to colonial court of admiralty.

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any case thinks fit, order that the cause shall be prosecuted in the district court in which it was commenced, and it shall be prosecuted accordingly.

As to transfer of causes to other district courts or colonial court of admiralty.

7 If during the progress of an admiralty cause in a district court it shall appear to the court that the cause could be more conveniently prosecuted in some other district court or in the colonial court of admiralty, the court may by order transfer it to such other district court or to the colonial court of admiralty, as the case may be, and the cause shall thenceforward be so prosecuted accordingly.

Restrictions on proceedings in the colonial court of admiralty.

8 If any person shall take in the colonial court of admiralty proceedings which he might, without agreement, have taken in a district court, except by order of the judge of the colonial court of admiralty or of a district court having admiralty jurisdiction, and shall not recover a sum exceeding the amount to which the jurisdiction of the district court in that admiralty cause is limited by this Ordinance; and also if any person without agreement shall, except by order as aforesaid, take proceedings as to salvage in the colonial court of admiralty in respect of property saved, the value of which when saved does not exceed ten thousand rupees, he shall not be entitled to costs, and shall be liable to be condemned in costs unless the judge of the colonial court of admiralty before whom the cause is tried or heard shall certify that it was a proper admiralty cause to be tried in the colonial court of admiralty.

Powers, &c., of judges.

9 In an admiralty cause in a district court the cause shall be heard and determined in like manner as ordinary civil causes are now heard and determined in district courts, save and except that in any admiralty cause of salvage, towage, or collision, the district judge shall, if he thinks fit, or on the request of either party to such cause, be assisted by two nautical assessors.

Power to judge of district court to summon nautical assessors to his assistance.

10 In any such admiralty cause as last aforesaid it shall be lawful for the judge of the district court, if he think fit, and he shall, upon request of either party, summon to his assistance, in such manner as the rules of court under this Ordinance shall direct, two nautical assessors, and such nautical assessors shall attend and assist accordingly.

Decrees in district courts in admiralty causes to have same force as those in civil causes.

11 The decree of the district court in an admiralty cause shall be enforced against the person or persons summoned as the defendant or defendants in the same manner as the decrees of the said court are enforced in ordinary civil causes, save and except as in this Ordinance otherwise provided.

Admiralty causes to be heard at usual courts.

12 The judge of every district court having admiralty jurisdiction shall hear and determine admiralty causes at the usual court held within his jurisdiction, or at special courts to be held by him, and which he is hereby required to hold as soon as may be after he shall have had notice of an admiralty cause having arisen within the jurisdiction of his court.

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**13** The secretary of each district court having admiralty jurisdiction shall from time to time frame a list, to be approved by a judge of the colonial court of admiralty, before whom the same shall be laid by the district court judge, and without whose approval it shall have no validity, of assessors, of persons of nautical skill and experience residing or having places of business within the district of the district court, to act as assessors in that court, and shall cause the list to be published in the *Government Gazette*.

Appointment of assessors in district court.

**14** Every person named in the list of assessors so framed and approved shall attend the district court under such circumstances and in such rotation, and subject to such regulations, and shall receive such fees for his attendance as the rules of court under this Ordinance shall direct; and for every wilful non-attendance shall be liable at the discretion of the court to a penalty not exceeding fifty rupees.

Attendance of assessors.

**15** Every assessor named in such list shall hold his office until a new list of assessors shall have been framed and approved as aforesaid.

Removal of assessors.

**16** The secretary of a district court shall have power to administer oaths in relation to any admiralty cause in a district court; and any person who shall wilfully depose or affirm falsely before the secretary in any admiralty cause shall be deemed to be guilty of the offence of giving false evidence, and shall be liable to all the pains and penalties attaching to such offence.

Power to secretary to administer oaths and take evidence.

**17** Proceedings in district courts in an admiralty cause shall be commenced—

Proceedings in district court for commencement of cause.

- (1) In the district court having admiralty jurisdiction within the district of which the vessel or property to which the cause relates is at the commencement of the proceedings.
- (2) If the foregoing rule be not applicable, then in the district court having admiralty jurisdiction in the district of which the owner of the vessel or property to which the cause relates, or his recognized agent in Ceylon resides, or if such owner or agent does not reside within any such district, then in the district court having admiralty jurisdiction the district whereof is nearest to the place where such owner or agent resides.
- (3) If for any reason the last foregoing rule is not applicable or cannot be acted on, then in such district court having admiralty jurisdiction as rules of court under this Ordinance direct.
- (4) In any case in the district court or one of the district courts having admiralty jurisdiction which the parties by a memorandum, signed by them or by their attorneys or recognized agents, agree shall have jurisdiction in the cause.

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Limitation of  
arrest.

**18** In an admiralty cause in a district court, if evidence be given to the satisfaction of the judge that it is probable that the vessel or property to which the cause relates will be removed out of the jurisdiction of the court before the plaintiff's claim is satisfied, it shall be lawful for the said judge to issue a warrant for the arrest and detention of the said vessel or property, unless or until bail to the amount of the claim made in such cause, and to the reasonable costs of the plaintiff in such cause, be entered into and perfected, according to rules of court under this Ordinance, by or on behalf of the owner of the vessel or property or his recognized agents or other defendant in such cause : and, except as in this section expressly provided, there shall be no arrest or detention of a vessel or property in an admiralty cause in a district court otherwise than in execution.

Power to issue  
process.

**19** For the execution of any decree or order of a district court in an admiralty cause, the court may order, and the secretary on such order may seal and issue, and any officer of any district court may execute process, according to the rules of court under this Ordinance ; provided that where under such process a vessel or property would or might be sold, then, if the owner of the vessel or property desires that the sale should be conducted in the colonial court of admiralty instead of in the district court, he shall be entitled, on security for costs being first given, and subject and according to such other provisions as the rules of court under this Ordinance direct, to obtain an order of the district court for transfer of the proceedings for sale, with or without (as the judge of the district court thinks fit) the transfer of the subsequent proceedings in the cause, to the colonial court of admiralty, which court shall have jurisdiction and all powers and authorities relating thereto accordingly.

Conduct of sale,  
&c., in court of  
admiralty.

**20** On an appeal under this Ordinance, the judge of the colonial court of admiralty, if it appears to him expedient that any sale decreed or ordered to be made of the vessel or property to which the cause relates should be conducted in the colonial court of admiralty instead of in the district court from which the appeal is brought, may direct the transfer of the proceedings for sale, with or without the transfer of the subsequent proceedings in the cause, to the colonial court of admiralty, which court shall have jurisdiction, and all powers and authorities relating thereto accordingly.

Appeal to  
Supreme Court.

**21** Subject to rules of court under this Ordinance, a decree, judgment, or order of the district court made in the exercise of the jurisdiction conferred on it by this Ordinance shall be subject to appeal to the colonial court of admiralty in like manner as a decree, judgment, or order of the district court in the exercise of its ordinary civil jurisdiction may be appealed from to the Supreme Court, and the colonial court of admiralty for the purposes of such appeal shall possess and exercise all the powers now vested in the Supreme Court in its ordinary appellate jurisdiction.

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**22** (1) Rules of court for regulating the procedure and practice (including fees and costs) in the colonial court of admiralty and district courts in the exercise of the jurisdiction conferred by this Ordinance, whether original or appellate, may be made by the judges of the Supreme Court or any two of them, of whom the Chief Justice shall be one, and in the same manner as general rules and orders may be made under the provisions of section 53 of "The Courts Ordinance, 1889."

Rules of court.

[§ 2, 15 of 1893]

Provided that the rules under this section shall not extend to matters relating to the slave trade, and shall not (unless otherwise ordered by Her Majesty in Council) come into operation until they have been approved by Her Majesty in Council, but on coming into operation shall have full effect as if enacted in this Ordinance: and any enactment inconsistent therewith shall, so far as it is so inconsistent, be repealed.

(2) The rules made under this section may provide for the exercise of any jurisdiction conferred by this Ordinance on the colonial court of admiralty by the full court or by any judge or judges thereof, and subject to any rules any judge of the Supreme Court may exercise in all actions, causes, and matters which come before such court sitting as a court of first instance, and not as a court of appeal, all or any part of the jurisdiction by this Ordinance conferred or intended to be conferred on the Supreme Court.

**23** (1) This Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified by the Governor by Proclamation in the *Government Gazette*, and until such day after the first day of July, 1891, as the Governor shall appoint by the same or any other Proclamation published in the *Government Gazette*.\*

Commencement  
of Ordinance.

(2) If on the commencement of this Ordinance rules of court have not been approved by Her Majesty in pursuance of the Ordinance, the rules in force at such commencement under "The Vice-Admiralty Courts Act, 1863," including any rules made with reference to Her Majesty's ships, shall, so far as applicable, have effect in the colonial court of admiralty and in district courts having admiralty jurisdiction as rules of court under this Ordinance, and may be revoked and varied accordingly; and all fees payable under such rules or rules under this Ordinance may be taken and applied in such manner as the Governor in Executive Council may direct, so however that the amount of each such fee shall so nearly as practicable be paid to the same officer or person who, but for the passing of this Ordinance, would have been entitled to receive the same in respect of like business. So far as any such rules in force at the commencement of this Ordinance are inapplicable or do not extend, the rules of court for the exercise by the district court of its ordinary civil jurisdiction shall have effect as rules for the exercise by the same court of the jurisdiction conferred by this Ordinance.

21st September, 1891.