3. Save as otherwise expressly provided by any law for the time being in force, a contempt of Court may be punished with simple imprisonment for a term which may extend to six months, or with fine, which may extend to two thousand rupees, or with both : **Limit of punishment for contempt of Court.**

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court :

Provided further that notwithstanding anything elsewhere contained in any law the High Court shall not impose a sentence in excess of that specified in this section for any contempt either in respect of itself or of a Court subordinate to it.

THE RANGOON CITY CIVIL COURT ACT.

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THE RANGOON CITY CIVIL COURT ACT.

[BURMA ACT VII, 1920.] (25th October, 1922.)

CHAPTER I.

PRELIMINARY.

Preamble. [1] WHEREAS it is expedient to establish a Civil Court for the City of Rangoon, it is hereby enacted as follows :—

Short title. [1] 1. This Act may be called the Rangoon City Civil Court Act.

2. * * * * *

Definitions 3. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Act" includes rules ;

(b) * * * * *

(c) "City of Rangoon" means the local limits of the [2][ordinary original civil jurisdiction] of the High Court ;

(d) "the Court" means the Rangoon [3][City Civil Court] established under the provisions of this Act ;

(e) "Registrar" includes a "Deputy Registrar" ;

(f) "Rules" means rules and forms contained in Schedule I or made or prescribed under section 32.

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[1] Inserted by Act XV, 1945 which came into force on 1st November 1945.
[2] Substituted by Act V, 1950.
[3] Substituted for the words "Small Cause Court" by Act XV, 1945.

CHAPTER II.

CONSTITUTION OF THE COURT.

City Civil Court established.

4. There shall be established in the City of Rangoon a Court to be called the Rangoon [1][City Civil Court].

Court to be deeme under superintendence, etc., of High Court.

5. The Court shall be deemed to be a Court subject to the superintendence of, and subordinate to, the High Court within the meaning of the Code of Civil Procedure and the Courts Act, and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act.

Appointment of Judges.

6. (*1*) There shall be a Chief Judge for the Court and so many other Judges as the President of the Union may, from time to time, determine.

(*2*) No person shall be appointed to be a Judge of the Court (other than the Chief Judge [2][and the Second Judge]) unless he is an advocate of the High Court or a judge of a Court of civil judicature of not less than five years standing.

(*3*) Of the judges (including the Chief Judge) not less than one-third shall be advocates of the High Court.

Appointment of Additional Judges.

7. An additional judge or judges may be appointed for a period not exceeding six months whenever the President of the Union thinks it necessary or expedient that such an appointment or appointments should be made.

Rank and precedence of Judges.

8. The Chief Judge, whether permanent or officiating, shall be the first of he Judges in rank and precedence.

The other Judges shall have rank and precedence as the President of the Union may, from time to time, direct.

Performance of duties of absent Judge.

9. (*1*) During any absence of the Chief Judge the President of the Union may appoint any person, having the requisite qualifications, to act as Chief Judge. During any absence of any other Judge or during the period for which any Judge is acting as Chief Judge, the President of the Union may appoint any person, having the qualifications required by section 6, to act as a Judge of the Court.

(*2*) Every person appointed under sub-section (*1*) of this section shall be authorized to perform the duties of the Chief Judge or a Judge of the Court. as the case may be, until the return of the absent Chief Judge or Judge, or the reversion of the Judge acting as Chief Judge, or until the President of the Union sees cause to cancel the appointment of such acting Chief Judge or Judge, as the case may be.

Judge or other officer not to practise or trade.

10. (*1*) No Judge or other officer appointed under this Act shall, during his continuance as such Judge or officer, either by himself or as partner of any other person, practise or act, either directly or indirectly, as an advocate, attorney, pleader or other legal practitioner, or be concerned, either on his own account or for any other person, or as the partner of any person, in any trade, business or profession.

(*2*) Any such Judge or officer so practising, acting or concerned, shall be deemed to have committed an offence under section 168 of the Penal Code.

(*3*) Nothing contained in sub-section (*1*) shall be deemed to prohibit any such Judge or officer from being a shareholder in any company [3][incorporated under any law for the time being in force].

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[1] Substituted for the words "Small Cause Court" by Act XV, 1945.
[2] Inserted by Act V, 1950.
[3] Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

CHAPTER III.

LAW TO BE ADMINISTERED.

Questions arising in suits, etc., under Act to be decided according to law administered by High Court.

11. All questions, other than questions relating to procedure or practice, which arise in suits or other proceedings under this Act in the Court shall be dealt with and determined according to the law for the time being administered by the High Court in exercise of its ordinary original civil jurisdiction.

CHAPTER IV.

JURISDICTION WITH RESPECT TO SUITS.

Local limits of jurisdiction of Court.

12. (*1*) The Court shall exercise jurisdiction within the City of Rangoon.

(*2*) Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by the Court shall not be tried by any other Court having jurisdiction within the same local limits.

Jurisdiction of Court.

[1] **13.** Subject to the provisions contained in section 14 and to the provisions of the Code of Civil Procedure the Court shall have jurisdiction to try all suits of a civil nature when the amount or value of the subject-matter does not exceed rupees ten thousand.

Small Cause powers.

[2] **14.** The Court shall have jurisdiction as a Court of Small Causes to try in a summary manner suits not exceeding rupees one thousand in value : provided that the Court in the exercise of its jurisdiction as a Court of Small Causes shall not try suits of the following classes or proceedings arising out of such suits, namely :—

(*a*) suits concerning the assessment or collection of revenue ;

(*b*) suits concerning any act ordered or done by or under the authority of the President of the Union [3] * * * * ;

(*c*) suits concerning any act ordered or done by any Judge or judicial officer in the execution of his office or by any person in pursuance of any judgment or order of any Court or any such Judge or judicial officer ;

(*d*) suits for the recovery of immoveable property ;

(*e*) suits for the partition of immoveable property ;

(*f*) suits for the foreclosure or redemption of a mortgage of immoveable property ;

(*g*) suits for the determination of any other right to or interest in immoveable property ;

(*h*) suits for the specific performance or recission of contracts ;

(*i*) suits to obtain an injunction ;

(*j*) suits for the cancellation or rectification of instruments ;

(*k*) suits to enforce a trust ;

(*l*) suits for a general average loss and suits on policies of insurance on seagoing vessels ;

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[1] Substituted by Act LXXXVII, 1947.
[2] Substituted by Act XV, 1945.
[3] Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

(*m*) suits for compensation in respect of collisions on the high seas or in any inland waters ;

(*n*) suits for compensation for the infringement of a patent, copyright or trade mark ;

(*o*) suits for a dissolution of partnership or for an account of partnership transactions ;

(*p*) suits for an account of property and its due administration under the decree of the Court ;

(*q*) suits for compensation for libel, slander, malicious prosecution, adultery, seduction or breach of promise of marriage ;

(*r*) suits for declaratory decrees ;

(*s*) suits for possession of a hereditary office ;

(*t*) suits against Sovereign Princes or Ruling Chiefs, or against Ambassadors or Envoys of Foreign States ;

[1] (*u*) suits on foreign judgments ;

(*v*) suits the cognizance whereof by the Court is barred by any law for the time being in force.

Transfer of suit by High Court.

[2] **15.** The High Court, either of its own motion or on the application of any party, may remove any suit or other proceeding pending before the Court for trial before itself in the exercise of its ordinary original civil jurisdiction.

Saving.

16. Nothing in this Chapter shall be deemed to preclude the Court from trying such suit or proceeding as it may from time to time be specially authorized to try by any other enactment.

CHAPTER V.

EJECTMENT AND DISTRESSES.

Application against person occupying property without leave.

17. (*1*) When—

(*a*) any person has had possession of any immoveable property in the City of Rangoon of which the annual rental value does not exceed [3] [ten thousand rupees], as the tenant or by permission of another person, or of some person through whom such other person claims, and

(*b*) such tenancy or permission has determined or been withdrawn, and

(*c*) such tenant or occupier or any person holding under or by assignment from him (in this Act called the occupant) refuses to deliver up such property in compliance with a request made to him in this behalf by such other person,

such other person (in this Act called the applicant) may apply to the Court in accordance with the provisions of this Act for an order [4] [of ejectment of the occupant and for delivery of possession of the property].

Bar to proceedings against Judge or officer for issuing, etc., order or summons.

18. No suit or prosecution shall be maintainable against any Judge or officer of the Court by whom any order was issued in pursuance of section 17. or against any bailiff or other person for any act or omission incidental to the execution thereof by reason only that the applicant was not entitled to the possession of the property.

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[1] Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
[2] Substituted by Act XV, 1945.
[3] Substituted for the words "five thousand rupees" by Act LXXXVII, 1947.
[4] Substituted by Act XV 1945.

Liability of applicant obtaining order when not entitled. Application for order in such case an act of trespass.

19. (*1*) Nothing in this Act shall be deemed to protect any applicant obtaining possession of any property under this Act from a suit by any person deeming himself aggrieved thereby, when such applicant was not at the time of applying for an order under section 17 entitled to the possession of such property.

(*2*) And when the applicant was not, at the time of applying for any such order as aforesaid, entitled to the possession of such property, the application for such order, though no possession is taken thereunder, shall be deemed to be an act of trespass committed by the applicant against the occupant.

Stay of proceedings on occupant giving security.

20. (*1*) Whenever on an application being made under section 17 the occupant binds himself in a bond, with or without sureties as the Court may direct, and for such amount as the Court thinks reasonable, to institute without delay a suit [1] * * * against the applicant for compensation for trespass and to pay all the costs of such suit and any compensation which he may be ordered to pay under sub-section (*3*) in case he does not prosecute the same or in case judgment therein is given for the applicant, the Court shall stay the proceedings on such application until such suit is disposed of.

(*2*) If the occupant obtains a decree in any suit against the applicant, such decree shall supersede the order (if any) made on an application under section 17.

(*3*) If the suit referred to in sub-section (*1*) fails and it appears to the [2]trial Court that there was no reasonable or probable ground for instituting the same, the applicant may apply to such Court and such Court may award to the applicant such compensation as it deems reasonable, not exceeding one thousand rupees or the annual rental value of the property, whichever is less.

Recovery of possession no bar to suit to try title.

21. Recovery of the possession of any immoviable property under this Act shall be no bar to the institution of a suit [1] * * * for trying the title thereto.

Application for distress warrant.

22. (*1*) Any person claiming to be entitled to arrears of rent of any house or premises [3][within the city of Rangoon], or his duly constituted attorney, if any, may apply to the Court for a distress warrant in accordance with the provisions of this Act.

(*2*) Nothing in this section applies—

(*a*) to any rent due to Government ;

(*b*) to any rent which has been due for more than twelve months before the application mentioned in sub-section (*1*) ;

[4](*c*) to any rent of house or premises the rent of which exceeds one hundred rupees per month.

CHAPTER VI.

PROCEDURE.

Procedure of Court.

[5] **23.** (*1*) The procedure prescribed in the Code of Civil Procedure shall, save in so far as is otherwise provided [6] * * * by this Act, be the procedure to be followed by the Court in all suits cognizable by it and in all proceedings arising out of such suits.

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[1] The words "in the High Court" were deleted by Act LXV, 1947.
[2] Substituted for the word "High" by *ibid*.
[3] Substituted by Act V, 1950.
[4] Inserted by *ibid*.
[5] Substituted by Act XV, 1945.
[6] The words "by that Code, or" were deleted by Act V, 1950.

(*2*) The following sections of the Code of Civil Procedure shall not extend to the Court in the exercise of its jurisdiction as a Court of Small Causes, namely :—

Sections 7, 9, 91, 92 ;

Sections 94 and 95 so far as they authorize or relate to—

(i) orders for the attachment of immoveable property ;

(ii) the appointment of a receiver of immoveable property ;

(iii) injunctions ;

(iv) interlocutory orders referred to in [1] [clause (*e*)] of section 94 ;

Sections 96 to 112 inclusive, and 115.

CHAPTER VII.

APPEALS AND REVISIONS.

24. [1] (*1*) An appeal shall lie to the High Court— Appeals.

(*a*) from any decree made by the Court in exercise of its ordinary civil jurisdiction when the amount or value of the subject-matter of the suit exceeds two hundred rupees ;

(*b*) from any order of the kind specified in clauses (*a*) to (*i*) and (*w*) of Rule 1 of Order XLIII of Schedule I to the Code of Civil Procedure passed by the Court in suits the decree in which are appealable or in proceedings arising therefrom, and

(*c*) from any order passed under clauses (*g*) and (*h*) of sub-section (*1*) of section 104 of the said Code.

(*2*) The period of limitation for an appeal under sub-section (*1*) shall be thirty days and in the computation thereof and in all other respects the provisions of the Limitation Act shall apply. Period of limitation.

25. The High Court, for the purposes of satisfying itself that a decree or order [1][which was made in any case by the Court and is not appealable under the provisions of section 24] was according to law, may call for the case and pass such order with respect thereto as it thinks fit. Revisions.

26. Save as otherwise provided by this Act or by any other enactment for the time being in force, every decree and order of the Court shall be final * * * [2] General finality of decrees and orders of Court.

CHAPTER VIII.

FEES AND COSTS.

27. [3](*1*) * * * * *

(*2*) For the purposes of the Court Fees Act an application under section 17 shall be deemed to be a suit of a value equal to the annual rental value of the property in respect of which the application is made. Institution fees.

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[1] Substituted by Act V, 1950

[2] The words "and conclusive" by Act XV, 1954.

[3] Deleted by Act V, 1946.

Repayment of half fees on settlement before hearing.

28. (*1*) Whenever any suit or proceeding is settled by agreement of the parties before any evidence is recorded, half the amount of all Court fees paid up to that time shall be repaid by the Court to the parties by whom the same have been respectively paid.

(*2*) Whenever an order for repayment is made under sub-section (*1*), the Court shall grant to the party entitled to be repaid a certificate authorizing him to receive back from the Collector the amount payable to such party.

CHAPTER IX.

CONTEMPT OF COURT.

Imprisonment or committal of person refusing to answer or produce document.

29. If any witness before the Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, the Court may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to answer such questions or to produce such document, as the case may be, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or 482 of the Code of Criminal Procedure.

Appeal from orders under section 29.

30. Any person deeming himself aggrieved by an order under section 29 may appeal to the High Court, and the provisions of the Code of Criminal Procedure relating to appeals shall, so far as may be, apply to appeals under this section.

CHAPTER X.

RULES.

Rules.

31. The rules in Schedule I shall have effect as if enacted in the body of this Act until annulled or altered in accordance with the provisions of section 32.

Procedure and practice of Court.

32. The High Court may, from time to time, by rules having the force of law—

(1) provide for the exercise by one or more of the Judges of the Court of any powers conferred on the Court by this Act or any other enactment for the time being in force ;

(2) regulate the procedure of the Court in the exercise of its jurisdiction under [1][this Act] ; and may by such rules (after previous publication thereof) annul, alter or add to all or any of the rules in Schedule I ;

(3) provide for the delegation to any ministerial officer of the Court of any non-judicial or *quasi*-judicial duties which this Act or the Code of Civil Procedure requires to be performed by a Judge :

Provided that no rule made under this section shall be inconsistent with the provisions in the body of this Act.

[1] Substituted by Act V, 1950.

CHAPTER XI.

MINISTERIAL OFFICERS.

Appointment of Registrar and ministerial officers.

33. (*1*) An officer may be appointed to be called the Registrar of the Court, and to be the chief ministerial officer of the Court ; and

(*2*) There may also be appointed a Deputy Registrar and as many clerks, bailiffs and other ministerial officers as may be sanctioned by the President of the Union for the administration of justice by the Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

Powers and duties of such officers.

(*3*) The Registrar and other officers so appointed shall exercise such powers and discharge such duties, of a ministerial nature, as the Chief Judge may, from time to time, direct.

Registrar may be invested with powers of a Judge in suits not exceeding one hundred and fifty rupees.

34. (*1*) The President of the Union may invest the Registrar with the powers of a Judge under this Act for the trial of suits in which the amount or value of the subject-matter does not exceed [1] [one hundred and fifty rupees] [2] [and for hearing and disposal of execution and other proceedings arising out of such suits].

(*2*) Subject to the orders of the Chief Judge, any Judge of the Court may, whenever he thinks fit, transfer from his own file to the file of the Registrar any suit which the latter is competent to try.

(*3*) For the purposes of this section an application for possession under section 17 shall be deemed to be a suit.

Default of bailiff or other officer in execution of order or warrant.

35. If any bailiff, clerk, or other inferior ministerial officer of the Court, who is employed as such in the execution of any order or warrant, loses, by neglect, connivance or omission, an opportunity of executing such order or warrant, he shall be liable, by order of the Chief Judge, to pay to the person injured by such neglect, connivance or omission, such sum, not exceeding in any case the sum for which the said order or warrant was issued, as, in the opinion of the Chief Judge, appears reasonable.

Extortion or default of officers.

36. If any clerk, bailiff or other inferior ministerial officer of the Court is charged with extortion or misconduct while acting under colour of its process, or with not duly paying or accounting for any money levied by him under its authority, the Court may inquire into such charge, and may make such order for the repayment or payment of any money so extorted, or of any money so levied as aforesaid, and of damages and costs, by such officer, as it thinks fit.

Court empowered to summon witnesses, etc.

37. For the purposes of any inquiry under this Chapter, the Court[1] shall have all the powers of summoning and enforcing the attendance of witnesses and compelling the production of documents which it possesses in suits under this Act.

Enforcement of order.

38. Any order under this Chapter for the payment or repayment of money may, in default of payment of the amount payable thereunder, be enforced by the person to whom such amount is payable as if the same were a decree of the Court in his favour.

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[1] Substituted for the words "fifty rupees" by Act LXXXVII, 1947.
[2] Inserted by Act V, 1950.

CHAPTER XII.

MISCELLANEOUS.

[1] **39-40.** * * * *

SCHEDULE 1.

ORDER LIII [2].

RANGOON CITY CIVIL COURT RULES.

PART I.

Preliminary.

1. These rules may be called the Rangoon City Civil Court Rules and shall apply to all proceedings hereafter to be instituted in the Rangoon City Civil Court, and, as far as may be, to all proceedings that may be transferred to it under section 39 of the Rangoon City Civil Court Act.

2. In these rules unless there be something repugnant in the subject or context,—

(1) "The Act" means the Rangoon City Civil Court Act.
(2) "Bailiff" means any Bailiff of the Court.
(3) "The Code" means so much of the Code of Civil Procedure together with the Schedules and Appendices thereto, as is not expressly or impliedly excluded by the Act or these rules.
(4) "Prescribed" means prescribed by these or any duly authorized rules or orders or by the Code.
(5) "Process" includes a summons to a defendant or to a witness, a notice or any other process (not being a warrant) which has to be served through the Court.

3. The procedure to be followed in the Court shall be that laid down in the Code, subject to the provisions of the Act and of these rules.

[3] **4.** All plaints, written statements, affidavits, petitions and other proceedings presented to the Court shall be in English and written or typewritten or printed, fairly and legibly, and in the prescribed form :

Provided always that in proceedings to which all the parties are Burmans and in which the relief sought does not exceed Rs. 500, all pleadings, petitions and affidavits may be written, typed or printed in Burmese.

5. Written statements, petitions and affidavits, unless filed in Court or before the Registrar, shall be presented to the Chief Clerk or to such other officer as may be appointed in that behalf, in like manner as is hereinafter provided for the presentation of plaints.

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[1] Repealed by Act LXXXVII, 1947.

[2] These rules were made by the High Court in exercise of the powers conferred by s. 122 of the Code of Civil Procedure and s. 32 of the Rangoon City Civil Court Act ; [*see* High Court Notification No. 1 (Schedule), dated 27th February 1946].

[3] *See* new section 216 of the Constitution of the Union of Burma, which lays down that the official language of the Union shall be Burmese: provided that the use of the English language may be permitted.

6. It is competent for the Chief Clerk to administer oaths to the deponents of affidavits to be filed in Court.

7. Copies of pleadings, petitions and affidavits must be served on the opposite party not less than 48 hours before the date fixed for hearing.

8. Unless the necessary process fees payable on a plaint or petition are paid within 48 hours from its admission, the suit or petition may be dismissed.

Institution of Suits—The Plaint, its Presentation and Admission.

9. Every suit shall be instituted by the presentation of a plaint.

10. The subject-matter of the plaint shall be divided into paragraphs numbered consecutively and each paragraph shall contain as nearly as may be a single allegation. Where a Burmese or Indian date is given the corresponding English date shall be added. The names, descriptions and places of residence of the parties must be fully set out in the title or the omission to do so must be satisfactorily explained.

11. A plaint shall be presented to the Chief Clerk of the Court or to such other officer as the Chief Judge may from time to time appoint in that behalf. If the plaint be reasonably legible and be properly stamped, signed and verified and otherwise admissible in accordance with the provisions of the Code and of these rules it shall be received and a receipt shall be granted to the person presenting it. A diary form for the suit shall thereupon be opened by such Chief Clerk or other officer, who shall enter therein the name of the person presenting the plaint, the date of presentation and the documents (if any) produced or filed with the plaint.

12. There shall be filed with the plaint as many copies thereof as there are defendants to the suit. And the Chief Clerk or such other officer as aforesaid shall thereupon place the plaint with the diary form before the Registrar for his written order for the admission of the plaint and his direction for summons to issue upon payment of the necessary fees.

13. If it appears to the Registrar that the plaint should for any reason be amended or rejected, the matter shall be placed in the daily cause list on a suitable date before the Registrar for admission and the Registrar shall then deal with the matter in question or (if so desired) place the matter for admission before the Judge to whom such case would ordinarily be assigned.

14. If the person desiring to verify a plaint is not a party to the suit he shall obtain leave from the Registrar to verify and his application in that behalf shall be supported by affidavit showing his connection with the case and how the allegations made come within his knowledge or belief.

15. An agent desiring to institute a suit shall at the time of presenting the plaint produce his power of attorney for the scrutiny of the Chief Clerk or such other officer as aforesaid who shall examine it and note its production in the diary, and the power of attorney shall be returned with a warning that it must be produced on the day of hearing for inspection.

16. (*1*) When an original document is produced by the plaintiff under Order VII, Rule 14, of the Code, the Chief Clerk shall put thereon his initials and a note of the date of presentation.

(*2*) If a copy of such document is delivered to be filed with the plaint instead of the original, the Chief Clerk shall compare the copy with the original and certify as to its correctness by endorsement.

17. When a plaint has been admitted it shall be numbered and registered as a suit duly instituted and the Chief Clerk or other officer as aforesaid shall upon receipt of the proper fees issue a summons directed to each defendant.

Summons—Its Service and the Service of Processes generally.

18. The summons to the defendant shall require the defendant or defendants to enter appearance before the Registrar upon a date to be therein mentioned.

19. (*1*) In all suits for sums not exceeding Rs 150 the summons shall be for final disposal.

(*2*) In all suits the value of which exceeds Rs. 1,000 the summons shall be for the settlement of issues.

(*3*) And in all other suits the Registrar shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only or for the final disposal of the suit; and the summons shall contain a direction accordingly.

20. (*1*) In all suits in which summons is for the settlement of issues the defendant when he enters appearance shall be given an opportunity of filing a written statement in answer to the plaintiff's claim and the suit shall be assigned to a particular Judge for trial and a date fixed for hearing.

(*2*) In all other suits a verbal defence may be recorded unless for any reason the Court considers a written statement desirable in the circumstances.

21. Ordinarily the interval between the date of issue of a summons and the day fixed for the appearance of the defendant or defendants shall not be less than—

(*a*) where all the defendants reside within the local limits of the jurisdiction of the Court—

(1) in suits the value of which exceeds Rs.1,000—fourteen days ;

(2) in all other cases—ten days ;

(*b*) where any one defendant resides in the Union of Burma but beyond the local limits of the jurisdiction of the Court—twenty-eight days;

(*c*) where any one defendant resides in India or Pakistan—eight weeks ;

(*d*) where any one defendant resides out of India or Pakistan and the Union of Burma—three months.

22. Ordinarily a defendant residing within the local limits of the jurisdiction of the Court shall not be deemed to have had sufficient time to appear and answer unless the process was served on him not less than three clear days before the day fixed for appearance.

23. All processes and warrants, except committal and release warrants, shall be signed, sealed and issued by the Chief Clerk. Committal and release warrants and commissions shall be signed by the Judge who ordered their issue or by the Registrar on his behalf.

24. Processes or warrants for service or execution within the local limits of the jurisdiction of the Court shall be delivered for service or execution to the Bailiff, who shall endorse thereon the date of receipt by him. If the person to be served is known to the Bailiff, or to any of his staff, the Bailiff shall cause the process to be served forthwith. If the person to be served is not so known the Bailiff shall require the party applying for the process to provide some person to identify the person to be served and shall fix a time when one of the officers will be ready to proceed to effect service.

25. Processes for service in the Union of Burma but beyond the local limits of the jurisdiction of the Court shall, unless otherwise directed, be sent by post to a Court at the headquarters of a township in which the person to be served resides. If the process is to be served out of the Union of Burma it shall be served in the manner prescribed by Order V, Rules 21, 21A, 25, 25A and 26 of the Code, and if the process has to be sent to any Court having jurisdiction in the place where the defendant resides, the party at whose instance the process is issued shall name such Court.

26. Unless otherwise ordered a second or subsequent process shall not be issued until the previous one has been returned.

27. Proof of service may be made by affidavit. Such affidavits must state fully all particulars which must necessarily be proved before the summons or process can be held to have been duly served. The Bailiff is empowered to administer the oath to the deponents of such affidavits.

28. No summons or other process shall be served or executed on a Sunday, Christmas Day or Good Friday except by the special leave of the Court.

Appearance.

29. If the defendants or any of them do not appear and the Court is satisfied that they have been duly served with the summons the suit shall be heard *ex-parte* as regards such defendants or any of them.

30. If the defendants or any of them do appear and wish to defend the suit, the Registrar shall either direct such defendants or defendant to file a written statement before the Judge to whom such case is assigned for trial, allowing such time as may be reasonable for the purpose, or direct that the case be placed before such Judge the following Court day for orders.

31. Advocates or pleaders instructed to appear and defend on behalf of any one or more defendants in a suit may enter appearance on his or their behalf at any time before the date for appearance by formal notice in writing addressed to the Chief Clerk and may at the same time file written statements in answer to the plaintiff's claim and the case will thereupon be placed for orders before the Registrar.

32. (*1*) A minor can only enter appearance by his guardian *ad litem*. And the Court shall, upon being satisfied of such incompetence, appoint a proper person to be such guardian upon application made to it either in the name or on behalf of such minor or by the plaintiff.

(*2*) (*a*) If on an application by the plaintiff, and after due notice to the proposed guardian and to the minor, the proposed guardian is not appointed, the Court may appoint one of its officers to act as guardian *ad litem*.

(*b*) In such case no notice need issue save to the officer concerned, and upon his signifying to the Court his consent to act as a guardian the order appointing him shall be made, and he shall thereupon endeavour to get into communication with the minor's natural guardian or relatives with a view to ascertaining what defence should be pleaded in answer to the plaintiff's claim.

(*c*) The Court may at any time direct the plaintiff or other party having the conduct of the case to pay into Court a sum sufficient to defray such minor's expenses in defending the suit.

(3) The procedure provided for by this rule with regard to minors shall be adopted *mutatis mutandis* with regard to persons of unsound mind.

33. Upon a written statement being filed or a verbal defence recorded the Judge to whom such case is assigned shall fix a date for trial, unless the matter can be disposed of on the pleadings.

34. Subject to the control of the High Court, the Chief Judge may from time to time make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof. And he may withdraw any suit or proceeding from any Judge and transfer it to himself or to any other Judge for disposal.

Daily File and Cause Lists.

35. All pending cases shall be entered in the daily file under the respective dates fixed for hearing.

36. A daily cause list for each Judge and one for the Registrar shall be prepared from the daily file and shall show the matters for disposal in such order as the Chief Judge shall direct.

37. Cases in the daily list shall be called on in turn in the order in which they appear in the list.

38. The daily cause lists shall be affixed to the Court notice boards daily before the Court opens.

Documents filed in Court.

39. The Chief Clerk is authorized to permit a party or his pleader to inspect in his presence or in the presence of an officer of the Court any document filed in a suit or proceeding in which he is a party or pleader.

40. Subject to the provisions of Order XIII, Rule 9, of the Code, documents filed in Court may be returned after fifteen days from the date of judgment unless the proceedings have in the meanwhile been sent for by the High Court.

41. No document not in the English language shall (unless the Court otherwise orders) be read or received in evidence without an authorized translation thereof:

Provided that in cases in which the pleadings may be in Burmese, translations shall not be required of documents written in the Burmese language.

42. The Bench Clerks shall make and sign the endorsements required by Order XIII, Rules 4 and 6, of the Code, on documents admitted or rejected.

Summons to Witnesses.

43. A party or his pleader may apply for a summons to a witness in any suit or proceeding at any time after its institution and during its pendency. The application shall be presented to the Chief Clerk. If he thinks that for any reason it should not be granted, he shall take the orders of the Registrar on the point.

44. The party applying shall, within twenty-four hours from the time when the application is filed, pay to the Bailiff such sum for the travelling and other expenses of the person or persons summoned as the Bailiff may direct according to the following scale[1]:—

	Maximum.			Minimum		
	Rs.	A.	P.	Rs.	A.	P.
Soldiers, mariners, labourers, carriers, domestic servants, sircars, etc.	2	0	0	1	2	0
Tradesmen	6	0	0	2	0	0
Merchants, managers of banks, zemindars, gentlemen of property	16	0	0	4	0	0
Auctioneers, brokers, professional accountants	10	0	0	3	0	0
Professional men	16	0	0	4	0	0
Editors, engineers and surveyors	10	0	0	4	0	0
Officers in civil employ drawing not less than Rs. 500 a month, according to rank	16	0	0	6	0	0
Military and naval officers, according to rank	16	0	0	6	0	0
Shroffs, bunnias, schoolmasters, commanders and officers of ships	8	0	0	3	0	0
Articled and other clerks	8	0	0	3	0	0
Police Inspectors, petty officers, military and marine ...	6	0	0	3	0	0
Customs-house officers and engine-drivers	6	0	0	3	0	0
Godown sircars	3	0	0	1	8	0
Females according to station	6	0	0	1	2	0

In special cases or in cases not provided for in the scale, the Court shall allow such fees as it thinks fit:

Provided—

Firstly,—that in cases to which Government or a Local Authority is a party—

(*a*) no payment into Court will be required for the travelling and other expenses of a servant of Government or of a Local Authority who may be required to be summoned at the instance of Government or the Local Authority respectively to give evidence in his official capacity;

(*b*) the amount to be paid into Court for the travelling and other expenses of a servant of Government or of a Local Authority whose salary exceeds Rs. 30 and who may be required to be summoned at the instance of a party other than the Government or the Local Authority respectively to give evidence in his official capacity in a Court situate at a distance of more than five miles from his headquarters shall be equivalent to the travelling and halting allowances admissible under the rules applicable to him in his official capacity.

Secondly,—a servant of Government or of a Local Authority whose salary exceeds Rs. 30 per mensem giving evidence in his official capacity in a suit to which Government or the Local Authority respectively is a party—

(*a*) when giving evidence at a place more than five miles from his headquarters shall not receive anything under these rules, but shall be given a certificate of attendance;

(*b*) when giving evidence at a place not more than five miles from his headquarters shall, in cases where the Court considers it necessary, receive under these rules actual travelling expenses, but shall not receive subsistence, special nor expert allowances.

[1] This scale was substituted by High Court Notification No. 3 (Schedule), dated the 8th October 1948.

Thirdly,—a servant of Government or of a Local Authority whose salary does not exceed Rs. 30 per mensem giving evidence in his official capacity shall receive his expenses from the Court.

[NOTE.—When the journey has to be performed partly by rail or steam-boat and partly by road or by boat, the fare shall be paid in respect of the former and the mileage or boat allowance in respect of the latter part of the journey.]

Railway servants summoned by the Court as witnesses, and travelling by rail to attend the Court, shall be paid the railway fare to which they are entitled under the rules for the payment of witnesses without regard to the fact that they may have travelled under a pass and not on actual payment of the fares.

45. The Chief Clerk shall issue summonses as soon as possible after the Bailiff has endorsed on the application his receipt for the money paid.

46. Fees paid to witnesses otherwise than through the Bailiff shall be certified to the Court before a witness is examined, and if not so certified shall not be allowed in taxation of costs.

47. In cases where the witnesses reside beyond the local limits of the jurisdiction of the Rangoon City Civil Court, the Bailiff shall remit the expenses of the witnesses by money order to the Court to which the summons is to be sent for service.

48. The Bailiff shall receive all money sent by other Courts as expenses of witnesses and commissions.

49. On receipt of a summons to a witness issued by another Court, the Chief Clerk shall send it to the Bailiff, who shall note on it whether any and, if so, what money has been received as expenses of the witness. If the money received as expenses are sufficient, the Chief Clerk shall then make an order for the issue of the summons.

50. On receiving a commission for the examination of a witness from another Court, the Chief Clerk shall send it to the Bailiff, who shall note on it whether any and, if so, what money has been received as expenses of the witness. If sufficient money has been received, the Chief Clerk shall make an order for the issue of the summons to the witness.

51. Any money received as expenses of witnesses which remains unexpended shall be returned by the Bailiff to the Court of issue, under the orders of the Registrar.

Commissions.

52. The hearing of a suit in which a commission has been issued under Order XXVI of the Code shall be postponed until the return of the commission, unless the Court otherwise directs.

53. An application for commission shall be made promptly after the grounds on which it is asked for are known, and shall be accompanied by an affidavit or affidavits, setting out the facts relied upon as grounds for the issue of the commission, and stating when they first became known to the applicant.

54. In commissions for the examination of witnesses which are addressed to Court and in which the delegation of the Commissioner's duties to an advocate or pleader has not been authorized, the Court or the Registrar shall have power to appoint such advocate or pleader or official of the Court as he may determine to execute the commission.

55. (*1*) When an order for the issue of a commission to take evidence on interrogatories has been made, the party obtaining the order shall, within seven days from the date thereof, file his interrogatories, and the documents, if any, to accompany the commission, and shall serve a copy of the interrogatories on the other party or his pleader, who shall file his cross-interrogatories, with the documents, if any, to accompany the same, within seven days from such service, and shall serve a copy on the other party or his pleader.

(*2*) If the commission is for the examination of witnesses *viva voce* the party obtaining the order shall file a list of witnesses, and all necessary papers and documents, within seven days from the date of the order.

56. The party obtaining an order for a commission shall pay the necessary costs of and incident to the same within seven days of the date of the order.

57. On default in the observance of these rules by a party obtaining an order for a commission, the commission shall not issue without leave of the Court, and on default by the opposite party he shall not be allowed to join in the commission without such leave.

Hearing.

58. Proper time must be taken to see that parties are actually joined and that the real points in issue are settled; but when the case has once been set down for trial and the parties with their witnesses are in attendance, the case should be tried the same day and continued from that day to the next and so on until the hearing of evidence is completed, unless there are reasons, which must be recorded in writing, for an adjournment.

Judgments, Orders and Decrees.

59. (*1*) In all suits of over Rs. 1,000 in value the evidence shall be recorded in manner provided by Order XVIII, Rule 5, and the judgments shall contain the particulars required by Order XX, Rule 4 (2), of the Code.

(*2*) In all other suits Order XVIII, Rules 5 to 12, shall not apply and judgments shall be in accordance with the provisions of Order XX, Rule 4 (1), of the Code.

60. (*1*) Except orally delivered judgments taken down in shorthand, judgments and orders shall be pronounced only after they are written. All judgments and orders shall bear the date on which they are delivered.

(*2*) Decrees shall bear the date of delivery of judgment, and also the date of signature in the hand of a Judge.

(*3*) If a party or his pleader intimates to the Chief Clerk immediately after a judgment or order has been passed by a Judge that he wishes to see the formal decree or order before it is submitted for signature, he may be allowed to do so, and if there is any disagreement as to the form of decree or order, or the taxing of the costs, the case shall be set down on the daily list, on as early a date as may be convenient, to speak to the minutes of decree.

61. When the Court directs that any decree may be paid by instalments, such instalments shall, in the absence of any direction to the contrary, be paid into Court monthly, and, in default of payment of any one instalment, the whole decree or the balance thereof shall become due.

Execution Proceedings

62. Every application for executing a decree shall be in the prescribed form and shall be presented to the Chief Clerk, or such other officer as the Chief Judge may appoint in that behalf, and the application shall after examination and check by the Execution Clerk, be put up for orders before the Registrar or the Judge who passed the decree with a report endorsed thereon as to whether the requirements of the Code and of these rules have been complied with.

63. Applications under section 39 of the Code to send a decree or order for execution to another Court shall be made by verified petition, and shall be accompanied by a certified copy of the decree or order.

64. The certified copy, together with the other documents mentioned in Order XXI, Rule 6, of the Code, shall be sent by registered post.

65. The process fees prescribed for the warrant of attachment and for the order of sale shall be annexed to every application for execution by attachment and sale of property.

66. In every application for the attachment of moveable property the approximate value of the property sought to be attached shall be stated according to the best of the applicant's belief.

67. In applications for execution by attachment of moveable property it shall be expressly stated whether the property sought to be attached is in the possession of the judgment-debtor or not, and the place where the property is to be found shall be clearly indicated.

68. A warrant issued under Order XXI, Rule 24, of the Code, shall be returnable within one month from the date thereof.

Sale of Attached Moveable Property.

69. As soon as possible after an attachment of moveable property, the Bailiff shall report to the Court the fact of the attachment and shall furnish a list of the articles attached and their approximate value, and shall note if any of them are not liable to attachment or sale.

If any of the articles or things fall within the proviso of Order XXI, Rule 43, of the Code, it shall be so stated in the report and list.

70. The report and list shall be submitted to the Court concerned which shall pass such order for sale as it may think fit, although the decree-holder may not apply for a sale order. A warrant for sale shall be sent to the Bailiff who shall forthwith prepare and issue a proclamation.

71. Every proclamation shall be advertised in a local newspaper or advertiser for at least fifteen days (except in the case of property mentioned in the proviso to Order XXI, Rule 43, of the Code), and no proclamation shall issue until the person applying for sale has deposited with the Bailiff an amount sufficient to defray the expense of advertising.

72. Moveable property falling within the proviso to Order XXI, Rule 43, of the Code, shall be sold as soon as may be convenient after it has been attached. Other moveable property shall be sold on the third Saturday after the day on which the proclamation shall have been affixed on the Court house.

Security to Court.

73. When security is required to be given it shall be taken either in cash or in the form of a bond. Such bond shall be with or without sureties as the Judge may direct, and shall be in favour of the Bailiff of the Court.

74. When sureties are required and persons resident within the jurisdiction of the Court are tendered, the Bailiff shall report whether the principal and sureties possess within the jurisdiction of the Court property of value equal to the amount of the security required.

75. No sureties shall, without the order of the Judge, be accepted unless they make an affidavit or affidavits stating that the property which each of them possesses, or that their properties combined, are equal in value to the amount of the security demanded, over and above any incumbrance to which such properties may be liable, and over and above the amount for which they have previously given security in the Court or in any other Court and for which they are at the time liable as sureties.

76. On the application of the Bailiff summonses may be issued to persons named by him to appear before him or to produce before him documents of title for the purpose of his enquiry into the value of the property of any person tendered as a surety.

Bailiff's Commission on Sales of Attached Property.

77. The Commission to be drawn by the Bailiff on sales of attached property shall be at the rate of 5 per cent.

The fees paid each month shall be drawn and disbursed to the Bailiff at the end of the month under the orders of the Registrar.

Applications generally.

78. All applications arising out of a suit shall bear the number of such suit unless they be applications for execution, for attachment, or arrest before judgment, for removal of attachment, for review of judgment, for sanction to prosecute, or miscellaneous applications which necessitate separate judicial proceedings, or in which the petitioner is not a party to the suit.

79. Every application in writing shall be in the form of a petition signed by the applicant or his recognized agent, or his pleader, and if the Court requires it to be verified shall be verified in the same manner as a plaint.

80. On receiving an application the Court shall (if necessary) direct notice to issue for service on the respondent together with a copy of the application, to be supplied by the applicant. The notice shall be served in the same manner as a summons and shall fix a date for the hearing of the application.

Applications to set aside Dismissal Orders or ex parte *Decrees.*

81. The Court may, at any time after an application to set aside an order of dismissal or an *ex parte* decree is presented to the Court, put the parties on such terms as to furnishing costs or for security for the amount of the claim and costs by payment into Court or otherwise as it shall think fit.

PART II.

Summary Procedure in Certain Cases.

82. This Part shall apply to suits on negotiable instruments when the value of the subject-matter does not exceed Rupees one thousand.

83. (*1*) All suits upon bills of exchange, hundis or promissory notes may, in case the plaintiff desires to proceed hereunder, be instituted by presenting a plaint in the form prescribed with the original bill of exchange, hundi or promissory note annexed, together with as many copies thereof as there are defendants to the suit. The summons shall be in Form G in the Appendix and it shall not be necessary to serve a copy of the plaint on the defendant.

(*2*) In any case in which the plaint and summons are in such forms, respectively, the defendant shall not appear or defend the suit unless he obtains leave from the Court as hereinafter provided so to appear and defend; and in default of his obtaining such leave or of his appearance and defence in pursuance thereof, the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree—

(*a*) for any sum not exceeding the sum mentioned in the summons with the interest at the rate specified (if any) to the date of the decree ; and

(*b*) for such sum for costs as may be prescribed :

Provided that if the plaintiff claims more than such sum fixed for costs, the costs shall be ascertained in the ordinary way.

(*3*) A decree passed under this rule may be executed forthwith.

Explanation.—For the application of this rule the summons to the defendant shall, unless otherwise ordered by the Court, have been served upon him : —

(*a*) if he resides and is served within the local limits of the jurisdiction of the Court, at least ten clear days before the returnable date of the summons ;

(*b*) if he resides and is served without such local limits but in the Union of Burma, at least fifteen clear days before the returnable date of the summons ;

(*c*) if he resides and is served in India or Pakistan, at least one month before the returnable date of the summons.

84. (*1*) The Court shall, upon application by the defendant, give leave to appear and to defend the suit upon affidavits which disclose such facts as would make it incumbent on the holder to prove consideration or such other facts as the Court may deem sufficient to support the application.

(*2*) Leave to defend may be given unconditionally or subject to such terms as to payment into Court, giving security, framing or recording issues or otherwise as the Court thinks fit.

85. After decree the Court may under special circumstances set aside the decree, and, if necessary, stay or set aside execution, and may give leave to the defendant to appear to the summons and to defend the suit, if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit.

86. In any proceeding under this Part the Court may order the bill, hundi or note, on which the suit is founded, to be forthwith deposited with an officer of the Court and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

87. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment or otherwise by reason of such dishonour as he has under this Part for the recovery of the amount of such bill or note.

88. Save as provided by this Part the procedure in suits hereunder shall be the same as the procedure in suits instituted in the ordinary manner.

PART III.

Miscellaneous.

89. All acts which may be done by the Court in regard to the appointment or removal of a guardian *ad litem* under Order XXXII, Rules 4 and 11, of the Code or in regard to the substitution or addition of parties to a suit may be done by the Registrar.

90. Any of these rules which require a Judge of the Court to do any act or thing shall be read as applying equally to a Registrar when exercising any of the powers conferred upon him under sub-section (*1*) of section 34 of the Act or by these rules.

The Registrar is authorized to grant certificates under section 28 of the Act to parties in cases which have been disposed of by him.

91. Whenever any judgment-debtor who has been arrested or whose property has been seized in execution of a decree of the Court, or a decree of another Court transferred to it for execution, offers security to the satisfaction of the Court for payment of the amount which he has been ordered to pay and the costs, the Court may order him to be discharged or the property to be released upon his furnishing such security.

92. Subject to the approval of the High Court, the Court shall frame such forms as it may think necessary for any proceeding before it and may from time to time alter any of such forms.

93. After the disposal of every suit in which a pauper is concerned the Chief Clerk shall send to the Collector of Rangoon a memorandum of the Court-fees due and payable by the pauper.

94. The following portions of Schedule I to the Code shall not extend to the Court, that is to say :—

(*a*) Order XLVII, Rules 6 and 7 ; and,
(*b*) Order XLIX and L ; and

the following portions of the said Schedule shall not extend to the Court in the excercise of its jurisdiction as a Court of Small Causes, namely—

(*a*) so much of the said Schedule as relates to—
  (i) suits excepted from the cognizance of the Court or the execution of decrees in such suits ;
  (ii) the execution of decrees against immoveable property or the interest of a partner in partnership property ; and
(*b*) Order X, Rule 3 (record of examination of parties), and Order XIV.

95. The forms prescribed in the Appendix, with such variation as the circumstances may require, shall be used for the purposes therein mentioned.

APPENDIX.

FORMS.

A

TABULAR FORM OF APPLICATION FOR EXECUTION—PART I (RULE 62).

IN THE RANGOON CITY CIVIL COURT.

The Petition of Holder of the Decree in Civil No.

RESPECTFULLY SHEWETH—

That your petitioner, the Decree-holder abovenamed, hereby applies for execution of the said Decree upon the Judgment-Debtor, according to the particulars given in accordance with Order XXI, Rule 11 (2), of the Code of Civil Procedure.

Rangoon, *195* .

Petitioner.

The number of suit. (1)	The names of parties. (2)	The date of the Decree. (3)	Whether any appeal has been preferred from Decree. (4)	Whether any and what adjustment has been made between the parties since the Decree. (5)	Whether any and what previous application has been made for execution of the Decree and with what result. (6)	The amount of the debt or compensation with the interest if any due upon the Decree or relief granted by Decree. (7)				The amount of costs if any awarded. (8)	The name of person against whom enforcement of Decree is sought. (9)	The mode in which the assistance of the Court is sought: whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application or by the attachment of the property or otherwise. (10)
							Rs.	A.	P.			
Civil Number 195						Amount Decreed						
						Interest						
						Costs						
						Subsequent Costs						
						Cost of this application ...						
						TOTAL ...						
						Satisfied in part						
						TOTAL Rs. ...						

I, the Petitioner , do declare that the contents in columns 1 to 10 of this Petition are true to the best of my own knowledge and belief, and I sign this verification at Rangoon, the day of 195 .

Petitioner.

B

SUIT BY PAYEE OF PRO-NOTE AGAINST MAKER (RULE 83).

(Cause Title.)

Particulars—			Rs.	A.	P.
Principal	...	...			
Interest	...	...			
Costs	...	...			

The Plaintiff abovenamed states as follows :—

1. By a Promissory Note, dated the day of annexed hereto and marked with the letter A and duly executed by the Defendant in Rangoon for value received the Defendant promised to pay to the Plaintiff or order the sum of Rs. on demand together with interest at the rate of per cent per annum.

2. The Defendant has not paid the same or any part thereof (or except the sum of Rs. for principal and Rs. for interest).

3. The sum of Rs. is now due to Plaintiff for principal and Rs. for interest.

The Plaintiff claims judgment for the sum of Rs. and for the costs, etc.

I, A. B., the Plaintiff abovenamed, do solemnly declare that I am personally acquainted with the facts of the case and that the facts stated in this Plaint are true to my knowledge.

(Signed) A. B.,
Plaintiff.

C

SUIT BY ENDORSEE OF A PRO-NOTE AGAINST MAKER AND ENDORSER (RULE 83).

(Cause Title.)

Particulars—			Rs.	A.	P.
Principal	...	...			
Interest	...	...			
Costs	...	...			

The Plaintiff abovenamed states as follows :—

1. By the pro-note, dated the day of annexed hereto and marked with the letter A, which was, as I am informed by C.D. and truly believe, duly executed by the first Defendant at Rangoon for value received the said first Defendant promised to pay to the second Defendant the sum of Rs. on demand together with interest thereon at the rate of per cent per annum.

2. On the day of 19 , the second Defendant duly endorsed the pro-note to me for valuable consideration.

3. The sum of Rs. is now due to Plaintiff for principal and Rs. for interest.

The Plaintiff claims judgment for the sum of Rs. and for the costs, etc.

I, A. B., the Plaintiff abovenamed, do hereby declare that except as to the matters stated to be on information and belief, which I believe to be true, I am personally acquainted with the facts of this case, and the facts stated in the Plaint are true to my knowledge.

(Signed) A. B.,
Plaintiff.

D

SUIT BY PAYEE OF CHEQUE AGAINST DRAWER (RULE 83).

(Cause Title.)

Particulars—	Rs.	A.	P.
Principal ...	...		
Interest ...	...		
Costs ...	...		

The Plaintiff abovenamed states as follows :—

1. On the day of 19 , the Defendant for value received duly signed and delivered to the Plaintiff the cheque, dated the day of and drawn on the Bank for the sum of Rs. which is annexed hereto and marked with the letter A.

2. On the day of the said cheque was duly presented to the said Bank and was dishonoured of which due notice was given to the Defendant.

3. The sum of Rs. is now due to Plaintiff for principal and Rs. for interest.

The Plaintiff claims judgment for the sum of Rs. and for costs, etc.

E

SUIT BY THE ENDORSEE OF A BILL OF EXCHANGE AGAINST THE ACCEPTOR AND PAYEE (RULE 83).

(Cause Title.)

Particulars—	Rs.	A.	P.
Principal ...	...		
Interest ...	...		
Costs ...	...		
Notarial charges ...			

The Plaintiff abovenamed states as follows :—

1. The Bill of Exchange, dated the day of hereunto annexed and marked with the letter A was drawn by X. Y. of upon the first Defendant for the sum of Rs. payable three months after date with interest at the rate of per cent per annum, and was accepted by the first Defendant and endorsed by the second Defendant to the Plaintiff.

2. The said bill was duly presented for payment on the day of and was dishonoured and the Plaintiff has incurred the following Notarial charges :—

3. The sum of Rs. is now due to Plaintiff for principal and Rs. for interest.

The Plaintiff claims judgment for the sum of Rs. and for costs, etc.

F

SUMMONS (RULE 80).

(Cause Title.)

To A. B. of (address and description of Defendant).

Whereas has instituted a suit against you under Part II of the Rangoon City Civil Court Rules for Rs. balance of principal and interest due to him as the payee (or endorsee or *as the case may be*) of a Pro-note (or Bill of Exchange or hundi or *as the case may be*) of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court to appear and defend the suit. In default whereof the Plaintiff will be entitled to obtain a decree for the said sum and costs as mentioned below.

Leave to appear may be obtained on an application to the Court supported by affidavit showing that there is a defence to the suit on the merits or that it is reasonable that you should be allowed to appear in the suit.

The day of 19 is fixed for your appearance before the Judge of this Court.

Particulars of Claim.

(As stated in Plaint.)

Given under my hand and the seal of the Court this day of 19

Chief Clerk.

NOTE.—(1) If you admit the claim you should pay the money into Court together with the costs of the suit to avoid execution of the decree which may be against your person and property or both.

(2) The address for service of Plaintiff is :—(Insert address.)

THE RANGOON CITY CIVIL COURT (RECOVERY OF POSSESSION AND DISTRESS) RULES.[1]

PART I.

Preliminary.

1. These rules may be called the Rangoon City Civil Court (Recovery of Possession and Distress) Rules.

2. In these rules unless there be something repugnant in the subject or context :—

(*1*) " The Act " means the Rangoon City Civil Court Act.

(*2*) " Bailiff " means any Bailiff of the Court.

(*3*) " The Code " means so much of the Code of Civil Procedure, together with the Schedules and Appendices thereto, as is not expressly or impliedly excluded by the Act or these or any duly authorized rules.

(*4*) " Prescribed " means prescribed by these or any duly authorized rules or orders or by the Code.

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[1] These rules were made by the High Court in exercise of the powers conferred by s. 32 (2) of the Rangoon City Civil Court Act; *see* High Court Notification No. 1 (General), dated the 27th February 1946.

PART II.

Recovery of Possession of Immoveable Property.

3. An application under section 17 of the Act shall be in the form of a plaint in which the applicant shall be the plaintiff and the occupant the defendant and the matter shall be treated as a suit. For the purpose of ascertaining the value of the suit the annual rental value of the property in respect of which the claim is made shall be deemed to be the value of such suit and such annual value shall be stated in the application.

4. When an application has been made under section 17 of the Act, the Court shall by summons call upon the defendant to show cause why he should not be ejected from the property and compelled to deliver it up to the plaintiff.

5. The summons shall be served on the defendant in the manner provided by the Code for the service of summons on a defendant.

6. If the defendant does not appear at the time appointed and show cause to the contrary, the plaintiff shall, if the Court is satisfied that he is entitled to apply under section 17 of the Act, be entitled to an order addressed to the Bailiff directing him to eject the defendant and to give possession of the property to the plaintiff on such a day as the Court thinks fit to name in such order.

[1]**7.** Any such order shall justify the Bailiff in entering after the hour of eight in the morning and before the hour of six in the afternoon upon the property named therein, with such assistants as he thinks necessary, and giving possession of such property to the Plaintiff, after removing, if necessary, the Defendant and anything found on the property.

8. When the Plaintiff, at the time of applying for any such order as aforesaid, was entitled to the possession of such property, neither he nor any person acting in his behalf shall be deemed, on account of any error, defect or irregularity in the mode of proceeding to obtain possession thereunder, to be a trespasser; but any person aggrieved may institute a suit for the recovery of compensation for any damage which he has sustained by reason of such error, defect or irregularity.

When no such damage is proved, the suit shall be dismissed; and when such damage is proved but the amount of the compensation assessed by the Court does not exceed ten rupees, the Court shall award to the plaintiff no more costs than compensation, unless the Judge who tries the case certifies that in his opinion full costs should be awarded to the plaintiff.

PART III.

Distress Warrants.

9. Every application for a distress warrant under section 22 of the Act shall be accompanied by an affidavit in the prescribed form.

10. The Court may issue a warrant under its seal and returnable within six days, in the prescribed form, addressed to the Bailiff.

The Court may, at its discretion, upon personal examination of the person applying for such warrant, decline to issue the same.

11. Every distress shall be made after sunrise and before sunset, and not[1] at any other time.

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[1] As amended by High Court Notification No. 11 (General), dated the 8th October 1947.

12. The Bailiff directed to make the distress may enter any dwelling-house in respect of which the distress is to be effected, and may if necessary, break open any outer or inner door of the property or stable or out-house or any annexe thereof for the purpose of seizing property liable to be seized:

Provided that he shall not enter or break open the door of any room appropriated for the residence of women, which by the usage of the country is considered private.

13. In pursuance of the warrant the Bailiff shall seize the moveable property found in or upon the house or premises mentioned in the warrant and belonging to the person from whom the rent is claimed (hereinafter called the debtor), or such part thereof as may, in the Bailiff's judgment, be sufficient to cover the amount of the said rent, together with the costs of the said distress.

14. The Bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent.

15. On seizing any property under Rule 13 the Bailiff shall make an inventory of such property and shall give notice in writing in the prescribed form to the debtor, or to any other person on his behalf in or upon the said house or premises, that such property will be sold pursuant to the provisions of the Act. The date on which the sale will be held shall be stated in the notice and shall be not less than seven days after the date of seizure.

The Bailiff shall, as soon as may be, file in the Court copies of the said inventory and notice.

16. The debtor or any other person alleging himself to be the owner of any property seized, or the duly constituted attorney of such debtor or other person, may apply to the Court to discharge or suspend the warrant, or to release a distrained article, and the Court may discharge or suspend such warrant or release such article accordingly, upon such terms as it thinks just, and may in its discretion give reasonable time to the debtor to pay the rent due from him.

Upon any such application, the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Court, and shall be paid as the Court directs.

17. If any claim is made to, or in respect of, any property seized under these provisions or in respect of the proceeds or value thereof by any person not being the debtor, the Registrar, upon the application of the Bailiff who seized the property, may issue a summons calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court in respect of such claim shall be stayed and the High Court, on proof of the issue of such summons and of the distraint, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

And the Court shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as it thinks fit: and such order shall be enforced as if it were an order made in a suit brought in the Court.

The procedure under this rule shall conform, as far as may be, to the procedure in an ordinary suit in the Court.

18. In any case under Rule 16 or 17 the Judge by whom the case is heard may award such compensation by way of damages to the applicant or claimant (as the case may be) as the Judge thinks fit, and may for that purpose make such enquiry as he thinks necessary;

and the order of the Judge awarding or refusing such compensation shall bar any suit for the recovery of compensation for any damage caused by the distress.

19. In default of any order to the contrary made by the Court or by the High Court, the distrained property shall be sold on the day mentioned in the notice prescribed by rule and the Bailiff shall, on realizing the proceeds, pay the amount thereof into judicial deposit; and such amount shall be applied first in payment of the Bailiff's commission and the costs of the said distress and then in satisfaction of the debt; and the surplus, if any, shall be paid to the debtor.

20. No costs of any distress under these provisions shall be taken or demanded except those mentioned in the scale of fees prescribed in Appendix I to these Rules.

The Chief Judge may apply the sum so obtained as costs towards the payment of the contingent charges and Bailiff's remuneration as appears to the said Judge expedient.

21. The Registrar shall keep a book in which all sums received as costs upon distresses made, and all sums paid as remuneration to the Bailiff, and all contingent charges incurred in respect of such distresses, shall be duly entered.

He shall also enter in the said book all sums realized by sale of the property distrained and paid over to landlords under these provisions.

22. No distress shall be levied for arrears of rent except under these provisions.

23. The forms prescribed in Appendix II, with such variation as the circumstances may require, shall be used for the purposes therein mentioned.

APPENDIX I (RULE 20).

Scale of Fees to be levied in Distresses for House-rent.

Sums sued for. (1)	Affidavit and warrant to distrain. (2)	Order to sell. (3)	Commission. (4)	Total. (5)
Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
1 and under 5 ...	0 4 0	0 8 0	0 8 0	1 4 0
5 and under 10 ...	0 8 0	0 8 0	1 0 0	2 0 0
10 and under 15 ...	0 8 0	0 8 0	1 8 0	2 8 0
15 and under 20 ...	0 8 0	1 0 0	2 0 0	3 8 0
20 and under 25 ...	0 12 0	1 0 0	2 8 0	4 4 0
25 and under 30 ...	1 0 0	1 0 0	3 0 0	5 0 0
30 and under 35 ...	1 0 0	1 0 0	3 8 0	5 8 0
35 and under 40 ...	1 0 0	1 8 0	4 0 0	6 8 0
40 and under 45 ...	1 4 0	2 0 0	4 8 0	7 12 0
45 and under 50 ...	1 8 0	2 0 0	5 0 0	8 8 0
50 and under 60 ...	2 0 0	2 0 0	6 0 0	10 0 0
60 and under 80 ...	2 8 0	2 8 0	6 8 0	11 8 0
80 and under 100 ...	3 0 0	3 0 0	7 0 0	13 0 0
100 and under 1,000 ...	3 0 0	3 0 0	7 per centum	...
Upwards of 1,000 ...	3 0 0	3 0 0	7 per centum on the first one thousand and two per centum on the remainder	...

The above scale includes all expenses except in suits where the tenant disputes the landlord's claim and witnesses have to be summoned, in which case each summons in cases where the amount claimed is Rs. 40 or under must be paid for at four annas each, and twelve annas where the amount claimed is above that amount; and also where peons are kept in charge of property distrained, rupees * two per day must be paid per man.

* As amended by High Court Notification No. 2 (General), dated the 29th March 1946.

APPENDIX II (RULE 23).

FORMS.

A

FORM OF AFFIDAVIT (RULE 9).

IN THE RANGOON CITY CIVIL COURT.

A.B. Plaintiff.

Versus.

C.D. Defendant.

I, A.B. of in the town of make oath (or affirm) and say that C.D. , of , is justly indebted to in the sum of Rs. for arrears of rent of the house and premises No. in , due for months, to wit, from to , at the rate of Rs. per mensem.

Sworn or affirmed before me this day of 19

Commissioner for Oaths and Affidavits.

B

FORM OF WARRANT (RULE 10).

IN THE RANGOON CITY CIVIL COURT.

I hereby direct you to distrain the moveable property of C.D., in the house and premises situate at No. , in for the sum of rupees, the costs of the distress, according to the provisions of Part III of the Rangoon City Civil Court (Recovery of Possession and Distress) Rules.

Dated day of 19 Signed and sealed.

To E.F., Bailiff.

C

FORM OF INVENTORY AND NOTICE (RULE 15).

IN THE RANGOON CITY CIVIL COURT.

(State particulars of property seized.)

Take notice that I have this day seized the moveable property contained in the above inventory for the sum of rupees being the amount of months' rent due to A.B. on and that unless you pay the amount thereof, together with the costs of this distress, or obtain an order from one of the Judges or the Registrar of the Rangoon City Civil Court to the contrary, the same will be sold, pursuant to the provisions of Part III of the Rangoon City Civil Court (Recovery of Possession and Distress) Rules, at (1) at o'clock on the day of 19

(1) Insert place.

Dated the day of 19

(Signed) E.F.,
Bailiff.

To C.D.

THE BURMA SMALL CAUSE COURTS ACT.

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