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ZANZIBAR

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Foreign

Date.

Zanzibar Court
Admission of Colonial barristers

19 Oct

previous Paper.

Sends proof of Rules of Zanzibar Court, part I
which deals with persons entitled to practise
before the Court. Suggests amendment to meet
desires of members of Colonial bars desirous of
practising in Zanzibar

W. Tudor

May I trouble you with this? Any
recommendation which you may have to
make should, I think, be passed through
the General Dept, as it is not only the
Base of the East African Protectorates
that are affected.

Mr. Mainwaring spars
Genl Dept Oct 21.

The qualifications to be admitted as
Practitioners are very much the same in
the E. A. Protectorates as in their Rules, so that
the amendment will not cause any practical
difference. The amended wording
is an improvement. Express agreement
21/11/11

LAND, WATER, & CO.
NO. 11/25-A, S.W.

Subsequent Paper

F.C.M.
23 Oct 11

In any further communication
on this subject, please quote

No. 35711/11.

and address—

The Under-Secretary of State,
Foreign Office,
London.

C O
33822 204
RECORDS OFFICE
OCT 20 1911

Sir:-

I am directed by Secretary Sir E. Grey to transmit to you herewith to be laid before the Secretary of State for the Colonies an uncorrected proof of the Rules of Court which it is proposed to issue for His Britannic Majesty's Court at Zanzibar.

*Red proof of
as in Court*

Part I of these Rules deals with the persons entitled to practise before the Court, and it will be noticed that there is no explicit provision for admitting members of Colonial bars to practise in Zanzibar. Sir E. Grey considers that this point might be met by altering Article 4 so as to read "The Judge of the Court for Zanzibar may, in his discretion, admit other persons of good character and sufficient capability to practise in such Court, but such persons shall only be licensed etc....."

I am to enquire whether Mr. Secretary Harcourt

agrees

Under Secretary of State,
Colonial Office.

(35711/11).

agrees that the Rule thus amended would sufficiently meet the claims of members of Colonial bars desirous of practising in Zanzibar.

I am,

Sir,

Your most obedient,

humble Servant,

W. Langley

FO. 33822.11

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26 Oct 91

DRAFT

U.S. of S.

John Doe

MINUTE

- Mr. Pennington ²⁴/₁₀
- Mr. Butler ²⁴/_f
- Mr. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Lord Lucas.
- Mr. Herbert.

seen all
3/4

Sir,

I have the honor to acknowledge the receipt of your letter of the 19th of Oct. & to request you to inform Sir Sir Stuyvesant that he agrees that the amendments as proposed, which are ~~not~~ ^{amended as proposed,} ~~not~~ ^{amended} of the Rules of Court which are to be issued for the Court at Zanzibar will be sufficiently meet the claims of members of Colonial bars & divisions of practice in Zanzibar.

Yours

8/11

unmarked parts 100

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20 OCT 11



ZANZIBAR.

Rules and Forms of His Britannic Majesty's Court,
Zanzibar, 1911.

THE following Rules and Forms may be cited as "The Rules of His Britannic Majesty's Court for Zanzibar:" they shall come into operation on the day of 1911, and shall also apply as far as may be practicable to all proceedings taken on or after that day in all suits and matters then pending.

The said Rules shall stand in lieu of all existing Rules of His Britannic Majesty's Court treating of matters contained in the aforesaid Rules, and such existing Rules are hereby annulled.

The said Rules have, under Article 41 of "The Zanzibar Order in Council, 1906," been approved by His Majesty's Principal Secretary of State for Foreign Affairs, and the Table of Fees has received the sanction of the Lords Commissioners of His Majesty's Treasury.

His Britannic Majesty's Judge.

PART I.

Legal Practitioners.

1. The following persons shall be entitled to practise before His Majesty's Court for Zanzibar, or any of the Courts subordinate thereto, upon the terms and subject to the conditions hereinafter contained:—

- (a) Members of the Bar of England, Scotland, or Ireland (hereinafter referred to as barristers).
- (b) Solicitors of the Supreme Court in England or Ireland, Writers to the Signet and Solicitors in the Supreme Courts in Scotland (hereinafter referred to as solicitors).
- (c) Pleaders who have been admitted to practise in one of the High Courts in India.

2. Any barrister, solicitor, or pleader upon producing to the Judge of the Court for Zanzibar satisfactory proof of his qualification and such testimonials as to character as the Judge shall deem satisfactory, and upon payment of the prescribed fee, and upon signing the roll of the Zanzibar Court, shall be admitted to practise in the Zanzibar Court and the Courts subordinate thereto. Such barrister, solicitor, or

pleader will thereupon become and be styled a pleader of the Zanzibar Court (hereinafter referred to as a pleader), and shall continue to be a pleader so long as he takes out the annual certificate to practise hereinafter referred to, and is not struck off the roll as hereinafter mentioned.

3. Barristers, solicitors, and pleaders of a High Court in India will take precedence in the order named and as between themselves according to the date of their signing the roll of the Zanzibar Court, provided always that any pleader appointed to represent His Majesty, under whatever designation, shall take precedence of all other pleaders.

4. If in the opinion of the Judge of the Court for Zanzibar the number of pleaders is insufficient for the public requirements in any Court, he may, in his discretion, admit other persons of good character and sufficient capability to practise in such Court, but such persons shall only be licensed to practise during the pleasure of the Judge of the Court for Zanzibar.

5. The Judge of the Court for Zanzibar may, after such inquiry as he thinks fit, suspend or dismiss any pleader for any of the following causes—

(a) If he takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party, within the meaning of the Indian Civil Procedure Code, or some servant, relation, or friend authorised by the party to give such instructions.

(b) If he is guilty of fraudulent or improper conduct in the discharge of his professional duty, or misleads, or allows the Court to be misled, so that the Court makes an order which he knows to be wrong or improper.

(c) If he tenders, gives, or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other pleader.

(d) If he directly or indirectly procures or attempts to procure the employment of himself as such pleader through or by the intervention of any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given.

(e) If he accepts any employment in any legal business through a person who has been proclaimed as a tout, as hereinafter mentioned.

(f) If he is otherwise guilty of unprofessional conduct.

6. Any person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner, or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration shall be considered a tout.

7. The Judge of the Court for Zanzibar, and any subordinate Judge, or class of Judges, authorised by the Judge of the Court for Zanzibar, may frame and publish lists of persons proved to his or their satisfaction by evidence of general repute or otherwise habitually to act as touts, and may from time to time alter and amend such lists.

(a) No person's name shall be included in any such lists until he shall have had an opportunity of showing cause against such inclusion.

(b) A copy of every such list shall be kept hung up in every Court to which the same relates.

(c) The Judge may by general or special order exclude from the precincts of his Court, or of any Court subordinate to himself, any person whose name is included in any such list.

(d) Any person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of Rule 5(e).

8. No agreement entered into by any pleader with any person retaining or employing him respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges, or disbursements in respect of business done or to be done, by such pleader shall be valid unless it is made in writing signed by such person, and is filed within such time and in such Court as may from time to time be prescribed by the Zanzibar Court.

9. When a suit is brought to enforce any such agreement if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges, and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement had been made.

10. Such an agreement shall include any further claim of the pleader beyond the terms of the agreement with respect to any services, fees, charges, or disbursements, in respect of the business done to be ascertained in the same manner as if no such agreement had been made.

11. A provision in any such agreement that the pleader shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such pleader, shall be wholly void.

12. On the admission of a pleader he will be granted a certificate to practise up to the 31st December next following the date of his admission, and every pleader desirous of practising thereafter shall renew his certificate on the 1st January in every subsequent year, and shall pay the prescribed fee upon the renewal of his certificate.

13. No pleader shall be entitled to practise in any year until he shall have taken out a certificate to practise during that year, and any pleader who shall infringe this regulation shall be liable to be struck off the roll, and to pay a penalty of 100 rupees for each separate occasion on which he may practise without having obtained such certificate.

14. All pleaders when appearing before a Judge in Court are required to wear hatts and gowns.

15. No barrister shall be required to present any document empowering him to act in any appeal or proceeding, civil or criminal.

16. On the appellate side one pleader will be heard on behalf of each one of the parties or set of parties appearing separately, but it will be open to the Court on application to allow two pleaders to be heard on behalf of any one of them.

This Rule does not apply to applications or miscellaneous matters in which one pleader only will be heard on behalf of each side.

PART II.

Chapter I.—Rules relating to Civil Jurisdiction.

1. A Court for the exercise of the original jurisdiction of His Britannic Majesty's Holding of Court on original side. Court on its several sides may be held before one or more Judges of His Britannic Majesty's Court. In the event of two Judges sitting and of there being a difference of opinion the opinion of the Senior Judge shall prevail.

2. The vacations to be observed in the several Courts and offices of His Britannic Majesty's Court on its original side shall be two in every year, viz., June and Christmas vacations and shall begin and end on such days as the Court may direct.

3. The Courts and offices are closed on the following holidays:—

	Holidays
MAHOMMEDAN.	
10 of Mohorrum	1 day.
Maulidi	1 ..
21 of Ramazan	1 ..
13-el-Fibur	2 days.
13-el-Haj	2 ..
HINDUS.	
Maha Shivratni	1 day.
Gokul Ashtami	1 ..
Diwali	2 days.
PARSI.	
Jambedi Nooroz	1 day.
New year holidays	3 days.
Khardad Sal	1 day.
CHRISTIAN.	
Easter holidays	4 days.
Empire Day	1 day.
King's birthday	1 ..
Whit Monday	1 ..

And during the June and Christmas vacations (provision being made for urgent business).

Chapter II.—Duties of Officers.

Office Rules.

Office hours. 4. The offices of the Court, except in vacation and holidays, are open from 9 A.M. till 4 P.M.
In vacation the offices are open daily from 10 A.M. to 12 A.M. for urgent work only.

When summons issued. 5. Summons will be issued on all the working week days of the Court from 9 A.M. to 12.30 P.M. and from 2 P.M. to 3 P.M.

Provision for Registrar's absence. 6. In the case of the temporary absence of the Registrar one of the Court clerks or some other qualified person may be authorized by the Judge to perform the duties usually performed by the Registrar.

Payments into Court. 7. Every person paying money into Court must furnish the cashier with his name in full and some address known to the officer, to which, should occasion arise, the money can be returned.

Application for copies. 8. Application for copies of any proceedings in Civil and Criminal cases must be made to the Registrar.

Inspection of files. 9. Application for inspection of any file of proceedings shall be made in writing to the Registrar on a form to be supplied and a fee of 2 rupees will be charged.
No inspection can be allowed in pending cases.

Who may inspect files. 10. Inspection of files will be allowed only to persons directly interested therein unless the Judge on some special grounds otherwise orders.

Where to be inspected. 11. Files may be inspected unless the Judge otherwise orders only in the Court precincts and in the presence of an officer of the Court.

Conditions of inspection. 12. No person who has obtained permission to refer to any file may make any mark or erasure thereon or remove any document or paper or show any part thereof to a third party or make any copy or note therefrom except a note of the date, title, or names of pleaders.

Interpreters and translators to make oath. 13. Every interpreter and translator before his admission to office shall take an oath or solemn affirmation that he will well and truly interpret and explain all questions put to him and evidence given by witnesses, and translate correctly and accurately all documents given to him for translation.

Applications for translations to be made to Registrar. 14. All applications for translations shall be made to the Registrar. The Registrar shall, on the request in writing and at the cost of any party to the proceedings, cause any document to be officially translated.

Translation of entries and extracts. 15. In the case of extracts from or entries in documents (which have been admitted in evidence subject to translation thereof) being required to be so translated, the number and extent of such extracts or entries shall be indicated by the initials of the officer receiving and making such extracts or entries in evidence, and such officer shall, before so receiving or making any such extract or entry, require the person tendering the same in evidence or his pleader or pleader's clerk to indicate by initials or other sufficient mode the number and extent of the extracts or entries so tendered.

When documents are to be sent for translation. 16. A pleader or a party in person shall, as soon as practicable, send to the Registrar for translation any document on which he may rely written in any language other than English. If he fail to do so or send the same so late that the translation is not ready for use when the case is called on, the Court or Judge may disallow the costs of such translation or order the party or pleader to pay any costs that may be occasioned by his neglect.

Official translation alone admissible. 17. No vernacular document shall be accepted in evidence unless officially translated, but if good and satisfactory reason is given why the document was not lodged in the translator's department in time for translation, private translations may be accepted subject to official translation.

Fee for witnesses examined in Court. 18. When a party or any of his witnesses desires to be examined in any language other than English, Swahili, Arabic, Hindustani, Gujerati, Persian, Goanese, or Cutchi, he shall give twenty-four hours' notice to the Registrar, who shall provide a duly qualified interpreter to be paid by the party at the rate of 5 rupees per day or part of a day.

Translation of documents in possession of the other side. 19. Where translation of a document or entry or entries in the vernacular in the possession of one party is required by the other party for the hearing of the suit, the former on the application of the latter, shall immediately send the originals to the Registrar for translation, or allow the latter to take copies thereof, and, after examination of such copies, without any delay certify them to be correct copies.

Translations of such certified copies shall be admissible at the hearing. In dealing with the costs of the suit the Court or a Judge shall have regard to any failure to comply with the provisions of this rule.

20. The Registrar, on good cause being shown, may sanction the immediate translation of any documents on payment of double the usual fee.

21. When an entry in any book, which is not in the English language, is put in evidence under Order XIII, Rule 4 of the Code of Civil Procedure, the translation of such entry shall be marked and recorded in lieu of a copy thereof.

22. The Court or a Judge may at any time require a party to the suit or matter to produce and leave with the Registrar any document not in the English language in his possession for the purpose of being officially translated, and may order that the translation when made shall be filed with the proceedings in the suit.

Sanction for immediate translation.
Translation of entry in lieu of copy.
Further translation may be ordered.

Chapter III.—Exercise of Original Jurisdiction.

23. Any Judge of His Britannic Majesty's Court may, subject to any rules of the Court, exercise in Court or in Chambers all or any part of the jurisdiction vested in this Court on its original side.

24. If it shall appear to any Judge, either on an application of a party or otherwise, that a suit or matter can be more advantageously heard by a bench of two or more Judges, he may report to that effect to the Chief Judge, who shall make such order thereon as he shall think fit.

25. The long causes, the testamentary and intestate proceedings, and insolvency business for disposal in Court shall be heard before such Judge as the Chief Judge shall from time to time appoint.

26. Short causes in which a written statement of defence is filed shall ordinarily be transferred to the long cause list unless the Judge before whom the cause is set down is of opinion that the defence is put in for the purpose only of gaining time, in which case the same may be heard forthwith, or may be put down for hearing as a short cause on such day as the Judge shall direct.

Jurisdiction to be exercised by a Judge.
Reference to two or more Judges.
Long causes, testamentary, and insolvency business.
Transfer of short cause to long cause list.

Chapter IV.—Chamber Business.

27. Where a Judge in Chambers has referred a matter to anyone, an application to confirm the report on such reference or for further directions on such report may be made in Chambers.

28. The Court in its discretion may at any time direct any matter to be referred to, or disposed of by, a Judge sitting in Chambers and may at any time, if he thinks fit, direct any application made to him in Chambers to be made in Court by a pleader or transfer any matter to the Court at any stage thereof.

29. The mode of proceeding in Chambers on any application when notice is required to be given shall, unless otherwise ordered or provided by the rules of the Court, be by summons. Such summons shall be prepared by the party obtaining it or his pleader, and be signed by the Registrar. When affidavits are intended to be used notice thereof shall be endorsed on the summons.

30. Unless otherwise ordered such summons together with all affidavits in support thereof shall be served one clear day before the return thereof. A summons may be made returnable in a shorter time by leave of the Judge, which shall be mentioned in it.

31. Such summons may be served by the pleader's clerk if the opposite party is represented by a pleader, otherwise it shall be served through the Court.

32. All *ex parte* applications together with all affidavits in support must be in writing, and must be filed at the office of the Court not later than the day before they are to come on for hearing. This rule may be relaxed in cases of extreme urgency only.

33. The following matters may be disposed of by a Judge in Chambers—

- (a.) Admission and rejection of plaints.
- (b.) Summary Suits under Order XXXVII, Code of Civil Procedure, in which leave to defend has not been obtained.
- (c.) Orders concerning substituted service of summons, &c.

Reference by Judges in Chambers.
Matter before Judge in Chambers may be referred to Court and vice versa.
Mode of procedure.
Length of service.
Mode of service.
Chamber work.

(d.) Applications for extension of time under the Code of Civil Procedure, Order XXVI, Rule 7, and generally all applications for further time not otherwise provided for.

(e.) Applications for arrest before judgment, and for attachment before judgment.

(f.) Applications arising from the death, marriage, or insolvency of parties to suits or appeals or from the assignment, creation, or devolution of any estate or title *pendente lite*.

(g.) Orders concerning the production and inspection of documents.

(h.) Attachment of property of an absconding witness.

(i.) Applications to amend the plaint or subsequent proceedings or to strike out any matter therein.

(j.) Applications under Rules 53 and 64.

(k.) Applications for further and better statement, or particulars under Order VI, Rule 5.

(l.) Applications for commissions to examine witnesses under the Code of Civil Procedure, Order XXVI, Rule 1.

(m.) Applications for leave under Order XXI, Rule 50, Sub-rule 2.

(n.) Applications for leave to issue execution under Order XXX, Rule 9.

(o.) All proceedings on the returns of writs or notices issued before or after judgment requiring cause to be shown in Chambers.

(p.) Applications for confirming sales in execution or under a decree.

(q.) Applications for stay of execution under the Code of Civil Procedure, Order XXI, Rules 26 (1), (2).

(r.) All questions under the Code of Civil Procedure, section 47.

(s.) Applications for statements of names and disclosure of partners' addresses and residence under Order XXX, Rules 1 and 2.

(t.) Applications for leave to sue or defend *in loco pauperis*.

(u.) Applications for orders of reference to arbitration, unless the suit is in the day's list.

(v.) Applications relating to the conduct or frame of suits previous to the hearing unless the suit is in the day's list.

(w.) Applications in the matter of any Act or Decree unless otherwise provided in the Act or Decree itself, or by the Rules thereunder, or by these Rules.

(x.) Applications as to the guardianship and maintenance of infants.

(y.) Applications for the admission of a next friend of an infant, and for the appointment of new next friends and guardians *ad litem*.

(z.) Applications by receivers, guardians, and others relating to the management and disposal of property.

(aa.) Inquiries in lunacy.

(ab.) Inquiries directed by the Court as to the fitness of persons to act as trustees, receivers, and committees of lunatics.

(ac.) Inquiries as to the persons constituting a class.

(ad.) Inquiries with reference to infants, wards, and settlements.

(ae.) Inquiries as to settlement on a wife.

(af.) Inquiries as to the schemes for a charity.

(ag.) Applications for discharge from custody, subsistence money not being paid.

(ah.) Applications for the taxation and delivery of bills of costs and for the delivery by any pleader of deeds, documents, and papers.

(ai.) Such other matters as are not expressly required to be disposed of in Court, and which the Judge thinks fit to be heard in Chambers, and such other applications as are herein directed to be made in Chamber.

34. All interlocutory applications in a suit shall be made to the Judge to whom the suit has been assigned or transferred.

35. In any case in which the signature of the Judge, who has made an order in Chambers, cannot be obtained by reason of his absence or other cause, such order may be signed on his behalf by any other Judge, adding thereto the date of signing.

Chapter V.—Institution of Suit.

36. Where the value of the subject matter in dispute is less than 1,000 rupees the suit shall be instituted by a concise statement endorsed upon the summons, in all other suits the plaintiff must file a plaint.

37. The plaint shall be written in the English language and divided into paragraphs numbered consecutively. It shall contain the particulars required by Order VII, Rules 1-8, of the Code of Civil Procedure and in cases of debt there shall be annexed thereto a bill of particulars of the plaintiff's demand.

38. All summonses, rules, orders, warrants, and other mandatory process shall be sealed with the seal of the Court and in the case of summonses to defendant under section 27 or witness summonses shall be signed by the Registrar, but in all other cases shall be signed by the Judge at whose order the process is issued.

Service of Summonses.

39. Parties applying for summonses must apply in person or by an agent who, if necessary, accompany the process server to point out the defendant.

40. All summonses to defendants residing within the jurisdiction of the Court are to be served by the Askaris of the Court, or if the defendant resides in an outlying district through the assistant collector of that district.

41. When a summons is to be served on parties residing out of the jurisdiction of the Court Plaints in duplicate must be filed before the summons is issued. In such cases the summons will not be made returnable in less than one month, but in the case of parties residing in India the returnable time will be not less than three months.

42. Such summonses may be addressed to the defendant at the place where he is residing, and sent to him by registered post.

43. Unless the Court shall otherwise order the service of a summons shall be proved by the sworn evidence of the Court Askari, that the summons was served in the manner provided by the Code of Civil Procedure, and the evidence of the person who attended the Askari for the purpose of identification.

44. When the summons has been served through an Assistant Collector or Liwali, the service may be proved by the written endorsement on the copy summons by the said Collector or Liwali that the summons was duly served.

45. Application for substituted service of a summons to appear and answer shall be made in Chambers. The application must be supported by an affidavit, or, in the case of service through an Assistant Collector or another Court, by the deposition of the officer who attempted to make the service, and of such other persons or persons as may have accompanied him for the purpose of pointing out the party to be served, stating when, where, and how such service was attempted to be made.

46. Except where otherwise ordered all summonses shall be made returnable on a Monday or Thursday. Summonses taken out on Tuesday, Wednesday, or Thursday shall be made returnable on the following Monday, and summonses taken out on Friday, Saturday, and Monday shall be made returnable on the following Thursday.

47. Mondays and Thursdays are the short cause days, and Tuesdays and Fridays are long cause days. Wednesday is motion day, and on Saturday bankruptcy business is taken.

Pleadings.

48. At the sitting of the Court on short cause day, or when the case is called on, the parties or their pleaders may apply for pleadings in any case in the day's list.

49. Pleadings shall not be ordered in any case when the amount in dispute is less than 500 rupees, unless there are special circumstances which, in the opinion of the Court, render the pleadings necessary.

50. When pleadings are ordered in any case, such case shall be entered in a book to be kept for the purpose called the "Special Register of Civil Suits," together with the date of the order for pleadings.

51. When pleadings are ordered, unless otherwise provided for, the plaint shall be filed in Court, and a copy thereof delivered to the defendant within eight days from the date of the order for pleadings, and the written statement filed in Court, and copy thereof delivered to the plaintiff within fourteen days of the delivery of the plaint.

52. All pleadings shall be filed with the necessary papers and documents at the office of the Court, with the date of filing the same endorsed thereon.

Set-Off and Counter Claim.

53. A defendant in a suit, in addition to his right of pleading a set-off under Order VIII, Rule 6 of the Code of Civil Procedure, may set up by way of set-off or counter claim a

Chamber order by whom made.
How signed when Judge absent.

How instituted.

How plaint is to be written, &c.

Summonses, how signed.

How issued.

How served.

Of persons outside jurisdiction.

Registered post.

Proof of service.

It served by Assistant Collector.

Substituted service.

Summonses, when returnable.

Arrangement of business.

Pleadings, set off counter claim.

When pleadings may be ordered.

Register for long cases.

Time within which pleadings are to be filed.

Pleadings to be filed.

counter-claim against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sounds in damages or not, and such set-off or counter-claim shall have the same effect as a cross-suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original and on the cross-claim; and the plaintiff (if so advised) shall be at liberty to file a written statement in answer to the cross-claim of the defendant within fourteen days after service upon him or his pleader of a copy of the defendant's written statement; and the Court or a Judge may, on the application of the plaintiff before trial, if in the opinion of the Court or Judge such counter-claim cannot be disposed of in the pending suit or ought not to be allowed, refuse permission to the defendant to avail himself thereof, and require him to file a separate suit in respect thereof.

Counter-claim.

54. Where any defendant seeks to rely upon any grounds as supporting a right of counter-claim, he shall, in his written statement, state specifically that he does so by way of counter-claim.

Title of counter-claim.

55. Where a defendant by his written statement sets up any counter-claim which raises questions between himself and the plaintiff along with any other persons, he shall add to the title of his written statement a further title similar to the title of a plaint, setting forth the names of all the persons who, if such counter-claim were to be enforced by cross-suit, would be defendants to such cross-suit, and shall deliver copies of his written statement to such of them as are parties to the suit within the period within which he is required to deliver it to the plaintiff.

Claim against person not a party.

56. Where any such person as in the last preceding rule mentioned is not a party to the suit, he shall be summoned to appear by being served with a copy of the written statement, and such service shall be regulated by the same rules as are herein or in the Civil Procedure Code contained with respect to the service of a writ of summons, and every written statement so served shall be endorsed in the form No. 1 or to the like effect.

Appearance by third parties.

57. Any person not a defendant to the suit who is served with a written statement and counter-claim as aforesaid, must appear thereto as if he had been served with a writ of summons to appear in a suit.

Reply to counter-claim.

58. Any person named in a written statement as a party to a counter-claim may deliver a reply within fourteen days of the service on him of the written statement and counter-claim.

Exclusion of counter-claim.

59. Where a defendant sets up a counter-claim, if the plaintiff or any other person named in manner aforesaid as party to such counter-claim, contends that the claim hereby raised ought not to be disposed of by way of counter-claim, but in an independent suit, he may, at any time before reply, apply to the Court or a Judge by an order that such counter-claim may be excluded, and the Court or a Judge may, on the hearing of such application, make such order as shall be just.

Judgment for balance.

60. When in any suit a set-off or counter-claim is established as a defence against the plaintiff's claim, the Court or a Judge may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

Exhibits to be stamped before filing.

61. No exhibits intended to be filed in a case will be admitted unless they have been paid for and stamped beforehand.

Chapter VI.—Third Party Procedure.

Notice to third party.

Filing and service.

62. Where a defendant claims to be entitled to contribution, or indemnity or set-off against any person not a party to the suit, he may, by leave of the Court or a Judge, issue a notice (hereinafter called the third party notice) to that effect, sealed with the seal of the Court. Such notice shall be filed with the Registrar and a copy thereof served on such person according to the rules relating to the service of writs of summons. The notice shall state the nature and grounds of the claim, and shall, unless otherwise ordered by the Court or a Judge, be served within the time limited for filing his written statement of defence. Such notice may be in the form or to the effect of the form No. 2 with such variations as circumstances may require, and therewith shall be served a copy of the statement of claim or, if there be no statement of claim, then a copy of the writ of summons in the suit.

Appearance of third party.

63. If a person not a party to the suit who is served as mentioned in Rule 62 (hereinafter called a third party) desires to dispute the plaintiff's claim in the suit against the defendant on whose behalf the notice has been given, or his own liability

to the defendant, the third party must enter an appearance in the suit within eight days from the service of the notice. In default of his so doing, he shall be deemed to admit the validity of the decree obtained against such defendant, whether obtained by consent or otherwise, and his own inability to contribute or indemnify as the case may be, to the extent claimed in the third party notice: Provided always that a person so served and failing to appear within the said period of eight days may apply to the Court or a Judge for leave to appear, and such leave may be given upon such terms, if any, as the Court or Judge shall think fit.

64. If a third party appears pursuant to the third party notice, the defendant giving the notice may apply to the Court or Judge for directions, and the Court or Judge, upon the hearing of such application, may, if satisfied that there is a question proper to be tried as to the liability of the third party to make the contribution or indemnity claimed, in whole or in part, order the question of such liability as between the third party and the defendant giving the notice to be tried in such manner, at or after the trial of the suit as the Court or Judge may direct; and if not so satisfied, may pass such decree as the nature of the case may require in favour of the defendant giving the notice against the third party.

Appearance of third party. Application for directions.

65. The Court or a Judge may decide all questions of costs as between a third party and the other parties to the suit, and may order any one or more to pay the costs of any other, or others, or give such direction as to costs as the justice of the case may require.

Costs.

66. Where a defendant claims to be entitled to contribution or indemnity against any other defendant to the suit a notice may be issued, and the same procedure shall be adopted for the determination of such questions between the defendants as would be issued and taken against such other defendant, if such last mentioned defendant were a third party; but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the suit.

Defendant claiming against co-defendant.

Chapter VII.—Witnesses.

67. No summons to give evidence or produce documents shall be issued by the Registrar to compel the attendance as witness of any person resident, and at the time residing, beyond the local limits of the Court, unless by order of the Court or of a Judge.

Order necessary for summons to witness outside local limits.

68. Every person residing beyond 3 miles of the Court summoned to give evidence at the civil side shall have tendered to him a reasonable sum for his travelling expenses (if any) for coming to the Court and for his necessary food and lodging.

Travelling expenses.

69. Every person summoned to give evidence at the civil side shall be entitled before giving his evidence to claim from the party by whom he shall have been summoned his expenses at the following rates for each day that he may be required to attend:—

Scale of expenses allowed to witnesses.

	Rs.	a.	p.
(1) Artificer, labourer, or other person whose income is under 30 rupees a-month	0	6	12
(2) Shopkeepers, clerks, and others, with an income of 30 rupees and upwards	1	4	0
(3) Military and naval officers, officers of ships, merchants	4	10	0
(4) Professional men	10	25	0

70. Any person who shall refuse to state to the pleader of the party summoning him, or to his clerk, the substance of the evidence he can give shall not be entitled to the above expenses without special order of the Court.

When disentitled for allowance.

71. Witnesses in civil suits, who have not been paid such reasonable sum for their expenses as the Court allows by its rules, may apply to the Court at any time in person to enforce the payment of such sum as may be awarded them.

Enforcement of payment of expenses.

Chapter VIII.—Affidavits.

72. Upon any motion, petition, or summons, evidence may be given by affidavit; but the Court or a Judge may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit.

Evidence on motion, petition, or summons.

73. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as

Form of affidavit.

may be shall be confined to a distinct portion of the subject. Every affidavit shall be written book-wise. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this Rule.

Description and abode of deponent to be stated.

74. The occupation and nationality and (if a native of India, the community to which he belongs) the true place of abode of every person making an affidavit shall be inserted therein.

Filing of affidavits.

75. No affidavit shall be filed in the Court unless properly endorsed, giving the names of the deponents, the date on which it is sworn, and stating by whom, or on whose behalf, it is filed.

Scandalous matters.

76. The Court or a Judge may order to be struck out from any affidavit any matter which is scandalous, and may order the costs of any application to strike out such matter to be paid as between attorney and client.

Alterations in the affidavit.

77. No affidavit having in the jurat or body thereof any interlineations, alteration, or erasure shall, without leave of the Court or a Judge, be read, or made use of in any manner depending in Court, unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer taking the affidavit, and, in the case of any erasure, unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are rewritten and initialled in the margin of the affidavit by the officer taking it.

Affidavit by blind persons.

78. Where an affidavit is sworn by any person, who appears to the officer taking the affidavit to be blind, the officer shall certify at the foot of the affidavit that the affidavit was read, or read and interpreted (where necessary) in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature or mark in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate unless the Court or a Judge is otherwise satisfied that the affidavit was read over to, and appeared to be perfectly understood by, the deponent.

Special time for filing affidavits.

79. Where a special time is limited for filing affidavits no affidavit filed after that time shall be used unless by leave of the Court or a Judge.

Every exhibit to be dated and initialled.

80. Every exhibit annexed to any affidavit shall be dated and initialled by the officer before whom the affidavit is sworn.

Chapter IX.—Pauper

Continuance of a suit as a pauper suit.

81. The power of the Court to allow a suit to be instituted *in forma pauperis* includes the power to allow a suit to be continued as a pauper suit after it has been commenced in the ordinary form.

Pauper defendant.

82. Any person may be allowed under these Rules, *mutatis mutandis*, to defend as a pauper, either before or after he has entered appearance, on the terms and conditions contained in Order XXXIII of the Code of Civil Procedure.

Pleader may be assigned to pauper suitors.

83. When a person is admitted to sue or defend as a pauper, the Court or a Judge may, if necessary, assign a pleader to assist him, and a pleader so assigned shall not be at liberty to refuse his assistance unless he satisfies the Court or Judge that he has good reason for refusing.

Application by pauper for leave to be by petition.

84. An application for permission to sue, to proceed with a suit, or to defend a suit as a pauper shall be made on petition setting out concisely in separate paragraphs the facts and relief prayed; such petition shall be presented to the Registrar in Chambers, who shall, on satisfying himself that the provisions of Order XXXIII of the Civil Procedure Code have been complied with and not otherwise, order it to be interpreted gratis.

Notice for investigation.

85. On such petition being filed in the Registrar's office, on application of the petitioner, a notice for investigation of his pauperism returnable in Chambers shall be issued.

Direction for payment of Court fees in every order.

86. Unless otherwise ordered, in every suit in which a pauper party is concerned, a direction shall be inserted in every decree or order for payment to the Government of the Court fees which he would have had to pay had he not been permitted to sue or proceed with the suit or defend as a pauper.

No fees to be taken from pauper.

87. Where a pauper sues or defends as a pauper, no pleader shall take or agree to take from him any fee or reward for the conduct of his business, and any pleader who contravenes this Rule shall be guilty of a contempt of Court. Provided always that the Court or a Judge shall have power to award costs against the adverse party or out of the property recovered in the suit, and to direct payment thereof to the pleader representing the pauper.

88. No cause, suit, or matter carried on by a pauper plaintiff or defendant shall be compromised on any account whatever without leave first had and obtained from the Judge in Chambers.

No compromise without leave of Court.

Chapter X.—Originating Summons.

89. The executors or administrators of a deceased person, or any of them, and the trustees under any deed or instrument, or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, heir, or legal representative, or as *cestui qui trust* under the trust of any deed or instrument, or as claiming by assignment, or otherwise, under any such creditor or other person as aforesaid, may take out, as of course, an originating summons returnable before the Judge sitting in Chambers for such relief of the nature or kind following, as may by the summons be specified, and the circumstances of the case may require (that is to say), the determination, without an administration of the estate or trust, of any of the following questions or matters:—

Who may take out originating summons and in respect of what matters.

(a.) Any question affecting the rights or interest of the person claiming to be creditor, devisee, legatee, legal representative, or *cestui qui trust*

(b.) The ascertainment of any class of creditors, devisees, legatees, legal representatives, or others.

(c.) The furnishing of any particular accounts by the executors, administrators, or trustees, and the vouching (when necessary) of such accounts.

(d.) The payment into Court of any moneys in the hands of the executors, administrators, or trustees.

(e.) Directing the executors, administrators, or trustees to do, or abstain from doing, any particular act in their character as such executors, administrators, or trustees.

(f.) The approval of any sale, purchase, compromise or other transaction.

(g.) The determination of any question arising in the administration of the estate of trust.

90. Any of the persons named in the last preceding Rule may, in like manner, apply for and obtain an order for—

Order for administration of estate or of the trust.

(a.) The administration of the estate of the deceased;

(b.) The administration of the trust.

91. A vendor or purchaser of immovable property or their representatives respectively may, at any time or times, and from time to time, take out an originating summons returnable before the Judge sitting in Chambers, for the determination of any question which may arise in respect of any requisitions or objections, or any claim for compensation, or any other question arising out of or connected with the contract (not being a question affecting the existence or validity of the contract).

Vendor or purchaser may take out summons.

92. Any mortgagee or mortgagor, whether legal or equitable, or any person entitled to or having property subject to a legal or equitable charge, or any person having the right to foreclose or redeem any mortgage, whether legal or equitable, may take out as of course an originating summons, returnable before the Judge in Chambers, for such relief of the nature or kind following as may by the summons be specified, and as the circumstances of the case may require; that is to say, sale, foreclosure, delivery of possession by the mortgagor, redemption, reconveyance, delivery of possession by the mortgagee.

Mortgagee or mortgagor may take out such summons.

93. When the existence of the partnership or the right to, or the fact of the dissolution thereof, is not in dispute, any partner in a firm or his representatives may take out an originating summons returnable before the Judge sitting in Chambers against his partners, or former partners, or their representatives (if any) for the purpose of having the partnership dissolved (if it be still subsisting) and for the purpose of taking the accounts of, and winding up, such partnership.

When a partner may take out such summons.

94. Any person claiming to be interested under a deed, will, or other written instrument, may apply in Chambers by originating summons for the determination of any question of construction arising under the instrument, and for the declaration of the rights of the person interested.

Persons interested under deed, &c., may take out such a summons.

95. The Court or Judge shall not be bound to determine any such question of construction if in their or his opinion, it ought not to be determined on originating summons.

Court not bound to determine question of construction.

Upon what person such summons to be served.

Plaint and warrant alone to be filed.

O. S. plaint how to be marked.

Returnable date of O. S.

When O. S. may be supported by evidence.

What may be done on hearing originating summons.

When costs of originating summons may be allowed as in a long cause.

Procedure when debt by any movable property not in possession of judgment debtor attached.

Procedure when garnishee does not forthwith pay amount, &c.

Procedure when garnishee disputes his liability.

Procedure when debt or property belongs to a third person.

96. The summons under either of the two last preceding Rules shall be served upon the persons who would be proper defendants under the existing practice if the same relief were sought in a suit.

97. An originating summons shall be in the form No. 3, and shall specify the relief sought. The person entitled to apply shall present with it to the Judge sitting in Chambers a plaint without a prayer, setting forth concisely the facts upon which the relief sought by the summons is founded, and the Judge, if satisfied that the facts as alleged are sufficient and the case is a proper one to be dealt with on an originating summons, shall sign the summons.

98. The plaint, when accepted, shall be filed and numbered as an ordinary suit and entered in the register of suits, but after the serial number the letters "O. S." shall be placed to distinguish it from plaints filed in the ordinary suits.

99. Originating summonses shall, in ordinary cases, be made returnable in eight days after service, but the Judge granting a summons may fix such longer period as to him may seem proper. No written statement or affidavit shall in the first instance be made in answer to the plaint.

100. On the hearing of the summons, if the parties thereto do not agree to the correctness of the facts set forth in the plaint, the Judge may order the summons to be supported by such evidence as he may think necessary; and may give such directions as he may think just for the trial of any questions arising thereout. The Judge may make such amendments in the plaint and summons as may seem to him to be necessary to make them accord with the existing state of facts, so as properly to raise the questions in issue between the parties.

101. The Judge hearing an originating summons may, if he thinks fit, adjourn the same into Court for hearing an argument, and if it appears to him that the matters in respect of which relief is sought cannot be disposed of in a summary manner, may refuse to pass any order on the summons, may dismiss the same and refer the parties to a suit in the ordinary course; and in such case may make such order as to the costs already incurred as may seem to him to be just.

102. If an originating summons be adjourned into Court, the Judge may, if he thinks the question to be determined is of sufficient importance, order the costs to be taxed on the same scale as a long cause. In all other cases the cost of one advocate will be allowed to the plaintiff, and to each person or set of persons, having divergent interests.

Chapter XX. Garnishee Orders.

103. A Judge may, in the case of any debt (not secured by a negotiable instrument), any movable property not in the possession of the judgment debtor, or any negotiable instrument, which has been attached under Order XXI, Rules 45, 51, or 52 of the Code of Civil Procedure, issue a notice to any person (hereinafter called the garnishee) liable to pay such debt, or to deliver an account for such movable property, or liable on such negotiable instrument to such judgment debtor, calling upon him to appear before the Judge sitting in Chambers and show cause why he should not pay or deliver into Court the debt due from or the property deliverable by him to such judgment debtor, or so much thereof as may be sufficient to satisfy the decree and the cost of execution. (Form No. 4.)

104. If the garnishee does not forthwith pay or deliver into Court the amount due from or the property deliverable by him to the judgment debtor, or so much as may be sufficient to satisfy the decree and the cost of execution, and does not dispute his liability to pay such debt or deliver such movable property, or if he does not appear in answer to the notice, then the Judge may order the garnishee to comply with the terms of such notice, and on such order execution may issue as though such order were a decree against him.

105. If the garnishee disputes his liability, the Judge, instead of making such order, may order the party issue or question necessary for determining his liability to be tried as though the same were an issue in a suit, and upon the determination of such issue shall pass such order upon the notice as shall be just.

106. Whenever in any proceedings under this chapter it is suggested, or appears to the Judge to be probable, that the debt or property attached or sought to be attached belongs to some third person, or that any third person has a lien or charge upon or an interest in it, the Judge may order such third person to appear and state the nature of his claim (if any) upon such debt or property, and prove the same if necessary.

107. After hearing such third person, and any other person who may subsequently be ordered to appear, or in the case of such third or other person not appearing when ordered, the Judge may pass such order as is hereinbefore provided, or make such other order as is hereinbefore provided, or make such other order as he shall think fit, upon such terms, in all cases with respect to the lien, charge, or interest (if any) of such third or other person as to such Judge shall seem just and reasonable.

108. Payment or delivery made by, or execution levied upon, the garnishee under any such order as aforesaid, shall be a valid discharge to him as against the judgment debtor, and any other person ordered to appear as aforesaid, for the amount paid, delivered, or levied, although such order or the judgment may be set aside or reversed.

109. Debts owing from a firm carrying on business within the jurisdiction may be attached under this chapter, although one or more members of such firm may be resident out of the jurisdiction: Provided that any person having the control or management of the partnership business or any member of the firm within the jurisdiction is served with the garnishee order. An appearance by any member pursuant to an order shall be a sufficient appearance by the firm.

110. The costs of any application under this chapter and of any proceedings arising therefrom or incidental thereto, and of any order made thereon, shall be in the discretion of the Judge.

Chapter XII. Motions. Injunctions.

111. Unless the Court or a Judge give special leave to the contrary, there must be at least three clear days between the service of the rule nisi or notice of motion and the day named for showing cause against the rule or bringing on the motion, and the affidavits in support must be filed and copies thereof served together therewith. Affidavits in answer or reply shall be filed in the Registrar's office not later than 3:30 p.m. on the day preceding the day named for the hearing.

112. Except by leave of Court no affidavit in support of the application beyond those served with the rule nisi or notice of motion as the case may be, nor any affidavit in answer or reply filed later than the time prescribed in Rule 111, shall be used at the hearing or allowed on taxation, nor shall more than one affidavit be made in reply.

113. No motion in which it may be necessary to refer to any proceedings in a suit or matter shall, except under very special circumstances, and by leave of the Court, be made unless notice thereof shall have been given to the Registrar before 3:30 p.m. in the afternoon of the day previous, and such notice shall state the Court in which and the day on which, the motion is intended to be made.

114. Every application for an interim injunction shall be made on motion in Court after notice as aforesaid to the party or parties concerned, unless the Court see fit on grounds of urgency to grant an injunction without such notice on such terms and undertaking as shall seem just.

115. A party to whom an interim injunction has been granted shall, before it is issued, unless the Judge otherwise directs, give an undertaking in writing or through his pleader, to pay such sum by way of damages as the Court may award as compensation in the event of a party affected sustaining prejudice by such injunction.

Chapter XIII. Payment Out.

116. All applications for payment of money out of Court must be supported by affidavit, and notice should be given to all parties except as provided by the following Rule:—

117. Applications may be made *ex parte* and without affidavit—

(1) When the application is made with the consent of all parties concerned, such consent to be in writing and attached to the application.

(2) The application is made for the payment out of money which a party charged with the payment thereof has in the absence of any specific direction by the Court as to the manner of payment elected to pay into Court under Order XXIV of the Code.

(3) The application is made for the payment out of money which has been recovered under an order of the Court for payment by instalments.

Order to be made on hearing such person

Payment or delivery under order to be a valid discharge.

Attachment of debts owing from a firm.

Costs to be in discretion of Judge.

Service of rule nisi or notice. Affidavits when to be filed and served.

When affidavits can be used on argument.

Notice for production of record.

Procedure in applying for interim injunction.

Undertaking to pay damages to be given by party applying for same.

Applications must be supported by affidavit.

Ex parte applications.

(4.) The application is made by a decree holder for the payment out of money realised under execution proceedings.

Chapter XIV.—Costs.

No costs allowed.

118. No costs whatever will be allowed where the plaintiff in any action has failed to give defendant notice of his intention to sue and the defendant pays the amount claimed at or before the first hearing.

Costs allowed.

119. Court costs only will be allowed where the amount or value of the property in dispute does not exceed 500 rupees.

Pleader's costs allowed in undefended cases.

120. The following maximum fees shall be allowed in undefended cases as pleader's costs:

Where the value of the subject-matter in dispute

	Rupees.
Does not exceed 1,000 rupees	15
.. .. . 2,000	20
.. .. . 5,000	30
Exceeds 5,000 rupees	45

provided always that where a plaint has been filed an additional 15 rupees shall be allowed.

Pleader's costs allowed in defended cases.

121. In defended cases without pleadings pleader's costs will be allowed on Scale (A) of Schedule 2 of these Rules if the Judge certifies them to be fit for counsel.

Pleader's costs in long causes.

122. In defended long causes pleader's costs will be allowed on the scales appearing in Schedule 2.

123. The Judge may for special reason, to be certified by him, allow pleader's costs in any case in which costs are not allowed under the foregoing Rules or may refuse to allow any pleader's costs or may allow them on a higher or lower scale than those specified in these Rules.

Costs as regards particular shares.

124. The cost of inquiries to ascertain the persons entitled to any legacy, money, or share of immovable property or otherwise incurred in relation thereto, shall be paid out of such legacy, money, or share unless the Court or Judge shall otherwise direct.

125. If in any case it shall appear to the Court or a Judge that costs have been improperly or without reasonable cause incurred, or that by reason of any undue delay in proceeding under any judgment or order, or of any misconduct or default of the pleader, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court or a Judge may call on the pleader by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the pleader and his client, and also (if the circumstances of the case shall require) why the pleader should not repay to his client any costs which his client may have been ordered to pay to any other person, and thereupon may make such order as the justice of the case may require. The Court or Judge may, if they or he think fit, refer the matter to the taxing officer for inquiry and report.

Personal liability of attorney to pay costs.

126. Where upon the trial of any suit or matter it appears that the same cannot conveniently proceed by reason of the pleader having neglected to attend personally, or by some proper person on his behalf, or having omitted to deliver any paper necessary for the use of the Court or Judge, and which according to the practice ought to have been delivered, such pleader shall personally pay to all or any of the parties such costs as the Court or Judge shall think fit to award.

127. Where a cause or matter which stands for trial is called on to be tried, but cannot be decided by reason of a want of parties or other default on the part of the plaintiff, and is therefore struck out, and the same cause is again set down by leave of the Judge, the defendant shall be allowed the taxed costs occasioned by the first setting down, although he does not obtain the costs in the cause or matter.

Chapter XV.—Taxation of Bills of Costs.

128. Bills of costs in defended cases in His Britannic Majesty's Court for Zanzibar shall be taxable according to the rates in the Schedule hereto.

129. The taxing officer for taxation of bills shall be the Registrar of His Britannic Majesty's Court, or, in his absence, such other officer as His Britannic Majesty's Judge may appoint.

130. Every bill of costs lodged for taxation shall be written on ruled foolscap paper properly dated throughout, and shall contain, in addition to the column containing the items charged, a blank parallel column hereafter called the disallowance column.

131. Each bill of costs shall be certified by the signature of the pleader.

132. Before taxation of costs four days' notice shall be given to the opposite party, unless neither he nor any one on his behalf has appeared at any stage of the proceedings.

133. On the day appointed for taxation the taxing officer shall go through each item of the bill, and shall enter in the disallowance column against each item the amount, if any, which he considers should be taxed off that item.

133A. The amounts in the disallowance column shall then be added up and the total subtracted from the total appearing at the foot of the first column. The amount thus arrived at shall be then entered in the bill of costs and signed by the taxing officer as the amount at which the bill is taxed.

134. In taxation of costs between party and party the costs of one pleader only in each side will be allowed where the amount claimed does not exceed 2,500 rupees. Where the amount in any suit exceeds 2,500 rupees, but a decree is passed for an amount not exceeding 2,500 rupees, the plaintiff shall be entitled as against the defendant to the costs of instructing one pleader only.

135. A pleader who has furnished a copy of a document made for the purposes of a suit to the opposite party or his pleader on payment of half or other due proportion of the translation charges shall also be entitled to charge in his bill a fee of 3 annas per folio for such copy.

136. The fees allowed for drawing any pleading or other document shall include any copy made for the use of the pleader or client.

137. All such just and reasonable charges and expenses as appear to have been properly incurred in procuring evidence and the attendance of witnesses are to be allowed.

138. No allowance is to be made for any inspection unless it is shown to the satisfaction of the taxing officer that there were good and sufficient reasons for making such inspection.

139. No costs are to be allowed on taxation which do not appear to the taxing officer to have been necessary or proper for the attainment of justice or defending the rights of the party, or which appear to the taxing officer to have been incurred through over caution, negligence, or mistake, or merely at the desire of the party.

140. In dealing with fees or allowances, which are discretionary, the taxing officer, in exercise of such discretion, shall take into consideration the other fees and allowances to the pleader, if any, in respect of the work to which any such allowance applies, the nature or importance of the suit or matter, the amount involved, the interest of the parties, the fund or persons to bear the costs, the general conduct and cost of the proceeding, and all other circumstances.

141. Where a suit or matter shall not be brought on for trial or hearing the costs of and consequent on the preparation of briefs shall not be allowed if the taxing officer shall be of opinion that such costs were prematurely incurred.

142. Where the same pleader is employed for two or more plaintiffs or defendants, and separate pleadings are delivered or other proceedings had by or for two or more such plaintiffs or defendants separately, the taxing officer shall consider in the taxation of such pleader's bill of costs, whether such separate pleadings or other proceedings were necessary or proper, and if he is of opinion that any part of the costs occasioned thereby have been unnecessarily or improperly incurred, the same shall be disallowed.

143. If the hearing of a suit or appeal shall extend over more than one day, and shall occupy either on the first day only or partly on the first and partly on a subsequent day or days more than four and a-half hours without being concluded, the taxing officer may allow on the expiration of the first four and a-half hours such a refresher as he thinks proper not exceeding half the amount allowed for appearance at the trial, and a further refresher after the expiration of each subsequent four and a-half hours whilst the suit or appeal continues at hearing.

144. Where interlocutory applications have been ordered by the Court or allowed by the parties to stand to the trial, and are not then mentioned to the Judge, the costs of such applications are to be treated as costs in the cause and taxed

Form of Bill.

If any Bill to be signed by pleader. Fee of appointment for taxation.

Method of taxation.

How certificate arrived at.

Costs of one pleader only allowed in certain suits.

Charge of 3 annas allowed to pleader for furnishing copy of documents.

Fee for drawing to include copy for use.

Just and reasonable charges and expenses for getting evidence allowed.

Allowance for inspection.

What costs may not be allowed.

Discretionary fees and allowances.

Costs of brief where suit not brought on for trial, &c.

What refreshers are allowable where hearing extends over more than one day.

Costs of interlocutory applications ordered to stand over.

accordingly, and need not be mentioned in the decree. Where costs have been reserved such costs are not to be mentioned in the decree or order, or allowed on taxation, without the special direction of the Judge.

145. The taxing officer shall have authority to arrange and direct what parties are to attend before him on taxing of costs to be borne by a fund or estate, and to disallow the costs of any party whose attendance such officer shall in his discretion consider unnecessary in consequence of the interest of such party in such fund or estate being small or remote, or sufficiently protected by other parties interested.

146. Whenever one-sixth part of the bill shall be taken off by taxation, the party presenting the bill for payment shall pay all the costs of the taxation, including the costs of the pleader (if any) employed in contesting the bill, and the same shall be deducted by the taxing master.

147. Any party who may be dissatisfied with the certificate or allocatur of the taxing master as to any item may apply to a Judge at Chambers for an order to review the taxation as to such item or items. Such application shall be in writing and shall specify therein by a list, in a short and concise form, the allowances or disallowances objected to, and the reasons upon which such objections are based.

148. Such application shall be heard and determined by the Judge upon the evidence which shall have been brought in before the taxing master, and no further evidence shall be received upon the hearing thereof unless the Judge shall otherwise direct.

Chapter XVI - Testamentary and Intestate Jurisdiction.

149. Application for probate or letters of administration shall be made to the Judge either through a pleader of the Court or in person.

150. Application for probate shall be made by petition with the will annexed, accompanied, if the will is not in English, by an official translation thereof in English; such application shall be in the form 5 in the Schedule, and shall be accompanied by—

- (a) Petitioner's warrant, form No. 6.
- (b) Executor's oath to be endorsed on will when possible, form No. 7.
- (c) Affidavit of one of the attesting witnesses if procurable, form No. 8.
- (d) Schedule of property of deceased, form No. 9.

151. Application for letters of administration shall be made by petition in the form No. 10 of the Schedule and shall be accompanied with the Annexures (a) and (d) mentioned in the last preceding Rule.

152. Application for letters of administration with the will annexed shall be made by petition in form No. 11.

153. In any case in which probate or administration is for the first time applied for after a lapse of one year from the death of the deceased, the reason for the delay is to be explained in the petition. Should the explanation be unsatisfactory, the Judge may require such further proof of the alleged cause of delay as he may think fit.

154. In all applications by a creditor for letters of administration, it shall be stated particularly how the debt arose.

155. When interlineations, alterations, erasures or obliterations appear in the will (unless duly executed as required by the Indian Succession Act or recited in or otherwise identified by the attestation clause) a statement must, if possible, be made in the affidavit of the attesting witness whether they existed in the will before its execution or not.

156. If no affidavit by any of the attesting witnesses is procurable, an affidavit shall be procured (if possible) from some other person (if any) who may have been present at the execution of the will; but if no affidavit of any such person can be obtained, evidence on affidavit must be produced of that fact and of the handwritings of the deceased and attesting witnesses, and also of any circumstances which may raise a presumption in favour of due execution.

157. The Judge shall not grant probate of the will or administration with the will annexed of any blind or obviously illiterate or ignorant person, unless he has satisfied himself that the said will was read over to the testator before its execution, or that the testator had at such time knowledge of its contents.

158. If a will contain a reference to any deed, paper, memorandum, or other document of such a nature as to raise a question whether it ought not to form a constituent part of the will, such deed, paper, memorandum, or other document should be produced with a view to ascertain whether it is entitled to probate, and if not produced its non-production should be accounted for. No deed, paper, memorandum, or other document can form part of a will unless it was in existence at the time when the will was executed.

159. In cases in which it is not necessary that a will should be signed by the testator or attested by witnesses to constitute a valid testamentary disposition of the testator's property, the testator's intention that it should operate as his testamentary disposition must be clearly proved by affidavit.

160. Any appearance of an attempted cancellation of a testamentary writing by burning, tearing, obliteration or otherwise, and every circumstance leading to a presumption of abandonment or revocation of such writing or part thereof must be accounted for.

161. Where administration is applied for by one or some of the next-of-kin only, there being another or other next-of-kin equally entitled thereto, the Judge may require proof by affidavit that notice of such application has been given to such other next-of-kin.

162. Notice of every application for probate of the will or letters of administration shall be inserted as an advertisement in such newspapers as the Judge may direct, and such advertisement shall be deemed sufficient notice of the application to the next-of-kin of the deceased, except so far as the Judge may direct.

163. Unless a power of attorney constituting such attorney can, under section 55 of "The Indian Evidence Act, 1872," be presumed to have been executed and authenticated as in the said section mentioned, the Judge may require further proof of its due execution.

164. In all cases of letters of administration two common sureties are required to the administration bond, and the bond is to be given in double the amount of the property for which the grant is to be made. Such bond in all cases shall be prepared in the Registry, form No. 12.

165. Every will, copy of a will, or other testamentary paper to which an executor or administrator with the will annexed is sworn or affirmed, shall be marked by the person before whom he is sworn or affirmed.

166. No person, who renounces probate of a will or letters of administration of the property of a deceased person in one character, shall, without the leave of the Judge take out representation to the same deceased in another character.

167. Citations shall be served personally when possible. Personal service shall be effected by leaving a true copy of the citation with the party cited and showing him the original.

168. Citations which cannot be personally served as required by the last preceding Rule shall be served by the insertion, as an advertisement in such local newspapers as the Judge may direct, of a notice in form No. 13 in the Schedule.

Chapter XVII.—Crown Side Rules.

Lists of Jurors and Summoning Jurors.

169. All male persons subject to the jurisdiction of His Britannic Majesty's Court, between the ages of 21 and 60, shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held by His Britannic Majesty's Court.

170. The following persons are exempt from liability to serve as jurors and assessors—

(a) His Majesty's Consul-General, His Majesty's Consul, His Majesty's Vice-Consuls, and all Consuls of foreign Powers.

(b) Judges, Magistrates, and all officials of His Majesty's or His Highness's Courts.

(c) European heads of all Zanzibar Government departments.

(d) Vakils of the Court and their clerks.

(e) Priests or Ministers of their respective religions.

(f) Physicians, surgeons, and medical practitioners, dentists, and other persons

who openly and habitually practise any recognised branch or branches of the healing art.

(g.) Persons employed in the Post Office.

171. His Majesty's Judge and the Town Collector (herein called "the Officers") shall prepare and make out three annual lists (Lists (A), (B), and (C)), of persons liable to serve as jurors and assessors, and, in the opinion of the said officers, fit and proper persons to act as such.

172. List (A) shall contain the names of any such persons who are Europeans or Americans.

List (B) shall contain the names of any such persons, not being Europeans or Americans, who, in the opinion of the said officers, have a sufficient knowledge of English to enable them to understand the proceedings of the Court.

The names of all other such persons shall be placed on List (C). All the lists shall contain the full name, district of abode, and quality of every such person.

173. Copies of such lists shall be exhibited in His Majesty's Agency, the office of the Collector, in His Britannic Majesty's Court, and in the Zanzibar Custom-house together with a notice stating that objections to the list will be heard and determined by the said officers at His Britannic Majesty's Court at a time to be mentioned in the notice.

174. The said officers shall sit at the time and place mentioned in the notice, and shall revise the lists as follows:—

(a.) They shall hear and determine the objections of persons whose names appear in the said lists.

(b.) They shall strike out the name of any person not suitable, in their judgment, to serve as a juror or assessor, or who may establish his right to any exemption under Rule 170.

(c.) They shall insert the name of any person omitted from the lists whom they deem qualified for such service.

(d.) They shall transfer from List (B) to List (C), or from List (C) to List (B), the name of any person who, in their judgment, appears in the wrong list.

175. In the event of a divergence of opinion between the Judge and the Town Collector, the name of the proposed juror or assessor shall be omitted from the list.

176. A copy of the revised lists shall be signed by the said officers and sent to the Registrar of His Britannic Majesty's Court.

177. Any order of the said officers in preparing and revising the list shall be final, and any exemption not claimed under this section shall be deemed to be waived until the next lists revised.

178. The lists so prepared and revised shall be again revised every two years. The lists so revised shall be deemed new lists, and shall be subject to all the Rules hereinbefore contained as to the original lists.

179. The Sessions Judge shall, seven days before the day which he may from time to time fix for holding the sessions, direct the Registrar to summon such number of jurymen or assessors from Lists (A), (B), and (C) as he may think will be needed for the said sessions.

180. The names of the persons to be summoned shall be drawn by lot in open Court from Lists (A) and (B), excluding those who have served within six months. If the said lists do not contain the names of a sufficient number of persons to supply the number required, the requisite number shall be made up by drawing the necessary names from List (C).

181. The Registrar shall then send a summons in writing to all those persons whose names have been drawn in the manner specified, requiring their attendance as jurors or assessors, as the case may be, at a time and place therein specified.

182. In the case of an employé of the Eastern Telegraph Company, the summons shall be addressed to the superintendent of the Company, who shall be empowered either to serve it upon the employé named therein or to substitute for the name therein the name of any other employé in the said Company, and to serve the said summons upon such substituted persons.

Provided always that only an employé whose name is in List (A) shall be substituted for another employé whose name is in List (A), and only an employé whose name is on List (B) shall be so substituted for another employé whose name is on List (B).

183. The following offences shall at sessions be tried by jury:—

(a.) Murder and offences under sections 303 to 305 inclusive, and section 304.

(b.) Giving false evidence and offences under sections 193 to 200 inclusive.

(c.) Rape and unnatural offences.

(d.) Causing hurt under sections 325 to 329 inclusive and 331.

(e.) Extortion under sections 386, 387, 388, and 389.

(f.) Criminal breach of trust under section 409.

(g.) Offences under sections 436 to 440 inclusive.

(h.) Offences relating to documents, &c., under sections 467, 468, and 477.

184. Where the accused is charged at the same trial with several offences of which some are, and some are not, triable by jury, he shall be tried by jury for all such offences.

185. In trials by jury before the Court of Sessions, the jury shall consist of nine persons.

186. In trials before the Court of Sessions by jury or assessors, if the person charged be a European or American, the majority of such jurors or assessors shall be persons who are Europeans or Americans; if a native of India, the majority shall consist of natives of India.

187. In any case of which a European or American is accused jointly with a person not being a European or American, and they are committed for trial, they shall be tried together, and the proportion of jurors or assessors shall be the same as it would have been had the European or American been tried separately.

188. The jurors shall be chosen by lot from the persons summoned to act as such in the following manner: The names of all the jurors chosen shall be placed in an urn by the Registrar, and the clerk of the Court shall draw out the names one by one until the requisite number of competent jurors is made up.

189. As each juror is chosen his name shall be called aloud, and upon his appearance the accused shall be asked if he objects to be tried by such juror. Objection may then be taken to such juror by the accused or by the prosecutor, who shall state their grounds of objection.

190. Any objection taken to a juror on the following grounds shall be allowed, if made out to the satisfaction of the Court:—

(a.) Some presumed or actual partiality in the juror;

(b.) Some personal ground, such as deficiency in the qualification by any law or rule having the force of law for the time being in force;

(c.) His having, by assuming religious vows or otherwise, relinquished all care of worldly affairs;

(d.) His holding any office in or under the Court;

(e.) His executing any duties of police;

(f.) His having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury;

(g.) Any other circumstances which, in the opinion of the Court, render him improper as a juror.

191. Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

192. If the objection be allowed, the place of such juror shall be supplied by any of the jurors attending in obedience to the summons in manner provided by Rule 181, or if there be no such other juror present then by any person present in the Court whom the Court considers a proper person to serve on the jury.

193. When the jurors have been chosen, the Court shall appoint one of their members as foreman. The foreman shall preside in the debates of the jury, deliver their verdict, and ask for any information from the Court that is required by any of the jurors.

194. In every trial before a Court of Sessions, the prosecutions shall be conducted by a solicitor approved by His Britannic Majesty's Judge. The cost of such prosecutions shall be borne by the Crown unless otherwise ordered by the Court of Sessions.

SCHEDULE OF FORMS

No. 1.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Suit No. of 19

To the within named X. Y., Plaintiff, versus Defendant.

Take notice that if you do not enter an appearance to the within counter-claim of the within named within eight days from the service of this written statement and counter-claim upon you, you will be liable to have a decree passed against you in your absence.

The day of 19 (Signed) Registrar.

No. 2.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Suit No. of 19

To Mr. X. Y., Plaintiff, versus Defendant.

Take notice that this suit has been brought by the plaintiff against the defendant to recover damages for a breach of contract for the sale and delivery to the plaintiff of 20 brasias of cloves, or (as acceptor of a bill of exchange) or (as surety for M. N. upon a bond, &c.).

The defendant claims to be (indemnified by you against liability in respect of the said contract or any breach thereof) or (indemnified by you under the said bill) or (entitled to contribution from you, &c.) on the ground (that it was made by him on your behalf and as your agent) or (that it was accepted for your accommodation) or (that you are his co-surety under the bond).

And take notice that, if you wish to dispute the plaintiff's claim in this suit as against the defendant or your liability to the defendant, you must cause an appearance to be entered for you within eight days after service of this notice.

In default of your so appearing you will be deemed to admit the validity of any decree passed against the defendant and your own liability to contribute or indemnify to the extent herein claimed, which may be summarily enforced against you pursuant to the rules of this Court.

(Signed) Pleader for Defendant. (Signed) Registrar.

No. 3.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Suit No. of 19

Plaintiff, versus Defendant.

Upon reading the plaint herein and upon hearing, I do order that the defendant above named, within eight days after the service of this summons upon him, do attend before the sitting Judge, in Chambers, for the determination of the following questions:

[Here set out the questions which the plaintiff desires to have determined.]

Dated the 19 (Signed) Judge.

Note.—If the defendant does not appear at the time and place above mentioned, such order will be made and proceedings taken as the Judge may think fit and expedient.

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No. 4.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Suit No. of 19

Plaintiff, versus Defendant.

Take notice that you are hereby required on or before the day of 19 to pay to the Registrar of the Court the sum of attached in your hands by Order dated day of 19, or otherwise to appear in person or by pleader or attorney before the sitting Judge in Chambers at 9-30 in the forenoon on the day aforesaid, and show cause to the contrary, in default whereof an order for payment may be passed against you.

Dated this day of 19 (Signed) Registrar.

(Signed) Pleader for

No. 5.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Testamentary and Intestate Jurisdiction.

Petition for Probate of the Will of*

Petitioner.

Sheweth,

1. That the above-named (a) died at on or about the day of
 2. That the said deceased at the time of his death left (b) property within the Islands of Zanzibar and Pemba:
 3. That the writing hereunto and marked is his last will and testament.
 4. That the same was duly executed at (c) the day of
 5. That the petitioner is the executor (d) named in (e) the said will.
 6. That the petitioner has set forth in the Schedule No. 1 hereto all the property and credits which the deceased died possessed of or entitled to at the time of his death, which have or are likely to come to his hands.
 7. That the petitioner has also truly set forth in Schedule No. 2 (f) all the items that by law he is allowed to deduct:
 8. That the said assets, exclusive of what the deceased may have been possessed of or entitled to as a trustee for another, and not beneficially, or with power to confer a beneficial interest, and also exclusive of the items mentioned in the said Schedule No. 2, but inclusive of all interest and dividends and increased value since the date of his death, are under the value of rupees.
 9. That the said deceased left him surviving as his next-of-kin according to (g) law.
- The petitioner prays that probate may be granted to him.

I, the petitioner above named, do solemnly declare that what is stated in paragraphs is true to my own knowledge, and that what is stated in the remaining paragraphs is true to the best of my information and belief, and I believe the same to be true.

Solemnly declared at aforesaid, this day of Before me, (Signed) Commissioner.

* Insert name in full and profession. If deceased was a bachelor or spinster that should be stated.

(a) Insert name of the deceased.

(b) Or had a fixed place of abode at

(c) State where.

(d) Or one of the executors.

(e) Or according to the tenor thereof.

(f) Full particulars of debts due by the estate, including names of creditors, amount of claims, and the dates when they became due must be given in the schedule.

(g) Here insert what law.

No. 6.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Testamentary and Intestate Jurisdiction.

Petition for ... late of ... inhabitant, deceased.

Petitioner.

The above-named petitioner ... in place or stead M. pleader, to apply for in the above matter.

Dated this ... day of ...

Witness

Accepted.

(Signed)

Petitioner's Pleader.

No. 7.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Testamentary and Intestate Jurisdiction.

Petition for Probate of the Will of ... deceased.

Petitioner.

I, ... solemnly affirm (a) (or swear) that I believe this paper contains the last will and testament of (b) ... deceased, and that I am the executor therein named (or appointed according to the tenour thereof), and that I will faithfully administer the property and credits of the said deceased and in any way concerning his will by paying first his debts and then the legacies therein bequeathed so far as the said assets will extend, and that I will make and exhibit a full and true inventory of the said property and credits in this Court within six months from the date of the grant to be made to me or within such further time as the Court may from time to time appoint, and also render a true account of my administration to this Court within one year from the same date or within such further time as the Court may from time to time appoint.

Solemnly affirmed [or sworn] at aforesaid this day of ...

Before me,

(Signed)

Commissioner.

No. 8.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Testamentary and Intestate Jurisdiction.

Petition for Probate of the last Will and Testament of ... deceased.

Petitioner.

I, ... make oath* (solemnly affirm) and say as follows:—

1. That I knew and was well acquainted with the deceased above named.

2. That on the day of ... I was present, together with ... at the house of ... and we did then and there see the said deceased set and subscribe his name at the foot of the testamentary paper in the language and character hereunto annexed and marked with the letter ... and declare and publish the same as and for his last will and testament.

3. That thereupon I, this deponent, and the said ... did, at the request of the said deceased and in his presence and in the presence of each other, all being present at the same time, set and subscribe our respective names and signatures at foot of the said testamentary paper as witness thereto.

4. That the name and signature subscribed at the foot of the testamentary paper as of the party executing the same is in the proper handwriting of the said deceased and the name, signature, and additions ... also subscribed and written at the foot of the said testamentary paper as of the parties attesting execution of the same are in the proper respective handwritings of the said ... and of me, this deponent, respectively.

5. That at the time the said deceased so subscribed his name and signature to the said will as aforesaid was of sound and disposing mind, memory, and understanding, and to the best of my belief made and published the same of his free will and pleasure.

Solemnly affirmed [or sworn] at aforesaid this day of ...

Before me,

(Signed)

Commissioner.

Note.—If testator makes a mark or signs in a language other than the will is written in, the affidavit should state whether the will was read over and explained to him, and if there are any scribbles, alterations, or insertions, it should be stated whether they existed at the time of the execution of the will.

SCHEDULE OF PROPERTY.

No. 9.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Testamentary and Intestate Jurisdiction.

Petition for ...

Petitioner.

Annexure (A).

VALUATION of the Movable and Immovable Property of Deceased.

Cash in the house and at the banks, household goods, wearing apparel, books, Ra. a. p. plate, jewels, &c. ...

(State estimated value according to best of executor's or administrator's belief.)

Property in Government securities transferable at the Public Debt Office ...

(State description and value at the price of the day; also interest separately, calculating it to the time of making the application.)

Immovable property consisting of ...

(State description, giving in the case of houses, the market value, and in the case of land, the area, the market value and all rents that have accrued.)

Leasehold property ...

(If the deceased held any leases for years determinable, state the number of years' purchase the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the date of death, and all rents received or due since that date to the time of making the application.)

Property in public companies ...

(State the particulars and the value, calculated at the price of the day; also the interest separately, calculating it to the time of making the application.)

Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes, and other securities for money ...

(State the amount of the whole; also the interest separately, calculating it to the time of making the application.)

... must name in full and precise. If deceased was a bachelor or spinster that should be stated.

... shall solemnly affirm or swear.

* Mahomedans of Hindu faith solemnly affirm. Christians, Parsis, Jews, and others swear.

Book debts (Other than bad.)
 Stock in trade (State the estimated value, if any.)
 Other property not comprised under the foregoing heads (State the estimated value, if any.)
 Total
 (Deduct amount shown in Annexure (B) not subject to duty.)

Annexure (B).

SCHEDULE of Debts, &c.

Amount of debts due and owing from the deceased, payable by law out of the estate (a)
 Amount of funeral expenses
 Amount of mortgage incumbrances
 Property held in trust not beneficially or with general power to confer a beneficial interest
 Other property not subject to duty
 Total

(Signed)

Petitioner

No. 10.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR

Testamentary and Intestate Jurisdiction.

Petition for Letters of Administration of the Property and all Credits of deceased.

Showeth:

Petitioner.

1. That the above-named died at on or about the day of
2. That the said deceased at the time of his death left (a) property within the Islands of Zanzibar and Pemba.
3. That the said deceased died intestate, and that due and diligent search has been made for a will but none has been found.
4. That the said deceased left him surviving as his next-of-kin, according to (b) law residing at
5. That the petitioner as (c) of the deceased claims to be entitled to a share of his estate.
6. The petitioner has set forth in the Schedule No. 1 hereto all the property and credits which the deceased dies possessed of or entitled to at the time of his death, which have or are likely to come of the petitioner's hands.
7. That the petitioner has also truly set forth in Schedule No. 2 (d) all the items that by law he is allowed.
8. That the said assets exclusive of what the deceased may have been possessed of or entitled to as a trustee for another, and not beneficially or with power to confer a beneficial interest, and also exclusive of the items mentioned in the said Schedule No. 2, but inclusive of all interest and dividends and increased value since the date of his death, are under the value of rupees.

The petitioner therefore prays that letters of administration may be granted to him.

I, the petitioner above named, do solemnly declare that what is stated in paragraphs is true to my knowledge, and that what is stated in the

* Full particulars of debts with names of creditors and dates if debts must be given.

* Insert name in full and profession. If deceased was a bachelor or spinster that should be stated.

† Insert name of the deceased. (a) Or had a fix place of abode at

(b) Here state what law.

(c) State the relationship to the deceased.

(d) Full particulars of debts due by the estate, including names of creditors, amounts of claims and the dates when they become due, must be given in the schedule.

remaining paragraphs is true to the best of my information and belief, and I believe the same to be true.

Solemnly declared at aforesaid, this day of Before me, (Signed)

Commissioner.

No. 11.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR.

Testamentary and Intestate Jurisdiction.

Petition for Letters of Administration with the Will annexed of the Property and Credits of deceased.

Petitioner

Showeth:

1. That the above-named (a) died at on or about the day of
2. That the said deceased at the time of death left (b) property within the Islands of Zanzibar and Pemba.
3. That the writing hereto annexed and marked is his last will and testament.
4. That the said will was duly executed at (c) on the day of
5. That by the said will the deceased appointed (d) sole executor thereof, but he has since died, to wit on the day of without having proved the said will, and that the petitioner is the of the deceased
6. That the petitioner has set forth in the Schedule No. 1 hereto all the property and credits which the deceased died possessed of or entitled to at the time of death, which have or are likely to come to his hands.
7. That the petitioner has also truly set forth in Schedule No. 2 (e) all the items that by law he is allowed to deduct.
8. That the said assets, exclusive of what the deceased may have been possessed of or entitled to as a trustee for another or others, and not beneficially or with power to confer a beneficial interest, and also exclusive of the items mentioned in the said Schedule No. 2, but inclusive of all rents, dividends, and increased value since the date of death, are under the value of rupees.
9. That the said deceased left surviving as his next-of-kin, according to (f) (g) State what law, residing at

The petitioner prays that letters of administration, with the said will annexed may be granted to him as the of the said deceased.

I, the petitioner above named, do declare that what is stated in paragraphs is true to my own knowledge, and that what is stated in the remaining paragraphs is true to the best of my information and belief, and I believe the same to be true.

Declared at aforesaid, this day of Before me, (Signed)

Commissioner.

No. 12.

Know all men by these presents that we, are held and firmly bound, jointly and severally, unto Judge, executors, administrators, and assigns, in the penal sum of rupees, to be paid to the said or and their executors, administrators and assigns, for which payment well and truly to be made we do bind ourselves, and each and every of us jointly and severally, our, and each and every of our, heirs, executors, and administrators, firmly by these presents, sealed with our seals.

Dated this day of, in the year of our Lord

Now the condition of this obligation is such, that if the above bounden administrat of the property and credits of deceased, do make, or cause to be made, a true and perfect inventory of all and singular the property and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of the said administrat or the hands or possession of any other person or persons for and the same so made do exhibit or cause to be exhibited into the Court for Zanzibar and Pemba at or before the day of next ensuing, and the same property and credits and all other the property and credits of the said deceased at the time of death, or which at any time afterwards shall come to the hands or possession of the said or to the hands or possession of any other person or persons for shall well and truly administer according to law and further shall make, or cause to be made, a true and just account of said administration at or before the day of in the year of Our Lord one thousand and all the rest and residue of the said property and credits which shall be found remaining upon the said administrat account, the same being first examined and allowed of by the Court of Zanzibar and Pemba, shall deliver and pay unto such person or persons, respectively, as shall be lawfully entitled to such residue. Then this obligation to be void and of none effect, or else to remain in full force and virtue.

Signed, sealed and delivered at by in the presence of

No. 13.

HIS BRITANNIC MAJESTY'S COURT FOR ZANZIBAR

Testamentary and Intestate Jurisdiction.

Petition for deceased.

Petitioner.

All persons claiming to have any interest in the estate of the above-named deceased are hereby cited to come and see the proceedings if they think fit before the grant of

Witness Judge, the day of in the year of Our Lord and in the year of our reign.

(Signed)

Registrar.

(Signed)

Petitioner's Plead.

THE SECOND SCHEDULE.

Fees and Charges to be allowed to Pleadors.

Instructions.	Scale (A). (Under 2,500 Rupees.)			Scale (B). (2,500 Rupees and over.)		
	Rs.	a.	p.	Rs.	a.	p.
To sue or defend	15	0	0	20	0	0
For counter-claim	10	0	0	15	0	0
For bankruptcy petition	10	0	0	15	0	0
For interrogatories, if necessary in opinion of taxing master	10	0	0	15	0	0
For petition of appeal	10	0	0	15	0	0
Drawing.						
Concise statement, interlocutory application, notice of motion answers to interrogatories, affidavit, interrogatories, reference to arbitration (2 folios or under)	7	8	0			
For further folios, per folio	2	0	0			
Plaint, written statement, memorandum of appeal	15	0	0	20	0	0
Necessary documents (two folios or under)	3	0	0			
The like, over two folios, per folio	2	0	0			
Bill of costs, per folio	1	0	0			

Scale (A).
(Under
2,500 Rupees.)

Scale (B).
(2,500 Rupees
and over.)

Copies.

	Rs.	a.	p.	Rs.	a.	p.
Plaint, written statement, affidavit, interrogatories, answers to interrogatories	0	8	0			
Of bill of costs and every other necessary document, per folio	0	4	0			

Brief.

Preparing brief	15	30	0	0	30	50	0	0
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Attendances.

On any application to Registrar (if deemed necessary)	5	0	0			
To file any pleading, document, or affidavit	5	0	0			
Before the Judge in chambers	10	0	0	15	0	0
To take witnesses' proofs (for each witness)	3	0	0	10	0	0
To inspect or produce for inspection, per hour or part thereof	7	8	0	10	0	0
Upon the opposite party or his pleader	7	8	0	10	0	0
Upon client to advise or receive instructions in the progress of an action when such attendance is deemed necessary by taxing master	7	8	0	10	0	0
To make or oppose any application on motion before the Judge in Court	15	0	0	20	0	0
In Court when case adjourned	7	8	0	10	0	0
In adjourned Court when issues settled	10	0	0	15	0	0
In Court conducting cause	45	0	0	75	0	0
Refresher if case lasts more than whole day, per day	25	0	0	40	0	0
To hear deferred judgment	10	0	0	15	0	0
Before a Commissioner for adjustment of accounts, per hour or part thereof	10	0	0	15	0	0
Before taxing master, per hour	5	0	0	7	8	0

Letters.

Letter before action	5	0	0			
Letters deemed necessary by taxing master	3	12	0			

Perusals.

Of any pleading	5	0	0			
Of any affidavit interrogatories or answer to interrogatories	2	8	0			
Of notice to produce, or other formal document	2	0	0			

Translation.

Of documents or accounts deemed necessary by taxing master, per folio	1	0	0			
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Note.—A folio consists of 100 words. Any number or item of account is taken as a word

Table of Fees to be levied in His Britannic Majesty's Court for Zanzibar.

I.—In Civil Matters.

	Rs.	a.	p.
1. For service of summons, petition, answer, motion paper, notice, warrant, decree, order, or other document on a party witness, assessor, or other person, under any branch whatever of the civil jurisdiction:—			
Within 1 mile (English) of the Court issuing the same	1	0	0
Beyond, for every further mile, or part thereof	0	8	0
NOTE.—No fee levied in this behalf shall exceed 3 rupees.			
2. On submission of special case, to include hearing	30	0	0
Summary Orders before Suit.			
3. On application for order	5	0	0
4. On recognisance	5	0	0

	Rs.	a.	p.
5. On order	5	0	0
6. On warrant of arrest	3	0	0
7. On attachment before judgment	...	...	...

... A like fee as is charged in No. 37.

Bankruptcy and Liquidation by Arrangement or Composition.

8. On declaration by a debtor of inability to pay his debts	4	0	0
9. On bankruptcy petition	80	0	0
10. On petition for arrangement or composition	15	0	0
11. On order sanctioning arrangement or composition	5	0	0
12. On order for adjudication	15	0	0
13. On meeting or adjournment of meeting	15	0	0
14. On order for discharge	30	0	0
15. On notice to creditors	(each)	0	4
16. On preparing advertisement	4	0	0
17. For the winding up of an insolvent estate by the Official Receiver...	Such percentage (not exceeding 6 per cent.) of the collected assets as the Court allows.		

Probate and Administration.

18. On application for probate or letters of administration	2	0	0
19. Grant of probate or letters of administration	2	0	0
Together with an <i>ad valorem</i> fee of 5 per cent. calculated on the net value of the estate after deducting therefrom the debts and reasonable funeral expenses of the deceased			
20. On filing an account	2	0	0
21. On a summons or application	2	0	0
22. On entering a caveat (to include hearing)	10	0	0
23. Where the Court appoints as administrator or grants probate to an officer in the service of His Highness the Sultan or an officer of the Court	2½ per cent. on the total amount realised, and a further 2½ per cent. on the total amount distributed.		

NOTE.—Where this fee is payable the *ad valorem* fees under Nos. 19 and 24 are not to be charged.

24. On the summary administration of an estate not exceeding 500 rupees in value, where no formal grant of probate or letters of administration is made...	2	0	0
Together with an <i>ad valorem</i> fee as			
Where the value of the estate exceeds 100 rupees, but does not exceed 500 rupees	2½	per cent.	
Where it exceeds 500 rupees	5	per cent.	

NOTE.—The *ad valorem* fee is to be calculated on the net value of the estate after deducting therefrom the debts and reasonable funeral expenses of the deceased.

Ordinary Suits.

25. In every suit of any kind whatever, other than such as are particularly specified—	Where the value of the subject-matter in dispute—		
(a.) Does not exceed 10 rupees	0	8	0
(b.) Does not exceed 30 rupees	1	0	0
(c.) Does not exceed 100 rupees	2	0	0
(d.) Exceeds 100 rupees	An additional fee of 2 rupees for every further 100 rupees or part thereof. The whole fee levied not to exceed 1,000 rupees.		
26. On any matrimonial suit brought by a native of Africa	3	0	0
27. In every suit where it is not possible to estimate the subject-matter at a money value, and which is not particularly charged	10	0	0
(Provided that in every case where, by reason of any finding or order of the Court, a declaration of ownership of any money or property is made, an <i>ad valorem</i> fee at the same rate as in Fee No. 26 shall at once become payable, in addition to the fee already paid.)			
28. On the issue of every witness summons	1	0	0
29. On application for every interlocutory injunction	10	0	0
30. On application for a mandamus or final prohibitory injunction	50	0	0
31. In a suit for arrears of rent by landlord against tenant where an order for the possession of the property occupied is sought from the tenant	An <i>ad valorem</i> fee of 5 per cent. on the yearly rental of the property in addition to the fee leviable for recovery of rent under Fee No. 26.		

	Rs.	a.	p.
32. In a similar suit, where no rent is claimed, but only an <i>ad valorem</i> fee of 5 per cent. on the order for possession	...	...	...
33. On every summons, application, or demand taken out, made, or filed (not particularly charged)	5	0	0
In an action where fees 26 (a) or 26 (b) would be chargeable	1	0	0
In an action where fees 26 (c) or 26 (d) would be chargeable	5	0	0
34. On every decree or order not particularly charged	2	0	0

NOTE.—Where the decree or order is for the payment of a sum, or for the delivery of property of the value, of less than 50 rupees only, it shall be furnished free.

35. On order for adjournment of hearing rendered necessary by default of either party (to be paid by that party)	10	0	0
36. On every warrant of execution against property (to include keeping possession for fifteen days, unless the Court otherwise order):—	as the Judge may order.		
For any sum not exceeding 100 rupees	2	0	0
For any sum over 100 rupees, and not exceeding 500 rupees	5	0	0
For any sum over 500 rupees, and not exceeding 1,000 rupees	10	0	0
For any sum over 1,000 rupees	20	0	0
37. On taking or passing an account by an officer of the Court, otherwise than in Court	15	0	0

Miscellaneous.

38. For attending to view, in addition to all travelling expenses	10	0	0
39. On taxation of any bill of costs, for every ten folios	5	0	0
40. On deposit of any document	10	0	0
41. Upon taking an affidavit, for each person sworn	2	0	0
42. For every exhibit to an affidavit	0	8	0
43. For every exhibit filed in the case (to include filing fee)	2	0	0
44. For attending to administer an oath or affirmation, or to take a declaration beyond the offices of the Court, in addition to the ordinary fee thereon	5	0	0
45. On the examination of any witness <i>de bene esse</i>	7	8	0
46. On balances of estates of deceased persons paid into Court	2½ per cent. of the value of the subject-matter, such percentage not to exceed 25 rupees.		
47. For superintending or taking an inventory	...	...	...
48. On every deposit of money or valuables in Court	...	...	...
49. On payment of money into Court in an action	...	...	...

NOTE.—If the sum paid in is less than 50 rupees fee, 50 shall not be charged.

50. For filing any pleading or document whatever	2	0	0
51. For certifying signature or seal	4	0	0
52. For attendance at a sale:—	At request of parties interested if absent two hours or less, or of local authorities ... 30 0 0		
	At request of parties interested, for each additional hour { Rupees 7 8 0, with a maximum per day of 60 rupees.		
53. On reference to the archives	2	0	0
54. For certified copy of any document in the archives:—	For first 100 words ... 2 0 0		
	For every further 100 words ... 1 0 0		
55. For an official certified translation of any document:—	For first 100 words ... 4 0 0		
	For every further 100 words ... 2 0 0		
56. For certifying as correct a translation handed in with the original:—	For first 100 words ... 2 0 0		
	For every further 100 words ... 1 0 0		
57. For communication with another Tribunal out of the jurisdiction of the Court	8	0	0
58. For certificates confirming a sale by public auction or otherwise of property ordered to be sold	5	0	0
59. For taking security when ordered in any original civil case	5	0	0
60. For certificates that no execution has been levied	2	0	0
61. On every warrant (arrest, ejectment, &c.)	1	0	0

- II.—*In Criminal Matters.*

	Rs.	a.	p.
62. On every summons, witness summons, or warrant, unless specially directed by the Court (to include service and hearing)	2	0	0
63. On a recognisance	1	0	0

III.—*On Appeals.*

ON APPEAL TO HIS MAJESTY'S COURT FOR ZANZIBAR.

In Civil Matters.

64. On filing a memorandum of appeal or cross appeal:—

Where such value is ascertainable	{	An <i>ad valorem</i> fee of 2 per cent. on the value of every claim which forms part of the subject-matter of the appeal, with a total minimum fee of 3 rupees and maximum of 50 rupees.	
For every claim the value of which cannot be assessed			10 0 0

65. For security taken in any appeal 5 0 0

66. On hearing { A like fee to that paid on filing the memorandum of appeal

In Criminal Matters.

67. On the appeal 10 0 0

ON APPEAL TO THE HIGH COURT OF BOMBAY

In Civil Matters.

68. On filing a memorandum of appeal 50 0 0

69. On every security 50 0 0

70. On making up record of appeal (including expenses of transmission) ... Such sum as the Court directs

In Criminal Matters.

71. On the appeal 10 0 0