

ANNEXES.

THE LAW OF PROCEDURE
IN
CIVIL CASES.

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THE LAW OF PROCEDURE IN CIVIL CASES.

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THE LAW OF PROCEDURE IN CIVIL CASES.

CHAPTER 1.

PRELIMINARY.

1. — This Royal Decree shall be cited as the Law of Procedure in civil cases of the year 127.

2. — All Courts of Justice whatsoever throughout the Kingdom shall be governed by the provisions of this Royal Decree saving always. Special Courts already provided with rules of their own, and saving further that the provisions of this Royal Decree may be used by, but shall not be obligatory upon, any Courts in which ecclesiastical customs are in use.

CHAPTER 2.
CONCERNING THE JURISDICTION OF THE COURTS.

3. — After final judgment no further proceedings may be taken by or on behalf of the parties or privies to that judgment.

4. — No person invested with the duties of a judge shall be entitled to exercise any function pertaining to such position in any of the following cases, that is to say :

1. If such person shall have any pecuniary or proprietary interest in the suit in question; or
2. If such person is related to any of the litigants, that is to say, is either an ascendant or descendant to any degree, or being a collateral to the third degree, or by affinity within the second degree; or
3. If such person shall have been called as a witness in the cause, either as to what he knew or has seen or by reason of any special knowledge he may have had in connection with that case.

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5. — The Court may at any stage in a suit try to bring about a compromise as to the matters in dispute provided always all parties to such suit are present at the same time.

CHAPTER 3. CONCERNING VENUE.

6. — On the entry of a plaint regard shall be had to the various grades of Courts, that is to say the plaint shall be entered in that Court which, having regard to the nature of the case, is by virtue of its constitution and by law, the proper and competent Court to decide the matters set out in such plaint.

7. — Cases concerning immovable property or concerning any right to or interest in immovable property, and all cases concerning movable property shall be entered in the Court within the territorial jurisdiction of which the property is situate or within which the defendant earns his livelihood, provided always that if a plaintiff shall be desirous of entering a plaint in the Court within the territorial jurisdiction of which the defendant has his place of abode, the Court may in its discretion on the application of the plaintiff **shewing [=showing]** that the trial of the action will thereby be facilitated, grant leave to enter the plaint accordingly. In any other case, the plaint shall be entered in the Court within the territorial jurisdiction of which the property is situate.

8. — If and whenever any of the property of the description mentioned in Section 7 shall abut or be situate on the confines of adjoining districts in such a way that it cannot be certainly said within the jurisdiction of which Court such property is situate, then and in such cases the Court shall, if satisfied after consideration that there is real doubt as to which Court has jurisdiction over such property, make a note of it to that effect and proceed with the case in all respects as if no question as to the jurisdiction of the Court existed. Should the defendant raise the plea of no jurisdiction in his motion of appeal, the Court of Appeal, if of opinion that the doubts of the Court of First Instance were well founded, shall dispose of the appeal without regard to any such plea of no jurisdiction as aforesaid. [3]

9. — The proper Court in which to enter a civil action other than the classes of cases hereinbefore mentioned shall be determined in accordance with the following rules, viz: —

1. The plaint shall be entered in the Court within the territorial limits of which the cause of action arose; or
2. Within which the defendant is earning his livelihood.

The Court in its discretion may order the plaint to be entered in either of the Courts mentioned in the two preceding rules, provided always that with regard to cases falling under sub-section 1, a plaintiff who can show that the defendant has

CHAPTER 3. — CONCERNING VENUE.

property within the jurisdiction of the Court shall be entitled to enter his claim in that Court.

10. — If in any action for damages founded on a tort either to the person or to movable property the cause of action shall arise within the territorial jurisdiction of one Court, and the party whom it is alleged is responsible for such tort shall earn his livelihood within the territorial jurisdiction of another Court, then and in any such case the plaintiff may, at his option, bring his action in either one or the other of such two Courts as aforesaid.

11. — If any immovable property shall be situate in the same district but so that part of such property shall respectively be subject to the jurisdiction of different Courts, then and in such cases the plaintiff may bring an action in any one of such Courts, notwithstanding that such action may relate to parts of such property as are situate within the territorial jurisdiction of other Courts as aforesaid.

12. — All the above regulations set out in this chapter are to be understood as applicable only as between the Court and the plaintiff in reference to issue of a summons for service on the defendant in the first instance.

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With regard to all subsequent proceedings, the defendant may by motion ask for a change of venue, provided always such motion shall specify in particular the points relied on by such defendant. If the Court in which the plaint has been entered and to which a motion has been submitted as aforesaid shall be of opinion that to further try the case would cause an injustice to any party, then and in such cases the Court may make an order transferring the trial of the case to such other Court as will not entail such injustice as aforesaid.

13. — If any party to an action in any Court provided with only one judge shall be on bad terms or in disfavour with such judge, such party may obtain relief by duly submitting a motion to the Court next above in grade to such former Court. Such motion shall set out in detail all or any of the circumstances which are provided for in section 4, if any such there be, or any other circumstances which are of so serious a nature as would reasonably induce such higher Court to be of opinion that such party would not have a fair trial. The higher Court may in either of such cases as aforesaid make an order transferring such case to another Court or to another judge for trial, provided always such motion as aforesaid shall be submitted without delay and before the day fixed for trial. No motion may be submitted after the day fixed for trial, and no appeal either to the Court of Appeal or *Dika* Court shall lie from any order made by the higher Court.

It shall not be obligatory on the Court below to stay the trial of the action pending the order on any motion duly submitted as aforesaid, until actual receipt of an order from the higher Court.

CHAPTER 4.
PROCEDURE FOR PETTY CASES.

14. — Any case except as is hereinafter mentioned relating to money, goods or property or any matter or thing in issue of an amount or value not exceeding 200 ticals or involving punishment by imprisonment not exceeding 6 months shall be considered a petty case.

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Provided always any action relating to land of whatever value, other than an action for rent of land, such rent not exceeding in amount 200 ticals, or an action for eviction of a tenant from land of a rental value for the time being not exceeding in amount 200 ticals per month, shall not be considered to be a petty case.

In any case relating to property or a fine and involving several claims each of an amount or value not exceeding 200 ticals from several defendants respectively or involving liability to a term of imprisonment not exceeding six months in duration on the part of several defendants respectively then and in such cases, although by grouping the several liabilities of the defendants together the case may be considered as one involving a claim exceeding 200 ticals or a term of imprisonment exceeding six months, the amount claimed from or the liability to imprisonment on the part of any one of the defendants shall be taken to be the test for ascertaining whether such case is a petty case and shall be treated as such accordingly.

All cases whatsoever which are to be considered as petty cases shall be tried in a summary way according to the procedure as provided in this Chapter.

15. — In a petty case the plaintiff may present a written plaint to the Court as in an ordinary case or may appear in person and make a verbal statement of his claim to the Court.

If the plaintiff shall make a verbal statement to the Court as aforesaid, the Court shall make a written summary of the points of the claim of the plaintiff and the plaintiff shall attach his signature thereto.

In a petty case the Court shall after receipt of the plaint issue a summons requiring the defendant to answer the claim forthwith.

16. — The issue of the summons mentioned in the preceding section shall be made in the following manner, that is to say: —

1. The summons shall state the substance of the claim including the amount or value of the property claimed.
2. The name of the judge and the seal of the Court shall appear on the

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CHAPTER 4. — PROCEDURE FOR PETTY CASES.

summons.

3. The summons shall be shown to the defendant and a copy left with him.

17. — When the defendant has received service of the summons he shall personally or by a duly appointed attorney make answer to the claim of the plaintiff within the prescribed time. The answer of the defendant may be either a written statement submitted to the Court as in an ordinary case or a verbal statement made to the Court.

If the defendant shall make a verbal statement to the Court, the judge shall make a summary in writing thereof and the defendant shall attach his signature thereto.

In giving judgment in a petty case it shall not be necessary to give a written detailed judgment. A verbal judgment shall suffice, but in the case of verbal judgment the Court after judgment shall make a written summary of the points adjudicated upon.

18. — Save as is herein before provided the rules and regulations appearing in this statute shall so far as the context allows or admits of be read as applicable to ordinary and petty cases alike.

CHAPTER 5.
PROCEDURE FOR ORDINARY CASES.

19. — In all civil cases relating to goods or other property of an amount in value exceeding 200 ticals or involving any claim or right arising from any cause, either directly or indirectly, in which the amount or value in dispute exceeds 200 ticals or relating to the recovery of damages exceeding 200 ticals in amount, and in all cases of land the plaintiff shall submit a written plaint to the Court and the Court shall issue a written summons for service on the defendant together with the plaint.

20. — When the defendant has been served with the summons and the plaint as mentioned in the preceding section the defendant shall within eight days submit his answer to the Court, but can in no other way demur to the right of the plaintiff to sue. If the defendant wishes to demur to the right of the plaintiff to sue on any ground he may plead such grounds in his answer.

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In addition to the plaint or answer submitted to the Court the plaintiff and defendant shall submit a sufficient number of copies of the plaint and answer for service on the respective parties.

21. — In case of service of any process on more than one defendant each defendant shall be served with a separate document of such process.

22. — In case of any action against a company which has been registered as a legal corporation the action shall be brought against the company in the name of the company and the summons shall be served at the office of the company which is within the territorial jurisdiction of the Court issuing the summons. Service of the summons on a director or manager at that office shall be considered sufficient service.

23. — In case of an action against a partnership which has not been registered as a legal corporation the action may be brought against the partnership in the name of each of the partners or of any one or more of them. If the partnership trades under a trade or firm name the action may be brought against the partnership in its trade or firm name. The Court shall issue a summons for service on any person at the office of the partnership who is reasonably believed to be the manager of the partnership.

24. — If by reason of circumstances arising after the plaintiff shall have brought his action either party shall be desirous of amending his plaint or answer as the case may be, the Court may in a proper case at any time before judgment allow such

CHAPTER 5. PROCEDURE FOR ORDINARY CASES.

amendment to be made. The Court may make such order as is necessary in the interests of justice requiring the plaintiff or defendant as the case may be to adduce evidence in support of such new circumstances arising as aforesaid, or the Court may give the plaintiff or defendant as the case may be an opportunity of rebutting such statements on amendment as aforesaid.

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25. — The defendant in his answer may raise a counterclaim but in such case the defendant shall pay fees on the value of such counterclaim in all respects as if it were an independent action. The plaintiff must answer the counterclaim of the defendant within eight days or such further time as the Court shall see fit to allow.

In such a case the Court shall try the original case and the counterclaim together in one record or the Court may try the cases separately if the Court, guided by considerations of convenience, shall see fit to do so. If the counterclaim is separate from and independent of the original claim, and defence by way of counterclaim cannot be raised, the Court shall order the defendant to enter an independent action.

26. — After the plaint and answer have been duly submitted to the Court it shall not be necessary to settle the issues between the parties; but where both parties by motion have requested a settlement of issues or in case where by reason of the intricacies of the issues to be tried the Court is of opinion that the trial of the case will be facilitated by a settlement of the issues the Court may settle the issues to be tried.

27. — In settling the issues of any case the decisive elements of the case, whether they shall be decisive of the case wholly or in part only, shall be put down in writing, that is to say, the contentions raised by the plaintiff and the contentions or admissions of the defendant respectively shall be compared together. These contentions so compared together shall be called the points in issue. Any point not admitted by the plaintiff or defendant as the case may be shall require proof. Any disputed point of law may be considered as a point in issue and dealt with accordingly, but no evidence shall be adduced in its support, but in case a point in issue shall refer to the law of another country or to a religious or any other custom evidence must be adduced in support. In settling the issues to be tried, if both parties shall agree on any point as a point in issue and the Court shall be of opinion that it may reasonably be considered as such, such point shall be dealt with in the issues to be tried. In any case in which there has been a settlement of issues the Court shall as far as possible deal with the points in issue so settled in order and then give judgment as to the whole.

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28. — After the defendant has duly submitted his answer to the Court or after settlement of the issues by the Court a period of at least ten days shall be allowed to elapse before fixing the date of hearing. On the expiration of such ten days the Court shall issue a summons fixing the date of hearing. Provided always the Court may either on an application by any party to the suit alleging circumstances of a pressing nature or without any application, on any ground which the Court in its discretion shall deem sufficient, fix the date of hearing within the aforementioned period of ten

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days.

29. — If the parties are in person before the Court the Court may appoint the day for hearing verbally, and in such case the Court shall make a note thereof in writing. In any other case the Court shall issue a summons appointing the day for hearing and serve it on the parties.

The parties receiving the summons shall endorse their names on the receipt attached to the summons and hand such receipt to the person serving the summons for re-delivery to the Court. If the parties receiving the summons cannot or will not endorse their names as aforesaid, the person delivering the summons shall endorse on such receipt as aforesaid the day, time, and the circumstances of service of the summons and deliver it to the Court.

30. — If in the plaint or the answer or in any motion, any document is referred to and relied on as evidence, a copy of such document shall be made and attached to the plaint or answer or motion as the case may be. The original of such document wherever possible shall be produced for the inspection of the Court. If for any reason it shall not be possible to produce the original document to the Court, explanation of its non-production shall be made and a copy delivered in its stead.

If any party to the suit shall intend to rely on any documentary evidence after the plaint or the answer has been submitted to the Court and not so referred to and relied on as herein before mentioned, the party intending to rely on such documentary evidence shall make and send a copy of such documentary evidence to the other party to the suit at least three days before the hearing. If the party relying on such documentary evidence shall submit a motion to the Court showing that it is not reasonably possible to make and send a copy of such documentary evidence as herein before directed, the Court may take such steps as the Court in its discretion sees fit, to enable the other party to examine the original of such documentary evidence. Provided always the discretion of the Court in such case shall be limited to special cases of necessity.

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If any party after due receipt of a copy of the documentary evidence relied on by the other side shall raise the objection that there is no original or that it is not a true copy of such original, then and in such cases such objections shall be sent to the party relying on such evidence before the date fixed for the hearing.

If such objections are not raised till the day of hearing the costs of witnesses brought by one party to rebut objections to such documentary evidence raised by the other party shall be borne by the party raising the objections.

If any party to a suit who has been served with a copy of documentary evidence relied on by another party shall have any doubts as to its genuineness or otherwise such party may examine the original.

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31. — When the parties to the suit have been served with the plaint and answer respectively and before the date appointed for the hearing, that is to say, during the time allowed to both parties to prepare their respective cases according to Section 28, both parties shall submit a list to the Court setting out the number and names of the witnesses (if any) and the nature of any other evidence they respectively propose to rely on.

If the party can bring his witnesses or produce his other evidence to the Court himself he may do so. If the party cannot do so, the Court shall on application made before the day of hearing by the party relying on such witnesses or other evidence as aforesaid issue a summons ordering the attendance of such witnesses or the production of such other evidence as aforesaid but so that such witnesses shall have at least two days' notice.

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32. — If the Court after hearing the sworn statement of any person, is satisfied that any witness of any party to the suit is, by reason of circumstances beyond his control, unable to attend on the day of hearing and that the evidence of such witness is material to the issue to be tried, the Court may, after hearing all the other witnesses who have attended, adjourn the further hearing of the case for the attendance of such witness so unable to attend as aforesaid.

33. — In general the Court shall try a case on the day duly appointed for the hearing, provided always the Court may if necessary adjourn the hearing to another day.

34. — In general cases shall be heard in the order in which they are numbered. But if for any reason the Court shall see fit to hear any case out of its due order such as for instance when a person is under detention notwithstanding a judgment ordering his release, or in any other case of a pressing nature, the Court shall affix a red seal to the outside of such record and the Court shall bear such case out of its due order.

35. — On the day appointed for the hearing of any case the Court shall read through the plaint and answer respectively. If any contention raised in the plaint shall be limited by the defendant, no further proof in support of such contention shall be necessary.

36. — If there shall be no time to commence the hearing of any case or to finish the hearing of a case commenced on the day appointed for hearing by reason of the state of business of the Court, the Court may adjourn the hearing or further hearing of such case as the case may be and shall inform all parties concerned accordingly. Such verbal information shall have all the same consequences as if the parties affected had been duly served with a written summons appointing the date of further hearing.

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CHAPTER 5. PROCEDURE FOR ORDINARY CASES.

37. — Any party to a suit, of which the Court has fixed the day for hearing, due notice of such date having been served on the parties respectively, may apply to the Court for an adjournment and the Court may in its discretion grant the application. If any case appointed for hearing on any one day shall be unable to be heard by reason of insufficiency of time or by reason of circumstances which in the opinion of the Court are such as to necessitate an adjournment, then in either of such cases, the Court may order an adjournment. Provided always a note shall be made of the circumstances under which such adjournment was ordered.

38. — The Court in its judgment shall set out the points in issue to be adjudicated upon and the grounds for its decision. If more than one judge is trying any case the judgment shall be in accordance with the opinion of the majority. In case any judge shall dissent, he shall write and attach to the record the gist of his dissenting opinion and may add his reasons for so dissenting.

39. — No judgment shall be given for anything in excess of or not included in the claim of the plaintiff, saving always : —

1. In an action for the recovery of land, which must be understood to include eviction of the defendant, judgment for the recovery of the land and for eviction may be given in one and the same action. A judgment for eviction is understood to include the eviction of all the relatives and dependents of the defendant who are on the land in question, excepting always any relative or dependent who may be able to adduce special rights.
2. In an action claiming property of any nature, if it be found that the plaintiff is entitled to only a divided part of the amount claimed, judgment may be given for such divided part without any new action being instituted.
3. In an action in which any claim is made for a debt arising from a loan mortgage or in any other way, together with interest on the total amount claimed up to the date of the action, the Court may order interest to be paid from the date of the action until the judgment is satisfied. [13]
4. In an action claiming rent calculated up to the date of the entry of the action, the Court may order rent to be paid until the judgment is satisfied.

40. — If the decision in any case shall depend wholly or in part on some point pending but not adjudicated upon, or on some point which it is desirable should be decided by an executive officer, the Court may postpone the further hearing of such case until such points be adjudicated upon.

41. — If during the trial of any case it shall appear that a criminal offence has

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been committed which, if found to be true in fact, would have the effect of modifying the judgment in the case so before the Court as aforesaid, the Court may postpone the further hearing of such case until such time as the criminal offence shall have been adjudicated upon.

42. — If any party to a suit shall behave in an improper manner the Court may order him to be ejected from the Court.

43. — All documents and papers whatsoever constituting the record shall be written in ink. If any mistake shall occur it shall not be scratched out and rewritten; it shall merely be crossed out and the writer shall sign his name in the margin.

44. — The judges shall be responsible for all records and for the safe custody thereof. The documents and papers constituting the record shall be kept together in one record, but it shall not be necessary to fold and tie them up or put them in a sealed envelope.

If the plaintiff or defendant or any witness has any reason to believe that the record will in any way be tampered with he may apply for a copy of the same. If the applicant himself shall make a copy no fees shall be charged. Provided always if an official of the Court shall examine and compare such copy with the original, fees shall be charged according to scale. Such official shall sign, seal and affix stamps to the copy so made. The above provisions shall apply to all persons requesting a copy of the record.

CHAPTER 6.

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NON-APPEARANCE OF THE PARTIES AND JUDGMENT BY DEFAULT.

45. — If the defendant does not make answer to the claim of the plaintiff either in writing or verbally within the prescribed time and fails to bring to the notice of the Court the reasons for such neglect or fails to ask for an adjournment, then and in such cases the defendant shall be held to be in default, and the Court may fix the day of hearing forth with : provided always the Court shall give due notice of such date to the defendant. On the day of hearing the defendant who is so in default as aforesaid may give evidence himself on oath and cross-examine the witnesses of the plaintiff, but may not call any evidence on his own behalf.

46. — If on the hearing neither the plaintiff nor defendant nor their attorneys respectively appear, and if no explanation shall have been made to the satisfaction of the Court regarding such non-attendance or if no application shall have been made for a postponement, then in either of such cases the Court may strike out such case from the hearing list : provided always the plaintiff may, subject to the rules of limitation of actions, bring a fresh action. The fees to be paid on such second action shall be in the discretion of the Court.

47. — If the plaintiff or his attorney shall not appear on the day of hearing and the Court is satisfied that the plaintiff has been duly served with notice thereof, the Court may order the case of the plaintiff to be struck out and may further order the plaintiff to pay the whole or any part of the costs of the defendant as the Court in its discretion shall think fit.

48. — If the defendant or his attorney do not appear on the day of hearing and fail to satisfy the Court of the existence of imperative reasons for such non-appearance, the Court, on being satisfied after enquiry that the defendant duly received the summons appointing the day of hearing, may hear *ex parte* the case of the plaintiff who has duly appeared, and give judgment according to the nature of the case.

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49. — If any party shall allege inability to attend the Court by reason of illness the Court shall on application by any other party to the suit appoint an official to examine the party alleging sickness, and such official so appointed shall make a report to the Court of the result of his examination. The party requesting such examination may either himself accompany the official making such examination or may appoint a doctor to go in his stead. If the official making the examination shall state on oath to the Court that the condition of the party alleging illness is not such as to prevent his attendance at Court, the Court may proceed with the case as in default

CHAPTER 6. NON-APPEARANCE OF THE PARTIES AND JUDGMENT BY DEFAULT.

of appearance.

50. — In the event of any case being struck out of the hearing list by reason of non-appearance, any party to the suit may apply to have the suit reinstated, provided always such application shall be made within the prescribed time for bringing such action. On payment of fees and reasonable expenses the Court shall re-enter the case for hearing. In any case in which the Court shall have given judgment in default of appearance of the defendant, the defendant may apply to the Court for the re-hearing of the case within fifteen days from the date of such judgment on the ground that it was not reasonably possible to appear on the day of trial. If the Court after investigation is satisfied that there were reasonable grounds for such non-appearance, the Court shall dismiss the judgment in default of appearance and re-try the case.

If the defendant by reason of circumstances beyond his control cannot apply to the Court within fifteen days from the judgment in default of appearance as aforesaid, then and in such cases the Court may accept the motion of the defendant within fifteen days from the cessation of such inevitable circumstances as aforesaid. In general the Court shall order the defendant in such cases to pay the costs which the plaintiff has already incurred; provided always the Court may in its discretion make such other order as is reasonable under the circumstances.

CHAPTER 7.

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CONCERNING WRIT OF ATTACHMENT BEFORE JUDGMENT.

51. — A plaintiff in any case involving a claim of 1,000 ticals or upwards, whether such claim shall relate to goods sold or to money lent or on deposit or to accounts or to rent for or hire of real property or goods as the case may be, may apply to the Court for an order that the whole or any part of the property of the defendant may be attached and put in the custody of the Sheriff in lieu of a bond or sureties for the amount of the claim.

The plaintiff may make such application as aforesaid either at the time of submitting his action or at any time before judgment.

The Court shall issue such a writ of attachment as aforesaid on an *ex parte* application under the following circumstances, that is to say, if the plaintiff shall satisfy the Court on the oaths of two or more persons : —

1. That the claim of the plaintiff is true and
2. That the defendant is absent or his place of abode cannot be found, or
3. That the defendant has removed or is intending to to sell or has concealed or is intending to conceal or to make away with or transfer his property to other persons with intent to defraud his creditors.

52. — At the time of issue of any such writ, the Court may require the plaintiff to deposit in Court a reasonable sum of money as security for any damage that the defendant may suffer by reason of the issue of such writ without reasonable cause.

53. — The defendant may apply for a withdrawal of the attachment of his property upon reasonable cause shown and upon terms as to security or otherwise as the Court shall think just.

54. — If in any action involving a claim of 200 ticals and upwards, the plaintiff shall at any time, whether before submission of plaint or before final judgment, prove by evidence to the satisfaction of the Court that he has a good cause of action, then and in such cases he may apply to the Court for a warrant for the arrest of the defendant, which warrant may be executed anywhere within the territorial sovereignty of His Majesty.

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Before the issue of such warrant of arrest as aforesaid, the Court shall require satisfactory proof as to the following matters that is to say : —

CHAPTER 6. NON-APPEARANCE OF THE PARTIES AND JUDGMENT BY DEFAULT.

1. That the defendant is in hiding in order to evade service of the summons of the Court, or
2. That the defendant has removed or concealed his property or has concealed or destroyed or altered or torn up any books of account which relate to his work or business with intent to defraud the plaintiff or other of his creditors, or
3. That the defendant from his conduct or the manner in which he is carrying on his work or business will leave or is likely to leave the jurisdiction of the Court.

55. — Any person arrested under such warrant as mentioned in the preceding section shall be detained in custody until such time as security is given in a sum not exceeding the amount of the claim with costs that he will not, without permission, leave the jurisdiction of the Court. Provided always no detention shall exceed six months in duration.

56. — Any defendant so arrested may apply by motion to the Court to be released. Provided always that on the hearing of any such motion the party arrested as aforesaid shall adduce evidence to show that he was not preparing to evade the jurisdiction of the Court or to avoid due payment of the debt.

57. — If it shall appear to the Court that the arrest of the defendant or the attachment of his property was brought about without sufficient cause; or if the Court shall dismiss the plaintiff's action and it shall appear that the plaintiff had no sufficient reasons for bringing such action, then and in such cases the Court may order the plaintiff to pay compensation to the defendant.

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58. — If the defendant shall by motion bring to the notice of the Court that the plaintiff is not subject to its jurisdiction and shall pray that the plaintiff be ordered to deposit money in Court as security for all costs and expenses to which the defendant may be put and which the defendant in the event of the plaintiff losing his action may be unable to recover, then and in such cases the Court may order the plaintiff to deposit in Court such sum as it thinks right and proper under the circumstances. If the plaintiff fail to deposit security in accordance with the order of the Court, his action shall be dismissed.

CHAPTER 8.
PAYMENT INTO COURT.

59. — When the defendant submits his answer he may at the same time deposit in Court the whole sum claimed or such part as he in his defence admits liability for or such other sum as he thinks sufficient to cover the claim of the plaintiff. From the date of such deposit the defendant shall not be liable for interest or costs in respect of that sum.

If after answer submitted, the defendant is desirous of making such deposit in Court as aforesaid, he shall first obtain the leave of the Court so that the plaintiff may receive notice to take it out. The defendant shall not be liable for interest in respect of the sum so deposited from the date of deposit, but all costs subsequently incurred shall be ordered to be paid at the discretion of the Court.

60. — If the plaintiff accepts the money so deposited in Court in part satisfaction of his claim only, the plaintiff may continue his case for the balance. Provided always if the Court after hearing the case shall be of opinion that the claim of the plaintiff is fully satisfied by the sum so paid into the Court as aforesaid, the plaintiff shall pay the costs occasioned by his refusal to accept such sum in full satisfaction.

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61. — If the plaintiff accepts the money paid into Court by the defendant in full satisfaction of his claim the Court shall make a note to this effect in the record and give judgment accordingly. In general, the defendant shall pay all costs.

CHAPTER 9.

ABANDONMENT, WITHDRAWAL AND VOLUNTARY SETTLEMENT OF ACTIONS.

62. — After entry of plaint the plaintiff shall come to the Court to obtain a summons for service on the defendant. If the plaintiff shall neglect to obtain such summons as aforesaid, and shall fail to bring to the notice of the Court within a period of fifteen days counting from the date of the entry of the plaint any reasons for such neglect, then and in such cases the Court may remove such plaint from the cause-list.

63. — Before service of the summons on the defendant and before submission by the defendant of his defence to the Court, the plaintiff may withdraw his plaint altogether or withdraw it for the purpose of entering an amended plaint. If the defendant shall have been served with the summons and shall have put in his defence, then and in such cases it shall be necessary for the plaintiff on motion to obtain the leave of the Court to withdraw his plaint altogether or for the purpose of entering an amended plaint and notice of such motion shall be given to the defendant. The granting of any such leave and any order as to costs shall be in the discretion of the Court. If the plaintiff shall obtain the leave of the Court to make any amendment in his plaint involving a reduction of the value of the amount in dispute, all subsequent costs shall be calculated on the basis of the value of the amount in dispute so reduced as aforesaid. Provided always in any case in which there are joint plaintiffs, no one plaintiff may withdraw his name without the joint consent of the other plaintiffs.

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64. — The re-entry of a plaint which has by leave of the Court been withdrawn by the plaintiff for the purposes of amendment shall be subject to the ordinary law of limitation in all respects as if no previous plaint had been entered.

65. — If in any case the parties come to an agreement as to the matters in dispute themselves or a compromise be arranged between them by a third party, then and in either of such cases if the agreement or compromise be not contrary to law, the Court shall add a memorandum of the points so agreed upon or compromised as aforesaid to the record and shall give judgment between the parties in accordance with the terms of the agreement or compromise as the case may be.

66. — If judgment has been delivered in any case, or if steps are being taken to enforce such judgment, no private agreement as to the matters adjudicated upon may be made by the parties. Provided always during the re-examination of the case by the Courts of Appeal, such private agreement as aforesaid may be made.

CHAPTER 10.
CONCERNING SERVICE.

67. — In general all complaints, summonses, decrees and orders of the Court shall be served by an officer of the Court, provided always as a general rule where application has been made for any such process the applicant shall accompany the officer serving such process. Subpoenas for witnesses shall be served by the applicant himself unless the Court in its discretion shall otherwise direct.

68. — All summonses or other documents shall be served in the day time between sunrise and sunset.

69. — If the person serving the summons or other process fail to meet the person for whom such summons or other process is intended and shall serve such summons or other process on any person to whom it is not directed, that is to say on any person over twenty years of age who is a relation of or of the same household as the person for whom such summons or other process is intended and who lives in the house or other the place of business which is known to be the dwelling house or place of business of the person to whom such summons or other process is directed as aforesaid, such service or any other service carried out in accordance with the terms of any order of the Court shall be considered sufficient service according to law.

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70. — In cases where the person to be served with a summons or other process of the Court cannot be found, there being no person to receive the summons or other process in default as described in the preceding section, the Court may make an order for substituted service, for example, by registered letter or by delivery to the police, amphur, kamnan or poo yai barn or by affixing the summons or other process in a conspicuous place on the door of the dwelling house of the person to whom such summons or other process is directed, or by advertisement, or in such other manner as the Court may see fit.

CHAPTER 11.
CONCERNING DECREES OR ORDERS.

71. — When a judgment is pronounced or order made, the Court shall draw up a decree and serve the same forth with. If the parties are in Court the order may be read to them, or the successful party may serve the decree on the other party.

72. — Any decree or order issued by the Court in any case or other proceedings enjoining the payment of money or the performance or discontinuance of any act whatsoever shall limit a period of time within which such order is to be complied with. Such period of time may run from the date of the issue or service of the decree or order or from any other date as the Court in the interests of justice may see fit to order.

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73. — Any decree or order issued by the Court enjoining the performance or discontinuance of any act shall state the consequences of non-compliance with such decree or order within the period of time therein mentioned, that is to say, the person receiving and subject to such decree or order shall be liable to distraint of goods or to arrest and imprisonment until compliance with such order.

74. — Any person, not being a party to a suit, who is an applicant for an order or to whom the Court has granted an order, may apply to the Court to order specific compliance with such order in all respects as if he were a party to the suit. If the party enjoined, not being a party to the suit, shall not comply with such order the Court may take all the same steps and use all the same remedies as if such person were a party to the suit.

75. — If any person has become surety by way of bond or otherwise in the presence of the Court for the performance of any judgment or order or of any part thereof, such judgment or order may be used to enforce the execution of such guarantee without the necessity of having to institute a suit against the surety.

CHAPTER 12.

EXECUTION OF GOODS.

76. — If in any case a party who has obtained judgment shall, at any time within ten years from the date of reading judgment followed by decree, bring to the notice of the Court the fact that the judgment remains unsatisfied, either wholly or in part, the Court shall issue a writ of execution forthwith.

77. — If the plaintiff shall apply for a writ of execution against the property of the party against whom judgment has been given and the Court shall doubt the propriety of seizing such property as aforesaid, the Court may as safeguard in the event of any damage or loss arising by reason of wrongful seizure, order the applicant for such writ as aforesaid to find security. [23]

78. — If the party who has obtained judgment in a suit shall believe that the party against whom judgment has been given has property other than that already known to him, he may ask the Court to summon such latter party and any other person for the purpose of holding an enquiry.

79. — If any party to a suit subject to any order of the Court shall fail to comply with such order and shall evade process of the Court or intend to make a fraudulent disposition of his property, the Court may order the arrest and detention of such party.

80. — If the party against whom judgment has been given shall apply for stay of execution on the ground that he is a plaintiff in the same Court in a case in which the plaintiff who is the applicant for a writ of execution is a defendant and in which judgment has not yet been given the Court may, if it shall think fit under the circumstances, grant the application.

81. — On an application for a writ of execution against property the Court may issue a writ sealed with the seal of the Court and deliver it to the proper officer for execution. The officer executing the writ may seize the property of the party who has failed to pay the amount due under the order of the Court. The Court may order a sale of the property seized by public auction provided always the suitable wearing apparel, bedding and tools of trade of the party whose property is liable to execution to a value of twenty ticals shall be exempt from execution.

82. — After seizure of property as mentioned in the preceding section, the officer may send or deposit the property so seized to such place or with such person as the

CHAPTER 12. — EXECUTION OF GOODS.

officer in his discretion shall think fit. After the expiration of not less than five days the property may be sold by public auction ; provided always perishable property may be sold at once.

83. — The officer executing a writ of execution may seize all notes, securities and agreements whatsoever of the party whose property is liable to execution which constitute a claim for money on the part of such latter person against other parties or may seize such one or more document or documents as is or are sufficient to satisfy the claim of the party in whose favour judgment has been given and such latter party may sue on such notes or securities for money as aforesaid in the name of the person against whom execution has been issued or other the person entitled to such property so seized as aforesaid. [24]

84. — If the party against whom judgment shall have been given shall not have fully satisfied the judgment of the Court, and the party who has obtained judgment shall on oath state that such former party is entitled to further property from whatever source, then and in such cases the Court may, if satisfied after enquiry that there are in point of fact third parties owing money to the party against whom judgment has been given as aforesaid, order such party to deposit such money so due and owing as aforesaid in Court. If the party ordered to deposit money in Court as aforesaid shall fail to do so in accordance with the order of the Court, the Court may summon such person to the Court for the purpose of holding an inquiry and may make such order as the Court under the circumstances thinks reasonable, for instance, may order the property of such party to be seized and sold by public auction.

85. — If after seizure of property and before sale the party liable to pay shall deposit with the Court the full amount for which execution has been issued together with the fees and expenses of execution, then and in such cases the execution on the property so seized as aforesaid shall be withdrawn.

86 — On an application for a writ of execution against property, only so much property as is necessary to pay the amount due under the judgment together with the costs of the action and the costs of seizure and safe custody of the property taken in execution shall be seized.

87. — The responsibility for the seizure and sale of any property shall lie with the party asking for the seizure and sale. [25]

88. — If the officer executing the writ of execution shall be doubtful as to the title of the party whose property is to be seized to all or any of such property, he may postpone the seizure or sale of the property the title to which is so doubted as aforesaid and may, if he thinks fit, hold an enquiry into the ownership of such property.

CHAPTER 12. — EXECUTION OF GOODS.

89. — If any person shall allege title to the property seized in execution by the proper officer, than [=then] and in such case an enquiry shall be held and judgment given in accordance with the regulations and conditions hereinafter set out, that is to say: —

1. If the property seized in execution shall be property of a personal nature and the Court of first instance shall adjudge such property so seized in execution as aforesaid to be the property of the party whose property is liable to execution, then and in such cases the Court may order an immediate sale of such property or may postpone the sale pending appeal. In the event of an immediate sale as aforesaid the Court may order the proceeds of sale to be deposited in Court, provided always the Court may order the proceeds of sale to be handed over to the party entitled to them if such party shall find security or shall himself make a written guarantee to the effect that in the event of the decision of the Court of first instance being reversed on appeal, he will deposit with the Court an amount equivalent to the amount so handed over to him.
2. In the case of real property, the Court shall delay making an order of sale until final judgment has been given.

Provided always in the case of either real or personal property, if after final judgment it shall be declared that the party submitting the motion alleging title to the property seized in execution, has no such rights as alleged, the Court may order such party to pay expenses to the party at whose instance execution was issued. No appeal shall lie from the decision of the Court as to such expenses unless they shall exceed fifteen per cent of the claim.

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90. — If the proceeds of sale by public auction shall exceed the amount required to satisfy all claims and expenses as mentioned in the preceding section, the excess shall be handed to the owner of the property sold.

91. — If the officer executing the writ of execution shall not seize the property liable to execution at such time as he ought by reason of carelessness or collusion with the party whose property is liable to execution, or neglect to act with all due speed, then and in such cases the party who has suffered damage by such conduct may apply to the Court for relief and the Court if satisfied after enquiry as to the truth of the allegations made, may order the officer so adjudged to be in fault as aforesaid to refund a sum of money equivalent to the amount of property lost, but the sum of money ordered to be refunded as aforesaid shall not exceed the amount given by the judgment. If such officer shall not refund in accordance with the order of the Court, the Court may issue a writ of execution against his property.

92. — In the case of execution against property or warrant of arrest against any person, such property or person being outside the territorial jurisdiction of the Court

CHAPTER 12. — EXECUTION OF GOODS.

issuing such writ or warrant as the case may be, then and in such cases the Court shall send such writ or warrant to the Court within the territorial jurisdiction of which such property or person is for execution, and such latter Court shall execute such writ or warrant in all respects as if it had itself issued such writ or warrant, provided always any property seized or person arrested under such writ or warrant shall be sent to the Court issuing such writ or warrant to be dealt with according to law.

CHAPTER 13.

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COMMITMENT FOR DISOBEDIENCE.

93. — If any person being within the jurisdiction of any Court shall wilfully disobey any decree or order made against him by such Court, the party in whose favour such decree or order has been made may apply to the Court for an order on such person to appear and show cause why he should not be punished for non-compliance with the decree or order of the Court as aforesaid and the Court, if of opinion that there are no good reasons to the contrary, may grant the order accordingly.

It shall not be obligatory for the Court to make such an order except on evidence sufficient to justify the immediate punishment of a contumacious party who shows no excuse at all for his conduct. The Court shall serve a copy of the evidence on which such order is granted on the contumacious party together with the order, and that party may adduce counter evidence.

94. — If the party ordered to appear and show cause shall not appear on the day appointed and no good reason is brought to the notice of the Court for such failure to appear, the Court, if satisfied after enquiry that the party ordered to appear and show cause as aforesaid has duly received the summons or if such party shall appear but shall fail to show good cause why he should not be punished, may issue a warrant for the immediate arrest and detention of such party.

The Court may adjourn the day fixed for the hearing of the application for the arrest and detention of the party disobeying an order of the Court or the Court may for good reason on the day fixed for the hearing as aforesaid, issue a warrant for the arrest and detention of such party in default as aforesaid such warrant to take effect from such day as the Court thinks fit. If after the expiration of the period limited in such warrant, such party shall still refuse compliance with the order of the Court, he may immediately be arrested and imprisoned under the warrant containing such period of time so elapsed as aforesaid.

95. — The party in custody for refusal to comply with a decree or order of the Court shall be detained in custody until such time as he shall consent to comply with such decree or order in all respects and on such consent and on release from custody in order to comply with such decree or order as aforesaid, shall furnish security to the satisfaction of the Court. Provided always if such party shall still persist in his refusal to comply with such decree or order as aforesaid he shall be indefinitely imprisoned until such time as in the opinion of the Court it is no longer possible for him to comply with such order or until he shall have paid the fine inflicted by the Court according to law.

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CHAPTER 14.
CONCERNING APPEAL.

96. — 1. No appeal shall lie from any order or decision made during the trial and before judgment except in the case of an order inflicting fine or imprisonment.

Neither party may give notice of appeal or raise any objections to such order or decision but the Court shall take down in writing such notice of appeal or any objections raised and attach them to the record for the purpose of facilitating the disposal of the case in the Courts of Appeal.

2. Any party may appeal against judgment pronounced in a suit but such appeal shall be entered within one month from the date the judgment is read. Execution may immediately follow judgment, saving always the party appealing may within the period of time limited for appeal ask for a stay or appeal forthwith and in such latter case such appeal shall be held equivalent to an application for a stay of execution.

3. On appeal the parties at issue in the lower Court shall be the parties at issue in the Courts of Appeal and no judge of the Court giving judgment in such case in the first instance may be treated as a defendant. If any party wishes to bring an action against any judge as aforesaid he shall submit a separate and independent action.

[29]

4. All applications for a stay of further proceedings pending appeal shall be in writing and may be made at any time after the judgment has been read. Such application may be made in open Court or to any judge in chambers. On such application the Court shall make a written order to the effect as is hereunder stated that is to say : —

- (a) In all cases the appellant shall deposit in Court the costs which he has been ordered to pay to the other party According to the judgment and if the Court shall be of opinion that the appeal will necessitate the payment of further costs on the part of such latter party, the Court may in accordance with the scale for the time being in force order the appellant to deposit such further sum as will be sufficient to cover such further costs as aforesaid. The Court shall fix the time within which the appellant shall deposit in Court such sum or sums of money as aforesaid but in no case shall more than ten days be allowed. If the appellant shall not deposit the sum of money as aforesaid in Court within the time allowed, his application for leave to appeal shall be dismissed.
- (b) In any case in which the party in whose favour judgment has been given shall show to the Court that there are good grounds for believing that the appellant will fraudulently dispose of his property during appeal, the Court in addition to the provisions in Clause (a) may order the appellant to make a bond to the effect that he will not dispose of his property

CHAPTER 14. — CONCERNING APPEAL.

pending appeal or the Court in its discretion may order the appellant to find security for the money due under the judgment or the appellant himself may be ordered to deposit in Court the money due under judgment.

If the appellant shall not comply with the order of the Court made under the provisions of this Clause, the Court may order his property to be attached or sold by public auction during the appeal.

5. The appellant shall deliver a copy of the petition on appeal to the Court of first instance for delivery to the respondent. [30]

6. The respondent may within fifteen days from the date of the submission of the appeal submit to the Court which tried the case in the first instance an answer on appeal.

97. — The Court of first instance shall, within seven days from the date of the respondent's submission of an answer on appeal or in case the respondent shall not make an answer on appeal, then within seven days from the expiration of the time within which such answer may be submitted, send all the pleadings and evidence constituting the record together with all exhibits to the Court of Appeal. On appeal the parties may appear in person or by attorney and notice to that effect shall be given to the Court of first instance either at the time of submitting the petition on appeal or the answer thereto. The Court of first instance shall then inform the other side and the Court of Appeal. But if notwithstanding due notice being given as aforesaid either or both sides shall not appear on the day appointed, the Court of Appeal may proceed with the case.

98. — Cases on appeal shall be entered for trial in accordance with the order in which they are received. A notice stating the date appointed for the trial of the case shall be posted up at the Court at least five days before the trial.

99. — After the Court of Appeal shall have examined the record or heard the parties the Court may give judgment in one of the five following ways viz : —

1. Confirm the judgment of the Court below or
2. reverse the judgment of the Court below or
3. vary the judgment of the Court below or
4. take further evidence or
5. order a retrial of the case in any Court.

The Court of Appeal in its judgment shall set out the reasons for its decision and shall send such judgment to the Court below.

CHAPTER 14. — CONCERNING APPEAL.

100. — If any party to the suit shall be desirous of making a further appeal he may do so, but shall submit to the ordinary rules of procedure regarding appeals provided always in the case of an appeal to the *Dika* Court the *dika* shall be presented within one month from the judgment of the Court of Appeal. [31]

The *dika* shall be presented to the Court of first instance.

101. — The Court of Appeal on giving judgment shall at the same time draw up a decree. If both parties shall have been present whilst such decree has been read out or if after having been duly served with the summons appointing the day for the reading of such decree as aforesaid any one or more of the parties concerned shall not attend, then and in either of such cases such decree shall be considered a good and valid one and may be put in force from the day on which it was read as aforesaid. In the event of the decree being good and valid as aforesaid the party entitled to judgment, may, except where the party against whom judgment has been given presents a *dika* in accordance with this law or duly asks for further time, immediately apply for a writ of execution in accordance with the terms of such decree.

102. — The period of one month allowed for presenting a *dika* dates from the day on which the parties heard or but for their default would have heard the judgment on appeal read. If the party in whose favour judgment has been given in the Court of Appeal is entitled to execution within the period allowed for presentation of a *dika* the party whose property is liable to execution and who is desirous of presenting a *dika* may ask for a stay of execution.

In general, the *dika* and the application for a stay of proceedings in the Appeal Court shall be made to the Court of first instance which tried and gave judgment originally. Provided always under special circumstances leave may be granted to make such *dika* or application to another Court.

103. — If the party who has duly deposited security for costs shall appeal from the judgment of the Court of first instance and shall in the event of losing the case on appeal be desirous of entering a *dika* he shall be required to deposit a further sum as security for costs the same in all respects as required on appeal to the Appeal Court. The Court of first instance shall not send such *dika* to the *Dika* Court until deposit of security for costs as aforesaid. In the event of the judgment of the Court of first instance being reversed in any material particular, it shall not be incumbent on the party presenting a *dika* to deposit security for costs and the party who has already deposited security for costs on entering his appeal may ask for its withdrawal. [32]

104. — If either party shall be desirous of entering an appeal or a *dika* but the Court below shall first require the performance of any act which such party knows is beyond his ability to perform, such party may submit a motion to the Court of Appeal but in no case shall a petition on appeal or *dika* be entered.

105. — (*Section repealed by the Dika Appeal Act 2457, which has been repealed*)

CHAPTER 14. — CONCERNING APPEAL.

itself by the Dika Appeal Act 2461).

106. — (Idem).

107. — (Idem).

CHAPTER 15.
CONCERNING ARBITRATORS.

108. — If both the plaintiff and the defendant in any pending case shall apply to the Court to refer the case to an arbitrator or arbitrators the Court may grant the application accordingly.

109. — If on the application of the plaintiff or the defendant as mentioned in the preceding section, the Court shall be of opinion that a summons calling on any arbitrator agreed on by the plaintiff and defendant to undertake the arbitration of the case cannot appropriately be issued or if the arbitrator after receiving the summons shall not be willing to undertake the arbitration, the plaintiff and defendant may apply to the Court that some other person be appointed as arbitrator.

110. — If in the case of arbitration by more than one arbitrator the opinion of the arbitrators shall be equally divided, the arbitrators may appoint an umpire for the purpose of determining the points in dispute by a majority. The opinion of the majority shall be considered final. If the arbitrators cannot agree on an umpire the Court shall appoint an umpire.

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111. — If the arbitrators shall require any of the pleadings or other papers which have been before the Court or the attendance of any witnesses, the Court shall, within the limits of its jurisdiction, comply with the request of the arbitrators.

112. — When the arbitrators shall have given their opinion as to the merits of the case submitted to them for arbitration, the Court shall give judgment in accordance with that award.

Payment of costs and arbitration fees shall depend on any agreement the parties may have made. If no such agreement shall have been made, payment of such fees shall be within the discretion of the Court.

113. — If any parties at issue have voluntarily submitted their differences to arbitration out of Court and the arbitrators have duly given their award in accordance with the terms of submission, and any party refuses to abide by the award so given, the party wishing to enforce the award may apply to have the award adopted by the Court in the same manner in all respects as in a case where the arbitrators have been appointed in Court as hereinbefore mentioned.

114. — When the Court shall have given judgment in accordance with the award

CHAPTER 15. — CONCERNING ARBITRATORS.

of the arbitrators neither side shall have any right of appeal except with the leave of the Court in the following cases, that is to say, when there is evidence to show dishonesty on the part of the arbitrators or umpire or that the award is fraudulent or that the judgment of the Court is not in accordance with the award of the arbitrators.

When there is no right of appeal as in this section mentioned it shall not be necessary for the Court to send the record to the Appeal Court and the Court may order compliance with the judgment at once.

CHAPTER 16.

[34]

SUITS *IN FORMÂ PAUPERIS.*

115. — In any case where the plaintiff alleges that by reason of poverty he is unable to pay the Court fees the Court, on being satisfied after inquiry that the plaintiff is in fact a pauper and has a good cause of action, shall allow such plaintiff to sue *in formâ pauperis*.

116. — In any case against a defendant who alleges that by reason of poverty he is unable to pay the Court fees, the Court, on being satisfied after inquiry that the defendant is in fact a pauper without sufficient property to pay the Court fees, shall likewise allow such defendant to defend the case *in formâ pauperis*.

117. — Any person desirous of either instituting or defending an action *in formâ pauperis* shall apply to the Court and make a sworn statement showing that he has not sufficient property to pay the Court fees. No party without first obtaining the permission of the Court can either institute or defend an action *in formâ pauperis*.

After the Court shall have taken down in writing the sworn statement of the person desirous of instituting or defending an action *in formâ pauperis*, the Court shall serve a copy of such statement on the other side together with the application to sue or defend *in formâ pauperis*.

118. — Any person who has been authorised by the Court to institute or defend an action *in formâ pauperis* shall not be liable to pay Court fees.

119. — If the Court shall have authorised any person to institute or defend any action *in formâ pauperis* and afterwards it is found that such person so suing or defending *in formâ pauperis* as aforesaid has sufficient property to pay the Court fees, whether such property shall have been in existence at the time of the application to sue *in formâ pauperis* or shall have accrued afterwards or if the party so suing or defending *in formâ pauperis* as aforesaid shall be successful and the Court shall have ordered the other side against or by whom the action is brought to pay the Court fees, then and in such cases the Court shall order the costs to be paid in full.

[35]

120. — If any person who has received permission from the Court either to institute or defend an action *in formâ pauperis* shall behave in an improper manner, such as for instance by vexatious proceedings, by committing contempt of Court or by intentionally delaying the case, the Court may at any time revoke the permission to proceed with such case *in formâ pauperis*.

CHAPTER 16. SUITS *IN FORMÂ PAUPERIS*.

121. — In any case in which a plaintiff has received permission from the Court to sue *in formâ pauperis* and it is proved to the Court that such plaintiff has intentionally brought a false action, the Court may sentence such plaintiff to a term of imprisonment not exceeding six months.

122. — If it shall be proved that any person who with the object of either instituting or defending an action *in formâ pauperis* shall make a false statement to the Court on oath, such person shall be held to have committed a contempt of Court and shall be liable to a term of imprisonment not exceeding twelve months or to a fine not exceeding one thousand ticals.

CHAPTER 17.
APPOINTMENT OF ATTORNEYS.

123. — The plaintiff or defendant may appoint one or more attorney or attorneys to represent him or them in any Court but the Court may, for the purpose of facilitating the hearing of the case or in the interests of justice, order the parties themselves to attend the Court in person.

124. — In any case in which there is more than one plaintiff or more than one defendant, each plaintiff or defendant, as the case may be, may appoint a separate attorney to represent him or all or any of them may appoint a single attorney to represent all or any of them as the case may be, provided always an attorney may not appear both for a plaintiff or plaintiffs and a defendant or defendants at one and the same time.

[36]

125. — The written appointment of an attorney whether for plaintiff or defendant may be given by any Court or by any official before whom written contracts may be made. If such appointment is made at the Court or other place than the Court trying the case, the person appointed shall take the written appointment to the Court trying the case. The contents of the document appointing an attorney shall be distinct and free from ambiguity.

126. — If any party shall be an infant or of unsound mind incapable of personally appointing an attorney, the Court shall summon the father or mother or relations or other guardian of such party for the purpose of making inquiries and shall appoint a fit person as attorney having regard to the requirements of the case.

127. — *(Section repealed by the Decree regulating the practice of advocates of the year 2457).*

128. — *(Idem).*

CHAPTER 18.
DEATH OF PARTIES BEFORE JUDGMENT.

129. — If a party in a civil case shall die at any time before judgment, the other side having an interest in such case may apply to the Court to summon the heirs or administrator or other person having the custody of the estate of the deceased to appear in the further hearing of the case or the Court may summon any other person to appear in the stead of the deceased.

130. — Application for the substitution of heirs or administrator or other the person having the custody of the estate of the deceased shall be made within one year from the death of the deceased.

If the Court in its discretion shall see fit to grant such application, the Court shall issue a summons requiring such person to proceed with the case in the stead of the deceased. The summons for service on such person as aforesaid shall set out in brief the contents of the motion upon which such summons has been granted.

131. — Any person receiving such summons as in the preceding section mentioned may plead in bar thereof that he is not the heir, administrator or person having custody of the estate of the deceased, provided always such plea shall be raised within the time limited by the Court.

[37]

132. — If the person receiving the summons of the Court requiring him to appear in the stead of the deceased shall on motion raise the contention that he is not the right person to appear in the case in the stead of the deceased and the Court after inquiry is of opinion that such person is not connected with the estate of the deceased the Court shall dismiss the motion of the party asking for the substitution of such person as aforesaid.

133. — Any person appearing in the stead of the deceased may appear in person or by attorney but the provisions of Chapter 16 shall be complied with in all respects.

CHAPTER 19.
CONTEMPT OF COURT.

134. — In any case in which it shall be necessary in order to preserve the order of the Court to eject any party from the Court on the ground of unseemly behaviour, the Court may proceed with the case in the absence of such party.

135. — If any person intending a fraud shall appear as attorney either for the plaintiff or defendant without receiving authority from the plaintiff or defendant as the case may be, such person shall be liable to a term of imprisonment not exceeding twelve months or to a fine not exceeding one thousand ticals or both.

136. — Any person insulting a judge while performing his duties in Court or insulting any Court whether by conduct or words, shall be liable to a term of imprisonment not exceeding twelve months or to a fine not exceeding one thousand ticals or both.

137. — If any person shall commit a contempt of Court as described in the preceding section, the Court may order the arrest and detention of such person or his exclusion from the Court for any length of time. The Court may, in its discretion, give judgment on the same day. The Court shall attach to the record a report setting out the nature of the offence committed and the punishment awarded.

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CHAPTER 20.
CONCERNING TIME.

138. — All periods of time, which by the terms of this Royal Decree are to be computed from any given day or any given event, shall be calculated as from the first day next after such given day or. Event.

139. — If the last day of any period of time limited by the Court or the last day of the period of time allowed by law for instituting an action shall expire on a day on which the Court is closed, then and in any such case either of such periods of time as aforesaid shall be considered as expiring on the first day on which the Court re-opens.

140. — Nothing in this Royal Decree contained shall in any way affect the right of the Court to extend or limit the time allowed for the doing of any act, that is to say, the Court has, under special circumstances, the right to fix such period of time for the doing of any act as the Court shall think fit ; provided always, in ordinary circumstances the Court shall observe the periods of time in this Royal Decree limited and contained. If the Court shall fix any special period of time for the doing of any act as aforesaid, a note of it shall be made and added to the record.

CHAPTER 21.
CONCERNING FEES.

141. — Judgment as to costs shall be in the discretion of the Court. If no particular costs are specified, the word shall be understood to include the witnesses' fees, attorney's fees and all other fees payable by law.

142. — All Court fees whatsoever whether in cases purely civil or in cases both civil and criminal shall be assessed in accordance with the under mentioned scale. **[39]**

If and whenever such "scale shall be found to be deficient in any particular, the Minister of Justice may issue a departmental regulation for the purpose of remedying such defects so found as aforesaid.

143. — The fees to be paid on the entry of the plaint shall be assessed at the rate two and a half per cent on the value of the property claimed. Any fraction of a hundred shall be considered as a hundred. Provided always no fee to be paid on the entry of a plaint shall exceed one thousand ticals.

144. — If the plaint shall claim relief which has no capitalised value such as, for instance, relief by way of divorce, by way of injunction or in respect to rights of way, the fee on entry of each such claim shall be ten ticals. Provided always if such plaint shall also relate to a claim having a capitalised value, then and in such cases fees shall be payable in accordance with the scale as aforesaid, but so that no sum less than ten ticals shall be payable.

Any case relating to a claim having no capitalised value as aforesaid may be appealed up to the *Dika* Court.

145. — The fees to be paid on the entry of a plaint claiming enforcement of an award shall be assessed at the rate of one per cent.

SCHEDULE I.

[40]

Fees.	Appeal Court	Courts in the Ministry of Justice and Monthon Courts.	Muang Courts.	Magistrates and Kweng Courts.	Remarks.
(1) On each judgment	20 ticals	10 ticals	8 ticals	4 ticals	
(2) On receipt of plaint	8 ticals	6 ticals	4 ticals	1 tical	
(3) On appointment of attorney	8 ticals	6 ticals	4 ticals	2 ticals	
(4) On bail bond	8 ticals	6 ticals	4 ticals	2 ticals	
(5) On summons of whatever kind	2 ticals	1.50 ticals	1 tical	50 stgs.	The applicant must also pay costs of services.
(6) On every motion in writing and on every affidavit accompanying such motion as aforesaid	8 ticals	6 ticals	4 ticals	1 tical	
(7) On every affidavit or other document to be used as evidence	2 ticals	1.50 ticals	1 tical		
Except receipts of payments of taxes, the fee for each set of which shall not exceed ...	8 ticals	6 ticals	4 ticals	2 ticals	
(8) On every decree or order	8 ticals	6 ticals	4 ticals	2 ticals	The applicant must also pay costs of services.
(9) Copy of Records if made by the party to be free of cost. If made by the Court at the rate of 1 tical for the first 100 words and 25 satangs for every subsequent 100. Certifying correctness 2 ticals each document					
(10) On an instrument containing terms of compromise	8 ticals	8 ticals	4 ticals	2 ticals	

N. B. — If a case within the powers of a Muang Court is tried in a Monthon Court the fees of a Muang Court shall be levied.

SCHEDULE II.

[41]

The different grades of witnesses entitled to allowances for attendance at Court.	ALLOWANCE PER DAY.		Remarks.
	Not exceeding ticals.	Not less than ticals.	
Members of the Royal Family and Government officials of high degree	20	Such amount as the Court shall think fit.	In addition every witness is entitled to reasonable traveling expenses actually incurred. The allowances in the scale are to be granted for each day the witness is obliged to come to Court, whether his evidence is taken or not.
Officials of lesser degree	10	" "	
Doctors and members of other learned professions	15	" "	
Heads of firms not in receipt of a monthly salary	15	" "	
Persons of all other descriptions shall receive such sum as is equivalent to the sum they would have earned per day during the days they are compelled to attend the Court.	10		
Allowances for expert witnesses and arbitrators shall be agreed upon by the parties themselves			
Interpreter's fee to be paid by the losing party to the successful party			
European interpreter per day	20		
Asiatic interpreter per day	6		

In the case of the Court proceeding to take the evidence of witnesses, traveling expenses and allowances shall be paid in accordance with the following scale viz: —

- Judges — per day 20 ticals
- Registrars and other officials 10 „
- Witnesses shall receive no allowance.

**FEES TO BE PAID ON EVIDENCE TAKEN ON
COMMISSION.**

[42]

If such issues shall be sent to any Court other than the Court in which the plaint is issued, fees shall be paid in accordance with the following scale viz : —

If the amount of the claim is less than 10,000 ticals,	5 Ticals.
„ „ „ „ is 10,000 ticals and upwards,	10 „
„ „ „ „ Is 40,000 „ „ „	25 „

**SCHEDULE III.
SHERIFF'S FEES.**

Fees.	Amount.
Sales by auction	5 per cent.
Sales by assessment	2 per cent.
Sale by auction (when notice of sale issued but judgment money paid before sale)	3 ½ per cent.
Measuring land and preparing plan	8 ticals per day

Scale of fees allowable to attorneys under the provisions of the Royal Decree of the year 123 concerning attorneys' fees and the proclamation of the year 126 extending and amending the same.

		Amount in dispute not exceeding 160 ticals.	Amount in dispute exceeding 160 ticals but not exceeding 400 ticals.	Amount in dispute exceeding 400 ticals but not exceeding 1,000 ticals.	Amount in dispute exceeding 1,000 ticals but not exceeding 2,000 ticals.	Amount in dispute exceeding 2,000 ticals but not exceeding 5,000 ticals.	Amount in dispute exceeding 5,000 ticals.
In Court of first instance	Minimum fee	Such amount as the Court shall in its discretion think fit, not exceeding 25 ticals.	25	50	100	150	Such sum as the Court in its discretion shall think fit, not exceeding ten per cent of the amount in dispute.
	Ordinary fee		50	100	200	300	
	Maximum fee	100	200	300		450
In the Court of Appeal .....		...	25	25	50	100	Such sum as the Court in its discretion shall think fit, not exceeding 400 ticals.
In the <i>Dika</i> Court .....		...	...	50	100	200	Such sum as the Court in its discretion shall think fit, not exceeding 800 ticals.

Half this scale to be allowed in cases occurring in the Provinces.