

11. The Supervisor shall obtain, by such means as shall appear best adapted for the purpose, returns of all houseless persons and of all persons who during the Census night were travelling or on the sea, or who for any other cause were not abiding in any house on the Census night.

Returns of
persons house-
less, etc.

12. This Ordinance may be cited as "The Census Ordinance, 1901."

Short title.

ADMINISTRATION OF JUSTICE.

Ordinance No. 4 of 1901.

[16th September, 1901.]

An Ordinance relating to the Administration of Justice.

Be it enacted by the Governor of the Colony of the Falkland Islands, with the advice and consent of the Legislative Council thereof, as follows:—

1. In this Ordinance:—

Interpretation.

"The Court" shall mean the Court or the Chief Justice, or a Judge sitting in the Court Room or in Chambers.

"A Court" shall mean a sitting of the Supreme Court for the trial of any civil or criminal cause.

"Judgment" shall include decree, order, sentence, or rule.

2. The Supreme Court shall consist of the Chief Justice, and if any assessors be summoned then of the Chief Justice and such assessors, and if any other Judge or Judges be appointed hereafter then of the Chief Justice and such other Judge or Judges.

Constitution.

3. The Chief Justice shall be a member of the Bar of England, Scotland or Ireland or some British possession, and of not less than seven years' standing, or shall have filled the office of Judge of some

Qualifications
of Chief Justice.

Court in the British Dominions and be nominated by the Secretary of State and appointed by the Governor under the public seal of the Colony and shall hold office during good behaviour :

Provided that whenever the office of Chief Justice is vacant or if the Chief Justice become incapable or be suspended or be absent from the Colony, then the Governor may do and execute or may appoint some officer to do and execute all things that belong to the office of Chief Justice.

Combined
offices.

4. The same person may be appointed to the offices of Chief Justice and Police Magistrate, and any person so appointed shall cease to be styled the Chief Justice and shall be styled the Judge.

Appeals when
offices com-
bined.

5. Whenever the same person shall hold the offices of Judge and Police Magistrate the Supreme Court shall, for the purpose of hearing appeals from the Police Court, but for no other purpose, be held before the Judge and three Justices and on such appeals all questions shall be determined by a majority of the Court, and in case the votes shall be equal the Judge shall have a casting vote.

Sittings.

6. The Judge shall from time to time fix the days for the sitting of the Supreme Court for the purpose of hearing appeals from the Police Court, and he shall summon by notice three Justices residing in or near Stanley to attend every sitting of the Court for that purpose. The Justices shall be so summoned in rotation according to the order in which their names stand on the commission, so that as far as circumstances will permit each may serve in his turn.

Justice
assessors.

7. Any Justice who, being duly summoned, neglects or fails, without reasonable cause, to attend the sitting of the Court, shall be liable to be fined by the Judge a sum not exceeding ten pounds.

Sheriff,
appointment of.

8. It shall be lawful for the Governor if he shall think proper from time to time to appoint a Sheriff either to act in any particular case or for any period, and such Sheriff may duly authorise under his hand

and seal any person to be his deputy, and such Sheriff and his deputy are hereby empowered to execute all writs, summonses, rules, warrants, orders, commands and processes of either the Supreme or Police Court, and if a Sheriff shall not have been duly appointed by the Governor, then the Chief of the Police may do and execute all things that belong to the office of Sheriff.

9. The Supreme Court shall have within the Colony all the jurisdiction, powers and authorities whatsoever possessed and vested in the following Courts and Judges in England:—

Jurisdiction.

(1) The Queen's Bench, Common Pleas and Exchequer Division of the High Court of Justice.

(2) The Chancery Division of the High Court of Justice.

(3) The Courts and Justices of Oyer and Terminer and general gaol delivery.

(4) Any Court of Quarter Sessions in England.

(5) The Probate, Divorce, and Admiralty Division of the High Court of Justice in matters of Probate and Admiralty, and in matters of divorce, subject to Her Majesty's Order in Council bearing date the 28th day of November, 1899, and to any Order in Council that may be made, altering or amending such jurisdiction.

10. The Court shall also have and exercise jurisdiction:—

Jurisdiction.

Over all matters of insolvency and bankruptcy.

11. The Court shall have appellate jurisdiction over all cases determined in all inferior Courts and in respect of any misdirections or misrulings of the Judges thereof and may set aside or correct the same.

Appeals.

12. The Court shall also have and exercise all other jurisdiction, powers and authorities whatso-

Jurisdiction.

ever, which now are or may be hereafter expressly or impliedly vested in it by any Law.

Escheat.

13. The Court shall have jurisdiction in all causes and questions of escheat and may entertain, decide and finally adjudicate in and on all such causes and questions.

Minors and lunatics.

14. The Court shall have power to appoint guardians and committees of the persons and estates of infants and of idiots and lunatics and other persons unable to govern themselves or their estates, and for that purpose to inquire into, hear and determine, by inspection of the person, or by examination on oath or otherwise of the party in whose custody or charge such person may be, or of any other person, or by such other ways and means by which the truth may be best discovered, and to act in all cases as fully and amply to all intents and purposes as the Lord High Chancellor or the grantee from the Crown of the persons and estates of such persons may do in England.

Law and equity concurrent.

15. In every civil cause law and equity shall be administered concurrently and the Court shall have power to grant, either absolutely or on such terms and conditions as shall seem just, all such remedies as either party may appear to be entitled to in respect of either claim or defence; so that as far as possible all matters between the parties may be completely and finally determined and all multiplicity of legal proceedings avoided; and where there is any conflict between the rules of equity and the rules of common law, the rules of equity shall prevail.

Assessors to Chief Justice.

16. The Chief Justice may cause any member of Council or Justice to be summoned to sit with him as an assessor on the trial of any cause or the hearing of any proceeding civil or criminal, and any assessor who, without reasonable cause, shall fail to attend the Court or refuse to act as an assessor shall be liable to a fine not exceeding ten pounds which may be imposed summarily.

17. The assessors shall have no voice in the decision of any case, but the name of every assessor who shall dissent from the judgment of the Court, together with a note of the grounds of such dissent, shall be recorded on the proceedings and signed by the assessor so dissenting.

Their powers.

18. The Supreme Court shall, when there are cases to be tried, hold sittings in Stanley for the trial of criminal causes upon the first Wednesday of the months of February, May, August and November.

Sittings
criminal.

19. The Supreme Court shall hold sittings in Stanley for the dispatch of business on its civil side immediately on the termination of the criminal business and at such other times as the Chief Justice may direct.

Sittings civil.

20. The Governor may direct the holding by the Chief Justice at any time and at any place of a special Court for trial of any criminal or civil cause.

Special Court.

21. The Court may make such orders as may be necessary to procure the attendance of special or common juries at any special Court, and any juror who shall without lawful excuse fail to attend and serve when summoned shall be liable to the same penalties as may be imposed upon jurors for non-attendance under any law for the time being in force relating to jurors.

Jurors at
special Court.

22. The Chief Justice may by summary order remove into the Supreme Court any suit instituted in a lower Court and may also remove from the Supreme Court into a lower Court any suit which shall involve directly or indirectly any claim, demand or question to or respecting property or any civil right amounting to or of the value of not more than fifty pounds, and which can in his opinion be properly tried in such lower Court, and thereupon the Police Magistrate or Judge of the Summary Court, as the case may be, may summarily try the same.

Removing suits.

23. Every prosecution in the Supreme Court shall be by information in the name of such officer as

Informations.

the Governor may appoint, and the officer prosecuting an information shall not at the same time preside upon the bench.

Jury of 12.

24. Every case in which the prisoner shall be arraigned on a capital charge shall be tried by a jury of twelve men and no verdict shall be recorded unless such verdict be unanimous. Every other case, whether civil or criminal, shall be tried by a jury of seven men :

Jury of 7.

And when a sentence of penal servitude is passed the person so sentenced may be imprisoned with hard labour for any term not exceeding the term of such sentence of penal servitude.

Appeals to
Supreme Court.

25. Any person dissatisfied with any judgment of any inferior Court may, except as hereinafter provided, appeal to the Supreme Court by petition within fourteen days after the day on which judgment was given or within such further time as the Chief Justice shall allow, and the Supreme Court may determine the case upon the evidence taken in the Police Court or may re-hear the case and call any person as a witness, whether previously examined or not, and determine the case in a summary way or remit the case to be tried by a jury and allow such costs to either party as justice may seem to require.

No appeal.

26. The right of appeal shall not extend to the following cases :—

(a) Where the truth of the accusations or correctness of the claim has been admitted.

(b) Where imprisonment is adjudged for failure to comply with an order for the payment of money for the finding of sureties, for the entering into any recognisance, or for the giving of any security.

(c) Where in a civil case before judgment both parties agree in writing that the judgment of the inferior Court shall be final.

(d) Where the accused has consented to an adjudication of his case by the inferior Court.

27. It shall be lawful for the Court in civil proceedings to order and allow to all persons examined or detained as witnesses such sum of money as shall appear reasonable for defraying their expenses or affording compensation for their trouble and loss of time, and also to order any witness present to give evidence notwithstanding that no payment to which he may be entitled shall have been paid or tendered to him.

Witnesses' expenses.

28. All sums of money so allowed shall be paid by the party on whose behalf the witness is called, and shall be recoverable as ordinary costs of the suit, if the Court shall so direct.

Witnesses' expenses.

29. Where the plaintiff in any action shall prove to the satisfaction of the Chief Justice that the plaintiff has good cause of action against the defendant, and that there is probable cause for believing that the defendant is about to quit the Colony, and that the absence of the defendant will materially prejudice the plaintiff in the prosecution of his action the Chief Justice may order such defendant to be arrested and imprisoned for a period not exceeding six months, unless and until he give security, not exceeding the amount claimed in the action, that he will not leave the Colony without the leave of the Court.

Absconding defendants.

30. Where the action is for a penalty, or sum in the nature of a penalty for any contract, it shall not be necessary to prove that the absence of the defendant from the Colony will materially prejudice the plaintiff in the prosecution of his action, and the security given shall be to the effect that any sum recovered against the defendant in the action shall be paid, or that the defendant shall be rendered to prison.

Absconding defendants.

31. The expenses incurred for the subsistence in prison of any person arrested under Sections 29 and 30 shall be paid by the plaintiff at the rate of three shillings a day or such other sum as the Court may from time to time direct, and shall be made by monthly payments in advance; and the money so disbursed may be added to the costs of a decree and

Maintenance of defendants.

be recovered by the plaintiff, unless the Court shall otherwise order. The Court may release the person so imprisoned on failure by the plaintiff to pay the subsistence.

Notary public.

32. The Governor may from time to time appoint any person to be a notary public :

Provided that if any notary public duly appointed by the law of England shall be available any appointment under this Ordinance shall determine, and whenever the Governor shall not have appointed any notary under this Ordinance the Chief Justice shall have and may exercise within the Colony all the powers and authorities of a notary public appointed by the law of England and shall use a seal with the inscription "Supreme Court of the Falkland Islands, Notarial Seal."

Rules.

33. The Governor in Council may make rules for regulating the process, practice and mode of pleading in the Supreme Court and the conduct of all civil and criminal business coming within its cognisance, and with reference to fees of court, costs of persons admitted to practice, the duties of officers of the Court and the powers of Commissioners and all other matters in connection with the business of the Court not otherwise specially provided for.

Short title.

34. This Ordinance may be cited as "The Administration of Justice Ordinance, 1901."

JURORS.

Ordinance No. 5 of 1901.

As amended by No. 5 of 1903.

[16th September, 1901.]

An Ordinance relating to Jurors and Trials by Jury.

Be it enacted by the Governor of the Colony of the Falkland Islands, with the advice and consent of the Legislative Council thereof, as follows :—

1. Every man, not being an alien, and except as hereinafter excepted, between the ages of twenty-

Who must
serve.