

CHAPTER VII

THE TRANSFER.

1867-1885.

In 1867, by Act 29 & 30 Vict., c. 115, and by Letters Patent, dated 28th December, 1866, the formal transfer of the Colony from the Indian Government was effected, — a subject which had been mooted by the Colony as far back as 1858. On the transfer, which took place on the 1st April, 1867, and by Government Notification of the same date, “all officers of the Court of Judicature, holding appointments under Letters Patent dated 10th August, 1855, continued to hold their appointments under the Government of the Straits Settlements under the aforesaid Letters Patent” By this Notification,¹¹⁰ it was also announced that Her Majesty had been pleased to approve of the Recorder of Singapore being styled Chief-Justice of the Straits Settlements, and the Recorder of Penang designated Judge of Penang. By further Notification of the same date, the Chief-Justice, in pursuance of Her Majesty’s Order, was Gazetted an *ex-officio* member of the Legislative Council, which position he still holds. In the same year, the Law Officers of the Crown were duly appointed, and styled Attorney-General and Solicitor-General of the Straits Settlements, the latter stationed in Penang, the posts being held by Messrs. Thomas Braddell and Daniel Logan as before mentioned the latter of whom is still in office and the former retired.

The Admiralty Jurisdiction of the Court was also in this year extended and assimilated to similar Courts existing in other British Dominions, by 30 & 31 Vict., c. 45, under the designation of the Vice-Admiralty Court of the Straits Settlements, which still exists; the procedure hereof being now regulated by Order of the Queen in Council, dated 23rd August, 1883. Under the Statute mentioned, read in conjunction with 26 Vict., c. 24, the Governor of the Colony, derives his title of “Vice-Admiral,” the Chief-Justice being styled “Judge;” by the latter are appointed the Deputy Judges, Registrars, Marshals and Surrogates of the Court.

By Ordinance 5 of 1868, the Court of Judicature of Prince of Wales’ Island, Singapore and Malacca was abolished, and the Court reconstituted under the title of the Supreme Court of the Straits Settlements. By the same Ordinance, the Charter or Letters Patent of 1855 ceased, (except as to such of its provisions as were not inconsistent with the Ordinance) to have any operation in the Colony. Sir Benson Maxwell and Sir William Hackett, continued to hold office in the Colony, as Chief Justice of the Straits Settlements and Judge of Penang respectively under Section 6 of the Ordinance mentioned.

In 1870, the Insolvent Court, — mentioned in the time of Sir Christopher Rawlinson, and which from that time had been in existence, — was abolished, and Bankruptcy Jurisdiction conferred on the Supreme Court by Ordinance 21 of 1870, which is still in force.

Sir Benson Maxwell retired in July, 1871, and was succeeded by the present Chief-Justice Sir Thomas Sidgreaves (cf. below), and in the following year, great changes in the constitution of the several Courts of the Colony, both Civil and Criminal, were introduced. By Ordinance 5 of 1873, the Supreme Court, as constituted under Ordinance, 5 of 1868, was abolished, and the Court reconstituted under four Judges styled Chief-Justice, Judge of Penang, Senior and Junior Puisne Judges, — the Chief-Justice and Senior Puisne Judge being required to reside in Singapore, and the Judge of Penang and Junior Puisne Judge, in Penang. Sir Thomas Sidgreaves and Sir William Hackett, continued to hold their respective offices, until the coming into operation of the aforesaid Ordinance 5 of 1873, when Mr. Snowden, then Senior Magistrate of Singapore, and Mr. Justice Phillippo, previously a Puisne Judge of the Supreme Court of British Guiana, became Senior and Junior Puisne Judges respectively.¹¹¹ Mr. Snowden however, remained in office but a very short time, being transferred to Hong Kong as Puisne Judge, and was replaced by Mr. Justice Phillippo, who, in his turn was succeeded by Mr. Justice Ford¹¹² as Junior Puisne Judge.¹¹³ Sir William Hackett was absent at this time, and was relieved by Mr. Justice Ford in Penang, and as a matter of fact, there never were four Judges at one time in the Colony.

By the same Ordinance, the jurisdiction of the Court of Requests was reduced to suits not exceeding ten dollars, but this was somewhat modified as regards Malacca and Province Wellesley, by Ordinances 4 and 5 of 1874. Consequent upon this change in the Court of Requests, the Supreme Court was divided into two Sides, — plea and summary, — the latter having jurisdiction over suits exceeding Dollars 10 to Dollars 500, and as regards Malacca and Province Wellesley, from Dollars 50 to Dollars 500. In order to carry out the work of the Supreme Court, as thus divided, the Office of Deputy Registrar was created at Singapore and Penang, to take charge of the Summary Side of the Court in those Settlements.

As regards Criminal Jurisdiction, the Magistrates' Courts, and "Coroners' Courts," remained much the same, except that as regards the former, their jurisdiction and procedure were more clearly defined by Ordinance 13 of 1872, which latter Ordinance is now the principal one defining the jurisdiction and powers of Magistrates' Courts. The Coroners' Courts are now regulated by Ordinance 7 of 1884.

"Sidgreaves, Sir Thomas, Knight Bach. (1873), B.A.; of the London University, — Called to the bar, Inner Temple, June, 1857; member of the northern circuit; appointed Chief-Justice of the Straits Settlements in September, 1871." — *Colonial Office List*, 1885.

By Ordinance 5 of 1873, a further Criminal Court called the Court of Quarter Sessions was constituted. This Court, created originally by the Charter of 1807, continued in existence for very many years, but in point of practice ceased to exist, on the coming into force of Act XIII. of 1856, which authorized Magistrates to dispose of cases coming within their jurisdiction. It was again resuscitated by the aforesaid Ordinance 5 of 1873, and presided over by the Senior and Puisne Judges in Singapore and Penang respectively. The jurisdiction of this Court was more clearly defined by Ordinance 13 of 1872, but by Ordinance 17 of

1876, it was again abolished, and its jurisdiction (limited however to one-half of its powers of fine and imprisonment), conferred on two Magistrates.

In the same year, the practice and procedure of the Court of Oyer and Terminer was modified by Ordinance 6 of 1873, which also did away with the Grand Jury, a "Special," and "Common" Jury being substituted instead, and prisoners tried by them after a formal commitment by the Magistrates.

Prior to this year, Appeals from the decisions of the Supreme Court, lay direct to the King or Queen in Council (Privy Council), but by the above Ordinance 5 of 1873, a Court of Appeal was constituted. It was however, abolished by effect of subsequent legislation see *Vernon Allen v. Meera Pullay & ors.*, (Vol. I. Kyshe's Reports p. 394), but again revived by Ordinance 5 of 1878. The practice and procedure of the Court of Appeal, is now governed by Ordinance 12 of 1879, as amended by Ordinance 3 of 1883.

As before stated, there never were four Judges of the Supreme Court, present in the Colony at any one time, and Sir William Hackett, having been appointed Chief-Justice of Fiji, the aforesaid Ordinance 17 of 1876 was passed, by which the number of Judges was reduced to three, consisting of the Chief-Justice and two Puisne Judges as at present, and of the latter, Mr. Justice Phillips, a Judge of the Supreme Court of Natal, temporarily appointed to this Colony in June, 1877, being relieved by Mr. Justice Wood, in September following.

Wood, Thomas Lett — Educated at Westminster School, and Trinity College Cambridge; graduated M.A., 1846; practised as a special pleader from 1846 to 1851; was called to the bar of the Inner Temple, 1851; acted as Attorney-General of Vancouver Island, from 1864 to 1866, when that Colony was incorporated with British Columbia; afterwards as Solicitor-General of British Columbia, until the abolition of that office in 1867; was a member of the Legislative Council of British Columbia from 1866 to 1870; Chief-Justice, Bermuda, 1871; Judge of the Supreme Court, Straits Settlements, Aug. 1877." *Colonial Office List*, 1885.

By Ordinance 5 of 1878, the Supreme Court was further reconstituted, but the position and status of the Judges and Officers of the Court, were left by that Ordinance much the same, as they had been under Ordinance 5 of 1873 (modified by Ordinance 17 of 1876), and lately by Ordinance 15 of 1885, the Court has again been further reconstituted as consisting of four Puisne Judges. Following the Judicature Acts and Rules at home, the Equity and Plea Sides of the Court were abolished and the two branches of law fused, and English Rules of practice and procedure introduced by Ordinances 4 and 5 of 1878. These conjointly with Ordinance 8 of 1880, constitute the present guide to the practice and procedure of the Court in Civil cases. By Ordinance 3 of 1878, read in conjunction with Ordinance 6 of 1878, the Summary Side of the Court was abolished, and the Deputy Registrar and his staff became incorporated with the Registrar's Department.