

ထိုပြင် လွှတ်တော်ချုပ် တရားဝန်ကြီးတစ်ဦးသည်၊ သို့တည်းမဟုတ် လွှတ်တော်တရားဝန်ကြီးတစ်ဦးသည်၊ အငြိမ်းစားယူရမည့်အသက်မပြည့်မီ မည်သည့်အခါတွင်မဆို နိုင်ငံတော် သမတ၏ သဘောတူညီချက်ဖြင့် အငြိမ်းစားယူနိုင်သည်။

၃၅။ ။အကျိုးအမြတ်ရသော အခြားမည်သည့်ရာထူး၊ သို့တည်းမဟုတ်လုပ်ငန်း၌မျှ လွှတ်တော်ချုပ်တရားဝန်ကြီးသည်၎င်း၊ လွှတ်တော်တရားဝန်ကြီးသည်၎င်း၊ မထမ်းရွက်ရ။

၃၆။ ။(၁) တရားမခရိုင်တရားသူကြီးအဖြစ်ခန့်အပ်ခြင်း၊ နေရာချထားခြင်း၊ ရာထူးတိုးမြှင့်ခြင်းတို့ကို၊ နိုင်ငံတော်သမတသည် နိုင်ငံတော်တရားဝန်ကြီးချုပ်၊ လွှတ်တော် တရားဝန်ကြီးချုပ် တို့နှင့်ညှိနှိုင်းတိုင်ပင်၍ပြုရမည်။

တရားမခရိုင်တရားသူကြီးများ ခန့်အပ်ခြင်းနှင့် နေရာချထားခြင်း။

(၂) ငါးနှစ်အောက်မနည်းသော လွှတ်တော်ရှေ့နေသက်တမ်းမရှိလျှင်၎င်း၊ လွှတ်တော်တရားဝန်ကြီးချုပ်နှင့်တိုင်ပင်၍ နိုင်ငံတော်တရားဝန်ကြီးချုပ်က ထောက်ခံခြင်းမပြုလျှင်၎င်း၊ အစိုးရ၏တရားဌာန ရာထူးတခုခုတွင် ထမ်းရွက်ဆဲမဟုတ်သောသူအား၊ တရားမခရိုင်တရားသူကြီးအဖြစ် ခန့်အပ်ခွင့်မရှိစေရ။

(၃) “တရားမခရိုင်တရားသူကြီး” ဟူသောစကားရပ်တွင် တရားမခရိုင်နှင့်စက်ရှင်တရားသူကြီး၊ စက်ရှင်တရားသူကြီး၊ ရန်ကုန်မြို့တော် တရားမရုံးတရားသူကြီးချုပ်နှင့် ဒုတိယတရားသူကြီး၊ ရာဘက်တရားမခရိုင်တရားသူကြီး၊ ရာဘက်စက်ရှင်တရားသူကြီးတို့ပါဝင်ရမည်။

၃၇။ ။(၁) တရားမခရိုင်တရားသူကြီး လက်အောက်ခံဖြစ်သော တရားမတရားသူကြီး ရာထူးများတွင် ဝင်ရောက်ထမ်းရွက်လိုသောသူများ ပါဝင်သည့်ဝန်ထမ်းအဖွဲ့အတွက်၊ လိုအပ်သော အရည်အချင်း အဆင့်အတန်း သတ်မှတ်သည့်နည်းဥပဒေများကိုမပြုမီ၊ နိုင်ငံတော်သမတသည်တရား လွှတ်တော်အားတိုင်ပင်ရမည်။

အခြားတရားမတရားသူကြီးများ ခန့်အပ်ခြင်း၊ နေရာချထားခြင်းနှင့် ရာထူးတိုးမြှင့်ခြင်း။

(၂) ပုဒ်မခွဲ (၁) ၌ဖော်ပြခဲ့သော တရားမတရားသူကြီးများအား၊ နေရာချထားခြင်း၊ ရာထူးတိုးမြှင့်ခြင်း၊ အခွင့်ပေးခြင်းတို့ကို တရားလွှတ်တော်၏ လက်တွင်း၌ထားရှိရမည်။ သို့ရာတွင် ထိုသူများနှင့်စပ်လျဉ်း၍ တရားလွှတ်တော်သည် တည်ဆဲနည်းဥပဒေများအရ၊ ထိုသူတို့၏ ရာထူးအလုပ်ဆိုင်ရာ စည်းကမ်းချက်များနှင့်အညီ ပြုမူဆောင်ရွက်အပ်သည်မှတစ်ပါး၊ တရားလွှတ်တော်အား အခြားနည်းပြုမူဆောင်ရွက်စေရန် အခွင့်အာဏာပေးထားသည်ဟု၊ ဤပုဒ်မရှိစကားကြောင့် အဓိပ္ပာယ်မကောက်ယူရ။

THE UNION JUDICIARY ACT.

[Act VIII, 1948.] (4th January, 1948.)

WHEREAS it is expedient to make provision for certain matters relating to the Supreme Court and the High Court established by the Constitution ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

- 1. (1) This Act may be called the Union Judiciary Act, 1948. (2) It shall be deemed to have come into force from the fourth day of January 1948.

Title and commencement.

၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၂၀ အရ ထည့်သွင်းသည်။

Definitions.

2. In this Act, unless the context otherwise requires,—

“ Constitution ” means the Constitution of the Union of Burma as in force for the time being ;

“ High Court ” means—

(i) as respects anything done before the commencement of the Constitution, the High Court of Judicature at Rangoon ;

(ii) as respects anything done or to be done after the commencement of the Constitution, the High Court established by the Constitution.

PART II.

THE SUPREME COURT.

Constitution of the Supreme Court.

3. The Supreme Court shall consist of the Chief Justice of the Union and such number of other Judges as the President may deem necessary, but unless and until a resolution in this behalf is passed by the Union Parliament at a joint sitting recommending an increase in the number of Judges, the number of puisne Judges shall not exceed four.

Seat of the Supreme Court.

4. The Supreme Court shall be a Court of Record and shall have supervision over all Courts in the Union. It shall sit in the capital city of the Union and at such other place or places as the President may, after consultation with the Chief Justice of the Union from time to time, appoint.

Appeal from the High Court in certain cases.

5. Save where an appeal lies to the High Court itself under the provisions of section 20, an appeal shall lie to the Supreme Court from the judgment, decree, or final order of the High Court (whether passed before or after the commencement of the Constitution) in any civil, criminal, or other case, if the High Court certifies—

(a) that the case involves a question as to the validity of any law having regard to the provisions of the Constitution, or

(b) that the amount or value of the subject-matter of the dispute in the Court of first instance and still in dispute on appeal was and is not less than ten thousand rupees, or

(c) that the judgment, decree, or final order involves directly or indirectly some claim or question respecting property of the like amount or value

and, where the judgment, decree, or final order appealed from affirms the decision of the Court immediately below in any case other than the one referred in clause (a), if the High Court further certifies that the appeal involves some substantial question of law.

Appeal by special leave from any Court in any case.

6. Notwithstanding anything contained in section 5, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, or final order of any Court (whether passed before or after the commencement of the Constitution) in any civil, criminal or other case.

Execution of order on appeal.

7. (1) Whoever desires to obtain execution of any order of the Supreme Court shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be executed, to the Court from which the appeal to the Supreme Court was preferred.

(2) Such Court shall transmit the order of the Supreme Court to the Court which made the first decree appealed from, and shall (upon the application of either party) give such directions as may be required for the execution of the

same, and the Court to which the said order is so transmitted shall execute it accordingly, in the manner and according to the provisions applicable to the execution of its original decrees.

8. All authorities, civil and judicial, throughout the Union shall act in aid of the Supreme Court.

Enforcement of decrees and orders of Supreme Court.

9. The Supreme Court shall, as respects the whole of the Union, have power to make any order for the purpose of securing the attendance of any person, the discovery or production of any document or the investigation or punishment of any contempt of Court; and any such orders and any orders of the Supreme Court as to the costs of and incidental to any proceedings therein, shall be enforceable by all Courts and authorities in every part of the Union as if they were orders duly made by such Courts or authorities themselves.

Orders of the Supreme Court as respects discovery, etc.

10. (1) The Supreme Court may, from time to time, make rules consistent with the Constitution and this Act, for the purpose of enabling it more effectively to exercise the jurisdiction and the power of supervision conferred upon it by or under the Constitution or any other law for the time being in force.

Rules of Court.

(2) In particular, and without prejudice to the generality of the foregoing power, the Supreme Court may, from time to time, make rules—

- (a) for regulating generally the practice and procedure of the Court;
- (b) as to the time within which appeals to the Court are to be entered;
- (c) as to the costs of and incidental to any proceedings in that Court;
- (d) as to the fees to be charged in respect of proceedings therein;
- (e) as to the grant of bail and stay of proceedings; and
- (f) providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay.

(3) Rules made under this section may provide that one or more than one Judge as may be specified, shall sit for the purpose of admitting appeals, granting special leave to appeal or granting bail, or for the purpose of disposing of other interlocutory or miscellaneous applications.

(4) Subject to the provisions of any rules made under sub-section (3), all Judges of the Supreme Court (save such as may be disqualified by reason of some personal interest or some part which they have already taken as Judge, advocate or otherwise in or in relation to the case) shall be entitled to sit for the disposal of any case, and no case shall be decided by less than three Judges.

(5) The decision of the majority of the Judges of the Court (including any such Judge as is mentioned in section 146 of the Constitution or in the proviso to section 34 of this Act) shall be the decision of the Court and shall be pronounced by such one of the Judges as the Chief Justice shall direct.

11. Appointments to the staff of the Supreme Court shall be made by the Chief Justice of the Union who may, with the previous approval of the President, frame such rules as may be necessary for regulating their emoluments and other conditions of service:

Appointments to staff of Supreme Court.

Provided that the Chief Justice of the Union may, in his discretion, require that in such cases as he may direct no person shall be appointed to any office connected with the Court save after consultation with the Public Service Commission.

Proceedings pending in the Judicial Committee.

12. All appeals, applications or other proceedings whatsoever pending immediately before the commencement of the Constitution before the Judicial Committee of His Britannic Majesty's Privy Council in the exercise of any jurisdiction vested in it by law as the appellate Court for Burma shall be continued and concluded in the Supreme Court as if the same had been instituted in the Supreme Court.

PART III.

THE HIGH COURT.

Establishment of the High Court.

13. There shall be a High Court for the Union consisting of the Chief Justice of the High Court and such number of other Judges as the President may fix ; but unless and until a resolution in this behalf is passed by the Union Parliament at a joint sitting recommending an increase in the number of Judges, the number of puisne Judges shall not exceed ten.

Original civil jurisdiction of the High Court.

14. The High Court shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time be declared by the President and until such local limits shall be so declared, within the limits of the ordinary original civil jurisdiction of the High Court of Judicature at Rangoon immediately before the commencement of the Constitution.

15. The High Court in the exercise of its ordinary original civil jurisdiction shall have power to receive, try and determine suits of every description if, in the case of suits for land or other immovable property such land or property shall be situated, or in all other cases if the cause of action shall have arisen either wholly or, in case the leave of the High Court shall have been first obtained, in part within the local limits of the ordinary original civil jurisdiction of the High Court, or if the defendant at the commencement of the suit shall dwell or carry on business, or personally work for gain within such limits :

Provided that if the High Court sits in Rangoon it shall not have such original jurisdiction in cases falling within the jurisdiction of the Rangoon City Civil Court ; and if it sits in any other place it shall not have such original jurisdiction in cases falling within the jurisdiction of any other Court of civil judicature in such place.

Extraordinary original civil jurisdiction.

16. The High Court shall have power to remove and to try and determine, as a Court of extraordinary civil jurisdiction, any suit being or falling within the jurisdiction of any Court subordinate thereto, when the High Court may think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice, the reasons for so doing being recorded on the proceedings of the High Court.

Ordinary original criminal jurisdiction.

17. The High Court shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction ; and in the exercise of such jurisdiction shall have power to try all persons brought before it in due course of law.

Extraordinary

18. The High Court shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court subordinate

thereto and shall have authority to try at its discretion any such persons brought before it on a charge preferred by any Magistrate or other officer specially empowered by the Government in that behalf. original criminal jurisdiction.

19. (1) The High Court shall have and exercise all such civil and maritime jurisdiction as might have been exercised by the High Court of Judicature at Rangoon had the Constitution not come into operation. Maritime and admiralty jurisdiction.

(2) The High Court shall have and exercise all such criminal jurisdiction as might have been exercised by the High Court of Judicature at Rangoon as a Court of Admiralty or otherwise in connection with maritime matter or matters of prize had the Constitution not come into operation.

20 An appeal shall lie to the High Court from the judgment of a single Judge of the High Court sitting in the exercise of its original jurisdiction or in the exercise of its appellate jurisdiction, not including revisional jurisdiction; provided that in the latter case the Judge declares that the case is a fit one for appeal. Appeals to High Court from Judges of the Court.

21. The High Court shall be a Court of Appeal from all the civil Courts of the Union other than the Supreme Court. Appeals from other civil Courts.

22. Subject to the provisions contained in the Code of Criminal Procedure, there shall be no appeal to the High Court from any sentence or order passed or made in any criminal trial before the Court or original criminal jurisdiction, which may be constituted by one or more Judges of the High Court: Appeals from the original side in criminal matters.

Provided that any such Court may reserve any point or points of law for the opinion of the High Court.

23. The High Court shall be a Court of Criminal Appeal from the criminal Courts subordinate thereto and from all other Courts for which the High Court shall be declared to be a Court of appeal by any law for the time being in force. Appeals from criminal cases.

24. The High Court shall be a Court of reference and revision from the criminal Courts subject to its appellate jurisdiction, and shall have power to hear and determine all such cases as may be referred to it by any Judge or other authority in accordance with law; or to revise all such cases as are subject to revision under any law. Hearing of referred cases and revision of criminal trials.

25. The High Court may transfer any criminal case or appeal from one subordinate Court to any other subordinate Court of equal or superior jurisdiction, and also direct the preliminary investigation or trial of any criminal case by any officer or Court otherwise competent to investigate or try it, though such case belongs in ordinary course to the jurisdiction of some other officer or Court. Power to transfer criminal case from one Court to another.

26. (1) Persons enrolled to be Advocates under the law for the time being in force shall be entitled to appear for the suitors of the High Court, and to plead or to act or to plead and act for the said suitors, according as the High Court may by its rules and directions determine, and subject to such rules and directions. Advocates.

(2) No person who is not admitted or enrolled as an Advocate under the provisions of sub-section (1) shall be allowed to act or to plead for any suitor, except that any suitor shall be allowed to appear, plead or act on his own behalf or on behalf of a co-suitor.

¹ Amended by Act VIII, 1951.

Powers of superintendence. **27.** The High Court has superintendence over all Courts in the Union for the time being subject to its appellate jurisdiction and may, in particular, do any of the following things :—

- (a) call for returns ;
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such Courts ;
- (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such Courts :

Provided that such rules, forms and tables shall not be inconsistent with any law for the time being in force.

Power to make rules. **28.** (1) The High Court may, from time to time, make rules consistent with the Constitution and any other law for the time being in force applicable to the High Court for the purpose of enabling it more effectively to exercise the jurisdiction conferred upon it by or under the Constitution and this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) regulate the practice and procedure of the Court generally in respect of all civil proceedings including proceedings in its admiralty jurisdiction ;
- (b) prescribe a seal for the Court and regulate its use and custody ;
- (c) prescribe the qualifications for admission of proper persons to be advocates or pleaders ;
- (d) delegate to the Registrar or any other officer of the Court any judicial, quasi-judicial or non-judicial duties ;
- (e) prescribe the Court fees or other fees that may be leviable in respect of any proceedings in the High Court ;
- (f) regulate the costs of and incidental to any proceeding in the High Court ;
- (g) subject to the provisions of any other law, regulate the time within which any action permitted by law may be taken in the High Court.

(3) Rules may be made under this section for the performance by the High Court of its functions in the exercise of its original or appellate jurisdiction by any Judge or Judges thereof :

Provided that where a Court is composed of two or more Judges and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges, if there be a majority, but, if the Judges shall be equally divided, they shall state the point upon which they differ and the case shall then be heard upon that point by one or more of the other Judges and the point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

Appointment to staff of High Court. **29.** (1) The Chief Justice of the High Court may, subject to such rules and restrictions as may be prescribed by the Parliament, appoint so many and such clerks and other ministerial officers as may be found necessary for the administration of justice and the due execution of all the powers and authorities granted to the High Court.

(2) The High Court may frame such rules as may be necessary with the previous approval of the President, prescribing the terms and conditions of service of all persons appointed to the staff of the High Court in pursuance of this section.

Savings. **30.** Subject to the provisions of the Constitution and to the provisions of this Act or any other law for the time being in force, the jurisdiction of and the law to

be administered in the High Court and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court, and to regulate the sittings of the Court and of members thereof sitting alone or otherwise, shall be the same as immediately before the commencement of the Constitution.

31. All suits, appeals, revisions, applications, reviews, executions and other proceedings whatsoever pending immediately before the coming into operation of the Constitution in the High Court of Judicature at Rangoon in the exercise of any jurisdiction vested in it by law, shall, subject to any other provision that may be expressly made by law, be continued and concluded in the High Court as if the same had been instituted in the High Court. Pending Proceedings.

PART IV.

MISCELLANEOUS.

32. (1) The Chief Justice of the Union shall be entitled to receive a salary of Rs. 3,500 and each of the other Judges of the Supreme Court to Rs. 3,000 per month. Salaries and Allowances of Judges.

(2) The Chief Justice of the High Court shall be entitled to receive a salary of Rs. 3,000 and each of the other Judges of the High Court to Rs. 2,500 per month.

(3) The President may by rule fix the allowances including leave allowances, retiring pensions, compensations and gratuities of the Judges of the Supreme Court and the High Court.

33. (1) The Chief Justice of the Union shall take precedence over all other Judges and the other Judges of the Supreme Court shall take precedence according to the seniority of their appointment. Precedence amongst Judges of the Supreme Court.

(2) The Chief Justice of the High Court shall take precedence over all other Judges of the High Court and the other Judges of the High Court shall take precedence according to the seniority of their appointment. Precedence amongst Judges of the High Court.

34. Subject to the provisions of the Constitution, every Judge of the Supreme Court and every Judge of the High Court shall hold office until he attains the age of sixty-five years and sixty years, respectively: Age of retirement of Judges.

Provided that any person who has retired from service as a Judge of the Supreme Court may, on the request in writing by the Chief Justice of the Union, attend such sittings of the Supreme Court as the Chief Justice may specify; and such person, while so attending, shall have all the powers and privileges and discharge all the duties of a Judge of the Supreme Court:

¹ Provided further that every Judge of the Supreme Court or of the High Court may, with the consent of the President, retire at any time before he attains the age of compulsory retirement.

35. No Judge of the Supreme Court or of the High Court shall hold any other office or position of emolument.

36. (1) Appointments of persons to be, and the posting and promotion of District Judges shall be made by the President in consultation with the Chief Justice of the Union and the Chief Justice of the High Court. Appointments and postings of District Judges.

(2) A person not already holding a judicial office in the service of the Government shall not be eligible to be appointed a District Judge, unless he has

¹ Inserted by Act XXVIII, 1954.

been an advocate for not less than five years and unless he is recommended by the Chief Justice of the Union in consultation with the Chief Justice of the High Court.

(3) The expression " District Judge " includes District and Sessions Judge, Sessions Judge, Chief Judge and Second Judge of the City Civil Court, Rangoon, Additional District Judge and Additional Sessions Judge.

Postings and promotion of other judicial officers.

37. (1) The High Court shall be consulted before rules are made by the President defining the standard of qualifications to be attained by persons desirous of entering a service consisting of persons intended to fill civil judicial posts subordinate to that of District Judge.

(2) The posting and promotion of, and the grant of leave to, persons referred to in sub-section (1) shall be in the hands of the High Court, but nothing in this section shall be construed as authorizing the High Court to deal with any such person otherwise than in accordance with the condition of his service prescribed under any rules for the time being in force.

၁၉၅၀ ပြည့်နှစ်၊ တရားရုံးများ အက်ဥပဒေ။

[၁၉၅၀ ပြည့်နှစ်၊ အက်ဥပဒေအမှတ် ၅၅။] (၁၉၅၁ ခုနှစ်၊ ဧပြီလ ၁ ရက်။)

ပြည်ထောင်စု မြန်မာနိုင်ငံအတွင်း တရားရုံးများနှင့် သက်ဆိုင်သည့် ဥပဒေကို စုစည်း၍ ပြင်ဆင်ရန် လိုအပ်သည်ဖြစ်သောကြောင့်၊ အောက်ပါအတိုင်း အက်ဥပဒေအဖြစ် ပြဋ္ဌာန်းလိုက်သည်။

အခန်း ၁။

စကားချီး။

အမည်တို့တည်ရာနယ်အဝန်းနှင့်စတင်အာဏာတည်သည့်နေ့ရက်။

၁။ ။(၁) ဤအက်ဥပဒေကို ၁၉၅၀ ပြည့်နှစ်၊ တရားရုံးများ အက်ဥပဒေဟုခေါ်ရမည်။
(၂) ဤအက်ဥပဒေသည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံတဝန်းလုံးနှင့် သက်ဆိုင်သည်။ သို့သော် နိုင်ငံတော်သမတသည် နယ်မြေတခုခုကို၊ သို့တည်းမဟုတ် ခရိုင်တခုခုကို အမိန့်ထုတ်ပြန်ကျေညာခြင်းဖြင့် ဤအက်ဥပဒေအာဏာတည်ခြင်းမှ ကင်းလွတ်စေနိုင်သည်။
(၃) ဤအက်ဥပဒေသည်၊ နိုင်ငံတော်သမတက အမိန့်ထုတ်ပြန်ကျေညာ၍ သတ်မှတ်သည့်နေ့ တွင်အာဏာတည်ရမည်။

အဓိပ္ပါယ်ဖော်ပြချက်။

၂။ ။ဤအက်ဥပဒေတွင်း အကြောင်းအရာနှင့်ဖြစ်စေ၊ ရှေ့နောက်စကားတို့၏ အဓိပ္ပါယ်နှင့် ဖြစ်စေ မဆန့်ကျင်လျှင်—
(က) “ ရန်ကုန်မြို့တော် ” ဆိုသည်မှာ၊ ရန်ကုန်မြို့နယ်ပေါ် အက်ဥပဒေ၊ ဆဋ္ဌမဇယားတွင်သတ်မှတ်ပိုင်းခြားထားသည့် နယ်နိမိတ်များအတွင်း ပါဝင်သည့် အရပ်ဒေသကိုဆိုလိုသည်။
(ခ) “ တရားလွှတ်တော် ” ဆိုသည်မှာ၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ တရားလွှတ်တော်ကို ဆိုလိုသည်။

* ၁၉၅၁ ခုနှစ်၊ ဧပြီလ ၁ ရက်နေ့မှစ၍ ပြည်ထောင်စုမြန်မာနိုင်ငံ တဝန်းလုံးတွင် အာဏာတည်သည့် မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၁ ခုနှစ်၊ အပိုင်း ၁၊ စာမျက်နှာ ၁၇၇ တွင်ကြည့်။