

APPENDIX

APPENDIX

LETTERS PATENT CONSTITUTING THE HIGH
COURT OF JUDICATURE AT LAHORE, DATED
THE 21ST MARCH, 1919

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, To all to whom these Presents shall come, greeting : Whereas by an Act of Parliament passed in the Fifth and Sixth years of Our Reign and called the Government of India Act, 1915, it was amongst other things enacted that it should be lawful for Us by Letters Patent to establish a High Court of Judicature in any territory in British India whether or not included within the limits of the local jurisdiction of another High Court and to confer on any High Court so established any such jurisdiction, powers and authority as were vested in or might be conferred on any High Court existing at the commencement of that Act.

And whereas the Provinces of the Punjab and Delhi are now subject to the jurisdiction of the Chief Court of the Punjab which was established by an Act of the Governor-General of India in Council, being Act No. XXIII of 1865, and was continued by latter enactments and no part of the said Province is included within the limits of the local jurisdiction of any High Court.

1. Now know ye that We, upon full consideration of the premises, and of our special grace, certain knowledge, and mere motion, have thought fit to erect, and establish, and by these presents we do accordingly for Us, Our heirs and successors, erect and establish, for the Provinces of the Punjab and Delhi aforesaid, with effect from the date of the publication of these presents in the Gazette of India a High Court of Judicature, which shall be called the High Court of Judicature at Lahore, and We do hereby constitute the said Court to be a Court of Record.

Establishment
of High Court
at Lahore.

Constitution
and first
Judges of
the High
Court.

2. And We do hereby appoint and ordain that the High Court of Judicature at Lahore shall, until further or other provision be made by Us, or Our heirs and successors, in that behalf in accordance with section one hundred and one of the said recited Government of India Act, 1915, consist of a Chief Justice and six other Judges, the first Chief Justice being Sir Henry Adolphus Rattigan, Knight and the six other Judges being William Chevis, Esquire, Henry Scott-Smith, Esquire, Shadi Lal, Esquire, *Rai Bahadur*, Walter Aubin le Rossignol, Esquire, Leicester Hudson Lesilo Jones, Esquire, and Alan Brice Broadway, Esquire, being respectively qualified as in the said Act is declared.

Declaration
to be made
by Judges.

3. And We do hereby ordain that the Chief Justice and every other Judge of the High Court of Judicature at Lahore, previously to entering upon the execution of the duties of his office, shall make and subscribe the following declaration before such authority or person as the Lieutenant Governor of the Punjab may commission to receive it :

"I, A.B., appointed Chief Justice (or Judge) of the High Court of Judicature at Lahore, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment."

Seal.

4. And We do hereby grant, ordain and appoint that the High Court of Judicature at Lahore, shall have and use, as occasion may require, a seal bearing advice and impression of Our Royal arms, within an exergue or label surrounding the same, with this inscription, "The Seal of the High Court at Lahore," and We do further grant, ordain and appoint that the said seal shall be delivered to and kept in the custody of the Chief Justice, and in case of vacancy of, the office of Chief Justice, or during any absence of the Chief Justice the same shall be delivered over and kept in the custody of the person appointed to act as Chief Justice under the provisions of section one hundred and five of the Government of India Act,

1915, and We do further grant, ordain and appoint that, whensoever the office of Chief Justice or of the Judge to whom the custody of the said seal be committed is vacant, the said High Court shall be, and is hereby authorized and empowered to demand, seize and take the said seal from any person or persons whomsoever, by what ways and means so ever the same may have come to his, her or their possession.

5. And We do hereby further grant, ordain and appoint that all writs, summonses, precepts, rules, orders and other mandatory process to be used, issued or awarded by the High Court of Judicature at Lahore shall run and be in the name and style of Us, or of Our heirs and successors, and shall be sealed with the seal of the said High Court.

Writs, etc. to issue in name of the Crown, and under seal.

6. And We do hereby authorize and empower the Chief Justice of the High Court of Judicature of Lahore from time to time, as occasion may require, and subject to any rules and restrictions which may be prescribed from time to time by the Lieutenant-Governor of the Punjab to appoint so many and such clerks and other ministerial officers as may be found necessary for the administration of the justice and the due execution of all the powers and authorities granted and committed to the said High Court by these Our Letters Patent. And it is Our further will and pleasure, and we do hereby, for Us, Our heirs and successors, give, grant, direct and appoint, that all and every the officers and clerks to be appointed as aforesaid shall have and receive respectively such reasonable salaries as the Chief Justice may, from time to time. appoint for each office and place respectively, and as the Lieutenant-Governor of the Punjab, subject to the control of the Governor-General in Council may approve of : Provided always, and it is our will and pleasure, that all and every the officers and clerks to be appointed as aforesaid shall be resident within the limits of the jurisdiction of the said Court so long as they hold their respective offices, but this proviso shall not interfere with or prejudice the right of any officer or clerk to avail himself of leave of absence under any rules, prescribed from time to time by the Governor-General in Council, and to absent himself from the said

Appointment of officers.

limits during the term of such leave in accordance with the said rules.

Admission of Advocates, Vakils and Attorneys

Powers of High Court in Admitting Advocates, Vakils and attorneys.

7. And We do hereby authorise and empower the High Court of Judicature at Lahore to approve, admit and enrol such and so many Advocates, Vakils and Attorneys as to the said High Court may seem meet ; and such Advocates, Vakils and Attorneys shall be and are hereby authorized to appear for the suitors of the said High Court, and to plead or to act, or to plead and act for the said suitors, according as the said High Court may by its rules and directions determine, subject to such rules and directions.

Powers of High Court in making rules for the qualifications, etc., of Advocates, Vakils and Attorneys.

8. And We do hereby ordain that the High Court of Judicature at Lahore shall have power to make rules from time to time for the qualification and admission of proper persons to be Advocates, Vakils and Attorneys-at-law of the said High Court, and shall be empowered to remove or to suspend from practice, on reasonable cause, the said Advocates, Vakils or Attorneys-at-law ; and no person whatsoever but such Advocates, Vakils or Attorneys shall be allowed to act or to plead for, or on behalf of, any suitor in the said High Court, except that any suitor shall be allowed to appear, plead or act on his own behalf, or on behalf of a co-suitor.

Civil Jurisdiction of the High Court

Extraordinary original civil jurisdictions.

9. And We do further ordain that the High Court of Judicature at Lahore shall have power to remove, and to try and determine, as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court subject to its superintendence when the said 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 said High Court.

10. And We do further ordain that an appeal shall lie to the said High Court of Judicature at Lahore from the judgement (not being a judgement passed in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court subject to the superintendence of the said High Court, and not being an order made in the exercise of revisional jurisdiction, and not being a sentence or order passed or made in the exercise of power of superintendence under the provisions of Section 107 of the Government of India Act, or in the exercise of criminal jurisdiction) of one Judge of the said High Court or one Judge of any Division Court, pursuant to Section 108 of the Government of India Act, and that notwithstanding anything hereinbefore provided an appeal shall lie to the said High Court from a judgement of one Judge of the High Court or one Judge of any Division Court, pursuant to Section 108 of the Government of India Act, made on or after the first day of February, one thousand nine hundred and twenty-nine in the exercise of appellate jurisdiction in respect of a decree or order made in exercise of appellate jurisdiction *by* a Court subject to the superintendence of the said High Court where the Judge who passed the judgement declares that the case is a fit one for appeal, but that the right of appeal from other judgements of Judges of the said High Court or of such Division Court shall be to Us, Our Heirs or Successors in Our or Their Privy Council, as hereinafter provided.

Appeals to the High court from Judges of the Court.

11. And We do further ordain that the High Court of Judicature at Lahore shall be a Court of Appeal from the Civil Courts of the Provinces of the Punjab and Delhi and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as were, immediately before the date of the publication of these presents, subject to appeal to the Chief Court of the Punjab by virtue of any law then in force, or as may after that date be declared subject to appeal to the High Court of Judicature at Lahore by any law made by competent legislative authority for India.

Appeal from other Civil Courts in the Provinces of the Punjab and Delhi.

12. And We do further ordain that the High Court of Judicature at Lahore shall have the like power and authority with respect to the persons and estates

Jurisdiction as to Infants and Lunatics.

of infants, idiots and lunatics within the Provinces of the Punjab and Delhi as that which was vested in the Chief Court of the Punjab immediately before the publication of these presents.

Law to be administered by the High Court

By the High Court in the exercise of extraordinary original civil jurisdiction.

13. And We do further ordain that, with respect to the law or equity to be applied to each case coming before the High Court of Judicature at Lahore in the exercise of its extraordinary original civil jurisdiction, such law or equity shall, until otherwise provided, be the law or equity which would have been applied to such case by any local court having jurisdiction therein.

By the High Court in the exercise of appellate jurisdiction.

14. And We do further ordain that, with respect to the law or equity and rule of good conscience to be applied by the High Court of Judicature at Lahore to each case coming before it in the exercise of its appellate jurisdiction, such law or equity and rule of good conscience shall be the law or equity and rule of good conscience which the Court in which the proceedings in such case were originally instituted ought to have applied to such case.

Criminal Jurisdiction

Ordinary original criminal jurisdiction of the High Court.

15. And We do further ordain that the High Court of Judicature at Lahore shall have ordinary original criminal jurisdiction in respect of all such persons within the Provinces of the Punjab and Delhi as the Chief Court of the Punjab had such criminal jurisdiction over immediately before the publication of these presents.

Jurisdiction as to persons.

16. And We do further ordain that the High Court of Judicature at Lahore in the exercise of its ordinary original criminal jurisdiction, shall be empowered to try all persons brought before it in due course of law.

Extraordinary original criminal jurisdiction.

17. And We do further ordain that the High Court of Judicature at Lahore shall have extraordinary original criminal jurisdiction over all persons residing

in places within the jurisdiction of any Court subject to its superintendence, and shall have authority to try at its discretion any such persons brought before it on charges preferred by any magistrate or other officer specially empowered by the Government in that behalf.

18. And We do further ordain that there shall be no appeal to the High Court of Judicature at Lahore from any sentence or order passed or made by the Courts of original criminal jurisdiction which may be constituted by one or more Judges of the said High Court. But it shall be at the discretion of any such court to reserve any point or points of law for the opinion of the said High Court.

No appeal from High Court exercising original jurisdiction, Court may reserve points of law.

19. And We do further ordain that, on such point or points of law being so reserved as aforesaid, the High Court of Judicature at Lahore shall have full power and authority to review the case, or such part of it as may be necessary, and finally determine such point or points of law, and thereupon to alter the sentence passed by the Court of original jurisdiction and to pass such judgment and sentence as to the said High Court may seem right.

High Court to review cases on points of law reserved by one or More Judges of the High Court.

20. And We do further ordain that the High Court of Judicature at Lahore shall be a Court of Appeal from the Criminal Courts of the Provinces of the Punjab and Delhi and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as were, immediately before the date of the publication of these presents, subject to appeal to the Chief Court of the Punjab by virtue of any law then in force, or as may after that date be declared subject to appeal to the High Court of Judicature at Lahore by any law made by competent legislative authority for India.

Appeal from other Criminal Courts in the Provinces of the Punjab and Delhi.

17. And We do further ordain that the High Court of Judicature at Lahore 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 referred to it by the

Hearing of referred cases and revision of criminal trials.

Sessions Judges, or by any other officers in the Provinces of Punjab and Delhi who were, immediately before the publication of these presents, authorized to refer cases to the Chief Court of the Punjab and to revise all such cases tried by any officer or Court possessing criminal jurisdiction in the Provinces or the Punjab and Delhi, as were immediately before the publication of these presents, subject to reference to or revision by the Chief Court of the Punjab.

High Court may direct the transfer of a case from one Court to another.

22. And We do further ordain that the High Court of Judicature at Lahore shall have power to direct the transfer of any criminal case or appeal from any Court to any other Court of equal or superior jurisdiction, and also to 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.

Criminal Law

Offenders to be punished under Indian Penal Code.

23. And We do further ordain that all persons brought for trial before the High Court of Judicature at Lahore, either in the exercise of its original jurisdiction, or in the exercise of its jurisdiction as a court of appeal, reference or revision, charged with any offence for which provision is made by Act No. XLV of 1860, called the "Indian Penal Code", or by any Act amending or excluding the said Act which may have been passed prior to the publication of these presents, shall be liable to punishment under the said Act or Acts, and not otherwise.

Testamentary and Intestate Jurisdiction

Testamentary and intestate jurisdiction.

24. And We do further ordain that the High Court of Judicature at Lahore shall have the like power and authority as that which was immediately before the publication of these presents lawfully exercised within the Provinces of the Punjab and Delhi by the Chief Court of the Punjab, in relation to the granting of probates of last Wills and testaments, and letters of administration of the goods, chattels, credits and all

other effects whatsoever of persons dying intestate : Provided always that nothing in these Letters Patent contained shall interfere with the provisions of any law which has been made by competent legislative authority for India, by which power is given to any other Court to grant such probates and letters of administration.

Matrimonial Jurisdiction

25. And We do further ordain that the High Court of Judicature at Lahore shall have jurisdiction, within the Provinces of the Punjab and Delhi, in matters matrimonial between Our subjects professing the Christian religion : Provided always that nothing herein contained shall be held to interfere with the exercise of any jurisdiction in matters matrimonial by any Court, not established by Letters Patent within the said Provinces which is lawfully possessed of that jurisdiction.

Matrimonial
Jurisdiction.

Powers of Single Judges and Division Courts

26. And We do hereby declare that any function which is hereby directed to be performed by the High Court of Judicature at Lahore, in the exercise of its original or appellate jurisdiction, may be performed by any Judge, or by any Division Court, thereof, appointed or constituted for such purpose in pursuance of section one hundred and eight of the Government of India Act, 1915 ; and if such Division 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 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.

Single Judges
and Division
Courts.

Civil Procedure

27. And We do further ordain that it shall be lawful for the High Court of Judicature at Lahore

Regulation of
proceedings.

from time to time to make rules and orders regulating the practice of the Court and for the purpose of adapting as far as possible the provisions of the Code of Civil Procedure, being an Act, No. V of 1908, passed by the Governor-General in Council, and the provisions of any law which has been or may be made, amending or altering the same, by competent legislative authority for India, to all proceedings in its testamentary, intestate and matrimonial jurisdiction, respectively.

Criminal Procedure

Regulation of proceedings.

28. And we do further ordain that the proceedings in all criminal cases brought before the High Court of Judicature at Lahore shall be regulated by the Code of Criminal Procedure, being an Act, No. V of 1898, passed by the Governor-General in Council, or by such further or other laws in relation to criminal procedure as may have been or may be made by competent legislative authority for India.

Appeals to Privy Council

Power to appeal in civil cases.

29. And We do further ordain that any person or persons may appeal to Us, Our heirs and successors, in Our or their Privy Council in any matter not being of criminal jurisdiction from any final judgment, decree or order of the High Court of Judicature at Lahore made on appeal, and from any final judgment, decree or order made in the exercise of original jurisdiction by Judges of the said High Court, or of any Division Court, from which an appeal does not lie to the said High Court under the provisions contained in the 10th clause of these presents; provided, in either case, that the sum or matter at issue is of the amount or value of not less than 10,000 rupees, or that such judgment, decree or order involves, directly or indirectly, some claim, demand or question to or respecting property amounting to or of the value of not less than 10,000 rupees; or from any other final judgment, decree or order made either on appeal or otherwise as aforesaid, when the said High Court declares that the case is a fit one for appeal to Us, Our heirs or successors, in Our or their Privy Council; but subject

always to such rules and orders as are now in force, or may from time to time be made, respecting appeals to Ourselves in Council from the Courts of the Provinces of the Punjab and Delhi, except so far as the said existing rules and orders respectively are hereby varied; and subject also to such further rules and orders as We may, with the advice of Our Privy Council, hereinafter make in that behalf.

30. And We do further ordain that it shall be lawful for the High Court of Judicature at Lahore at its discretion, on the motion or, if the said High Court be not sitting, then for any Judge of the said High Court, upon the petition, of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree or order of the said High Court, in any such proceedings as aforesaid, not being of criminal jurisdiction, to grant permission to such party to appeal against the same to Us. Our heirs and successors, in Our or their Privy Council, subject to the same rules, regulations, and limitations as are herein expressed respecting appeals from final judgments, decrees and orders.

Appeal from
interlocutory
judgments.

31. And We do further ordain that from any judgment, order or sentence of the High Court of Judicature at Lahore, made in the exercise of original criminal jurisdiction or in any criminal case where any point or points of law have been reserved for the opinion of the said High Court, in the manner provided by the 18th clause of these presents, by any Court which has exercised original jurisdiction it shall, be lawful for the person aggrieved by such judgment, order or sentence to appeal to Us Our heirs or successors, in Council, provided the said High Court declares that the case is a fit one for such appeal, and that the appeal be made under such conditions as the said High Court may establish or require, but subject always to such rules and orders as are now in force or may from time to time be made, respecting appeals to Ourselves in Council from the Courts of the Provinces of the Punjab and Delhi.

Appeal in
criminal
cases.

32. And we do further ordain that, in all cases of appeal made from any judgment(decree, order or sentence of the High Court of Judicature at Lahore to Us, Our heirs of successors, in Our or their Privy

Rules as to
transmission of
copies of evidence
and other docu-
ments.

Council, such High Court shall certify and transmit to Us, Our heirs and successors, in Our or their Privy Council, a true and correct copy of all evidence, proceedings, judgments, decrees and orders had or made, in such cases appealed, so far as the same have relation to the matters of appeal, such copies to be certified under the seal of the said High Court. And that the said High Court shall also certify and transmit to Us, Our heirs and successors in Our or their Privy Council, a copy of the reasons given by the Judges of such Court, or by any of such Judges, for or against the judgment or determination annealed against. And We do further ordain that the said High Court shall, in all cases of appeal to Us, Our heirs or successors, conform to and execute, or cause to be executed, such judgments, and orders as We, Our heirs or successors in Our or their Privy Council, may think fit to make in the premises, in such manner as any original judgment, decree or decretal orders or other order or rule of the said High Court, should or might have been executed.

*Exercise of Jurisdiction elsewhere than at the usual
place of sitting of the High Court*

Special com-
missions and
circuits.

33. And we do further ordain that whenever it appears to the Lieutenant-Governor of the Punjab subject to the control of the Governor-General in Council, convenient that the jurisdiction and power by these Our Letters Patent, or by or under the Government of India Act, 1915, vested in the High Court of Jurisdiction at Lahore should be exercised in any place within the jurisdiction of any Court subject to the superintendence of the said High Court, other than the usual place of sitting of the said High Court, or at several such places by way of circuit, one or more Judges of the Court shall visit such place or places accordingly.

Proceedings of
Judges on
special
commission or
circuit.

34. And We do further ordain that whenever any Judge or Judges of the High Court of Judicature at Lahore visit any place under the 33rd clause of these presents the proceedings in cases before him or them at such place shall be regulated by any law relating thereto which has been or may be made by competent legislative authority for India.

Delegation of Duties to Officers

35. The High Court of Judicature at Lahore may from time to time make rules for delegating to any Registrar, Prothonotary or Master or other official of the Court any judicial, quasi-judicial and non-judicial duties.

Power to delegate duties.

Calls for Records, etc., by the Government

36. And it is Our further will and pleasure that the High Court of Judicature at Lahore shall comply with such requisitions as may be made by the Governor-General in Council or by the Lieutenant-Governor of the Punjab for records, returns and statements, in such form and manner as he may deem proper.

High Court to comply with requisitions from Government for records etc.

Power of Indian Legislatures

37. And We do further ordain and declare that all the provisions of these Our Letters Patent are subject to the Legislative powers of the Governor-General in Legislative Council, and also of the Governor-General in Council under section seventy-one of the Government of India Act, 1915 and also of the Governor-General in cases of emergency under section seventy-two of that Act, and may be in all respects amended and altered thereby.

Powers of Indian Legislatures preserved.

IN WITNESS whereof We have caused these Our Letters to be made Patent.

WITNESS ourself at Westminster the 21st day of March in the Year of Our Lord one thousand nine hundred and nineteen and in the Ninth Year of Our Reign.

BY WARRANT under the King's Sign Manual.

(Signed.)
SCHUSTER.