that the latter had offered it to him for £80 and so I think that there would be very little point in my declining to decree specific performance merely because there might be some hope that if auctioned again the property might fetch more. It might, indeed, fetch less. 5

I declare that the agreement to sell the property which is the subject of this suit ought to be specifically performed and I ordered and adjudge the same accordingly. I direct an enquiry by the Master for the ascertainment of the amounts, if any, for which the defendant is accountable in respect of rents and costs 10 (which I give against him), and I direct the defendant to convey the said property to the plaintiff against payment by him of the unpaid purchase money after adjustment and set-off of the several amounts for which the parties respectively are accountable to one another in respect of purchase money, rents and 15 costs.

Judgment for the plaintiff.

BANKOLE-BRIGHT v. BOSTON and TWO OTHERS 20

Supreme Court (McRoberts, Ag. J.): December 10th, 1931

[1] **Courts — magistrates' courts — jurisdiction — law applicable — English Summary Jurisdiction Acts, 1848—1897 not applicable in Sierra Leone:** The English Summary Jurisdiction Acts, 1848—1897 are purely 25 municipal enactments confined in their operation to England and Wales and cannot therefore be statutes of general application in force in Sierra Leone (page 292, lines 7—24).

[2] **Courts — magistrates' courts — preliminary investigation — committal for trial — normally no appeal against refusal to commit — prosecutor on charge of criminal libel may appeal as "person aggrieved" against** 30 **magistrate's refusal to commit:** Although there is a general principle that there can be no appeal against an acquittal, or a refusal to commit for trial, an appeal will lie whenever statutory authority is specifically given, and since the Appeals from Magistrates Ordinance (*cap.* 8), s. 2 confers a right of appeal upon anyone "aggrieved" by the decision of any 35 magistrate, the prosecutor on a charge of criminal libel may appeal against the refusal of a magistrate to commit the defendant for trial (page 292, lines 25—29; page 294, lines 5—12; page 294, line 28—page 295, line 3; page 295, lines 18—26).

[3] **Criminal Law — libel — elements of offence — essential element of criminal libel that it should tend to provoke breach of peace — no** 40 **committal for trial if this element absent:** It is an essential element of

a criminal libel that it should have a tendency to disturb the public peace, and so a magistrate who conducts the preliminary investigation into a charge of criminal libel should refuse to commit the defendant for trial when this element is missing (page 298, lines 7—24).

5 [4] **Criminal Procedure — appeals — appeals against refusal to commit for trial — prosecutor on charge of criminal libel may appeal as "person aggrieved" against magistrate's refusal to commit:** See [2] above.

[5] **Criminal Procedure — committal for trial — normally no appeal against refusal to commit — prosecutor on charge of criminal libel may appeal as "person aggrieved" against magistrate's refusal to commit:** See [2]
10 above.

[6] **Criminal Procedure — law applicable in Sierra Leone — statutes of general application — Summary Jurisdiction Acts, 1848—1897 not applicable in Sierra Leone:** See [1] above.

15 [7] **Jurisprudence — reception of English law — legislation — statutes of general application — statute specific to England cannot be statute of general application — Summary Jurisdiction Acts, 1848—1897 not applicable in Sierra Leone:** See [1] above.

The respondents were charged in the police magistrate's court
20 with publishing a criminal libel on the appellant.

The respondents, joint editors of the *Sierra Leone Guardian*, published an article concerning the appellant. He was out of the country at the date of publication and although he saw the article shortly afterwards he did not return to Sierra Leone for four
25 months. He then began the present proceedings against the respondents.

The magistrate who conducted the preliminary investigation into the charge of criminal libel refused to commit the defendants for trial, although he appeared to think that the article was
30 libellous, on the ground that it would not tend to provoke a breach of the peace. The appellant appealed to the Supreme Court against this refusal to commit for trial.

A preliminary point was taken by the respondents who contended that there was no right of appeal against a magistrate's
35 refusal to commit for trial. They also contended that the English Summary Jurisdiction Acts were statutes of general application which laid down the correct procedure whereby the appellant should have asked the magistrate to state a case.

In reply the appellant contended that he had a right to appeal
40 under the Appeals from Magistrates Ordinance (*cap.* 8), s. 2, being a person "aggrieved by the decision" of the magistrate.

The court dismissed the respondents' objection and heard the appellant's appeal. The appellant contended that since the magistrate considered that the article was libellous it was his duty to commit the respondents for trial, leaving it to the jury to decide whether the libel was calculated to provoke a breach of the peace. 5
The appeal was dismissed.

Cases referred to:

(1) *Davys v. Douglas* (1859), 4 H. & N. 180; 157 E.R. 806.
(2) *Ferens v. O'Brien* (1883), 11 Q.B.D. 21; 52 L.J.M.C. 70. 10
(3) *Foss v. Best*, [1906] 2 K.B. 105; (1906), 95 L.T. 127.
(4) *R. v. Allen*, [1912] 1 K.B. 365; (1912), 106 L.T. 101.
(5) *R. v. Carden* (1879), 5 Q.B.D. 1; 41 L.T. 504.
(6) *R. v. Labouchere* (1884), 12 Q.B.D. 320; 50 L.T. 177. 15
(7) *R. v. London (County) JJ.* (1890), 25 Q.B.D. 357; 63 L.T. 243.
(8) *R. v. Newport (Salop) JJ.*, [1929] 2 K.B. 416; (1929), 141 L.T. 563.
(9) *Stokes v. Mitcheson*, [1902] 1 K.B. 857; (1902), 86 L.T. 767.
20

Legislation construed:

Appeals from Magistrates Ordinance (Laws of Sierra Leone, 1925, *cap.* 8), s.2: The relevant terms of this section are set out at page 292, lines 27—29.
s.10: The relevant terms of this section are set out at page 292, lines 32—35. 25

Taylor for the appellant;
Kempson for the respondent.

McROBERTS, Ag. J.:

This is an appeal from the decision of the learned acting police magistrate in which he dismissed an information brought by Dr. Bankole-Bright against John Fowell Boston and two other defendants, cited as the joint editors of the newspaper called the *Sierra Leone Guardian*, wherein they were charged with publishing a criminal libel regarding him. The matter is one beyond the jurisdiction of the lower court, and the magistrate declined to commit the defendants, and it is against this refusal that the present appeal is now brought. 30 35

A preliminary point was taken by the respondents to the effect that such a refusal is not in any case appealable, and I shall deal with this question first. Mr. Kempson argued that the proper 40

procedure for the appellant to follow was to ask the magistrate to state a case under the Summary Jurisdiction Acts, but I am unable to agree with this contention because I do not think that these Acts apply in this country at all. The procedure regulating the Police Magistrate's Court is laid down in the Magistrates' Courts Ordinance (*cap.* 118), and appeals from magistrates by the Appeals from Magistrates Ordinance (*cap.* 8). The English Acts cannot be said to be statutes of general application within the meaning of s. 7 of the Supreme Court Ordinance for the earliest of them, that of 1848, definitely excludes Scotland and Ireland, and the Isle of Man, Jersey, Guernsey, Alderney and Sark, and the latest, so far as we are concerned, that of 1897, excludes both Ireland and Scotland. Those of the Dominions which follow English law have all their own enactments dealing with magisterial procedure, and though many of them follow the English practice, they can only do so by embodying its provision in their own legislation. We in this country have done the same thing, for many of the English provisions can be found repeated here when they have been thought to be suitable, but the Summary Jurisdiction Acts themselves have been framed to deal with a condition of affairs which does not exist here, and with machinery which has no counterpart in Sierra Leone — they are purely municipal enactments confined in their operation to England and Wales.

The Appeals from Magistrates Ordinance (*cap.* 8) makes no provision for a case stated by way of appeal, but it does enact, in s. 2, that — "any person feeling aggrieved by the decision of any Magistrate may appeal to the Supreme Court as a Court of Appeal." This might be said to be wide enough to cover anything, but the position of a dissatisfied plaintiff is more particularly dealt with in s. 10, which provides that —

> "if the decision be a judgment in favour of the defendant, or a non-suit or dismissal of the plaintiff's claim, or of the charge or complaint against the accused, the plaintiff or complainant, on appealing, shall in like manner pay . . . ."

The reports are seldom helpful in the matter which I have here to decide, for most of them have to do with the question whether, in the particular case dealt with, the justices could be compelled to state a case when, in the exercise of their summary jurisdiction, they had acquitted an accused person. In only one of the cases which I have examined is it decided, and that is in *Foss v. Best* (3).

According to Darling, J. ([1906] 2 K.B. at 107; 95 L.T. at 128):

> "In this case the justices before whom the respondent appeared on a charge of embezzlement came to the conclusion, as a matter of law, that there was no ground for committing him for trial, and accordingly they refused to do so. There was no question of the case being dealt with summarily."

The following portion of the judgment of Channell, J. is of interest here ([1906] 2 K.B. at 110):

> "Assuming, however, that we had a discretion in the matter, this is not a case in which we ought to exercise our discretion to hear the appeal, because there is the gravest possible doubt as to whether a case can be stated upon acquittal. To begin with, a case can only be stated in respect of a 'conviction, order, determination, or other proceeding of a Court of summary jurisdiction,' and I think that justices who are taking depositions for the purpose of committing a prisoner for trial have not this power to state a case, as they are not exercising summary jurisdiction. Here the justices were not proceeding to deal with the case summarily. Even if it had appeared that they were sitting as a Court of summary jurisdiction, either by reason of the respondent electing to be dealt with summarily or otherwise, the difficulty remains whether the prosecutor would be a person aggrieved who could require a case to be stated. There is much in the judgment of Lord Coleridge, C.J. in *Reg. v. London (County) Justices* 25 Q.B.D. 357 to shew that in ordinary cases a prosecutor is not a person aggrieved, and in my opinion it is extremely doubtful whether in a case of a purely criminal character — as distinct from one of a quasi-criminal nature, as, for example in a prosecution for a breach of by-laws — a case can be stated under this procedure where the defendant has been acquitted.
>
> In view of our judgment upon the first point, I am not giving any final decision as to the power of justices to state a case under such circumstances, but, as I have said, I have the greatest possible doubt as to whether there is any such jurisdiction. I may point out that we are not depriving the prosecutor of any remedy, for he may, if he thinks fit, prefer an indictment against the respondent." [These words do not appear in the report of the case at 95 L.T. 127.]

There are of course a number of cases which deal with appeals from acquittals besides *R. v. London (County) JJ.* (7). *Davys v. Douglas* (1); *Ferens v O'Brien* (2); *Stokes v. Mitcheson* (9) and *R. v. Newport (Salop) JJ.* (8) are all cases on this point, and the conclusion to be drawn from them is, to my mind this, that while according recognition to the "broad and well-recognised principles of construction" contended for by Lord Coleridge in *R. v. London (County) JJ.*, namely that a man acquitted is not to be again proceeded against with respect to the same matter and that an appeal is never given except by statute, that an appeal against an acquittal will be given quite readily if the language of the statute seems to allow it. The distinction drawn by Channell, J. in *Foss v. Best* (3) between magistrates sitting as a court and when they are sitting for the purpose of taking depositions, is recognised by Lord Alverstone, C.J. in *R. v. Allen* (4) but the principles to be applied must be the same in each case, for this I take to be the intention of the present Lord Chief Justice of England when, in *R. v. Newport (Salop) JJ.*, he says ([1929] 2 K.B. at 426; 141 L.T. at 565):

> "Our attention has been directed to the cases of *Foss v. Best* . . . and *Stokes v. Mitcheson* . . . and to the case of *Reg. v. Keepers of the Peace and Justices of the County of London* . . . which was not under the Summary Jurisdiction Acts but I find nowhere a clear expression of the view that an unsuccessful prosecutor may not still under the Act of 1857 apply for a case because he is dissatisfied with the determination of the justices as being erroneous in law."

If we apply this to the local Ordinance I think there can be no doubt that such a right is given. When we look at s. 10 of the Appeals from Magistrates Ordinance (*cap.* 8) there may be no difficulty in holding that a refusal to commit is not a judgment in favour of the defendant, but can it be said that it is not a "dismissal . . . of the charge . . . against the accused"? A person brought before a magistrate for an indictable offence is brought on a charge, indeed this is the expression used in the English Act which governs committals, the Criminal Law Amendment Act, 1867 in which s. 3 contains the words — "in all cases where any Person shall appear . . . before any Justice . . . charged with any indictable Offence . . . ." and surely a refusal by the magistrate to commit is a dismissal of the charge? The whole of this section is devoted to the remedies available to a plaintiff or complainant and

it is extremely comprehensive in character, and it seems to me abundantly clear that it was intended to give him a remedy when he thinks himself aggrieved by a failure to commit.

I should deal I think, before going further, with this expression — "a person aggrieved." It occurs in s. 2 of the Appeals from Magistrates Ordinance, is referred to in *Foss v. Best* (3) and is examined at greater length in *R. v. London (County) JJ.* (7) where Lord Coleridge says (25 Q.B.D. at 361; 63 L.T. at 244):

> "Is a person who cannot succeed in getting a conviction against another a person 'aggrieved'? He may be annoyed at finding that what he thought was a breach of law is not a breach of law; but is he 'aggrieved' because some one is held not to have done wrong? It is difficult to see that the section meant anything of that kind. The section does not give an appeal to anybody but a person who is by the direct act of the magistrate 'aggrieved' — that is, who has had something done or determined against him by the magistrate."

Channell, J. in the portion of his judgment in *Foss v. Best* which I have quoted, expresses the same doubt, but draws a distinction between the position of a prosecutor in a purely criminal case and in one of a quasi-criminal character, and I think that the very personal element which is always present in libel must be held to take it out of the class of criminal cases which the learned judges had in mind, and a disgruntled plaintiff in such a case, though technically prosecuting in the interest of the public, is probably entitled to have his dissatisfaction translated as aggrievement.

It will be seen that Channell, J. in giving his opinion is careful to indicate that the views which he expressed would not, if given effect, deprive a plaintiff of a remedy, for he could always go to the grand jury. In pointing this out he recognised the reluctance which must always be felt in interpreting the law in such a way as to tend to diminish the rights of any man. But in Sierra Leone there is no grand jury, and all offences are prosecuted before the Supreme Court by an information in the name of the Attorney-General, and there might be a certain amount of difficulty in inducing the Crown to inform the court in the kind of case which is the subject of this appeal. This, to my mind, is in itself a good reason why, in this instance, an appeal should be permitted to be brought.

I will now turn to the appeal itself. It has been contended for the appellant that the publication complained of was libellous, and

that the learned magistrate clearly considered it to be so, and that in these circumstances it was his plain duty to commit the defendants without further ado. In support of this contention the following passage from the judgment of Lord Cockburn, C.J. in
5 *R. v. Carden* (5) (5 Q.B.D. at 6; 41 L.T. at 506) is relied upon:

"The duty and province of the magistrate before whom a person is brought, with a view to his being committed for trial . . . is to determine, on hearing the evidence for the prosecution and that for the defence, if there be any,
10 whether the case is one in which the accused ought to be put upon his trial. It is no part of his province to try the case. That being so, in my opinion unless there is some further statutory duty imposed on the magistrate, the evidence before him must be confined to the question whether the
15 case is such as ought to be sent for trial, and if he exceeds the limits of that inquiry, he transcends the bounds of his jurisdiction. This case was one of a charge of libel, and the magistrate had to inquire first, whether the matter complained of was libellous, and, secondly, whether the publi-
20 cation of it was brought home to the accused, so far as that there ought to be a committal."

Odgers on Libel & Slander, 6th ed., at 590 (1929) has also been referred to at the following passage:

"When the accused comes before the magistrate, the pros-
25 ecutor has merely to prove publication, unless it is not clear that the libel refers to him, in which case he should call someone acquainted with the circumstances to state that on reading the libel he understood it to refer to the prosecutor. The magistrate must decide for himself whether the written
30 matter before him is in law capable of being a libel. Unless it is clearly no libel, he will, after proof of publication by the defendant or some agent or servant on his behalf . . . commit the defendant for trial."

These authorities cannot of course be challenged, but the
35 learned counsel for the appellant has not kept clearly before his mind, as the learned magistrate never failed to do so, the distinction between the criminal and the civil remedies for libel. The whole essence of a criminal libel is its danger to the public peace. The matter is clearly put by *Odgers* (*ibid.*, at 368), when he says:
40 "Not every publication which would be held a libel in a civil case can be made the foundation of criminal proceedings.

Hawkins, in a passage cited apparently with approval by the Court in *R. v. Labouchere* (1884), 12 Q.B.D. at p. 322, 'puts the whole criminality of libels on private persons, as distinguished from the civil liability of those who published them, on their tendency to disturb the public peace.' He says (1 Hawk, P.C., c. 28, s. 3): 'The Court will not grant this extraordinary remedy (a criminal information), nor should a grand jury find an indictment, unless the offence be of such signal enormity that it may reasonably be construed to have a tendency to disturb the peace and harmony of the community. In such a case the public are justly placed in the character of an offended prosecutor to vindicate the common right of all, though violated only in the person of the individual.' 'A criminal prosecution ought not to be instituted unless the offence be such as can be reasonably construed as calculated to disturb the peace of the community. In such a case the public prosecutor has to protect the community in the person of an individual. But private character should be vindicated in an action for libel, and an indictment for libel is only justified when it affects the public, as an attempt to disturb the public peace' (*per* Lord Coleridge, L.C.J., in *Wood* v. *Cox* (1888), 4 T.L.R., at p. 654)."

But the appellant will have none of this. What he says in effect is:

"This publication was libellous, therefore the magistrate *must* commit and leave the rest to the jury who will say whether it is of a kind which is calculated to provoke a breach of the peace, and my authority for this demand is *R. v. Carden* and the portion of *Odgers* which I have already cited with it."

But he entirely overlooks the fact that *R. v. Carden* (5) is itself a case of criminal libel and that when the learned judges use the word "libel" they mean criminal libel, and the same can be said of *Odgers*, for the quotation is from Part III, "Practice and Evidence in Criminal Cases." None of these authorities have in contemplation anything but the criminal aspect of the matter. Once the magistrate makes up his mind that a libel is criminal he is bound by these authorities, but he must be allowed to make up his mind in the first place, and if he decides against its criminality then *R. v. Carden* does not bind him at all.

A magistrate in deciding whether to commit or not is in

precisely the same position as to his obligation as is a grand jury when deciding upon a bill which has been presented to them, and their duties in this regard were described by Lord Coleridge when he addressed the grand jury at the Berkshire Assizes at Reading in February 1889. According to *Stones Justices' Manual*, 59th ed., at 1016 (1927) he said:

> "[T]hat there ought to be some public interest concerned, something affecting the Crown or the guardians of the public peace, to justify the recourse by a private person to a criminal remedy by way of indictment. If either by reason of the continued repetition or infamous character of the libel a breach of the peace was likely to ensue, then the libeller should be indicted; but in the absence of any such conditions, a personal squabble between two private individuals ought not to be permitted by grand juries, as indeed it was not permitted by sound law, to be the subject of a criminal indictment, and he invited them to throw out the bill, which, in accordance with his suggestion, was done."

It seems perfectly clear to me, therefore, that it is a magistrate's first duty, when examining an information for libel, to make up his mind as to whether it is criminal or not. If he finds that it is, then the other conditions being fulfilled, he should commit, but if he thinks that it is not criminal then he should leave the plaintiff to his civil remedy.

This point is, to my mind, best appreciated if, for a moment, we suppose the law to be what Mr. Taylor says it is. In that case it would simply mean that any man who might affect to see in a newspaper some disparagement of himself could haul the proprietor before the magistrate, and, if the expressions used could in any way be brought within the wide limits set by the law of libel, could compel the court to subject the defendant to all the anxiety and cost of a criminal trial. A vindictive prosecutor and a helpless magistrate might both know perfectly well that there was not the slightest chance of a conviction, but such a plaintiff would have, and would no doubt thoroughly enjoy, the satisfaction of subjecting his victim to the greatest amount of worry and expense that was possible, and his satisfaction would be in no degree lessened by the thought that he has compelled the court to be the instrument of his malice. "There is no more cruel tyranny," said Montesquieu, "than that which is exercised under cover of the law, and with the colour of justice." But this, I am

glad to say, is not the law, and a person who is accused of publishing a criminal libel is entitled to as much protection from a magistrate as is one who is charged with sacrilege or murder.

Now in the case before me there was clearly no danger to the public peace. The appellant was out of the country at the time and could not have disturbed the peace if he had wanted to, and he did not return for four months though the publication came to his notice shortly after it was issued. The object of his visit to the Gold Coast was accomplished as soon as he arrived there and he could, and I think would, have returned here immediately had he really felt anything like the indignation to which he now pretends. These are the views of the learned magistrate, and they are clearly justified, not only by the evidence, but by the whole conduct of Dr. Bright in connection with this matter. If any further confirmation of the correctness of his views is required it is supplied by an argument employed before me by the appellant's counsel, who complained that the refusal of the magistrate to grant an adjournment deprived him of an opportunity of making terms, and had the application been successful this case would probably never have come to court. One welcomes, of course, these signs of peace, but one finds them very difficult to reconcile with a rage so raw as to require, after four months, no milder palliation than the drastic application of penal sanctions.

The last ground of appeal contained in the memorandum is "that the acting police magistrate dismissed the summons without giving the complainant the opportunity of fully proving his case against the defendants" and Mr. Taylor states that he had not got half way through his examination-in-chief when he was stopped. Mr. Kempson vigorously denied this, and says that Mr. Taylor had finished, and he himself was just about to cross-examine when the magistrate took up the examination of the plaintiff. However this may be, it is of no consequence, for the further evidence which Mr. Taylor says he wanted to adduce was as to the effect of the alleged libel in Freetown, and to supply the court with a list of Dr. Bright's creditors. He also said he had submissions to make which would have greatly influenced the magistrate. The effect of the publication on the countryside is hardly in point, for it is its effect upon the plaintiff which matters and a catalogue of his creditors is of no importance at all. As to Mr. Taylor's submissions, these have been made very fully to me, and although I feel sure that he has said all that could be said for his client, he has

failed to persuade me to a different conclusion than that arrived at by the learned magistrate.

This appeal must be dismissed with costs.

Appeal dismissed.

5

IN THE ESTATE OF JALLOH (DECEASED)

Supreme Court (Macquarrie, J.): December 17th, 1931

10 [1] **Succession — probate and letters of administration — person entitled to letters of administration under Mohammedan law — "brother" in Mohammedan Marriage Ordinance (cap. 128), s. 9(2)(b) includes half-brother by different mother:** The word "brother" in the Mohammedan Marriage Ordinance (*cap.* 128), s. 9(2)(b), which provides that the eldest brother of an intestate deceased is entitled to take out letters of 15 administration, includes a half-brother, *i.e.* a brother by a different mother (page 300, line 39—page 301, line 13).

The applicant applied for a grant of letters of administration of the estate of his deceased brother who died intestate.

20 The applicant was the eldest full brother of the deceased but had an elder half-brother, *i.e.* a brother by a different mother.

The applicant applied for a grant of letters of administration of the deceased's estate under the Mohammedan Marriage Ordinance (*cap.* 128), s. 9(2)(b) as "eldest brother of the intestate" contend-25 ing that the word "brother" in the section should be interpreted as meaning full brother, and that the fact that he had an elder half-brother was therefore irrelevant.

The application was dismissed.

Legislation construed:

30 Mohammedan Marriage Ordinance (Laws of Sierra Leone, 1925, *cap.* 128), s. 9(2):

"The following persons shall be entitled to take out letters of administration in the order named, viz.:-

. . . .

35 (b) The eldest brother of the intestate, if of full age according to Mohammedan Law."

MACQUARRIE, J.:

The question for decision is whether the word "brother" in 40 s. 9(2)(b) of the Mohammedan Marriage Ordinance (*cap.* 128) is to be interpreted to include half-brother (a brother by a different

mother) or to be restricted to meaning brother of the full blood, *i.e.* "brother german"? I was somewhat impressed by Mr. Wright's argument that as the full brother excludes all others in inheritance, preference should be given to him in administration and that to do otherwise would be an absurdity such as the legislature should not be expected to perpetrate. I think, however, that this is somewhat speculative, and that in the absence of any indication to the contrary, the word should be given its ordinary meaning, which includes half-brother. It is not irrelevant to observe that from the inclusion of the words — ". . . if of full age according to Mohammedan Law" in s. 9(2) (a) and (b) the legislature had Mohammedan Law in mind, and could well have limited the meaning of the word had it been so minded.

It follows that the applicant does not come within the scope of section 9(2) (b) and his application therefore fails.

Application dismissed.

S.V. RICHARDS v. A.T.W. RICHARDS

Supreme Court (Tew, C.J.): March 11th, 1932

[1] **Civil Procedure — execution — garnishee order — not available in respect of future earnings — only made in respect of debts owing or accruing:** There is no procedure available to enforce a maintenance order by restraining the respondent from receiving further salary until he has paid the arrears due, for this would be equivalent to a garnishee order which may be granted only in respect of debts owing or accruing, and since future earnings fall into neither of these categories they may not be the subject of such an order (page 305, line 6—page 306, line 13).

[2] **Courts — Supreme Court — jurisdiction — civil jurisdiction — matrimonial causes — current English practice to be followed in absence of other provision:** The effect of s. 6 of the Supreme Court Ordinance (*cap.* 205) is that where the Ordinance or the rules made under it make no provision as to a particular matter of the practice in matrimonial causes, such as that concerning the enforcement of orders for alimony the court may exercise its jurisdiction in conformity with the relevant practice for the time being in force in England and is not restricted to applying the rules in force in England on January 1st, 1905 as is specified for other matters of civil procedure by O.XLV, r. 2 of the Supreme Court Rules (*cap.* 205); in accordance with the current English practice, proceedings in chambers to enforce an order for alimony must be started by summons and an application in any other form cannot be entertained (page 304, line 12—page 305, line 4).

[3] **Family Law — maintenance — enforcement of order — current English**