decree or order made by virtue of any law passed or made by any legislature or other authority having power to make laws with respect to matrimonial causes for any part of His Majesty's dominions outside the United Kingdom, or for any British protected state, which is declared by Order in Council to be a law substantially corresponding to the provision made as respects Great Britain by the preceding provisions of that Act, shall, by virtue of that Act, be recognised in all British Courts, whether within or without His Majesty's dominions, other than Dominion courts;

And Whereas the legislature of Seychelles has passed a law entitled the Divorce (War Marriages) Ordinance, 1948;

Now, therefore, His Majesty, by virtue and in exercise of His powers under the said Act, and all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council to declare, and it is hereby declared, that the said law is a law substantially corresponding to the aforesaid provision made as respects Great Britain by the Matrimonial Causes (War Marriages) Act, 1944.

This Order may be cited as the Matrimonial Causes (War Marriages) (Seychelles) Order, 1948, and shall come into operation on the 1st day of July, 1948.

E. C. E. Leadbitter.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The above Order declares that a law made by the Colony of Seychelles is a law substantially corresponding to the provision made as respects Great Britain by the Matrimonial Causes (War Marriages) Act, 1944. Such a declaration will secure recognition in all British courts, whether within or without His Majesty's dominions, other than Dominion courts, of the validity of any decree or order made by virtue of the said law.

ECCLESIASTICAL COURT, ENGLAND

The Incumbents (Discipline) Rules, 1948

1948 No. 1919

Made - - - -	*3rd February*, 1948
Coming into Operation	*6th February*, 1948
Laid before Parliament	*19th February*, 1948

Rules made by the Rule Committee appointed by the Church Assembly for the purpose of the Incumbents (Discipline) Measure, 1947, under Section 14 of the said Measure, and approved by the Church Assembly, 3rd February, 1948.

PRELIMINARY

1.—(1) These Rules may be cited as the Incumbents (Discipline) Rules, 1948.

(2) They shall come into force on the sixth day of February, 1948.

2. The Interpretation Measure, 1925, applies for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of a Measure. C.A.M. 15 & 16 Geo. 5. No. 1.

3.—(1) In these Rules the expression " the Measure " means the Incumbents (Discipline) Measure, 1947. C.A.M. 10 & 11 Geo. 6. No. 1.

(2) Without prejudice to the effect of Rule 2 of these Rules, when two or more persons are complainants in any proceedings under the Measure, any reference in these Rules to the complainant shall, in the application of the Rules to those proceedings, be construed as a reference to all those persons, and accordingly anything required by these Rules to be done or suffered by the complainant shall in those proceedings be done or suffered by each of the complainants:

Provided that not more than one fee shall be payable under Rule 45 of these Rules on the filing of any particular document, and any fee so payable shall, where the proceedings were instituted by two or more complainants, be apportioned between the complainants equally.

(3) In these Rules the expression " the Court," when used with reference to a Special Court, includes the president of the Court exercising the jurisdiction conferred on him by subsection (8) of section 9 of the Measure.

PART I

SPECIAL COURTS

Officers and Offices

4. For each diocese there shall be a Special Courts Registry, which shall be under the direction of a Special Courts Registrar appointed by the bishop.

5. The bishop of each diocese may appoint a person to be Deputy Special Courts Registrar for the diocese, and anything which by these Rules is authorised to be done by to or before the Special Courts Registrar for a diocese may be done by to or before the Deputy Special Courts Registrar for the diocese.

6. A person holding the office of Special Courts Registrar or Deputy Special Courts Registrar shall, subject to the vacation of his office by resignation, hold office for such period as the bishop may determine.

7.—(1) The bishop of each diocese shall approve a seal for the use of all Special Courts of the diocese, and the Special Courts Registrar for the diocese shall have the custody of the seal.

(2) Any document appearing to be sealed with the said seal shall be received in evidence without signature or any further proof and shall, unless the contrary is shown, be deemed to be a document duly issued from the Special Courts Registry of the diocese.

Proceedings before Trial:—(1) *Information*

8. Where the complainant is requested by the Ministerial Committee to specify his charges in pursuance of section 5 of the Measure, his charges shall be specified in a written statement hereinafter called " the information."

9. The information shall state that the incumbent is charged with one or more of the following offences:—

(*a*) conduct unbecoming the character of a clerk in holy orders;

(*b*) serious neglect of duty;

(*c*) persistent neglect of duty;

(*d*) continuous neglect of duty.

10. In respect of each offence charged the information shall state with sufficient particularity the facts relied on in support of the charge.

11. The information shall be signed by the complainant and shall show the date of the complainant's signature.

12. The information shall be given or sent in triplicate to the chairman of the Ministerial Committee, who shall give or send one copy thereof to the incumbent.

Proceedings before Trial:—(2) *Answer to Charges*

13. Where the Ministerial Committee recommend that any of the charges against an incumbent be tried by a Special Court, the incumbent's answer to those charges shall be in writing signed by him and shall show the date of the incumbent's signature. Save as aforesaid, the answer may take such form as the incumbent thinks fit.

Interlocutory Applications

14.—(1) Notice in writing of every interlocutory application stating the nature thereof shall be given by the applicant to the Special Courts Registrar.

(2) At least seven clear days before the hearing of an interlocutory application the Special Courts Registrar shall give notice in writing:—

(*a*) to the applicant, stating the time and place at which the application will be heard; and

(*b*) to the other party, stating the nature of the application and the time and place at which it will be heard.

(3) At the hearing of any interlocutory application the promoter and the incumbent may either appear in person or be represented by solicitor or counsel.

(4) At the hearing of an interlocutory application the president of the court may make such recommendation as he thinks fit as to the payment of costs by either party, and the Special Court shall have regard to his recommendation in determining what costs, if any, are to be ordered under subsection (7) of section 9 of the Measure.

(5) This Rule does not apply to interlocutory applications made to the Special Court at the trial.

15. Where leave to appeal is required by virtue of subsection (4) of section 12 of the Measure, the application for leave shall be made at the time when the order or judgment from which it is sought to appeal is given.

Trial

16. The trial shall take place at such place as the bishop may direct.

17. The date fixed by the bishop as the date on which the Special Court is to meet for the hearing of the charges shall not be more than eight weeks from the expiration of the period allowed to the incumbent for replying to the charges under section 7 of the Measure.

18. The trial shall commence at the time at which the bishop has directed the Special Court to meet for the hearing of the charges:

Provided that the president of the Special Court may, at any time before the commencement of the trial, order such adjournment thereof as he thinks necessary, either owing to the inability of any of the five members to attend, or for any other reason, and notice in writing of any adjournment so ordered shall be given by the Special Courts Registrar to the promoter and the incumbent.

19. The promoter and the incumbent may either appear in person at the trial or be represented by solicitor or counsel.

20. At the commencement of the trial the information shall be read over to the incumbent, and the incumbent shall be invited to state whether he makes any admission with respect thereto. If the incumbent makes any admission the court may attach such weight thereto as they think fit, and may, notwithstanding the admission, make such enquiries and hear such evidence as they think necessary for the purpose of enabling them to make their report to the bishop in accordance with section 9 of the Measure.

21. If it appears to the court that any allegation sought to be proved against the incumbent has not been stated with sufficient particularity in the information, the court may refuse to entertain the allegation, or may entertain the allegation upon such terms, if any, as they think just. In particular, and without prejudice to the general power of the court to order any adjournment which they may think proper during the course of the hearing, the court may, if they decide to entertain the allegation, grant such adjournment as they think necessary in the interests of the incumbent.

22.—(1) Subject as hereinafter provided, the evidence at the trial shall be given *viva voce*.

(2) If, on the application of either party, it appears to the court that there are special reasons for dispensing with the attendance of a particular witness at the trial, the court may, on such terms as the court thinks fit, direct that the evidence of that witness may be given:—

(*a*) by affidavit, or

(*b*) by depositions taken before a person appointed by the court for the purpose;

and the court may attach such weight to any evidence so given as appears to be proper having regard to all the circumstances.

(3) The party on whose application any such order is made shall file the original affidavit or depositions with the Special Courts Registrar and provide one true copy thereof to the other party to the proceedings.

(4) The court shall not direct that the evidence of a witness may be given by affidavit if it appears that the other party *bona fide* desires the production of that witness for cross-examination and that the witness can be so produced.

(5) At the taking of depositions in pursuance of an order made under this Rule the other party or a solicitor or counsel representing him shall be entitled to attend for the purpose of cross-examining the witness.

23. The president of the court shall take or cause to be taken a note containing an accurate transcription or summary of the whole of the proceedings at the trial, including the evidence given *viva voce* in court.

24. Any order or ruling which falls to be made during the course of the trial shall be made by the president after consulting the other members of the court.

PART II

PROVINCIAL COURTS

Officers and Offices

25. For each province there shall be a Provincial Court Registry, which shall be under the direction of a Provincial Court Registrar appointed by the archbishop.

26. The archbishop of each province may appoint a person to be Deputy Provincial Court Registrar for the province; and anything which by these Rules is authorised to be done by to or before the Provincial Court Registrar for the province may be done by to or before the Deputy Provincial Court Registrar for the province.

27. A person holding office as a Provincial Court Registrar or a Deputy Provincial Court Registrar shall, subject to the vacation of his office by resignation, hold office for such period as the archbishop may determine.

28.—(1) The seal of the Provincial Court of each province shall be such as the archbishop may direct.

(2) The Provincial Court Registrar for each province shall have the custody of the seal of the Provincial Court of the province.

(3) Any document appearing to be sealed with the said seal shall be received in evidence without signature or any further proof and shall, unless the contrary is shown, be deemed to be a document duly issued from the registry of the Provincial Court.

Mode of Appeal and Proceedings before Hearing

29. An appeal shall be instituted by notice in writing to the Provincial Court Registrar.

30. The notice shall be signed by the appellant and shall state what decision order or judgment is appealed against and the nature of the decision order or judgment which the appellant seeks in lieu thereof.

31. At least seven clear days before the hearing of an appeal the Provincial Court Registrar shall give notice in writing:—

(*a*) to the appellant, stating the time and place at which the hearing will commence; and

(*b*) to the respondent, stating what decision order or judgment is appealed against and the time and place at which the hearing will commence:

Provided that the Provincial Court may, at any time after such notice as aforesaid has been given and before the commencement of the hearing, order such adjournment of the hearing as the court thinks fit, and notice in writing of any such adjournment shall be given by the Provincial Court Registrar to the appellant and the respondent.

32.—(1) The Provincial Court Registrar shall, as soon as notice of appeal is given, inform the Special Courts Registrar that the appeal is pending; and thereupon it shall become the duty of the Special Courts Registrar to secure that all relevant documents in the Special Courts Registry are supplied to the Provincial Court for use at the hearing.

(2) Where the appeal is an appeal from a decision of the Special Court at the trial, the Special Courts Registrar shall, on the application of either party at any time before the hearing of the appeal begins, supply to that party a copy or transcript of the note taken in compliance with Rule 23 of these Rules.

Interim Applications

33.—(1) In this Rule the expression " interim application " means every application made to a Provincial Court by either party to an appeal, whether the decision order or judgment appealed against be final or interlocutory, except an application made to the court at the actual hearing of the appeal.

(2) Notice in writing of every interim application stating the nature thereof shall be given by the applicant to the Provincial Court Registrar.

(3) At least seven clear days before the hearing of an interim application the Provincial Court Registrar shall give notice in writing:—

(*a*) to the applicant, stating the time and place at which the application shall be heard; and

(*b*) to the other party, stating the nature of the application and the time and place at which it will be heard.

(4) At the hearing of any interim application the appellant and the respondent may either appear in person or be represented by a solicitor or counsel.

Hearing of Appeals

34. The appeal shall be heard at such time and place as the Provincial Court may appoint.

35. The appellant or the respondent may either appear in person at the hearing of the appeal or be represented by solicitor or by counsel.

36. Where the Provincial Court allows new evidence to be given, Rule 22 shall apply with respect to that evidence as if any reference therein to the trial were a reference to the hearing of the appeal, any reference therein to the court were a reference to the Provincial Court, and any reference therein to the Special Courts Registrar were a reference to the Provincial Court Registrar.

Decisions of Provincial Courts

37. Any decision of a Provincial Court shall be that of the majority of its members.

Part III

General

Time

38. Any period of notice prescribed by these Rules may be varied with the consent of both parties concerned.

Change of Promoter

39.—(1) If it appears to the bishop that any person authorised by him to be promoter is for any reason unable or unwilling or unsuitable to continue as such, he may at any stage of the proceedings before a Special Court or a Provincial Court authorise some other person approved by the court to act as promoter.

(2) The bishop shall give notice in writing of any such change to the president of the court concerned and to the incumbent, and thereupon the proceedings may continue with the substitution of the new promoter for his predecessor. If the court so directs, any outstanding liability of the predecessor in respect of fees shall be transferred to the new promoter.

Costs

40. In determining what costs are to be ordered a Special Court or a Provincial Court may take account of the cost of taking any note required to be taken under Rule 23 of these Rules, or of making any transcript or copy thereof.

41.—(1) Where costs are awarded by a Special Court or a Provincial Court they shall be taxed by the Special Courts Registrar or the Provincial Court Registrar, as the case may be.

(2) In taxing any such costs the registrar shall, subject to any directions which may have been given by the court, act in his discretion:

Provided that if either party is dissatisfied with any decision of the registrar with respect to the taxation of costs he may appeal:—

(*a*) in the case of a decision of a Special Courts Registrar to the judge of the consistory court of the diocese; and

(*b*) in the case of a decision of a Provincial Court Registrar to the vicar-general or official principal of the province.

(3) When the registrar has taxed the costs he shall give to each party his certificate under the seal of the court showing the amount he has awarded, and notice of any appeal shall be given to the registrar not more than seven clear days from the date on which the certificate is given to the party desiring to appeal.

(4) At least seven clear days before the hearing of the appeal the registrar shall give notice in writing to the appellant and to the other party stating the time and place at which the appeal will be heard. Each party shall be entitled to appear at the hearing of the appeal in person or by solicitor or counsel.

(5) After hearing the appeal, the appellate tribunal may affirm the registrar's decision or set it aside or vary it in such manner as appears to be just:

Provided that where the Special Court or the Provincial Court has given any direction with respect to the taxation of costs, that direction shall be binding on the appellate tribunal as it is binding on the registrar.

(6) If on the appeal the registrar's decision is set aside or varied, the registrar shall give to both parties a revised certificate under the seal of the court stating that his award has been set aside or varied and showing the amount finally awarded.

42. Costs awarded to either party shall constitute a civil debt, and (without prejudice to any other mode of recovery) may be recovered as such in a court of summary jurisdiction.

Fees and Expenses

43. The parties to proceedings under the Measure shall pay fees in accordance with the First Schedule to these Rules. Any such fees shall constitute a civil debt due to the Special Courts Registrar or the Provincial Court Registrar, as the case may require, and (without prejudice to any other mode of recovery) may be recovered as such in a court of summary jurisdiction.

44.—(1) The registrar shall account to the Ecclesiastical Commissioners for all sums received by him in respect of fees under Rule 43. He shall pay out of these sums any expenses properly incurred by him in the performance of his duty and any expenses properly incurred by the court in respect of proceedings under the Measure:

Provided that the registrar shall not make any payment to any member of the court on account of personal expenses without the sanction of the Ecclesiastical Commissioners.

(2) The Ecclesiastical Commissioners may allow to the registrar, to the president of a Special Court and to the vicar-general or his deputy such fees in respect of their services under these Rules and the Measure as the Commissioners think fit, and any such fees shall be discharged by the registrar out of the sums paid to him under Rule 43.

(3) Any surplus for the time being in the hands of the registrar in respect of sums paid to him under Rule 43 shall be paid over to the Ecclesiastical Commissioners as and when they direct.

(4) In this Rule the expression "registrar" means a Special Courts Registrar or a Provincial Court Registrar, as the case may require.

(5) Where a person ceases to be registrar:—

(*a*) any funds in his hands at the time when he so ceases, in so far as they represent sums paid under Rule 43, shall be paid over to his successor; and

(*b*) any duty which would have fallen to be performed by him under this Rule if he had remained in office shall be performed by his successor.

45. Where a copy of an inhibition issued or declaration made by a bishop is filed in the diocesan registry in pursuance of subsection (2) of section 10 of the Measure, the complainant or his personal representatives shall pay to the diocesan registrar a fee of ten shillings and sixpence.

Forms

46. The forms set out in the Second Schedule to these Rules, or forms to the like effect, shall be used in connection with proceedings under the Measure.

Kenneth Oxon.
G. W. O. Addleshaw.
C. E. Douglas.
Humphrey H. King.
Peter Winckworth.

14th January, 1948.

FIRST SCHEDULE

FEES

Trial

	£	s.	d.
1. To be paid by the promoter, when the charges are first referred to a Special Court under section 8 of the Measure	2	0	0
2. To be paid by the promoter, on being notified by the bishop of the time and place at which the Special Court will meet	5	0	0
3. To be paid by the promoter at the conclusion of the trial. For each day or part of a day above one for which the trial continues ...	2	0	0
4. To be paid by the applicant on giving notice of an interlocutory application under Rule 14	1	0	0
5. To be paid by the applicant after an interlocutory application (other than an application made at the trial) is disposed of. For each day or part of a day above one for which the hearing of the application continues	2	0	0

Appeal

1. To be paid by the appellant on giving notice of appeal	2	0	0
2. To be paid by the appellant on being notified of the time and place of the hearing	5	0	0
3. When a copy or transcript of the note taken in compliance with Rule 23 is supplied to either party under Rule 32, to be paid by the party to whom it is supplied*			
4. To be paid by the appellant at the conclusion of the hearing. For each day or part of a day above one for which the hearing of the appeal continues	2	0	0
5. To be paid by the applicant on giving notice of an interim application under Rule 33	1	0	0
6. To be paid by the applicant after an interim application under Rule 33 is disposed of. For each day or part of a day above one for which the hearing of the application continues	2	0	0

Taxation

On receiving the registrar's certificate of an award, to be paid by the party to whom costs are awarded	2½% of the sum awarded.

SECOND SCHEDULE

FORM 1

Information

In the Matter of the Incumbents (Discipline) Measure, 1947.

Diocese of

An Information by

Complainant(s)

against

Incumbent of.....

(Complaint made the day of 19 .)

The Incumbent is charged with the following offence(s):—

1. Conduct unbecoming the character of a clerk in holy orders.

Particulars

That the Incumbent did commit the following act(s):—

(*Here specify the acts alleged and the time and place at which they are alleged to have been committed.*)

* Such sum as the Special Courts Registrar may certify to be the cost of preparing the copy or transcript.

2. Serious neglect of duty.

Particulars

(*Here specify the neglect alleged—for example: That throughout the months of and , 19 , the Incumbent was absent from his parish of without reasonable cause or excuse, having made no provision for the cure of souls in the said parish in his absence.*)

3. Persistent neglect of duty.

Particulars

(*Here specify the neglect alleged—for example: That the Incumbent has, in each of the years , neglected to convene the annual parochial church meeting as required by Rule 6 of the Rules for the Representation of the Laity.*)

4. Continuous neglect of duty.

Particulars

(*For example: The Complainant relies* (*Complainants rely*) *on the particulars specified in paragraph 2.*)

Signed,

Complainant(s)

the day of 19 .

FORM 2

Reference of Charges to Special Court

In the Matter of the Incumbents (Discipline) Measure, 1947.

To the Special Courts Registrar for the diocese of

Complainant(s)

Incumbent

1. By an Information dated the of 19 , the Incumbent was charged with the following offences:—

(*Here state the charges as in the Information.*)

2. Having considered the information the Ministerial Committee have recommended to me that the Incumbent be tried by a Special Court on No(s). of the said charges (on the said charge).

3. I hereby refer the charge(s) recommended to be tried to a Special Court in pursuance of subsection (3) of section 8 of the Incumbents (Discipline) Measure, 1947, and direct that the special Court shall meet for the hearing of the charge(s) at on the of 19 .

4. You are hereby required to take all necessary steps for securing that a Special Court is duly constituted for the hearing of the charge(s).

Signed,

(*Bishop's signature.*)

the day of 19 .

FORM 3

Authority to Conduct Proceedings as Promoter

In the Matter of the Incumbents (Discipline) Measure, 1947.
Diocese of

Complainant(s)
Incumbent

1. By an Information dated the of 19 , the Incumbent was charged with the following offence(s):—

(*Here state the charges as in the Information.*)

2. Having considered the information the Ministerial Committee have recommended to me that the Incumbent be tried by a Special Court on No(s).

of the said charges (on the said charge).

3. The charge recommended to be tried has (charges recommended to be tried have) been duly referred by me to a Special Court in accordance with subsection (3) of section 8 of the Incumbents (Discipline) Measure, 1947.

4. I hereby authorise the above-named Complainant(s) to conduct the proceedings as promoter(s).

or

(4. With the consent of the above-named Complainant(s) I hereby authorise of to conduct the proceedings as promoter(s).)

Signed,

(*Bishop's signature.*)

the day of 19 .

FORM 4

Notice of Interlocutory Application under Rule 14

In the Matter of the Incumbents (Discipline) Measure, 1947.
To the Special Courts Registrar for the diocese of

Promoter(s)
Incumbent

(Information dated the of 19 .)

Take notice that the Promoter(s) (Incumbent) propose(s) to apply for an order that (*state nature of the order for which application is to be made*).

Signed,

(*Signature of applicant or his solicitor or counsel.*)

the day of 19 .

FORM 5

Notice of Appeal under Rule 29

In the Matter of the Incumbents (Discipline) Measure, 1947.
To the Provincial Court Registrar for the province of
Diocese of

Promoter(s)
Incumbent

(Information dated the of 19 .)

NOTICE OF APPEAL

Take notice that
propose(s) to move the Provincial Court (*a*) to set aside a decision (Order, judgment) of whereby it was decided (ordered, adjudged) that and (*b*) to substitute for the said decision (order, judgment) a decision (order, judgment), to the effect that

Signed,

(*Signature of appellant or his solicitor or counsel.*)

the day of 19 .

FORM 6

Notice of Interim Application under Rule 33

In the Matter of the Incumbents (Discipline) Measure, 1947.
To the Provincial Court Registrar for the province of

Appellant(s)
Respondent(s)

(Information dated the of 19 .)

Take notice that
propose(s) to apply for an order that (*state nature of the order for which application is to be made*).

Signed,

(*Signature of applicant or his solicitor or counsel.*)

the day of 19 .

FORM 7

Notice of Appeal under Rule 41

(*Decision of Special Courts Registrar*)

In the Matter of the Incumbents (Discipline) Measure, 1947.
To the Special Courts Registrar for the diocese of

Promoter(s)
Incumbent

(Information dated the of 19 .)

Take notice that the Promoter(s) (Incumbent) propose(s) to apply to the judge of the consistory court of the diocese (*a*) to set aside your decision on taxation of the costs of these proceedings as specified in your certificate dated the day of 19 , and (*b*) to substitute for your said decision the following decision, namely

Signed,

(*Signature of appellant or his solicitor or counsel.*)

the day of 19 .