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THE SUPREME COURT OF THE FEDERATION OF MALAYA.

REGISTRAR'S CIRCULAR NO. 3/48.

Attendance of witnesses in Civil Causes.

The Summoning and Attendance of Witnesses in Civil Suits is governed by Chapter XVIII of the Civil Procedure Code (F.M.S.).(1)

2. Under S.176<sup>(2)</sup> of this Chapter a party applying for a summons to a witness to attend Court shall, before the summons is granted and within a time to be fixed by the Court, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and fro from the Court in which he is required to attend, and for one day's attendance. It is to be noted that the section says "shall" and that the making of such payment is therefore obligatory and a condition precedent to the issue of the summons.

3. This payment is not being made in all cases and in at least one instance the words "A sum of \$ , being" on the form of Summons (Form Courts 10) were struck out and the words "The Plaintiff will pay " inserted. This is illegal: it is contrary to the provisions of section 176, and in addition renders the Court virtually powerless if the witness elects not to attend.

4. Assistant Registrars of the Supreme Court, Registrars of the District Court and Magistrates will ensure that Ss. 176 and 177 of the Civil Procedure Code (F.M.S.) are strictly complied with in future.

*T. R. Alpan*  
REGISTRAR.

The Registry,  
Supreme Court,  
Federation of Malaya,

Kuala Lumpur, 23rd March, 1948.  
(RSC.18/47) TRH/AJS

To: All Assistant Registrars, Supreme Court.)  
District Judges ) For information.  
Magistrates through State Secretaries )