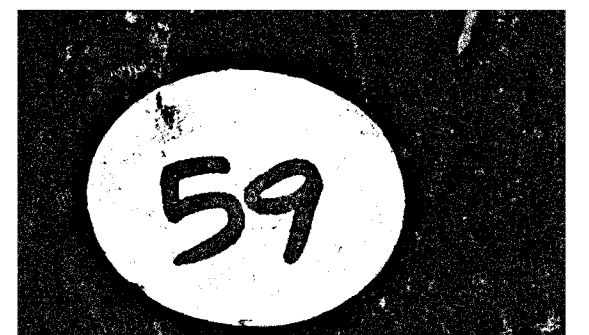




ACT No. III of 1857.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 31st of January 1857.)

An Act relating to Trespasses by Cattle.

Preamble. WHEREAS loss and injury are suffered by cultivators and occupiers of land from damage done to crops and other produce of land by the trespass of Cattle; and whereas damage is done to the sides and slopes of public roads and embankments by cattle trespassing thereon; and whereas it is expedient to authorize the seizure and detention of Cattle doing damage as aforesaid and also to make provision for the disposal of cattle found straying in any public place: It is enacted as follows:—

I. Section IV Regulation V. 1830 of the Bengal Code, Sections XII and LII Regulation XI. 1816 of the Madras Code, and such parts of Sections XIX, XLV, and LIII Regulation XII. 1827 of the Bombay Code, as authorize the Magistrates or Police Officers to take charge and dispose of stray Cattle, are hereby repealed.

II. It shall be lawful for the cultivator or occupier of any land to seize or cause to be seized any cattle trespassing on such land, and doing damage to such land or any crop or produce thereon, and to convey them without unnecessary delay to the pound established for the village or township in which the land is situate. Village and other Police Officers, when called upon, shall give their aid to cultivators and occupiers making such seizures.

III. Pounds shall be established at the thannahs or district Police stations, and at such other places as the Magistrate, under the orders of the local Government, may determine. The village or villages by which every pound is to be used shall be determined and notified by the Magistrate.

IV. The

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IV. The pounds shall be under the control of the Magistrate of the district, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the local Government shall direct. Provided that, in the Presidencies of Fort St. George and Bombay, the heads of villages and Police patells shall be ex-officio the keepers of village-pounds.

V. When Cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner if known, and shall give a copy of the entry to the seizer. The pound-keeper shall take charge of and feed the Cattle until disposed of as herein after directed.

VI. For every head of Cattle impounded as aforesaid, a fine shall be levied according to the following scale :—

	Annas.
Camel or Buffalo	8
Horse or Tattoo, Bull, Bullock, or Cow	4
Calf or Ass	2
Sheep or Goat	1

and no Cattle shall be released by a pound-keeper without the payment of such fine unless the release be ordered by competent authority.

VII. If the owner appear and claim the Cattle, they shall be delivered to him on payment of the prescribed fine together with the expense of feeding the Cattle at such rates as may from time to time be fixed by the Magistrate; and the owner, on taking back his Cattle, shall sign a receipt for them in the register kept by the pound-keeper. A schedule of the fines and of the rates of charge for feeding Cattle shall be stuck up in a conspicuous place on or near to every pound.



VIII. If

VIII. If the Cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall make his report to the Darogah or district Police Officer, who shall stick up in a conspicuous part of the Police Office a notice containing a statement of the number and description of the Cattle, the place where they were seized, and the place where they are impounded, and shall cause proclamation of the same to be made by beat of drum in the village, and at the market place, nearest to the place of seizure. If the Cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the Darogah or district Police Officer or an Officer of his establishment deputed for the purpose.

IX. If the owner appear, and refuse or omit to pay the fines and expenses, the Cattle or as many of them as may be necessary, shall be sold by public auction for the recovery of such fines and expenses by the Darogah or other Officer as aforesaid; and the remaining Cattle and the balance of the purchase money if any shall be delivered to the owner, together with an account showing the number of Cattle seized, the time during which they have been impounded, the charge for fines and expenses, the number of Cattle sold, the proceeds of sale, and the manner in which those proceeds have been disposed of; and the owner shall grant a receipt for the Cattle delivered to him and for the balance of the purchase money paid to him (if any) according to such account. Provided always that, if a complaint against the seizure shall have been preferred under the provisions of Section XIV of this Act, no sale shall be made until the case shall have been decided, nor otherwise than according to the order which may be passed in such case.

X. Police Officers and pound-keepers are prohibited from becoming, directly or indirectly, purchasers of any Cattle at a sale under this Act.

XI. When Cattle are sold under the provisions of this Act, the fines leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the sale proceeds. The fines so recovered, as well as all fines received

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received by the pound-keepers under Section VII, shall be transmitted to the Magistrate by the Darogah, or district Police Officer. The expenses of feeding realized by sale shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under Section VII. The surplus proceeds of the sale of unclaimed Cattle shall be transmitted to the Magistrate, who shall hold them in deposit for three months, and if no claim to them be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

XII. The sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle shall form a fund which shall be available for the payment of any salaries which may be allowed to pound-keepers under the orders of the local Government or of expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act.

Fines and unclaimed proceeds of sales to form a fund for the payment of pound-keepers, &c.

XIII. Every person who shall forcibly oppose the seizure of Cattle doing damage to land or to crops or other produce of land, or shall forcibly rescue the same after seizure either from a pound or from the seizer when conveying or about to convey them to a pound, shall be liable for such offence to imprisonment, with or without labor, for a period not exceeding six months, or to a fine not exceeding five hundred Rupees, or to both. Offences under this Section shall be dealt with by the Police Officers according to the provisions of Section XXV Regulation XX. 1817 of the Bengal Code, Section XXVII Regulation XI. 1816 of the Madras Code, and Section XLIII Regulation XII. 1827 of the Bombay Code.

Penalty for forcibly opposing the seizure of Cattle or rescuing the same.

XIV. Any person whose Cattle shall have been seized and detained as doing damage to land or any crop or produce thereon, may prefer a complaint against the seizure, at any time within ten days from the date thereof, to the Magistrate, or to any Joint Deputy or Assistant Magistrate, or other Officer having criminal jurisdiction, authorized to receive and try charges without reference by the Magistrate. The complaint may be either verbal, in which

Owner may prefer complaint to Magistrate within ten days from date of seizure of his Cattle.

Procedure. which case the substance of it shall be taken down in writing by the Magistrate or other Officer as aforesaid, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. The Magistrate or other Officer as aforesaid, if on examination of the complainant or his agent he shall see reason to believe the complaint to be well founded, shall summon the party complained against, and shall proceed to make a summary enquiry into the case. If the seizure be adjudged illegal, the Magistrate or other Officer as aforesaid shall award to the complainant such damages, not exceeding in any case the sum of one hundred Rupees, as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure and detention, together with all expenses incurred by the complainant in procuring the release of the Cattle; or, if the Cattle have not been released, the Magistrate or other Officer as aforesaid, in addition to the award of damages, shall make an order for their release, and shall direct that the fines and expenses leviable under this Act shall be paid by the party who made the seizure. Moonsiffs and other Judicial Officers having original jurisdiction, and not invested with criminal powers, may be specially invested by the local Government with the power of receiving and trying complaints under this Section, and in the exercise of such powers shall be subject to the same rules as Assistants and other Officers subordinate to the Magistrate.

Damages for illegal seizure.

Moonsiffs and others may be invested with power to adjudicate under this Section.

XV. Persons in charge of public roads, canals, embankments, and the like, may seize or cause to be seized any Cattle doing damage to the sides or slopes of such roads, canals, embankments, and the like; and all the foregoing provisions of this Act shall be applicable to such seizures.

Impounding of Cattle doing damage to roads, embankments, &c.

XVI. Village and other Police Officers shall convey to the pounds established under Section III of this Act all Cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of Cattle seized as trespassing and doing damage, shall be applicable to all Cattle impounded as aforesaid.

Impounding of stray Cattle the owners of which are unknown.

XVII. When

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XVII. When any person commits mischief by causing Cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorized to seize Cattle under Section II of this Act, or of any person who may have made advances for the cultivation of the land and delivery of the produce; and any fine which shall be so adjudged may be recovered by sale of the Cattle by which the trespass was committed, or any portion of them, whether the Cattle were seized in the act of trespassing or not, and whether such Cattle are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

XVIII. Any person, being an owner or keeper of pigs, who, through neglect or otherwise, shall damage or cause or permit to be damaged any land or any crop or produce of land by allowing pigs to trespass thereon, shall be liable for such offence to a fine not exceeding ten Rupees. All sums recovered under this and the last preceding Section may be appropriated in whole or in part to compensate the complainant for damage proved to the satisfaction of the Magistrate.

XIX. Nothing contained in this Act shall be held to prohibit any person, whose crops or other produce of land shall have been damaged by trespass of Cattle, from instituting a suit for the recovery of damages in any competent Court. Provided that any compensation which may have been paid to any such person by order of the Magistrate, shall be set off and deducted from any sum claimed by or awarded to him as damages in such suit.

XX. The local Government, with the sanction of the Governor General in Council, may exclude from the operation of this Act any district or tract of country to which its provisions may be judged unsuitable.

XXI. In the construction of this Act, words importing the singular number shall include the plural, and words importing the plural number shall include the singular; words importing the

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the masculine gender shall include females; the word "Magistrate" shall include a Joint Magistrate, or other Officer lawfully exercising the powers of a Magistrate; the expression "Darogah or District Police Officer" shall, in the North-Western Provinces of the Presidency of Fort William, include a Tuhseeldar or Naib Tuhseeldar entrusted with Police powers.

XXII. This Act shall commence and take effect from and after the first day of May 1857.

Commencement of Act.

3 Rs.
Act 14

ACT No. VIII OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd March 1866.)

An Act further to amend the Schedule annexed to the Code of Criminal Procedure.

Whereas it is expedient further to amend the Schedule annexed to the Code of Criminal Procedure ; It is enacted as follows :—

Amendment of Schedule as regards Sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 448 and 451 of the Indian Penal Code.

1. In lieu of the words in the parts of column 7 of the said Schedule respectively referring to Sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 448 and 451 of the Indian Penal Code, that shall be read the words “ Any Magistrate.”

Amendment of Schedule as regards Sections 392 and 393 of the Indian Penal Code.

2. In lieu of the words in the parts of the said column respectively referring to Sections 392 and 393 of the Indian Penal Code, there shall be read the words “ Court of Session or Magistrate of the District.”

Nothing in this Act to alter effect of the rest of the Schedule.

3. Nothing herein contained shall be taken to alter the effect which any other part of the said Schedule had immediately before the passing of this Act.

This Act to be read with the Code of Criminal Procedure.

4. This Act shall be read with and taken as part of the Code of Criminal Procedure.

ACT N^O. XII OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to provide for the compulsory taking of rights to form and maintain private water-courses from public works of irrigation.

Whereas it is expedient to provide for the compulsory taking of rights to form and maintain private water-courses through lands lying between public works of irrigation and the lands, mills, sewers, reservoirs or buildings of persons desiring water from such works for the purposes of irrigating, working or cleansing such lands, mills or sewers, or for bathing, drinking, manufacturing or other useful purposes; It is enacted as follows:—

1. In this Act, words in the singular include the plural, and words in the plural include the singular; "Section" means a Section of this Act; and in every place in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such place and includes a Chief Commissioner: "Collector" includes any Officer authorized to exercise the duties of a Collector of the land revenue of such place: and "Canal Officer" means the chief Officer invested by the Local Government with the immediate control of the District defined by the Local Government for the purposes of irrigation in which such place shall be situate.

2. Whenever

2. Whenever any person shall require the right to form and maintain, for any of the purposes aforesaid, a private water-course through the lands (hereinafter called the intervening lands) lying between a public work of irrigation and his own lands, mills, sewers, reservoirs or buildings, he shall apply in writing under his hand to the Canal Officer, stating

(1.) The particulars of the right so required :

(2.) That the applicant is willing to pay a reasonable sum for the purchase, rent or revenue thereof, to defray the expense of the survey, memoranda and plans required by this Act, to make reasonable compensation for any injury that may be caused to the intervening lands and to the crops thereon by the formation of the proposed water-course, and to construct and maintain such works connected therewith as may be necessary ; and

(3.) That he has endeavoured unsuccessfully to enter into an agreement with the owners, tenants, and occupiers of the intervening lands as to the amount of the purchase-money or rent and compensation aforesaid.

Stamp.

Such application shall bear a stamp of eight annas.

3. On receiving such application, the Canal Officer shall visit the intervening lands and make enquiry as to the expediency of forming the proposed water-course. If he is not satisfied of such expediency, he shall reject the application. But if he is satisfied of such expediency, he shall cause to be made at the applicant's expense a survey of the intervening lands and a memorandum and plan showing the direction, length, width and depth of the proposed water-course ; the bridges, aqueducts, drains or other works (if any) to be made in connection therewith, and the amount of land required therefor. Such memorandum shall also state that, in the opinion of the Canal Officer, the formation of the proposed water-course will be a benefit to the applicant, and will cause no disproportionate injury to the intervening lands, and it shall be subscribed by the Canal Officer and recorded in his Office.

4. The Canal Officer shall forward the said plan together with a copy under his hand of such memorandum to the Collector, who shall furnish a copy under his hand of the memorandum to the Lumberdar or Sudder Malguzar of every village through which the proposed water-course is to pass.

5. The

5. The Collector shall also cause the contents of the said memorandum to be proclaimed in every such village in the local vernacular language, and shall at the same time cause notice to be published in the same language in every such village that any person interested in the lands to be traversed by the proposed water-course, and objecting to its formation, shall be at liberty to apply to him within fifteen days from the date of such proclamation.

6. Any such person may within the time hereinbefore limited present a petition to the Collector, stamped with a stamp of the value of eight annas and setting forth his objections to the formation of the proposed water-course. The Collector may in his discretion either reject the petition, recording his reasons thereon, or make an enquiry, of which he shall give previous notice to the Canal Officer, as to the validity of the objections, and summon witnesses and require them to produce before him all such documents as he shall think fit. Persons so summoned shall be subject to the law for the time being in force as regards persons summoned before a Collector acting judicially.

7. If no objection shall have been made under the provisions of Section 6 ;

Or if the Collector shall think that the objections (if any) to the formation of the proposed water-course are insufficient and that such water-course should be formed ;

Or if he shall think that such objections are sufficient, and that it should not be formed ;

Or if he shall think that such objections exist, but that they may be obviated by the construction of bridges, aqueducts, drains or other such works, in addition to the works (if any) referred to in Section 3, and that the proposed water-course should be formed, proper provision being made for the construction and maintenance of such additional works (mentioning them),

He shall make, subscribe and record in his Office a memorandum to that effect.

Copy of Collector's memorandum to be sent to Canal Officer.

8. The Collector shall thereupon send the Canal Officer a copy under his hand of such memorandum.

9. If the Canal Officer shall agree with the Collector that the water-course should be formed, and that no additional works connected therewith are needed, he shall proceed according to the provisions in such case contained in Section 14.

Procedure thereon when Canal Officer and Collector agree that water-course should be formed.

When Canal Officer and Collector agree that the water-course should not be formed.

10. If he shall agree with the Collector that the water-course should not be formed, he shall give notice thereof to the applicant, and all proceedings shall thereupon be stayed.

When Canal Officer and Collector agree that the water-course should be formed, provision being made as to additional works.

11. If the Canal Officer shall agree with the Collector that the water-course should be formed, proper provision being made for the construction and maintenance of the additional works mentioned in Section 7, he shall cause to be prepared at the expense of the applicant a memorandum and plan of the same works and shall record such memorandum and plan in his Office and shall forward to the Collector the plan and a copy of the memorandum.

Procedure in case Collector and Canal Officer disagree.

12. If the Canal Officer disagree with the Collector's memorandum under Section 7, he shall submit the copy thereof sent to him under Section 8, together with a statement of his own reasons for such disagreement, through the head of his own Department, to the Commissioner of the Division. If the Commissioner agree with the Canal Officer, the Commissioner's decision on the points in dispute shall be final. If the Commissioner disagree with the Canal Officer, the whole case shall be referred to the final decision of the Local Government.

Procedure where Collector is himself Canal Officer.

13. Where the Collector is himself the Canal Officer, he shall forward to the Commissioner of the Division all petitions presented under Section 6, who shall then proceed in the same manner, and with the same powers, as if he were a Collector acting under Section 6; and in every such case Sections 7, 8, 9, 10 and 11 shall be read as if for the word "Collector" the words "Commissioner of the Division" were substituted.

Procedure after thirty days from the giving of notice under Section 5.

14. At the expiration of thirty days from the giving of the notice mentioned in Section 5, if under the provisions hereinbefore contained it shall have been determined that the proposed water-course is to be formed, the Canal Officer shall enter upon the intervening lands and mark out the limits of the proposed water-course; and thereupon the Collector shall adjust the amount to be given as purchase-money, rent and revenue or any of them for the right and as compensation for the injury respectively mentioned in Section 2. In making such adjustment the Collector shall follow the procedure and may exercise the powers prescribed for and conferred upon him by Act No. VI of 1857, Sections 4, 5, 6 and 7.

Collector to fix compensation.

15. The

Collector to require applicant to pay purchase-money.

15. The Collector shall then require the applicant to pay such amount (if any) as shall be payable at once, and, if the said Collector shall think fit to deposit with him such security as he shall deem sufficient for the due payment of the rent and revenue (if any) aforesaid, and for the construction and maintenance of the works (if any) connected with the said water-course. And, on compliance with such requirement, the Collector shall authorize the applicant to take and enjoy the right aforesaid.

In payment, applicant to be authorized to take right.

Applicant may enter with workmen, &c.

16. On receiving such authority from the Collector, it shall be lawful for the applicant, with such workmen, cattle and things as may be necessary, to enter upon the intervening lands and make the proposed water-course within the limits so marked out as aforesaid, and either to remove all or any of the clay, sand, gravel and stones which shall be taken out of the said water-course, or to use all or any parts thereof in making the said water-course and the works connected therewith, and to use such water-course for the purpose of conveying water from the said public works of irrigation in the direction of and into his lands, mills, sewers, reservoirs or buildings as the case may be, at the place indicated in the plan mentioned in Section 3; and from time to time, with such workmen, cattle and things as aforesaid, to enter upon the said intervening lands and inspect, repair and cleanse the said water-course, and from time to time for the purposes aforesaid to place upon the same lands and to remove such materials, machinery and other things as he shall think fit.

Power to Local Government to make rules.

17. It shall be lawful for the Local Government from time to time to prescribe rules, consistent with the provisions of this Act, upon all or any of the subjects next hereinafter mentioned (that is to say):—

(1.)—The formation of the water-course and the works (if any) connected therewith, in a proper and workmanlike manner:

(2.)—The removal of the clay, sand, gravel and stones excavated in the formation of the water-course, and not used as aforesaid:

(3.)—The time for the completion of the water-course and the works (if any) connected therewith:

(4.)—The cleansing of the water-course and the maintenance and repair of the water-course and works (if any) connected therewith:

(5.)—The avoidance of unnecessary damage to the surface of the adjoining lands and the crops for the time being thereon and the compensation for such damage (if any):

(6.)—The prevention of injury to the water-course and of interference with the flow of water through the same:

(7.)—The

(7.)—The making good of such injury and the restoration of the flow of water :

(8.)—The adjustment of the rights in the water-course of the persons for whose benefit it is formed or to whose benefit it may afterwards be extended :

(9.)—In case the water-course be discontinued, the conditions on which the owner of the intervening lands may enter upon the ground within its limits, and the conditions on which the persons mentioned in paragraph (8) of this Section may be discharged from the further payment of rent or revenue in respect of the water-course.

Such rules, when they shall have received the sanction of the Governor General of India in Council, and when they shall have been published in the Official Gazette, shall be read with and taken as part of this Act.

18. No suit shall lie in respect of the compulsory taking, prior to the passing of this Act, of any land for the formation of a private water-course for any of the purposes mentioned in the preamble to this Act. But in every such case it shall be lawful for the Collector within one year from the passing or extension of this Act, on the application of the person from whom the land was so taken, his representatives or assigns, to adjust, in manner hereinafter referred to, the amount to be given as purchase-money, rent or revenue for the said land; and, on failure, within thirty days after such adjustment shall have been notified to the person who shall have taken such land, his representatives or assigns, to pay the said purchase-money, or to give security to the satisfaction of the Collector, for the due payment of the said rent or revenue, the Collector may replace the person from whom the land was so taken, his representatives or assigns, in possession of the land aforesaid. The Collector may also award to him or them such compensation as the Collector shall think fit for the injury (if any) done to such land by the formation of the water-course, and the amount of such compensation may be recovered in such manner as the Local Government shall provide.

19. This Act applies to the Territories respectively under the Governments of the Lieutenant Governor of the North-Western Provinces and the Lieutenant Governor of the Punjab. But it may be extended, *mutatis mutandis*, to any other part of British India by an order of the Local Government notified in the Official Gazette; and from the date of any such extension, so much of any Act, Regulation or Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with this Act or with any rule prescribed by such Government pursuant to Section 17, shall cease to have effect in such Territories.

ACT No. XV OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to amend the Law of Partnership in India.

Whereas it is expedient to amend the Law relating to Partnership; It is enacted as follows :—

Preamble.

1. The advance of money by way of loan to a person engaged or about to engage in any trade or undertaking upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not, of itself, constitute the lender a partner with the person or the persons carrying on such trade or undertaking, or render him responsible as such.

Explanation.—A person who being entitled, whether as a retiring partner or otherwise, to demand and receive present payment of the value of any share or interest of or in the capital or other funds of a business shall, after the value thereof shall have been ascertained between such person and the person or persons liable to pay the same, agree in writing to allow the same to remain therein or to be used by such person or persons for the purposes of such business, shall be construed to make an advance of money by way of loan within the meaning of this Section.

2. No contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

3. No

3. No person being the widow or child of the deceased partner of a trader, and receiving by way of annuity a portion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of or to be subject to any liabilities incurred by such trader.

Certain annuitants not to be deemed partners.

4. No person receiving by way of annuity or otherwise a portion of the profits of any business, in consideration of the sale by him of the good-will of such business, shall, by reason only of such receipt, be deemed to be a partner of, or be subject to, the liabilities of the person carrying on such business.

Receipt of profits, &c., not to make the seller a partner.

5. In the construction of this Act, the word "person" shall include a Partnership Firm, a Joint Stock Company, and a Corporation.

Interpretation of "person."

ACT No. XVI of 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to relieve the Governor-General of India in Council from the duty of signing the Commissions mentioned in Sections 22 and 44 of the High Courts' Criminal Procedure Amendment Act, 1865.

Whereas it is expedient to relieve the Governor-General of India in Council from the duty of signing the Commissions respectively mentioned in Sections 22 and 44 of "The High Courts' Criminal Procedure Amendment Act, 1865;" It is enacted as follows:—

1. A seal shall be made at the expense of the Government of India with this inscription, "The Seal of the Governor-General of India in Council," and shall be kept in the custody of such person as the Governor-General of India in Council shall from time to time appoint in that behalf, and the Commissions respectively mentioned in Sections 22 and 44 of "The High Courts' Criminal Procedure Amendment Act, 1865," may be stamped with such seal by such person as the Governor-General of India in Council shall from time to time appoint in that behalf; and when so stamped shall be equally valid and effectual as if they had been signed by the Governor-General of India and the Members of his Council.

Seal to be made.

Stamping of Commissions under Act No. XIII of 1865, Sections 22 and 44.

ACT N^o. XVIII OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1866.)

An Act to alter the Customs duty on the export of Saltpetre.

Whereas it is expedient to alter the duty of Customs on Saltpetre exported by Sea from any port in British India; It is enacted as follows :—

1. In lieu of the Schedule B annexed to Act No. XXV of 1865 (to amend the Law relating to the duties of Customs on Goods exported and imported by Sea) the following Schedule shall be substituted (that is to say) :—

New Schedule of Export duties substituted for Schedule B to Act No. XXV of 1865.

SCHEDULE B.

Rates of duty to be charged upon goods exported by Sea to any Foreign Port as defined in the Consolidated Customs' Act from any Port in British India.

1. Bullion and Coin	...	...	...	Free
2. Precious Stones and Pearls	...	...	...	"
3. Horses and other living animals	...	...	...	"
4. Rum	...	...	...	"
5. Spirits	...	...	...	"
6. Tobacco and all preparations thereof	...	...	...	"
7. Cotton Wool	...	...	...	"
8. Flax	...	...	...	"
9. Hemp	...	...	...	"
10. Books	...	...	...	"
11. Maps, Prints, and Works of Art	...	...	...	"
12. Teak				

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12.	Teak Timber	...	...	...	Free.
13.	Coal	...	...	...	"
14.	Iron	...	...	...	"
15.	Jute	...	...	...	"
16.	Coffee	...	...	...	"
17.	Tea	...	...	...	"
18.	Sugar	...	...	...	"
19.	Wool.	...	...	...	"
20.	Hides and Skins, raw	...	...	...	"
21.	Raw Silk and Silk Chussum	...	...	...	"
22.	Grain and Pulse	...two Annas the Indian	maund	of forty seers	
				of eighty to-	
23.	Indigo	...three Rupees the Indian	maund	lahs to the	
				seer.	
24.	Lac Dye and Shell Lac	...four per cent.	<i>ad valorem</i> .		
25.	All country articles not	enumerated or named	three per cent.	<i>ad valorem</i> .	
	above				

This Act to be read with
Act No. XXV of 1865.

2. This Act shall be read with, and taken as part of,
Act No. XXV of 1865.

ACT No. XIX OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1866.)

An Act to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort Saint George in Council.

Whereas it is expedient to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort Saint George in Council for consumption in that Presidency;
Preamble.
It is enacted as follows :—

New Section substituted
for Section 43 of Act No.
VI of 1844.

1. Section 43 of Act No. VI of 1844 is hereby repealed, and in lieu thereof the following Section shall be substituted (that is to say) :—

XLIII.—The price to be paid to the Government of the Presidency of Fort Saint George, for Salt manufactured and sold under the orders of the Governor of the Presidency in Council for consumption within the Territories subordinate to the same Presidency shall, from and after the passing of this Act, be one Rupee and eleven Annas for every three thousand two hundred tolals weight of Salt.

This Act to be read with
Act No. VI of 1844.

2. This Act shall be read with, and taken as part of,
Act No. VI of 1844.

THE INDIAN REGISTRATION ACT, 1866.

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PART XIII.

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ACT

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd April 1866.)

An Act to provide for the Registration of Assurances.

Whereas it is expedient to consolidate and amend the Laws relating to the
Preamble. Registration of Assurances; It is enacted as follows :—

PART I.

Preliminary.

Short Title. 1. This Act shall be called "The Indian Registration Act, 1866."

Interpretation Clause. 2. In this Act—unless there be something repugnant in the subject or context.—

"British India" denotes the Territories which are or may become vested in Her Majesty or Her Successors by the Statute 21 and 22 Vic., Cap. 106, entitled "An Act for the better government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca:

"Year" and "Month." "Year" and "Month" respectively mean a year or month reckoned according to the British Calendar:

"Section." "Section" denotes a Section of this Act:

"Lease"

"Lease."	"Lease" includes a counterpart, a kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease; but not a puttah or muchilka, as respectively defined in Section 3 of Act No. VIII of 1865, of the Governor of Fort Saint George in Council, executed in the Madras Presidency.
"Will."	"Will" includes a codicil and every writing making a voluntary posthumous disposition of property.
"Instrument."	"Instrument" does not include a Will nor an authority to adopt.
"Obligation."	"Obligation" denotes any instrument by which one person (hereinafter called the obligor) binds himself absolutely or conditionally to pay money to another person (hereinafter called the obligee,) and includes a Bond, a Bill of Exchange, a Hundi, and a Promissory Note.
"Signature." "Signed."	"Signature" and "Signed" include and apply to the affixing of a mark.
"Immoveable Property."	"Immoveable Property" includes land, buildings, rights to ways, lights, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth; but not standing timber, growing crops, nor grass.
"Moveable Property."	"Moveable Property" includes standing timber, growing crops, grass, fruit upon trees, and property of every other description except immoveable property.
"Book."	"Book" includes a portion of a book and also any number of sheets connected together, with a view of forming a book or portion of a book.
"Endorsement." "Endorsed."	"Endorsement" and "Endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering-slip to any document tendered for registration under this Act.
"Representative."	"Representative" includes the guardian of an Infant and the Committee or other legal Curator of a Lunatic or Idiot:
"Oath."	"Oath" includes a solemn affirmation:
"Imprisonment."	"Imprisonment" means imprisonment of either description as defined in the Indian Penal Code:

"Person"

"Person."	"Person" includes any Company or Association or body, or persons whether incorporated or not:
"Addition."	"Addition" means the place of residence, and the profession, trade, rank, or title (if any) of a person described:
Number. Gender.	Words in the singular number include the plural; words in the plural number include the singular, and words importing the masculine gender include females;
"Local Government."	And in any part of British India in which this Act operates, "Local Government" denotes the person authorized by law to administer the Executive Government in such part: "High Court" denotes the highest Civil Court of Appeal therein: "District Court" means the principal Civil Court of Original Jurisdiction in a District, and includes the High Court in its ordinary Original Civil Jurisdiction; and "Civil Court" includes a Revenue Court, but not a Court for the relief of insolvent debtors:
"High Court."	
"District Court."	
"Civil Court."	
"General Registry Of- fice."	"General Registry Office" includes a Branch General Registry Office:
"District." "Sub-District."	"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

3. Acts No. XVI of 1864 and No. IX of 1865 are hereby repealed, except in so far as the former Act rescinds other Acts or Regulations, and except as regards things duly done and penalties incurred under the Acts hereby repealed or either of them. And all things duly done under the same Acts, or either of them, shall be considered as having been done under this Act.

4. It shall be lawful for the Governor General of India in Council, by an order to be published in the Gazette of India, to declare that in any Territory under the immediate administration of the Government of India, the Head Executive Officer of such Territory shall exercise all or any of the powers vested by this Act in the local Governments; and thereupon such Officer shall, for the purposes of this Act, be the local Government of such Territory.

PART II.

PART II.

Of the Registration Establishment.

5. The local Government shall establish within the Territories, subject to such Government, at such place as it shall think fit, an Office to be called the General Registry Office, and shall appoint an Officer to the charge of such Office, who shall be the Registrar General of the Territories for which he is appointed. The local Government may also, with the previous sanction of the Governor General of India in Council, establish a Branch General Registry Office, and appoint a Branch Registrar General; and every act done by or before any Branch Registrar General so appointed shall have the same effect as if done by or before a Registrar General: provided that such Branch Registrar General shall not exercise the power to frame rules conferred on the Registrar General by Section 80. Any Registrar General or Branch Registrar General may hold simultaneously any other office under Government.

6. For the purposes of this Act the local Government shall form Districts and Sub-Districts, and shall prescribe and from time to time may alter the limits of such Districts and Sub-Districts. A Sub-District may be conterminous with a District, or may be situate partly in one District and partly in another.

The Districts and Sub-Districts formed under this Section, together with the limits thereof, and every alteration of such limits shall be notified by the local Government in the Official Gazette immediately after every such formation or alteration. Every such alteration shall take effect on such day after the notification as shall be mentioned therein.

7. The local Government shall establish in every District an Office to be styled the Registry Office; and in every Sub-District an Office to be styled the Sub-Registry Office.

8. The local Government may appoint such persons, whether Public Officers or not, as it may think proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts formed as aforesaid respectively.

9. During

9. During the absence on duty of the Registrar General or Branch Registrar General from the place where the General Registry Office is established, it shall be lawful for him to appoint the Registrar of such place, or, with the previous sanction of the local Government, such other person as he shall think fit, to perform the duties of the Registrar General, except those mentioned in Sections 80 and 83. A Registrar so appointed shall perform such duties in addition to his own duties as Registrar. During such absence, the Registrar or other person so appointed as aforesaid, shall be styled the Deputy Registrar General or Deputy Branch Registrar General, as the case may be, and may use the Seal of the Registrar General or Branch Registrar General, as the case may be.

10. In case of the absence from his District or of a vacancy occurring in the Office of any Registrar other than the Registrar of a District including a Presidency Town, any person whom the Registrar General shall appoint in this behalf, or, in default of such appointment, the Judge of the District Court shall, during such absence or vacancy, be the Registrar. In case of the absence of the Registrar of a District including a Presidency Town, or of a vacancy occurring in the Office of any such Registrar, it shall be lawful for the Registrar General to appoint any person whom he may think proper to conduct the duties of the office of such Registrar.

11. In case of the absence of any Registrar from his Office on duty in his District, it shall be lawful for him to appoint any Sub-Registrar in his District to perform, during such absence, all the duties of a Registrar except those mentioned in Sections 79 and 83.

12. In case of the absence of any Sub-Registrar, or of a vacancy occurring in the Office of any Sub-Registrar, any person whom the Registrar of the District shall appoint in this behalf shall, during such absence or vacancy, be Sub-Registrar.

13. All appointments made under Section 9, 10, 11 or 12 shall be reported to the local Government by the Registrar General or Branch Registrar General, as the case may be. Such report shall be either special or general, as the local Government shall direct;

Local Government may suspend, remove, or dismiss any person appointed under this Act.

direct; and the local Government shall have power to suspend, remove, or dismiss any persons appointed under the provisions of this Act, and to appoint other persons in their stead.

Remuneration and establishments of Registering Officers.

14. It shall be lawful for the local Government, with the previous sanction of the Governor General of India in Council, to assign such salaries as such Government may from time to time deem proper, to the Registering Officers appointed under this Act, or to provide for the remuneration of such Officers by fees, or partly by fees and partly by salaries. It shall also be lawful for the local Government, with the like sanction, to allow such establishments for the several Registration Offices as may be necessary for the purposes of this Act.

Seals of Registering Officers.

15. The Registrar General, Branch Registrar General, and the several Registrars and Sub-Registrars shall use a Seal bearing the following inscription in English, and in such other language as the local Government shall direct: "The seal of the Registrar General (or of the Branch Registrar General, or of the Registrar, or of the Sub-Registrar) of ."

Register-Books.

16. The local Government shall provide for the Office of every Registering Officer such books as may be necessary for the purposes of this Act. The books so provided shall contain such forms as shall from time to time be prescribed by the Registrar General, with the sanction of the local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the Officer by whom such books shall be issued. The local Government shall further supply the Office of every Registrar with a fire-proof box.

Fire-proof boxes.

PART III.

Of registrable Documents.

Instruments of which the registration is compulsory.

17. The instruments next hereinafter mentioned shall be registered, provided the property to which they relate shall be situate in a District in which, and provided they shall have been executed on or after

after the date on which the said Act No. XVI of 1864 or this Act shall have come or shall come into operation; (that is to say):—

1. Instruments of gift of immoveable property:

2. Instruments (other than an instrument of gift) which purport or operate to create, declare, assign, limit, or extinguish, whether in present or in future, any right, title, or interest, whether vested or contingent, of the value of one hundred Rupees and upwards to or in immoveable property:

3. Instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, or extinction of any such right, title or interest, and—

4. Leases of immoveable property for any term exceeding one year:

Provided that the former part of this Section shall not apply to any Composition-deed nor to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property, nor to any endorsement upon or transfer of any Debenture issued by any such Company: Provided also that, so far only as regards the Territories respectively under the Governments of the Lieutenant-Governors of Bengal, and the North-West Provinces, the Local Government may, by Order published in the Official Gazette, exempt from the operation of the former part of this Section any leases of immoveable property, executed in any particular district or part of a district, the terms granted by which shall not exceed two years, and the annual rents reserved by which shall not exceed fifty Rupees.

Exception of Composition Deeds.

And of transfers of Shares and Debentures in Land Companies.

Documents of which the registration is optional.

18. Any of the documents next hereinafter mentioned may be registered under this Act; (that is to say):—

1. Instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred Rupees to or in immoveable property:

2. Instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, or extinction of any such right, title or interest:

3. Leases of immoveable property for any term not exceeding one year, and the puttahs and muchilkas referred to in Section 2:

4. Awards

4. Awards relating to immoveable property :
5. Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property :
6. Wills or Authorities to adopt a son :
7. Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts, Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not herein-before mentioned.

19. If any document duly presented for registration be in a language which the Registering Officer does not understand, and which is not commonly used in the District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District, and also by a true copy.

20. It shall be in the discretion of the Registering Officer to refuse to accept for registration any document in which any interlineation, blank, erasure, or alteration shall appear unless the persons executing the document shall attest with their signatures or initials, such interlineation, blank, erasure or alteration ; and it shall be the duty of the Officer registering such document, at the time of registering the same, to make a note in the Register of such interlineation, blank, erasure or alteration.

21. No instrument relating to immoveable property shall be accepted for registration unless it shall contain a description of such property sufficient to identify the same. Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers, if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their occupancies, and also, whenever it is practicable, by reference to a Government Map or Survey. No document containing a Map or Plan of any property comprised therein shall be accepted

Documents containing Maps or Plans. accepted for registration, unless it be accompanied by a true copy of the Map or Plan, or, in case such property shall be situate in several Sub-Districts, by such number of true copies of the Map or Plan as shall be equal to the number of such Sub-Districts, and, in case the property shall be also situate in several Districts by such further number of true copies of the Map or Plan as shall be equal to the number of such Districts.

PART IV.

Of the Time of Registration.

22. Subject to the provision contained in Section 24, no instrument of the kinds mentioned in Section 17, Clauses 1, 2, 3 and 4, shall be accepted for registration, unless presented for that purpose to the proper Officer within four months from the date of its execution ; provided that, where there are several persons executing it at different times, the instrument may be presented for registration and re-registration within four months from the date of each execution.

23. Subject to the provision contained in Section 24, no document of any of the kinds mentioned in Section 18 (other than a Will or Authority to adopt a son), shall be accepted for registration, unless presented for that purpose to the proper Officer within two months from the date of its execution ; provided that, where there are several persons executing it at different times, the document may be presented for registration and re-registration within two months from the date of each execution.

Explanation. The date of execution of a document means the day on which it purports to have been executed.

24. If any instrument shall, owing to urgent necessity or unavoidable accident, not have been presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, it shall be lawful for the Registrar, in cases where the delay in presentation shall not exceed four months, to direct, that on payment, as a penalty, of a sum not exceeding twenty times the amount of the proper registration fee, such instrument shall be accepted for registration.

25. Whenever

25. Whenever the last day of any period hereinbefore provided for the registration of any document shall fall on a Sunday or other holiday declared as hereinafter mentioned, such last day shall, for the purposes of this Act, be deemed to be the day immediately following such Sunday or other holiday.

Provision for last day of period for registration falling on a holiday.

Wills or Authorities to adopt may be registered or deposited at any time.

26. Any Will or Authority to adopt a son may at any time be registered or deposited in manner hereinafter provided.

27. In Act No. XIV of 1859, Section 1, Clause 10, the last Clause shall be read as if for the words 'within six months from the date thereof' the words 'within the time prescribed in that behalf by "The Indian Registration Act, 1866" were substituted.

Alteration of Act No. XIV of 1859, Section 1, Clause 10.

28. Nothing in this Act shall be taken to alter the time within which any certificate or other document must be registered under the provisions of "The Bankrupt Law Consolidation Act, 1849," Section 143, or any other Act of the Parliament of the United Kingdom of Great Britain and Ireland.

Saving of time prescribed by Statute for registration of instruments.

PART V.

Of the Place of Registration.

29. Save as in this Act otherwise provided, every instrument mentioned in Section 17, Clauses 1, 2, 3 and 4, and Section 18, Clauses 1, 2, 3 and 4, shall be presented for registration in the Office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such instrument relates is situate.

Place for registering instruments relating to immovables.

30. Every instrument other than an instrument referred to in the last preceding Section, may be presented for registration in the Office of the Sub-Registrar in whose Sub-District the instrument was executed, or in the Office of any Sub-Registrar under the local Government at which all the persons executing and claiming under the instrument shall desire the same to be registered.

Place for registering other instruments.

31. The Registrar General may, in his discretion, receive and register any instrument referred to in Section 29, without regard to the situation in any part of British India of the property to which the Instrument relates.

Registration by Registrar General of Instruments referred to in Section 29.

32. Any

32. Any Registrar may, in his discretion, receive and register any instrument which might be registered by any Sub-Registrar subordinate to him. He shall also register Wills and Authorities to adopt. The Registrar of a District, including a Presidency Town, shall be deemed to be a Sub-Registrar within the meaning of this Act for such portion of his District (if any) as shall not have been formed into a Sub-District.

Registration by Registrar.

33. In ordinary cases the registration or deposit of documents under this Act shall be made only at the public Office of the Officer whose duty it shall be to register the same: but any such Officer may, on special cause being shown, attend at the residence of any person intending to register any document, or of any person desiring to deposit a Will or Authority to adopt a son, and register or accept for registration or deposit such Document, Will or Authority. Every Sub-Registrar so attending shall, within twenty-four hours, report to the Registrar, to whom he is subordinate, the fact of the attendance and his reason therefor.

Registration or acceptance for deposit at private residence.

PART VI.

Of the Presentation of Instruments for Registration.

34. Subject to the provisions of the last preceding Section, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper Registration Office by some person executing or claiming under the same, or by the representative or assign of such person, or by the agent of such person, representative or assign, duly authorized by Power of Attorney executed and authenticated in manner hereinafter mentioned.

Persons to present Documents for registration.

Powers of Attorney recognizable for purposes of Section 34.

35. For the purposes of the last preceding Section, the Powers of Attorney next hereinafter mentioned shall alone be recognized, (that is to say);—

(a.) If the principal at the time of executing the Power of Attorney resides in any part of British India in which this Act operates, a Power of Attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides:

(b.) If

(b.) If the principal at the time aforesaid resides in any other part of British India, a Power of Attorney executed before and authenticated by the Judge of the District Court within the local limits of whose jurisdiction the principal resides :

(c.) If the principal at the time aforesaid does not reside in British India, a Power of Attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-consul, or Representative of Her Majesty or of the Government of India.

Any Power of Attorney mentioned in this Section may be proved by the production of it without farther proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

Provided that persons who by reason of bodily infirmity are unable without risk or serious inconvenience to attend as next hereinafter mentioned, and persons who are in jail under civil or criminal process, and persons exempt by law from personal appearance in Court, shall not be required to attend at the Office of the Registrar or Sub-Registrar, or in the Court of the Judge for the purpose of executing any such Power of Attorney as is mentioned in Clauses (a) and (b) of this Section ; but in every such case the Registrar or Sub-Registrar or Judge (as the case may be,) if satisfied that the Power of Attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the Office or Court aforesaid. To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal or to the jail in which he is confined and examine him, or issue a Commission for the examination of such person.

36. Subject to the provisions contained in this Section and in Sections 76, 80, 84 and 89, no document shall be registered under this Act unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the Registering Officer. He shall thereupon enquire whether or not such document was executed by the persons by whom it purports to have been executed, and, in the case of any person appearing as a representative, assign, or agent, satisfy himself of the right of such person so to appear.

If all the persons executing the document appear personally before the Registering Officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ;

Or,

Or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent shall admit the execution ;

Or, if the person executing the document shall be dead, and his representative, assign or agent shall not appear before the Registering Officer, or shall refuse to admit the fact of execution, but such Officer shall nevertheless be satisfied of the fact of execution ;

The Registering Officer shall register the document as directed in Section 68.

The Registering Officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one, whether summoned or not under Section 37, present in his office.

PART VII.

Of the Enforcement of Attendance of Executants and Witnesses.

37. If any person presenting any document for registration shall desire the attendance of any person whose presence or testimony is necessary for the registration of such document, the Registering Officer may, in his discretion, call upon the Revenue Officer in whose jurisdiction the person whose attendance is so desired may be, to issue and serve a summons requiring him to attend at the Registration Office, either in person or by duly authorized agent, as in the summons may be mentioned and at a time named in such summons.

38. The Revenue Officer, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause the same to be served upon the person whose attendance is so required.

39. Any person who by reason of bodily infirmity is unable, without risk or serious inconvenience, to attend in the Registration Office, and any person who is in jail under civil or criminal process, and any person exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to attend in person at the Registration Office, shall not be required so to attend ; but in every such case, the Registering Officer shall either himself go to the house of such person or to the jail in which he is confined and examine him, or issue a Commission for his examination.

Law as to summonses, commissions and witnesses in civil suits to apply to summonses, commissions and witnesses under this Act.

40. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

PART VIII

PART VIII.

Of sending to a Registry Office Memoranda of Decrees and Orders affecting Immoveable Property.

41. When any Civil Court shall by a decree or order declare any document relating to immoveable property, which shall have been registered under this Act, to be invalid, or when any Civil Court shall pass a decree or order affecting any such document, and such last mentioned decree or order shall create, declare, transfer, limit or extinguish any right, title or interest under such document to or in the immoveable property to which it relates, such Court shall cause a memorandum of the decree or order to be sent to the Registrar within whose District the document was originally registered.

Memorandum of decree affecting registered document relating to immoveable property to be sent to Registrar within whose District the document was originally registered.

42. When any Civil Court shall by a decree or order create, declare, transfer, limit or extinguish any right, title or interest of any person to or in any immoveable property situate in any part of British India in which this Act shall operate, such Court shall cause a memorandum of the said decree or order to be sent to the Registrar or to every Registrar within whose District the whole or any part of such immoveable property is situate, and such memorandum shall so far as may be practicable describe the property in manner required by Section 21.

Memorandum of decree affecting immoveable property to be sent to Registrar in whose District such property is situate.

43. The costs of and attending the registration under Sections 41 and 42 of any memorandum of a decree or order shall be costs in the cause, and shall be paid by the Court to the Registrar or to such other person and in such way as the local Government shall direct in that behalf.

Costs of registration of memoranda of decrees and orders.

PART IX.

Of the Presentation and Deposit of Wills and Authorities to adopt.

44. The testator or any person claiming as executor or otherwise under a Will, may present to any Registrar for registration such Will, and the donor or donee of any authority to adopt, or the adoptive son, may present to any Registrar for registration such Authority. Any person entitled to present for registration any such Will or Authority may either personally or by a duly authorized agent present to a Registrar such Will or Authority open, and any testator or donor of such Authority may either personally or by duly authorized agent deposit with any Registrar the Will or Authority in a sealed cover superscribed with the name of the depositor and the nature of the document.

Persons entitled to present for registration Wills and Authorities to adopt.

Presentation or deposit of Wills and Authorities to adopt.

45. If

45. If the depositor of any such sealed cover shall wish to withdraw the same, it shall be lawful for him to apply to the Registrar in whose Office such cover shall have been deposited, that the same be delivered to him; and the Registrar, if he shall be satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

Withdrawal of sealed cover deposited under Section 44.

46. If on the death of the depositor of a sealed cover under Section 44, application be made to the Registrar in whose Office such cover was deposited to open the same, the Registrar, if he shall be satisfied that the depositor is dead, shall, in the presence of the person making such application, open the cover, and shall copy at the expense of the applicant the contents thereof in his Book No. 4. When such copy shall have been made, the Registrar shall re-deposit the original Will or Authority.

Proceedings on death of depositor.

Re-deposit.

PART X.

Of the Effects of Registration and Non-Registration.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Time from which registered document operates.

48. All instruments duly registered under this Act, and relating to any moveable or immoveable property, shall take effect against any oral agreement or declaration relating to the same property.

Registered instruments relating to property to take effect against oral agreements.

49. No instrument required by Section 17 to be registered shall be received in evidence in any Civil proceeding in any Court, or shall be acted on by any Public Servant as defined in the Indian Penal Code, or shall affect any property comprised therein, unless it shall have been registered in accordance with the provisions of this Act.

Effect of non-registration of documents required to be registered.

50. Every instrument of the kinds mentioned in Clauses 1, 2 and 3 of Section 18 shall, if duly registered, take effect, as regards the property comprised therein, against every unregistered instrument relating to the same property, whether such other instrument be of the same nature as the registered instrument or not.

Registered instruments relating to immoveables of which the registration is optional to take effect against unregistered instruments.

51. Suits to recover money lent or interest, or for the breach of any contract, may be brought within six years from the time when the cause of suit arose, in every case in which there is an engagement or contract in writing, provided that such engagement or contract be duly registered under this Act.

Period of limitation in suits under a registered written contract for money lent or interest or breach of contract.

Special

Special Registration of Obligations for Payment of Money.

52. Whenever the obligor and obligee of an obligation shall agree that, in the event of the obligation not being duly satisfied, the amount secured thereby may be recovered in a summary way, and shall at the time of registering the said obligation apply to the Registering Officer to record the said agreement, the Registering Officer, after making such enquiries as he may think proper, shall record such agreement at the foot of the endorsement and certificate required by Sections 66 and 68, and such record shall be signed by him and by the obligor, and shall be copied into the Register Book No. 1 or No. 6, as the case may be, and shall be *prima facie* evidence of the said agreement.

53. Within one year from the date on which the amount becomes payable, or, where the amount is payable by instalments, within one year from the date on which any instalment becomes payable, the obligee of any such obligation registered with such agreement as aforesaid, whether under the said Act No. XVI of 1864, or under this Act, may present a petition to any Court which would have had jurisdiction to try a regular suit on such obligation for the amount secured thereby, or for the instalment sought to be recovered.

The petition shall, where a stamp is required by law, bear a stamp of one-fourth the value prescribed for a plaint in such a suit, and may be amended by permission of the Court, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints.

On production in Court of the obligation and of the said record signed as aforesaid, the petitioner shall be entitled to a decree for any sum not exceeding the sum mentioned in the petition together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the Court.

Such decree may be enforced forthwith under the provisions for the enforcement of decrees contained in the Code of Civil Procedure.

54. In any proceedings under this Part of this Act, the Court may order the obligation sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff shall have given security for costs thereof.

55. After decree, the Court may, under special circumstances, set aside the decree, and, if necessary, stay or set aside execution; but there shall be no appeal against any decree or order made under Section 53, Section 54, or this Section.

PART XI.

PART XI.

*Of the Duties and Powers of Registering Officers.**(A) As to the Register Books and Indexes.*

56. The following books shall be kept in the several Offices hereinafter named; (that is to say):—

In all Registration Offices:—

Book 1.—“Register of Instruments relating to immoveable property.”

Book 2.—“Record of reasons for refusal to register.”

In the Offices of Registrars:—

Book 3.—“Register of deposits of Wills and Authorities to adopt,” and

Book 4.—“Register of Wills and Authorities to adopt.”

In the Offices of Registrars and of Sub-Registrars:—

Book 5.—“Register of Decrees and Orders.”

Book 6.—“Miscellaneous Register.”

In Book 1 shall be entered all documents registered under Section 17 and the first 4 Clauses of Section 18, and all other documents mentioned in Section 18, Clause 7, which relate to immoveable property. In Book 5 shall be filed all memoranda of Decrees and Orders sent under Section 42. In Book 6 shall be entered all documents registered under Clauses 5 and 7 of Section 18, and not entered in Book 1 or in Book 5: Provided that, if the Registrar General shall so direct, wherever Act No. XVI of 1864 is now in force, down to the 31st day of December 1866 and no longer, the books directed to be kept by Section 56 of the same Act shall be kept, and the rules relating to the entries made therein and the Indexes to be made therefor shall be observed, anything in this Act contained to the contrary notwithstanding.

57. The day, hour and place of presentation, and the signature of every person presenting a document for registration shall be endorsed on every such document at the time of presenting the same; and, subject to the provisions contained in Section 70, every such document shall without unnecessary delay be copied in the book appropriated therefor according to the order of its presentation, and a receipt for such document shall be given by the Registering Officer to the person presenting the same.

58. All entries in each book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

59. In every Office in which any of the books next hereinafter mentioned are kept, there shall be prepared current Indexes of the contents of such books; and every entry in such Indexes shall be made, so far as practicable, in alphabetical order and immediately

ately after the document to which it relates shall have been copied by the Registering Officer.

60. Two such Indexes shall be made in all Registration Offices, and shall be named respectively Index No. I and Index No. II. Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Books Nos. 1, 3 or 4, and the name of the first plaintiff and first defendant in the suit in the case of all memoranda filed in Book 5. Index No. II shall contain such particulars mentioned in Section 21 relating to every such document as the Registrar General may from time to time direct in that behalf. A third Index to be called Index No. III shall be made by Registrars and Sub-Registrars, and shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book Nos. 6 Indexes Nos. I, II and III shall also contain such other particulars, and shall be prepared in such form as the Registrar General shall from time to time direct.

Indexes to be made by Registering Officers.

Extra particulars in Indexes.

Two copies of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.

One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's Indexes, and the other to be sent to General Registry Office with a copy of entries in Registrar's Indexes.

ing the last of such intervals.

Copies sent by Registrar to be filed in Indexes of General Registry Office.

64. If the Registrar General shall so direct, an alphabetical Index shall be prepared in every Registration Office at the end of each year of all entries made during the past year in the current Indexes in such office; and in every office in which Book No. 2 shall be kept, an alphabetical Index shall be prepared at the end of each year to the entries made in such book during the past year.

Annual alphabetical Index to entries in Indexes.

65. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1, 2, and 5 and the Indexes relating to such books shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of Section 70, copies of entries in such books shall be given to all persons applying for such copies. Subject to the same provision, copies of entries in Books Nos. 3, 4, and 6 and in the Indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the registering Officer. Such copies shall be signed and sealed by the Registering Officer, and shall be *prima facie* evidence of the contents of the original documents.

Registering Officers to allow inspection of certain books and Indexes and to give certified copies of entries.

(B.)—As to the Procedure on admitting to Registration.

Particulars to be endorsed on documents admitted to registration.

66. On every document admitted to registration, there shall be endorsed from time to time the following particulars, (that is to say):—

1. The signature and addition of every person admitting the execution of the document; and, if such execution shall have been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent:

2. The signature and addition of every person who may have been examined in reference to such document under any of the provisions of this Act; and

3. Any payment of money or delivery of goods made in the presence of the Registering Officer in reference to the execution of the document, and any admission of receipt of consideration made in his presence in reference to such execution.

67. The Registering Officer shall affix the date and his signature to all endorsements mentioned in the last preceding Section, relating to the same document, and made in his presence on the same day.

Such endorsements to be dated and signed by Registering Officer.

68. After the provisions of Sections 36, 66 and 67 shall have been complied with, the Registering Officer shall endorse on the document a certificate containing the word "Registered," together with the number and page of the book in which the document shall have been copied. Such certificate shall be signed, sealed and dated by the Registering Officer, and shall then be *prima facie* evidence that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsement referred to in the last preceding Section have occurred as therein mentioned.

And returned with certificate showing number and page of book in which document has been registered.

65. Subject

69. The

69. The endorsements and certificate mentioned in Sections 67 and 68 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in Section 21 shall be filed in Book No. 1. The registration of the document shall thereupon be considered to be complete, and the document shall then be returned to the person who shall have presented the same for registration, or to such other person (if any) as he shall have nominated in writing in that behalf on the receipt mentioned in Section 57.

Endorsements and certificate to be copied.

Document to be returned.

70. When a document is presented for registration under Section 19, the translation shall be transcribed in the Register of Instruments of the nature of the original, and, together with the copy referred to in Section 19, shall be filed in the Registration Office; and the endorsements and certificate respectively mentioned in Sections 67 and 68 shall be made on the original, and for the purpose of making the other copies required by any Section other than Section 65, the translation shall be treated as if it were the original.

Procedure on presentation of a document in a language unknown to the Registering Officer.

71. It shall be lawful for every Registering Officer, at his discretion, to administer an oath to any person examined by him under the provisions of this Act. He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he shall admit the correctness of such note, it shall be signed by the Registering Officer.

Power to administer oaths.

Record of substance of statements.

(C.) Special Duties of Sub-Registrar.

72. Every Sub-Registrar on registering a Document relating to immoveable property which is not wholly situate in his own Sub-District, shall forward a copy thereof, and of the endorsement and certificate thereon, and of the map or plan (if any) mentioned in Section 21 to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate; and every such Sub-Registrar shall file such copies in his Book No. 1.

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub-Districts.

73. Every Sub-Registrar on registering a document relating to immoveable property situate in more Districts than one, shall also forward a copy thereof and of the endorsement and certificate thereon, together with such number of copies of the map or plan (if any) mentioned in Section 21 as may be necessary, to the Registrar of every District in which any part of such property is situate

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Districts.

is situate other than the District in which his own Sub-District is situate. The Registrar on receiving the same shall enter in his Book No. 1 the copy of the document and one of the copies of the map or plan (if any), and shall forward a copy of the document together with a copy of the map or plan (if any) to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such copies shall file the same in his Book No. 1.

(D.)—Special Duties of Registrar.

74. On registering any instrument relating to immoveable property under Section 32 the Registrar shall forward a copy of such instrument, together with a copy of the map or plan (if any) mentioned in Section 21, to each Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate, and he shall also forward a copy of such instrument, together with such number of copies of the map or plan (if any) mentioned in Section 21, as may be necessary, to any other Registrar in whose District any part of such property is situate; and every Sub-Registrar and Registrar, on receiving any such copy or copies, shall follow the procedure prescribed for them respectively in Section 73.

Procedure on registering instruments under Section 32.

75. Every memorandum received under Section 41 shall be copied in the margin of the part of the book in which the document affected by such memorandum is registered; and for this purpose the Registrar shall send a copy of such memorandum to every Sub-Registrar in his District in whose office the said document is registered, who shall copy such memorandum in the margin of the copy of the document registered in his office. When any such memorandum shall relate to immoveable property situate in more Districts than one, the Registrar receiving the same shall also send a copy thereof to every other Registrar within whose District any part of such property is situate, who shall on receiving such copy follow the procedure prescribed for a Registrar in the first clause of this Section. Every memorandum received by a Registrar under Section 42 shall be filed by him in his Register Book No. 5, and he shall then send a copy thereof to every Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate, and every such Sub-Registrar shall file it in his Register Book No. 5.

Procedure on receipt of memorandum under Section 41.

Procedure on receipt of memorandum under Section 42.

76. A Will and an Authority to adopt presented for registration by the testator or donor may be registered in the same manner as any other document. A Will or Authority to adopt presented for registration by any person entitled to present the same, other than

Registration of Wills and Authorities to adopt.

than the testator or donor, shall be registered if the Registrar shall be satisfied that the person so presenting the same is the person he represents himself to be, and that the Will or Authority was executed by the testator or donor, as the case may be.

77. On receiving for deposit a sealed cover under Section 44, the Registrar, if he shall be satisfied that the depositor is the testator or donor, as the case may be, or his duly authorized agent, shall transcribe in his Register Book No. 3 the superscription on such sealed cover, and note in the Register and on the sealed cover the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover. The Registrar shall then place and retain the sealed cover in his fire-proof box.

Procedure on deposit of Wills or Authorities to adopt.

(E.)—*Of the Registrar General.*

78. On any instrument being registered in the General Registry Office under Section 31, a copy of such instrument and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose District any part of the property to which the instrument relates is situate, and the Registrar receiving such copies shall follow the procedure prescribed for him in Section 73.

Procedure on registration in General Registry Office.

(F.)—*Of the Controlling Powers of Registrars and Registrars General.*

79. Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose District the office of such Sub-Registrar is situate; and every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he may consider necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the Book or the Office in which any document shall have been registered.

Registrar to superintend and control Sub-Registrars.

80. The Registrar General shall exercise a general superintendence over all the Registry Offices in the territories administered by the local Government, and shall have power from time to time to frame rules consistent with this Act—

Powers of Registrar General.

Power to frame rules.

For providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

For declaring the languages in which and the materials on, in and with which documents presented for registration are to be written or printed, the size of such documents and the extent of blank space to be left thereon;

For

For declaring what territorial divisions shall be recognized under Section 21

For regulating the amount of penalties imposed under Section 24;

For the exercise of the discretion reposed in the Registering Officer by Sections 52 and 71;

For declaring the particulars to be contained in Indexes No. I, II and III respectively;

For declaring the holidays that shall be observed in the Registration Offices;

And, generally, for regulating the proceedings of the Registrars and Sub-Registrars under him.

The rules so framed shall be submitted to the local Government for approval, and after they shall have been approved, they shall be published in the Official Gazette, and shall then have the same force as if they were inserted in this Act.

No order to cancel registration.

81. No order shall be made to cancel the registration of any document under this Act or under Act No. XVI of 1864.

PART XII.

Of Refusal to Register.

82. Every Registering Officer who shall refuse to register a document, except one which he has a discretion to refuse to accept for registration, or except one which he has refused to register solely because the property to which it relates is not situate within his District or Sub-District, shall make an order of refusal and record his reasons for such order in his Book No. 2 and endorse the words "Registration refused" on the document; and on application made by any person executing or claiming under the document and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded. No Registering Officer shall accept for registration a document so endorsed unless and until an appeal shall have been presented under the provisions herein contained and decided in favour of the appellant.

Reasons for refusal to register to be recorded by Registrar or Sub-Registrar.

83. An appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar within thirty days from the date of the order, and the Registrar may reverse or alter such order: Provided that, whenever the Registrar shall himself as Sub-Registrar have passed the order appealed against, the appeal shall lie to the Registrar General. Any Registrar or Registrar General who shall refuse to direct the registration of any document shall make an order of refusal and record the reasons

Registrar may alter or revise orders of Sub-Registrar refusing registration.

reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded.

84. If a Registrar or Registrar General shall under Section 82 make an order of refusal to register any document referred to in Section 29, or if a refusal to register shall have been made under Section 15 of Act XVI of 1864, or if he shall under Section 83 on appeal make an order of refusal to direct the registration of such document, it shall be lawful for any person claiming thereunder, his representative, assign or agent authorized as aforesaid, within thirty days after the making of such order of refusal, to apply by petition to the District Court, in order to establish his right to have such document registered.

The petition shall be in the form contained in the Schedule to this Act, or as near thereto as circumstances will permit, and shall be accompanied by copies of the reasons recorded under Sections 82 and 83, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of complaints, and the petition shall, where a stamp is required by law, bear a stamp of eight annas, and may be amended by permission of the Court.

The document shall be admissible in evidence on the presentation and hearing of the petition, anything hereinbefore contained to the contrary notwithstanding.

The Court shall fix a day for the hearing of the petition not less than two days after the service next hereinafter mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the Registering Officer and on such other persons (if any) as the Court shall think fit; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to copies of petitions under this Section.

On the day so fixed as aforesaid, the Court may, if it shall think proper, and if the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration, order such Registrar or Registrar

General to register the document, or to direct its registration in the proper manner, and he shall thereupon obey such order, and shall, so far as may be practicable, follow the procedure prescribed in Sections 66, 67 and 68, and (provided the document be duly presented for registration within thirty days after the making of such order)

Procedure where Registrar or Registrar General refuses to register or direct registration of documents falling under Section 17 or Section 18, Clauses 1, 2, 3 and 4.

Petition.

To be verified and stamped.

Document admissible in evidence.

Court to fix day for hearing petition and copy thereof to be served.

Court may order document to be registered.

order) the registration pursuant to such order shall take effect as if the document had been registered when it was duly presented for registration to the Officer so refusing as aforesaid.

Provided that when the Officer presiding over the District Court, shall himself as Registering Officer have made any order appealed against under this Section, the petition shall within sixty days after the making of such order, be presented to the High Court, and the provisions contained in the former part of this Section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

Provision for case in which the Judge is the Registering Officer.

85. No Registering Officer shall be liable to any suit, claim or demand by reason of any thing *bonâ fide* done or refused in his official capacity.

Registering Officer not to be liable for any thing *bonâ fide* done or refused in his official capacity.

PART XIII.

Of the Fees for Registration, Searches and Copies.

Fees for registration, searches and copies to be fixed by local Government.

86. Subject to the approval of the Governor-General of India in Council, the local Government shall prepare a Table of Fees payable—

For the registration of documents :
For searching the Registers :
For making or granting copies of reasons, entries or documents, before, on or after registration ;
And of extra or additional fees payable—
For every registration by a Registrar General under Section 31, or by a Registrar under Section 32 :
For special registration under Section 52 :
For the issue of Commissions :
For filing translations :
For attending at private residences ;
And for such other matters as shall to the local Government appear necessary to effect the purposes of this Act.

The local Government may from time to time, subject to the like approval, alter such table. A Table of the Fees so payable shall be published in the Official Gazette, and a copy thereof in English and the vernacular language of the District shall be exposed to public view in every Registration Office.

Table of Fees.

87. All

87. All fees for the registration of documents under this Act shall be payable on presentation, and all fees received under the provisions of this Act (not being fees payable under Section 14 to Officers who are paid wholly or in part by fees), and all penalties received under Section 24 shall be remitted to the Treasury of the District or Sub-District or to such other Treasury as the local Government shall from time to time direct, and shall be credited to Government.

Fees and penalties to be credited to Government.

PART XIV.

Miscellaneous.

88. Nothing done in good faith pursuant to the said Act No. XVI of 1864 or this Act by any Registering Officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing done by Registering Officer to be invalidated by defect in his appointment or procedure.

89. Notwithstanding anything herein contained, it shall not be necessary for any Officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any Registration Office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in Section 66; but when any instrument is so executed, the Registering Officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary of Government, or to such Officer of Government, Administrator General, Official Trustee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

Registration of instruments executed by Government Officers or certain public functionaries.

90. Every Registering Officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating, or registering of any document presented or deposited under the provisions of this Act, shall endorse, copy, translate or register such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury as defined in the Indian Penal Code to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for incorrectly copying, endorsing, translating, or registering documents with intent to injure.

91. Whoever

91. Whoever shall intentionally make any false statement, whether on oath or not and whether it shall have been recorded or not, before any Officer acting in execution of this Act, in any proceeding or enquiry under this Act, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Penalty for making false statements before Registering Officer.

92. Whoever shall intentionally deliver to a Registering Officer in any proceeding under Section 19 or 21 a false copy or translation of a document, or a false copy of a map or plan, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penalty for delivering false copy or translation.

93. Whoever falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding under this Act, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for false personation.

94. Whoever abets within the meaning of the Indian Penal Code anything made punishable by this Act shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for abetment of offences under this Act.

95. A prosecution for any offence under this Act coming to the knowledge of a Registering Officer in his official capacity may be instituted by the Registrar General, the Branch Registrar General, the Registrar or (with the sanction of the Registrar to whom he is subordinate) the Sub-Registrar in whose Territories, District or Sub-District as the case may be, the offence has been committed. All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate or subordinate Magistrate of the first class; and all fines imposed under this Act may be recovered in the manner prescribed in Section 61 of the Code of Criminal Procedure.

Registering Officer may institute prosecutions.

96. Every Registering Officer appointed under this Act shall be deemed a Public Servant within the meaning of the Indian Penal Code, and every person shall be legally bound to furnish information to such Registering Officer when required by him to do so. And in Section 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

Registering Officers to be deemed Public Servants.

References to Act No. XVI of 1864, to be read as if made to this Act.

97. All references to the said Act No. XVI of 1864 in Acts passed previous to the date of this Act coming into operation shall be read as if made to this Act.

98. This

98. This Act shall come into operation on the first day of May 1866 where-
 ever Act No. XVI of 1864 is now in force. This Act shall
 come into operation on the same day in the Territories under
 the Bombay Government known as the Panch Maháls and
 attached to the Collectorate of Kaira, and on the first day of
 July 1866 in the Province of Sind; and Act No. XVI of 1864 shall not be deemed
 to have come into operation in such Territories or Province, any notification of the
 local Government to the contrary notwithstanding. This
 Act may be extended to any other part of British India by an
 order of the local Government, to be notified in the Official
 Gazette; and such order may, at any time before such extension shall come into
 operation, be altered or cancelled.

99. From the date on which this Act shall be extended as hereinbefore pro-
 vided to any part of British India in which the Acts herein-
 before mentioned are not in force, all Rules and Regulations
 relating to the registration of assurances in force in such part
 of British India shall cease to have effect, except as regards
 documents duly registered under any of such Rules or Regulations.

100. Anything contained in this Act to the contrary notwithstanding, every
 instrument of the kinds mentioned in Sections 17 and 18,
 which shall have been executed in any such part of British
 India before the date on which this Act shall come into opera-
 tion therein, shall be accepted for registration if it be duly
 presented for registration within twelve months from such date.

101. For three months after the date on which this Act shall come into
 operation in any part of India in which Act No. XVI of 1864
 has not come into operation, a power of attorney not duly
 executed according to the provisions of Section 35, anything
 therein contained to the contrary notwithstanding, shall be
 deemed to have been duly executed under the provisions of
 the same Section, if the Registering Officer shall be satisfied that it has been
 executed in good faith, and if a power of attorney attested under the provisions of
 this Act cannot be obtained within the period during which the document sought
 to be registered can, under such provisions, be accepted for registration.

102. All or any of the Register Books and Indexes kept under this Act or
 the said Act No. XVI of 1864, or any Act, Rule or Regula-
 tion repealed by either of them, may be transferred to the
 custody of the Registrar of the District in which they are now
 preserved, or to such other Officer in that or any other Dis-
 trict

Commencement of Act
 where Act No. XVI of 1864
 is in force.

Power to extend Act to
 other Territories.

Repeal of rules relating
 to registration in certain
 Territories.

Time for registering in-
 struments executed in such
 Territories before exten-
 sion of this Act.

Recognition, in Territories
 in which Act XVI of 1864 is
 not in force, for three months,
 of powers of attorney not
 duly executed.

Registers kept under
 former enactments to be
 transferred to Registrar of
 the District.

strict as the Local Government shall from time to time direct, and all rules con-
 tained in or made pursuant to this Act shall, so far as they may be applicable, apply
 to the books and Indexes so transferred as aforesaid.

SCHEDULE.

Form of Petition under Section 84.

Stamp eight
 Annas.

To the Judge of the District Court of
 The day of 186 .

The petition of A. B. of

Sheweth :—

1. That by an instrument dated the day of and made between C. D. of the
 one part and your petitioner of the other part, certain lands were conveyed to your petitioner
 absolutely.

2. That such instrument was executed by the said C. D. on the day of 186 .

3. That the property to which such instrument relates is situate in the Sub-District of the
 Sub-Registrar of and in the District of

4. That on the day of your petitioner presented the said instru-
 ment for registration under "the Indian Registration Act, 1866," in the office of the said Sub-
 Registrar, and on such presentation the said C. D. appeared personally before the said Sub-Registrar,
 and admitted the execution of the said instrument [or and falsely denied the execution of the said
 instrument.]

5. That the said C. D. is personally known to the said Sub-Registrar [or adduced evidence
 that he was the person he represented himself to be, or that your petitioner adduced evidence
 that the said C. D. was the person he represented himself to be].

6. That the said Sub-Registrar thereupon made an order of refusal, dated the day
 of 186 , to register the said instrument, and gave your petitioner a copy, which is filed
 herewith, of the reasons for such order.

7. That your petitioner on the day of appealed to the Registrar of
 against such order.

8. That the said Registrar thereupon made an order of refusal, dated the day of
 to direct the registration of the said instrument, and gave your petitioner a copy,
 which is filed herewith, of the reasons for such order.

9. That

ACT No. XX OF 1866.

9. That the reasons referred to in paragraphs 6 and 8 are, as your petitioner submits, insufficient, [or that your petitioner has complied with the requirements of the said Act so far as it has been possible for him to do so].

Your petitioner therefore prays that your Honor will order the said Sub-Registrar to register the said instrument.

Form of verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

ACT No. XXI OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd April 1866.)

An Act to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

Whereas it is expedient to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity deserted or repudiated, on religious grounds, by their wives or husbands; It is enacted as follows:—

1. This Act may be cited as "The Native Converts' Marriage Dissolution Act, 1866."

2. This Act shall commence and take effect on and from the first day of May 1866.

3. In this Act—

"Native Husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall not be a Christian, a Mahomedan, nor a Jew:

"Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall not be a Christian, a Mahomedan, nor a Jewess:

"Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India, other than Christians, Mahomedans, and Jews:

"Month"

2

ACT No. XXI of 1866.

"Month" and "year." "Month" and "year" shall respectively mean month and year according to the British calendar :

"High Court." "High Court" shall mean the highest Civil Court of appeal in any place to which this Act extends :

And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

4. If a Native Husband change his religion for Christianity, and if, in consequence of such change, his Native Wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

Convert deserted by his wife on religious grounds may sue for conjugal society.

5. If a Native Wife change her religion for Christianity, and if, in consequence of such change, her Native Husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Convert deserted by her husband on religious grounds may sue for conjugal society.

6. If the respondent, at the time of commencement of such suit, reside within the local limits of the ordinary original Civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court : otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the District in which the defendant shall reside at the commencement of the suit.

Court in which suit shall be brought.

7. The suit shall be commenced by a petition in the form in the first Schedule to this Act, or as near thereto as the circumstances of the case will allow. The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints ; and the petition shall bear a stamp of two rupees, and may be amended by permission of the Court.

Suit to be commenced by verified petition.

8. A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge.

On service of petition, citation issued to respondent.

9. In ordinary cases, the citation shall be in the form in the Second Schedule to this Act, or as near thereto as the circumstances of the case will allow. But where the respondent is exempt by law from personal appearance in Court, or where the Judge shall so direct, the citation shall be in the form in the third Schedule to this Act, or as near thereto as the circumstances of the case will allow.

Form of citation.

10. A copy of the citation sealed with the seal of the Court shall be served on the respondent ; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Service of citation.

11. If the respondent shall not obey such citation, and comply with every other requirement made upon her or him under the provisions of this Act, she or he shall be liable to punishment under Section 174 of the Indian Penal Code.

Procedure where respondent does not obey citation.

Points to be proved on appearance of petitioner.

12. On the day fixed in the citation, the petitioner shall appear in Court, and the following points shall be proved :—

- (1.) The identity of the parties :
- (2.) The marriage between the petitioner and the respondent :
- (3.) That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years :
- (4.) The desertion or repudiation of the petitioner by the respondent :
- (5.) That such desertion or repudiation was in consequence of the petitioner's change of religion ;
- (6.) And that such desertion or repudiation had continued for the six months immediately before the commencement of the suit.

13. The respondent, if such points be proved to the satisfaction of the Judge, shall thereupon be asked whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal. In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge, but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall, in his discretion, excuse the respondent from such appearance, the interrogations shall be made by Commissioners acting under such Commission as hereinafter mentioned.

First interrogation of respondent.

14. Every interrogation mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room. If any such interrogation take place in open Court, the Judge may, so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

Interrogations by Judge may be public or private.

15. If the respondent be a female, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if, upon consideration of the respondent's answers and of the facts which may

Procedure when female respondent refuses to cohabit with petitioner.

may have been proved by the petitioner, he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall make an order adjourning the case for a year, and directing that, in the interim, the parties shall, at such place and time as he shall deem convenient, have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

16. At the expiration of such adjournment the petitioner shall again appear in Court and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to; and if the points mentioned in the twelfth and this Section of this Act shall be proved to the satisfaction of the Judge, and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, he respondent shall be taken to have finally deserted or repudiated the petitioner, and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that the marriage between the parties is dissolved.

17. If the respondent be a male, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year. At the expiration of such adjournment, the petitioner shall again appear in Court; and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the Judge shall thereupon pass such a decree as last aforesaid: Provided that if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall, *mutatis mutandis*, be the same as in the case of a female respondent.

18. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated; and if, in answer to the interrogatories made pursuant to the thirteenth Section

Decree if respondent so refuse in the case of an unconsummated marriage, either party being impubes at time of marriage.

Proviso.

Decree in case of male respondent refusing to cohabit on the ground of petitioner's change of religion.

Procedure on expiration of adjournment.

Interrogation of respondent.

Decree.

of this Act, the respondent shall refuse to cohabit with the petitioner, and allege, as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid.

19. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such re-marriage shall be legitimate, any Native law to the contrary notwithstanding. Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.

20. In suits instituted under this Act, the Judge shall order a Commission to issue to such persons, whether males or females or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid. The provisions of the Code of Civil Procedure shall, so far as practicable, apply to Commissions issued under this Section.

21. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Proof of the marriage and the desertion or repudiation of petitioner in consequence of conversion.

22. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

23. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.

24. If

24. If at any time within twelve months after a decree dismissing the suit upon any of the grounds mentioned in the last preceding Section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall recommence at the stage at which it had arrived immediately before the passing of such decree; and, after the proofs, interrogations, interview and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in the sixteenth Section of this Act.

25. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this Section shall not be revived.

26. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth Section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this Section.

27. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children, or of any right or interest which they would have had, according to the Native law applicable to them, by way of maintenance, inheritance or otherwise, in case the marriage had not been so dissolved as aforesaid.

28. If a suit be commenced under the provisions of this Act and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life, and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the con-

Revival of suit after such dismissal.

Petitioner's cruelty or adultery to bar the suit.

Male petitioner's cohabitation with one of several wives to bar the suit.

Dissolution of marriage not to affect status or rights of children.

Power to Court to award alimony.

dition

dition and station in life of the parties. Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

29. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act; but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a Native husband or a Native wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall, either of his own motion or on the application of the respondent, state the case and submit it with his own opinion thereon for the decision of the High Court.

30. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided.

31. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the Presidency Towns; and the petitioner and respondent may appear and be heard in the High Court in person or by Advocate or Vakeel.

32. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

33. It shall be lawful for the High Court upon the hearing of any such case to decide the questions raised thereby, and to deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

34. Nothing contained in this Act or in Acts Nos. XXV of 1864 and V of 1865 shall be taken to render invalid any marriage of a Native convert to Roman Catholicism if celebrated in accordance with the rules, rites, ceremonies and customs of the Roman Catholic Church; and no Clergyman of such Church shall be liable to any

No appeal under this Act; but the Judge may state case raising question whether conversion has dissolved marriage.

Case to state necessary facts and documents and suit to be stayed.

Case to be decided by three Judges.

High Court may refer case to Judge for additions or alterations.

High Court may decide question raised, and Judge shall dispose of case accordingly.

Saving of Roman Catholic marriages.

any suit or penalty under the provisions of either of the two Acts last hereinbefore mentioned, for solemnizing any such marriage.

35. This Act shall extend to all the territories that are or shall become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca. But it may be extended, with the consent of the Governor-General of India in Council, by order of the Governor of such Settlement to all or any part of the territory subject to his Government; and he may, with such consent as aforesaid, determine the Court in which suits against residents in such territory shall be commenced under the provisions of this Act. In case of such extension, if the Indian Penal Code shall not then apply to the said Settlement, the respondent's personal appearance pursuant to this Act may be enforced by such procedure as the said Governor, with such consent as aforesaid, shall provide in that behalf.

THE FIRST SCHEDULE.

Form of Petition.



To the Judge of the Civil Court of
The day of 18 .
The petition of A. B. of sheweth :—
1. That your petitioner was born on or about the day of 18 .
2. That your petitioner was on the day of in the year 18 . lawfully married to C. D. at
3. That the said C. D. is now of the age of years or thereabouts.
4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18 .
5. That previous to the day of 18 . your petitioner changed his religion for Christianity, and that on such day he was baptized and became a member of the Church of .
6. That on the day of 18 . [at least six months prior to the date of the petition], the said C. D. deserted your petitioner, and has not since resumed cohabitation with him.
7. That such desertion was in consequence of your petitioner's said change of religion.
8. That there is no collusion nor connivance between your petitioner and the said C. D.
Your petitioner therefore prays that your Honour will order the said C. D. to live and cohabit with your petitioner, or declare that your petitioner's marriage is dissolved.

A. B.

Form

Form of verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

THE SECOND SCHEDULE.

Form of Citation in ordinary cases.

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you the said C. D. has filed his [or her] petition against you in the Civil Court of alleging that you the said C. D. have deserted him [or her] for six months in consequence of his [or her] having changed his [or her] religion for Christianity, and praying that, unless you consent to live and cohabit with him [or her], it may be declared that his [or her] marriage is dissolved: Now this is to command you that, at the expiration of days [at least one month] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18 .
(Signed) E. F.

Judge of the Civil Court of :

Indorsement to be made after service.

This citation was duly served by G. H. on the within named C. D. of at on the day of 18 .
(Signed) G. H.

THE THIRD SCHEDULE.

Form of Citation in case of Respondent exempt from Appearance in Court.

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you the said C. D. has filed his [or her] petition against you in the Civil Court of alleging that you the said C. D. have deserted him [or her] for six months in consequence of his [or her] having changed his [or her] religion for Christianity, and praying that, unless you consent to cohabit with him [or her], it may be declared that his [or her] marriage is dissolved: Now this is to command you that, at the expiration of days [at least one month] from the service of this on you, you do hold yourself in readiness to answer and do answer such interrogatories as may be put to you by Commissioners duly authorised in that behalf under a Commission issued by this Court, in reference to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18 .
(Signed) E. F.

Judge of the Civil Court of :

Indorsement

ACT No. XXI of 1866.

Indorsement to be made after service.

This citation was duly served by G. H. on the within named C. D. of
 day of 186 .

at

ACT No. XXIV of 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th July 1866.)

An Act to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in the exercise of its Original Criminal, and its Civil, Intestate and Testamentary Jurisdictions ; It is hereby enacted as follows :—

Interpretation Clause.

1. In this Act, unless there be something repugnant in the subject or the context—

“ High Court ” denotes Her Majesty’s High Court of Judicature for the North-Western Provinces of the Presidency of Fort William :

“ Lieutenant Governor ” denotes the Lieutenant Governor for the time being of the said Provinces :

“ Magistrate ” denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure :

“ Registrar ” includes, besides such Officer, any Officer specially appointed by the Lieutenant Governor to discharge the functions given by this Act to the Registrar.

Words in the singular include the plural, and words denoting the masculine gender include females.

2. Any

2. Any Justice of the Peace or Magistrate within or without the said Provinces, before whom any European British subject shall be brought for an offence committed within the said Provinces, or for an offence which under or by virtue of any law or order made or issued by the Governor General of India in Council shall have been made triable by the High Court, and who shall commit or hold to bail such person for trial shall, together with the record of the preliminary enquiry and all recognizances and other documents, and any weapon or article of property connected with the case, and translations into English of any writings not in that language, deliver to the Registrar of the High Court a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

3. The High Court, or any Officer specially authorized by the High Court in this behalf, shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

4. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

5. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

6. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the High Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period,

Charge to be delivered with record of preliminary enquiry.

High Court to consider, and, if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

Accused to have copies of examinations.

Effect of charge.

High Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

7. The High Court shall ordinarily hold its sittings at such place as the Lieutenant Governor shall direct in that behalf: but the High Court or any Division of the High Court may from time to time, with the approval of the Lieutenant Governor, hold sittings at such other places in the said Provinces as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the Original Criminal Jurisdiction of the Court.

8. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified districts, or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular Jail being one of the Jails appointed by the Government for the reception of such prisoners.

9. If the trial shall be directed to take place at the usual place of sitting of the Court, or if no general direction shall have been given under the last preceding Section, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried, and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law. The High Court may direct that the person charged shall be admitted to bail, or that the bail required by the Justice of the Peace or Magistrate, shall be reduced.

Trials under Section 2 to be by Jury.

10. All trials under Section 2 of this Act shall be by Jury.

11. Whenever the High Court shall have given notice of its intention to hold sittings at any place for the exercise of its Original Criminal Jurisdiction, the Court of Session at such place shall take and cause

Places of holding sittings.

High Court may order European British subjects committed in certain Districts in certain seasons of the year, to be tried at a particular place and confined in a particular Jail.

Summoning of jurors to serve on trials.

cause to be taken the measures prescribed by Sections 336 to 340, both inclusive, of the Code of Criminal Procedure for the summoning of jurors; and in addition to the persons so summoned as jurors, the said Court of Session shall, if it shall think needful after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military Service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the juries required for the trial of European British subjects charged with offences before the High Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such juries notwithstanding any thing contained in the Code of Criminal Procedure. But no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent military duty, or for any other special military reason. The juries for the trial of European British subjects as aforesaid, shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officer have been summoned, then solely from the persons summoned under the same Sections.

12. If any European British subject charged as aforesaid, shall so require before the jury shall be empanelled, the majority of the jurors shall consist of Europeans or Americans, or both Europeans and Americans.

13. On every trial of an European British subject under this Act, the jury shall consist of twelve persons, and unanimity or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity or of such majority and concurrence, the prisoner shall be acquitted.

14. So much of Section 380 of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the same Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the High Court passed in the exercise of its Original Criminal Jurisdiction.

15. So

15. So much of the 26th Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the High Court, acting in the exercise of its Original Criminal Jurisdiction, but the High Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

16. When any person has been convicted of an offence before a Judge of the High Court, acting in the exercise of its Original Criminal Jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in Section 385 of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to Jail. If the decision of the High Court be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail to whom the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

17. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of juries for the purpose of trials before the High Court, acting in the exercise of its Original Criminal Jurisdiction, and to trials before such Court and to sentences by such Court, and to the carrying into execution of such sentences.

18. The operation of the following Sections of Act No. VIII of 1859, namely, Sections 184, 185, 186, and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the same Act as extends the provisions of the same Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the High Court; and the

High.

High Court, and every Division Court and Judge thereof, shall record their and his judgments and the orders passed by them and him respectively in such manner as the High Court shall by any general rule or rules from time to time direct.

High Court to record its judgments and orders as it shall by rule direct.

19. The High Court may by its own rules fix the time within which appeals from or applications for review of any judgments, orders or decrees made by any Division Court, or by any Judge or Judges of the said High Court in the exercise of its Original Jurisdiction, shall be preferred.

Court may fix time for appealing from judgments, &c., of its own Judges or Division Courts.

20. Whenever it shall appear necessary to a Judge of the High Court that a decree made in the exercise of the Original Civil Jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs, and as to so much thereof as relates to the costs, that the same may be executed as soon as the amount of the costs shall be ascertained by taxation. The High Court may appoint the Registrar to be Taxing Officer.

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained.

21. Whenever anything is directed by the said Act No. VIII of 1859, to be done by or through a Pleader, the High Court, or any Judge thereof in the exercise of its Original Civil Jurisdiction, may authorize such Act to be done by or through an Attorney-at-law of the High Court: Provided that no Attorney shall be authorized under the provisions of this Section to plead in the High Court or in any Division Court for any other person.

Court in the exercise of its Original Civil Jurisdiction may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney.

Proviso.

22. The procedure in all cases which shall be brought before the High Court in the exercise of its Original Testamentary and Intestate Jurisdiction, shall be regulated as far as the circumstances of the case will admit by the rules of procedure laid down in the Indian Succession Act, 1865, whether the Act itself applies to the case or not, and in cases to which such rules are inapplicable the procedure shall be regulated by the Code of Civil Procedure.

Testamentary and Intestate Procedure.

Short Title.

23. This Act shall be called "The High Court (North-Western Provinces) Act, 1866."

ACT N^o. XXV of 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th July 1866.)

An Act to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits Settlement, and the proceeds of certain estates in the charge of the Administrator General of Bengal.

WHEREAS it is expedient that certain securities and sums of money deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits Settlement, in the course of suits in the said Courts or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the general purposes of Government: And whereas it is also expedient that the net proceeds of all estates administered under the orders of the said Supreme Court of the Straits Settlement, or in the official charge of the Administrator General of Bengal, and now or hereafter appearing from the official books and accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed

allowed during that period, should be transferred and paid to the Government of India for the purposes aforesaid; It is hereby enacted as follows :—

1. All securities and sums of money deposited in the said High Courts or Supreme Court of the Straits Settlement, or any of them, in the course of suits in any of the said Courts or of the late Supreme Courts of Calcutta, Madras and Bombay, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to the Government of India for the general purposes of Government.

Monies deposited in High Courts and Supreme Court, Straits Settlement, and unclaimed for twenty years, to be transferred to Government.

2. The net proceeds of all estates administered under the orders of the said Supreme Court of the Straits Settlement, or in the official charge of the Administrator General of Bengal, and now or hereafter appearing from the official books and accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to the Government of India for the general purposes of Government.

Proceeds of estates administered under order of Supreme Court, Straits Settlement, or in charge of Administrator General of Bengal, and unclaimed for fifteen years, to be transferred to Government.

3. Nothing in this Act shall authorize any transfer or payment of any such securities, sums of money or proceeds as aforesaid, pending any suit already instituted or which shall hereafter be instituted in respect thereof.

Transfer not to be made pending suits.

4. If any claim shall hereafter be made to any part of the securities, monies or proceeds which shall be transferred and paid to the Government of India under the provisions of this Act, and if such claim shall, in the case of securities and monies transferred and paid under the first Section of this Act, be established to the satisfaction of the High Court or Supreme Court, as the case may be, from which the transfer shall have been made, and, in the case of proceeds transferred and paid under the second Section of this Act by order of the Supreme Court of the Straits Settlement, be established to the satisfaction of the same Court, and, in the case of proceeds transferred and paid under the same Section by the Administrator General of Bengal for the time being, be established to the satisfaction of the said Administrator General and the Accountant General to the Government of Bengal respectively, the Government of India shall pay to the claimant the amount of the principal so transferred and paid as aforesaid, or so much thereof as shall appear to be due to the claimant. If any such last-men-

Repayment on subsequent establishment of claim.

tioned

tioned claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the High Court of Judicature at Fort William, on its original side, against the Government of India and the Administrator General of Bengal for the time being, and after taking evidence, either orally or on affidavit in a summary way, as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the principal sum as justice shall require, and such order shall be binding on all parties to the suit.

ACT N^o. XXVI OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th October 1866.)

To legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that Province.

Whereas rules have been made by the Chief Commissioner of Oudh for the better determination of certain claims by persons possessed of subordinate rights of property in the territories subject to his administration ; and whereas it is expedient that such rules should have the force of law ; It is hereby enacted as follows :—

Rules as to sub-settlements contained in the schedule to have the force of law.

1. The rules for determining the conditions under which persons possessed of subordinate rights of property in Talookas in the territories subject to the administration of the Chief Commissioner of Oudh shall be entitled to obtain a sub-settlement of lands, villages, or sub-divisions thereof, which they held under Talookdars on or before the thirteenth day of February 1856, and for determining the amounts payable to the Talookdar by such subordinate proprietors, which rules were made by the said Chief Commissioner, sanctioned by the Governor General of India in Council, and published in the *Gazette of India* for September 1st, 1866, and which are republished in the schedule to this Act, are hereby declared to have the force of law.

2. So

2. So much of any Act, Regulation or Rule, having the force of law which is in operation in the said territories as shall be inconsistent with or repugnant to the rules hereby legalized, shall cease to have effect in such territories.

Repeal of inconsistent rules.

Short title.

3. This Act may be called "the Oudh Sub-settlement Act, 1866."

SCHEDULE.

Rules regarding sub-settlements and other subordinate rights of property in Oudh.

1. The extension of the term of limitation for the hearing of claims to under-proprietary rights in land, makes of itself no alteration in the principles hitherto observed in the recognition of a right to sub-settlement.

2. When no rights are proved to have been exercised or enjoyed by an under-proprietor during the period of limitation, beyond the possession of certain lands as *seer* or *nankar*, no sub-settlement can be made; but the claimant will be entitled, in accordance with the rules contained in the Circular Orders which have hitherto been in force in Oudh upon this subject, to the recognition of a proprietary right in such land. To entitle a claimant to obtain a sub-settlement, he must show that he possesses an under-proprietary right in the lands of which the sub-settlement is claimed, and that such right has been kept alive, over the whole area claimed within the period of limitation. He must also show that he, either by himself or by some other person or persons from whom he has inherited, has, by virtue of his under-proprietary right, and not merely through privilege granted on account of service, or by favour of the Talookdar held such lands under contract (*pucka*), with some degree of continuousness, since the village came into the talooka.

3. The words "some degree of continuousness" will be interpreted as follows:—

If the village was included in the talooka before the 13th February 1836, the lease must have been held for not less than twelve years between that date and the annexation of the province. If the village was included in the talooka after the 13th February 1836, but before the 13th February 1844, the lease must have been held for not less than one year more than half the period between the time in which the village was so included and the annexation of the province. Further, the lease must, in all cases, have been held for not less than seven years during the term of limitation, unless the village was included for the first time in the talooka after the 13th February 1844, in which case the lease must have been held for not less than one year more than half of the period between the time in which the village was so included

included and the annexation of the province: Provided, that if, for any reason, the Talookdar was, for any period, dispossessed of the village, and the under-proprietor was dispossessed from the lease during the same period, the term of such dispossession shall not be reckoned against the under-proprietor: Provided also, that nothing in this rule will apply to any village which was included for the first time in the talooka after the 13th February 1844, and in which the under-proprietor has held no lease for any period under the Talookdar.

4. If an under-proprietor, who is entitled to a sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold, in perpetuity, the lease of the lands to the sub-settlement of which he is entitled, at a uniform (*istimrarree*) rate of payment, and that such agreement has been acted on within the period of limitation, he will not be liable to payment at an increased rate during the currency of the present or revised settlement. If, in consequence of any future re-adjustment of the Government demand, the former proportion between the respective shares of the profits derived from the land by the under-proprietor and the Talookdar should be altered, the amount payable by the under-proprietor to the Talookdar will be liable to re-adjustment, so that the proportion between their respective shares of the profits may remain unaltered.

5. If an under-proprietor, entitled to sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold the lease of the lands to the sub-settlement of which he is entitled, on payment of the Government demand imposed before the annexation of the province on such lands, with the addition only of certain dues to the Talookdar or other charges, and such agreement has been acted upon within the period of limitation, such under-proprietor will in future be liable only for the payment to the Talookdar of the Government demand for the time being, with the addition of 10 per cent. in lieu of Talookdaree dues and other charges.

6. If an under-proprietor, entitled to sub-settlement, has held the lease of the lands to the sub-settlement of which he is entitled, under an agreement that he shall pay to the Talookdar a certain share or proportion of the profits or produce of such lands, and such agreement has been acted upon within the term of limitation, the under-proprietor will in future continue to be liable for the payment to the Talookdar of such share or proportion.

7. In all cases in which an under-proprietor is entitled to a sub-settlement other than those described in Rules 4 to 6, the amount payable by the under-proprietor to the Talookdar will be determined according to the following principles:—

1st.—The payments made by the under-proprietor to the Talookdar before annexation, will form the standard by which the present payments are to be regulated.

2nd.—In

2nd.—In no case can the amount payable by the under-proprietor to the Talookdar, during the currency of the settlement, exceed the gross rental of the village, less 10 per cent. in *seer* or *nankar* land.

3rd.—In no case can the amount payable during the currency of the settlement the under-proprietor to the Talookdar, be less than the amount of the revised Government demand, with the addition of 10 per cent.

4th.—If the gross rental of the village before annexation and at the present time be approximately the same, the under-proprietor will pay to the Talookdar the same amount which he paid before annexation.

5th.—If the present gross rental of the village exceed or fall short of the former gross rental, the payment of the under-proprietor to the Talookdar will be adjusted according to the following rule, *viz.*, as the former gross rental is to the former payment of the under-proprietor, so is the present gross rental to the present payment of the under-proprietor.

6th.—In determining the amount payable by the under-proprietor to the Talookdar under the two last preceding rules, the former gross rental and the former payment of the under-proprietor will be held to be the average amount of the gross rental, and the average amount of the former payments of the under-proprietor for the 12 years preceding annexation, or for such portion of that time as the under-proprietor held a lease of the village from the Talookdar, or for such portion of that time as the necessary information may be obtained.

8. In any case in which the clear share of the profit to which the under-proprietor is entitled under the rules contained in the last preceding paragraph does not exceed 12 per cent. of the gross rental, no sub-settlement shall be made. In this case, the under-proprietor will retain all *seer* and *nankar* land to which his right is established. If the profits derived from such land be less than one-tenth of the whole rental of the land to the sub-settlement of which the right was established, the Talookdar shall increase the amount of such land so that the total profit to the under-proprietor shall not fall below one-tenth of the gross rental. The under-proprietor will possess, in the whole of such land, a transferable and heritable right of property.

9. In any case in which an under-proprietor is entitled to a sub-settlement under the preceding rules, and in which the share of the gross rental which such under-proprietor is entitled to receive exceeds 12 per cent., but falls short of 25 per cent., such share will be increased so that it shall not be less than 25 per cent. of the gross rental. The cost of such increase will be borne half by the Government and

half

half by the Talookdar. In this case, the cesses on account of roads, schools, &c., amounting to $2\frac{1}{2}$ per cent. on the Government demand, will be payable by the Talookdar, while the village expenses, including the allowances to the Putwaree and Chowkeedar, will be payable by the under-proprietor.

10. When a former proprietor, who is not entitled to a sub-settlement, has retained within the period of limitation, either by himself or by some other person or persons from whom he has inherited, possession of land which by virtue of his proprietary right he held as *seer* or *nankar* when he was in proprietary possession, he will be deemed in respect of such land to be an under-proprietor, and will possess a heritable and transferable right of property therein, subject to the payment of such amount as may be due by him to the superior proprietor.

11. If, in any case, the founder of a *Poorwa* or hamlet, who is unable to establish a right to sub-settlement, can show that, in consideration of having founded such *Poorwa* or hamlet, he has held therein, within the period of limitation, possession of *seer* or *nankar* land, he will be recognised as an under-proprietor in such land, subject to the payment of such amount as may be due by him to the Talookdar. The amount of such payment will be determined according to the rules for determining the amount of the payments due by other under-proprietors on their *seer* or *nankar* lands.

12. Claims to proprietary and under-proprietary rights in jagheers will be treated according to the same rules which are applicable to similar claims in talookas.

13. Cases in which claims to under-proprietary rights have been disposed of otherwise than in accordance with these rules will be open to revision, but this rule will not apply to cases disposed of by arbitration or by agreement of the parties.

J. STRACHEY, *Chief Commissioner of Oudh.*

SIMLA, the 20th August 1866.

ACT N^o. XXVII OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th October 1866.)

To consolidate and amend the Law relating to the conveyance and transfer of property in British India vested in Mortgagees and Trustees, in cases to which English Law is applicable.

Whereas it is expedient to consolidate and amend the laws relating to the conveyance and transfer of moveable and immoveable property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable ; It is hereby enacted as follows :—

1. Section 3 of Act XXIV of 1841 *(for the greater uniformity of the Law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the effects of Testators; Illusory Appointments; the transfer of Estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons, and other like matters), and so much of Act XIV of 1852 (for extending the provisions of Acts XXIV of 1841 and XVII of 1843 to the Straits Settlement), as extends the provisions of the said Section to the Settlement of Prince of Wales' Island, Singapore and Malacca, are hereby repealed : Provided that all proceedings under the said Section or Act commenced before this Act comes into operation, may be proceeded with under the said Section or Act or according to the provisions of this Act, as shall be thought expedient by the person by whom they were commenced.*

2. In

Interpretation.

2. In this Act, unless there be something repugnant in the subject or context—

“Immoveable property” shall extend to and include messuages, tenements, and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein :

“Stock” shall mean any fund, annuity or security transferable in books kept by any Company or Society established or to be established, or transferable by Deed alone, or by Deed accompanied by other formalities, and any share or interest therein. It shall also include shares in ships registered under the Merchant Shipping Act, 1854, or at any port in British India :

“Hold” and “holding” shall be applicable to any vested estate, whether for life or of a greater or less description, in possession, futurity or expectancy, in any immoveable property :

“Contingent right” as applied to immoveable property shall mean a contingent or executory interest, or possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained ; also a right of entry, whether immediate or future, and whether vested or contingent :

“Convey” and “Conveyance” applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another immoveable property which such person holds, or in which he is entitled to a contingent right either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of Act XXXI of 1854 (*to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English Law is applicable*) :

“Transfer” shall mean the execution and performance of every deed and act by which a person entitled to stock or Government securities can transfer such stock or Government securities from himself to another :

“High Court” shall mean every Court now or hereafter established under the Statute 24 and 25 Vic., Cap. 104, and also the Chief Court of the Punjab, or such one or more Judges of the said Courts respectively

respectively as shall be appointed by the Chief Justice or the Senior Judge, as the case may be, to entertain applications and make orders under this Act :

“Trust” shall not mean the duties incident to an estate conveyed by way of mortgage ; but with this exception, the words “Trust” and “Trustee” shall extend to and include implied and constructive trusts, and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall tend to and include the duties incident to the office of Executor or Administrator of a deceased person :

“Lunatic” shall mean any person who shall have been found by due course of law to be of unsound mind and incapable of managing his affairs :

“Person of unsound mind” shall mean any person not a minor who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs :

In the case of a will made or an intestacy occurring before the first day of January 1866, “heir” shall mean the person claiming an interest in the immoveable property of a deceased person under the laws concerning descent applicable to such property : and “devisee” shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the immoveable property of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent :

In the case of a will made or an intestacy occurring on or after the first day of January 1866, “heir” shall mean any person claiming an interest in the immoveable property of a deceased person under the rules for the distribution of an intestate’s estate ; and “devisee” shall mean any person taking immoveable property under a bequest, and any person, other than an Executor or Administrator, claiming an interest in immoveable property, not as entitled thereto under the said rules, but by a title dependent solely upon the operation of the laws concerning intestate and testamentary succession :

“Mortgage” shall be applicable to every estate or interest in immoveable or moveable property which would in the High Court be deemed merely a security for money :

“Person” shall include any Company or association, or body of persons whether incorporated or not :

Words

Words importing the singular number only shall extend to several persons or things; words importing the plural number shall apply to one person or thing; words importing the masculine gender shall extend to a female.

Number.
Gender.

3. The powers and authorities given by this Act to the High Courts shall and may be exercised only in cases to which English law is applicable, and may be exercised with respect to property within the local limits of the extraordinary original civil jurisdiction of the said Courts respectively.

The High Court to have jurisdiction in what cases.

4. When any lunatic or person of unsound mind shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order that such property be vested in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a conveyance of the property in the same manner for the same estate.

High Court may convey estates of lunatic Trustees and Mortgagees;

5. When any lunatic or person of unsound mind shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said High Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

And may convey contingent rights.

6. When any lunatic or person of unsound mind shall be solely entitled to any stock or Government securities, or to any thing in action upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof: and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or Government securities or thing in action upon any trust or by way of mortgage, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons the said High Court may appoint.

High Court may transfer stock or Government securities of lunatic Trustees and Mortgagees.

7. When

7. When any stock or Government securities shall be standing in the name of any deceased person whose Executor or Administrator is a lunatic or person of unsound mind, or when any thing in action shall be vested in any lunatic or person of unsound mind as the Executor or Administrator of a deceased person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action or any interest in respect thereof, in any person or persons the said Court may appoint.

Power to transfer stock or Government securities of deceased persons.

8. Where any minor shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct: and the order shall have the same effect as if the minor Trustee or Mortgagee had attained his majority, and had duly executed a conveyance of the property in the same manner for the same estate.

High Court may convey estates of minor Trustees and Mortgagees.

9. Where any minor shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the minor had attained his majority, and had duly executed a deed so releasing or disposing of the contingent right.

Contingent rights of minor Trustees and Mortgagees.

10. When any person solely holding any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order vesting such property in such person or persons in such manner and for such estate as the said court shall direct, and the order shall have the same effect as if the Trustee had duly executed a conveyance of the property in the same manner and for the same estate.

High Court may convey the estate of a Trustee out of the jurisdiction of the Court.

11. When any person or persons shall hold any immoveable property in trust jointly with a person not within the jurisdiction of the High Court, or who cannot be found, it shall be lawful for the said Court to make an order vesting the property in the person or persons so jointly holding or in such last-mentioned person or persons, together with any other person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found,

High Court may make order in cases where persons hold immoveable property in trust jointly with persons out of jurisdiction of Court, &c.

found, had duly executed a conveyance of the property in the same manner for the same estate.

12. When any person solely entitled to a contingent right in any immovable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the Trustee had duly executed a conveyance so releasing or disposing of the contingent right.

13. When any person jointly entitled with any other person or persons to a contingent right in any immovable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid or to such last-mentioned person or persons, together with any other person or persons; and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

14. Where there shall have been two or more persons jointly holding any immovable property upon any trust, and it shall be uncertain which of such Trustees was the survivor, it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the survivor of such Trustees had duly executed a conveyance of the property in the same manner for the same estate.

15. Where any one or more person or persons shall have held any immovable property upon any trust, and it shall not be known, as to the Trustee last known to have held such property, whether he be living or dead, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the last Trustee had duly executed a conveyance of the property in the same manner for the same estate.

16. When any person holding any immovable property upon any trust shall have died intestate as to such property without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the High Court to make an order vesting

vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the heir or devisee of such Trustee had duly executed a conveyance of the property in the same manner for the same estate.

17. When any immovable property is subject to a contingent right in an unborn person, or class of unborn persons who, upon coming into existence, would in respect thereof hold such property upon any trust, it shall be lawful for the High Court to make an order which shall wholly release and discharge such property from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would, upon coming into existence, hold in such property.

18. In every case where any person holds or shall hold jointly or solely any immovable property, or is or shall be entitled to a contingent right therein upon any trust, and a demand shall have been made upon such Trustee by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, requiring such Trustee to convey the same, or to release such contingent right, it shall be lawful for the High Court, if the said Court shall be satisfied that such Trustee has wilfully refused or neglected to convey the said property for the space of twenty-eight days after such demand, to make an order vesting such property in such person or persons, in such manner and for such estate as the Court shall direct, or releasing such contingent right in such manner as the Court shall direct; and the said order shall have the same effect as if the Trustee had duly executed a conveyance of the property, or a release of such right, in the same manner and for the same estate.

19. When any person to whom any immovable property has been conveyed by way of mortgage, shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the re-conveyance or vesting of such property, then in any of the following cases, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, that is to say,—

When an heir or devisee of such Mortgagee shall be out of the jurisdiction of the High Court, or cannot be found:

When

When an heir or devisee of such Mortgagee shall, upon a demand by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such property shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last-mentioned person :

When it shall be uncertain which of several devisees of such Mortgagee was the survivor :

When it shall be uncertain as to the survivor of several devisees of such Mortgagee, or as to the heir of such Mortgagee whether he be living or dead :

When such Mortgagee shall have died intestate as to such property and without an heir, or shall have died, and it shall not be known who is his heir or devisee :

And the order of the said High Court made in any one of the foregoing cases, shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance of the property in the same manner and for the same estate.

20. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance of any immovable property, or having the effect of a release or disposition of the contingent right of any person or persons, born or unborn, it shall also be lawful for the High Court, should it be deemed more convenient, to make an order appointing a person to convey such property or release or dispose of such contingent right; and the conveyance, or release or disposition of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying the property, or releasing or disposing of the contingent right, as an order of the High Court would in the particular case have had under the provisions of this Act. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the books of any company or society established, or to be established, it shall also be lawful for the High Court, if it be deemed more convenient, to make an order directing the Secretary or any officer of such company or society at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full and complete indemnity and discharge to all companies or societies and their officers and servants for all acts done or permitted to be done pursuant thereto.

Power to appoint a person to convey in certain cases.

21. When

21. When any person or persons shall be jointly entitled with any person out of the jurisdiction of the High Court, or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead, to any stock or Government securities or thing in action upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons, together with any person or persons the said Court may appoint. When any sole Trustee of any stock, Government securities, or thing in action shall be out of the jurisdiction of the said Court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

When Trustees of stock or Government securities out of the jurisdiction.

22. Where any sole Trustee of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action, or any interest in respect thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the High Court to make an order vesting the sole right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

When Trustee of stock, &c., refuses to transfer.

23. Where any one of the Trustees of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action according to the directions of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by such person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, in the other Trustee or Trustees of the said stock, Government securities or thing in action, or in any person or persons whom the said Court may appoint jointly with such other Trustee or Trustees.

When one of several Trustees of stock, &c., refuses to transfer, or receive and pay over dividends.

24. When

24. When any stock or Government securities shall be standing in the sole name of a deceased person, and his Executor or Administrator shall be out of the jurisdiction of the High Court, or cannot be found, or it shall be uncertain whether such Executor or Administrator be living or dead, or such Executor or Administrator shall neglect or refuse to transfer such stock or Government securities, or receive the dividends, interest or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof in any person or persons whom the said Court may appoint.

When stock, &c., is standing in the name of a deceased person,

25. Where any order shall have been made under this Act vesting the right to any stock or Government securities in any person or persons appointed by the High Court, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock and Government securities into his or their own name or names or otherwise, or relating to the receipt of the dividends, interest or income thereof, to the extent and in conformity with the terms of such order. All companies and associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid to the extent and in conformity with the terms of such order as such companies, associations, or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made. After notice in writing of any such order of the High Court concerning any stock or Government securities shall have been given, it shall not be lawful for any company or association, or any person having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made, in any matter relating to the transfer of such stock or Government securities, or the payment of the dividends, interest or income thereof.

Effect of an order vesting the legal right to transfer stock, &c.

26. Where any order shall have been made under this Act by the High Court vesting the legal right to sue for or recover any thing in action, or any interest in respect thereof in any person or persons, such legal right shall vest accordingly; and thereupon

Effect of an order vesting legal right in a thing in action.

upon it shall be lawful for the person or persons so appointed to carry on, commence and prosecute, in his or their own name or names, any suit or other proceeding for the recovery of such thing in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued or or recovered such thing in action.

27. Where any person shall neglect or refuse to transfer any stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action, or any interest in respect thereof, for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting all the right of such person to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

On neglect to transfer stock, &c., for 28 days, order may be made vesting right to transfer in such person as the Court shall appoint.

28. When any stock or Government securities shall be standing in the sole name of a deceased person, and his Executor or Administrator shall refuse or neglect to transfer such stock or Government securities, or receive the dividends, interest or income thereof for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

On like neglect by Executor similar order may be made.

29. When any order being or purporting to be under this Act, shall be made by the High Court, vesting the right to any stock or Government securities, or vesting the right to transfer any stock or Government securities, or vesting the right to call for the transfer of any stock or Government securities in any person or persons, in every such case the legal right to transfer such stock or Government securities shall vest accordingly; and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock or Government securities into his or their own name or names or otherwise, to the extent and in conformity with the terms of the order. All companies and associations, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such companies, associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Companies and associations to comply with such orders.

30. When

30. When any minor shall be solely entitled to any stock or Government securities upon any trust, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities or to receive the dividends, interest or income thereof. When any minor shall be entitled jointly with any other person or persons to any stock or Government securities upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities or to receive the dividends, interest or income thereof, either in the person or persons jointly entitled with the minor, or in him or them together with any other person or persons the said Court may appoint.

Power to make an order for the transfer or receipt of dividends of stock, &c., in name of a minor Trustee.

31. When a decree or order shall have been made by the High Court directing the sale of any immoveable property for the payment of the debts of a deceased person, every person holding such property, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act : and the High Court is hereby empowered to make an order wholly discharging the contingent right under the will of such deceased debtor of any unborn person.

When a decree is made for sale of immoveable property for payment of debts.

32. When any decree or order shall have been made by the High Court, whether before or after the passing of this Act, directing the sale of any immoveable property for any purpose whatever, every person holding such property, or entitled to a contingent right therein, being a party to the suit or proceeding in which such decree or order shall have been made and bound thereby, or being otherwise bound by such decree or order, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act. In every such case it shall be lawful for the High Court, if the said Court shall think it expedient for the purpose of carrying such sale into effect, to make an order vesting such property or any part thereof, for such estate as the Court shall think fit, either in any purchaser or in such other person as the Court shall direct. Every such order shall have the same effect as if the person so holding or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such property for such estate.

High Court may make an order for vesting the estate in lieu of conveyance by a party to the suit after a decree or order for sale.

33. Where any decree or order shall be made by the High Court for the specific performance of a contract concerning any immoveable property, or for the partition or exchange of any immoveable property, or generally when any decree shall be made for the conveyance of any immoveable property, either in cases arising out of the doctrine of election or otherwise, it shall be lawful

Court to declare what parties are Trustees of immoveable property comprised in any suit, and as to the interests of persons unborn.

for

for the said Court to declare that any of the parties to the said suit wherein such decree is made are trustees of such property or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his life-time a party to the contract or transactions concerning which such decree is made that such interests of unborn persons are the interests of persons who, upon coming into existence, would be trustees within the meaning of this Act. Thereupon it shall be lawful for the High Court to make such order or orders as to the estates, rights and interests of such persons born or unborn, as the said Court might, under the provisions of this Act, make concerning the estates, rights and interests of trustees born or unborn.

34. It shall be lawful for the High Court to make declarations and give directions concerning the manner in which the right to any stock, Government securities or thing in action vested under the provisions of this Act shall be exercised, and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Act are enforced.

Power to make directions how the right to transfer stock shall be exercised.

35. In all cases in which it shall be expedient to appoint a new Trustee or new Trustees, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the High Court, it shall be lawful for the said Court to make an order appointing a new Trustee or new Trustees, whether there be any existing Trustee or Trustees or not at the time of making such order, and if there be such Trustee or Trustees either in substitution for or in addition to him or them. The person or persons who, upon the making of such order shall be Trustee or Trustees, shall have the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

Power to Court to make order appointing new Trustees.

New Trustees to have powers of Trustees appointed by decree in suit.

36. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to direct that any immoveable property subject to the trust shall vest in the person or persons who upon the appointment shall be the Trustee or Trustees for such estate as the Court shall direct. Such order shall have the same effect as if the person or persons who, before such order, was or were the Trustee or Trustees (if any) had duly executed all proper conveyances of such property for such estate.

Power to Court to vest immoveable property in new Trustee.

37. It

37. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock or Government securities subject to the trust, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action, subject to the trust or any interest in respect thereof, in the person or persons who upon the appointment shall be the Trustee or Trustees.

Power to Court to vest right to sue in new Trustees.

38. Any such appointment by the High Court of new Trustees, and any such conveyance or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing Trustee, than an appointment of new Trustees under any power for that purpose contained in any instrument would have done.

Old Trustees not to be discharged from liability.

39. An order under any of the hereinbefore contained provisions, for the appointment of a new Trustee or new Trustees, or concerning any immoveable property, stock, or Government securities, or thing in action subject to a trust, may be made upon the application of any person beneficially interested in such immoveable property, stock, Government securities, or thing in action, whether under disability or not, or upon the application of any person duly appointed as a Trustee thereof; and an order under any of the provisions hereinbefore contained concerning any immoveable property, stock, Government securities, or thing in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the monies secured by such mortgage.

Who may apply.

40. When any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, it shall be lawful for him to present a petition to the High Court for such order as he may deem himself entitled to, and he may give evidence by affidavit or otherwise in support of such petition before the said Court, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

Application may be by petition.

41. Upon the hearing of any such petition it shall be lawful for the said High Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the said Court to direct such petition to stand over, to enable the petitioner to adduce evidence or further evidence before the Court, or to enable notice or any further notice of such petition to be served upon any person or persons.

What may be done upon petition.

42. Upon the hearing of any such petition, it shall be lawful for the High Court to dismiss such petition with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

Court may dismiss petition with or without costs.

43. Whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by report of one of the Judges of the Court, the facts necessary for an order under this Act shall appear to the High Court to be sufficiently proved, it shall be lawful for the said Court, either upon the hearing of the said cause or of any petition or application in the said cause or matter, to make such order under this Act.

Power to make an order in a cause.

44. Whenever any order shall be made under this Act by the High Court, for the purpose of conveying any immoveable property, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a Trustee or Mortgagee or on an allegation that a Trustee or the heir or devisee of a Mortgagee is out of the jurisdiction of the High Court or cannot be found, or that it is uncertain which of several Trustees, or which of several devisees of a Mortgagee, was the survivor, or whether the last Trustee, or the heir, or last surviving devisee of a Mortgagee, be living or dead, or on an allegation that any Trustee or Mortgagee has died intestate without an heir or has died, and it is not known who is his heir or devisee, then in any of such cases the fact that the High Court has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any Court of Civil Judicature upon any question as to the legal validity of the order: Provided always that nothing herein contained shall prevent the High Court directing a re-conveyance of any immoveable property conveyed or assigned by any order under this Act, or a re-disposition of any contingent right conveyed or disposed of by such order; and it shall be lawful for the said Court to direct any of the parties to any suit concerning such property or contingent right, to pay any costs occasioned by the order under this Act, when the same shall appear to have been improperly obtained.

Orders made by the High Court founded on certain allegations to be conclusive evidence of the matter contained in such allegations.

45. It shall be lawful for the High Court to exercise the powers herein conferred for the purpose of vesting any immoveable property, stock, Government securities, or thing in action in the Trustee or Trustees of any charity or society over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such Trustee or Trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

Trustees of charity.

46. Where

42. Upon

46. Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities, or thing in action conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court in trust in any cause then depending concerning such money, or if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court; and it shall be lawful for the said Court, upon petition in a summary way, to order any money so paid to be invested in Government securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof, as to the said Court shall seem reasonable.

Money of minors and persons of unsound mind to be paid into Court.

47. Where in any suit commenced or to be commenced in the High Court it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a Trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a Trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such Trustee had been duly served with the process of the Court, and had appeared at the hearing of such cause: Provided always, that no such decree shall bind, affect, or in any wise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, Executors, or Administrators for or in respect of any estate, right or interest which such person shall have at the time of making such decree for his own use or benefit or otherwise than as a Trustee as aforesaid.

Court may make a decree in the absence of a Trustee.

48. Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities, or thing in action as can only be transferred by stamped deed, or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities, or thing in action. Every such order shall be duly stamped for denoting the payment of the said duty.

Orders made under this Act to be chargeable with the same stamp duty as deeds of conveyance.

49. The High Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the immoveable or moveable property, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper.

Costs may be paid out of the estate.

Enquiry concerning person of unsound mind.

50. Upon any petition being presented under this Act to the High Court concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of unsound mind, and incapable of managing himself and his affairs. Such order shall have the same effect as the like order made under Section 1 of Act XXXIV of 1858 *to (regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter)*, and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making enquiry under the last-mentioned Act. The High Court may postpone making order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded.

51. Upon any petition under this Act being presented to the High Court, it shall be lawful for the said Court to postpone making any order upon such petition, until the right of the petitioner shall have been declared in a suit duly instituted for that purpose.

52. Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsoever for any act done pursuant thereto; and it shall not be necessary for such persons to enquire concerning the propriety of the order, or whether the High Court has jurisdiction to make the same.

Immunity to all persons by orders passed under Act.

53. Any order made by the High Court under this Act shall have the same effect and be executed in the same manner as a decree.

Orders under the Act to be executed as, and have effect of, decrees.

54. This Act may be cited as "The Indian Trustee Act, 1866."

Short Title.

55. On and after the first day of February 1867 (but not till then), the powers and authorities given by this Act to the High Courts, shall and may be exercised by the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca, in respect to moveable and immoveable property within the local limits of the jurisdiction of that Court; and, in the said Settlement, Section 2 of this Act shall read as if the words and figures "first day of February 1867," were substituted by the words and figures "first day of January 1866."

From 1st February 1867, Act to apply to Straits Settlement.

THE TRUSTEES AND MORTGAGEES' POWERS' ACT, 1866.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Interpretation of terms.

Powers of Trustees for sale, &c., and Trustees of renewable leaseholds.

2. Trustees empowered to sell, may sell in lots, and either by public auction or private contract.
3. Sale may be made under special conditions, and Trustees may buy in, &c.
4. Trustees exercising power of sale, &c., empowered to convey.
5. Money arising from sales, to be laid out in the manner indicated in the will, &c. Until it is so laid out, money to be invested in Government securities.

Powers of Mortgagees.

6. Powers incident to Mortgagees.
7. Receipts for purchase money sufficient discharges.
8. Notice to be given before sale; but purchaser relieved from inquiry as to circumstance of sale.
9. Application of purchase money.
10. Conveyance to the purchaser.
11. Owner of charge may call for title deeds and conveyance of legal estate.
12. Appointment of Receiver.
13. Receiver deemed to be the agent of the mortgagor.
14. Powers of Receiver.
15. Receiver may be removed.
16. Receiver to receive a commission not exceeding five per cent.
17. Receiver to insure, if required.
18. Application of moneys received by him.
19. This Part to relate to charges by way of mortgage only.

Leases.

20. Restriction on effect of license to alien.
21. Restricted operation of partial licenses.
22. Apportionment of conditions of re-entry in certain cases.

Rent-charges.

23. Release of part of land charged, not to be an extinguishment.

PRICE FIVE ANNAS.

SECTION.

Powers.

24. Mode of execution of powers.
25. Legatee in trust may raise money by sale, notwithstanding want of express power in the will.
26. Powers given by last section extended to survivors, legatees, &c.
27. Executors to have power of raising money, &c., where there is no sufficient bequest.
28. Purchasers, &c., not bound to enquire as to powers.

Inheritance.

29. Descent how to be traced.

Assignment of Moveables and Terms for Years.

30. Assignment to self and others.

Purchasers.

31. Not to be bound to see to the application of purchase money, &c.

Investment of Trust Funds.

32. On what securities trust funds may be invested.

Trustees and Executors.

33. Trustees may apply income of property of minors, &c., for their maintenance.
34. Provisions for appointment of new Trustees, on death, &c.
35. Appointment of new Trustee in place of Trustee pre-deceasing testator.
36. Trustees' receipts to be discharges.
37. Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the Trustees.
38. Executors may compound, &c.
39. Trustee, &c., making payment under power of attorney, not to be liable by reason of death of party giving such power.
40. As to liability of executor or administrator in respect of rents, covenants or agreements.
41. As to liability of executor, &c., in respect of rents, &c., in conveyance on rent-charge.
42. As to distribution of the assets of testator or intestate after notice given by executor and administrator.
43. Trustee, executor, &c., may apply by petition to Judge of High Court for opinion, advice, &c., in management, &c., of trust property.

General Provisions.

44. Tenants for life, &c., may execute powers, notwithstanding incumbrances.
45. Operation of Act.
46. Short title.
47. From 1st February 1867, Act to apply to Straits' Settlement.

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PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th October 1866.)

An Act to give to Trustees, Mortgagees and others, in cases to which English Law is applicable, certain powers now commonly inserted in Settlements, Mortgages and Wills, and to amend the Law of property and relieve Trustees.

Whereas it is expedient that in cases to which English Law is applicable, certain powers and provisions usually inserted in Settlements, Mortgages, Wills and other instruments, should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument, and that in such cases Trustees should be relieved; It is enacted as follows:—

Interpretation of terms. **1.** In the construction of this Act, unless there be something repugnant in the subject or context—

“Immoveable Property” shall include land, any benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth:

“Mortgage” shall be taken to include every instrument by virtue whereof immoveable property is in any manner conveyed, pledged, or charged as security for the repayment of money or moneys' worth lent, and to be re-conveyed, or released on satisfaction of the debt:

“Mortgagor.” “Mortgagor” shall be taken to include every person by whom any such conveyance, pledge, or charge as aforesaid shall be made:

“Mortgagee” shall be taken to include every person to whom or in whose favour any such conveyance, pledge or charge as aforesaid is made or transferred: and

“High

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“High Court” means any Court established or to be established under Statute 24 & 25 Vic., cap. 104, and includes the Chief Court of the Punjab and the Supreme Court of Judicature of the Settlement of Prince of Wales’ Island, Singapore and Malacca.

Powers of Trustees for sale, &c., and Trustees of renewable lease-holds.

2. In all cases where, by any will, deed or other instrument of settlement, it is expressly declared that Trustees or other persons therein named or indicated shall have a power of sale, either generally or in any particular event, over any immoveable property named or referred to in, or from time to time subject to, the uses or trusts of such will, deed or other instrument, it shall be lawful for such Trustees or other persons, whether such property be vested in them or not, to exercise such power of sale by selling such property either together or in lots, and either by public auction or private contract, and either at one time or at several times.

3. It shall be lawful for the persons making any such sale to insert any such special or other stipulations, either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for sale, as they shall think fit; and also to buy in the property or any part thereof at any sale by auction, and to rescind or vary any contract for sale, and to re-sell the property which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for any loss which may be occasioned thereby; and no purchaser under any such sale shall be bound to enquire whether the persons making the same may or may not have in contemplation any particular re-investment of the purchase-money in the purchase of any other property or otherwise.

4. For the purpose of completing any such sale as aforesaid, the persons empowered to sell as aforesaid shall have full power to convey or otherwise dispose of the property in question, in such manner as may be necessary.

5. The money so received upon any such sale as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed or instrument containing the power of sale; and until the money to be received upon any sale as aforesaid shall be so disposed of, the same shall be invested at interest in Government

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ernment securities for the benefit of such persons as would be entitled to the benefit of the money, and the interest and profits thereof, in case such money were then actually laid out as aforesaid: Provided that if the will, deed or instrument shall contain no such indication, the persons empowered to sell as aforesaid shall invest the money so received upon any such sale in their names upon Government securities in India, and the interest of such securities shall be paid and applied to such person or persons for such purposes and in such manner as the rents and profits of the property sold as aforesaid would have been payable or applicable in case such sale had not been made.

Powers of Mortgagees.

6. Where any principal money is secured or charged by deed on any immoveable property, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators and assigns, shall, at any time after the expiration of one year from the time when such principal money shall have become payable, according to the terms of the deed, or after any interest on such principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which by the terms of the deed ought to be paid by the person entitled to the property subject to the charge, have the following powers to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely:—

1st.—A power to sell or concur with any other person in selling the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and re-sell the property, from time to time, in like manner:

2nd.—A power to appoint or obtain the appointment of a Receiver of the rents and profits of the whole or any part of the property in manner herein-after mentioned.

7. Receipts for purchase money given by the person or persons exercising the power of sale hereby conferred, shall be sufficient discharges to the purchasers, who shall not be bound to see to the application of such purchase money.

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8. No such sale as last aforesaid shall be made until after six months' notice in writing given to the person or one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of such property; but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that no such notice as aforesaid had been given; but any person damnified by any such unauthorized exercise of such power, shall have his remedy in damages against the person or persons selling.

9. The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows:—first, in payment of all the expenses incident to the sale or incurred in any attempted sale; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made; and thirdly, in discharge of all the principal monies then due in respect of such charge; and the residue of such money shall be paid to the person entitled to the property subject to the charge, his executors, administrators or assigns, as the case may be.

10. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein in which the person who created the charge had power to dispose of: Provided that nothing herein contained shall be construed to authorize the mortgagee of a term of years to sell and convey the fee simple of the property comprised therein in cases where the mortgagor could have disposed of such fee simple at the date of the mortgage.

11. At any time after the power of sale hereby conferred shall have become exerciseable, the person entitled to exercise the same shall be entitled to demand and recover from the person entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed or surrendered to and were then vested in him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate shall be outstanding in a Trustee, the person entitled to a charge created by

Notice to be given before sale; but purchaser relieved from inquiry as to circumstances of sale.

Application of purchase money.

Conveyance to the purchaser.

Owner of charge may call for title deeds and conveyance of legal estate.

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by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

12. Any person entitled to appoint or obtain the appointment of a Receiver as aforesaid, may from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be Receiver, or if no person be so named, then may, by writing delivered to the person or any one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of the property, require such last-mentioned person or persons to appoint a fit and proper person as Receiver, and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit. No person shall be ineligible for the office of Receiver merely because he is an Officer of the High Court.

13. Every Receiver appointed as aforesaid shall be deemed to be the agent of the person entitled to the property subject to the charge, who shall be solely responsible for his acts or defaults, unless otherwise provided for in the charge.

14. Every Receiver appointed as aforesaid shall have power to demand and recover and give effectual receipts for all the rents, issues and profits of the property of which he is appointed Receiver, by suit, distress, or otherwise, in the name either of the person entitled to the property subject to the charge, or of the person entitled to the money secured by the charge, to the full extent of the estate or interest which the person who created the charge had power to dispose of.

15. Every Receiver appointed as aforesaid may be removed by the like authority, or on the like requisition as before provided with respect to the original appointment of a Receiver, and new Receivers may be appointed from time to time.

16. Every Receiver appointed as aforesaid shall be entitled to retain out of any money received by him, in lieu of all costs, charges, and expenses whatsoever, such a commission, not exceeding five per centum on the gross amount of all money received,

Receiver to receive a commission not exceeding five per cent.

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as shall be specified in his appointment, and if no amount shall be so specified, then five *per centum* on such gross amount.

17. Every Receiver appointed as aforesaid shall, if so directed in writing by the person entitled to the money secured by the charge, Receiver to insure if required. insure and keep insured from loss or damage by fire, out of the money received by him, the whole or any part of the property included in the charge which is in its nature insurable.

18. Every Receiver appointed as aforesaid shall pay and apply all the money received by him in the first place in discharge of Application of moneys received by him. Government revenue and of all taxes, rates and assessments whatsoever, and in payment of his commission as aforesaid, and of the premiums on the insurances, if any; and in the next place in payment of all the interest accruing due in respect of any principal money then charged on the property over which he is Receiver, or on any part thereof; and, subject as aforesaid, shall pay all the residue of such money to the person for the time being entitled to the property subject to the charge, his executors, administrators or assigns.

19. The powers and provisions contained in Sections 6 to 18 of this Act, both inclusive, relate only to mortgages or charges This Part to relate to charges by way of mortgage only. made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

Leases.

20. Where any license to do any act which without such license would create a forfeiture, or give a right to re-enter, under a condition or power reserved in any lease heretofore granted, or to be hereafter granted, shall, at any time after this Act comes into operation, be given to any lessee or his assigns, every such license shall, unless otherwise expressed, extend only to the permission actually given, or to any specific breach of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent any proceeding for any subsequent breach (unless otherwise specified in such license); and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and shall be available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or

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ed or made dispunishable by such license, in the same manner as if no such license had been given; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done.

21. Where in any lease heretofore granted or to be hereafter granted, Restricted operation of partial licenses. there is or shall be a power or condition of re-entry on assigning or under-letting, or doing any other specified act without license, and a license at any time after the passing of this Act shall be given to one of several lessees or co-owners to assign or under-let his share or interest, or to do any other act prohibited to be done without license; or shall be given to any lessee or owner, or any one of several lessees or owners, to assign or under-let part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees, or owner or owners, of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may be) over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license.

22. Where the reversion upon a lease is severed, and the rent or other reservation is legally apportioned, the assignee of each part Apportionment of conditions of re-entry in certain cases. of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him.

Rent-charges.

23. The release from a rent-charge of part of the immoveable property charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover Release of part of land charged, not to be an extinguishment. any part of the rent-charge out of the property released, without prejudice nevertheless to the rights of all persons interested in the property remaining unreleased, and not concurring in or confirming the release.

Powers.

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Powers.

24. A deed hereafter executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing not testamentary, notwithstanding it shall have been expressly required that a deed or instrument in writing made in exercise of such power should be executed or attested with some additional or other form of execution or attestation or solemnity: Provided always, that this provision shall not operate to defeat any direction in the instrument creating the power, that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument: and nothing herein contained shall prevent the donee of a power from executing it conformably to the power by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend.

25. Where by any will which shall come into operation after the passing of this Act, the testator shall have charged his immoveable property or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have bequeathed the property so charged to any Trustee or Trustees for the whole of his estate or interest therein, and shall not have made any express provision for the raising of such debt, legacy or sum of money out of such property, it shall be lawful for the said legatee or legatees in trust, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy or money as aforesaid by sale and absolute disposition by public auction or private contract, of the said property or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other; and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same shall think proper.

26. The powers conferred by the last preceding Section shall extend to all and every person or persons in whom the property bequeathed in trust shall for the time being be vested by survivorship, or under the laws relating to intestate or testamentary

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mentary succession, or to any person or persons who may be appointed under any power in the will, or by the High Court, to succeed to the trusteeship vested in such legatee or legatees in trust as aforesaid.

27. If any testator who shall have created such a charge as is described in Section 25 of this Act, shall not have bequeathed the property charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any Trustee or Trustees, the executor or executors (if any) for the time being named in such will, shall have the same or the like power of raising the said moneys as is hereinbefore vested in the legatee or legatees in trust of the said property, and such power shall from time to time devolve on and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested.

28. Purchasers or mortgagees shall not be bound to enquire whether the powers conferred by Sections 25, 26 and 27 of this Act, or any of them, shall have been duly and correctly exercised by the person or persons acting in virtue thereof.

Inheritance.

29. In cases of intestacies occurring before the first day of January 1866, where there shall be a total failure of heirs of the purchaser, or where any immoveable property shall be descendible as if an ancestor had been the purchaser thereof, and there shall be a total failure of the heirs of such ancestor, then and in every such case the property shall descend, and the descent shall thenceforth be traced from the person last entitled to the property as if he had been the purchaser thereof. This Section shall be read as part of Act No. XXX of 1839 (*for the amendment of the law of inheritance*).

Assignment of Moveables and Terms for Years.

30. Any person shall have power to assign moveable property now by law assignable, terms for years of immoveable property, and estates by *elegit*, directly to himself and another person or other persons or corporation, by the like means as he might assign the same to another.

Purchasers.

Purchasers.

31. The *bonâ fide* payment to and the receipt of any person to whom any purchase or mortgage money shall be payable upon any express or implied trust, shall effectually discharge the person paying the same from seeing to the application, or being answerable for the misapplication thereof.

Not to be bound to see to the application of purchase money, &c.

Investment of Trust Funds.

32. Trustees having trust money in their hands which it is their duty to invest at interest, shall be at liberty, at their discretion, to invest the same in any Government securities, and such Trustees shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature: Provided always, that no such original investment as aforesaid, and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person.

On what securities trust funds may be invested.

Trustees and Executors.

33. In all cases where any property is held by Trustees in trust for a minor, either absolutely or contingently on his attaining majority, or on the occurrence of any event previously to his attaining majority, it shall be lawful for such Trustees, at their sole discretion, to pay to the guardians (if any) of such minor, or otherwise to apply for or towards the maintenance or education of such minor, the whole or any part of the income to which such minor may be entitled in respect of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not; and such Trustees shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen: Provided always, that it shall be lawful for such Trustees at any time, if it shall appear to them expedient, to apply the whole or any part of

Trustees may apply income of property of minors, &c., for their maintenance.

of such accumulations as if the same were part of the income arising in the then current year.

34. Whenever any Trustee, either original or substituted, and whether appointed by any High Court or otherwise, shall die, or be six months absent from British India, or desire to be discharged from, or refuse, or become unfit or incapable to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will, or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing Trustees or Trustee for the time being, or the acting executors or executor, or administrators or administrator of the last surviving and continuing Trustee, or for the retiring Trustees, if they shall all retire simultaneously, or for the last retiring Trustee, or where there are two or more classes of Trustees of the instrument creating the trust, then for the surviving or continuing Trustees or Trustee of the class in which any such vacancy or disqualification shall occur (and for this purpose any refusing or retiring Trustee shall, if willing to act in the execution of the power, be considered a continuing Trustee) by writing to appoint any other person or persons to be a Trustee or Trustees in the place of the Trustee or Trustees so dying, or being absent from British India, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid. So often as any new Trustee or Trustees shall be so appointed as aforesaid, all the trust property (if any) which for the time being shall be vested in the surviving or continuing Trustees or Trustee, or in the heirs, executors or administrators of any Trustee, shall with all convenient speed be conveyed and transferred so that the same may be legally and effectually vested in such new Trustee or Trustees, either solely or jointly with the surviving or continuing Trustees or Trustee, as the case may require. Every new Trustee to be appointed as aforesaid, as well before as after such conveyance or transfer as aforesaid, and also every Trustee appointed by any High Court either before or after the passing of this Act, shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally nominated a Trustee by the deed, will, or other instrument (if any) creating the trust. The Official Trustee may with his consent, and by the order of the High Court, be appointed under this Section in any case in which only one Trustee is to be appointed and such Trustee is to be the sole Trustee.

Provisions for appointment of new Trustees, on death, &c.

35. The

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Appointment of new
Trustee in place of
Trustee predeceasing
testator.

35. The power of appointing new Trustees hereinbefore contained, may be exercised in cases where a Trustee nominated in a will has died in the life-time of the testator.

36. The receipts in writing of any Trustees or Trustee for any money payable to them or him by reason, or in the exercise, of any trusts or powers reposed or vested in them or him, shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the Trustees.

37. Every deed, will, or other instrument creating a trust either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say, "that the Trustees or Trustee for the time being of the said deed, will, or other instrument, shall be respectively chargeable only for such moneys, stocks, funds and securities, as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects, or defaults, and not for those of each other, nor for any banker, broker or other person with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the Trustees or Trustee for the time being of the said deed, will, or other instrument, to reimburse themselves or himself, or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will, or other instrument."

Executors may compound, &c.

38. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims, and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give, and

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and execute such agreements, instruments of composition, releases, and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby.

39. No Trustee, executor or administrator making any payment or doing any act *bonâ fide* under or in pursuance of any power of attorney, shall be liable for the moneys so paid or the act so done, by reason that the person who gave the power of attorney was dead at the time of such payment or act, or had done some act to avoid the power: Provided that the fact of the death, or of the doing of such act as last aforesaid, at the time of such payment or act *bonâ fide* done as aforesaid by such Trustee, executor or administrator, was not known to him: Provided always, that nothing herein contained shall in any manner affect or prejudice the right of any person entitled to the money against the person to whom such payment shall have been made; but that such person so entitled shall have the same remedy against such person to whom such payment shall be made as he would have had against the Trustee, executor or administrator, if the money had not been paid away under such power of attorney.

As to liability of executor or administrator in respect of rents, covenants, or agreements.

40. Where an executor or administrator liable as such to the rents, covenants, or agreements, contained in any lease or agreement for a lease granted or assigned, whether before or after the passing of this Act, to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease, or agreement for a lease as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part, or any further part (as the case may be) of the estate of the deceased to meet any future liability under the said lease or agreement for a lease. The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund

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fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease. Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

41. In like manner, where an executor or administrator liable as such to the rent, covenants, or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant, or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part or any further part (as the case may be) of such estate to meet any future liability under the said conveyance, or agreement for a conveyance. The executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for conveyance. Nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

42. Where an executor or administrator shall have given such or the like notices, as in the opinion of the Court in which such executor or administrator is sought to be charged would have been given by the High Court in an administration suit, for creditors and others to send in to the executor or administrator

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administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets or a part thereof, as the case may be. Nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

43. Any Trustee, executor or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court for the opinion, advice or direction of such Judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate. Such application shall be served upon, or the hearing thereof shall be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient. The Trustee, executor or administrator acting upon the opinion, advice or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such Trustee, executor or administrator in the subject matter of the said application: Provided nevertheless, that this Act shall not extend to indemnify any Trustee, executor or administrator, in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if such Trustee, executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction: and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made.

General Provisions.

44. For the purposes of this Act, a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of immoveable or moveable property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever to any extent; but the estates or interests of the parties

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parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

45. The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil or other instrument executed after this Act comes into operation, or under a will or codicil confirmed or revived by a codicil executed after that date, and only to property in British India and to cases to which English law is applicable.

Short title. 46. This Act may be called "the Trustees and Mortgagees' Powers' Act, 1866".

From first February 1867, Act to apply to Straits' Settlement.
47. On and after the first day of February 1867, but not till then, this Act shall apply to the Settlement of Prince of Wales' Island, Singapore and Malacca; and, in the said Settlement, Section 29 of this Act shall be read as if the words and figures "first day of February 1867" were substituted for the words and figures, "first day of January 1866."

ACT No. XXIX OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th October 1866.)

To enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble. Whereas by the letters patent re-constituting the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca, Her Majesty, among other things, authorized and empowered the Governor or President and Council of the said Settlement for the time being to erect and establish such Court or Courts of Judicature as they should see fit for the recovery of small debts, and for the trial and determination of all suits and causes whatsoever against any of the inhabitants of the said Settlement, wherein the debt, duty, or matter in dispute should not exceed the value of thirty-two dollars; and whereas under the said authority Courts of Requests have been established at Penang, Province, Wellesley, Singapore, and Malacca; and whereas it is expedient that the said Courts, and also any other Courts which may hereafter be established under the said authority, should have jurisdiction in all suits wherein the matter in dispute shall not exceed the value of fifty dollars; It is enacted as follows:—

1. From and after the passing of this Act, any Court or Courts established or which may be established in the Settlement of Prince of Wales' Island, Singapore, and Malacca, under the said authority, shall have jurisdiction to try and determine all suits brought for the recovery of debts, and all suits and causes whatever

Courts of Requests authorized to try suits to an amount or value not exceeding 100 dollars.

whatever against any of the inhabitants of the said Settlement or the places now, or at any time hereafter to be, subordinate or annexed thereto, wherein the debt, duty, or matter in dispute shall not exceed the value of fifty dollars.

2. It shall be lawful for the Commissioners of the Court of Requests respectively in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, to appoint four or more persons to be Bailiffs and Appraisers for the purposes of this Act, and with the sanction of the Governor of the said Settlement to fix such remuneration for the services of the said Officers as shall appear to the said Commissioners expedient, and such persons shall be duly sworn before the said Commissioners, and shall also give security, to be approved by the said Commissioners, faithfully to discharge the duties of their office, and the said Commissioners shall have power to suspend or remove such persons so appointed: Provided that it shall be lawful for the said Commissioners respectively to appoint the Bailiffs who may be attached from time to time to the said Courts respectively to the office of Distraining Bailiffs and Appraisers, for the purposes of this Act, and to award to the said Officers such remuneration, in addition to their respective salaries drawn from the said Court, as to the said Commissioners with the sanction of the Governor of the said Settlement shall appear expedient.

3. It shall be lawful for any Commissioner of a Court of Requests in any such Station, upon the affidavit in the form contained in the Schedule to this Act annexed (marked D) of any party claiming to be entitled to arrears of rent of any house or premises situate in such Station, not exceeding the amount of fifty dollars, or in case of absence of such party from such Station, or in case of respectable females who do not appear in public, upon the affidavit of the constituted Attorney of such party, stating the amount of such arrears, and for what time and at what rate the same became due, to issue a Warrant under his hand and seal, in the form contained in the Schedule to this Act annexed (marked A), addressed to any one of such Officers of such Court, directing him to levy the amount of such rent, together with the costs of the said distress, in the manner therein mentioned: Provided that it shall be lawful for any of the said Commissioners, upon personal examination of the party applying for such Warrant, to grant or withhold the same, at the discretion of the said Commissioner.

4. By virtue of such Warrant it shall be lawful for such Officer to seize the whole or such part of the goods and chattels upon the said premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and he shall

Appointment, remuneration and removal of Bailiffs and Appraisers.

Issue of distress Warrant.

Seizure of goods and chattels.

shall thereupon make an inventory of the goods and chattels so seized, and shall give a notice in writing in the form in the Schedule to this Act annexed (marked B) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said premises, that the said goods and chattels will be appraised and sold in manner therein mentioned. And the said Officer shall file in the Court of Requests, from which the Warrant issued, true copies of the said inventory and notice: Provided that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure, to apply to any Commissioner of such Court to discharge or suspend such Warrant, and it shall be lawful for such Commissioner to discharge or suspend such Warrant accordingly, with or without costs: Provided that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

5. In default of such application, it shall be lawful for any two of such Officers of such Court, at the expiration of five days from such seizure, to appraise the goods and chattels so seized, and to give notice in writing in the form in the Schedule to this Act annexed (marked E) of the sale thereof, at such time and place as they shall direct, after an interval of not less than two days; and they shall file in such Court a true copy of the said notice, and that the same shall be sold accordingly, and the said Officers shall forthwith, after realization of the produce of the said sale, pay over the amount thereof to the Chief Clerk of the said Court, or other Head Officer of such Court and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due: Provided that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

6. No costs shall be taken or demanded for such distress, except those contained in the Schedule to this Act annexed (marked C), and it shall be lawful for the said Commissioners of the Court out of which such distress is issued, with the sanction of the Governor of the said Settlement to apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said Bailiffs and Appraisers, as shall appear to the said Commissioners expedient, and the Chief Clerk or other Head Officer of the said Court shall keep a book, in which all sums received as costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers, and all contingent charges incurred in respect of such distresses shall be duly entered, and the Chief Clerk or other Officer, as aforesaid, of the

Sale of goods and chattels.

Costs of distress.

the said Court, shall also enter in the said book all sums realized by sale of the goods and chattels distrained and paid over to the landlords, under the provisions of this Act.

7. After the passing of this Act, no distress shall be levied for arrears of rent amounting to fifty dollars or less, except under the provisions of this Act; and any person, except such Officer as shall be appointed, under this Act, levying or attempting to levy any such distress, shall be guilty of a misdemeanor, and shall be liable to be punished by fine and imprisonment for the same, in addition to any other liability he may have incurred by such trespass.

No distress for arrears of rent amounting to 50 dollars except under this Act.

Penalty.

8. This Act shall not extend to any arrears of rent exceeding fifty dollars, nor in respect of any house or premises situate out of the local jurisdiction of any such Court, nor to any rent due to Government, nor to any seizure, except on the premises in respect of which such rent is claimed.

Act not to apply to rent due to Government.

9. A seal shall be made for every Court of Requests in the said Settlement under the direction of the Governor of the said Settlement, and all summonses and other process issuing out of any such Court shall be sealed or stamped with the seal of the Court; and every person who shall forge the seal or any process of any such Court, or who shall serve or enforce any such forged process knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons or other process of such Court, knowing the same to be false, or who shall act, or profess to act under any false colour or pretence of the process of the said Court, shall be guilty of felony.

Seal of Court.

10. Every person who shall give evidence in any Court of Requests in the said Settlement shall be examined on oath, or when exempt by law from taking an oath, on solemn affirmation; and every person, who, in any examination upon oath or solemn affirmation, under this Act, shall wilfully and corruptly give false evidence shall be deemed guilty of perjury.

Mode of examining witnesses.

11. Either of the parties to a suit or any other proceeding in any Court of Requests in the said Settlement may obtain, at the Office of the Clerk of such Court or other Officer as aforesaid, summonses to witnesses, with or without a clause, requiring the production of books, deeds, papers and writings in their possession

Summonses to witnesses.

session or control, and in any such summons any number of names may be inserted.

12. Every person, on whom any such summons shall have been served, either personally or in such other manner as shall be directed by the general rules or practice of the Court of Requests out of which such summons shall issue, and who shall refuse or neglect, without sufficient cause, to appear or to produce any books, papers, or writings required by such summons to be produced, and also every person present in any such Court, who shall be required to give evidence, and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine, not exceeding fifty dollars, as the Commissioners of such Court shall impose on him, and the whole or any part of such fine in the discretion of the Commissioners after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

Penalty for witness not appearing, &c.

13. The Commissioners of any Court of Requests in the said Settlement, in all suits where the debt or demand exceeds the sum of fifteen dollars, upon proof before them that any defendant against whom a summons has been taken out, conceals himself, from, or otherwise evades process of, such Court, or is disposing of his property and effects, with intent to defraud the plaintiff or his creditors generally, or is about to withdraw his person or effects from the jurisdiction of such Court, may issue a warrant for the apprehension of such person, and may commit him to gaol, until he shall find security for his appearance in such Court, from time to time, until judgment shall be pronounced in the suit commenced by such summons, and for payment of the amount and the costs which may be decreed against him therein.

Issue of warrant for arrest of defendant evading process or concealing property.

14. Payment of any fine imposed by any Court of Requests under the authority of this Act may be enforced upon the order of the Commissioners of such Court in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

Enforcement of fines.

15. Whenever any Court of Requests in the said Settlement shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed by execution against the body or the goods and chattels of the person against whom such order is made, without further notice or order, and the Clerk of the said Court or other Officer as aforesaid, at the request of the per-

Execution may issue either against person or property of debtor.

son prosecuting such order, shall issue under the seal of the Court a writ of execution to one of the Bailiffs of such Court, which shall be his warrant to take the body of such person in execution, or to levy, or cause to be levied by distress and sale of the goods and chattels of such person, such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court, and also the costs of the execution; and all Constables and other Peace Officers within their several jurisdictions shall aid in the execution of every such writ.

16. If any such Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of some instalment according to such order; and execution or successive executions may then issue without further notice or order for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as such Court shall order, either at the time of making the original order, or at any subsequent time, under the seal of the Court.

17. Whenever any warrant shall issue for taking in execution the body of any person under this Act, the Bailiffs of the Court of Requests out of which such Warrant shall issue, shall be empowered, by virtue thereof, to take and convey him to any prison appointed by the Governor of the Settlement to be the prison of such Court there to remain for such term as shall be directed by the warrant not longer than six calendar months, or until he shall sooner perform the order of such Court.

18. No person shall be imprisoned twice under the same judgment, nor shall execution against the body and goods issue at the same time under the same judgment.

19. Every Bailiff executing any process of execution issuing out of any such Court against the goods of any person, may, by virtue thereof, seize and take any of the goods of such person (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade), and may also seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

20. If any person shall wilfully insult any Commissioner, Clerk, or Officer of any such Court, for the time being during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of any such Court, or otherwise misbehave in any such

In case of order to pay by instalments, execution to issue on default of payment, without further notice.

Warrants in execution against the body.

No person to be twice imprisoned, nor execution against body and goods to issue at the same time under same judgment.

Warrants in execution against goods.

Penalty for contempt of Court.

Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person, by the order of a Commissioner of such Court, to take such offender into custody, and detain him until the rising of such Court; and the Commissioners shall be empowered, if they shall think fit, by a Warrant under their hands, and sealed with the seal of the Court, to commit any such offender to any prison to which they have power to commit offenders under this Act, for any time not exceeding seven days, or to impose upon any such offender a fine not exceeding twenty-five dollars, for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid, for any time not exceeding seven days, unless the said fine be sooner paid, or instead of inflicting summary punishment under this Act, may cause the offender to be indicted in the Court of Judicature if the offence be an indictable misdemeanor.

21. If any Officer or Bailiff of any such Court shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any person arrested or goods levied under process of any such Court, the person so offending shall be liable to a fine not exceeding fifty dollars, to be recovered by order of such Court, or before a Magistrate, and the Bailiff of the Court, or any Peace Officer in any such case, may take the offender into custody (with or without warrant) and bring him before such Court or Magistrate accordingly.

22. If any Bailiff of any such Court, who shall be employed to execute any warrant of any such Court, shall, by neglect, or connivance or omission, lose an opportunity of executing such warrant, then, upon complaint of the party aggrieved by reason of such neglect, connivance, or omission (and the fact alleged being proved to the satisfaction of the Court), the Commissioners of such Court shall order the Bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution is issued, and the Bailiff shall be liable thereto, and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court, without prejudice nevertheless to the execution of the original warrant.

23. If any Clerk, Bailiff, or other Officer of any such Court acting under colour or pretence of the process of the said Court shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, the Commissioners of such Court may enquire into such

Penalty for assaulting Bailiff, &c., in execution of duty.

Penalty for Bailiff neglecting, &c., to execute warrant.

Penalty for misconduct on part of Clerk, Bailiff, &c.

matter

matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and may make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied as aforesaid and for the payment of such damages and costs, as they shall think just, and also if they shall think fit, may impose such fine upon the Clerk, Bailiff, or Officer, not exceeding fifty dollars for each offence, as they shall deem adequate, and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

24. Every Clerk, Bailiff, or other Officer employed in putting any of the Penalty for Clerk, &c., taking bribe. powers of this Act in execution, who shall wilfully and corruptly exact, take, or accept any fee or reward whatsoever, other than his lawful salary, for any thing done or to be done by virtue of this Act, or on any account whatsoever relative to putting this Act into execution, shall, upon proof thereof before the Court in which such Clerk, Bailiff, or Officer is employed, and in the case of a Clerk, on confirmation of the finding of the Court by the Governor of the said Settlement, be for ever incapable of serving or being employed under this Act in any office of profit or emolument, and shall also be liable for damages as herein provided.

25. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of any Court of Requests under this Act, or in respect of the proceeds or value thereof, by any Provision for cases of erroneous execution of process. person not being the party against whom such process has issued, the Clerk of such Court or other Officer as aforesaid, upon application of the Officer charged with the execution of such process, as well before as after any action brought against such Officer, may issue a summons, calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in the Court of Judicature in respect of such claim, shall be stayed, and the Judge of the Court of Judicature, on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action, after the issue of such summons out of such Court of Requests; and the Commissioners of such Court of Requests shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to them shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

26. If

26. If any person shall bring any suit in any Court of Judicature in the said Settlement in respect of any grievance committed by the Clerk, Bailiff or Officer of any Court of Requests within the Limit of damages in actions against Clerk, &c. jurisdiction of such Court of Judicature under colour or pretence of the process of the said Court of Requests, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of two hundred and fifty dollars, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court, upon the back of the record, that the action was fit to be brought in the Court of Judicature.

27. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words Form of conviction. or to the effect following (that is to say) Be it remembered that on this day of _____ in the year _____ A. B. is convicted before _____ a Magistrate for the _____ or before a Commissioner acting under Act No. XXIX of 1866 of having (state the offence) and I (or we) the said _____ do adjudge the said _____ to forfeit and pay for the same the sum of _____ [or to be committed to _____ for the space of _____] given under _____ hand (_____) and seal (_____) the day and year aforesaid.

28. No order, verdict of judgment, or other proceeding, No order, &c., to be quashed for want of form. made concerning the matters aforesaid, shall be quashed or vacated for want of form.

29. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed Distress not unlawful on account of defect or informality. unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant of distress or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

30. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be commenced Limitation of actions. within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if

if tender of sufficient amends shall have been made before such action is brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs by or on behalf of the defendant.

A.

In the Court of Requests in and for the Station of (as the case may be).

FORM OF WARRANT.

I HEREBY direct you to distrain the goods and chattels on the premises of A. B. situate in in the for the sum of dollars, being the amount of months' rent due to C. D. for the same, on the day of last, according to the provisions of the Act No. XXIX of 1866, dated 1st day of May.

(Signed and Sealed)

To

E. F.

Sworn Bailiff and Appraiser.

B.

In the Court of Requests in and for the Station of (as the case may be).

FORM OF INVENTORY AND NOTICE.

(State particulars of goods seized.)

TAKE Notice that I have this day seized the goods and chattels contained in the above inventory for the sum of dollars being the amount of months' rent due to C. D. at last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Commissioners of the Court of Requests to the contrary, the same will be appraised and sold pursuant to the provisions of the Act No. XXIX of 1866.

(Signed) E. F.,
Sworn Bailiff and Appraiser.

To

A. B.

C.

In the Court of Requests in and for the Station of
SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT.

SUMS SUED FOR.	Affidavit, &c., Warrant to distrain.	Order to sell.	Commis-sion.	Total.	REMARKS.
	Dol. ct.	Dol. ct.	Dol. ct.	Dol. ct.	
1 and under 5 Dollars.					
5 and under 10 "					
10 and under 15 "					
15 and under 20 "					
20 and under 25 "					
25 and under 30 "					
30 and under 35 "					
35 and under 40 "					
40 and under 45 "					
45 and under 50 "					

The above Scale is intended to include all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be subpoenaed, in which case each subpoena for sums under must be paid for at each, and above that amount, and also where peons were kept in charge of property distrain, per day must be paid per man.

D.

In the Court of Requests in and for the Station of (as the case may be.)
A. B. (Plaintiff.)

versus

C. D. (Defendant.)

A. B., inhabitant of in the Station of maketh oath and saith, that C. D., who is also an inhabitant of the town of is justly indebted to in the sum of dollars for arrears of rent of the house and premises No. situated at in the Station of due for month, to wit from to at the rate of dollars per mensem.

Sworn before me, the day of 18 .

Commissioner.
E.

E.

In the Court of Requests in and for the Station of (as the case may be.)

TAKE Notice that we have appraised the goods and chattels seized on the under the provisions of the Act No. XXIX of 1866 of which a Notice and Inventory had been duly served upon you under date the , and that the said goods and chattels will be sold on the at pursuant to the provisions of the said Act.

(Signed) E. F.,

,, G. H.,

Sworn Bailiffs and Appraisers.

To

A. B.

ACT NO. I OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th January 1867.)

An Act to authorize the levy of tolls for the improvement of the navigation of the Ganges.

Whereas it is expedient to authorize the levy of tolls on certain steamers, flats and boats plying on the River Ganges, to be applied for the improvement of the navigation of the said river between Allahabad and Dinapore; It is hereby enacted as follows:—

1. In construing this Act—

Interpretation Clause.

“Lieutenant-Governor.” shall mean the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William.

“Master.” shall include every person (except a pilot) having command or charge of any steamer, flat or boat; and

“Magistrate.” shall include any person exercising any of the powers of a Magistrate.

2. A toll not exceeding twelve Annas per hundred maunds shall be payable at such place or at one of such places subject to the Government of the Lieutenant-Governor as he shall from time to time direct, in respect of every steamer, flat and boat of the burden of two hundred maunds and upwards, which shall pass up or down the Ganges by such place or any one of such places.

Toll not exceeding 12 Annas per hundred maunds chargeable on vessels ascending or descending Ganges.

places. Provided that toll shall be levied in the case of steamers only on sixty-five per cent. of the burden, and in the case of flats only on ninety per cent. of the burden.

3. The burden of steamers and flats liable to pay tolls under this Act shall be determined according to the method which may from time to time be practised by the Master Attendant at Calcutta in order to ascertain the amount of port dues which such steamers and flats would be liable to pay on arriving within the limits of the port of Calcutta. The following method shall be used for determining in maunds, according to actual floatage or displacement, the burden of boats liable to pay tolls under this Act; (that is to say), half the length in feet at the water-level of the boat, shall be multiplied by the greatest width in feet at the water-level, and the product shall further be multiplied by the draft of water in feet, and the number so found shall be taken to be the burden in maunds. Thereupon the toll shall be calculated according to the even hundreds of maunds, fractions of a hundred being neglected.

4. The funds raised by the tolls payable under this Act shall be applicable, at the discretion of the Lieutenant-Governor, to defray the expenses of improving and facilitating the navigation of the Ganges between Allahabad and Dinapore.

5. The Lieutenant-Governor may appoint any person he may think fit to collect the tolls payable under this Act at any place or places under his Government, and may from time to time remove any such person and appoint another person in his stead.

6. Sections 2 and 3 of this Act, and a list of the rates of toll and of the place or places of collecting the toll leviable under this Act, shall be at all times exhibited at such place or places in the English and Urdú languages, and shall also be published thrice in the local *Gazette*.

7. Every person so appointed shall collect the tolls leviable under this Act by himself, or by any officer in his establishment (if any) whom he shall appoint in this behalf. The officer to whom any such toll shall be paid shall grant to the person paying the same a voucher in writing under his hand, describing the name of his office and the place at which such payment shall be made, the name (if any,

Rules for measurement of burden.

Application of funds raised under this Act.

Appointment of Collector of tolls.

List of tolls.

Tolls to be paid to proper officer, who shall give a voucher for the same.

any), burden and other proper description of the steamer, flat or boat, and the voyage in respect of which such toll shall be paid.

8. If any toll leviable under this Act in respect of any steamer, flat or boat, shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such steamer, flat or boat, and any furniture thereof, and to detain the same; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the District in which the seizure has been made, or other public officer duly authorized by the Lieutenant-Governor in this behalf. On receipt of such report, the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said steamer, flat or boat and any furniture thereof. The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale. If the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale, to the Collector, Deputy Collector, or other officer as aforesaid, such officer shall sell the steamer, flat or boat and furniture seized, or so much thereof as may be necessary to pay the toll, and also any expenses occasioned by non-payment. So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the master of the steamer, flat or boat.

9. Notwithstanding anything in this Act contained, the person authorized to collect the tolls payable under this Act at any such place as last aforesaid, may, in his own name, sue for and recover, on behalf of the Government of India, the amount of any tolls payable to him under this Act, by suit in any of the Civil Courts against the owner or master of any steamer, flat or boat liable thereto.

10. Upon the refusal or neglect of any owner or master of any steamer, flat or boat liable to pay toll under this Act, to satisfy the person authorized to collect such toll as to what is the true burden, as ascertained under Section 3 of this Act, of the steamer, flat or boat, it shall be lawful for such person to cause such steamer flat or boat to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under this Act; or it shall be lawful for such person to deliver to the master or owner of such steamer, flat or boat, or to leave for him on board such steamer, flat or boat, a notice in writing specifying

Payment of tolls how to be enforced.

Power to sue for recovery of tolls.

Ascertainment by Toll Collector of burden of steamer, flat or boat.

4.

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specifying what, in his judgment, is the burden of the steamer, flat or boat, and the burden specified in such notice shall be deemed to be the real burden of the steamer, flat or boat, and be treated as such for all the purposes of this Act, until the owner or master of the steamer, flat or boat, shall give sufficient proof of the true burden thereof, as ascertained under Section 3 of this Act.

11. The master of any steamer, flat or boat which shall depart from, or arrive at, any place as last aforesaid, upon, or in the course of, or at the termination of any voyage, shall, upon demand by any person authorized to collect or receive the tolls under this Act, specify whence he is come and whither he is bound. If any master of any such steamer, flat or boat, shall refuse or neglect so to do, or shall make a false statement as to the place from which he is come or to which he is bound, or shall endeavour to evade the payment of any toll payable under this Act, he shall be punishable by a Magistrate by a fine not exceeding two hundred Rupees.

12. If any dispute shall arise respecting the liability of any steamer, flat or boat, to the payment of toll under this Act, or in respect of the burden of any steamer, flat or boat, or the amount of toll payable, or the amount of any charges on account of any sale under this Act, such dispute shall be heard and determined by a Magistrate, and the decision of such Magistrate shall be final.

13. The Lieutenant Governor may, from time to time as he may think fit, reduce all or any of the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise such tolls to any amount not exceeding the amount hereinbefore specified. He may also prescribe a mode or modes of measurement for burden differing from those prescribed in Section 3 of this Act; provided that the tolls payable under such new mode or modes of measurement shall not exceed the amount specified as aforesaid.

14. Whenever, in the opinion of such officer as the Lieutenant-Governor shall appoint in this behalf, the construction of any bándhél or other contrivance for fishing or for any other purpose, in any part of the Ganges between Allahabad and Dinapore, is likely to cause obstruction to the free and safe navigation of such part, he may by notice in writing, to be served on the owner or person in charge of such bándhél or other contrivance, or, if such owner or other person cannot be found, to be affixed at some conspicuous place in the nearest village, prohibit the construction of such bándhél or other contrivance.

15. Any

Penalty for causing obstruction to navigation.

15. Any person who shall wilfully disobey any prohibition under the last preceding Section, or shall wilfully cause or aid in causing any obstruction to the navigation of the Ganges between Allahabad and Dinapore, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty Rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction or in repairing such damage.

16. It shall be lawful for the Lieutenant-Governor from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend such rules, for the management of the navigation of any part of the Ganges between Allahabad and Dinapore, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules, not exceeding fifty Rupees for any one infringement, or five Rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters:—

(a). For fixing the number and the width of steamers, flats and boats to be allowed to pass into or out of or through any part of the Ganges between Allahabad and Dinapore, at one time or abreast;

(b). For determining the length of time during which steamers, flats or boats may remain stationary on such part, and the amount of demurrage to be paid by steamers, flats or boats remaining stationary beyond such time;

(c). For regulating the mode in which and the place or places at which tolls are to be levied under this Act;

(d). For the removal of sunken vessels and obstructions;

(e). And for the storing and disposal of the cargo of steamers, flats and boats seized under this Act.

17. All fines imposed under this Act may be recovered in the manner prescribed by the Code of Criminal Procedure, and may be disposed of as the Lieutenant-Governor shall from time to time direct.

Recovery of fines.

ACT N^O. II OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th January 1867.)

An Act to make further provision for the removal of prisoners.

Preamble, Whereas it is expedient to authorize the Local Government to remove any prisoner sentenced by a Court established by Royal Charter from the jail in which such prisoner is confined to any other jail, or in the case of a prisoner of unsound mind, to a lunatic asylum, within the territories subject to the same Local Government: and whereas it is also expedient to authorize the Governor General of India in Council to remove any prisoner sentenced by any Court from the jail in which such prisoner is confined to any other jail within British India; It is hereby enacted as follows:—

1. When any person shall be, or shall have been, sentenced to imprisonment by a Court established by Royal Charter, it shall be lawful for the Local Government to order the removal of such person, during the period prescribed for his or her imprisonment, from the jail or place in which he or she is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

Local Government may order removal of prisoners sentenced by High Court from one jail to another in the territories subject to the same Government.

2. Whenever it shall appear to the Local Government that any person imprisoned by the sentence of a Court established by Royal Charter, is of unsound mind, such Government, by a warrant which shall set forth the grounds of belief that such prisoner is of unsound mind, may order his or her removal to a lunatic asylum

Lunatic prisoners sentenced by High Court may be removed to asylum by order of Local Government.

asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the Local Government shall direct during the remainder of the term of imprisonment ordered by the sentence; or if it shall be certified by a Medical officer that it is necessary for the safety of the prisoner or others that he or she should be detained under medical care or treatment, then until he or she shall be discharged according to law; and when it shall appear to the same Government that such prisoner has become of sound mind, the Local Government, by a warrant directed to the person having charge of the prisoner, shall remand him or her to the prison from which he or she was removed if then still liable to be kept in custody, or if not shall order him or her to be discharged. The provisions of Section 9 of Act XXXVI of 1858 (*relating to lunatic asylums*) shall apply to every person confined in a lunatic asylum under this Section after the expiration of the term of imprisonment to which he or she shall have been sentenced; and the time during which he or she shall have been so confined shall be reckoned as part of such term.

3. When any person shall be, or shall have been, sentenced to imprisonment by any Court, it shall be lawful for the Governor-General of India in Council to order the removal of such person during the period prescribed for his or her imprisonment, from the jail or place in which he or she is confined to any other jail or place of imprisonment in the territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*).

Governor General in Council may order removal of Prisoners sentenced by any Court from one Jail to another in British India.

ACT No. IV OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st February 1867.)

An Act to enlarge the meaning of the word 'offence' in certain Sections of the Indian Penal Code, and for other purposes.

Whereas it is expedient to enlarge the meaning of the word 'offence' in certain Sections of the Indian Penal Code so as to make it denote not only anything made punishable by the said Code, but also anything made punishable by any special or local law as therein defined; It is hereby enacted as follows:—

1. Sections 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445 of the Indian Penal Code shall be construed as if the word 'offence' denoted anything made punishable by the said Code, or by any special or local law as therein defined; and Sections 141, 176, 177, 201, 202, 212, 216 and 441 of the said Code shall be construed in the same way when the thing made punishable by the special or local law is punishable by such law with imprisonment for a term of six months or upwards, whether with or without fine.

* Offence' in certain Sections of Penal Code to include anything punishable only by a special or local law.

2. Sections 222 and 223 of the said Code shall be construed as if after the word 'offence' the following words were inserted; (that is to say), 'or lawfully committed to custody,' and Section 222 of the said Code shall also be construed as if the following words were added to the same Section; (that is to say), 'or if the person was lawfully committed to custody.'

Sections 222 and 223 of Penal Code to apply to commitments to custody.

3. Whoever

3. Whoever escapes or attempts to escape from any custody in which he is lawfully detained for failing to furnish any security required under Chapter XIX of the Code of Criminal Procedure, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to one year, or with fine, or with both.

Punishment for escape by person in custody for failing to furnish security.

4. Nothing contained in this Act shall be taken to affect any of the provisions of any special or local law.

Saving of provisions of special and local laws.

ACT No. V OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st February 1867.)

An Act to extend the Indian Penal Code to the Straits' Settlement.

Whereas it is expedient to extend, with certain modifications, the provisions of the Indian Penal Code to the Settlement of Prince of Wales' Island, Singapore and Malacca; It is hereby enacted as follows :—

Preamble.

1. From and after such day as the Governor of the said Settlement shall appoint in this behalf, the provisions of the Indian Penal Code shall, with the modifications hereinafter mentioned, apply to and take effect throughout the said Settlement; and in construing the said Code, two Rupees shall be deemed equivalent to one dollar.

Penal Code to extend to Straits Settlement from such day as Governor shall appoint.

2. In applying the said provisions to the said Settlement, Sections 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445 of the said Code shall be construed as if the word 'offence' denoted anything made punishable by the same Code or by any special or local law as therein defined; and Sections 141, 176, 177, 201, 202, 212, 216 and 441 of the said Code shall be construed in the same way when the thing made punishable by the special or local law is punishable by such law with imprisonment for six months or upwards, whether with or without fine.

In Straits' Settlement, certain Sections to be construed as if 'offence' included anything made punishable by a special or local law.

3. Sections

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3. Sections 222 and 223 of the said Code shall be construed as if after the word 'offence' the following words were inserted ; (that is to say), 'or lawfully committed to custody,' and Section 222 of the said Code shall also be construed as if the following words were added to the same Section ; (that is to say), 'or if the person was lawfully committed to custody.'

Sections 222 and 223 of Penal Code to apply to commitments to custody.

This Act to be read with the Penal Code.

4. This Act shall be read with and taken as part of the Indian Penal Code.

ACT N^O. VI OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st February 1867.)

An Act to enable the Lieutenant-Governor of the Panjab to alter the limits of existing Districts in any part of the Territories under his Government.

Whereas it is expedient to empower the Lieutenant-Governor of the Panjab to alter the limits of existing districts in the territories under his Government ; It is hereby enacted as follows :—

Preamble.

Power to Lieutenant-Governor of the Panjab to alter districts.

Saving of power of Governor General under Act XXI of 1836.

1. It shall be lawful for the Lieutenant-Governor of the Panjab by a Notification in the Local *Gazette*, from time to time, to alter the limits of existing districts in any part of the territories under his Government.

2. Nothing contained in this Act shall affect the power conferred on the Governor General of India in Council by Act No. XXI of 1836.

ACT N^O. VII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st February 1867.)

An Act to reduce the pecuniary penalty for purchasing from Soldiers arms, ammunition, clothes, and other articles.

Whereas by the Act for punishing mutiny and desertion, and for the better payment of the Army and their quarters, it is enacted as follows :—

Preamble.

“ Any person who shall knowingly detain, buy, exchange, or receive from any soldier or deserter or any other person acting for or on his behalf, on any pretence whatsoever, or who shall solicit or entice any soldier, or shall be employed by any soldier, knowing him to be such, to sell any arms, ammunition, medals for good conduct or for distinguishment or other service, clothes or military furniture, or any provisions, or any sheets or other articles used in Barracks provided under Barrack regulations, or regimental necessaries, or any article of forage provided for any horses belonging to Her Majesty's service, or who shall have in his or her possession or keeping any such arms, ammunition, medals, clothes, furniture, provisions, spirits, articles, necessaries or forage, and shall not give a satisfactory account how he or she came by the same, or shall change the colour of any clothes as aforesaid, shall forfeit for every such offence any sum not exceeding twenty pounds, together with treble the value of all or any of the several articles of which such offender shall so become or be possessed ; and if any person having been so convicted shall afterwards be guilty of any such offence, he shall for every such offence forfeit any sum not exceeding twenty

twenty pounds, but not less than five pounds, and the treble value of all or any of the several articles of which such offender shall have so become possessed; and shall in addition to such forfeiture be committed to the Common Gaol or House of Correction, there to be imprisoned, with or without hard labour, for such term, not exceeding six calendar months, as the convicting Justice or Justices shall think fit; and upon any information against any person for a second or any subsequent offence, a copy of the former conviction, certified by the proper officer having the care or custody of such conviction, or any copy of the same proved to be a true copy, shall be sufficient evidence to prove such former conviction; and if any credible person shall prove on oath before a Justice of the Peace, or person exercising like authority according to the laws of the part of Her Majesty's dominions in which the offence shall be committed, a reasonable cause to suspect that any person has in his or her possession, or on his or her premises, any property of the description hereinbefore described, on or with respect to which any such offence shall have been committed, such Justice may grant a warrant to search for such property, as in the case of stolen goods; and if upon such search any such property shall be found, the same shall and may be seized by the officers charged with the execution of such warrant, who shall bring the offender in whose possession the same shall be found before the same or any other Justice of the Peace, to be dealt with according to law: Provided always, that it shall be lawful for the Legislature of any of Her Majesty's foreign dominions, on the recommendation of the officer or officers for the time being administering the Government thereof, but not otherwise, to make provision by law for reducing such pecuniary penalty, if not exceeding twenty pounds, to such amount as may to such Legislature appear to be better adapted to the ability and pecuniary means of Her Majesty's subjects and others inhabiting the same, which reduced penalty shall be sued for and recovered in such and the same manner as the full penalty hereby imposed: Provided also, that it shall be competent to Her Majesty, or to the person or persons administering the Government of any such foreign dominions as aforesaid, to exercise, in respect of the laws so to be passed as aforesaid, all such powers and authorities as are by law vested in Her Majesty or in any such officer or officers as aforesaid in respect of any other law made or enacted by any such Legislature."

And whereas the officers now administering the Government of British India have recommended that the pecuniary penalty aforesaid, if not exceeding twenty pounds, shall be reduced to the amount hereinafter mentioned as being better adapted to the ability and pecuniary means of Her Majesty's subjects and others inhabiting British India; And whereas it is expedient to give effect to such recommendation;—In exercise of the said power for this purpose contained in the said Act and of

of every other power enabling the Governor General of India in Council in this behalf, and on the recommendation aforesaid; It is hereby enacted as follows:—

1. From and after the passing of this Act, wherever the pecuniary penalty which might have been imposed under the said recited Section if this Act had not been passed shall not exceed twenty pounds or two hundred Rupees, the first part of the said Section shall be read as if for the words "twenty pounds," wherever they occur, the words "fifty Rupees" were substituted, and as if for the words "five pounds," the words "five Rupees" were substituted.

Reduction of pecuniary
penalties provided by
Mutiny Act.

ACT N^o. VIII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st February 1867.)

An Act to amend the law relating to Horse-racing in India.

Preamble. Whereas it is expedient to exempt certain transactions connected with horse-racing from the operation of Act No. XXI of 1848 (*for avoiding wagers*); It is hereby enacted as follows :—

1. No subscription or contribution, or agreement to subscribe or contribute, made or entered into after the passing of this Act, for or toward any plate, prize, or sum of money, of the value or amount of five hundred Rupees or upwards, to be awarded to the winner or winners of any horse-race, shall be deemed unlawful by reason of any thing contained in the said Act No. XXI, of 1848.

Subscriptions or agreements to subscribe to plates, &c., may be lawful notwithstanding Act No. XXI, of 1848.

2. Nothing in this Act shall be deemed to legalize any transaction connected with horse-racing to which the provisions of Act No. V of 1844 (*for the suppression of all lotteries not authorized by Government*) apply.

Nothing in this Act to legalize lotteries.

ACT N^O. IX OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th February 1867.)

An Act to make further provision for suits by and against the Comptoir D'Escompte of Paris.

Whereas it is expedient to make further provision for suits and other proceedings by or on behalf of or against the Comptoir D'Escompte of Paris; It is hereby enacted as follows :—

Preamble.

1. In Act No. VIII of 1864 (*to enable the " Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company*), Sections 2, 3, 4, 5, 12 and 13, the expressions 'Chief Manager of the Agencies in British India of the said Comptoir D'Escompte' and 'Chief Manager' shall be taken to include any person for the time being acting as Chief Manager of the said Agencies, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the said Sections may be instituted or carried on.

Construction of certain Sections of Act No. VIII of 1864.

2. This Act shall be read with and taken as part of the said Act No. VIII of 1864.

Act to be read with Act VIII of 1864.

[PRICE 6 PIES.]

ACT N^o. X OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th February 1867.)

An Act to empower Courts of Small Causes in the Mofussil to refer for decision questions arising previous to the hearing of suits or in the execution of decrees or orders.

Whereas it is expedient to enable the Courts constituted under Act No. XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature) to refer for the decision of the High Court within whose jurisdiction they may respectively be situate, questions of law or usage having the force of law arising previous to the hearing of suits under the said Act or in the execution of decrees or orders in such suits; It is hereby enacted as follows:—

1. If at any point in the proceedings previous to the hearing of a suit under the said Act, or if in the execution of the decree or order in any such suit, any question of law or usage having the force of law shall arise, the Court, in suits for an amount not exceeding five hundred Rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than five hundred Rupees, shall draw up a statement of the case, and refer it with the Court's own opinion thereon to the decision of the High Court within whose jurisdiction such Court may be situate. If the question has arisen previous to the hearing, the Court may either stay such proceedings, or proceed in the case notwithstanding such reference, and pass a decree contingent upon

Power to refer to High Court questions arising previous to the hearing of suits or in the execution of decrees or orders.

upon the opinion of the High Court upon the point referred. If a decree has been made, the execution of the decree shall be stayed until the receipt of the order of the High Court upon such reference. All the provisions contained in this Section shall apply, *mutatis mutandis*, to the stating of a case by a Registrar.

2. This Act shall be read with and taken as part of Act No. XI of 1865; and the provisions contained in Sections 24, 25, 26, 27, and 28 of that Act shall, *mutatis mutandis*, apply to cases referred under this Act.

This Act to be read with
Act XI of 1865.

ACT No. XI OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st March 1867.)

An act to empower the Oriental Gas Company, Limited, to extend their operations to certain places in British India.

Whereas under or by virtue of Act No. V of 1857 (*to confer certain powers on the Oriental Gas Company, Limited*), certain powers exercisable only in Calcutta and its environs were conferred on the Oriental Gas Company, Limited: And whereas it is expedient to empower the said Company to extend, with the previous sanction of the Local Government, their operations to any other place in British India; It is hereby enacted as follows:—

1. In this Act—"British India" means the territories which are or may become vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*);

and in any part of British India in which this Act shall operate, "Local Government" means the person or persons authorized by law to administer executive Government in such part.

2. The local Government may, by Notification in the official *Gazette*, extend the said Act No. V of 1857, to any place within the territories subject to such Government, other than Calcutta and its environs: provided that, in every place to which the said Act shall

Power to extend Act V of
1857.

shall be so extended, Section III of the same Act shall be read as if for the words 'Town of Calcutta,' the name of the place to which the said Act shall be so extended were substituted: Section VII of the same Act shall be read as if for the words and figures 'Act XIV of 1856,' the following words were substituted; (that is to say) 'any law for the time being in force to provide for the conservancy and improvement of such place:' Section XXII of the said Act shall be read as if after the words 'Joint Stock Companies' Act, 1856,' the following words were inserted; (that is to say) 'the Indian Companies' Act, 1866, or any other Statute or Act for the time being in force relating to Joint Stock Companies'; and as if for the expression 'Supreme Court of Judicature at Fort William,' the name of the highest Civil Court of appeal in such place were substituted; and as if for the expression 'the territories of the East India Company,' the expression 'British India' as defined in this Act were substituted.

ACT N^o. XII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st March 1867.)

An act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay.

Whereas it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay, persons should, for the purpose of being received and detained in prison, be committed to the custody of an officer appointed by the Local Government, instead of to the custody of the Sheriff of Calcutta, Madras or Bombay, as the case may be; It is enacted as follows:—

Interpretation of terms.

1. In this Act—unless there be something repugnant in the subject or context—

"High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal, Madras or Bombay, as the case may be, and includes a Judge or Judges thereof and a Division Court:

"Sheriff."

"Sheriff" denotes the Sheriff of Calcutta, Madras or Bombay, as the case may be:

"Magistrate" includes a Magistrate of Police appointed under any Act for the time being in force for regulating the Police of the towns of Calcutta, Madras and Bombay.

2. The

2. The Acts and parts of Acts mentioned in the Schedule hereto annexed are repealed in each of the Presidencies of Fort William, Madras and Bombay from the date on which this Act shall come into operation in such Presidency. Any act duly done or appointment made under Act No. XII. of 1865 *(to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal)* shall be considered as valid as if it were done or made under this Act, and as if this Act had been then in force.

3. No person shall be committed to the Sheriff to be received and detained in prison; and no writ shall be awarded to the Sheriff commanding him to arrest and seize the body of any offender. But all writs or warrants for the arrest or apprehension of any person, issued or awarded by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction, shall be directed to and executed by any officer or officers of Police within the limits of such jurisdiction.

4. It shall be lawful for the Local Government to appoint an officer who shall be called in Calcutta the Superintendent of the Presidency jail, and in Madras and Bombay the Superintendent of jails for the town of Madras or Bombay, as the case may be, and who shall have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

5. The said jails shall be the jails of Calcutta, Madras and Bombay respectively, and the Superintendents so to be appointed are hereby respectively authorized and required to keep and detain all persons duly committed to their custody pursuant to the provisions of this Act or otherwise, by any Court, Judge, Justice of the Peace, Magistrate of Police, Coroner or other public officer lawfully exercising Civil or Criminal jurisdiction according to the exigency of any writ, warrant or order by which such person shall have been committed, or until such person shall be discharged by due course of law.

6. The said Superintendent shall forthwith after the execution of every such writ, order or warrant, except warrants of commitment for trial, or, after the discharge of the person committed thereby, return such writ, order or warrant to the Court or other officer by which or by whom the same shall have been issued or made, together with a certificate endorsed thereon and signed by such Superintendent,

shewing

shewing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

7. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by such Superintendent and returned by him to the High Court when executed.

8. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

9. Whenever any Judge of a High Court shall, under any Act for the time being in force for punishing mutiny and desertion and for the better payment of the Army and their quarters, make order for the intermediate custody of an offender sentenced by a Court Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the said Superintendent.

10. Whenever any person shall be committed by the High Court, whether in execution of a decree or for contempt of Court or other cause, such person shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the said Superintendent, together with a warrant of commitment.

11. Whenever any person shall be sentenced by a Magistrate of Police for the town of Calcutta, Madras or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or shall be committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause such person to be delivered to the said Superintendent, together with a warrant of the Court.

12. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the said Superintendent, together with a warrant of commitment directing him to have the body of such person before the Court for trial, and such

such Superintendent shall as soon as practicable cause such person to be taken before the Court at a Criminal Session of the said Court, together with the warrant of commitment, in order that such person may be dealt with according to law. Every

Committals by Coroners.

person committed by a Coroner shall be delivered to the said Superintendent, together with a warrant of commitment.

13. Pending any such enquiry as is mentioned in Section 8 of Act No. XXIII of 1861 (*to amend Act VIII of 1859*), which the High Court

Custody pending enquiries under Act XXIII of 1861, Section 8.

may consider it necessary to make, the defendant may be delivered by the officer of the said Court to the said Superintendent,

subject to the provisions as to deposit of fees and as to release on security contained in the same Section, and such Superintendent is hereby authorized and required to detain such defendant in safe custody, until he shall be re-delivered to the officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he shall be released by due course of law.

14. Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta,

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

Madras or Bombay under Act No. IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras*

and Bombay), or in pursuance of a warrant issued under Section 3 of this Act, shall be brought without delay before the Court by which or by a Judge of which the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court or a Judge thereof shall be then sitting for the exercise of original jurisdiction; and if such Court or a Judge thereof shall not be then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court shall otherwise order, be delivered to the said Superintendent for intermediate custody, and shall be brought before the said Court or a Judge thereof at the next sitting of the said Court or of a Judge thereof for the exercise of original jurisdiction, in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

15. All persons confined in the Great Jail of Calcutta, or in any of the jails of the towns of Madras or Bombay under process of sentence of any of Her Majesty's late Supreme Courts of Judicature or of the High Courts, or of any Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent

Persons confined in Great Jail of Calcutta or Jails of Madras or Bombay shall be deemed to be in custody of Superintendent.

according

according to the terms of the warrants under which they shall have been respectively committed to custody.

16. Any warrant of commitment under Regulation III of 1818 of the Bengal Code (*for the confinement of State prisoners*), Regulation II of 1819 of the Madras Code (*for the confinement of State prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State prisoners and for the attachment of the lands of chieftains and others, for reasons of State*), may be directed

Warrant under Regulation III of 1818, Bengal Code, Regulation II of 1819, Madras Code, and Regulation XXV of 1827, Bombay Code, may be directed to Superintendent.

to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV of 1850 (*for the better custody of State prisoners*), and Act No. III of 1858 (*to amend the law relating to the arrest and detention of State prisoners*).

17. The provisions contained in the Statute 11 Vic., cap. 21 (*to consolidate and amend the laws relating to insolvent debtors in India*), relating to

Provisions of Statute 11 Vic., cap. 21, as to prisoners, to extend to persons in custody of Superintendent.

persons in prison or liable to be arrested or detained in or remanded or re-committed to, or entitled to be discharged from, prison within the limits of the towns of Calcutta, Madras and Bombay, respectively, shall apply to all persons in the custody of the said Superintendent, or liable to be delivered to or entitled to be discharged from his custody.

18. Section 25 of Act No. XLVIII of 1860 (*to amend Act No. XIII of 1856,*

Construction of Section 25 of Act No. XLVIII of 1860.

for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore and Malacca), shall be construed in Madras and Bombay as if the words "Superintendent of Jails for the Town of Madras" or "Bombay," as the case may be, were substituted for the words "Keeper or Governor of the Jail or House of Correction."

19. This Act shall come into operation in Calcutta at once, and in Madras and Bombay respectively, from such date as the Local Government shall notify in the local Gazette.

Commencement of Act.

20. This Act may be called "The Presidency Jails' Act, 1867."

Short title.

SCHEDULE.

ACT No. XII of 1867.

SCHEDULE.

Number and date of Acts.	Title.	Extent of repeal.
No. XXIV of 1855.	To substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts.	Section 8.
No. XVIII of 1862.	To repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.	Sections 47, 48, 49, 50, 51 and 52.
No. XXV of 1863....	To empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction, or the Great Jail of Calcutta; and to authorize the transfer of prisoners, in certain cases, from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction.	The whole.
No. XII of 1865. ...	To amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.	The whole.

ACT No. XIV of 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st March 1867.)

An Act to provide for the assessment of the Pandhart Tax in certain parts of the Central Provinces.

Whereas there has for many years existed, and now exists in certain districts of the Central Provinces, a tax called the Pandhari Tax, assessable on all persons not engaged in agriculture: And whereas it is expedient to make rules for regulating the assessment of such tax; It is enacted as follows:—

1. The Pandhari Tax is hereby declared to be assessable on all persons dwelling or personally working for gain or carrying on business within the districts of Nagpore, Wurdah, Chandah, Bhundara, Chindwarra, Raepore, Belaspore and Sumbulpore, any part of whose income is derived from any source other than agriculture. Provided that no person whose estimated income is less than seventy-five Rupees a year shall be assessed to the said tax; that no person shall be assessed to the said tax at a rate exceeding two *per centum* on his estimated income, and that no person shall be assessable to the said tax at a sum exceeding five hundred Rupees per annum.

2. The

2. The Chief Commissioner of the Central Provinces may from time to time, with the previous sanction of the Governor General of India in Council, make and publish in such manner as may seem fit rules not inconsistent with the provisions of this Act or of any other law for the time being in force, to provide (amongst other things) for the matters hereinafter mentioned.

Chief Commissioner may make rules as to assessment and collection of the Pandhari tax.

3. The rules made under the last preceding Section may provide :—

For what the rules may provide.

- (1.) For regulating the manner, and rates, and classes of assessments :
- (2.) For regulating the time and manner of collecting the amount assessed ; and for allowing to the persons employed in the collection fees not exceeding three *per centum* on the amount assessed upon the tax-payers :
- (3.) For the imposition of penalties on persons convicted of the breach of any rule or regulation made under the last preceding Section: Provided that no penalty shall exceed a fine of fifty Rupees, or imprisonment for a term not exceeding eight days :
- (4.) For exempting from the operation of this Act special classes of persons in receipt of fixed salaries or pensions, in respect of such salaries or pensions :
- (5.) For determining the person or persons by whom and the manner in which, in the case of any person to whom this Act shall apply, his or her estimated income, within the meaning of Section 1 of this Act, shall be ascertained.

4. Arrears of the said tax shall be recoverable by distress and sale of any moveable property belonging to the defaulter ; or, when he or she shall not have any moveable property of which a distrait can be made, or when after his or her moveable property shall have been distrained and sold, the arrear due together with all expenses of the distress and sale is not liquidated by the proceeds of such sale, then under such rules and procedure as may, for the time being, be in force in the Central Provinces for the realization out of immoveable property of land revenue.

Breaches of rules by whom triable.

5. Breaches of rules made under Section 2 of this Act shall be triable by any Magistrate.

Extension of this Act to other parts of the Central Provinces.

6. The provisions of this Act may be extended by order of the Governor General of India in Council to any district or districts of the Central Provinces other than those named in Section 1 of this Act.

7. Every

7. Every Deputy Commissioner and other officer in the Central Provinces, however such officer is designated, is hereby indemnified for anything done before the passing of this Act, which might wfully have been done if this Act had been in force ; and no suit or other proceeding shall be maintained against any such Deputy Commissioner or other officer in respect of anything so done.

ndemnity clause.

ACT N^o. XV OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st March 1867.)

An Act to make better provision for the appointment of Municipal Committees in the Panjab, and for other purposes.

Whereas it is expedient to make better provision for the appointment of Municipal Committees in towns in the territories under the Government of the Lieutenant-Governor of the Panjáb, and for the Police conservancy and local improvements, and for education, and for the levying of rates and taxes in such towns ; It is enacted as follows :—

I—Preliminary.

- Interpretation Clause. 1. In this Act—unless there be something repugnant in the subject or context—
- “Committee.” “Committee” means a Municipal Committee appointed under the provisions of this Act :
- “Lieutenant-Governor.” “Lieutenant-Governor” means the Lieutenant-Governor of the Panjáb :
- Number. Words in the singular number include the plural, and words in the plural number include the singular.

2. The

2. The Lieutenant-Governor may extend this Act or any of its Sections (provisions, by Notification in the local *Gazette*, to any town in the territories under his Government.

Power to extend this Act to towns.

3. From the date of the passing of this Act, all Municipal Committees previously appointed with the sanction of any Lieutenant-Governor or Chief Commissioner of the Panjáb, other than Municipal Committees appointed under Act No. XXVI of 1850 (to enable improvements to be made in towns), shall be deemed Committees under this Act. The Lieutenant-Governor may extend, by Notification in the local *Gazette*, all or any of the provisions of this Act to Municipal Committees appointed under the said Act No. XXVI of 1850. So much of any Act, Regulation or Rule having the force of law, as may be inconsistent with any provision so extended to a Committee, shall, from and after the date of such extension, cease to have effect in the case of such Committee.

Existing Committees to be deemed Committees under this Act.

4. For the purposes of this Act, the Lieutenant-Governor may from time to time, by Notification in the local *Gazette*, define the limits of any town to which this Act shall have been extended, and may include within the limits of such town any railway station, village, building or land in the vicinity of such town.

Power to define limits of towns to which Act extends.

II.—Appointment, Duties and Powers of Committees.

5. In any town to which this Act shall have been extended, the Lieutenant-Governor may appoint, either *ex-officio* or otherwise, or direct the appointment by election of any number of persons, not less than five, to be members of a Committee, or he may appoint some of the members of such Committee and direct the appointment of others by election for carrying out the purposes of this Act. The Lieutenant-Governor may from time to time remove any of the members of any Committee, add to their number, and fill up vacancies occurring among them. The Lieutenant-Governor may determine the time and manner of the election of those members whom he may direct to be appointed by election, and the persons by whom they shall be elected, and generally may make any rules for regulating the election of such members that he may think fit. The Lieutenant-Governor may also appoint the President and Vice-President, or either of them, of any Committee, or sanction the election by any Committee of one of their members as President or Vice-President or either of them. All appointments under this Section shall be notified in the local official *Gazette*.

Power to appoint members of Committee.

6. Every

6. Every Committee may, with the previous sanction of the Lieutenant-Governor, define the persons or property within the town to be taxed for the purposes of this Act, the amount or rate of the taxes to be imposed, and may impose such taxes accordingly.

Power to levy rates or make assessments.

7. It shall be lawful for the Lieutenant-Governor from time to time to make rules as to the persons by whom, and the manner in which any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes and for the safety and due application of them when collected, and for the rendering and publishing of such estimates and accounts relating to the expenditure of the Municipal Funds, and in such form as he may think fit. The Lieutenant-Governor may from time to time repeal, alter or add to such rules. No tax shall be collected under this Act, until it shall have been confirmed by the persons and in manner hereinbefore mentioned.

Power to make rules for collection and application of rates.

8. All sums received by the Committee of any town to which this Act extends, and all fines levied under this Act, shall constitute a fund, which shall be called the Municipal Fund of such town, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Municipal Fund.

9. Every Committee, so far as the Municipal Fund at their disposal will permit, shall, after providing out of such Fund for a Police establishment in manner hereinafter mentioned, keep the public streets, roads, drains, tanks and water-courses of the town for which they are appointed clean and repaired, and may cause such streets and roads, or any of them, to be watered and lighted, and may construct new streets, drains, tanks and water-courses, and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility, and generally may do all acts and things necessary for the purposes of conservancy and local improvement, and may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education in the town for which such Committee is appointed.

Duties and powers of Committees.

10. Any Committee may make rules for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members of the Committee, the salaries, appointment,

Power to make rules.

appointment, suspension and removal of the officers and servants of the Committee, and other similar matters.

11. It shall be lawful for any Committee to make bye-laws for defining, prohibiting, and removing nuisances which are not public or common nuisances under the Indian Penal Code, or under Act No. V of 1861 (*for the regulation of Police*), and for the securing of a proper registration of births and deaths, and for carrying out all or any of the purposes of this Act. And the Committee may from time to time repeal, alter or add to such bye-laws.

Power to make bye-laws as to nuisances and registration of births and deaths.

Power to suspend or limit powers of Committee.

12. The Lieutenant-Governor may by order suspend or limit all or any of the powers of any Committee, and may also cancel any of the proceedings or rules of any Committee.

13. Every Committee shall set apart out of the Municipal Fund, such sum as the Lieutenant-Governor shall require for the maintenance of the Police establishment in the town.

Provision for Police.

14. No bye-law and no alteration or repeal of or addition to a bye-law shall have effect until the same shall have been confirmed by the Lieutenant-Governor. All bye-laws made under this Act, and all rules made under Section 10 of this Act, and all alterations and repeals of and addition to such bye-laws and rules, shall be published for such length of time and in such manner as the Lieutenant-Governor shall order.

Bye-laws to be confirmed and published.

III.—Suits by and against Committees.

15. Every Committee shall sue and be sued in the name of their President. Every contract made on behalf of any Committee in respect of any sum exceeding Rupees twenty or in respect of any property exceeding Rupees twenty in value, shall be in writing, and shall be signed by the President or Vice-President (if any) and at least two other members of the Committee, and unless so executed shall not be binding on the Committee. No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the Committee shall be liable for, and chargeable with, all contracts duly made as aforesaid. Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he shall have been a party, or which shall happen through, or be facilitated by his neglect of his duty, and he shall be liable to be sued for the same in such Court as the Lieutenant-Governor shall direct as for money due to the Government.

Suits by and against Committees. Contracts of Committees.

Liability of members of Committees.

16. No

16. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for any thing done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Committee, or at the place of abode of such person, explicitly stating the cause of suit and the name and place of abode of the intended plaintiff; and unless such notice be proved, the Court shall find for the defendant; and every such suit shall be commenced within three months next after the accrual of the cause of suit, and not afterwards: and if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

No suit to be brought against the Committee or their officers, until after one month's notice of cause of suit.

IV.—Penalties.

17. No member of a Municipal Committee or servant of the Committee shall be interested directly or indirectly in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred Rupees. Provided always, that no person by being a shareholder in or member of any incorporated or registered Company, shall be disqualified from acting as a member or servant of a Committee by reason of any contract entered into between such Company and the Committee. Nevertheless it shall not be lawful for such shareholder or member to act as a member of the Committee in any matter relating to any contract entered into between the Committee and such Company.

Penalty on member or servant of Committee being interested in contracts made with Committee.

18. Whoever infringes any rule made under Section 10 of this Act, or any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty Rupees, and, in the case of a continuing infringement, to a fine not exceeding five Rupees for every day after notice from the Committee of such infringement. In default of payment of any fine imposed under this Section, the defaulter shall be liable to be imprisoned for a term not exceeding eight days.

Penalty for infringement of rules or bye-laws, or non-payment of fines.

19. Prosecutions under this Act for infringements of rules or bye-laws may be instituted before any Magistrate by the Committee or any person authorized by the Committee in this behalf, and all fines imposed under this Act may be recovered in the manner prescribed in Section 61 of the Code of Criminal Procedure. Rates and arrears of rates imposed under this Act may be recovered as if they were fines.

Prosecutions.

Fines.

Recovery of rates.

20. All

V.—Miscellaneous.

20. All assessments, bye-laws, rules and regulations of any kind relating to matters provided for in this Act, which may previous to the passing of this Act have been made by or received the approval of any Lieutenant-Governor or Chief Commissioner of the Panjáb, shall be deemed to have been made in accordance with the provisions of this Act. And all proceedings taken under any such assessments, bye-laws, rules and regulations shall be deemed to be as valid as if they had been taken under this Act.

Existing assessments and bye-laws to be deemed to have been made under this Act.

21. Section 20 of this Act shall apply to the Central Provinces and Oudh, as if for the words "Lieutenant-Governor or Chief Commissioner of the Panjáb," the words "Chief Commissioner of the Central Provinces and Oudh" were substituted, and as if the extension next hereinafter mentioned had been made. And it shall be lawful for the Governor General of India in Council to extend this Act or any of its provisions, by Notification in the *Gazette of India* and the local official *Gazette*, to any town in the territories respectively under the administrations of the Chief Commissioners of the Central Provinces and Oudh, and on and after such extension, this Act shall be construed in such town as if the words "Lieutenant-Governor" were defined to include Chief Commissioners of the Central Provinces and Oudh; as if for the word "Government", the word "Administration" were substituted; and as if for the words and figures "Act No. XXVI of 1850 to enable improvements to be made in towns)", the words and figures "Act No. XVIII of 1864 (to provide for the appointment of a Municipal Committee for the City of Lucknow)" were substituted. Provided that, when such extension shall be effected, the previous sanction of the Governor General of India in Council shall be necessary to the validity of any order made by a Chief Commissioner under Section 12 of this Act.

Application of Section 20 to Central Provinces and Oudh.

Power to extend this Act to Central Provinces and Oudh.

22. This Act shall expire in five years in the territories subject to the Lieutenant-Governor of the Panjáb, and if it shall be extended to the Central Provinces or Oudh under the last preceding Section, it shall expire in such Provinces in five years from the date of such extension.

Act to expire in 1872.

ACT NO. XVI OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st March 1867.)

An Act to authorize the making of acting appointments to certain Judicial Offices.

Whereas the Governor General of India in Council or the Local Government, as the case may be is empowered by divers enactments to appoint the Judges of certain Courts in British India: And whereas it has been doubted whether he or it is empowered to appoint persons to act temporarily as such Judges, and it is expedient to remove such doubts; It is hereby enacted as follows:—

Preamble.

1. In every case in which the Governor General of India in Council, or the Local Government, as the case may be, has power under any Act or Regulation to appoint a Judge of any Court in British India, such power shall be taken to include the power to appoint any person capable of being appointed a permanent Judge of such Court, to act as Judge of the same Court for such time as the Governor General of India in Council or the Local Government, as the case may be, shall direct. Every person so appointed to act temporarily as a Judge of any such Court shall have the powers and perform the duties which he would have had and been liable to perform in case he had been duly appointed a permanent Judge of the same Court.

Power to appoint acting Judges.

Certain enactments to be construed as if they contained a clause like Section 1 of this Act.

2. Every such Act and Regulation shall be construed as if it contained a special clause to the purport or effect of the first Section of this Act.

[PRICE 6 PIES.]

ACT NO. XVII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 6th March 1867.)

An Act to amend the Law relating to Customs Duties.

WHEREAS it is expedient to amend the Law relating to the duties of Customs on goods imported and exported by sea; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Indian Customs Duties' Act, 1867."

Duties specified in Schedules to be levied.

2. In lieu of the Customs duties authorized to be charged by any Act now in force, there shall be levied and collected, in every port in the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*), other than the Settlement of Prince of Wales' Island, Singapore and Malacca, the duties specified in the two Schedules annexed to this Act; and all articles, other than those specified in the said Schedules respectively, shall be duty-free: Provided that nothing herein contained shall be taken to alter the existing duties upon Salt and Opium, or to affect the provisions of Act No. VI of 1848.

Repeal of Section 179 of Consolidated Customs Act.

3. Section 179 of the Consolidated Customs Act is hereby repealed; and Section 27 of the same Act shall be construed as if for the words "for which a specific value has not been fixed by the Local Government with the sanction of the Governor General of India in Council," the following words were substituted, (that is to say), "for which a specific value is not fixed by the Indian Customs Duties' Act, 1867;" but, save as aforesaid, nothing herein contained shall be construed to affect the provisions of the Consolidated Customs Act.

Act not to alter Customs law in the Straits.

4. Nothing contained in this Act shall be deemed to alter the law relating to duties on Customs in force in the said Settlement.

SCHEDULE A.

SCHEDULE A.

IMPORT TARIFF.

No.	Description of Article.	Value on which duty is assessed.	Rate of duty.
1	Apparel, including Haberdashery, Millinery, &c.—	Rs. A. Ad valorem	Seven and a half per cent.
2	Arms, Ammunition, and Military Stores—		Seven and a half per cent., except as regards Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service, which are free.
	Gunpowder, common	0 5 per lb.	
	„ sporting	1 0 „	
	Fire Arms and parts of ditto	Ad valorem	
	All other sorts, including Military Accoutrements, Uniforms, &c.	Ad valorem.	
3	Blackening—		
	Quarts	5 0 per doz.	
	Small	2 8 „	
	In Tins	0 3 per lb.	
4	Cabinet Ware—	Ad valorem	Seven and a half per cent.
5	Candles, Wax, Composition, and other kinds—		
	Candles, Wax	1 0 per lb.	
	„ Paraffine	0 8 „	
	„ Spermaceti	0 8 „	
	„ Composition and other sorts.	0 6 „	
6	Carpets and Carpeting—		
	Single Carpets	Ad valorem	
	Carpeting in rolls	Ad valorem	
7	Carriages	Ad valorem	Seven and a half per cent.
8	Chemicals	Ad valorem	Seven and a half per cent.
9	China and Japan Ware, other than Lacquered Ware, which is free	Ad valorem	Seven and a half per cent.
10	Clocks, Watches, and other Time-keepers	Ad valorem	Seven and a half per cent.
11	Coach-builder's Materials	Adv alorem	Seven and a half per cent.
12	Coffee—		
	Persian Gulf and Red Sea	30 0 per cwt.	
	Other places	20 0 „	
13	Corks	1 8 per gross	Seven and a half per cent.
14	Cotton—		
	Thread—		
	Sewing Thread, white and colored...	0 12 per lb.	
	„ In reels, or on cards not exceeding one hundred yards*	2 8 per gross reel.	
	„ Goa and Country	30 0 per cwt.	
	Twist—		
	Mule, under No. 15	0 7 per lb.	
	Nos. 16 to 24	0 11 „	
	25 to 32	0 12 „	
	33 to 42	0 13 „	
	43 to 52	0 14 „	
	53 to 60	1 1 „	
	No. 70	1 2 „	
	80	1 3 „	
	90	1 4 „	
	100	1 5 „	
	Nos. 110 to 150	1 10 „	
	160 to 200	1 14 „	

IMPORT TARIFF.—(Continued.)

No.	Description of Article.	Value on which duty is assessed.	Rate of duty.
	Cotton.—(Continued.)	Rs. A.	
	Twist—		
	Water, No. 20	0 12 per lb.	
	30	0 13 „	
	40	0 15 „	
	50	1 1 „	
	Above 50	1 4 „	
	Turkey Red Twist, all kinds*	1 6 per lb.	
	Twist, Orange, Red and other Colors*	1 2 „	
	Piece Goods—		
	Grey—		
	Shirtings, Madapollams, and Printers...	0 13 per lb.	
	Long Cloths, Jeans, Domestics, Sheetings, Drills and T. Cloth.	0 11 „	
	Other sorts...	Ad valorem.	
	Cotton Rope	25 0 per cwt.	
	Cotton Goods—other kinds	Ad valorem.	
15	Drugs and Medicines—		
	Acid, Sulphuric	0 3 per lb.	
	Alkali, Country (Sajee Khar)	2 0 per cwt.	
	Aloes, black	10 0 „	
	„ Socotra	25 0 „	
	Alum	3 8 „	
	Arsenic	25 0 „	
	„ China, Munseel	8 0 „	
	Assafoetida (Hing)	55 0 „	
	„ Coarse (Hingra)	10 0 „	
	Brimstone, Flour	7 0 „	
	„ Roll...	6 0 „	
	„ Rough	4 8 „	
	Camphor, Bhimsing (Barras)	50 0 per lb.	
	„ refined cake	65 0 per cwt.	
	„ crude, in powder	50 0 „	
	Cassia Lignea	38 0 „	
	Coova, red	Ad valorem.	
	Copperas, green...	2 8 per cwt.	
	Quinine	50 0 per lb.	
	Sal Ammoniac	22 0 per cwt.	
	Salep	60 0 „	
	Senna Leaves	6 0 „	
	All other sorts	Ad valorem.	
16	Dyeing and Colouring Materials—		
	Cochineal	1 12 per lb.	
	Gallnuts, Country, Myrabolam	3 0 per cwt.	
	„ Persian	35 0 „	
	Gamboge Wood	20 0 „	
	Madder or Munjeet	10 0 „	
	Orchilla Weed	8 0 „	
	Saffron, Europe...	16 0 per lb.	
	„ Meadow, Soorunjun	10 0 per cwt.	
	„ Persian	12 0 per lb.	
	„ in cakes or lumps	5 0 „	
	Saran Wood and Root	3 8 per cwt.	

Three and a half per cent.

Three and a half per cent.

* Duty to be charged on the Grey weight of the Colored Yarn; when not ascertainable, the actual Wharf weight or Invoice weight to be taken.

Five per cent.

Seven and a half per cent.

Seven and a half per cent.

Seven and a half per cent.

IMPORT TARIFF.—(Continued.)

No.	Description of Article.	Value on which duty is assessed.	Rate of duty.
17	<i>Felt—</i> Sheathing 40×32 inches... In rolls or in lengths... All other sorts...	Rs. A. 0 4 per piece. 0 4 per yard. Ad valorem.	Seven and a half per cent.
18	<i>Fireworks—</i> China... Other sorts...	30 0 per box of 133½ lbs. Ad valorem.	
19	<i>Flax, Manufactures of—</i> Piece goods... Other sorts...	Ad valorem Ad valorem	Five per cent.
20	<i>Fruits and Vegetables—</i> Almonds, without shell... " with shell... Cajoo kernels... Cocoanuts... " kernel (Copra)... Currants, Europe... " Persian... Dates, dry, in bags... " wet, in bags... " in pots... Figs, Europe... " Persian, dried... Garlic... Pistachio Nuts... Prunes, Bussorah... Raisins—Black, Persian Gulf, Red Sea, and Khismis... " Monocka, Persian Gulf, and Red Sea... " Other sorts... Walnuts, Akroot... Mangoes, dried... Prunes, Europe... Other sorts, except Bidmiskh and Buzarbuttoo Nuts which are free...	25 0 per cwt. 10 0 " 10 0 " 30 0 per thousand. 9 8 per cwt. 35 0 " 12 0 " 4 0 " 3 0 " 6 0 " 42 0 " 6 0 " 4 0 " 14 0 " 12 0 " 12 0 per cwt. 7 0 per cwt. Ad valorem. 5 0 per cwt. Ad valorem. Ad valorem. Ad valorem.	Seven and a half per cent. Seven and a half per cent. Seven and a half per cent.
21	<i>Glass and Glass-ware—</i> Bangles, Glass, China, Gilt... " not Gilt... Beads—China... " Common... " Ruby of all sizes... " Seed... " Small, scarlet and red... " Coral (false) Moorzun... Glass—Broken... " China, of all colors... " Crown, colored... " of sizes... " Plate, not silvered... Pearls, false, Bajeria... " Boria... " Jouria... " Nathia... " Tachea... " Wattanah...	10 0 per 100 pairs. 5 0 per 100 pairs. 30 0 per cwt. 28 0 " 0 12 per lb. 0 10 " 0 10 " 0 8 per corgo of 2,000 beads. 5 0 per cwt. 40 0 per 133½ lbs. 40 0 per 100 suppl. feet. 6 0 per 100 suppl. feet. 0 10 per foot. 5 0 per lakh. 1 0 per thousand. 8 0 per lakh. 0 6 per thousand. 0 12 " 10 0 per lakh.	Seven and a half per cent.

IMPORT TARIFF.—(Continued.)

No.	Description of Article.	Value on which duty is assessed.	Rate of duty.
22	<i>Gold leaf, Europe</i> ...	Rs. A. 4 0 per hundred leaves.	Seven and a half per cent.
23	<i>Grass and other Cloth of China Manufacture.</i> ...	Ad valorem	Five per cent.
24	<i>Gums—</i> Gum, Ammoniac... " Arabic... " Bdellium, common gum... " Benjamin... " Bysabole, coarse Myrrh... " Copal... " Frankincense or Olebanum... " Gambier (or Kino)... " Myrrh... " Persian (false)... " Rosin... All other sorts...	10 0 per cwt. 16 0 " 5 0 " 33 0 " 12 0 " 65 0 " 9 0 " 8 0 " 24 0 " 3 0 " 8 0 " Ad valorem.	Seven and a half per cent.
25	<i>Groceries not otherwise described</i> ...	Ad valorem	
26	<i>Hides and Skins—</i> Border Hides, prepared... Buffaloe Hides, Country, Tanned... Calf Skins... Chamois Skins... Cow Hides, Country, Tanned... Rhinoceros Leather... Other sorts...	30 0 each. 80 0 per score. 40 0 per dozen. 6 0 " 60 0 per score. 40 0 per cwt. Ad valorem.	Seven and a half per cent.
27	<i>Horns—</i> Buffaloe... Stag or Deer... Manufactures of...	11 0 per cwt. 12 0 " Ad valorem	Seven and a half per cent.
28	<i>Instruments, Musical</i> ...	Ad valorem.	Seven and a half per cent.
29	<i>Ivory and Ivory-ware—</i> Elephants' Grinders... Tusks above 20 lbs... Tusks 10 lbs. and not exceeding 20 lbs... Tusks under 10 lbs... Sea Cow or Moye Teeth 3 lbs. and upwards... Sea Cow or Moye Teeth under 3 lbs... Ivory, Manufactures of...	16 0 per cwt. 300 0 " 225 0 " 125 0 " 225 0 " 75 0 " Ad valorem.	Seven and a half per cent.
30	<i>Jewellery, including Plate—</i> Silver-ware, plain... Jewellery and Plate of all other kinds, excepting Precious Stones and Pearls, which are free...	1 6 per tolah. Ad valorem.	Seven and a half per cent.
31	<i>Jute, Manufactures of—</i>	Ad valorem	Seven and a half per cent.
32	<i>Lac—</i> Stick... Shell... All other sorts...	16 0 per cwt. 28 0 " Ad valorem	Seven and a half per cent.
33	<i>Leather and Manufactures of—</i> Leather... Boots and Shoes... Harness and Saddlery...	Ad valorem.	Seven and a half per cent.

No.	Description of Article.	Value on which duty is assessed.	Rate of duty.
34	Liquor—	Rs. A.	
	Ale, Beer and Porter ... } Cider and other fermented Liquors } Spirits ... ..	..... ... ..	{ One Anna per Imperial Gallon. Three Rupees the Imperial Gallon, and the duty to be rateably increased as the strength exceeds London Proof. Provided that ten per cent. ad valorem shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such rules as the Local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit for use as a beverage, and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.
	Wines—		
	Champagnes, Sparkling Wines and Liquors ... ..	... ..	1-8 per Impl. Gal. or 6 Qt. Bottles.
	All other sorts ... ..	... ..	1-0 per ditto.
35	Marble, Wrought, other than Statuary.	Ad valorem ...	Seven and a half per cent.
36	Mats, Floor Matting, China of all Sorts.	50 0 per hundred...	Seven and a half per cent.
37	Metals, Unwrought, Wrought, and Manufactures of—		
	Brass Beads, Googree, China ...	0 12 per thousand...	
	„ Old	35 0 per cwt.	
	„ Sheets, rolls, very thin ...	80 0 „	
	Copper, Australian	48 0 „	
	„ Bolt	50 0 „	
	„ Brazier's	50 0 „	
	„ China Cash	30 0 „	
	„ Japan	48 0 „	
	„ Nails and Composition Nails...	45 0 „	
	„ Old	40 0 „	
	„ Pigs and Slabs, Foreign ...	45 0 „	
	„ Sheet, Sheathing, and Plate ...	50 0 „	
	„ Tiles, Ingots, Cakes & Bricks.	47 0 „	
	„ China White Copper-ware ...	1 4 per lb.	
	„ Foil Dauk-pana China ...	3 0 per book of 100 leaves.	
	„ „ „ Europe ...	4 0 „	
	Iron, Beams	Ad valorem.	
	„ Flat, Square and Bolt, including Scotch...	85 0 per ton.	
	„ Hoop, Plate, and Sheet ...	115 0 „	
	„ Nails	10 0 per cwt.	
	„ Nail Rod	95 0 per ton.	
	„ Old	2 8 per cwt.	
	„ Pig	40 0 per ton.	
	„ Rod, round, British, under half inch diameter ...	110 0 per ton.	
	„ Swedish, Flat and Square ...	140 0 „	
	„ Rice Bowls	3 4 per set of 10.	
	„ „ „ „ „ „	1 10 per set of 6.	

No.	Description of Article.	Value on which duty is assessed.	Rate of duty.
	Metals, &c.—(Continued.)	Rs. A.	
	Other sorts, except Anchors, Cables, and Kentledge which are free ...	Ad valorem.	
	Lametta, Double reels... ..	4 8 per score.	
	„ Single reels... ..	2 4 „	
	Lead, Pig	10 0 per cwt.	
	„ Pipes	13 8 „	
	„ „ Tinned	16 0 „	
	„ Sheets (other than thin Sheets for Tea Canisters which are free)..	12 0 „	
	Ore Galena	13 0 „	
	Mock Gold Leaf	5 0 per 20 books.	
	Orsidue or Brass Leaves, Foreign, Europe China... ..	1 4 per lb. 0 12 „	
	Patent or Yellow Metals, Sheathing and Sheets	42 0 per cwt.	
	Do. do. Old	32 0 „	
	Quicksilver	1 0 per lb.	
	Shot, Bird	15 0 per cwt.	
	Spelter Nails	17 8 „	
	„ Plate and other shapes ...	11 0 „	
	„ Sheet or Zinc Sheathing ...	15 0 „	
	Steel, blistered	9 0 „	
	„ British	9 0 „	
	„ Cast	25 0 „	
	„ Spring	10 0 „	
	„ Swedish	10 0 „	
	Tin Block	45 0 „	
	„ Plates, large size, box not exceeding 170 lbs. & 100 plates & pro rata	24 0	
	„ small size, not exceeding one cwt., and 225 plates and pro rata	14 0	
	Wire, Brass	0 8 per lb.	
	„ common Iron, Nos. 1 to 40 ...	9 8 per cwt.	
	„ Copper	0 10 per lb.	
	Other sorts, including Hardware, Ironmongery, and Cutlery, but excluding Machinery, the component parts thereof, and Agricultural Implements, which are free	Ad valorem.	Seven and a half per cent.
38	Naval Stores—		
	Cables, coir, tarred	10 0 per cwt.	
	Canvas, Country Cotton	50 0 „	
	„ Europe Sail, not exceeding 40 yards ...	15 0 per bolt.	
	„ Coir, Rope, Maldiva and Laccadive ...	10 0 per cwt.	
	„ Yarn of all kinds	9 0 „	
	Cordage, Hemp, Europe	18 0 „	
	„ Manilla	20 0 „	
	Dammer „	5 0 „	
	Pitch, American and Europe ...	13 0 { per barrel not exceeding 3 cwt.	Seven and a half per cent.
	„ Coal	4 8 {	
	Tar, American... ..	13 0 {	
	„ Coal	6 8 { Ditto ditto.	
	„ Swedish and Archangel... ..	14 0 {	
	Twine, Europe Sail	0 8 per lb.	
	All other sorts, except Oakum, which is free	Ad valorem.	
39	Oils—		
	Cardamom	10 0 per lb.	

IMPORT TARIFF.—(Concluded.)

No.	Description of Article.	Value on which duty is assessed.	Rate of duty.
	<i>Spices.—(Continued.)</i>	Rs. A.	
	Betel-nut in husk...	2 0 per thousand.	Seven and a half per cent.
	Cassia Buds, Nagkessur, China...	0 8 per lb.	
	Chillies, dried...	8 0 per cwt.	
	Cloves...	12 0 "	
	" in Seeds, Nurlayung...	8 0 "	
	Mace...	0 9 per lb.	
	" false...	10 0 per cwt.	
	Nutmegs...	0 10 per lb.	
	" in shell...	0 6 "	
	Nutmegs, wild...	12 0 per cwt.	
	Pepper, Black and Long...	15 0 "	Seven and a half per cent.
	" White...	25 0 "	
	All other kinds...	Ad valorem.	Seven and a half per cent.
55	Stationery other than Paper.	Ad valorem	
56	<i>Sugar and Sugar Candy—</i>		Seven and a half per cent.
	Sugar Candy, China...	20 0 per cwt.	
	" Loaf...	23 0 "	
	" Soft...	12 0 "	
	All other sorts of Saccharine produce.	Ad valorem.	Seven and a half per cent.
57	Tallow and Grease.	20 0 per cwt.	
58	Tea...	1 0 per lb.	Seven and a half per cent.
59	<i>Telegraph Stores—</i>		One per cent.
	Of Iron...	Ad valorem	
	Other sorts...	Ad valorem	Seven and a half per cent.
60	<i>Timber and Woods—</i>		Seven and a half per cent.
	Deal or Pine Planks and Boards, superficial square foot, and one inch thickness...	55 0 per thousand feet.	
	Mahogany in logs...	0 6 per superficial foot of one inch thickness.	
	Ditto Australian...	60 0 per ton.	
	Sandalwood...	22 0 per cwt.	
	" Australian and Bastard...	4 0 "	
	All other sorts, excepting Ebony, Lignum Vitæ, Tuggurwood and Palmyra Wood which are free	Ad valorem.	
	Manufactures of, including also Pipes, Stave and Casks...	Ad valorem.	
61	<i>Tobacco—</i>		Ten per cent.
	Manufactured...	Ad valorem.	
	Unmanufactured...	Ad valorem.	
	Articles such as Pipes, &c., used in consumption of...	Ad valorem	Seven and a half per cent.
62	Toys and Requisites for all Games.	Ad valorem.	
63	Trunks and Boxes.	Ad valorem	Seven and a half per cent.
64	<i>Umbrellas—</i>		Seven and a half per cent.
	Cotton, Steel Ribs...	0 13 each.	
	" Cane Ribs...	0 11 "	
	" China Paper Kettisals.	45 0 per box of 110.	
	All other sorts...	Ad valorem.	
65	<i>Woollen Goods—</i>		Five per cent.
	Piece Goods...	Ad valorem	

ACT No. XVII OF 1867.

SCHEDULE B.

EXPORT TARIFF.

No.	Description of Article.	Value on which duty is assessed.	Rate of duty.
		Rs. A.	
1	Indigo...		Three Rupees per Maund.
2	Grain of all sorts.		Three Annas per Maund.
3	<i>Lac—</i>		Four per cent.
	Button...	28 0 per cwt.	
	Dye...	45 0 "	
	Seed...	20 0 "	
	Shell...	28 0 "	
	Stick...	16 0 "	
	Other sorts...	Ad valorem.	Three per cent.
4	<i>Oils—</i>		
	Castor...	16 0 per cwt.	
	Cocconut...	20 0 "	
	Fish...	15 0 "	
	Grass...	2 0 per lb.	
	Jingely or Teel...	20 0 per cwt.	
	Linseed...	18 0 "	
	Mhowa...	12 0 "	
	Mustard...	16 0 "	
	Poppy...	20 0 "	
	Rape or Sursee...	16 0 "	
	Sandalwood...	8 0 per lb.	
	Other sorts...	Ad valorem.	Three per cent.
5	<i>Seeds—</i>		
	Castor Seed (Brundee)...	4 8 per cwt.	
	Coriander Seed...	4 0 "	
	Cummin Seed...	12 0 "	
	" Black (Caleejeera)...	5 0 "	
	Ground Nuts, with shell...	5 0 "	
	" without shell...	6 0 "	
	Jingely or Teel Seed...	6 0 "	
	Linseed...	5 0 "	
	Methce Seed...	5 0 "	
	Mustard Seed...	4 8 "	
	Poppy Seed...	5 8 "	
	Rape or Sursee Seed...	4 8 "	
	Other sorts...	Ad valorem.	Three per cent.
6	Shawls...	Ad valorem	
7	<i>Cotton Goods—</i>		Three per cent.
	<i>Piece Goods—</i>		
	Baftahs...	30 0 per score.	
	Gurrah...	20 0 "	
	Kharwah...	25 0 "	
	Mamoodie...	32 0 "	
	Mirzapore Chintz...	15 0 "	
	Patna...	30 0 "	
	Shans...	40 0 "	
	Tunjeeb, Oude...	26 0 "	
	Other sorts...	Ad valorem.	
	Twist, Country, No. 10...	0 7 per lb.	
	" " No. 20...	0 9 "	
	" " No. 30...	0 10 "	

EXPORT TARIFF.—(Concluded.)

Description of Article.	Value on which duty is assessed.	Rate of duty.
<i>Hides and Skins Tanned—</i>	<i>Rs. A.</i>	
Hides—		
Buffalo, Country, Tanned ...	70 0 per score.	} Three per cent.
Cow " ...	50 0 "	
Skins—		
Goat and Sheep " ...	10 0 "	
Lamb " ...	5 0 "	
Any other sorts of Hides and Skins...	Ad valorem.	
<i>Spices—</i>		
Aloe Wood ...	3 0 per lb.	} Three per cent.
Betelnut in husk ...	2 0 per 1,000.	
Cardamoms ...	200 0 per cwt.	
" large, Bastard ...	40 0 "	
Chillies, dried ...	8 0 "	
Ginger, dry (rough) Malabar ...	10 0 "	
" " Bengal ...	7 0 "	
" (Scraped) ...	15 0 "	
Pepper ...	15 0 "	
Turmeric... ..	7 0 "	
All other sorts ...	Ad valorem.	

ACT N^o. XVIII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th March 1867.)

An Act to define the jurisdiction of the Courts of Civil Judicature in the Jhansi Division.

Preamble.

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Jhānsī Division; It is hereby enacted as follows:—

Short title.

1. This Act shall be called "The Jhānsī Courts' Act, 1867."

Certain rules for administration of Civil Justice in Jhānsī Division to cease to have effect.

2. So much of the rules passed by the Government of the North-Western Provinces, for the administration of Civil justice within the districts of the Jhānsī Division, as were continued in force by Act No. XXIV of 1864 (*relating to the administration of certain districts under the Government of the Lieutenant-Governor of the North-Western Provinces*), Section 2, shall cease to have effect in the said districts from the thirtieth day of June 1867.

Certain rules regarding jurisdiction and procedure of Revenue officers in Jhānsī to cease to have effect.

3. So much of the rules passed by the Government of the North-Western Provinces, relating to the jurisdiction and procedure of Revenue officers within the districts of the Jhānsī Division, and confirmed by the said Act No. XXIV of 1864, Section 1, as directed that suits regarding landed property should be heard by the Revenue Courts, shall, from the date of this Act coming into operation, cease to have effect in the said districts with regard to all such suits except

except summary suits. And so much of the said rules as relates to summary suits in the Revenue Courts whether as Courts of first instance or appeal, shall remain in force until the said Government shall by Notification in the official *Gazette* declare otherwise.

Interpretation Clause.

4. In this Act—

“High Court.”

“Lieutenant-Governor.”

“Assistant Commissioner.”

“High Court” means the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal; “Lieutenant-Governor” means the Lieutenant-Governor of the said Provinces, and “Assistant Commissioner” includes Extra Assistant Commissioner.

“District.”

“District Court.”

“Division.”
Divisional Court.

5. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the
Jhānsi Division.

6. There shall be seven grades of Courts in the Jhānsi Division, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, viz:—

- (1.) The Court of the Tahsildar of the second class :
- (2.) The Court of the Tahsildar of the first class :
- (3.) The Court of the Assistant Commissioner of the second class :
- (4.) The Court of the Assistant Commissioner of the first class :
- (5.) The Court of the Deputy Commissioner :
- (6.) The Court of the Commissioner :
- (7.) The High Court.

Lieutenant-Governor may
declare grade to which a
Tahsildar or Assistant
Commissioner belongs.

7. The Lieutenant-Governor shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner in the said Division shall belong.

Jurisdiction of Court of
Tahsildar of the second
class.

8. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed one hundred Rupees in value or amount.

9. The

Jurisdiction of Court of
Tahsildar of the first class.

9. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed three hundred Rupees in value or amount.

Jurisdiction of Court of
Assistant Commissioner of
the second class.

10. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed one thousand Rupees in value or amount.

Jurisdiction of Court of
Assistant Commissioner of
the first class.

11. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed five thousand Rupees in value or amount.

Jurisdiction of Court of
Deputy Commissioner.

12. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, and third grades.

Jurisdiction of Court of
Commissioner.

13. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fourth and fifth grades.

Appellate jurisdiction of
High Court.

14. The High Court shall have power to hear and determine appeals from original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioner, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioner of the Division.

Time for presenting ap-
peals.

15. The Memorandum of appeal prepared in the form, and containing the particulars mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the Memorandum of appeal within the said period; that is to say, thirty days, if the appeal lie to the Deputy Commissioner; six weeks, if the appeal lie to the Commissioner of the Division; and ninety days, if the appeal lie to the High Court.

The

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Memoranda of special appeal shall be presented in the High Court within the period hereinbefore fixed for appeals.

16. The High Court 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 in the said Division, when the High Court shall 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.

17. The High Court shall have superintendence over all Courts in the said Division, and shall have power to call for returns, and to make and issue general rules for regulating the practice and proceedings of such Courts, and also to prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the Officers, and also to settle tables of fees to be allowed to the Attorneys, Vakils, and all Clerks and Officers of such Courts, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be used and observed in the said Courts provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

18. Whenever the state of the public business requires it, the Lieutenant-Governor shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Jhansi Division.

19. Every suit shall be instituted in the Court of the lowest grade competent to try it: provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

20. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

21. The

21. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit. Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

22. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Deputy Commissioner in his Division.

23. The High Court may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such High Court, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value or amount of the subject-matter of the suit or appeal to try the same.

24. If the suit be for any immoveable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

25. If the District Courts within the limits of whose jurisdiction any immoveable property sued for is situate are subordinate to different Commissioners, application for authority to proceed with the suit shall be made to the Commissioner of the Division to whom the District Court in which the suit is brought is subordinate,

ordinate, and such Commissioner may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

26. This Act shall come into operation on such day as the said Government shall declare by Notification in the official Gazette.

Commencement of Act.

ACT No. XIX OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th March 1867.)

An Act to make further provision for the administration of Justice in the District of Darjiling.

Preamble. Whereas it is expedient to make further provision for the administration of justice in the District of Darjiling ; It is hereby enacted as follows:—

1. Act No. X. of 1863 (*to improve the administrotion of justice in the District of Darjiling*) is hereby repealed.

Repeal of Act X. of 1863.

2. The High Court of Judicature for the Bengal Division of the Presidency of Fort William shall have and exercise, with regard to the District of Darjiling, all such jurisdiction and powers as it has and exercises with regard to any other territory.

High Court at Fort William to exercise jurisdiction over Darjiling.

[PRICE 6 PIES.]

ACT N^o. XX OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th March 1867.)

An Act to authorize the transshipment, without payment of duty, of goods imported into Calcutta, Madras, and Bombay, by Steamers.

Whereas in transshipping goods imported by Steamers in Calcutta, Madras, and Bombay, and destined for other ports, delay arises from the necessity of paying duty and obtaining drawback in respect of such goods, or of entering into a bond as required by Section 110 of Act No. VI. of 1863 (*to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India*) if duty is not paid: And whereas it is expedient to diminish such delay so far as may be practicable; It is hereby enacted as follows:—

Power to permit transshipment without payment of duty. 1. Subject to such rules as may from time to time be prescribed by the Local Government, the Chief Officer of Customs of the port of Calcutta, Madras, or Bombay, as the case may be, may, on application of any person interested as owner, agent, consignee, or otherwise in any goods imported by Steamers into Calcutta, Madras, or Bombay, as the case may be, grant leave to tranship the same without payment of duty at the port of transshipment, and without any security or bond for the due arrival and entry of the goods at the port of destination, when such goods have been specially and distinctly manifested or declared at the time of import as for transshipment to any other British Indian or foreign port.

2. A transshipment fee on each bale or package of goods so transhipped shall be levied at such rates and under such regulations as may from time to time be prescribed by the Local Government. All such rates and regulations shall be published in the local *Gazette*.

3. This Act shall be read as part of the said Act No. VI. of 1863, and shall not be constructed as in any respect limiting the power of the Customs Officers to levy duty, or to require such bonds and other securities as are authorized by the said Act.

4. Nothing in this Act shall apply to the transshipment of Salt or Opium.

ACT N^o. XXI OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th March 1867.)

An Act for the licensing of Professions and Trades.

Whereas it is expedient that persons exercising professions and trades in British India should take out licenses and pay for the same; It is hereby enacted as follows:—

Preliminary.

1. In this Act—unless there be something repugnant in the subject or context—

“British India” means the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*), other than the Settlement of Prince of Wales’ Island, Singapore, and Malacca:

“Magistrate” means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the first class, and includes a Magistrate of Police and a Justice of the Peace:

Words in the singular number include the plural and *vice versa*. Words denoting the masculine gender include females;

And

And in every part of British India in which this Act shall operate, "Local Government" shall mean the person authorized by law to administer Executive Government in such part, and shall include a Chief Commissioner.

2. Nothing in this Act shall be construed to affect the provisions of any other law relating to licenses or taxes.

Saving of other laws relating to licenses or taxes.

Act not to apply to certain Officers of the Army and Police, nor to cultivators of land.

3. Nothing in this Act shall be deemed to apply to—

(1). Officers of Her Majesty's Forces or of Her Majesty's Indian Forces, whose pay and allowances do not exceed Rupees 6,000 per annum, and who shall not be in Civil employment other than employment in the Police :

(2.) Non-Commissioned Officers and Privates of either of the said Forces, and who shall not be in Civil employment other than employment in the Police :

(3.) Officers of any Police Force whose pay and allowances shall be less than the pay and allowances of a Captain of Infantry in Her Majesty's Forces in India :

(4.) Persons in the employment of Government whose annual receipts shall be less than Rupees 1,000 : nor to any cultivator of land as such in respect of the sale of the produce of his land, when he shall not keep a shop for the sale of such produce.

4. It shall be lawful for the Governor General of India in Council from time to time, by order, wholly to exempt from the operation of this Act any part of British India, or any tribe, class of persons or person dwelling or personally working for gain or carrying on business in British India or in any such part; or to authorize, in the case of any such class or person, all or any part of the sums or sum paid by such class or person under the provisions of any Municipal or other local law for the time being in force, on or before the first day of May in each year, as a tax, by way of charge for a license, or otherwise, on the exercise of any trade or profession, to be deducted from the sums or sum which, in the absence of such authorization, would have been payable under the provisions of this Act. All orders and revocations made under this Section shall be published in the *Gazette of India* and also in the local *Gazette*.

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Licenses

Licenses.

5. Every person who shall, on and after the first day of May 1867, exercise any profession or trade in British India, and whose annual profits shall be Rupees 200 or upwards, shall take out a license, and shall pay for the same such annual sum as is mentioned in Schedule A. to this Act annexed: provided that, for any such license which shall be granted between the first day of November in each year, and the thirtieth day of April next ensuing, there shall be paid only one-half of such sums. Subject to the provision contained in Section 3 of this Act, every person holding any office or employment of profit shall be deemed to be, in respect of the salary, fees, wages, perquisites, and profits of such office or employment, a person exercising a profession or trade within the meaning of this Act.

6. Every license under this Act shall be granted by the Collector of Land Revenue of the district or place in which the person requiring such license shall exercise his profession or trade: provided that, if such person shall exercise his profession or trade in more than one district or place, the license shall be granted by the Collector of the district or place in which his principal place of business in British India shall be situate: Every such license shall be signed by the Collector granting it, or by any Assistant or Deputy Collector under the Collector's orders, and the Courts shall take judicial notice of such signature.

Particulars to be specified in the License.

7. Every such license shall specify—

(1). The date of the grant thereof:

(2). The name and profession or trade of the licensee.

(3). The sum paid for the license: and

(4). The place or places where the licensee intends to exercise his profession or trade for the ensuing year; and shall be received in evidence as *prima facie* proof of all matters contained therein.

8. Every such license shall have effect and continue in force from the day of the date thereof till the 30th day of April next after the day of the granting thereof.

Commencement and expiration of license.

Renewal of license.

9. Every person to whom any such license shall have been granted, and who shall desire to continue to exercise his profession or trade after the expiration thereof, shall take out

a fresh license for that purpose for the following year, to expire on the day appointed in the last preceding Section, and shall renew the same so long as he shall desire to continue to exercise such profession or trade.

10. The Collector shall from time to time determine under which of the classes mentioned in Schedule A. to this Act annexed every person to whom a license may be granted by him as aforesaid shall be assessed.

Collector to determine class under which license is to be assessed.

List of Licenses.

11. As soon as may be after the first day of May 1867, and the same day in every subsequent year, the Collector shall prepare a list of the persons licensed under this Act in the district or place aforesaid. Such list shall state—

Collector to prepare annual list of licenses.

- (1.) The profession or trade of each of the persons therein named :
- (2.) The class under which he is assessed :
- (3.) The sum paid for his license.

Such list shall be filed in the Office of the Collector, and the list, or such part or parts thereof as he shall think fit, shall be filed in such other places as the Collector shall direct, and shall be open to public inspection at all reasonable times, without the payment of any fee.

12. Any person named in such list and objecting to the class under which he is assessed, shall be at liberty, within thirty days after the filing of the said list, to apply by petition to the Collector in order to establish his right to have his name transferred to another class, or altogether removed from the list. The petition shall bear a stamp of eight annas : it shall be in the form contained in Schedule C. to this Act annexed, or as near thereto as circumstances will admit ; and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints. Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Objection to list.

Petition of objector.

13. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, shall hear such petition and pass such order thereupon as to him shall seem fit. Any person dissatisfied with such order may, within fifteen days from the date thereof, present an appeal in writing to the Commissioner of Revenue

Hearing of petition.

Appeal from order on petition.

of

of the Division, whose decision upon such appeal shall be final. Every appeal preferred under this Section shall bear a stamp of one Rupee, and shall be accompanied by a copy of the petition, the Collector's order thereon, and all other documents (if any) connected with the case.

14. The Collector or Commissioner may summon any person whom he shall think able to give evidence for the purpose of enabling him to determine under which of the said classes the petitioner should be assessed, and may examine on oath or affirmation the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the petitioner or to the amount of the annual profits accruing from his profession or trade. In Sections 193 and 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

Power to summon persons to give necessary information.

Sections 193 and 228 of Penal Code to apply to proceedings under this Act.

Penalties.

15. If after the said first day of May 1867, any person shall exercise his profession or trade without having taken out a license as required by this Act, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding five times the amount which in the judgment of the Magistrate would have been payable by such person in respect of a license duly taken out as aforesaid.

Penalty for carrying on business without a license.

16. Every person required by this Act to take out a license, who shall without reasonable excuse neglect or refuse to produce and show his license when required so to do by an Officer generally or specially empowered in writing by the Collector to make such requisition, shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred Rupees.

License to be produced on demand.

17. All penalties imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras, or Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

Mode of recovering penalties.

Prosecution to be at instance of Collector.

18. No person shall be proceeded against for any offence under Section 15 or Section 16 of this Act except at the instance of the Collector.

Miscellaneous.

Miscellaneous.

Provision as to Trading
Companies.

19. On and after the thirtieth day of April 1867, every Trading Company or Association in British India whose stock or funds is or are divided into shares and transferable, whether such Company or Association be incorporated or not, and whether the principal place of business of such Company or Association be situate in British India or not, shall take out a license and pay for the same such annual sum as is mentioned in Schedule B. to this Act annexed. Provided that for any such license which shall be granted between the first day of November in each year and the thirtieth day of April next ensuing, there shall be paid only one-half of such sum. When such Company or Association shall have taken out and paid for a license as aforesaid, no person shall be deemed to exercise a trade within the meaning of this Act solely by reason of any share or interest in such Company or Association. All the other provisions of this Act applicable to individuals shall apply, *mutatis mutandis*, to such Companies or Associations.

20. Every person holding any paid office, employment, or commission under Her Majesty or under the Government of India, or under any Local Government, other than the persons exempted under Section 3 or by order under Section 4 of this Act, shall be deemed to exercise a profession within the meaning of this Act; provided that he shall not be required to take out a license under this Act; and the sum which but for this proviso he would have paid for a license shall be deducted from his pay on the first day of June 1867 and on the first day of May in every subsequent year by the Examiner of Claims or other proper Officer, and shall be deemed to be a tax raised under this Act. Nothing in the former part of this Section shall apply to any person holding any such office, employment, or commission, and permitted, nevertheless, to exercise a profession or trade; but in determining under which of the classes mentioned in the said Schedule A. any such person shall be assessed, the Collector shall take into consideration the amount of the pay which such person shall respect in respect of such office, employment, or commission.

Payment of taxes raised
and penalties recovered
under this Act.

21. All taxes raised and penalties recovered under this Act shall be paid to the credit of the Government of India, or as such Government shall from time to time direct.

Powers of Collector and
Commissioner under this Act
may be exercised by other
Officers.

22. All or any of the powers and duties conferred and imposed by this Act on a Collector, an Assistant or Deputy Collector, and a Commissioner of Revenue, may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf. Every person shall

be

be legally bound to furnish information to any Officer or person so appointed when required by him to do so.

23. The Local Government may, from time to time, with the previous sanction of the Governor General of India in Council, make rules for the guidance of Officers in matters connected with the enforcement of this Act, provided that such rules are not inconsistent with any of the provisions herein contained.

SCHEDULE A:

LICENSE ON PROFESSIONS AND TRADES.

	Rupees.
<i>Class I.</i>	
Persons whose annual profits shall be assessed at Rupees 25,000 and upwards...	500
<i>Class II.</i>	
Persons whose annual profits shall be assessed at Rupees 10,000, or at more than Rupees 10,000 and less than Rupees 25,000...	200
<i>Class III.</i>	
Persons whose annual profits shall be assessed at Rupees 5,000, or at more than Rupees 5,000 and less than Rupees 10,000...	100
<i>Class IV.</i>	
Persons whose annual profits shall be assessed at Rupees 1,000, or at more than Rupees 1,000 and less than Rupees 5,000...	20
<i>Class V.</i>	
Persons whose annual profits shall be assessed at Rupees 500, or at more than Rupees 500 and less than Rupees 1,000...	10
<i>Class VI.</i>	
Persons whose annual profits shall be assessed at Rupees 200, or at more than Rupees 200, and less than Rupees 500...	4

SCHEDULE B.

LICENSE ON COMPANIES.

Every Company whose stock or funds is or are divided into shares and transferable with a paid up capital exceeding ten lakhs or £100,000...	2,000
Every such Company with a paid up capital exceeding five lakhs or £50,000 and not exceeding ten lakhs or £100,000...	1,000
Every other such Company duly registered, which in the half-year next preceding the date of its license shall have paid a dividend at or above the rate of five per cent. per annum and whose profits for the year preceding such date shall have exceeded Rupees 10,000..	500

SCHEDULE C.

ACT No. XXI OF 1867.

SCHEDULE C.

Form of Petition under Section 12.

Stamp eight Annas.

TO THE COLLECTOR OF

The day of 186 .

The petition of A. B. of

SHEWETH—

1st.—That in the list of the persons licensed under “the Indian Licenses’ Act, 1867,” and filed in your office pursuant to the eleventh Section of the same Act on the day of 186 , your petitioner’s name appears under the third of the classes mentioned in Schedule A to the said Act annexed that he has been assessed in the sum of Rupees 100 for the license granted to him under such Act, and that he has paid such sum accordingly.

2nd.—That the profits of your petitioner’s profession [or trade] of [here state petitioner’s profession or trade] for the year ending the thirtieth day of April last were Rupees [less than Rupees 5,000 and more than Rupees 1,000], as will appear from the documents marked presented herewith, and to which your petitioner craves leave to refer.

Your petitioner therefore prays that you will remove his name from the third to the fourth of the said classes, that he may be assessed accordingly, and that the excess of Rupees 80 so paid by him may be refunded.

(Signed) A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

ACT N^O. XXII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 15th March 1867.)**An Act for the regulation of Public Sarais and Puraos.*

Preamble.

Whereas it is expedient to provide for the regulation of public Sarais and Puraos; it is hereby enacted as follows:—

1. Regulation XIV of 1807 of the Government of the Presidency of Fort William in Bengal, Section 11, Clause 5, is hereby repealed so far as it applies to public Sarais in the territories to which this Act may from time to time apply.

Repeal of Bengal Regula-
XIV of 1807, Section
Clause 5.

Interpretation Clause.

2. In this Act—unless there be something repugnant in the subject or context—

“Sarai” means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a

“Sarai.” building is used as a Sarai, the part so used of such building. also includes a Purao so far as the provisions of this Act are applicable thereto:

“Keeper of a Sarai.” “Keeper of a Sarai.” having or acting in the care or management thereof:

“Magistrate of the District” means the chief officer charged with the executive administration of a district in criminal matters whatever may be his designation:

Magistrate of the Dis-
.”

Words

Words in the singular include the plural, and *vice versa*; and in any place in which this Act shall operate, "Local Government" shall mean the person administering Executive Government in such place, and shall include a Chief Commissioner and the Commissioner in Sind.

3. Within six months after this Act shall come into operation, the Magistrate of the District in which any Sarai to which this Act shall apply may be situate shall, and from time to time thereafter such Magistrate may, give to the keeper of every such Sarai notice in writing of this Act, by leaving such notice for the keeper at the Sarai; and shall by such notice require the keeper to register the Sarai as by this Act provided. Such notice may be in the form in the Schedule to this Act annexed or to the like effect.

4. The Magistrate of the District shall keep a register in which shall be entered by such Magistrate or such other person as he shall appoint in this behalf, the names and residences of the keepers of all Sarais within his jurisdiction, and the situation of every such Sarai. No charge shall be made for making any such entry.

5. After one month after the giving of such notice to register as by this Act provided, the keeper of any Sarai or any other person shall not receive any lodger or allow any person, cattle, sheep, elephant, camel, or other animal, or any vehicle to halt or be placed in such Sarai until the same and the name and residence of the keeper thereof shall have been registered as by this Act provided.

6. The Magistrate of the District may, if he shall think fit, refuse to register as the keeper of a Sarai a person who does not produce a certificate of character in such form and signed by such persons as the Local Government shall from time to time direct.

Duties of keepers of Sarais.

7. The keeper of a Sarai shall be bound—

(1.) When any person in such Sarai is ill of any infectious or contagious disease, or dies of such disease, to give immediate notice thereof to the nearest Police Station:

(2.) At all times when required by any Magistrate or any other person duly authorized by the Magistrate of the District in this behalf, to give him free access to the Sarai and allow him to inspect the same or any part thereof:

(3.) T.

(3). To thoroughly cleanse the rooms and verandahs, and drains of the Sarai, and the wells, tanks, or other sources from which water is obtained for the persons or animals using it, to the satisfaction of and so often as shall be required by the Magistrate of the District, or such person as he shall appoint in this behalf:

(4). To remove all noxious vegetation on or near the Sarai, and all trees and branches of trees capable of affording to thieves means of entering or leaving the Sarai:

(5). To keep the gates, walls, fences, roofs, and drains of the Sarai in repair: and

(6). To provide such number of watchmen as may, in the opinion of the Magistrate of the District, subject to such rules as the Local Government may prescribe in this behalf, be necessary for the safety and protection of persons and animals or vehicles lodging in, halting at, or placed in the Sarai:

(7). To exhibit a list of charges for the use of the Sarai at such place and in such form and languages as the Magistrate of the District shall from time to time direct.

8. The keeper of a Sarai shall from time to time, if required so to do by an order of the Magistrate of the District served upon him, report, either orally or in writing as may be directed by the Magistrate, to such Magistrate or to such person as the Magistrate shall appoint, every person who resorted to such Sarai during the preceding day or night. If written reports are required for any space of time exceeding a single day or night, Schedules shall be furnished by the Magistrate of the District to the keeper. The keeper shall from time to time fill up the said Schedules with the information so required, and transmit them to the said Magistrate, in such manner and at such intervals as may from time to time be ordered by him.

9. If any Sarai by reason of abandonment or of disputed ownership shall remain untenanted, and thereby become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming to be the owner, if he be known and resident within the district, and may also cause such notice to be put on some conspicuous part of the Sarai, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clear the same; and if such requisition shall not be complied with within eight days, the Magistrate

Magistrate of the District may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the Sarai, and shall be recoverable like penalties under this Act, or, in case of abandonment or disputed ownership of the Sarai, by the sale of any material found therein.

10. If a Sarai or any part thereof be deemed by the Magistrate of the District to be in a ruinous state, or likely to fall, or in any way dangerous to the persons or animals lodging in or halting at the Sarai, he shall give notice in writing to the keeper of the Sarai, requiring him forthwith to take down, repair or secure (as the case may be) the Sarai or such part thereof as the case may require. If the keeper do not begin to take down, repair or secure the Sarai, or such part as aforesaid within three days after such notice, and complete such work with due diligence, the Magistrate shall cause all or so much of the Sarai as he shall think necessary to be taken down, repaired or otherwise secured. All the expenses so incurred by the Magistrate shall be paid by the keeper of the Sarai, and shall be recoverable from him as hereinafter mentioned.

11. If any such Sarai or any part thereof be taken down by virtue of the powers aforesaid, the Magistrate of the District may sell the materials thereof, or so much of the same as shall be taken down, under the provisions of the last preceding Section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the overplus (if any) arising from such sale to the owner of such Sarai on demand, and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act.

12. Whoever, being the keeper of any Sarai, suffers the same to be in a filthy and unwholesome state, or overgrown with vegetation, or after the expiration of two days from the time of his receiving notice in writing from the Magistrate of the District to cleanse or clear the same, or after he shall have been convicted of suffering the same to be in such state or so overgrown as aforesaid, shall allow the same to continue in such state, or so overgrown, shall be liable to the penalties provided in Section 14 of this Act. Provided that the Magistrate of the District may, in lieu of enforcing such daily penalty, enter on and cleanse or clear the said Sarai, and the expense incurred by the Magistrate in respect thereof shall be paid to him by the keeper, and shall be recoverable as by this Act provided in the case of penalties.

13. The

13. The Local Government may from time to time make regulations for the better attainment of the objects of this Act, provided that such rules be not inconsistent with this Act or with any other law for the time being in force, and may from time to time repeal, alter and add to the same. All regulations made under this Act, and all repeals thereof and alterations and additions thereto, shall be published in the local official *Gazette*.

14. If the keeper of a Sarai offend against any of the provisions of this Act or any of the regulations made in pursuance of this Act, he shall for every such offence be liable on conviction before any Magistrate to a penalty not exceeding twenty Rupees, and to a further penalty not exceeding one Rupee a day for every day during which the offence continues: provided always, that this Act shall not exempt any person from any penalty or other liability to which he may be subject irrespective of this Act. All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under Section 61 of the Code of Criminal Procedure.

15. Where a keeper of a Sarai is convicted of a third offence under this Act, he shall not afterwards act as keeper of a Sarai without the license in writing of the Magistrate of the District, who may either withhold such license or grant the same on such terms and conditions as he may think fit.

16. No part of this Act, except Section 8, shall apply to any Sarai which may be under the direct management of the Local Government or of any Municipal Committee.

17. This Act shall in the first instance extend only to the territories under the Government of the Lieutenant Governor of the North-West Provinces of the Presidency of Fort William in Bengal. But it shall be lawful for the Local Government, by Notification in the local *Gazette*, to extend this Act, *mutatis mutandis*, to any other part of the territories which are or may be vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., Cap. 106 (*An Act for the better Government of India*), except the towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore and Malacca.

Short title.

18. This Act may be called "The Sarais' Act, 1867."

SCHEDULE.

SCHEDULE.

FORM OF NOTICE.

Take notice that on the day of 1867, an Act called "The Sarais' Act, 1867," was passed, and that before the day of 18 you, being the keeper of a Sarai [or Purao] within [here state the District over which the jurisdiction of the Magistrate giving the notice extends] must have your Sarai [or Purao] registered, and that the register is to be kept at [here state where the register is to be kept], and that if you do not have your Sarai [or Purao] so registered, you will be liable to a penalty not exceeding twenty Rupees, and to a further penalty not exceeding one Rupee a day for every day during which the offence continues, and that on your applying to [here give the name and address of the person to keep the register] he will register your Sarai [or Purao] free of all charge to you.

Dated the day of 18 .

ACT N^o. XXIII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th March 1867.)

An Act for the suppression of murderous outrages in certain districts of the Panjab.

Whereas in certain districts of the Panjáb, fanatics have frequently murdered or attempted to murder servants of the Queen and other persons: And whereas the general law of the country is not adequate to suppress such offences; It is hereby enacted as follows:—

1. It shall be lawful for the Lieutenant-Governor of the Panjáb, with the previous consent of the Governor General of India in Council, by a proclamation published in the official *Gazette*, from time to time to declare any part or parts of the territories under his Government to be subject to the operation of all or any of the provisions of this Act, and also, by such proclamation and with such consent as aforesaid, from time to time to withdraw from the operation of such provisions any part or parts of the said territories which he may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of the same provisions, or of any of them.

2. Any fanatic who shall murder or who shall, within the meaning of the Indian Penal Code, Section 307, attempt to murder any servant of the Queen or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government.

3. Every

Offences under this Act to be offences under Penal Code.

3. Every offence made punishable under this Act, shall be deemed an offence within the meaning of the Indian Penal Code.

4. Whenever any fanatic shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Commissioner, who under the provisions hereinafter contained would have had cognizance of the offence if the offender could have been brought to trial, to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government and to dispose of his body as such Commissioner shall think fit.

5. Subject to the provision contained in Section 14 of this Act, any offence triable under this Act shall be tried by the Commissioner of the Division in which it has been committed; and in respect of all such offences, the Commissioner shall follow the procedure prescribed for a Magistrate by Sections 248 to 255 (both inclusive) of the Code of Criminal Procedure: Provided that, if he shall be of opinion that any witness or evidence is offered for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material, and if the Commissioner be not so satisfied, he shall not be bound to summon the witness or examine the evidence so offered.

6. Trials under this Act before the Commissioner shall be conducted with the aid of two or more Assessors as Members of the Court. The Commissioner may appoint such persons (other than persons specified in Section 334 of the Code of Criminal Procedure) at such time and in such manner as he may think fit to serve as Assessors, and no persons shall be exempt, within the meaning of Section 335 of the same Code, from serving as such Assessors. The provisions of the Code of Criminal Procedure shall, save as aforesaid, apply to Assessors appointed under this Section.

7. When any trial under this Act is concluded, if the accused person be convicted, it shall be sufficient if the Court, in passing judgment and in recording the finding and sentence, shall specify the offence of which he is convicted, and the Court shall immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined

Forfeiture of property and disposal of bodies of fanatics killed in committing outrages punishable under this Act.

Trial before Commissioner.

Trial to be with aid of Assessors.

What the Judgment is to specify.

confined to cause the sentence to be carried into execution, and such sentence shall be carried into execution accordingly. No sentence of death passed under this Act shall require confirmation by any Court.

Disposal of bodies of criminals sentenced to death.

8. When any person shall be sentenced to death under this Act, his body shall be disposed of as the Commissioner by whom he was so sentenced shall direct.

Proceedings to be reported to Lieutenant-Governor.

9. The proceedings in every trial held under this Act shall be reported to the Lieutenant-Governor, without unnecessary delay, by the officer before whom such trial shall have been held.

No appeal from orders or sentences under this Act.

10. Notwithstanding anything contained in the Code of Criminal Procedure or "The Panjáb Chief Court Act, 1866," no appeal shall lie from any order or sentence under this Act.

Procedure when Commissioner thinks that offender's crime is not contemplated by this Act.

11. If any Commissioner in whom jurisdiction is vested by this Act shall be of opinion that the accused person has committed an offence punishable under the Indian Penal Code, but that such offence is not contemplated by the preamble to this Act, the offender shall be dealt with in manner provided in such case by the Code of Criminal Procedure.

Lieutenant-Governor's powers as to confinement of persons under this Act.

12. The said Lieutenant-Governor shall have, with respect to the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the Governor General of India by any law regarding the confinement of persons charged with or suspected of State offences; and the provisions of any such law shall, *mutatis mutandis*, be applicable to all cases in which the Lieutenant-Governor shall proceed under the authority of this Section.

Power of Magistrate as to persons suspected.

13. Any person having the full powers of a Magistrate may cause any person against whom there are in his judgment grounds of proceeding under the last preceding Section, to be apprehended; and after such enquiry as he may think necessary, may detain such person in safe custody until he shall have received the orders of the said Lieutenant-Governor, to whom, in all such cases, he shall report his proceedings without unnecessary delay.

14. The

14. The jurisdiction conferred by this Act on a Commissioner may be exercised, in the case of any offence punishable under this Act, by any person having the full powers of a Magistrate whom the Commissioner to whom he may be subordinate, or the said Lieutenant-Governor, shall, after the commission of such offence, specially invest with such jurisdiction.

15. It shall be lawful for the said Lieutenant-Governor, either on his own motion or at the request of the Chief Court of the Panjáb, from time to time, to withdraw any class of cases from the operation of this Act.

16. With the previous consent of the said Lieutenant-Governor, but not otherwise, the said Chief Court may from time to time make and issue circular orders for the guidance of officers in cases under this Act; provided that such orders are consistent with the provisions herein contained. All such orders shall be published in the official *Gazette*, and shall be obeyed by the officers aforesaid.

17. This Act shall expire in ten years from the date of passing it, or at such earlier date as the Governor General of India in Council may order.

THE ADMINISTRATOR GENERAL'S ACT, 1867.

ARRANGEMENT OF SECTION.

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3. Interpretation clause.

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5. Appointment, suspension, and removal of Administrators General.
6. Qualification of future and continuance of existing incumbents.
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8. Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrators General.
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10. Penalty for trading.
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11. Security to be given by Administrator General.
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16. When administration of estates of persons other than Hindus, Muhammadans or Buddhists is to be by Administrator General.
17. Upon death of any person leaving assets within local limits, High Court may, on application if assets are in danger, direct Administrator General to apply for administration.
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Rate of commission payable in such case.

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19. Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.
Costs of proceedings taken by the Administrator General to be paid out of the estate.
20. If no executor or next-of-kin appear or give necessary security, letters of administration to be granted to Administrator General.
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PART VI.

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Act

ACT NO. XXIV OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd March 1867.)

An Act to consolidate and amend the law relating to the office and duties of Administrator General.

WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of Administrator General; It is hereby enacted as follows:—

Preamble.

PART I.

Preliminary.

Short title.

1. This Act may be called "The Administrator General's Act, 1867."

Repeal of Acts.

2. The Acts and parts of Acts specified in the Schedule hereto are repealed, except so far as they repeal other Acts or regulations, or parts of Acts or Regulations. All things duly done under any of the said Acts or parts of Acts hereby repealed, shall be considered as having been done under this Act. Act No. XXVII. of 1860 (*for facilitating the collection of debts on successions and for the security of parties paying debts to the representatives of deceased persons*) is repealed, except as to Hindus, Muhammadans and Buddhists and persons exempted under the Indian Succession Act, 1865, Section 332, from the operation of such Act.

Interpretation Clause.

3. In this Act—unless there be something repugnant in the subject or context—

"Presidency of Bengal" includes the territories which are or shall for the time being be respectively under the governments of the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab,

Panjab, and under the administrations of the Chief Commissioners of Oudh, the Central Provinces and British Burmah :

"Presidency of Madras" includes the territories which are or shall for the time being be under the government of the Governor of Fort Saint George in Council, Coorg and also, so far as regards British subjects, Mysore and the Hyderabad Assigned Districts :

"Presidency of Bombay" means the territories which are or shall for the time being be under the government of the Governor of Bombay in Council :

"Presidency town" means the town of Calcutta, Madras, or Bombay, as the case may be :

"Government" means the Governor General of India in Council, so far as the Act relates to the Presidency of Bengal ; the person for the time being administering the executive government of the Presidency of Fort St. George, so far as the Act relates to the Presidency of Madras ; and the person for the time being administering the executive government of the Presidency of Bombay, so far as the Act relates to that Presidency.

"District Judge" means the Judge of a Principal Civil Court of original jurisdiction :

"Letters of Administration" shall include any letters of administration, whether general or limited, or with a Will annexed, and letters *ad colligenda bona* :

"Next-of-kin" includes a widower or widow of a deceased person, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor or legatee of the deceased :

"Officer" means a Commissioned Officer of Her Majesty's Army, or of Her Majesty's Indian Army :

"Soldier" means a soldier of Her Majesty's Army or European soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer :

"Assets" includes immoveable as well as moveable property.

Words in the masculine gender include the feminine ; and words in the singular number include the plural, and *vice versa*.

PART II.

PART II.

Of the Office of Administrator General.

4. In each of the Presidencies of Bengal, Madras, and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Designation of the Administrators General in the three Presidencies.

5. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively ; that is to say :—

The Administrator General of Bengal, by the Governor General of India in Council ; the Administrator General of Madras, by the Government of Fort St. George ; and the Administrator General of Bombay, by the Government of Bombay.

6. Any person hereafter appointed to the office of Administrator General or officiating Administrator General of any of the said Presidencies, shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland ; but any person now holding such office shall continue to hold the same, subject to the provisions contained in the other Sections of this Act.

Qualification of future and continuance of existing incumbents.

7. The Administrator General shall not be deemed in that capacity to be an officer of any High Court.

8. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in virtue of his office, shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to the Administrator General.

Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrator General.

9. No person now holding the office of Administrator General, are hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar ; nor without the express sanction of Government, any other office together with that of Administrator General : Provided, that the Administrator General of the Presidency

No Administrator General to be Ecclesiastical Registrar.

Administrator General
not to hold any other
office without sanction of
Government.

Proviso.

Presidency may be appointed Official Trustee under Act No. XVII of 1864 (*to constitute an office of Official Trustee*): Provided also that the Administrator General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

10. It is hereby declared to be an offence punishable in manner provided by Section 168 of the Indian Penal Code, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as shall appear to him to be expedient for the due management of the estates which shall come into his charge under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively: but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

11. Unless the Governor General of India in Council, or the Government, with the sanction of the Governor General of India in Council, shall otherwise order, every Administrator General hereafter to be appointed shall give security to the Secretary of State for India for the due execution of his office, for one lakh of Rupees by his own bond, and for another lakh of Rupees, or for separate sums amounting together to one lakh of Rupees, by the deposit of Government securities, or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds: Provided that every Administrator General may, with the consent of Government, substitute either of the said two last mentioned kinds of security for another previously given for such last-mentioned lakh or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound, so far as the security shall relate to the due execution of his office for the time then to come.

12. No Administrator General shall be required by any Court to enter into any administration bond or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office. No Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed

and

and verified by any person competent to make the verification. Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

13. Whenever any person holding the office of Administrator General shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Administrator General, and such person, while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law now in force or that may hereafter be enacted, and he shall be deemed to be Administrator General for the time being under this Act, and shall be liable to give security under Section 11 of this Act in like manner as if he had been appointed Administrator General.

PART III.

Of the Rights, Powers and Duties of the Administrator General.

(a).—*Grants of Letters of Administration and Probate to the Administrator General.*

14. So far as regards the Administrator General of any of the Presidencies of Bengal, Madras and Bombay, the High Court of Judicature at the Presidency town shall be deemed to be a Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act, 1865, wheresoever within the Presidency the property to be comprised in the probate or letters of administration may be situate.

15. Any letters of administration, or letters *ad colligenda bona*, which shall hereafter be granted by the High Court of Judicature at any Presidency town, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next-of-kin of the deceased. The Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person, merely on the ground of his being a creditor, a legatee other than an universal legatee, or a friend of the deceased.

16. If any person, not being a Hindu, Muhammadan, or Buddhist, or a person exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at

the

the date of the death or within one year thereafter the value of one thousand Rupees within any of the said Presidencies, and no person shall, within one month after his death, have applied in such Presidency for probate of a Will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the High Court of Judicature at the Presidency town, letters of administration to the effects of such person, either generally or with a Will annexed, as the case may require. Whenever the Administrator General of the Presidency shall take proceedings under this Section, it shall be sufficient if the petition required by Section 246 of the Indian Succession Act, 1865, shall state the time and place of the deceased's death to the best of the petitioner's knowledge or belief, that the deceased left some property within the Presidency as hereinbefore defined, and the amount or value of assets which are likely to come into the petitioner's hands.

17. Whenever any person, whether a Hindu, Muhammadan, or Buddhist, or

Upon death of any person leaving assets within local limits, High Court may, on application if assets are in danger, direct Administrator General to apply for administration.

not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at the Presidency town, it shall be lawful for the Court upon the application of any person interested in such assets, or in the due administration thereof, either as a creditor, legatee, next-of-kin or otherwise, or upon the application of a friend of any minor who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation, deterioration or waste of such assets unless letters of administration of the effects of such person are granted, to make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as to the Court shall seem fit, directing the Administrator General to apply for letters of administration of the effects of such person. Provided that, in the case of an application being made

Administration to effects of deceased Hindus, Muhammadans or Buddhists, not to be granted under this Section, unless required to protect the assets.

Costs of unnecessary application.

under this Section for letters of administration to the effects of a deceased Hindu, Muhammadan, or Buddhist, the Court may refuse to grant letters of administration to any person, if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

18. Whenever

18. Whenever any person, whether a Hindu, Muhammadan, or Buddhist, or not, shall have died, whether before or after the passing of

Upon death of any person leaving assets within local limits, High Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.

this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court shall be satisfied that danger is to be apprehended of the misappropriation, deterioration or waste of such property, before it can be ascertained who may be legally entitled to the

succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property, and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property; and the

Rate of commission payable in such case.

Administrator General shall be entitled to a commission of one *per centum* upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private administrator of such assets might lawfully have made; and in case letters of administration of any such property shall be afterwards granted to the Administrator General, the said commission of one *per centum* shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section, shall entitle the Administrator General to collect and to take possession of such property, and, if necessary, to maintain a suit for the recovery thereof.

19. If in the course of proceedings to obtain letters of administration under

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

the provisions of Section 16 or Section 17 of this Act, any executor appointed by a Will of the deceased shall appear according to the practice of the Court and prove the Will and accept the office of executor, or if any person shall appear according to such practice and make out his claim to letters of administration as next-of-kin of the deceased, and shall give such security as shall be required of him by law or by the practice of the Court, the Court shall grant probate of the Will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary or intestate expenses thereof.

20. If

20. If no person shall appear according to the practice of the Court, and entitle himself to probate of a Will, or to a grant of letters of administration as next-of-kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant letters of administration to the Administrator General.

If no executor or next-of-kin appear or give necessary security, letters of administration to be granted to Administrator General.

21. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any officer, soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed on the whole five hundred Rupees, charging the estate with a commission of three *per centum* only. It shall not be necessary for the Administrator General to take out letters of administration in cases referred to in this Section : but he shall have the same powers with regard to all such assets as he would have had if he had taken out such letters.

Administrator General in certain cases to secure and distribute the estate and effects of soldiers.

Proviso.

Administrator General not precluded from applying for letters of administration in any case within three months after death of deceased.

22. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case, within the period of one month from the death of the deceased.

23. If any letters of administration which shall be granted to the Administrator General under the provisions of this Act, shall be revoked or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable ; except as to any act done by any such Administrator General or other person as aforesaid, after notice of a Will or of any other fact which would render such letters of administration void : Provided that no notice of a Will or of any other fact which would render any such letters of administration void, shall effect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless within the period of one month from the time of giving such notice, proceedings be commenced to prove the Will, or to cause the letters of administration to be revoked nor unless such proceedings be prosecuted without unreasonable delay.

After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.

Exception.

Proviso.

24. If

24. If any letters of administration which shall be granted under this Act shall be revoked upon the production and proof of a Will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such Will annexed, shall be deemed valid notwithstanding such revocation.

What payments made or acts done by Administrator General prior to revocation of administration upon production of a Will, shall be deemed valid.

25. If an executor or next-of-kin of the deceased, who shall not have been personally served with a citation or had notice thereof in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a Will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid : Provided that no letters of administration which shall be granted to the Administrator General shall be revoked or recalled for the cause aforesaid, except in cases in which a Will or Codicil of the deceased shall be proved in the Presidency, unless the application for that purpose shall be made within six months after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

In what cases Court may recall Administrator General's administration and grant probate, &c., to executor or next-of-kin.

Unless a Will is proved, application to revoke such administration must be made within six months and without needless delay.

26. If any letters of administration which shall be granted to the Administrator General in pursuance of this Act shall be revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate. Provided that, in any such case, when the deceased has left a Will appointing an executor, and probate of the Will has been granted by any Court in the Presidency to such executor within three months after the death, or when the widow or next-of-kin has, within one month, if resident within the Presidency, or within three months, if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and

Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

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and effects of the deceased, then and in either of such cases the Administrator General shall (without prejudice to the provisions contained in Sections 17 and 18 of this Act) not be entitled to receive or retain any commission out of any assets belonging to such estate and situate within the jurisdiction of the Court by which probate or administration shall have been granted as last aforesaid.

27. Whenever the Administrator General shall declare a dividend among such creditors of the deceased as have proved their debts, and shall notify the payment of such dividend by advertisement in the official *Gazette*, no creditor of the deceased who shall not previously to such declaration and advertisement have proved his debt, shall be entitled to participate as such in the assets wherewith such dividend shall be made. Any payment or delivery of assets to any legatee or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery: Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable: And provided also, that no notice of any debt or claim shall affect the Administrator General, unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice, and be prosecuted without unreasonable delay.

Exclusion of creditors who have not proved from assets with which a dividend is made.

After one year from grant of administration, distribution of assets by Administrator General to be allowed against all claims of which he had no notice.

Person receiving payments liable to refund.

What to be notice of debt or claim.

28. All letters of administration which shall be granted to any Administrator General in virtue of his office shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters of administration shall relate.

Letters of administration to be granted to Administrator General in virtue of his office.

Authority given by such letters.

29. Every

29. Every probate which shall be granted to any Administrator General of a Will wherein he shall be named as executor by virtue of his office, shall be granted to him by his name of office, and shall authorize the Administrator General for the time being of the same Presidency to act as executor of the estate to which such probate shall relate.

Grant of probate to Administrator General named as executor by virtue of his office.

30. It shall be lawful for any private executor or administrator, with the previous consent of the Administrator General of the Presidency in which the property comprised in the probate or letters of administration is situate, by an instrument in writing under his hand, bearing a stamp of ten Rupees and notified in the local *Gazette*, to transfer all estates, effects, and interests vested in him by virtue of such probate or letters to the Administrator General by his name of office; and thereupon the transferrer shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer; and the Administrator General for the time being shall have the rights and be subject to the liabilities which he would have had, and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid. Nothing herein contained shall be taken to exempt any such transferrer from liability for acts and omissions in respect of the said property prior to the transfer.

Transfer by private executor or administrator of interest under probate or letters of administration.

31. All estates, effects, and interests which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration, probates or transfers as aforesaid, shall, upon every such death, resignation, or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto. All books, papers, and documents kept by such Administrator General by virtue of his office or as such executor or transferee as aforesaid, shall be transferred to and vested in his successor in office.

Vesting of estates, &c., in successor of Administrator General.

(b.)—Suits by and against the Administrator General.

32. All suits or other proceedings which shall be commenced by or against any Administrator General in his representative character, may be brought by or against him by his name of office, and no suit or other proceedings already commenced or which shall

Administrator General to sue and be sued in his representative capacity by his name of office.

shall be commenced by or against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued by or against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred : provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Suit not to abate by death, &c.

Proviso as to costs.

33. If any suit shall be brought by a creditor against any Administrator General in his representative character, the plaintiff shall be liable to pay the costs of the suit, and shall not be entitled to have the decree (if any) in such suit enforced, unless upon proof by affidavit or otherwise that not less than one calendar month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the circumstances of the case, the Administrator General was reasonably entitled to require, and that the Administrator General had refused or neglected to register the claim according to the practice of his office. If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased *pari passu* with the other creditors.

Creditor's suits against Administrator General.

(c.)—*Grant of Certificates by the Administrator General.*

34. Whenever any person, not being a Hindu, Muhammadan, or Buddhist, or exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left moveable assets within any of the said Presidencies, and the Administrator General of such Presidency shall be satisfied that such assets do not exceed in the whole one thousand Rupees in value, he may, after the lapse of one month from the death if he shall think fit, or before the lapse of the said month if he shall be requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person claiming otherwise than as a creditor to be entitled to a share of such effects, certificates, under his hand entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value

In what case Administrator General may grant certificate.

of any sum not exceeding in the whole one thousand Rupees : provided that no certificate shall be granted under this Section where probate of the deceased's Will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings' Bank.

No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings' Bank.

35. If in cases falling within Section 34 of this Act, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased shall, within three months, obtain a certificate from the Administrator General under the same Section, or letters of administration to the estate and effects of the deceased, the Administrator General may administer the estate without letters of administration, in the same manner as if such letters of administration had been granted to him ; and if he shall neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor, and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased, and such certificate shall have the same effect as a certificate granted under the provisions of the same Section, and shall be subject to all the provisions of this Act which are applicable to such certificate : provided that the Administrator General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

Grant of certificate to creditors.

Proviso.

36. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath or solemn affirmation of the claimant (which oath or affirmation the Administrator General is hereby authorized to administer or take), or by such other evidence as he shall require.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

37. A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted, be a full discharge for payment or delivery to him of the money or security for money therein mentioned, to the person paying or delivering the same : but nothing in this Act shall preclude any executor or administrator of the deceased from recovering, from the person receiving the same, the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.

Right of executor or administrator against certificate-holder.

Right of creditor against assets in hands of certificate-holder.

And

And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

38. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded one thousand Rupees.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

39. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three Rupees in the hundred on the amount mentioned in the certificate.

Fee for certificate.

(d).—*Expenses of the Administrator General's Establishment.*

40. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

Administrator General to defray expenses of establishment, and all other charges not expressly provided for.

(e).—*Accounts and Schedules.*

41. The Administrator General of each of the said Presidencies shall enter into books to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds, and other securities for money, goods, effects, and things as shall come to his hands, or to the hands of any person employed by him or in trust for him under this Act; and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively. Such books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same at office hours, paying only such reasonable fee as hath been or shall be from time to time fixed by the Government and published in the official *Gazette* of the Presidency to which the same may relate.

Administrator General to keep a separate account for each estate, to be open to inspection on payment of fee.

42. The Administrator General of each of the said Presidencies shall, twice in every year, that is to say, on or before the first day of April, and on or before the first day of October, or on such other days as the Government shall, by any rules or orders to be

Administrator General to furnish half-yearly Schedules.

be published as aforesaid, direct, exhibit, and deliver, in the High Court at Calcutta, Madras, or Bombay, as the case may be, a true Schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances during the period of six months ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period; and also a true schedule of all administrations whereof the final balances shall have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances and the persons to whom paid. Such schedules shall be filed of record in such High Court, and shall, within fourteen days afterwards, be published in the official *Gazette* of the Presidency by the said Administrator General; and copies thereof in triplicate shall be delivered by such Administrator General to the Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit so to do, order the same to be deposited at the India Office for public inspection, and may cause notices to be published in the *London Gazette* and other leading news-papers, that such schedules are open to inspection there, or may make such other orders respecting the same as he may think fit.

Schedules to be filed and published.

PART IV.

Of the Audit of the Administrator General's Accounts.

43. The Government shall from time to time appoint auditors to examine the accounts of the Administrator General at the times of the delivery of the said schedules, and also at any other time when the Government shall think fit.

Government to appoint auditors.

44. The auditors shall examine the schedules and accounts, and report to the Government whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as hereinafter mentioned shall be, directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine schedule, and report to Government.

45. Every

45. Every auditor shall have power to summon as well the Administrator General as any other person whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General or other person if he shall think fit, on oath or solemn affirmation to be by him administered; and to call for all books, papers, vouchers and documents, which shall appear to him to be necessary for the purposes of the said reference. If the Administrator General or other person when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document so required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the auditors shall certify such neglect or refusal in writing to the High Court at the Presidency town; and every person so refusing or neglecting shall thereupon be punishable in like manner as if such refusal or neglect had been in contempt of the said High Court.

46. The costs and expenses of preparing and publishing the said schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such schedules or accounts shall relate. Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

47. If upon any such reference and examination the auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act or of any such rules and orders, they shall report accordingly to the Government.

48. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his executor or administrator in the High

High Court in the Presidency town, by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued under the provisions of the Code of Civil Procedure for his examination upon the said interrogatories. The Court shall have power upon any such petition to compel the attendance in Court of the defendant and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

49. The costs, including those of the Advocate General and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant, the same shall be repaid to the estates by which they shall have been in the first instance contributed, and the Court may, if it shall think fit, order the defendant to receive his costs out of the said estates.

PART V.

Of the Commission of the Administrator General.

50. The Administrator General of each of the said Presidencies, under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a Will wherein he shall be named as executor by virtue of his office; or under any probates or letters of administration which are or shall be vested in him by Section 8 or Section 30 of this Act, shall be entitled to receive a commission at the following rates respectively, viz. :—

The Administrator General of Bengal at the rate of three *per centum*, and the Administrators General of Madras and Bombay respectively at the rate of five *per centum*, upon the amount or value of the assets which they shall respectively collect and distribute in due course of administration.

51. The

51. The last preceding Section shall not apply to cases in which the property of an Officer or Soldier dying on service shall come to the hands of the Administrator General of any of the said Presidencies, under the 9th or the 12th Section of the Statute called "The Regimental Debts' Act, 1863," and such Administrator General shall not be entitled to take, and it shall not be lawful for him to take a per-centage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of the Administrator General's Act, 1865, if preferential charges as defined by the 4th Section of the said Statute have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

52. The Administrator General shall be entitled to re-imburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but save as aforesaid, the commission to which the Administrator General of each of the said three Presidencies shall be entitled is intended to cover, not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted that one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who shall distribute any assets in the due course of administration, and may be retained by him upon such distribution. The amount of the Commission lawfully retained by an Administrator General upon the distribution of assets, shall be deemed a distribution in the due course of administration within the meaning of this Act.

53. The Governor General of India in Council may from time to time order the rate of commission hereinbefore authorized to be received by the Administrator General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he shall collect and distribute in due course

Section 50 not to apply to property of Officers and Soldiers dying on service, which shall come to hands of Administrator General.

Administrator General entitled to a commission of only three per cent. on gross amount of such property.

What expenses, &c., commission is to cover.

How payable.

Commission retained to be deemed a distribution.

Commission of the Administrator General of Bengal may be raised and again reduced.

of administration and again to be reduced. The Governments of the Presidencies of Fort Saint George and Bombay respectively may, with the sanction of the Governor General of India in Council, from time to time order the aforesaid rate of commission hereby authorized to be received by the Administrators General of Madras and Bombay respectively to be reduced and again to be raised: Provided that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator General of Bengal, Madras, or Bombay, shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

54. No person other than the Administrator General acting officially shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona* which have been granted by the Supreme Court or High Court of Judicature at Fort William in Bengal since the passing of Act No. VII of 1849 (*for the appointment of an Administrator General in Bengal*), or by either of the Supreme or High Courts of Judicature at Madras and Bombay since the passing of Act No. II of 1850 (*to amend and extend to Madras and Bombay Act No. VII of 1849*), or which have been or shall be granted by any Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act, 1865; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

Bequest in favour of executors not affected.

PART VI.

Miscellaneous.

55. The Government shall have power from time to time to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the India Office of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall

Government may make and alter rules and orders consistent with this Act.

For custody of assets. For remittance of money.

shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may by such rules and orders amongst other things direct what books, accounts, and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

56. Such orders shall be published in the *Gazette of India*, the *Fort Saint George Gazette*, or the *Bombay Government Gazette* as the case may be, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

57. Any order which shall be made under this Act by any Court shall have the same effect and be executed in the same manner as a decree.

58. Whoever, having been sworn or having taken a solemn affirmation under this Act, shall upon any examination authorized by this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

59. All assets in the official charge of the Administrator General of any of the said Presidencies, and which now appear or shall hereafter appear from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of any of those Presidencies, or from the official books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be transferred and paid to the Controller General of Accounts or to the Accountant General to the Government

For guidance of Administrator General.

Proviso as to rules now in force.

Publication of orders, &c.

Orders of the Court to have same effect, and to be executed in same manner as a decree.

Penalty for false evidence.

Assets unclaimed for fifteen years to be transferred to Government.

of

of Fort Saint George or Bombay as the case may be, and be carried to the account and credit of the Government of India for the general purposes of Government; and the receipt of the said Controller General or Accountant General, as the case may be, shall be a full indemnity and discharge to the said Administrator General for any such transfer or payment: Provided that this Act shall not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit already instituted or which shall be hereafter instituted in respect thereof.

60. If any claim shall be hereafter made to any part of the securities, monies, or proceeds which shall be carried to the account or credit of the Government of India under the provisions of this Act, and if such claim shall be established to the satisfaction of the Controller General or the Accountant General to the Government of Fort Saint George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to the credit and account of the said Government of India, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Controller General or Accountant General, as the case may be, the claimant may apply by petition to the High Court at the Presidency Town against the Secretary of State for India, and after taking evidence either orally or on affidavit in a summary way as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, and such order shall be binding on all parties to the suit.

61. Whenever any person, other than a Hindu, Muhammadan, or Buddhist, or a person exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall die leaving assets within the limits of the jurisdiction of a District Judge, it shall be the duty of the District Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge, or appointing an Officer under the provisions of the Indian Succession Act, 1865, Section 239, to take and keep possession of the same until the Administrator General shall have obtained letters of administration, or until some other person shall have obtained such letters or a certificate from the Administrator General under the provisions of this Act, when the property shall be delivered

Mode of proceeding by claimant to recover principal money so transferred.

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.

delivered over to the person obtaining such letters of administration or certificate, or, in the event of a Will being discovered, to the person who may obtain probate of the Will.

62. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier of other person subject to any Articles of War, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary to Government, or by a Committee of Adjustment or other officers or persons acting under any law for the time being in force relating to the payment of Regimental debts; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of Regimental debts, and the distribution of the effects of officers and soldiers dying in the service of Her Majesty in India, or of any Articles of War.

Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.

63. Nothing contained in the Indian Succession Act, 1865, or the Indian Companies' Act, 1866, shall be taken to supersede or affect the rights, duties and privileges of the Administrator General and officiating Administrators General of Bengal, Madras and Bombay respectively.

Indian Succession Act and Indian Companies' Act not to affect Administrator General.

64. It shall be lawful for the Governor General of India in Council to appoint a Deputy Administrator General for all or any of the territories which are or shall for the time being be respectively under the Governments of the said Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administrations of the Chief Commissioners of Oudh and the Central Provinces; and the provisions contained in this Act as to the Administrator General of Bengal, shall apply to any Deputy Administrator General so appointed, save that in such case this Act shall be construed in the North-Western Provinces, Oudh and the Central Provinces, as if the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal and, in the Punjab, as if the Chief Court of the Punjab, were substituted for the High Court of Judicature at Fort William.

Power to appoint a Deputy Administrator General for the North-Western Provinces and the Punjab, Oudh and the Central Provinces.

SCHEDULE.

SCHEDULE.

Number of Act.	Title of Act.	Extent of Repeal.
VIII of 1855	An Act to amend the law relating to the office and duties of Administrator General.	The whole Act.
XXVI of 1855... ..	An Act to facilitate the payment of small deposits in Government Savings' Banks to the representatives of the deceased depositors.	Section 4.
XXVI of 1860... ..	An Act to amend Act VIII of 1855, (relating to the office and duties of Administrator General).	The whole Act.
IV of 1865	An Act to exempt the estates of deceased Officers and Soldiers delivered over to the Administrator General of Bengal, Madras, or Bombay, from the operation of the 26th Section of Act No. VIII of 1855.	The whole Act.
X of 1865... ..	The Indian Succession Act, 1865	Section 330.
XXV of 1866	An Act to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras, and Bombay, and in the Supreme Court of the Straits Settlement, and the proceeds of certain estates in the charge of the Administrator General of Bengal.	So much of the Act as relates to the Administrator General of Bengal.

ACT N^O. XXV OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd March 1867.)

An Act for the regulation of Printing Presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.

WHEREAS it is expedient to provide for the regulation of Printing Presses and
Preamble. of Periodicals containing news, for the preservation of three
copies of every book printed or lithographed in British India,
and for the registration of such books ; It is hereby enacted as follows :—

PART I.

Preliminary.

I. In this Act—unless there shall be something repugnant in the subject or
Interpretation Clause. context :—

“ Book ” includes every volume, part or division of a volume, and pamphlet,
“ Book.” in any language, and every sheet of music, map, chart or plan
separately printed or lithographed :

“ British India ” means the territories which are or shall be vested in Her
“ British India.” Majesty or Her Successors by the Statute 21 & 22 Vic., Cap.
106 (*An Act for the better Government of India*) other than the
Settlement of Prince of Wales’ Island, Singapore, and Malacca :

“Magistrate”

2

ACT No. XXV of 1867.

"Magistrate" means any person exercising the full powers of a Magistrate, and includes a Magistrate of Police and a Justice of the Peace :

Words in the singular include the plural, and *vice versa* ; words denoting the masculine gender include females ;

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part, and includes a Chief Commissioner.

2. Act No. XI of 1835 is hereby repealed, except so far as it repeals any Regulations, and except as to acts done, offences committed, and liabilities incurred, before the passing of this Act. In any territory acquired by the East India Company or Her Majesty since the passing of the said Act No. XI of 1835, such Act shall, so far only as regards acts, punishments, and fines purporting to have been done, inflicted and levied thereunder, be deemed to have been in force from the date of such acquisition up to the date of passing this Act.

PART II.

Of Printing Presses and Newspapers.

3. Every book or paper printed within British India, shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) of the publisher, and the place of publication.

4. No person shall, within British India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the Magistrate within whose local jurisdiction such press may be :

"I, A. B., declare, that I have a Press for printing at——." And this last blank shall be filled up with a true and precise description of the place where such Press may be situate.

5. No printed periodical work, containing public news or comments on public news, shall be published in British India, except in conformity with the rules hereinafter laid down :

(1.) The

(1.) The printer and the publisher of every such periodical work shall appear before the Magistrate within whose local jurisdiction such work shall be published, and shall make and subscribe, in duplicate, the following declaration :—

"I, A. B., declare, that I am the printer (or publisher, or printer and publisher) of the periodical work entitled—— and printed (or published, or printed and published, as the case may be) at——." And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted :

(2.) As often as the place of printing or publication is changed, a new declaration shall be necessary :

(3.) As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave British India, a new declaration from a printer or publisher resident within the said territories shall be necessary.

6. Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made. One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or other Court within the local limits of whose ordinary original Civil jurisdiction the said declaration shall have been made. The Officer in charge of each original shall allow any person to inspect that original on payment of a fee of one Rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two Rupees.

7. In any legal proceeding whatever, as well Civil as Criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declarations shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration.

8. Provided

8. Provided always, that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the periodical work mentioned in such declaration, may appear before any Magistrate, and make and subscribe in duplicate the following declaration :—

New declaration by persons who have signed a declaration, and subsequently ceased to be printers or publishers.

“ I, *A. B.*, declare, that I have ceased to be the printer (*or publisher, or printer and publisher*) of the periodical work entitled——.”

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration. The Officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one Rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two Rupees. In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.]

PART III.

Delivery of Books.

9. Three printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any additions or alterations, whether the same shall be in letter-press or in the maps, prints or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Act shall come into force, shall, within one calendar month after the day in which any such book shall first be delivered out of the press, and notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer, bound, sewed or stitched together, and upon the best paper on

Three copies of books printed after this Act comes into force and of all subsequent editions, to be delivered to Government within a month.

which

which the same shall be printed or lithographed, at such place and to such officer as the Local Government shall, by notification in the official *Gazette*, from time to time direct. The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid. Nothing in the former part of this Section shall apply to any periodical work published in conformity with the rules laid down in Section 5 of this Act.

10. Such officer shall thereupon give a receipt in writing for the copies so received, and, if the book is for sale to the public, shall, on the publication thereof, pay the publisher for the same copies at the rate at which the book shall be *bona fide* sold for cash to the public.

11. One of such copies shall be transmitted to the Secretary of State for India, another copy shall be disposed of as the Governor General of India in Council shall from time to time, by general or special order, direct, and the remaining copy shall, after a memorandum containing the particulars hereinafter mentioned respecting the book shall have been registered as hereinafter provided, be deposited in such public library, or be otherwise disposed of, as the Local Government shall from time to time determine.

PART IV.

Penalties.

12. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in Section 3 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand Rupees, or by simple imprisonment for a term not exceeding two years, or by both.

13. Whoever shall keep in his possession any such press as aforesaid, without making such a declaration as is required by Section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand Rupees, or by simple imprisonment for a term not exceeding two years, or by both.

14. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall,

Penalty for printing contrary to rule in Section 3.

Penalty for keeping press without making declaration required by Section 4.

Punishment for making false statement.

shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand Rupees, and imprisonment for a term not exceeding two years.

15. Whoever shall print or publish any such periodical work as is hereinbefore described, without conforming to the rules hereinbefore laid down, or whoever shall print or publish, or shall cause to be printed or published, any such periodical work, knowing that the said rules have not been observed with respect to that work, shall, on conviction before a Magistrate, be punished with fine not exceeding five thousand Rupees, or imprisonment for a term not exceeding two years, or both.

16. If any printer of any such book as is referred to in Section 9 of this Act, or of any second or subsequent edition of any such book, shall neglect to deliver three copies of the same pursuant to this Act, he shall for every such default forfeit, besides the value of the copies which he ought to have delivered, a sum not exceeding fifty Rupees to be recovered by the said officer on conviction before a person exercising any of the powers of a Magistrate. If any publisher or other person employing any such printer shall neglect to supply him in manner aforesaid with the maps, prints or engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the provisions of the same section, such publisher or other person shall, for every such default, forfeit, besides the value of the said maps, prints or engravings which he ought to have supplied, a sum not exceeding the said amount, and such sum shall be recovered in manner last aforesaid.

17. All pecuniary penalties imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras, and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act for regulating the Police of such towns in force for the time being. All such penalties shall be disposed of as the Local Government shall from time to time direct.

PART V.

Registration of Books.

18. There shall be kept at such office, and by such officer as the Local Government shall appoint in this behalf, a book to be called a Catalogue of books printed in British India, wherein shall be registered a memorandum of every book which shall have been

been delivered pursuant to Section 9 of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars; (that is to say):—

(1.)—The title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language :

(2.)—The language in which the book is written :

(3.)—The name of the author, translator, or editor of the book or any part thereof :

(4.)—The subject :

(5.)—The place of printing and the place of publication :

(6.)—The name of firm of the printer and the name or firm of the publisher :

(7.)—The date of issue from the press or of the publication :

(8.)—The number of sheets, leaves, or pages :

(9.)—The size :

(10.)—The first, second or other number of the edition :

(11.)—The number of copies of which the edition consists :

(12.)—Whether the book is printed or lithographed :

(13.)—The price at which the book is sold to the public ; and

(14.)—The name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the copies thereof in manner aforesaid. Every registration under this Section shall, upon payment of the sum of two Rupees to the officer keeping the said Catalogue, be deemed to be an entry in the Book of Registry kept under Act No. XX of 1847 (*for the encouragement of learning in the Territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called copyright therein*) ; and the provisions contained in that Act as to the said Book of Registry shall apply, *mutatis mutandis* to the said Catalogue.

19. The memoranda registered during each quarter in the said Catalogue shall be published in the local Gazette, as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State, and to the Secretary to the Government of India in the Home Department respectively.

PART VI.

PART VI.

Miscellaneous.

20. The Local Government shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules. Power to make rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local *Gazette*.

21. The Governor General of India in Council may, by notification in the *Gazette of India*, exclude any class of books from the operation of the whole or any part or parts of this Act. Power to exclude any class of books from operation of Act.

22. Part III, and Section 16 and Part V of this Act shall remain in force until the Governor-General of India in Council shall declare to the contrary by notification in the *Gazette of India*. Continuance of Act.

23. This Act shall come into operation on the first day of July 1867. Commencement of Act.

ACT N^o. XXVI OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 22nd March 1867.)**An Act to amend the law relating to Stamp Duties.*

WHEREAS it is expedient to amend the law relating to Stamp Duties; It is hereby enacted as follows :—

1. In this Act—unless there be something repugnant in the subject or context—

“High Court” means the highest Court of appeal in every part of British India to which this Act extends :

“Immoveable property” includes land and every benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth :

“Moveable property” means property of every description except immoveable property.

2. The exception at the beginning of Section 30 of Act No. X of 1862 *(to consolidate and amend the law relating to stamp-duties)*, shall not apply to the High Court of Judicature of the North-Western Provinces of the Presidency of Fort William in Bengal, and Section 2 of Act No. XX of 1862, as continued by Act No. XXXII of 1863, shall apply, *mutatis mutandis*, to the same Court.

3. Section,

Section 2 of this Act to have a retrospective effect.

3. Section 2 of this Act shall be deemed to have had and to have effect as if it were part of an Act which had actually passed and received the assent of the Governor General of India on the 13th day of June 1866.

Act VIII of 1859, Sections 133, 150 and part of Section 198, repealed.

4. Sections 133 and 150 of the Code of Civil Procedure, and the following words in Section 198 of the same Code:—"the application may be made either orally or by writing on unstamped paper,"—are hereby repealed.

Addition to Article 43 in Act No. X of 1862, Schedule A.

5. In the said Act No. X of 1862, Schedule A shall be read as if at the end of Article 43 the following clause were added; (that is to say):—

If the letter or power of attorney be made for the sole purpose of appointing or nominating a proxy to vote at any one meeting of the proprietors or shareholders of or in any Joint Stock Company or other Company or Society whose stock or funds is or are divided into shares and transferable.....

Rupees.	Annas.
0	4

Schedule substituted for Schedule B to Act X of 1862.

6. In the same Act, for Schedule B, the following shall be substituted:—

SCHEDULE B.

Appeal—see Petition.

Application—see Petition.

1. Bond or other obligation, whether the money secured or to be ultimately recoverable thereupon shall be limited or unlimited, when given by the direction of any Court or Revenue authority...

Rupees.	Annas.
0	8

EXEMPTION.

Bail bonds in Criminal cases, recognizances to prosecute or give evidence, and personal recognizances for appearance or otherwise.

2. Certificate granted under Act XXVII of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons), or under regulation VIII of 1827 of the Bombay Code (to provide for the formal recognition of Heirs, Executors, and Administrators, and for the appointment of Administrators and Managers of property by the Courts), or under Act XL of 1858 (for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal) if the debt or other property in respect to which the certificate is granted is sworn not to exceed 500 Rupees in amount or value.....

5	0
10	0
5	0

If the property is sworn to exceed 500 Rupees but not to exceed 1,000 Rupees.....

And for every additional 1,000 Rupees or fraction of 1,000 Rupees.....

The person to whom any such certificate is granted under the said Act XXVII of 1860, or his representative, shall, after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court which granted the certificate shall require him so to do, file a statement of all moneys recovered or realized by him under such certificate, and if the moneys so recovered or realized shall exceed the amount of the debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same and order such person to take out a fresh certificate on the stamp prescribed by this Article for such excess. In default of filing such statement within the time allowed, the Court may cancel the certificate.

3. Copy

	Rupees.	Annas.
3. Copy of decree or order having the force of a decree—		
When passed by the High Court.....	4	0
When passed by any Civil Court, other than a High Court, or by any Revenue Court—		
If the decree or order purports to determine a claim of which the subject matter is 50 Rupees or less than 50 Rupees in amount of value.....	0	8
If such amount or value exceeds 50 Rupees.....	1	0
4. Copy or translation of a judgment or order not being, or having the force of a decree—		
When passed by the High Court.....	1	0
When passed by any civil Court other than the High Court, or by any Revenue Court, or by the Board of Revenue, or by any Chief Commissioner or other Chief Revenue or Executive authority, or by any Commissioner of Circuit, or any chief officer charged with the executive administration of a Division—		
If the subject to which the judgment or order refers is 50 Rupees or less than 50 Rupees in amount or value.....	0	4
If such amount or value exceed 50 Rupees.....	0	8
5. Copy of any Revenue or judicial proceeding or order not provided for in Articles 3 and 4, or copy of any account, statement, report, or the like, taken out of any Civil or Criminal Court, or any Revenue Court or office, or any office of any Commissioner of Circuit, or any chief officer charged with the executive administration of a Division—per sheet.....	0	8

The same stamp as the original, when such stamp does not exceed 8 Annas, otherwise a stamp of 8 Annas per sheet. Provided that the stamp-duty on the copy shall never exceed the stamp-duty on the original.

6. Copy of any Deed, Instrument, or Writing, stamped in accordance with Schedule A annexed to this Act, when left by any party to a suit on proceedings in place of the original withdrawn.

EXEMPTION.

Copy of any such Deed, Instrument, or Writing, when the original does not require a stamp under the said Schedule A.

7. Mukhtárnáma, Wakálatnáma, and other power, filed or presented for the conduct of any one case in any Court or before any Revenue or executive authority—

When presented to the High Court, the Board of Revenue, the Chief Commissioner, or other chief Revenue or Executive authority.....

2	0
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When presented to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a Division, or to a Commissioner of Customs, not being the chief revenue or executive authority.....

1	0
---	---

When presented to any Court, civil or criminal, other than the High Court, or to any Revenue Court, or to any Collector or Magistrate or other revenue or executive officer, not being an authority already provided for by this Article....

0	8
---	---

EXEMPTIONS.

Mukhtárnámas executed by an officer or soldier of the Army.

No advocate of any High Court shall be required to file or present a Mukhtárnáma or Wakálatnáma, or any other document empowering him to act.

8. Petition of appeal not being from an order rejecting a plaint, or from a decree or order having the force of a decree—

When presented to the High Court... ..

2	0
---	---

When presented to any civil Court, other than the High Court, or to any Revenue Court, other than the Board of Revenue... ..

0	8
---	---

9. Petition of appeal when presented to the Board of Revenue or to the Chief Commissioner, or other chief revenue or executive authority... ..

2	0
---	---

10. Any other petition, and any application—

When presented to the High Court... ..

When presented to the Board of Revenue or to the Chief Commissioner or other chief revenue or executive authority, or to a Commissioner of Revenue or

Circuit,

Circuit, or to any chief officer charged with the executive administration of a Division...

When presented to any criminal Court, when the petition or application contains a complaint of the offence of wrongful confinement or wrongful restraint, or of any offence other than an offence for which Police officers may arrest without warrant, as specified in column 3 of the Schedule annexed to the Code of Criminal Procedure.....

When presented to any civil Court, other than a principal Civil Court of original jurisdiction, or to any Cantonment Joint Magistrate sitting as a Court of Civil Judicature under Act III of 1859 (for conferring Civil Judicature in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds), or to any Court of Small Causes constituted under Act XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature), or to a Collector or officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than 50 Rs...

When presented to the Collector of Customs at any Presidency town, to any Municipal Commissioners, or to any Magistrate or Justice of the Peace, under Act XIV of 1856, or any other Act for the time being in force for the conservancy and improvement of any Presidency town.

When presented to any civil, criminal or revenue Court, or any Board of Revenue, or any Commissioner of Revenue or Circuit, or any chief officer charged with the executive administration of a Division for a copy or for a translation of any judgment, decree or order or other document on record.

Petition or application not falling within any of the other provisions, or of the exemptions of this Schedule, presented to a civil, criminal or revenue Court, or to any Collector or other revenue authority or any Magistrate in his executive capacity...

EXEMPTIONS.

A first application for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of any exhibit.

Petition of appeal presented to a Magistrate against the Chaukidari assessment.

Petition to a Collector or officer making a settlement, relating to matters connected with the assessment of lands, the ascertainment of rights, or to any other matter affecting the settlement of the Government revenue on land, if presented pending the formation of such settlement.

Petition to a Board or Commissioner of revenue relating to the same.

Any application for permission to cut timber in Government forests, or relating to such forests.

Petition, application, charge, or information respecting any offence, when presented, made or laid before an officer of Police or before the heads of villages in the Presidency of Fort St. George or before village Police officers in the Presidency of Bombay.

Any such petition, application, charge, or information presented, made or laid before a criminal Court, when such Court shall think that it ought to be exempted from stamp-duty.

Petition from any prisoner, convict, or other person in duress, or under restraint of any Court or its officers.

11. PLAINT OR APPEAL, Petition of, in suits and appeals not otherwise provided for, instituted in any civil or revenue Court outside the local limits of the ordinary original civil jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money, or to obtain possession of any interest, matter or thing—

If the amount or value of the property claimed does not exceed 10 Rs.

If it exceeds 10 Rs. and does not exceed 100 "

Rupees. 1 Annas. 0

1 0

0 1

0

1 0
1 Rupee plus 8 Annas per 5 Rupees or fraction of 5 Rupees of the difference between 10 Rupees and the amount or value sued for.

If

If it exceed 100 Rs. and does not exceed 1,000 Rs.

" 1,000 " " 20,000 "

" 20,000 " " 1,00,000 "

" 100,000 Rupees.

Illustration.—
Where the amount or value is Rupees 32-8, the duty is Rupees 3-8.

1 Rupee per 10 Rupees or fraction of 10 Rupees.

Illustration.—
Where the amount or value is Rupees 485-8, the duty is Rupees 49.

100 Rupees plus 5 Rupees per 100 Rupees or fraction of 100 Rupees of the difference between 1,000 Rupees and the amount or value sued for.

Illustration.—
Where the amount or value is Rupees 1,250-8, the duty is Rupees 115.

1,050 Rupees plus 1 Rupee per 100 Rupees or fraction of 100 Rupees of the difference between 20,000 Rupees and the amount or value sued for.

Illustration.—
Where the amount or value is Rupees 43,450-8, the duty is Rupees 1,235.

1,850 Rupees plus 8 Annas per 100 Rupees or fraction of 100 Rupees of the difference between 100,000 Rupees and the amount or value sued for.

Illustration.—
Where the amount or value is Rupees 5,93,150-8, the duty is Rupees 4,316.

If the suit be instituted in a Military Court of Requests, or in the Court of a Cantonment Joint Magistrate under the said Act III of 1859, or in a Court of Small Causes established under Section 6 of Act XXII of 1864 (to make provision for the administration of Military Cantonments), and the amount or value claimed does not exceed 8 Rupees.....

If it exceeds 8 Rupees, and does not exceed 16 Rupees.....

If it exceeds 16 Rupees, and does not exceed 30 Rupees.....

If it exceeds 30 Rupees.....

In suits for possession instituted under Section 15, Act XIV of 1859, and applications for immediate possession under Section 1, clause 2 of Act No. XVI of 1838, and Act No. V of 1864 passed by the Governor of Bombay in Council.....

NOTE.—(a). In suits for immoveable property whether paying or not paying revenue to Government, the amount of stamp-duty payable shall be computed according to the market value of the property in suit. In suits for immoveable property paying revenue to Government, where the settlement is temporary, eight times the revenue so payable, and where the settlement is permanent, ten times the revenue so payable, and in suits for immoveable property not paying revenue to Government, twenty times the annual net profits of such property, shall be taken to be the market-value thereof, unless and until the contrary shall be proved.

SPECIAL RULES FOR THE BOMBAY PRESIDENCY.

(1). In the case of lands held on a settlement for a period not exceeding thirty years and paying the full assessment to Government, a sum equal to eight times the survey assessment shall be taken to be the market-value.

Rupees. Annas.
0 4
0 8
1 0

The same stamp as for a suit in any other Court.

A stamp of one-fourth the value prescribed in the foregoing scale.

(2). In

(2). In the case of lands held on a permanent settlement or on a settlement for any period exceeding thirty years and paying the full assessment to Government, a sum equal to ten times the survey assessment shall be taken to be the market-value.

(3). When the whole or any part of the annual survey assessment is remitted, the valuation calculated by the preceding rules shall be increased by ten times the portion of assessment remitted.

(b). In all other descriptions of suits, the amount of stamp-duty payable shall be computed in the following manner :—

(1). In suits for moveable property (other than money), according to the market-value of the subject-matter of the suit at the date of filing the plaint, or where the subject-matter has no market-value, as, for instance, in the case of documents relating to title, or accounts, the amount at which the subject-matter shall be estimated in the petition of plaint or appeal.

(2). In suits (other than suits under Act No. XV of 1865, or Act No. XXI of 1866), in which it is not possible to estimate at a money-value the subject-matter of the suit.

(3). In suits for money (including suits for damages and compensation), according to the amount claimed.

In order to ascertain the market-value or the annual net profits of any such property as is described in NOTE (a) and in NOTE (b), the Court may either of its own motion or on the application of any party to the suit issue a commission to any proper person, directing him to make such local or other investigation as may be necessary and to report thereon to the Court, and the decision of the Court as to the market-value or annual net profits shall be final. If in the result of any such investigation, the Court shall find that the market-value or net profits has or have been erroneously estimated for the purpose of computing the stamp-duty, the Court shall either (as the case may be) refund the excess paid as such duty, or require the plaintiff to pay so much additional stamp-duty as would have been payable had the said market-value or net profits been correctly estimated, and in such case the suit shall be stayed until the additional duty shall have been paid.

Section 180 of the Code of Civil Procedure shall be construed as if the words "the market-value of any property in suit or" were inserted after the word "ascertaining," and as if the words "or annual net profits" were inserted after the word "damages."

(c). In suits for mesne profits or for immovable property and mesne profits, if the profits decreed are in excess of the profits claimed, the decree shall not be executed until the difference between the stamp-duty actually paid and the stamp-duty which would have been payable had the suit comprised the whole of the profits so decreed, shall have been paid to the proper officer. Such difference shall be calculated by the Court according to the rules above mentioned, and shall be costs in the suit.

(d). If an appeal or plaint, which shall have been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, shall be ordered to be received, or if a suit shall be remanded in appeal, on any of the grounds mentioned in Section 351 of the same Code, for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of stamp-duty paid on the petition of appeal. Provided that, if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much duty as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

(e). When any appeal shall be presented to a civil Court, not against the whole of a decision, but only against so much thereof as relates to a part or parts of the subject-matter of the suit, and, on the hearing of such appeal, the respondent shall take under Section 348 of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against,

Rupees.

A

10

the Court shall not hear such objection until the respondent shall have paid the additional stamp-duty which would have been payable had the appeal comprised the part of the decision so objected to. Such additional stamp-duty shall be calculated by the Court according to the rules abovementioned, and shall be costs in the suit.

GENERAL RULE.—If the subject-matter of any plaint, written statement, petition, or copy of a decree or order cannot be conveniently comprised within one stamp-paper of the value prescribed by this Schedule, one or more additional pieces of paper may be used bearing a stamp of the value required for petitions. This rule does not apply to copies of judgments; and additional pieces of paper required for such copies need not be stamped.

7. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant as specified in the third column of the Schedule annexed to the Code of Criminal Procedure, and who has not already presented a petition stamped as required by Article 10 of Section 6 of this Act, shall be reduced to writing under the provisions of the Code of Criminal Procedure, such examination shall be written upon stamp-paper of the value of one Rupee to be supplied by the complainant, unless the Court shall think fit to write such examination upon plain paper.

Certain Sections of this Act to be read with Act No. X of 1862.

8. Sections 1, 5, 6 and 7 of this Act shall be read with and taken as part of the said Act No. X of 1862: provided that nothing contained in these Sections shall have a retrospective operation.

9. Nothing in this Act shall affect Act No. XVIII of 1865 (to amend Act No. X of 1862) or any order passed thereunder, and nothing in this Act shall affect the stamps or fees leviable under the Indian

Act not to affect Act XVIII of 1865.

Succession Act, 1865, the Parsee Marriage and Divorce Act, 1865, the Native Convert's Marriage Dissolution Act, 1866, nor any other stamp or fee leviable on any application, bond, certificate, copy, petition, power or translation not hereinbefore expressly provided for.

ACT N^O. XXVII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd March 1867.)

An Act to empower Deputy Commissioners in the Central Provinces, the Panjab, Oudh and the Jhansi Division to distribute the business in subordinate Courts.

WHEREAS it is expedient to enable Deputy Commissioners in the Central Provinces the Panjab, Oudh, and the Jhansi Division to direct the business in the Courts subordinate to them, respectively, to be distributed among such Courts in such way as the said Deputy Commissioners shall respectively think fit; It is hereby enacted as follows :—

Deputy Commissioners empowered to distribute business in Courts subordinate to them.
1. Notwithstanding any thing contained in Act No. VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*), Act No. XIV of 1865 (*to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces*), Act No. XIX of 1865 *to define the jurisdiction of the Courts of Judicature of the Panjab and its dependencies*, or Act No. XVIII of 1867 (*to define the jurisdiction of the Courts of Civil Judicature in the Jhansi Division*), every Deputy Commissioner in Oudh, the Central Provinces, the Panjab and its dependencies and the Jhansi Division, may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Nothing in Act to apply to Small Cause Courts.
2. Nothing in this Act shall apply to Courts of Small Causes.

3. This

This Act to be read with
Acts Nos. XIV and XIX of
1865 and XVIII of 1867.

3. This Act shall in the Central Provinces be read with and taken as part of the said Act No. XIV of 1865 ; in the Panjab and its dependencies, as part of the said Act No. XIX of 1865, and in the Jhansi Division as part of the said Act No. XVIII of 1867.

ACT N^o. XXVIII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd March 1867.)

An Act to remove doubts as to the legality of certain sentences passed by tribunals, called Petty Sessions Courts, in the North-Western Provinces.

WHEREAS certain Magistrates in the North-Western Provinces of the Presidency of Fort William in Bengal have been used to sit together in certain places in the said Provinces as a Court of Petty Sessions and to pass sentences in that capacity: And whereas doubts have been raised as to the legality of such proceedings and sentences, and it is expedient to remove such doubts; It is hereby enacted as follows:—

1. When two or more persons authorized to exercise all or any of the powers of a Magistrate sit together for the despatch of business in any place in the said Provinces, any summons, warrant or process or other proceeding, and any order, judgment, finding or sentence, signed by any two or more of them, shall be as valid to all intents and purposes as if it were solely signed, when the powers of one or more of them are higher than the powers of the others or other of them, by such one of them as has or by one of such of them as have, been invested under Section 23 of the Code of Criminal Procedure with the highest of such powers, or, when their powers are equal, by any one of them.

2. All

Sentences heretofore
passed by Magistrates in
Petty Sessions, to be valid.

2. All sentences heretofore passed by any Magistrates sitting together in any such place as aforesaid, shall be deemed to be as valid as if this Act had then been passed.

3. It shall be lawful for the High Court of Judicature for the said Provinces to frame rules consistent with this Act and with the Code of Criminal Procedure, for the conduct of business transacted by Magistrates sitting together in manner aforesaid, and from time to time to repeal, alter and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local *Gazette*.

4. It shall be lawful for any Local Government, other than the Government of the North-Western Provinces, to extend, *mutatis mutandis*, the provisions of this Act to all or any part of the territories under its Government.

Act may be extended.

ACT No. VIII OF 1869.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th March 1869.)

An Act further to amend the Code of Criminal Procedure.

Preamble.

WHEREAS it is expedient further to amend the Code of Criminal Procedure; It is hereby enacted as follows:—

I. This Act may be called “The Code of Criminal Procedure Amendment Act, 1869:” it shall be read with, and taken as part of Act No. XXV of 1861, and it shall come into operation on the 1st day of June 1869.

Short title.

II. The following Acts are hereby repealed (that is to say)—Act No. XXV of 1861 (*the Code of Criminal Procedure*) sections 187, 386, and 420, Act No. XXXIII of 1861 (*to amend the Schedule annexed to the Code of Criminal Procedure*), Act No. XV of 1862 (*to amend the Code of Criminal Procedure*) and Act No. VIII of 1866 (*further to amend the Schedule to the Code of Criminal Procedure*).

Repeal of Acts.

The schedule annexed to the said Code is hereby repealed, and the schedule annexed to this Act shall be read in lieu thereof.

Repeal of schedule.

III. The following sections of the Code of Criminal Procedure, namely, sections 26, 27, 28, 29, 30, 31, and 33, shall be read as if the words “or division of a district,” and the words “or divisions of a district,” and the words “or of two or more divisions of a district” were omitted therefrom.

Amendment of certain
sections of Code of Cri-
minal Procedure.

IV. The said Code shall be read as if such of the following sections as are distinguished by numbers and letters were respectively inserted next after the sections of the said Code distinguished by those numbers.

Of the following sections, those distinguished by numbers only shall be substituted for the corresponding sections in the same Code, which are hereby repealed ;

Local Government may delegate its power of appointing Magistrates.

23 A. With the sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it may think proper to any officer under its control the power conferred by section 23.

23 B. When, in consequence of the office of the Magistrate of a District becoming vacant, any officer succeeds temporarily to the chief executive administration of the District in criminal matters, such officer shall, pending the orders of the local Government, exercise all the powers and perform all the duties of the Magistrate of the District.

Succession to vacancies in the office of the Magistrate of a District.

23 C. The Local Government may, by notification in the official Gazette, prescribe the local jurisdiction of a Magistrate of the District, as defined by section 14, and may, by such notification from time to time, alter such jurisdiction.

Power to determine local jurisdiction of a Magistrate of a District.

23 D. The Local Government may invest any Magistrate with the local jurisdiction in a particular part of a District declared by section 18 to be deemed a division of a District, and may from time to time alter the limits of such local jurisdiction.

Power to appoint Magistrates in charge of divisions of districts.

23 E. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any District, is transferred to an equal or higher office of the same nature within another District, he shall, unless the Local Government shall otherwise direct, continue to exercise the same powers in the District to which he is so transferred.

Continuance of powers of officers transferred.

Powers may be varied or cancelled.

23 F. The Local Government may vary or cancel any powers with which any person may have been invested under this Act.

23 G. Except as otherwise provided in this Act or by any other law, for the time being in force, all Magistrates and Subordinate Magistrates shall be subordinate to the Magistrate of the District in which they exercise jurisdiction.

Subordination of all Magistrates to the Magistrate of the District.

23 H. The

23 H. The Local Government may, with such limitations as it may think proper, invest any Magistrate in charge of a division of a District, or any officer exercising the full powers of a Magistrate, with the authority conferred on the Magistrate of the District by sections 36, 66, 132, 308, 316, 318.

Delegation of certain powers of the Magistrate of a District.

31 A. If any person be charged under section 368 of the Indian Penal Code, with the offence of wrongfully concealing or keeping in confinement a person who has been kidnapped or abducted, such offence may be enquired into or determined in any District in which the concealment or confinement has taken place, or in any District in which the kidnapping or abduction may be enquired into or determined.

Concealment, &c., of kidnapped person.

36. The Magistrate of the District, or a Magistrate in charge of a division of a District, may respectively withdraw any criminal case from any Court subordinate to him, and may enquire into or try the case himself, or refer it for enquiry or trial to any other such Court competent to enquire into or try the same.

Magistrate may withdraw any case from a subordinate Court, and try it himself or refer it to any other such Court.

Certain Subordinate Magistrates not to hear complaints against European British subjects.

Court may apply portion of fine in compensation for loss or damage.

40 A. No Subordinate Magistrate, who is not a Justice of the Peace, shall exercise the authority conferred by section 40, unless he is empowered under section 38.

44. Whenever a Criminal Court imposes a fine, the Court may order the whole or any part of the fine to be paid in compensation,

- (1). for expenses properly incurred in the prosecution,
- (2). for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded by a Court whose decision is subject to revision, the amount awarded shall not be paid until a period of two months shall have elapsed from the date of the award.

Power conferred under section 49 of the Code may be exercised by Inspector General of Jails.

49 A. The power conferred on the local Government by section 49 may be exercised, under the orders and subject to the control of Government, by the Inspector General of Jails.

61. Whenever

61. Whenever an offender is sentenced to pay a fine, the Court which sentences him, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment, may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender. Such warrant may be executed within the jurisdiction of the Court that issued it, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Court when endorsed by the Magistrate of the District in which such property is situated.

Local Government to define what Magistrates and Subordinate Magistrates shall be empowered to entertain complaints preferred directly to themselves or on report of Police officer.

by them or if they shall have been empowered under section 38.

Magistrate of District may invest any Magistrate or Subordinate Magistrate with powers described in section 66 A.

70. A summons shall ordinarily be issued through a Police officer; but the Magistrate issuing the summons may, if he see fit, direct it to be served by any other person.

75. The provisions relating to a summons, and its service and issue contained in this chapter, shall be applicable to every summons issued under this Act, except summonses to serve as a juror or assessor:

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the Office in which the person summoned is employed, and such head shall thereupon cause the summons to be served on the person named therein.

77. A warrant shall ordinarily be directed to a Police officer; but the Magistrate issuing a warrant may, if he see fit, direct it to any other person.

Warrants to whom directed.

86. A Magistrate issuing a warrant for the arrest of a person out of his jurisdiction may direct the warrant to any Magistrate within whose jurisdiction such person is, or is supposed to be, and may send the same by post.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if the warrant had been originally issued by himself.

If the person named in the warrant be apprehended, he shall be carried before the Magistrate who endorsed it, and shall be dealt with by such Magistrate as provided in section 84.

Provisions in chapter V relating to a warrant, and its issue applicable to all warrants.

99. The provisions relating to a warrant, and its service and issue contained in this chapter, shall be applicable to every warrant of arrest issued under this Act.

114. When a Magistrate considers that the production of anything is essential to the conduct of an enquiry into an offence known or suspected to have been committed, or when he considers that such enquiry will be furthered by the search or inspection of any house or place, he may grant his search-warrant, and the officer charged with the execution of such warrant may search any house or place within the jurisdiction of such Magistrate.

The Magistrate may, if he see fit, specify in his warrant the house or place, or part thereof, to which only the search or inspection shall extend, and the officer charged with the execution of such warrant shall then search only the house, place or part so specified.

115. A search-warrant shall ordinarily be directed to a Police officer; but the Magistrate issuing the warrant, may, if he see fit, direct it to any other person.

121. A Magistrate issuing a search-warrant to be executed in any house or place out of the jurisdiction of the Magistrate of the District, may direct the warrant to any Magistrate within whose jurisdiction such house or place is situate, and may send the same by post.

Magistrate may send search-warrant by post to the Magistrate of another District.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if it had been originally issued by himself.

Procedure to be observed by such Magistrate.

If

If the warrant is to be executed within the local limits of the High Court, it shall be addressed to the Commissioner of Police or to a Police Magistrate. In such case any property found on search made, may be dealt with as provided in sections 118 and 119.

127. If the Magistrate of the District or a Magistrate in charge of a division of a District, or any other officer exercising the powers of a Magistrate, upon information and after such enquiry as he may think necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents or counterfeit Government stamps or counterfeit coin, or instruments or materials for counterfeiting coin or for forging, or that any forged documents or counterfeit stamps or false seals or any counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any house or other place,

he may by his warrant authorize any Police officer above the rank of a constable to enter, with such assistance as may be required, and by force, if necessary, any such house or other place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals, or coins therein found, which he may reasonably suspect to be stolen, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid.

130. The seizure by any Police officer of property alleged or suspected to have been stolen, or of property seized by any Police officer under circumstances which create suspicion of the committal of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order respecting the custody and production of the property as he shall think proper.

If the property is of a perishable nature, or if it appear to the Magistrate that its sale would be for the benefit of the owner, he may at any time direct it to be sold, and shall hold the proceeds in trust for the owner subject to the provisions contained in sections 131 and 132.

Provided that no Subordinate Magistrate of the Second Class shall exercise this power unless he is generally or specially authorized to do so by the Magistrate of the District.

131. When the owner of any such property is unknown, the Magistrate may detain the same, or the proceeds thereof if sold, and in case of such detention shall issue a proclamation specifying the articles

Search of house suspected to contain stolen property or forged documents.

Procedure by Police officer upon seizure of property.

Procedure where the owner is unknown.

articles of which such property consists or consisted, and requiring any person who may have a claim thereto or to the proceeds thereof to appear before him and establish his claim within six months from the date of such proclamation.

132. If no person, within such period, establishes his claim to such property or proceeds, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District, or if it has been already sold by the Magistrate, the proceeds shall be at the disposal of the Government.

132 A. When the trial in any Criminal Court is concluded, the Court at the time of passing judgment may pass such order as appears right for the disposal of any property produced before it regarding which any offence appears to have been committed.

133 B. Any Court of appeal, reference or revision may direct any such order passed by a Court subordinate thereto to be stayed, and may modify, alter or annul it.

132 C. The order passed by any Court under section 132 A or 132 B may be in the form of a reference of the property to the Magistrate of the District, who shall in such cases deal with it as if he were acting under sections 130, 131 and 132 under the circumstances mentioned in section 130, and the seizure had been reported to him by the Police.

133. Except as provided in section 108, no Police officer shall, without an express order from a Magistrate, enquire into or take cognizance of any offence punishable under the Indian Penal Code, other than the offences described in column 3 of the schedule annexed to this Act, as offences for which a Police officer may arrest without warrant. But it shall be competent to a Magistrate, upon the report of a Police officer or otherwise, to direct enquiry to be made by a Police officer into any offence punishable under the Indian Penal Code, or under any special or local law.

137. Provided also that, if it appear to the officer in charge of a Police station that there is no sufficient ground for entering on an enquiry, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall not proceed in the case, but shall report the substance of the complaint or information for the orders of the Magistrate having jurisdiction.

Procedure if no claimant appear within six months from date of proclamation.

Order for disposal of property.

Stay of such order.

Order may take form of reference.

Police officers to make enquiry into certain offences only when directed to do so by Magistrate.

If officer in charge of Police station see no sufficient ground for an enquiry.

140. When

140. When any officer in charge of a Police station requires any officer subordinate to him to make, without a warrant, an arrest which may lawfully be made by such officer without a warrant, he shall deliver to the Police officer required to make the arrest an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

The provisions of sections 82, 90, 91, 92, 93, 94, 95, and 96, shall be applicable to every order in writing issued under this section.

150. Provided that, when any fact is deposed to in evidence as discovered in consequence of information received from a person accused of any offence or in the custody of a Police officer, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact hereby discovered may be received in evidence.

158. Every prosecutor and witness, whose attendance before the Magistrate is deemed necessary by the Police officer making the enquiry, shall execute a recognizance in the form (E) given in the Appendix hereto, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day:

Such day shall be the day whereon the accused person is to appear, if he shall have been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the recognizance is executed, shall, after delivering to the prosecutor or one of the witnesses a duplicate thereof, send it with his report to the Magistrate.

No Police officer shall accompany the prosecutor or witnesses on his or their way to the Court of the Magistrate.

161. The officer in charge of a Police station, on receiving notice or information of the unnatural or sudden death of any person, shall immediately give intimation thereof to the nearest Magistrate, and proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted:

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The report shall be signed by such Police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the Magistrate

When there may be any doubt regarding the cause of death, such Police officer shall forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other medical officer appointed in this behalf by the Local Government if the state of the weather and the distance admit of its being so forwarded without risk of putrefaction on the road.

In the Presidencies of Madras and Bombay it shall be the duty of the head of the village to make the enquiry and report as aforesaid:

164. When any Court has adjudged an offender to punishment, or forwarded him to a Magistrate or Justice of the Peace for trial under section 163, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

173. In any case triable by the Court of Session exclusively, any Civil Court before which any such offence was committed may, instead of sending the case for investigation to a Magistrate, complete the investigation itself, and commit or hold to bail the accused person to take his trial before the Court of Session.

For the purposes of investigation under this section the Civil Court may exercise all the powers of a Magistrate.

179. When a complaint is made to the Magistrate of the District, or any other officer exercising the powers of a Magistrate, or to any Subordinate Magistrate empowered to commit persons for trial before the Court of Session, that any person has committed, or is suspected to have committed, any offence triable exclusively by the Court of Session, or which in the opinion of such Magistrate ought to be tried by the Court of Session, such Magistrate may issue his warrant to arrest such person:

Provided that, in any such case the Magistrate to whom such complaint is made may, if he thinks fit, instead of issuing in the first instance his warrant to arrest the accused person, issue his summons requiring him to appear to answer to such complaint.

185. When any person whose property has been declared to be at the disposal of Government under section 184 appears or is found within two years after the attachment of the property, and

proves

proves to the satisfaction of the Court trying him for the offence of which he was accused, or, if not tried or committed for trial for that offence, to the satisfaction of the Magistrate of the District, that he did not abscond or conceal himself for the purpose of evading justice, such property, or if the same has been sold, the proceeds thereof shall be restored to him.

203. Except as provided in section 209, no influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

208. The provisions of sections 179 to 183 (both inclusive) shall be applicable to witnesses named in support of the defence, who may be summoned by the Magistrate.

Sections 179 to 183 to apply to witnesses for defence.

209. The Magistrate of the District or other officer exercising the powers of a Magistrate, and any Subordinate Magistrate duly empowered under section 26, recording his reason for so doing, may tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in column 7 of the schedule hereto annexed as triable by the Court of Session, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof.

Magistrate may tender pardon to accomplice.

If any person accepts a tender of pardon under this section, he shall be examined as a witness in the case under the rules applicable to the examination of witnesses.

Such person, if not on bail, may, if the Magistrate or other officer as aforesaid thinks proper, be detained in custody pending the termination of the trial.

210. The High Court as a Court of reference, in cases tried with the aid of assessors, and the Court of Session, after committal but before the commencement of a trial, may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, instruct the Magistrate to tender a pardon on the same condition to such person or persons:

High Court or Court of Session may direct tender of pardon.

The Court of Session in like manner and on the same condition may, at any time during a trial, with the view of obtaining on the trial the evidence of any per-

son

son or persons supposed to have been directly or indirectly concerned in or privy to any such offence, tender a pardon to such person or persons.

211. When a pardon has been tendered under section 209 or section 210, if it appears to the Magistrate before the committal, or to the Court of Session at the time of trial, or to the High Court as a Court of reference, that any person who has accepted an offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence or information, such Magistrate or Court may commit or direct the commitment of such person for trial for the offence in respect of which the pardon was so tendered.

When High Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered.

221. The powers given by sections 219 and 220 may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail:

In what cases the powers given by sections 219, 220 may be exercised.

Provided that the Magistrate or Court may at his or its discretion remit any portion of the penalty mentioned in the personal recognizance or in the recognizance of the surety or sureties, and enforce payment in part only:

All orders passed by any Magistrate under this section or sections 219 or 220 shall be subject to revision by the Magistrate of the District.

222. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor, or other officer or person having authority to receive and keep prisoners; and shall be in the form (C) given in the appendix to the said Code, or to the like effect.

Warrant of commitment how to be directed, &c.

226 A. When from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which if he had been of sound mind would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, he shall be sent for trial by the Magistrate before the Court of Session:

When accused appears to have been insane.

If the Magistrate is a Justice of the Peace, and the accused person is a European British subject, such person shall be sent for trial before the High Court.

248. When

248. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected to have committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, such Magistrate may issue his warrant to arrest such person :

Provided that in any such case the Magistrate to whom the complaint is made may, for any sufficient reason, instead of issuing his warrant in the first instance, issue his summons, requiring the person complained against to appear to answer to such complaint.

249. The provisions of sections 180 to 206 (both inclusive), and of sections 212 to 221 (both inclusive), and of section 224, shall be applicable to cases tried under this chapter :

On completing the examination of a witness under this section, the Magistrate, in addition to the memorandum required by section 199, shall record such remarks as he may think material respecting the demeanour of any witness while under examination.

257. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed or is suspected to have committed any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, the Magistrate may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate to answer to the complaint :

Provided that, if the Magistrate is satisfied or has reason to believe that the accused person is about to abscond, he may, instead of issuing a summons, issue his warrant in the first instance for the arrest of such person.

262 A. The Magistrate may examine the accused person subject to the provisions of sections 202, 203, 204, and 205.

270. Whenever the Magistrate dismisses the complaint as frivolous or vexatious, he may, in his discretion, by his order of dismissal, award that the complainant shall pay to the accused person such compensation, not exceeding fifty rupees, as to such Magistrate seems just and reasonable :

In such cases, if more persons than one are accused, the Magistrate may in like manner award compensation not exceeding fifty rupees to each of them :

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son or persons supposed to have been directly or indirectly concerned in or privy to any such offence, tender a pardon to such person or persons.

211. When a pardon has been tendered under section 209 or section 210, if it appears to the Magistrate before the committal, or to the Court of Session at the time of trial, or to the High Court as a Court of reference, that any person who has accepted an offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence or information, such Magistrate or Court may commit or direct the commitment of such person for trial for the offence in respect of which the pardon was so tendered.

221. The powers given by sections 219 and 220 may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail :

Provided that the Magistrate or Court may at his or its discretion remit any portion of the penalty mentioned in the personal recognizance or in the recognizance of the surety or sureties, and enforce payment in part only :

All orders passed by any Magistrate under this section or sections 219 or 220 shall be subject to revision by the Magistrate of the District.

222. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor, or other officer or person having authority to receive and keep prisoners, and shall be in the form (C) given in the appendix to the said Code, or to the like effect.

226 A. When from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which if he had been of sound mind would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, he shall be sent for trial by the Magistrate before the Court of Session :

If the Magistrate is a Justice of the Peace, and the accused person is a European British subject, such person shall be sent for trial before the High Court.

248. When

248. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected to have committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, such Magistrate may issue his warrant to arrest such person :

Cases in which Magistrate may issue a warrant.
Provided that in any such case the Magistrate to whom the complaint is made may, for any sufficient reason, instead of issuing his warrant in the first instance, issue his summons, requiring the person complained against to appear to answer to such complaint.

249. The provisions of sections 180 to 206 (both inclusive), and of sections 212 to 221 (both inclusive), and of section 224, shall be applicable to cases tried under this chapter :

Summons instead of warrant.
On completing the examination of a witness under this section, the Magistrate, in addition to the memorandum required by section 199, shall record such remarks as he may think material respecting the demeanour of any witness while under examination.

257. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed or is suspected to have committed any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, the Magistrate may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate to answer to the complaint :

Cases in which summons shall issue.
Provided that, if the Magistrate is satisfied or has reason to believe that the accused person is about to abscond, he may, instead of issuing a summons, issue his warrant in the first instance for the arrest of such person.

When warrant may issue.
262 A. The Magistrate may examine the accused person subject to the provisions of sections 202, 203, 204, and 205.

270. Whenever the Magistrate dismisses the complaint as frivolous or vexatious, he may, in his discretion, by his order of dismissal, award that the complainant shall pay to the accused person such compensation, not exceeding fifty rupees, as to such Magistrate seems just and reasonable :

Compensation in cases of frivolous or vexatious complaints.
In such cases, if more persons than one are accused, the Magistrate may in like manner award compensation not exceeding fifty rupees to each of them :

The

The sum so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District, and in default of such distress, by imprisonment of the complainant in the civil jail, for any time not exceeding thirty days, unless such sum shall be sooner paid.

276. If, in the course of a trial before a Subordinate Magistrate, the evidence appears to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial, he shall stay proceedings and submit the case to the Magistrate to whom he is subordinate, or to such other Magistrate having jurisdiction as the Magistrate of the District may direct :

Recovery of such compensation.
Procedure of Subordinate Magistrate in cases beyond his jurisdiction.
The Magistrate to whom the case is submitted shall either try the case himself or refer it to any officer subordinate to him having jurisdiction, or he may commit the accused person for trial :

In any such case, such Magistrate or other officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court :

But any statement or confession duly made by an accused person in the course of the trial before the Subordinate Magistrate shall be admissible as evidence.

280. Whenever a person charged with rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men, or taking other unlawful measures with the evident intention of committing the same, is convicted of such charge before any Court of Session or the Magistrate of the District, or a Magistrate in charge of a division of a District or other officer exercising the powers of a Magistrate,

Personal recognizance to keep the peace in cases of conviction.
and the Court or Magistrate or other officer as aforesaid by which or by whom the accused person is convicted, or the Court or Magistrate or other officer as aforesaid by which or by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require a personal recognizance for keeping the peace from the person so convicted,

the Court or Magistrate or other officer as aforesaid so convicting the accused person, or so passing the final sentence or order as aforesaid, may, in addition, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping

keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by a Magistrate, or three years if the sentence or final order be passed by a Court of Session :

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance shall commence when he is released.

When any accused person is convicted of any offence specified in this section by an officer not exercising the powers of a Magistrate, such officer, if he consider it just and necessary to require a personal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, or other officer exercising the powers of a Magistrate to whom such officer may be subordinate, who shall deal with the case as if the conviction had been before himself.

308. Whenever the Magistrate of a District or of a division of a District, considers that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place.

or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place,

or that the construction of any building or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented,

or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary,

or that any tank or well adjacent to any public thoroughfare should be fenced in such a manner as to prevent danger arising to the public—
he may issue an order to the person causing such obstruction or nuisance, or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank, or well as aforesaid, calling on him, within a time to be fixed in the order.

to remove such obstruction or nuisance,
or to suppress or remove such trade or occupation,
or to stop the construction of such building,
or to remove it,
or to alter the disposal of such substance,
or to fence such tank or well,
(as the case may be);

Where the convicting officer has not the powers of a Magistrate.

Magistrate may order removal of nuisances.

or to appear before himself or some other officer exercising the powers of a Magistrate or of a Subordinate Magistrate of the First Class within the time mentioned in the order, and show cause why such order should not be enforced.

310. The person to whom such order is issued shall be bound, within the time specified in the order, to obey the same or to appear before the Magistrate before whom he was required by the order to appear to show cause as aforesaid, or he may apply, to such Magistrate for an order for a jury to be appointed to try whether the order is reasonable and proper.

On receiving such application, the Magistrate shall forthwith appoint a jury consisting of an odd number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant :

The execution of the order shall be suspended pending such enquiry, and the Magistrate who issued the order shall be guided by the decision of the jury, which shall be according to the opinion of the majority :

If the applicant, by neglect or otherwise, prevents the appointment of a jury, or if from any cause the jury so appointed does not decide and report within a reasonable time to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate :

If from any of the above causes no decision be made by the jury, the order of the Magistrate may be carried into effect as hereinafter provided.

Procedure in case of disobedience or neglect by person ordered.

311. If the person to whom the order mentioned in section 308 is issued does not obey such order,

or show cause against the same as hereinafter provided,

or apply for a jury within the time specified in such order,

he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code ;

and the Magistrate who issued such order may proceed to carry it into execution at the expense of such person, and may realize such expenses either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of the moveable property of the person aforesaid.

No suit shall lie in respect of anything necessarily or reasonably done to give effect to such order.

312. If in a case referred to a jury, the jury find that the order of the Magistrate is reasonable and proper, the Magistrate who issued the order shall give notice of such finding to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned within a time to be fixed in the notice and an intimation that, in case of disobedience, he will be liable to the penalty provided by section 188 of Indian Penal Code.

If such latter order is not obeyed, the Magistrate may proceed as in section 311.

313. If the person to whom the order of the Magistrate is issued appears and shows cause against it, so as to satisfy the Magistrate who issued it that it is not reasonable and proper, no further proceedings shall be taken in the case.

134. If, pending the enquiry by a jury, the Magistrate that issued the order considers that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person mentioned in that behalf in section 308 as is required to obviate or prevent such danger or injury.

In default of such person forthwith taking all necessary measures ordered to be taken by such injunction, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything necessarily or reasonably done for that purpose.

322. The Local Government may order that the trial of all offences or of any particular class of offences before any Court of Session shall be by jury in any District, and such Local Government may from time to time revoke or alter such order.

The Local Government may also, if it see fit, direct that, in any District or in any class of offences, the jurors shall, before the trial, be sworn in such form as the Government may prescribe.

Orders passed under this section shall be published in the Government Gazette, and in such other manner as the Local Government shall from time to time direct.

331. The

331. The Collector or other officer as aforesaid shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a juror or as an assessor, or who may avail himself of the exemption from service given by section 335, and insert the name of any person omitted from the list whom he deems qualified for such service.

A copy of the revised list shall be signed by the Collector or other officer as aforesaid, and sent to the Court of Session.

Any order of the Collector or other officer as aforesaid in preparing and revising the list shall be final.

363. If the accused person refuses to plead, or claims to be tried, the Court shall proceed to choose jurors or select assessors and to try the case.

371. The declaration of a deceased person, whether it be reduced to writing or not, and whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

372. When the case for the prosecution has been brought to a close, the Court may, if it considers that there are no grounds for proceeding with the trial, record a judgment of acquittal; otherwise the accused person shall be called upon to enter upon his defence, and to produce his evidence.

373. The Court, at the close of the case for the prosecution, and at the close of the evidence on behalf of the accused person (if he produces any evidence), may put any questions to the accused person which it may think proper.

It shall be in the option of the accused person to answer such questions, and after such questions shall have been answered by the accused person, he or his counsel or agent may address the Court on the subject thereof.

The provisions of section 204 shall apply to examinations under this section.

374. The accused person or his counsel or agent may, at his option, address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf.

376. If

376. If any evidence is adduced on behalf of the accused person, or if he answers any question put to him by the Court, the prosecutor, or the counsel or agent for the prosecution, shall be entitled to a reply.

379 A. In trials before a Court of Session when more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government pleader or other officer conducting the prosecution may with the consent of the Court withdraw, or the Court of its own accord may suspend the enquiry into the remaining charge or charges.

380 A. The rules contained in sections 367, 368, 369, 370 and 371, shall be applicable to all trials and enquiries before Criminal Courts.

383. In cases referred by the Court of Session for the confirmation of a sentence by the High Court, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court, and attested with his official signature, to the Court of Session.

Such Court shall, if the sentence be confirmed, immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined to cause the sentence or order to be carried into execution; or in the case of any other order, shall cause such order to be carried into effect.

384. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence to the Magistrate of the District in which the trial was held.

If the accused person is sentenced to imprisonment, the Court shall forthwith forward him with a warrant for the execution of the sentence to the officer in charge of the jail of the District in which the trial was held.

The warrant shall state the offence of which the accused person has been convicted, and the period during which he is to be imprisoned, and the nature of the imprisonment.

In cases tried by any Court inferior to a Court of Session, the Court passing the sentence shall forthwith forward the accused person with a similar warrant for the execution of the sentence to the officer in charge of the jail of the District in which the trial was held.

385. Upon

385. Upon the receipt of a warrant under section 383 or 384, the officer in charge of the jail shall cause the sentence to be executed, and shall return the warrant when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

395. *Clause 1.*—When any person is confined under the provisions of section 390 or section 394, the officer in charge of the jail, if such person is confined in a jail, or the visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every three months by such officer in charge of the jail, or by two of such visitors as aforesaid, who shall make a special report to the Local Government as to his state of mind.

Clause 2.—If such person is confined under section 390, and such officer or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session shall appoint; and such Magistrate or Court shall deal with such person under the provisions of section 392, and the certificate of such officer or visitors as aforesaid shall be receivable as evidence.

Clause 3.—If such person is confined under the provisions of section 394, and such officer or visitors as aforesaid shall certify that in his or their judgment he may be discharged without danger of his doing injury to himself or to any other person, the Local Government shall thereupon either order his discharge or order him to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and shall appoint a commission consisting of a judicial officer not below the grade of a Sessions Judge, and two medical officers whereof the chief medical officer attached to the Lunatic Asylum shall be one. The said commission shall make formal enquiry into the state of mind of such person, taking such evidence as shall be necessary; and if they consider that he can be set at liberty without danger to himself or to any other person, he shall be discharged.

406. Whenever

406. Whenever a case is revised by the High Court under this chapter, it shall certify its decision or order to the Court in which the conviction was had or by which the order was passed; or, if the conviction or order was passed by a Magistrate, other than the Magistrate of the District, to the Magistrate of the District.

Proceedings of a case revised by High Court to be certified to Court in which conviction was had.

Proviso.

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court, and if necessary the record shall be amended in accordance therewith:

Provided that, in any case revised by the High Court under this chapter, the High Court shall not reverse the verdict of the jury, or, except as provided in this chapter, alter or reverse the sentence or order of the Court below.

Proviso.

409. Any person convicted on a trial held by the Magistrate of the District or other officer exercising the powers of a Magistrate, or required by such Magistrate or other officer under section 295 or section 296 to give security for good behaviour, may appeal to the Court of Session of the District.

Appeals from Magistrates.

413. Any person convicted by any Civil, Criminal or Revenue Court under chapter X of this Act may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, subject to the rules provided in Sections 416, 417, 418, 419, 420, 421 and 422.

Appeals from orders under chapter X.

Petitions of appeal under this section, if presented to any District Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

Petitions of appeal to the High Court must be presented within sixty days calculated as last aforesaid.

An appeal may be admitted after the time herein provided on sufficient cause shown.

415. Petitions of appeal to any Appellate Court, except the High Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

Period for presenting petitions of appeal.

Petitions of appeal to the High Court must be presented within sixty days calculated as above.

An

An appeal may be admitted after the time herein provided on sufficient cause shown.

421. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may order that he be released on bail; and the High Court may exercise the same authority in cases coming before it as a Court of revision.

Appellate Court may suspend sentence pending appeal, and release defendant on bail.

422. In any case in which an appeal has been allowed, the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may direct such enquiry to be made and additional evidence to be taken.

Appellate Court may direct further enquiry, &c.

The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and the Appellate Court shall thereupon proceed to dispose of the appeal in the manner prescribed by section 419.

Unless the Appellate Court otherwise direct the presence of the appellant may be dispensed with when the further enquiry is made or evidence taken.

The provisions of chapter XII relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this section.

427. When any Court has convicted a person of an offence not triable by such Court, the Appellate Court may annul the conviction and sentence of such Court, and direct the trial of the case by a Court of competent jurisdiction.

Court of appeal how to proceed in case of conviction by a Court not having jurisdiction.

432. Every person charged before any Criminal Court with an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the provisions of Act No. XX of 1865, or any other law in force for the time being relating to pleaders. Provided that any such person may with the permission of the Court (but not otherwise) employ any other person not being a barrister, attorney or pleader to assist him in his defence.

Right of accused to be defended by counsel.

435. In the case of offences specified in the seventh column of the schedule to this Act annexed as triable by the Court of Session only or by the Court of Session or Magistrate of the District, the Court of Session may order the commitment of any accused

When Court of Session may order commitment of person discharged by Magistrate.

person

person who may have been discharged by any Magistrate. In the case of such offences the Court of Session may order an enquiry into any complaint which any Magistrate may have dismissed without enquiry.

In the case of such offences the Magistrate of the District shall have like powers where the Magistrate who has discharged the accused person or dismissed the complaint without enquiry is a Subordinate Magistrate.

If the Court of Session consider that any person convicted by a Magistrate has committed an offence not triable by such Magistrate, it may annul the conviction and sentence and direct the commitment of the accused person for trial before itself.

438. Subject to any rules that may be passed by the Local Government with the previous sanction of the Governor General of India in Council, the Criminal Courts may order payment on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

440. A copy of the final sentence or order passed by any Criminal Court together with the reasons for passing or making the same shall be furnished without delay on the application of any party to the case in which such sentence or order was passed.

Such copy shall be made at the expense of the persons applying for it, unless he is in confinement under the sentence or order and is desirous of appealing against the same, or unless the Court for any special reason sees fit to grant such copy free of expense.

445A. When under the provisions of section 445 this Act has been or shall be extended to any part of the territories not subject to the general Regulations of Bengal, Madras, or Bombay, the Governor General in Council or the Local Government of such territory may invest the chief officer charged with the executive administration of a district in criminal matters, by whatever designation such officer is called, with power to try all offences not punishable with death, and under the provisions of the said Code to pass sentence of imprisonment of either description for a term not exceeding seven years, including such solitary confinement as is authorized by law, or fine, or both.

445B. Such chief officer shall try as a Court of Session offences which, under the schedule hereto annexed, are triable by a Court of Session only, and in such trials shall be guided by the rules contained in chapter XXV of this Code.

Procedure in cases triable by the Court of Session.

445 C. Any person convicted on a trial held by any officer invested with the power described in section 445A may appeal to the High Court, and no appeal against such conviction shall lie to the Court of Sessions.

445 D. When the High Court of reference, revision or appeal in any part of the territories to which this Code has been or shall be extended as aforesaid, consists of a single Judge, he shall have all the powers of two or more Judges of the Sadr Court under sections 398 and 401.

When High Court consists of one Judge.

Appeals.

445C. Any

SCHEDULE.

Explanatory Notes.—1st.—The entries in the 2nd and 6th columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.
2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 212 and 213 of this Code.
3rd.—Offences may be tried by a Court superior to the Court specifically mentioned in column 7. For example, a Court of Session may try an offence entered in column 7 as triable by a Magistrate.
4th.—The words "Magistrate of the District," as used in column 7, shall include any officer exercising the powers of a Magistrate.
5th.—The words "any Magistrate," as used in column 7, shall include any Subordinate Magistrate of the 1st or 2nd class.
6th.—In the territories in British India to which the General Regulations of Bengal, Madras and Bombay do not extend, the powers given by this Act shall be exercised by such officers as the Local Government of those territories respectively shall appoint.
7th.—The last part of this schedule headed "Offences against other Laws" shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

CHAPTER V—OF ABETMENT.

Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto	Ditto.
111	When one act is abetted and a different act is done, subject to the proviso.	Ditto	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto	Ditto	Ditto	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto	Ditto	Ditto	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto	Ditto	Not bailable.	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto	Ditto	Ditto	Imprisonment extending to $\frac{1}{4}$ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty it is to prevent the offence.	Ditto	Ditto	Ditto	Imprisonment extending to $\frac{1}{4}$ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.

117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence, which it is his duty to prevent, if the offence be committed.	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to $\frac{1}{4}$ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to $\frac{1}{4}$ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto	Ditto	Ditto	Imprisonment extending to $\frac{1}{4}$ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.
	If not committed	Ditto	Ditto	Ditto	Imprisonment extending to $\frac{1}{4}$ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

CHAPTER VI—OFFENCES AGAINST THE STATE.

121	Waging or attempting to wage war, or abetting the waging of war against the Queen.	Shall not arrest without warrant.	Warrant	Not bailable	Death, or transportation for life, and for forfeiture of property.	Court of Session.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
125	Waging war against any Asiatic power in alliance or at peace with the Queen or abetting the waging of such war.	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of either description for 7 years, and fine.	Ditto.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto	Ditto	Ditto	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto	Ditto	Bailable	Simple imprisonment for 3 years, and fine...	Court of Session or Magistrate of the District.
130	Aiding escape of, rescuing, or harbouring such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER VII—OFFENCES RELATING TO THE ARMY AND NAVY.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
131	Abetting mutiny, or attempting to seduce an officer, soldier, or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Death or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
133	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
134	Abetment of such assault, if the assault is committed.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier, or sailor.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
136	Harbouring such an officer, soldier, or sailor who has deserted.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILITY.

143	Being a member of an unlawful assembly	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto.
148	Rioting armed with a deadly weapon	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence	By the Court by which the offence is triable.

150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
155	Person for whose benefit, or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Magistrate of the District, or Subordinate Magistrate of 1st Class.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Fine	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
Or to go armed		Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Magistrate of the District.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.—(Continued.)

1 Section.	3 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a war- rant or a sum- mons shall ordi- narily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
168	Public servant unlawfully engaging in trade...	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District.
169	Public servant unlawfully buying or bidding for property.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest with- out warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Abdconding to avoid service of summons or other proceeding from a public servant. If summons or notice require attendance in person, &c., in a Court of Justice.	3 Whether the Police may arrest without warrant or not.	4 Whether a war- rant or a sum- mons shall ordi- narily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
172	Abdconding to avoid service of summons or other proceeding from a public servant. If summons or notice require attendance in person, &c., in a Court of Justice.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of Any Magistrate. 500 rupees, or both.	Any Magistrate.
173	Preventing the service or the affixing of it summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
178	Refusing to take oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Court in which the offence is committed, subject to the provisions of Chapter X of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class.
179	Being legally bound to state the truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine or both.	Court of Session, or Magistrate of the District.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding by a person under a legal incapacity to purchase it for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
188	Willfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.—(Continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
189	If such disobedience causes danger to human life, health or safety, &c.	Ditto	Ditto	Ditto	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
190	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
191	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years, and fine.	Court of Session.
194	Giving or fabricating false evidence in any other case.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
195	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
196	If innocent person be thereby convicted and executed.	Ditto	Ditto	Ditto	Death, or as above ...	Ditto.
197	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto	Ditto	Ditto	The same as for the offence ...	Ditto.
198	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	Ditto	According as the offence of giving such evidence is bailable or not.	The same for giving or fabricating false evidence.	Ditto.
199	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	The same as for giving false evidence.	Ditto.
200	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto	Ditto.
201	False statement made in any declaration which is by law received as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
202	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto	Ditto.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
202	If punishable with transportation, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
203	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Imprisonment for $\frac{1}{4}$ of the longest term, and by the Magistrate of the District or by the Court by which the offence is triable.	Magistrate of the District.
204	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
205	Giving false information respecting an offence committed.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
206	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
207	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
208	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
209	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Ditto.
210	Fraudulently suffering a decree to pass for a sum not due, or suffering a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Ditto.
211	False claim in a Court of Justice	Ditto	Ditto	Ditto	Ditto	Ditto.
212	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, and fine.	Ditto.
213	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
214	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto.
215	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
216	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.
217	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
218	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Imprisonment for $\frac{1}{4}$ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—(Continued.)

Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital. If punishable with transportation for life, or with imprisonment for 10 years.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If with imprisonment for less than 10 years ...	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital. If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment for $\frac{1}{4}$ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
	If with imprisonment for less than 10 years ...	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital. If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Ditto	Ditto	Imprisonment for $\frac{1}{4}$ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
	If with imprisonment for 1 year and not for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital. If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If with imprisonment for less than 10 years ...	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	Court of Session or Magistrate of the District.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death. If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards. If under sentence of imprisonment for less than 10 years.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Court of Session or Magistrate of the District.
224	Resistance or obstruction by a person to his lawful apprehension.	Ditto	Summons	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody. If charged with an offence punishable with transportation for life, or imprisonment for 10 years. If charged with a capital offence	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Ditto
	.....	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards. If under sentence of death.....	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the District.
226	Unlawful return from transportation	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine. Transport for life, and fine and rigorous imprisonment for 3 years before transportation. Punishment of original sentence, or if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto	Ditto	Bailable	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in Chapter X of this Code.
239	Personation of a juror or assessor	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

		May arrest without warrant.	Warrant	Not bailable		
231	Counterfeiting or performing any part of the process of counterfeiting Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
232	Counterfeiting or performing any part of the process of counterfeiting the Queen's Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
233	Making buying, or selling instrument for the purpose of counterfeiting Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
236	Abetting in India the counterfeiting out of British India of Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session.
237	Import or export of counterfeit Coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	The punishment provided for abetting the counterfeiting of such coin within British India.	Court of Session.
238	Import or export of counterfeit of the Queen's Coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
239	Having any counterfeit Coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
240	The same with respect to the Queen's Coin	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.
241	Knowingly delivering to another any counterfeit Coin as genuine which when first possessed the deliverer did not know to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
242	Possession of counterfeit Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the Coin counterfeited, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

243	Possession of Queen's Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
244	Persons employed in a Mint causing Coin to be of a different weight or composition from that fixed by law.	Ditto	Ditto	Ditto	Ditto	Ditto.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	Ditto	Ditto	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
247	Fraudulently diminishing the weight or altering the composition of the Queen's Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
248	Altering appearance of any Coin with intent that it shall pass as a Coin of a different description.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
249	Altering appearance of the Queen's Coin with intent that it shall pass as a Coin of a different description.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
250	Delivery to another of Coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.
251	Delivery of Queen's Coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
252	Possession of altered Coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
253	Possession of Queen's Coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session.
254	Delivery to another of Coin as genuine, which, when first possessed, the deliverer did not know to be altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the Coin.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
255	Counterfeiting a Government stamp	Ditto	Ditto	Bailable	Imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto.
258	Sale of counterfeit Government stamp	Ditto	Ditto	Ditto	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
262	Using a Government stamp known to have been before used.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(Continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
263	Eraseure of mark denoting that stamp has been used.	May arrest without Warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.

CHAPTER XIII—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
265	Fraudulent use of false weight or measure.	Ditto	Ditto	Ditto	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENTY, AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rules.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink for man intended for sale so as to make the same noxious.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto	Ditto.

277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto	Ditto	Ditto	Ditto	Magistrate of the District, or Subordinate Magistrate of 1st Class.
281	Exhibition of a false light, mark, or buoy.	Ditto	Warrant	Ditto	Imprisonment of either description for 7 years, or fine or both.	Court of Session.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto	Ditto	Ditto	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Ditto	Any Magistrate.
286	So dealing with any explosive substance.	Ditto	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Magistrate of the District, or Subordinate Magistrate of 1st Class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	May arrest without warrant.	Ditto	Ditto	Ditto	Any Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XV—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
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CHAPTER XV—OFFENCES RELATING TO RELIGION—(continued.)

2	3	4	5	6	7
Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
Causing a disturbance to an assembly engaged in religious worship.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District.
Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	.....	Ditto.
Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feelings.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

Offence.	May arrest without warrant.	Not bailable	Death, transportation for life, and fine	Court of Session.
Murder	Ditto	Ditto	Death	Ditto.
Murder by a person under sentence of transportation for life.	Ditto	Ditto	Death	Ditto.
Culpable homicide not amounting to murder if act by which the death is caused is done with intention of causing death, &c.	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
Abetment of suicide committed by a child, or an insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Death, or transportation for life, or imprisonment for 10 years, and fine.	Ditto.
Abetting the commission of suicide	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
Attempt to murder	Ditto	Ditto	Ditto	Ditto.
If such act cause hurt to any person	Ditto	Ditto	Transportation for life, or as above	Ditto.
Attempt to commit culpable homicide	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
If such act cause hurt to any person	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
Attempt to commit suicide	Ditto	Ditto	Simple imprisonment for 1 year, and fine	Magistrate of the District.
Being a thug	Ditto	Not bailable	Transportation for life, and fine	Court of Session.

Of the causing of Miscarriage; of injuries to unborn children; of the exposure of infants; and of the concealment of births.

Offence.	Shall not arrest without warrant.	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
Causing miscarriage	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
If the woman be quick with child	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.

313	Causing miscarriage without woman's consent.	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
315	If act done without woman's consent	Ditto	Ditto	Transportation for life, or as above	Ditto.
316	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
317	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
318	Exposure of a child under 12 years by parent or person having care of it with intention of wholly abandoning it.	Ditto	Bailable	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
319	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session or Magistrate of the District.

Of Hurt.

323	Voluntarily causing hurt	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 Rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
325	Voluntarily causing grievous hurt	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
328	Administering stupefying drug with intent to cause hurt.	Ditto	Ditto	Ditto	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Bailable	Imprisonment of either description for 7 years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years, and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years, and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto	Summons	Bailable	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(Continued.)

Of Hurt—(Continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other person than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 4 years, or fine of 2000 rupees, or both.	Court of Session, or District Magistrate of the District.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of wrongful Restraint and wrongful Confinement.

341	Wrongfully restraining any person	May arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
343	Wrongfully confining for three or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or District Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting a confession or information, or of compelling restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable.	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

359	Kidnapping	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years, and fine.	Court of Session.
360	Kidnapping or abducting in order to murder	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
361	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
362	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
363	Kidnapping or abducting in order to subject a person to grievous hurt slavery, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
364	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction	Ditto.
365	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
366	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Ditto.
367	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not Bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
368	Selling or letting to hire a minor for the purpose of prostitution.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
369	Buying or obtaining possession of a minor for the same purpose.	Ditto	Ditto	Ditto	Ditto	Ditto.
370	Unlawful compulsory labour.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

Of Rape.

371	Rape	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
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Of Unnatural Offences.

372	Unnatural offences	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
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CHAPTER XVII—OF OFFENCES AGAINST PROPERTY.

Of Theft.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
379	Theft	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent, or vessel	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto	Ditto	Ditto	Ditto	Court of Session, or District Magistrate of the District.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retreating after committing it, or to retaining property taken by it.	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Court of Session.

Of Extortion.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
383	Extortion	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
384	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
385	Extortion by threatening to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
386	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Transportation for life	Ditto.
387	If the offence threatened be an unnatural offence.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
388	Putting a person in fear of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years, in order to commit extortion.	Ditto	Ditto	Ditto	Transportation for life	Ditto.
389	If the offence be an unnatural offence	Ditto	Ditto	Ditto	Transportation for life	Ditto.

Of Robbery and Dacoity.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
392	Robbery	May arrest without warrant.	Warrant	Not bailable	Rigorous imprisonment for 10 years, and fine.	Court of Session, or District Magistrate of the District.
393	If committed on the highway between sunset and sunrise.	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years, and fine.	Ditto.
394	Attempt to commit robbery	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Ditto.
395	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
396	Murder in dacoity	Ditto	Ditto	Ditto	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto.
399	Making preparation to commit dacoity	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Criminal Misappropriation of Property.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
403	Dishonest misappropriation of moveable property or converting it to one's own use.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or District Magistrate of the District.
405	If by clerk or person employed by deceased...	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.

Of Criminal Breach of Trust.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust...	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or District Magistrate of the District.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—(Continued.)

Of Criminal Breach of Trust—(Continued.)

Section.	3 Offence.	4 Whether the Police may arrest without warrant or not.	5 Whether a warrant or a summons shall ordinarily issue in the first instance.	6 Whether bailable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
407	Criminal breach of trust by a carrier, wharfinger, &c.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years, and fine.	Court of Session, or District Magistrate of the District.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	.....	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c.	Shall not arrest without warrant.	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

Of the receiving of Stolen Property.

Section.	3 Offence.	4 Whether the Police may arrest without warrant or not.	5 Whether a warrant or a summons shall ordinarily issue in the first instance.	6 Whether bailable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
411	Dishonestly receiving stolen property knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or District Magistrate of the District, or Subordinate Magistrate of 1st Class.
412	Dishonestly receiving stolen property, knowing that it was obtained by larceny.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session, or District Magistrate of the District.
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or District Magistrate of the District, or Subordinate Magistrate of 1st Class.

Of Cheating.

Section.	3 Offence.	4 Whether the Police may arrest without warrant or not.	5 Whether a warrant or a summons shall ordinarily issue in the first instance.	6 Whether bailable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or District Magistrate of the District, or Subordinate Magistrate of 1st Class.

419 Cheating by personation
420 Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.

419	Cheating by personation	Ditto	Ditto	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session, or District Magistrate of the District.

Of Fraudulent Deeds and Dispositions of Property.

Section.	3 Offence.	4 Whether the Police may arrest without warrant or not.	5 Whether a warrant or a summons shall ordinarily issue in the first instance.	6 Whether bailable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	Ditto	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Mischief.

Section.	3 Offence.	4 Whether the Police may arrest without warrant or not.	5 Whether a warrant or a summons shall ordinarily issue in the first instance.	6 Whether bailable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
428	Mischief by killing, poisoning, maiming, or rendering useless, any animal of the value of 10 rupees or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, or District Magistrate of the District, or Subordinate Magistrate of 1st Class.
431	Mischief by injury to public road, bridge, river, or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, &c., a land-mark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XVII—OFFENCES AGAINST PROPERTY—(Continued).

Of Mischief—(Continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a war- rant or a sum- mons shall rdi- narly issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Warrant	Bailable	... Imprisonment of either description for 7 years, and fine.	Court of Session.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	Ditto	Ditto	Not bailable	... Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	Ditto	Ditto	... Imprisonment of either description for 10 years, and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	Ditto	Ditto	... Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	Ditto	Ditto	... Imprisonment of either description for 10 years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	Ditto	... Imprisonment of either description for 5 years, and fine.	Ditto.

Of Criminal Trespass.

447	Criminal trespass	... May arrest without warrant.	... Bailable	... Imprisonment of either description for 8 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	Ditto	Ditto	... Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	... Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	... Imprisonment of either description for 10 years, and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment. If the offence is theft	Ditto	Ditto	... Imprisonment of either description for 2 years, and fine.	Any Magistrate.
		Ditto	Not bailable	... Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.

CHAPTER XVIII—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	Ditto	Ditto	... Ditto	Ditto.
453	Lurking, house-trespass, or house-breaking	Ditto	Ditto	Ditto	... Imprisonment of either description for 2 years, and fine.	Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.
454	Lurking, house-trespass, or house-breaking in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant	Not bailable	... Imprisonment of either description for 3 years, and fine.	Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.
	If the offence is theft	Ditto	Ditto	Ditto	... Imprisonment of either description for 10 years, and fine.	Ditto.
455	Lurking, house-trespass, or house-breaking after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	... Court of Session.	Court of Session.
456	Lurking, house-trespass, or house-breaking by night.	Ditto	Ditto	Ditto	... Court of Session.	Court of Session.
457	Lurking, house-trespass, or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	... Court of Session, or Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.	Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.
458	Lurking, house-trespass, or house-breaking by night after preparation made for causing hurt, &c.	Ditto	Ditto	Ditto	... Court of Session.	Court of Session.
459	Grievous hurt caused whilst committing lurking, house-trespass, or house-breaking.	Ditto	Ditto	Ditto	... Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
460	Death or grievous hurt caused by one of several persons, jointly concerned in house-breaking by night, &c.	Ditto	Ditto	Ditto	... Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Ditto	Bailable	... Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	Ditto	Ditto	... Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.

465	Forgery	.....	Will not arrest without warrant.	Bailable	... Imprisonment of either description for 2 years, or fine, or both.	Court of Session.
466	Forgery of a record of a Court of Justice or of a Register of Births, &c., kept by a public servant.	Ditto	Ditto	Not Bailable	... Imprisonment of either description for 7 years, and fine.	Ditto

CHAPTER XVIII—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.—(Continued).

Section.	3 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a war- rant or a sum- mons shall ordi- narily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
467	Forgery of a valuable security, will, or autho- rity to make or transfer any public security, or to receive any money, &c. When the valuable security is a promissory note of the Government of India.	Shall not arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
468	Forgery for the purpose of cheating	May arrest with- out warrant.	Ditto	Ditto	Ditto	Ditto.
469	Forgery for the purpose of obtaining the repa- tation of any person, or knowing that it is likely to be used for that purpose.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
471	Using as a genuine a forged document which is known to be forged.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, and fine.	Ditto.
472	Making or counterfeiting a seal, plate, &c., note of the Government of India.	May arrest with- out warrant.	Ditto	Ditto	Punishment for forgery	Ditto.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Ditto	Not bailable	Ditto	Ditto.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.
475	Counterfeiting a device or mark used for authen- ticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
476	Counterfeiting a device or mark used for authen- ticating documents other than those describ- ed in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
477	Fraudulently destroying or defacing, or at- tempting to destroy or deface, or secreting a will, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Trade and Property-Marks.

	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subor- dinate Magistrate of 1st Class.
483	Using a false trade or property-mark with intent to deceive or injure any person.	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a pub- lic servant, or any mark used by him to de- note the manufacture, quality, &c., of any property.	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
485	Fraudulently making or having possession of any die, plate, or other instrument for coun- terfeiting any public or private property or trade-mark.	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a coun- terfeit property or trade-mark.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Sub- ordinate Magis- trate of 1st Class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it con- tains goods which it does not contain, &c.	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Sub- ordinate Magis- trate of 1st Class.
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto.
489	Removing, destroying, or defacing any pro- perty-mark with intent to cause injury.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Sub- ordinate Magis- trate of 1st Class.

CHAPTER XIX—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate of the District, or Sub- ordinate Magis- trate of 1st Class.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, un- soundness of mind, or disease, and volun- tarily omitting to do so.	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of double the expense in- curred, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there volun- tarily deserting the service or refusing to perform the duty.	Ditto	Ditto		

CHAPTER XX—OFFENCES RELATING TO MARRIAGE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 10 years, and fine.	Court of Session.
494	Marrying again during the life-time of a husband or wife.	Ditto	Ditto	Bailable	Imprisonment of either description for 7 years, and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years, and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
497	Adultery	Ditto	Ditto	Bailable	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.

CHAPTER XXI—OF DEFAMATION.

500	Defamation	Shall not arrest without warrant.	Warrant	Bailable	Simple imprisonment for 2 years, or fine, or both.	Court of Session, or Magistrate of the District.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	Ditto	Ditto	Ditto	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XXII—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Ditto	Ditto	Not bailable	Ditto	Magistrate of the District.

506	Criminal intimidation	Ditto	Ditto	Bailable	Ditto	Magistrate of the District, or Sub-ordinate Magistrate of 1st Class
	If threat be to cause death or grievous hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Magistrate of the District.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term and of the description provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.
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OFFENCES AGAINST OTHER LAWS.

	May arrest without warrant.	Warrant	Not bailable		Court of Session.
If punishable with death, transportation, or imprisonment for seven years or upwards.	Ditto	Ditto	Ditto	"	Court of Session, or Magistrate of the District.
If punishable with imprisonment for more than three and less than seven years.	Shall not arrest without warrant.	Summons	Bailable	"	Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.
If punishable with imprisonment for less than three years.	Ditto	Ditto	Ditto	"	Any Magistrate.

WHITLEY STOKES,
Secy. to the Council of the Govr. Genl. for making Laws and Regulations.
By order of His Excellency the Governor in Council.
R. S. ELLIS, Chief Secretary.

ACT N^o. IX OF 1869.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th March 1869.)

THE INCOME TAX ACT, 1869.

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An Act for imposing duties on Income and Profits arising from Offices, Property, Professions, and Trades.

PART I.

PRELIMINARY.

Short title.
Commencement of Act.

1. This Act may be called "The Indian Income Tax Act," and shall come into operation on the first day of April 1869.

2. Act

2. Act No. IX of 1868 (*for taxing Professions and Trades*) is hereby repealed
Repeal of Certificate Act. except as to taxes due under that Act.

3. In this Act—unless there be something repugnant in
Interpretation-clause. the subject or context—

“Magistrate” means any person exercising the powers of a Magistrate, or of a
“Magistrate.” Subordinate Magistrate of the First Class, and includes a Magistrate of Police and a Justice of the Peace:

“Company” means an association carrying on business in British India whose
“Company.” stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:

“Firm.” “Firm” includes a Hindú undivided family:

“Person.” “Person” includes a firm:

“Defaulter.” “Defaulter” includes a firm making default under this
 “Act.

“Year of assessment.” “Year of assessment” means a year commencing on the
 first day of April:

In the case of any Company or Municipal or other public Body or Association
“Collector.” not being a Company, “Collector” means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And in the case of any person chargeable under this Act, “Collector” means the Collector of Land Revenue of the place or district at or in which such person resides.

4. Nothing in this Act applies to the pay and allowances of officers, warrant
Exemptions from Act. officers, non-commissioned officers and privates of Her Majesty's Forces or of Her Majesty's Indian Forces, who are not in Civil employment, when such pay and allowances do not exceed Rs. 500 per mensem;

Or to any moveable or immoveable property solely employed for or dedicated to religious or charitable public purposes.

And no member of a firm which is for the time being chargeable under this Act shall, as such, be chargeable under this Act.

5. The Governor General of India in Council may, from time to time, by
Power to exempt from Act. order, wholly exempt from the operation of this Act the whole or any part of the income and profits of any tribe or class of persons in British India.

The Governor General of India in Council may revoke any such order.

All

All orders and revocations made under this section shall be published in the
Gazette of India.

PART II.

DUTIES ON OFFICES.

6. From the first day of April 1869, a duty of one per centum shall be levied
Duties on offices. in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public Body or Association not being a Company, and upon every salary, annuity or pension paid in British India by Government or by a Company or by a Municipal or other public Body or Association not being a Company to any person residing in British India or serving on board a ship trading to and from British Indian ports, whether on account of himself or another person.

Exemption of incomes less than Rs. 41-10-8 per mensem. 7. No income amounting to less than Rs. 41-10-8 per mensem shall be chargeable under this Part.

8. In the case of every person holding any paid office, employment or com-
Provision as to Govern- ment officials. mission under Her Majesty or under the Government of India, or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

9. In the case of every person holding a paid employment under or receiving
Provision as to servants of Companies and Municipalities. any annuity or pension from any Company, or any Municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government shall from time to time direct, the amount of such deductions, and shall be answerable to such Government for such payment.

Every Company, public Body or Association, Treasurer or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this section.

The

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the thirtieth day of April in this and every subsequent year, deliver to the Collector, in such form as may from time to time be prescribed by the Governor General of India in Council, a return in writing showing the names of every person holding at the date of the said return a paid employment under or receiving a pension or annuity from the Company or public Body or Association whose pay or pension or annuity as such amounts to Rupees 41-10-8 per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body to all such persons respectively.

PART III.

COMPANIES.

Provision as to Companies.

10. In this and every subsequent year the Treasurer, Secretary or principal Agent or Manager in India of every Company shall,

in the case of a Shipping Company trading between British India and any other country, pay to Government the sum of one per centum on a moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up,

and in the case of every other Company pay to Government one per centum on the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up,

and shall prepare, and, on or before the thirtieth day of April, deliver to the Collector a statement in writing signed by him showing the result of such accounts (if any).

In the case of any Company where no such accounts as are mentioned in this section have been made up within the year ending on the thirty-first day of March next before the year of assessment, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the thirtieth day of April in such year, deliver to the Collector a return in writing signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the thirty-first day of March next before the year of assessment.

Every such Treasurer, Secretary or principal Agent or Manager is hereby indemnified for all payments made in pursuance of this section.

PART IV.

PART IV.

DUTIES ON ALL OTHER INCOME AND PROFITS.

11. From the first day of April 1869, a yearly duty in accordance with Schedule A to this Act annexed shall be levied upon all income and profits accruing and arising in British India and not chargeable under Part II or Part III of this Act.

Duty on income not charged under Part II or III.

12. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic or idiot, and having the control of the property of such infant, married woman, lunatic or idiot whether such infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Trustees, Guardians and Committees of incapacitated persons to be charged.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income or profits chargeable under this Part, shall be chargeable in the name of such agent, in the like manner and to the like amount as he would be charged if resident in British India, and in actual receipt of such income or profits.

Non-residents charged in names of their agents.

13. Every such trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income or profits in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

Trustees or agents of persons incapacitated or non-resident to furnish statements of income or profits with declaration.

14. The Collector shall from time to time determine what persons are chargeable under this Part, and the amount that every such person shall be assessed in accordance with the said Schedule; and in making such assessment income exempted under section seven shall be treated as chargeable under this Part.

Collector to determine persons chargeable.

15. In the case of a person for the first time becoming chargeable under this Part within the year of assessment, the computation shall be made according to an average of his income and profits for such period as the Collector shall, under the circumstances, direct.

Computation when assessed becomes chargeable within year.

16. The

Service of notice.

16. The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

(1).—The name and the profession, trade or other source of the income or profits of such person :

(2).—The year or portion of the year for which the duty is to be paid :

(3).—The place or places, district or districts where his income or profits accrues or arise :

(4).—The amount to be paid ;

And requiring him within fifteen days from the date of the service to pay such amount.

Officer to grant receipts.

17. Such amount shall be paid to the Collector, who shall grant a receipt for such payment to the person making the same :

Provided that, if such income or profits accrues or arise at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

Contents of receipt.

18. Every such receipt shall specify—

(1.)—The name and source or sources of the income or profits of the person by or on whose behalf the duty is paid :—

(2).—The year or portion of the year for which the duty is paid :

(3).—The amount paid, and the date of payment ; and

(4).—The place or places, district or districts, where the income or profits accrues or arise ; and shall be admissible as *prima facie* proof of all matters contained therein.

19. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under this Part, may within the period mentioned in the said notice, or if the Collector is satisfied that the objector has not received such notice, then at any time within one month

Objection to assessment.

month from the expiration of such period, apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled.

The petition shall be in the form contained in Schedule B to this Act annexed or as near thereto as circumstances admit : it shall bear a stamp of eight annas, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

20. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on the day (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the value of the said stamp.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall, within one week from the passing of the order, pay the amount mentioned in the said notice or in the order of enhancement (as the case may be).

21. Any person dissatisfied with any order under section twenty may, within fifteen days from the date thereof, on payment of the sum in which he was assessed, or to which his assessment was enhanced, present an appeal in writing to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Every appeal preferred under this section shall bear a stamp of one rupee, and shall be accompanied by a copy of the petition and the Collector's order thereon (both of which may be on unstamped paper), and all other documents (if any) connected with the case.

When the decision on such appeal is in favour of the appellant, the value of the stamp on his appeal, together with the excess paid by him, or (when the decision is that the petitioner is not chargeable under this Act), the whole sum so paid shall at once be refunded.

Return of stamp.

22. The

22. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner should be assessed, and may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the sources of the petitioner's income or profits accruing or arising in British India.

23. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income or profits not specified in the receipt granted to him under section seventeen has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person stating the amount to be paid in respect of such source, and the provisions contained in sections sixteen to twenty-two (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART V.

PENALTIES.

24. Every Treasurer, Secretary or principal Agent or Manager failing to make any payment or to prepare and deliver any return required by section nine,

or failing to make any payment or to prepare and deliver any statement or return required by section ten,

and every trustee, guardian, curator, committee or agent failing to deliver any statement or declaration required by section thirteen,

shall, for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

25. If any person served with notice under section sixteen does not, within the period specified in the said notice, pay the amount required thereby, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such notice: Provided that he has not presented a petition under section nineteen.

If any such person presents a petition under section nineteen, and does not, within one week from the passing of the order thereon, pay the amount, if any, required by such order, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such order.

On the recovery of the fine from the person so convicted, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the fine, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

26. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras, or Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm or to all or any of the members thereof.

27. No person shall be proceeded against for any offence under section twenty-four or section twenty-five except at the instance of the Collector.

28. In sections 193 and 228 of the Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act.

PART VI.

PAYMENT.

29. All taxes under this Act, except when they are deducted under section eight or section nine, shall be payable on the first day of April in each year:

Instalments.

Provided that, in every case where the amount so payable equals or exceeds rupees twenty-four, it may be paid in each year by two equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section sixteen upon the person paying the same, and the second instalment on the first day of October.

30. When

30. When any person pays only such first instalment, and, between the first day of April and the second day of October, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade (if any) in respect of the profits arising from which he was assessed, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of his property in trust for the benefit of his creditors, the amount of the second instalment shall not be claimable.

When any firm pays only such first instalment, and, between the first day of April and the second day of October, dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of its property in trust for the benefit of its creditors, the amount of the second instalment shall not be claimable.

31 When any person pays the whole amount as aforesaid, and, between the first day of April and the second day of October, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade in respect of the profits arising from which he was assessed, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of his property in trust for the benefit of his creditors, one moiety of such amount shall be paid to his representative or himself or his assignee, as the case may be.

When any firm pays the whole amount as aforesaid, and, between the first day of April and the second day of October, dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of its property in trust for the benefit of its creditors, one moiety of such amount shall be repaid under such rules as the Governor General of India in Council shall from time to time prescribe.

32. If the Collector has caused a notice to be served on any person liable to pay the said second instalment and requiring him within seven days from the date of the service to pay the amount of such instalment (mentioning it), and if the person so served does not within that period pay such amount as required by the said notice, he shall on conviction before a Magistrate be fined twice the amount so mentioned.

Recovery under Revenue-law.

33. In any case of default under this Act arising outside the local limits of the towns of Calcutta, Madras, or Bombay, the Collector may, if he thinks fit, and if the notice mentioned in section sixteen,

twenty-three

twenty-three, or thirty-two (as the case may be) has been served on the defaulter, recover the amount of any tax or instalment payable under this Act as if it were an arrear of land revenue.

On the recovery of such amount from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

34. A deduction equivalent to the amount paid by any person under the said Act No. IX of 1868, section five, for the month of April 1869, shall be made from the first payment by such person under Part IV of this Act.

Payment of Taxes and Fines.

35. All taxes levied and all fines recovered under this Act shall be paid to the credit of the Government of India, or as such Government shall from time to time direct.

PART VII.

MISCELLANEOUS.

36. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf.

37. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

38. When

38. When any Company or firm has several places of business in the territories subject to different Local Governments, the Governor General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any Company or firm has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

When any person has several places of residence in the territories subject to different Local Governments, the Governor General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and when any person has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

The powers given by this section may be delegated to and exercised by such officers as the Governor General of India in Council or the Local Government, as the case may be, shall from time to time appoint in this behalf.

39. The Governor General of India in Council may from time to time make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and may delegate to any Local Government the power given by this section so far as regards the territories subject to such Government.

SCHEDULE A.

Persons whose annual income or profits shall be assessed at not less than		Rs.	500 but at less than	Rs.	750 shall pay	Rs.	6 0 0
Ditto	ditto	...	750	" "	" 1,000	"	" 8 8 0
Ditto	ditto	...	1,000	" "	" 1,500	"	" 12 0 0
Ditto	ditto	...	1,500	" "	" 2,000	"	" 17 0 0
Ditto	ditto	...	2,000	" "	" 3,000	"	" 24 0 0
Ditto	ditto	...	3,000	" "	" 4,000	"	" 34 0 0
And							

And for every additional Rs. 1,000 of annual income or profits or fractional part thereof so long as the whole amount assessed is less than Rs. 10,000 shall pay an additional duty of Rs. 10.

Persons whose annual income or profits shall be assessed at not less than ... Rs. 10,000 but at less than Rs. 12,500 shall pay Rs. 110 0 0
Ditto ditto ... " 12,500 " " " 15,000 " " 135 0 0
And for every additional Rs. 2,500 of annual profits or fractional part thereof so long as the whole amount assessed is less than Rs. 1,00,000 ... shall pay an additional duty of Rs. 25.

Persons whose annual income or profits shall be assessed at not less than ... Rs. 1,00,000 but at less than Rs. 1,10,000 shall pay Rs. 1,040 0 0
Ditto ditto ... " 1,10,000 " " " 1,20,000 " " 1,140 0 0
And for every additional Rs. 10,000 of annual income or profits or fractional part thereof ... shall pay an additional duty of Rs. 100.

SCHEDULE B.

Form of Petition under Section 19.

Stamp
eight annas.

To THE COLLECTOR OF
The day of 186 .
The petition of A. B. of

SHEWETH—
1st.—That under the Indian Income Tax Act your petitioner has been assessed in the sum of rupees eight, annas eight for the year commencing the 1st day of April 186 .
2nd.—That your petitioner's income and profits accruing or arising from [here specify petitioner's trade or other source or sources of income or profits and the place or places at which such income or profits accrues or arise] for the year ending the thirty-first day of March last were rupees as will appear from the documents marked presented herewith, and to which your petitioner craves leave to refer.
3rd.—That

3rd.—That your petitioner has no other source of income or profits, and has no reason to believe that his income and profits during the year commencing the 1st day of April 186 will exceed the said sum of rupees

Your petitioner therefore prays that he may be assessed accordingly, and that the value of the stamp on this petition may be refunded [or that he may be declared not to be chargeable under the said Act, and that the value of the stamp on this petition may be refunded].

(Signed) A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

ACT No. XVIII of 1869.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 13th August 1869.)

THE GENERAL STAMP ACT, 1869.

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AN

AN ACT for imposing Stamp Duties on certain Instruments.

CHAPTER I.—PRELIMINARY.

Short Title. 1. This Act may be called 'The General Stamp Act, 1869.'

Extent of Act. It extends to the whole of British India.

Commencement of Act. And it shall come into force on the first day of January 1870.

2. On and after that day, the enactments specified in the third schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

3. In this Act and the first and second schedules hereto annexed, unless there be something repugnant in the subject or context,—

(1.) 'Affidavit' includes every declaration in writing, on oath or affirmation, made before a person authorized by law to administer an oath:

(2.) 'Award' includes every decision in writing by an arbitrator or umpire:

(3.) 'Bill of Exchange' includes a hundí and every other instrument (except a cheque) whereby a person is ordered to pay to another a specified sum of money:

(4.) 'Bill of Lading' includes every instrument signed by the owner of a ship or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver them at a port and to a person therein mentioned or indicated:

(5.) 'Bond' includes every instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be:

(6.) 'Bottomry-bond' includes every instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to prosecute her voyage:

(7.) 'Charter-party' includes every instrument (except an agreement for the hire of a tug steamer) whereby a ship or some principal part thereof is let for the specified purposes of the charterer:

(8.) 'Cheque' includes every instrument whereby a bank, banker, or person acting as a banker, is ordered to pay on demand a specified sum of money:

(9.) 'Collector'

(9.) 'Collector' means, within the limits of the towns of Calcutta, Madras, and Bombay, the Collector of Calcutta, Madras or Bombay, and, without those limits, the Collector of a District, and includes Deputy Commissioner or any officer having jurisdiction equivalent to that of a Collector of a District:

(10.) 'Composition-deed' includes every instrument executed by a debtor, whereby the debtor conveys his property for the benefit of his creditors, or where by payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors:

(11.) 'Conveyance' means any instrument (except a transfer of a share in a Company or Association, a mortgage-deed, a settlement, a lease, an instrument of reconveyance of mortgaged property, a composition-deed, an instrument of gift, or an instrument of exchange or partition-deed, where no money is paid for equality of exchange or partition) by which property is conveyed *inter vivos*:

(12.) 'Counterpart' means the duplicate of a conveyance, settlement, mortgage-deed or lease, such duplicate not being executed by the grantor, settlor, mortgagor or lessor, but by some other party to the instrument: it includes a kabúliyát in cases where a lease has been granted:

(13.) 'Dock-warrant' includes every instrument evidencing the title of any person therein named or his assign, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the company or person in whose custody such goods may be:

(14.) 'Impressed' includes 'printed' and 'lithographed':

(15.) 'Lease' includes every instrument (not being a counterpart) by which one person lets or agrees to let, or takes or agrees to take immoveable property to or from another:

(16.) 'Letter of Credit' includes every instrument by which one person requests another to give credit to the person in whose favour it is drawn:

(17.) 'Letter of License' includes every agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion:

(18.) 'Mortgage-deed' includes every instrument evidencing a pledge of property for securing the payment of money:

(19.) 'Negotiable'

(19.) 'Negotiable Instrument' includes Bills of Exchange, Promissory Notes and Cheques :

(20.) 'Notarial act' means any instrument, endorsement, note or entry made or signed by Notary Public in the execution of the duties of his office, and includes every like instrument, endorsement, note or entry made or signed by a consul, attorney, or other person authorized by law to act as a Notary Public :

(21.) 'Paper' includes vellum, parchment or any other material on which an instrument may be written :

(22.) 'Partition-deed' means any instrument whereby persons interested in immoveable property jointly, or in common, or as co-parceners, or as members of an undivided Hindú family, divide or agree to divide such property in severalty, and includes a batwára :

(23.) 'Policy of Insurance' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event : it does not include a policy on life :

(24.) 'Power of Attorney' includes every instrument (except a proxy) empowering a person to act in the stead of the person executing it :

(25.) 'Promissory Note' includes every instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight :

(26.) 'Property' means property being in British India :

(27.) 'Protest' means a declaration in writing made by a Notary Public, or other person authorized to act as such, attesting the dishonour of a Bill of Exchange or Promissory Note :

(28.) 'Protest of the Master of a Ship' includes every declaration of the particulars of her voyage, drawn up by him with a view to the adjustment of losses, or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship :

(29.) 'Proxy' means an instrument whereby a person authorizes another to vote for him at a meeting :

(30.) 'Release' includes every instrument whereby a person renounces a claim upon another person or against any specified property :

(31.) 'Respondentia-bond'

(31.) 'Respondentia-bond' includes every instrument securing a loan on the cargo laden or to be laden on board a ship, and making re-payment contingent on the arrival of the cargo at the port of destination : and

(32.) 'Settlement' means any instrument (other than a Will) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled.

CHAPTER II.—STAMP DUTIES CHARGEABLE UNDER THIS ACT.

Scheduled duties chargeable.

4. For every instrument mentioned in the first and second schedules hereto, and executed in British India on or after the first day of January 1870,

or executed out of British India on or after that day, but relating to any property within British India,

there shall be payable to the Government of India, as stamp-duty, the amount indicated in the first or second schedule hereto annexed, to be the proper duty for such instrument.

5. (a.)—All instruments chargeable under this Act with the duty of one anna, bills of exchange and promissory notes drawn or made out of British India, and transfers by endorsement of shares of Companies and Associations may (subject to the provisions hereinafter contained) be stamped with adhesive stamps.

Duties how levied.

By adhesive stamps.

(b.)—The stamp on every other instrument chargeable under this Act shall either be impressed on the paper whereon the instrument is written or be otherwise denoted by the Collector or the Superintendent of Stamps in accordance with such rules as the Governor General of India in Council may from time to time prescribe in this behalf.

Duties by whom payable.

6. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

1st.—In the case of any instrument mentioned in the first schedule to this Act (other than a policy of insurance, a mortgage-deed, a settlement, a conveyance, a lease, an instrument of exchange or partition-deed where money is paid for equality of exchange or partition, an appraisement or valuation, an award and a copy, duplicate or extract), by the person drawing, making, or executing such instrument :

2nd.—In the case of a policy of insurance, by the insured :

3rd.—In the case of a settlement, by the settlor :

4th.—I₁²

4th.—In the case of a conveyance, mortgage-deed or lease, by the grantee, mortgagor or lessee :

5th.—In the case of a counterpart of a lease, by the lessor :

6th.—In the case of a partition-deed, by the parties thereto in proportion to their respective shares in the property comprised therein : and

7th.—In the case of an exchange where money is paid for equality of exchange, by the person paying such money.

7. The duty imposed by this Act on bills of exchange shall be chargeable, (a) Duties on bills of exchange. on all bills drawn and payable in British India, (b) on all bills drawn in, but payable out of, British India, and (c) on all bills drawn out of, but accepted, or paid, or endorsed, transferred, or otherwise negotiated within, British India.

8. The holder of any bill of exchange or promissory note drawn or made out of British India, and not stamped as required by this Act, Bills drawn out of British India. shall, before he presents the same for acceptance or for payment, or endorses, transfers, or otherwise negotiates such bill or note, affix thereto the proper adhesive stamp or stamps for denoting the duty with which it is chargeable under this Act.

9. Where interest is expressly made payable by the terms of an instrument, Instruments reserving interest. such instrument shall not be chargeable with a duty higher than that with which it would have been chargeable had no mention of interest been made therein.

10. When the consideration set forth in or the amount secured by any instrument chargeable under this Act is expressed in pounds sterling, pounds currency, francs or dollars, such consideration or Consideration expressed in foreign currency. amount shall, for the purposes of this Act, be estimated according to the following scale :—

One pound sterling or pound currency is equivalent to ten rupees.

One hundred francs are equivalent to forty rupees.

One Mexican or China dollar is equivalent to two rupees four annas.

One Mauritius dollar is equivalent to two rupees.

11. When the amount or value of the subject-matter of any bond, mortgage-deed or settlement chargeable under this Act with an *ad valorem* stamp-duty and referred to or mentioned in section six cannot be ascertained, the proper stamp to be borne by such instru-

Optional stamps where value of subject-matter is indeterminate.

ment

ment may be determined by the person bound under that section to bear the expense of providing the stamp :

Provided that, under such instrument, nothing shall be recoverable more than the highest amount or value for which, if stated in an instrument of the same denomination, the stamp actually used under such option would have been sufficient.

12. The whole amount secured for the payment of an annuity, or other sum, Bond, &c., for payment of annuity. payable periodically for an indefinite time, by a bond, promissory note, or mortgage-deed shall, for the purposes of this Act be deemed to be ten times the amount of the payment calculated for one year.

Where the consideration for a conveyance is an annuity or other sum payable periodically for an indefinite time, such consideration shall, for Consideration an annuity. the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

13. Where more instruments than one are required for the completion of any transaction involving the execution of a mortgage-deed, Several instruments used in a single transaction. settlement, conveyance or lease, the proper stamp required by this Act for such mortgage-deed, settlement, conveyance, or lease, shall be borne by the principal instrument executed in such transaction, and each of the other instruments shall bear a stamp of one rupee.

The parties may determine for themselves which of such instruments shall for the purposes of this section be deemed to be the principal instrument : Provided that, where the instruments are liable to different rates of duty under this Act, the instrument liable to the highest of such rates shall be deemed to be the principal instrument.

14. An instrument so framed as to come within two or more of the definitions in section three shall, when the instruments to which those definitions apply are liable to different rates of duty under this Act, be charged with the highest of such rates : Instrument coming within two or more of the definitions in section 3.

Provided that when any one instrument purports, for distinct considerations, to convey by way of sale, to lease, to give, or to mortgage two or more subject-matters, or to convey by way of sale, to lease, or to give one subject-matter and to mortgage another,

such instrument shall be chargeable with the aggregate amount of the duties to which instruments effecting separately each of such conveyances, leases, gifts, or mortgages would be liable under this Act.

15. Nothing

Instruments exempt from duty.

15. Nothing in this Act shall render the following instruments chargeable with duty :—

- (1.) Receipt or discharge granted to a cultivator for the rent of land paying revenue to Government, or (in the Presidencies of Madras and Bombay) of inam lands.
- (2.) Receipt given for money or securities for money deposited in any bank or in the hands of any banker or person acting as a banker to be accounted for:
Provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for:
Provided further, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share or in respect of a call upon any scrip or share of or in any Company or Association or proposed or intended Company or Association.
- (3.) Receipt or discharge endorsed on or contained in any instrument duly stamped according to the law in force in British India at the date of its execution, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money, interest or annuity or other periodical payment, thereby secured.
- (4.) Transfer by endorsement of a negotiable instrument or a policy of marine insurance or of insurance against fire.
- (5.) Letters of hypothecation accompanying a bill of exchange.
- (6.) Transfers of securities of the Government of India.
- (7.) Bond to Government for the due performance of the duties of any salaried office.
- (8.) Agreement or memorandum of an agreement for or relating to the sale of goods or merchandize.
- (9.) Lease granted to a cultivator, unless a fine or premium be paid in consideration of such lease.
- (10.) Counterpart of such lease.
- (11.) Surrender of land executed by a cultivator to his landlord.
- (12.) Affidavit made for the sole purpose of enabling any person to receive any pension or charitable allowance.
- (13.) Copy of any paper which a public officer is by law required to make or furnish in his official capacity.
- (14.) Copies made for the private use only of any person having the custody of the original instrument or of his counsel, attorney or vakil.

(15.) Receipt

(15.) Receipt or other instrument executed by or on behalf of Government, in cases where the Government would but for this exemption be liable to pay for the stamp thereon.

(16.) Letter of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy of insurance, nothing shall be recoverable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

16. The Governor General of India in Council may, from time to time, by order published in the *Gazette of India*, reduce or remit in the whole or any part of British India, the duties chargeable under this Act on all or any of the instruments mentioned in the first and second schedules hereto annexed, or on any particular class of such instruments, or on any of the instruments belonging to such class, or on any of the instruments mentioned in the said schedules when executed or granted by or to any particular class of persons, or by or to any members of such class,

and may in like manner cancel or vary such order to the extent of the powers hereby given.

Every such cancelment or variation shall be published in the *Gazette of India*.

17. Nothing in this chapter or in the schedules hereto annexed, shall be deemed to affect the stamp duties chargeable under Act No. XXVI of 1867, section six, or under any other enactment relating to stamps used in judicial proceedings.

CHAPTER III.—UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

18. (a.)—No instrument chargeable with stamp duty shall be received in any court of justice, or by any person having by law or consent of parties authority to receive evidence, as creating, modifying, transferring or extinguishing, or purporting to create, modify, transfer or extinguish, any right or obligation, or as evidence in any civil proceeding, or shall be acted upon in any such court, or by any such person as aforesaid, or by any public officer, or shall be registered by any officer acting under any law for the registration of assurances or in any public office,

or

or shall be authenticated by any public officer,
unless such instrument bears a stamp of a value not less than the amount of the duty with which it is chargeable under the law in force in British India at the time of its execution.

(b.)—Every instrument chargeable with stamp duty shall be admitted in evidence in any criminal proceeding (other than proceedings under Chapter XXII of the Code of Criminal Procedure), although it may not have the stamp required by law impressed thereon or affixed thereto.

19. Subject to the provisions contained in section twenty-six, no person taking a bill of exchange or promissory note requiring a stamp under section eight, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose, unless at the time when he so takes it, the proper stamp is affixed thereto and cancelled in manner directed by this Act.

20. When any instrument chargeable with stamp duty executed on paper not bearing the stamp required by the law in force in British India at the time of its execution is produced in a Civil Court, the Court, if satisfied that the omission to execute such instrument on paper bearing the proper stamp, did not arise out of any intention to evade payment of the proper duty, and on payment of such duty, or, in the case of an insufficiently stamped instrument, of the sum required to make up the full amount chargeable on such instrument,

together with a penalty of the following amount (that is to say) :—

if the instrument is produced within one year from the date of its execution, five times, or if it is produced after one year from such date, twenty times, such proper stamp duty or deficient portion hereof as aforesaid,

shall certify by endorsement on such instrument that the proper stamp duty has been levied thereon :

Provided that no such penalty shall exceed one thousand rupees.

Such certificate shall be conclusive evidence as to the amount of stamp duty leviable on such instrument, and the said instrument shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

21 (a.)—An

21. (a.)—An entry of every such payment showing the amount thereof shall be made in a book to be kept by the Court, and shall also be endorsed on the instrument in respect of which the payment is made, and such endorsement shall be signed by the presiding officer.

(b.)—The Court shall at the end of every month make a return to the Collector of the money (if any) which it has so received, distinguishing between the sums received by way of penalty and the sums received by way of duty, stating the number and title of the suit, the name of the party from whom the money was received, and the date (if any) and description of the instrument.

(c.)—The Court shall pay over all money so received to the Collector or to such person as he may from time to time appoint to receive the same.

22. If it appear to a Civil or Criminal Court that any instrument filed or exhibited in such Court was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the stamp duty required by the law in force in British India at the time of its execution, the Court may impound the instrument and send it to the Collector, and he shall thereupon prosecute the offender.

23. When any instrument is produced before any registering officer, or in any public office other than a Civil or Criminal Court, if it appear to the registering officer or to the head of such public office that the instrument is chargeable with stamp duty under the law in force in British India at the time of its execution, but that it does not bear a stamp of a value equal to or exceeding the value of the stamp prescribed therefor by that law, he shall impound the instrument, and send it forthwith to the Collector.

24. (a.)—When any instrument is produced before the Collector, otherwise than for the purpose of obtaining an adjudication under section thirty-nine, or has been sent to him under section twenty-three, he shall either proceed in accordance with the provisions of section twenty, exercising the powers thereby conferred on a Civil Court; or if it appear to him that the instrument was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the proper stamp duty, he shall prosecute all the persons that have executed the said instrument or such of them as to him may seem fit ;

or if it appear to him that the instrument is properly stamped, or that it is not chargeable with stamp duty under the law in force in British India at the time of its execution, he shall certify by endorsement thereon that it is properly stamped, or that it is not so chargeable (as the case may be); and he shall thereupon return such instrument to the registering or other public officer by whom it was sent, or to the person by whom it was produced, and, subject to the provision contained in section forty, it shall be deemed to be properly stamped or not chargeable (as the case may be):

(b.)—Provided that, in any case coming under this section, if the instrument is brought within one year from the date of its execution to the Collector, or other public officer by whom it has been sent to the Collector under section twenty-three, and if the Collector is satisfied that such instrument has not been duly stamped previously to being signed or executed by reason of accident, mistake, inadvertence or urgent necessity, he may remit the whole or any part of the penalty prescribed by section twenty:

(c.) Provided also that, in any case coming under this section in which an instrument, other than a bill of exchange or promissory note, purports to have been executed out of British India, if the Collector is satisfied that the instrument was so executed, and also that it has been brought to him within the three months next after its arrival in British India, he shall, on payment of the duty with which such instrument would have been chargeable if executed in British India, certify by endorsement thereon that the proper stamp duty has been levied upon it.

(d.)—Subject to the provision contained in section forty, such certificate shall be conclusive evidence of the amount of stamp duty leviable on the instrument, which shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

25. When the Collector elects to proceed under section twenty, he shall (if he imposes a penalty), after endorsing on the instrument the certificate thereby directed, or (if he remits the whole of the penalty) after endorsing on the instrument a certificate to that effect, return such instrument to the registering or other public officer by whom it was sent or to the person by whom it was produced.

Subject to the provision contained in section forty, the said instrument shall thereupon be, and be deemed to have been, as valid as if it was originally executed on paper bearing the proper stamp.

In

In case any instrument sent or returned under sections twenty-two, twenty-three, or twenty-four, or the former part of this section, be lost, destroyed or injured during transmission, the Court or officer sending or returning the same shall not be liable for such loss, destruction or injury.

26. (a.)—When any bill of exchange, promissory note, cheque or order for the payment of money on demand by any banker or person acting as a banker, chargeable hereunder with the duty of one anna, comes to his hands unstamped, he may affix thereto the necessary adhesive stamp, and cancel the same in the manner required by this Act, and upon so doing, may charge the duty against the person who ought to have paid the same, or deduct such duty from the sum so directed to be paid.

(b.)—Such bill, note, cheque, or order shall, so far as relates to the stamp duty chargeable thereon, be valid; but this shall not relieve any person or firm from liability to the penalty which he or it may have incurred by issuing or giving the said bill, note, cheque, or order unstamped.

27. (a.)—Any person, or the agent of any person, from whom money exceeding in amount twenty rupees is due or claimed to be due and who shall have paid such money, may provide a piece of paper with an adhesive stamp of one anna affixed thereto, and may require of the person entitled to such money, or any agent to whom the same shall have been paid, a receipt for such money and also the value of the said stamp.

(b.)—If any one to whom money shall have been so paid refuses to give such receipt upon demand thereof, or to pay the value of the said stamp thereon, he shall be liable for every such offence to a fine not exceeding one hundred rupees.

28. Except as provided in sections eight and twenty-six, no stamp shall be affixed to, or impressed on, any bill of exchange, or promissory note, or any instrument chargeable hereunder with the duty of one anna, subsequent to the execution thereof, nor shall the provisions of sections twenty and twenty-four apply to any such instrument.

CHAPTER IV.—CRIMINAL PENALTIES.

29. Any person or firm making, signing or issuing or, except as provided in section twenty-six, accepting, endorsing, paying or receiving payment of any bill of exchange, promissory note, cheque or other similar instrument liable to any of the duties hereby imposed, without the same being duly stamped,

and

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and any person making, executing or signing otherwise than as a witness any other instrument liable to any of such duties without the same being duly stamped,

shall, for every such offence, be liable to fine not exceeding one hundred rupees,

or, if ten times the value of the proper stamp exceeds one hundred rupees, to fine not exceeding ten times such value,

or, where an insufficient stamp has been used, if ten times the deficient amount exceeds one hundred rupees, to fine not exceeding ten times such amount.

30. Any person or firm presenting for acceptance or for payment, or accepting, paying, endorsing, transferring or in any manner negotiating any bill of exchange or promissory note drawn or made out of British India whereon there is not such stamp as is required by this Act, shall be liable for every such offence to fine not exceeding one hundred rupees.

31. Any person or firm presenting for acceptance or payment a bill of exchange or promissory note to which an adhesive stamp has been affixed under section eight,

and any person or firm endorsing, transferring, or in any manner negotiating such bill or note,

shall, before delivering the same out of his or its hands, custody or power, cancel the stamp so affixed,

in such manner as to show that the stamp has been made use of, and so that the same shall not admit of being used again.

Any person or firm who or which ought, as directed by this Act, to cancel such stamp in manner aforesaid, and refusing or neglecting so to do, shall be liable for every such offence to fine not exceeding one hundred rupees.

32. Any person or firm drawing or executing within British India a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the time drawing or executing on paper duly stamped as required by this Act the whole number of bills or policies of which such bill or policy purports the set to consist, shall, for every such offence, be liable to fine not exceeding one thousand rupees.

33. Whenever an adhesive stamp is used as hereinbefore authorized, the person making or executing the instrument to which such stamp is affixed shall, before delivering the instrument out of his hands, custody or power, cancel the stamp so used so that it cannot be used again.

Any person making or executing such instrument and failing to cancel the stamp affixed thereto in manner aforesaid shall, for every such offence, be liable to fine not exceeding one hundred rupees.

34. (a.)—When any moveable or immoveable property is sold, the full consideration-money directly or indirectly paid or secured, or agreed to be paid or secured, for the same, shall be truly set forth in words at length in the principal or only instrument whereby the property sold is conveyed to, or vested in the purchaser or in any other person by his direction.

(b.)—When any property is sold and conveyed subject to any mortgage or bond or other debt, or to any gross or entire sum of money, such debt or sum shall be deemed the consideration-money or part of the consideration-money (as the case may be) in respect whereof the duty chargeable under the first schedule to this Act shall be paid,

notwithstanding the purchaser is not or does not become personally liable for such debt or sum,

or does not agree to pay the same or to indemnify the seller against the same.

(c.)—If the full consideration money is not set forth as aforesaid, the purchaser and the seller shall each be liable to fine not exceeding five hundred rupees, and shall also pay a fine of five times the amount of the excess of duty with which such instrument would have been chargeable under this Act, if the full consideration-money had been duly set forth in such instrument, in addition to the duty actually paid for the same.

35. Any attorney, vakil, pleader, mukhtar or other person employed in or about the preparing of any instrument in or upon which the full consideration-money is hereby required to be truly set forth,

or employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned,

who knowingly inserts or sets forth, or causes to be inserted or set forth, in or upon any such instrument any other than the full consideration-money,

shall,

33. Whenever

shall, for every such offence pay a fine not less than five hundred rupees and not exceeding five thousand rupees.

Every attorney, vakil, pleader and mukhtar convicted under this section shall, from the date of such conviction, be disabled to practise as an attorney, vakil, pleader or mukhtar :

Provided that no person shall be liable to any penalty or disability under this section, unless the duty actually paid for the instrument is less than would have been payable for the same in case the consideration-money had been truly set forth as aforesaid.

36. Whoever abets within the meaning of the Indian Penal Code any offence made punishable by this Act shall be punished with the punishment hereinbefore provided for such offence.

Abetment.

37. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

Recovery of fines.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm, or to all or any of the members thereof.

38. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half to the person on whose information the offender has been convicted.

Reward to informers.

CHAPTER V.—JURISDICTION.

39. When any instrument chargeable with stamp-duty under this Act, whether previously stamped or not, is brought to the Collector, and the person bringing it desires to have the opinion of that officer as to the duty with which it is so chargeable, and pays a fee of five rupees, the Collector shall assess and charge the duty to which, in his judgment, the instrument is liable; and upon payment of such duty or of such a sum as, with the duty already paid thereon, is equal to the duty so assessed and charged, and of the penalty, if any, incurred through the instrument having been executed on insufficiently stamped paper, shall certify by endorsement on such instrument that the full duty with which it is chargeable under this Act has been paid.

Adjudication of doubt as to proper stamp.

The instrument shall thereupon be deemed to be duly stamped and shall be receivable in evidence or otherwise in all courts and public offices as if originally executed on paper bearing the proper stamp :

Provided that nothing contained in the former part of this section shall authorize the Collector to make any such endorsement on bills of exchange, promissory notes or instruments chargeable with the stamp-duty of one anna when brought to him on unstamped or insufficiently stamped paper subsequent to the drawing or execution thereof.

40. All certificates and orders of the Collector under this Act shall be open to revision on appeal or otherwise by the chief controlling Revenue Authority to which the Collector is subordinate :

Revision of Collector's certificates and orders.

Provided that no order passed on such revision shall invalidate any registration or other proceeding previously made or taken of or upon an instrument endorsed by the Collector under section twenty-four or section twenty-five.

41. (a.)—The chief controlling Revenue Authority may state any case coming before it under this Act and refer such case with its own opinion thereon, if the case arise in the Presidency of Fort Saint George or the Presidency of Bombay, to the local High Court, and if it arise in any other part of British India, the High Court at Fort William.

Reference to High Court.

(b.)—Every such case shall be decided by at least three Judges of the High Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

(c.)—If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue Authority by which it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(d.)—The High Court upon the hearing of any such case shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Revenue Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving the same, dispose of the case conformably to such judgment.

Power to remit penalties.

42. The chief controlling Revenue Authority may, upon petition, remit wholly or in part any penalty imposed under this Act.

43. All

43. All prosecutions in respect of any offence punishable by this Act, shall be instituted and conducted by the Collector or such other officer as the Local Government generally or the Collector specially authorizes in that behalf.

Institution and conduct of prosecutions.

44. Offences punishable under this Act may be tried within the limits of the towns of Calcutta, Madras, and Bombay by a Magistrate of Police, and beyond those limits by the Magistrate of the District or a person exercising the powers of a Magistrate (as defined in the Code of Criminal Procedure) or of a Subordinate Magistrate of the first class:

Provided that, in imposing penalties under this Act, no such person shall exceed the limits of jurisdiction prescribed for him by the said Code.

Jurisdiction of Magistrate.

CHAPTER VI.—MISCELLANEOUS.

45. If any person possessing any stamped paper which has been obtained in the manner allowed by this Act or Act No. X of 1862 (*to consolidate and amend the law relating to stamp duties*), or any paper on which the stamp has been denoted by the Collector or the Superintendent of Stamps, does not require the same for use,

Refund in case of useless or spoiled stamped paper.

or if the paper so possessed becomes spoiled or unfit for use as hereinafter mentioned,

the Collector of the District in which the paper has been purchased may, upon application made to him, within one year after such purchase, and upon delivery to him of such paper, refund the amount paid to Government for the same, whether by the applicant or any other person;

or in case the owner of the paper so spoiled or unfit for use, desires to be supplied with stamped paper of similar or equal value, the Collector may cause such paper to be delivered to him or his agent upon payment of the value of the paper on which the new stamp or stamps shall be impressed.

46. Stamped paper and paper on which the stamp has been denoted by the Collector or the Superintendent of Stamps, shall be held to be spoiled or unfit for use within the meaning of section forty-five when—

When stamped paper shall be held to be spoiled.

by accident happening to the same before any writing thereupon has been finally signed and executed, it is rendered unfit for use;

or when, because of some error in the drawing up or copying of any writing thereon, discovered before such writing has been finally signed and executed, it is rendered of no avail;

or

or when, by reason of death or refusal of the party whose signature may be necessary to effect the transaction intended by such writing, it remains incomplete and of no avail;

or when, by refusal of any office or trust granted by a writing thereon, it has failed of the purpose intended;

or when, by reason of failure of consideration, the transaction intended to be effected or evidenced by a writing thereon cannot be effected or evidenced;

or when the transaction intended to be effected by a writing thereon has been effected by some other instrument duly stamped;

or when, in the case of a negotiable instrument, such instrument is, by reason of non-delivery to the payee or person acting in his behalf, or other cause, never brought into use;

or when, in the case of a bill of exchange other than a bill drawn in a set, it has not been presented for acceptance or payment.

47. Where in a case of a sale, or an exchange upon which money is paid for equality of exchange, or a lease for a premium, the full consideration-money is not truly set forth in the manner hereby directed, the purchaser, or the person paying money for equality of exchange, or the lessee (as the case may be), or his representative in interest, may sue for and recover back from the seller, or the person receiving such money, or the lessor (as the case may be), or his representative in interest, so much of the consideration-money as is not set forth as aforesaid, or the whole thereof, if no part of the same is so set forth;

Suit where consideration is not stated.

And in such suit, notwithstanding anything hereinbefore contained, the conveyance, instrument of exchange, or lease shall be admissible in evidence.

48. Every Local Government shall frame rules for regulating the sale of stamps and stamped paper required by this Act or by Act No. XXVI of 1867 (*to amend the law relating to stamp duties*) for determining the persons by whom such sale is to be conducted, and for fixing the remuneration of such persons within the territories subject to its control; and may from time to time alter and add to such rules.

Power to make rules for sale of stamps.

Approval and publication of rules.

Such rules, alterations, and additions shall, when approved by the Governor General of India in Council, and after publication in the local official Gazette, have the force of law.

Any

Any person appointed to sell such stamps and stamped paper, who knowingly disobeys any such rule, shall be punished with simple imprisonment for a term which may extend to six months, or with fine not exceeding five hundred Rupees, or with both.

Penalty for disobeying rules.

49. When an impressed stamp is used under section five to denote the amount of duty with which any instrument is chargeable, such amount shall be denoted by a single stamp, except when such amount exceeds one thousand rupees, in which case it may be denoted by two or more impressed stamps of which the aggregate amount is the amount so required :

Employment of single impressed stamp.

Provided that, when a single impressed stamp of any amount less than one thousand rupees is not procurable on application to the Collector or stamp-vendor appointed under section forty-eight, it shall be lawful, on such officer making a certificate to that effect, for the person requiring such stamp to denote the amount by two or more impressed stamps, of which the aggregate amount is the amount so required.

Employment of several stamped papers.

50. When more stamped papers than one are used under section forty-nine for an instrument chargeable with stamp-duty under this Act, each paper so used shall contain a part of the instrument.

Act to be translated, indexed and sold cheaply.

51. Every Local Government shall cause this Act and the schedules hereto annexed to be carefully translated into the principal vernacular languages of the territories subject to its control.

A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

SCHEDULE I.
Instruments chargeable with ad valorem Stamp-duties.

DESCRIPTION OF INSTRUMENTS.

PROPER STAMP-DUTY.

	If drawn singly.			If drawn in duplicate, then for each part.			If drawn in duplicate, then for each part.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
	0	1	0	0	1	0	0	1	0
1. BILL OF EXCHANGE PAYABLE OTHERWISE THAN ON DEMAND...	0	2	0	0	1	0	0	1	0
2. PROMISSORY NOTE PAYABLE OTHERWISE THAN ON DEMAND...	0	3	0	0	2	0	0	2	0
	0	6	0	0	3	0	0	3	0
	0	9	0	0	5	0	0	5	0
	0	12	0	0	6	0	0	6	0
	0	15	0	0	8	0	0	8	0
	1	8	0	0	12	0	0	12	0
	1	8	0	0	12	0	0	12	0
	3	0	0	0	1	8	0	1	8
	6	0	0	0	3	0	0	3	0
When the amount of the Bill or Note does not exceed Rs. 100	...	...	...	...	...	...	...	...	...
And when the amount exceeds Rs. 100 but does not exceed Rs. 200	...	...	...	...	...	...	...	...	...
" " " 200 " " " 300	...	...	...	...	...	...	...	...	...
" " " 300 " " " 600	...	...	...	...	...	...	...	...	...
" " " 600 " " " 900	...	...	...	...	...	...	...	...	...
" " " 900 " " " 1,200	...	...	...	...	...	...	...	...	...
" " " 1,200 " " " 1,500	...	...	...	...	...	...	...	...	...
" " " 1,500 " " " 2,500	...	...	...	...	...	...	...	...	...
For every Rs. 2,500 or part thereof, in excess of Rs. 2,500 up to Rs. 10,000...	...	...	...	...	...	...	...	...	...
For every Rs. 5,000 or part thereof, in excess of Rs. 10,000 up to Rs. 30,000...	...	...	...	...	...	...	...	...	...
And for every Rs. 10,000 or part thereof in excess of Rs. 30,000	...	...	...	...	...	...	...	...	...
3. POLICY OF INSURANCE ...	...	...	...	...	...	...	...	...	...
When the amount insured does not exceed Rs. 1,000	...	...	...	...	...	...	...	...	...
And for every further sum of Rs. 1,000 insured or for every part thereof	...	...	...	...	...	...	...	...	...
4. *TRANSFER OF A SHARE IN A COMPANY OR ASSOCIATION...	...	...	...	...	...	...	...	...	...
When the amount paid for such share does not exceed Rs. 100	...	...	...	...	...	...	...	...	...
For every Rs. 100 of such amount or part thereof in excess of Rs. 100 up to Rs. 1,000	...	...	...	...	...	...	...	...	...
And for every Rs. 500 of the same or part thereof in excess of Rs. 1,000	...	...	...	...	...	...	...	...	...
5. BOND FOR ANY SPECIFIED AMOUNT, OTHER THAN AN ADMINISTRATION BOND...	...	...	...	...	...	...	...	...	...
When the amount secured does not exceed Rs. 25	...	...	...	...	...	...	...	...	...
When such amount exceeds Rs. 25 but does not exceed Rs. 50	...	...	...	...	...	...	...	...	...
For every Rs. " 100 or part thereof in excess of Rs. " 100 up to Rs. 1,000	...	...	...	...	...	...	...	...	...
" " 500 " " " 1,000 " " " 10,000	...	...	...	...	...	...	...	...	...
" " 1,000 " " " 10,000 " " " 30,000	...	...	...	...	...	...	...	...	...
And for every Rs. 10,000 or part thereof in excess of " 30,000	...	...	...	...	...	...	...	...	...
6. BOTTOMRY-BOND ...	...	...	...	...	...	...	...	...	...
7. RESPONDENTIA-BOND ...	...	...	...	...	...	...	...	...	...

Note.—The Stamp-duty chargeable on the instrument marked * may be denoted by an adhesive stamp when the transfer is made by endorsement.

SCHEDULE I.—continued.
Instruments chargeable with *ad valorem* Stamp-duties.

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
8. CUSTOMS-BOND ...	(a.) When the amount secured does not exceed Rs. 1,000	... The Stamp-duty with which a Bond for such amount is chargeable (No. 5.)
	(a.) When such amount exceeds Rs. 1,000	... Five Rupees.
	(a.) When the amount secured does not exceed Rs. 3,000	... When Stamp-duty with which a Bond for such amount is chargeable (No. 5.)
	(b.) When such amount exceeds Rs. 3,000 or his not expressed	... Sixteen Rupees.
9. INDEMNITY-BOND ...	...	...
10. MORTGAGE-DEED, WHEN POSSESSION OF THE PROPERTY COMPRISED THEREIN IS NOT GIVEN BY THE MORTGAGOR AT THE TIME OF EXECUTION. ...	...	...
11. INSTRUMENT OF FURTHER CHARGE ON SUCH PROPERTY WHE- THER BY INDORSEMENT OR OTHERWISE. ...	...	... The Stamp-duty with which a Bond for the amount secur- ed is chargeable (No. 5.)
12. BOND OR MORTGAGE DEED FOR THE DUE EXECUTION OF AN OFFICE, OR TO ACCOUNT FOR MONEY RECEIVED BY VIR- TUE THEREOF. ...	(a.) When the amount secured does not exceed Rs. 3,000.	... The Stamp-duty with which a Bond for such amount is chargeable (No. 5.)
13. ASSIGNMENT OF ANY INTEREST SECURED BY A BOND OR MORT- GAGE DEED ...	(b.) When such amount exceeds Rs. 3,000, or the amount is not expressed	... Sixteen Rupees.
	(a.) When the amount of such interest does not exceed Rs. 3,000	... The Stamp-duty with which a Bond for such amount is chargeable (No. 5.)
	(b.) In any other case	... Sixteen Rupees.
	...	... {The Stamp-duty with which a Bond for the amount or value of the property thereby settled is charge- able (No. 5.)
14. SETTLEMENT ...	...	...

SCHEDULE I.—continued.
Instruments chargeable with *ad valorem* Stamp-duties.

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
15. CONVEYANCE ...	...	...
16. MORTGAGE-DEED, WHEN POSSESSION OF THE PROPERTY COMPRISED THEREIN IS GIVEN BY THE MORTGAGOR AT THE TIME OF EXECUTION ...	When the amount paid or secured does not exceed Rs. 50 When such amount exceeds Rs. 50 but does not exceed Rs. 100 For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000 ... " 500 " " 1,000 " 10,000 ... " 1,000 " " 10,000 " 30,000 ... " 10,000 " " 30,000 " 1,00,000 ... " 20,000 " " 1,00,000 " ...	Rs. A. P. 0 8 0 1 0 0 1 0 0 5 0 0 5 0 0 50 0 0 75 0 0
17. INSTRUMENT OF FURTHER CHARGE ON SUCH PROPERTY, WHETHER BY INDORSE- MENT OR OTHERWISE ...	...	... {The Stamp-duty with which a conveyance for the amount so paid is charge- able (No. 15), in addi- tion to the Stamp-duty with which an instrument of exchange of immove- able property or a parti- tion-deed is chargeable under Schedule II.
18. INSTRUMENT OF EX- CHANGE OR PARTI- TION OF IMMOVE- ABLE PROPERTY WHEN MONEY IS PAID FOR EQUALITY OF EXCHANGE OR PARTITION ...	...	... {The Stamp-duty with which a Bond (No. 5) for the total amount payable under such lease is chargeable.
19. LEASE ...	(a.) Where the lease is expressed to be for a term of less than one year	... {The Stamp-duty with which a Bond for the total amount payable under such lease during the first year of the term is chargeable.
	(b.) Where the lease is expressed to be for a term of not less than one year but not more than three years	...
	(c.) Where the lease is expressed to be for a term exceeding three years, or where no term is expressed	... {The Stamp-duty with which a conveyance for the total amount payable under such lease during the first year of the term is chargeable.

SCHEDULE I.—continued.
Instruments chargeable with ad valorem Stamp-duties.

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.	
	The Stamp-duty with which a conveyance for the amount so paid is chargeable.	The Stamp-duty with which a conveyance for the amount of the fine or premium is chargeable, in addition to the Stamp-duty with which the lease would be chargeable in case no such fine or premium had been paid.
19. LEASE,—(concluded.) ...	(d.) Where the lease is granted in consideration of a fine or premium and where no rent is reserved ...	...
	(e.) Where the lease is granted in consideration of a fine or premium and also of a rent ...	...
20. SURRENDER OF LEASE.	(a.) Where the amount of Stamp-duty chargeable on the lease does not exceed Rs. 16 ...	...
	(b.) In any other case ...	...
21. APPRAISEMENT OR VALUATION— OF ANY PROPERTY OR OF ANY INTEREST THEREIN ... OR OF THE ANNUAL OR MONTHLY VALUE THEREOF. OR OF ANY REPAIRS WANTED. OR OF THE MATERIALS USED OR TO BE USED IN ANY BUILDING... OR OF ANY ARTIFICER'S WORK ...	(a.) Where the amount of such appraisement or valuation does not exceed Rs. 500 ...	...
	(b.) Where it exceeds Rs. 500 ...	...
22. AWARD ...	(a.) Where the amount or value of the property in dispute expressed in such award does not exceed Rs. 500 ...	...
	(b.) Where such amount or value exceeds Rs. 500, or where no amount or value is expressed in the award ...	...
23. COPY, DUPLICATE OR EXTRACT, ATTESTED TO BE A TRUE COPY, DUPLICATE OR EXTRACT ...	(a.) If the duty chargeable on the original ...	...
	(b.) If the duty chargeable on the original exceeds Rs. 5, or if no duty is chargeable on the original ...	...
	(c.) If such duty exceeds Rs. 20, but does not exceed Rs. 50 ...	...
	(d.) If such duty exceeds Rs. 50 ...	...

SCHEDULE I.—continued.

Table showing the Stamp-duty chargeable under this Schedule on any Bill of Exchange or Promissory Note the amount of which does not exceed Rs. 2,00,000.

When the amount exceeds		but does not exceed		PROPER STAMP-DUTY..						When the amount exceeds		but does not exceed		PROPER STAMP-DUTY.					
				If drawn singly.		If drawn in sets of two, for each part of the set.		If drawn in sets of three, for each part of the set.						If drawn singly.		If drawn in sets of two, for each part of the set.		If drawn in sets of three, for each part of the set.	
						Rs.	A.									Rs.	A.		
Rs.	Rs.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.		
.....	...	100	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0		
100	...	200	0	2	0	1	0	1	0	1	0	1	0	1	0	1	0		
200	...	300	0	3	0	2	0	1	0	1	0	1	0	1	0	1	0		
300	...	600	0	6	0	3	0	2	0	2	0	2	0	2	0	2	0		
600	...	900	0	9	0	5	0	3	0	3	0	3	0	3	0	3	0		
900	...	1,200	0	12	0	6	0	4	0	4	0	4	0	4	0	4	0		
1,200	...	1,500	0	15	0	8	0	5	0	5	0	5	0	5	0	5	0		
1,500	...	2,500	1	8	0	12	0	8	0	8	0	8	0	8	0	8	0		
2,500	...	5,000	3	0	1	8	1	0	1	0	1	0	1	0	1	0	1		
5,000	...	7,500	4	8	2	4	1	8	1	8	1	8	1	8	1	8	1		
7,500	...	10,000	6	0	3	0	2	0	2	0	2	0	2	0	2	0	2		
10,000	...	15,000	9	0	4	8	3	0	3	0	3	0	3	0	3	0	3		
15,000	...	20,000	12	0	6	0	4	0	4	0	4	0	4	0	4	0	4		
20,000	...	25,000	15	0	7	8	5	0	5	0	5	0	5	0	5	0	5		
25,000	...	30,000	18	0	9	0	6	0	6	0	6	0	6	0	6	0	6		
30,000	...	40,000	24	0	12	0	8	0	8	0	8	0	8	0	8	0	8		

SCHEDULE I.—continued.

Table showing the Stamp-duty chargeable under this Schedule on Bonds for any sum not exceeding Rs. 4,00,000.

When such sum exceeds but does not exceed		PROPER STAMP-DUTY.		When such sum exceeds but does not exceed		PROPER STAMP-DUTY.	
Rs.	Rs.	Rs.	A.	Rs.	Rs.	Rs.	A.
25	50	0	2	2,000	2,500	12	8
50	100	0	4	2,500	3,000	15	0
100	200	0	8	3,000	3,500	17	8
200	300	1	0	3,500	4,000	20	0
300	400	1	8	4,000	4,500	22	8
400	500	2	0	4,500	5,000	25	0
500	600	2	8	5,000	5,500	27	8
600	700	3	0	5,500	6,000	30	0
700	800	3	8	6,000	6,500	32	8
800	900	4	0	6,500	7,000	35	0
900	1,000	4	8	7,000	7,500	37	8
1,000	1,500	5	0	7,500	8,000	40	0
1,500	2,000	7	8	8,000	8,500	42	8
		10	0	8,500	9,000	45	0

SCHEDULE I.—continued.

Table showing the Stamp-duty chargeable under this Schedule on Bonds for any sum not exceeding Rs. 4,00,000.

When such sum exceeds	but does not exceed	PROPER STAMP-DUTY.		When such sum exceeds	but does not exceed	PROPER STAMP-DUTY.	
Rs.	Rs.	Rs.	A.	Rs.	Rs.	Rs.	A.
9,000	9,500	47	8	1,00,000	1,10,000	200	0
9,500	10,000	50	0	1,10,000	1,20,000	212	8
10,000	11,000	52	8	1,20,000	1,30,000	225	0
11,000	12,000	55	0	1,30,000	1,40,000	237	8
12,000	13,000	57	8	1,40,000	1,50,000	250	0
13,000	14,000	60	0	1,50,000	1,60,000	262	8
14,000	15,000	62	8	1,60,000	1,70,000	275	0
15,000	16,000	65	0	1,70,000	1,80,000	287	8
16,000	17,000	67	8	1,80,000	1,90,000	300	0
17,000	18,000	70	0	1,90,000	2,00,000	312	8
18,000	19,000	72	8	2,00,000	2,10,000	325	0
19,000	20,000	75	0	2,10,000	2,20,000	337	8
20,000	21,000	77	8	2,20,000	2,30,000	250	0
21,000	22,000	80	0	2,30,000	2,40,000	362	8
22,000	23,000	82	8	2,40,000	2,50,000	375	0
23,000	24,000	85	0	2,50,000	2,60,000	387	8
24,000	25,000	87	8	2,60,000	2,70,000	400	0
25,000	26,000	90	0	2,70,000	2,80,000	412	8
26,000	27,000	92	8	2,80,000	3,00,000	425	0
27,000	28,000	95	0	3,00,000	3,10,000	437	8
28,000	29,000	97	8	3,10,000	3,20,000	450	0
29,000	30,000	100	0	3,20,000	3,30,000	462	8
30,000	40,000	112	8	3,30,000	3,40,000	475	0
40,000	50,000	125	0	3,40,000	3,50,000	487	8
50,000	60,000	137	8	3,50,000	3,60,000	500	0
60,000	70,000	150	0	3,60,000	3,70,000	512	8
70,000	80,000	162	8	3,70,000	3,80,000	525	0
80,000	90,000	175	0	3,80,000	3,90,000	537	8
90,000	1,00,000	187	8	3,90,000	4,00,000	550	0

SCHEDULE I.—continued.

Table showing the Stamp-duty chargeable under this Schedule on any Conveyance the consideration-money set forth in which does not exceed Rs. 4,00,000.

When the amount of such consideration-money exceeds	but does not exceed	PROPER STAMP-DUTY.		When the amount of such consideration-money exceeds	but does not exceed	PROPER STAMP-DUTY.	
Rs.	Rs.	Rs.	A.	Rs.	Rs.	Rs.	A.
...	50	0	8	1,500	2,000	20	0
50	100	1	0	2,000	2,500	25	0
100	200	2	0	2,500	3,000	30	0
200	300	3	0	3,000	3,500	35	0
300	400	4	0	3,500	4,000	40	0
400	500	5	0	4,000	4,500	45	0
500	600	6	0	4,500	5,000	50	0
600	700	7	0	5,000	5,500	55	0
700	800	8	0	5,500	6,000	60	0
800	900	9	0	6,000	6,500	65	0
900	1,000	10	0	6,500	7,000	70	0
1,000	1,500	15	0	7,000	7,500	75	0

SCHEDULE I.—concluded.

Table showing the Stamp-duty chargeable under this Schedule on any Conveyance the consideration-money set forth in which does not exceed Rs. 4,00,000.—concluded.

When the amount of such consideration-money exceeds	but does not exceed	PROPER STAMP-DUTY.		When the amount of such consideration-money exceeds	but does not exceed	PROPER STAMP-DUTY.	
Rs.	Rs.	Rs.	A.	Rs.	Rs.	Rs.	A.
7,500	8,000	80	0	29,000	30,000	200	0
8,000	8,500	85	0	30,000	40,000	250	0
8,500	9,000	90	0	40,000	50,000	300	0
9,000	9,500	95	0	50,000	60,000	350	0
9,500	10,000	100	0	60,000	70,000	400	0
10,000	11,000	105	0	70,000	80,000	450	0
11,000	12,000	110	0	80,000	90,000	500	0
12,000	13,000	115	0	90,000	1,00,000	550	0
13,000	14,000	120	0	1,00,000	1,20,000	625	0
14,000	15,000	125	0	1,20,000	1,40,000	700	0
15,000	16,000	130	0	1,40,000	1,60,000	775	0
16,000	17,000	135	0	1,60,000	1,80,000	850	0
17,000	18,000	140	0	1,80,000	2,00,000	925	0
18,000	19,000	145	0	2,00,000	2,20,000	1,000	0
19,000	20,000	150	0	2,20,000	2,40,000	1,075	0
20,000	21,000	155	0	2,40,000	2,60,000	1,150	0
21,000	22,000	160	0	2,60,000	2,80,000	1,225	0
22,000	23,000	165	0	2,80,000	3,00,000	1,300	0
23,000	24,000	170	0	3,00,000	3,20,000	1,375	0
24,000	25,000	175	0	3,20,000	3,40,000	1,450	0
25,000	26,000	180	0	3,40,000	3,60,000	1,525	0
26,000	27,000	185	0	3,60,000	3,80,000	1,600	0
27,000	28,000	190	0	3,80,000	4,00,000	1,675	0
28,000	29,000	195	0				

SCHEDULE II.

Instruments chargeable with fixed Stamp-duties.

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
1.—BILL OF EXCHANGE, PROMISSORY NOTE, CHEQUE OR ORDER for the payment on demand of an amount exceeding twenty rupees .....	.....
2.—LETTER OF CREDIT .....	.....
3.—AGREEMENT OR MEMORANDUM OF AN AGREEMENT relating to the sale of any Government Security, share in a Company or Association, or Bill of Exchange .....	.....
4.—CERTIFICATE OR OTHER DOCUMENT purporting to denote the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Association, or proposed Company or Association, or to become proprietor of shares, scrip or stock in or of any such Company or Association	One Anna.*
5.—NOTE OR MEMORANDUM written in any book or written on a separate paper, whereby any account, debt or demand, or any part of any account, debt or demand therein specified, and amounting to twenty rupees or upwards, is expressed to have been balanced, or is acknowledged to be due.	

* This duty may be denoted by an adhesive stamp.

SCHEDULE II,—(continued.)		PROPER STAMP-DUTY.
DESCRIPTION OF INSTRUMENTS.		
6.—SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel .....	.....	One Anna.
7.—RECEIPT OR DISCHARGE given for or upon the payment of money, or delivery of goods, in satisfaction of a debt, the amount or value of which money or goods exceeds twenty rupees .....	.....	
8.—PROXY to vote at any one meeting of— (a.)—Members of a Company or Association whose stock or funds is or are divided into shares and transferable .....	.....	
(b.)—Municipal Commissioners .....	.....	
(c.)—Justices of the Peace, being a body corporate .....	.....	Four Annas.
(d.)—Proprietors, members or contributors to the funds of any institution. ....	.....	
9.—BILL OF LADING .....	.....	Eight Annas.
10.—DOCK-WARRANT .....	.....	
11.—ANY AGREEMENT OR MEMORANDUM OF AN AGREEMENT not otherwise provided for by this Act : Provided that where two or more letters are offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if any one of such letters shall be stamped as an Agreement. ....	.....	One Rupee.
12.—NOTICE OF PROTEST by the master of a ship .....	.....	
13.—POWER-OF-ATTORNEY to present for registration (a.)—A single instrument .....	.....	Two Rupees.
(b.)—Any number of instruments required for the completion of a single transaction .....	.....	
14.—AFFIDAVIT not made for the immediate purpose of being produced in any Court .....	.....	Four Rupees.
15.—COLLATERAL INSTRUMENT not otherwise provided for by this Schedule .....	.....	
16.—COUNTERPART OF ANY INSTRUMENT chargeable with Stamp-duty under this Act : Provided that the counterpart shall not be available unless the Collector or such other officer as he may authorize in that behalf shall certify that the proper Stamp-duty on the original instrument has been paid. Such certificate shall be endorsed on the counterpart on the same being produced together with the original instrument, and on the whole being duly executed and duly stamped in other respects .....	.....	Four Rupees.
17.—INSTRUMENT OF DISSOLUTION OF PARTNERSHIP. ....	.....	
18.—POWER-OF-ATTORNEY for the performance of a single act when the value of the matter to be dealt with does not exceed five hundred rupees...	.....	Four Rupees.
19.—POWER-OF-ATTORNEY for the performance of a single act when the value of the matter to be dealt with exceeds five hundred rupees .....	.....	
20.—BOND OR MORTGAGE-DEED executed as a collateral security for the performance of any act, where such performance is secured by some instrument previously executed on stamped paper in accordance with the law in force in British India at the time of its execution ...	.....	Four Rupees.
21.—INSTRUMENT EVIDENCING AN AGREEMENT to secure the repayment on or before the expiration of three months from the date of such instrument of a loan made upon the deposit of title-deeds or other valuable security .....	.....	
22.—CHARTER-PARTY .....	.....	Four Rupees.
23.—NOTARIAL ACT .....	.....	
24.—PROTEST OF A BILL OF EXCHANGE OR PROMISSORY NOTE .....	.....	Four Rupees.
25.—PROTEST OF THE MASTER OR OWNER OF A SHIP .....	.....	
26.—INSTRUMENT OF CO-PARTNERSHIP .....	.....	Four Rupees.
27.—RECONVEYANCE OF MORTGAGED PROPERTY, when the original Mortgage-deed has been stamped in accordance with the law in force in British India at the time of its execution .....	.....	

SCHEDULE II,—concluded.		PROPER STAMP-DUTY.
DESCRIPTION OF INSTRUMENTS.		
28.—COMPOSITION-DEED .....	.....	Eight Rupees.
29.—LETTER OF LICENSE .....	.....	
30.—RELEASE .....	.....	
31.—INSTRUMENT PURPORTING TO CONFER AN AUTHORITY TO ADOPT .....	.....	
32.—POWER-OF-ATTORNEY not otherwise provided for by this Schedule .....	.....	Sixteen Rupees.
33.—ARTICLES OF ASSOCIATION of a Company .....	.....	
34.—MEMORANDUM OF ASSOCIATION of a Company .....	.....	Sixteen Rupees.
35.—APPOINTMENT in execution of a power, whether of Trustees, or of property, moveable or immoveable, where made by any writing not being a Will .....	.....	
36.—DECLARATION OF ANY USE OR TRUST of or concerning any property, moveable or immoveable, where made by any writing not being a Will...	.....	One hundred Rupees.
37.—INSTRUMENT OF GIFT OF IMMOVEABLE PROPERTY .....	.....	
38.—INSTRUMENT OF EXCHANGE OF IMMOVEABLE PROPERTY where no money is paid or agreed to be paid for equality of exchange .....	.....	Five hundred Rupees.
39.—PARTITION-DEED relating to immoveable property where no money is paid or agreed to be paid for equality of exchange .....	.....	
40.—PETITION FOR LEAVE TO FILE A SPECIFICATION OF AN INVENTION, or for the extension of the term of the exclusive privilege of making, using or selling such invention in India .....	.....	Five hundred Rupees.
41.—ARTICLES OF CLERKSHIP or contract whereby any person shall first become bound to serve as a clerk in order to his admission as an Attorney in any High Court .....	.....	

SCHEDULE III.

Enactments repealed by Section 2.

No. and date of Act.	Title of Act.	Extent of repeal.
Act XIV of 1840 ...	An Act for rendering a written memorandum necessary to the validity of certain promises and engagements by extending to the territories of the East India Company, in cases governed by English law, the provisions of the Stat. 9 Geo. IV., cap. XIV.	Section 8.
„ XVIII. of 1856 ...	An Act relating to the administration of the public revenues in the Town of Calcutta.	So much of the preamble as relates to Stamp-duty, and section 2.
„ XIX of 1858 ...	An Act to provide for the authentication of stamped paper issued from the Stamp Office in Calcutta.	The whole.
„ XLI of 1858 ...	An Act to amend Regulation X. 1829, of the Bengal Code (for the collection of Stamp-duties).	The whole.
„ XV of 1859 ...	An Act for granting exclusive privileges to inventors.	Section 37.
„ X of 1862 ...	An Act to consolidate and amend the law relating to Stamp-duties.	Sections 1 to 25, both inclusive, sections 27, 28, 29, sections 34 to 57, both inclusive, and Schedule A.
„ XXVI of 1867 ...	An Act to amend the law relating to Stamp-duties.	Section 5.

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(Nothing hereinafter contained shall be deemed to have the force of law).

- Abetment of offences punishable under Act, sec. 36.
- Accident, omission to stamp by, sec. 24, clause (b).
to stamped paper, sec. 46.
- Account, stamp on note evidencing balance of, schedule II, No. 5.
- Acknowledgment of sum paid on letter of allotment or call, sec. 15, clause (2).
" of debt, stamp on, schedule II, No. 5.
- Adhesive stamp, sec. 5, clause (a).
" " to be affixed to bill drawn out of British India, section 8.
" " may be affixed to instrument chargeable with one anna, sec. 26.
" " may be affixed to paper for receipt, sec. 27.
" " presenting bill wanting, sec. 30.
" " holder of foreign bill to cancel, sec. 31.
" " executant to cancel, sec. 33.
- Administration-bond, schedule I, No. 5.
- Admissibility, see *Evidence*.
- Adoption, see *Authority to adopt*.
- 'Affidavit' defined, sec. 3, clause (1).
" to enable a person to receive a pension, exempt, sec. 15, clause 12.
" stamp on, schedule II, No. 14.
- After-stamping when inadmissible, sec. 28.
- Agent of person from or to whom money is owing or paid, sec. 27.
" of owner of useless or spoiled stamped paper, sec. 45.
- Agreement for hire of tug-steamer not included in 'charter-party,' sec. 3, clause 7.
" for sale of goods, exempt, sec. 15, clause 8.
" relating to sale of Government securities, shares or bills, stamp on, schedule II, No. 3.
" stamp on one of several letters proving an, schedule II, No. 11.
" to repay at short date loan on deposit, stamp on, schedule II, No. 21.
" not otherwise provided for, stamp on, schedule II, No. 11.

See *Engagement*.

- Allotment, see *Letter of Allotment*.
- Annuity, duty on bond, &c., for payment of, sec. 12.
" duty on conveyance where consideration is an, *ib.*
" exemption of receipt for instalment of, sec. 15, clause (3).
- Appeal from Collector's decision, sec. 40.
- Appointment, stamp on, schedule II, No. 35.
- Appraisement, stamp on, schedule I, No. 21.
- Approval of Rules to be made by Local Governments, sec. 48.
- Articles of Association, stamp on, schedule II, No. 33.
- Articles of clerkship, stamp on, schedule II, No. 41.
- Assignment of interest secured by bond or mortgage-deed, stamp on, schedule I, No. 13.
" person to pay stamp on, sec. 6.

- Attested copy, duplicate or extract, stamp on, schedule I, No. 23.
- Attorney, exemption of copies made for use of, sec. 15, clause (14).
" not stating true consideration, section 35.

See *Articles of Clerkship*.

- Authentication, not of instruments not duly stamped, sec. 18.
- Authority to adopt, stamp on, schedule II, No. 31.
- Award' defined, sec. 3, clause (2).
" stamp on, schedule I, No. 22.
- Balance of account, stamp on note expressing, schedule II, No. 5.
- Banker, exemption of certain receipts of, sec. 15, clause (2).
" may stamp certain instruments chargeable with one anna, sec. 26.
- Batwára included in 'partition-deed,' sec. 3, clause (22).
- 'Bill of Exchange' defined, sec. 3, clause (3).
" when it may be stamped with adhesive stamp, sec. 5, clause (a).
" person to pay duty on, sec. 6.
" duties on, sec. 7.
" drawn out of British India, secs. 5, 7 and 8.
" unstamped or with stamp uncanceled, holder cannot recover on foreign, sec. 19.
" brought to Collector on unstamped or insufficiently stamped paper, sec. 39.
" not presented, sec. 46.
" payable otherwise than on demand, stamp on, schedule I, No. 1.
" payable on demand, for amount exceeding twenty rupees, stamp on, schedule II, No. 1.
See *Agreement, Letters of hypothecation, Memorandum, Negotiable Instrument, Protest, Set*.
- 'Bill of lading' defined, sec. 3, clause (4).
" stamp on, schedule II, No. 9.
- 'Bond' defined, sec. 3, clause 5.
" person to pay duty on, sec. 6.
" to Government for performance of duties of salaried office, exempt, sec. 15, clause 7.
" for specified sum, stamp on, schedule I, No. 5.
" for due execution of an office, stamp on, schedule I, No. 12.
" person to pay duty on, sec. 6.
" as a collateral security, stamp on, schedule II, No. 20.
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- 'Bottomry-bond' defined, sec. 3, clause (6).
" person to pay duty on, sec. 6.
" stamp on, schedule I, No. 6.
- British India, duty on instruments executed out of, sec. 4.
" duty on bills drawn out of, secs. 5, 7, and 8.
- Calls on scrip or shares, receipts for sums paid in respect of, sec. 15, clause (2).
- Cancelling adhesive stamps by banker, sec. 26.
" on foreign bills by holder, sec. 31.
" by maker or executant, sec. 33.
- Certificate of Court that duty has been paid on unstamped instrument, sec. 20.
" of Collector that instrument is properly stamped or is not chargeable, sec. 24, clause (a).
" of Collector that duty has been levied on instrument executed out of British India, sec. 24, clauses (c), (d).

Certificate of Collector that full duty has been paid, sec. 39.

„ revision of Collector's, sec. 40.

„ that impressed stamp is not procurable, sec. 49.

„ of title to shares, scrip or stock, stamp on, schedule II, No. 4.

„ in case of counterpart that duty has been paid on original, schedule II, No. 16.

Charitable allowance, exemption of affidavit in case of, sec. 15, clause 12.

'Charter-party' defined, sec. 3, clause (7).

„ „ stamp on, schedule II, No. 22.

„ „ agreement for hire of tug-steamer not included in, sec. 3, clause 7.

See *Agreement*.

'Cheque' defined, sec. 3, clause (8).

„ not included in 'Bill of Exchange,' sec. 3, clause (3).

„ when it may be stamped with adhesive stamp, sec. 5, clause (a).

„ for amount exceeding twenty rupees, stamp on, schedule II, No. 1.

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„ „ may refer questions to High Court, sec. 41.

„ „ may remit or mitigate penalties, sec. 42.

Civil Court, its powers as to unstamped or insufficiently stamped instruments, sec. 20.

„ to keep book for entries of payments, sec. 21.

„ to endorse payments, *ib*.

„ to make returns and payments to Collector, sec. 21.

„ when to impound unstamped instruments, sec. 22.

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Code of Criminal Procedure, instruments not duly stamped inadmissible in proceedings under chapter XXII of, sec. 18, clause (b).

Collateral instrument not otherwise provided for, stamp on, schedule II, No. 15.

„ security, stamp on, schedule II, No. 20.

'Collector' defined, sec. 3, clause (9).

„ may denote stamps, sec. 5, clause (b).

„ monthly return and payment to, of money received by Court, sec. 21.

„ may appoint person to receive such payments, *ib*.

„ to prosecute executant of unstamped instrument sent by Court, sec. 22.

„ public officer to send unstamped instrument to, sec. 23.

„ his powers as to unstamped or insufficiently stamped instruments, sec. 24.

„ when he may remit penalty, sec. 24, clause (b).

„ when he may certify that proper duty has been levied on instrument executed out of British India, sec. 24, clause (c).

„ validity of instrument for which penalty levied by, sec. 25.

„ to decide doubt as to proper stamp, sec. 39.

„ revision of certificates and orders of, sec. 40.

„ to institute and conduct prosecutions, sec. 43.

„ may specially authorize person to prosecute, (*ib*).

„ may make refund, or supply new, for spoiled or useless stamped paper, sec. 45.

„ may authorize officer to certify on counterpart that duty on original is paid, schedule II, No. 16.

Commencement of Act, sec. 1.

Company, stamp on agreement relating to shares in, schedule II, No. 3.

„ stamp on certificate of title to shares in, schedule II, No. 4.

„ stamp on proxy to vote at meeting of, schedule II, No. 8.

See *Articles of Association, Calls, Memorandum of Association, Scrip, Share*.

'Composition-deed' defined, sec. 3, clause (10).

„ „ stamp on, schedule II, No. 28.

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„ to be stated, sec. 34, clause (a).

„ mortgage-money or sum charged to be deemed, sec. 34, clause (b).

„ penalty for not stating, sec. 34, clause (c).

„ penalty on attorney, &c., not inserting, sec. 35.

„ failure of, sec. 46.

„ suit when it is not stated, sec. 47.

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'Conveyance' defined, sec. 3, clause (11).

„ person to pay duty on, sec. 6.

„ stamp on, schedule I, No. 15.

„ duty on, where consideration is an annuity, sec. 12.

Co-partnership, stamp on instrument of, schedule II, No. 26.

See *Dissolution*.

Copy of paper which public officer is required to make, exempt, sec. 15, clause 13.

„ for private use, exempt, sec. 15, clause 14.

„ attested, stamp on, schedule I, No. 23.

Counsel, exemption of copies made for, sec. 15, clause (14).

'Counterpart' defined, sec. 3, clause (12).

„ of lease, lessor pays duty on, sec. 6.

„ of lease to ryot, exempt, sec. 15, clause 10.

„ of instrument chargeable with duty, stamp on, schedule II, No. 16.

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Criminal Court, when to impound unstamped instruments, sec. 22.

Criminal proceedings, instruments not duly stamped admissible in, sec. 18.

Cultivators, exemption of receipts for rent to, sec. 15, clause (1).

Customs-bond, person to pay stamp on, sec. 6.

„ stamp on, schedule I, No. 8.

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Debt.—See *Acknowledgment*.

Declaration of use or trust, stamp on, schedule II, No. 36.

Definitions, instrument coming within two or more, sec. 14.

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Denoting of stamps, sec. 5, clause (b).

Deputy Commissioner including in 'Collector,' sec. 3, clause (9).

Destruction of instrument sent to Collector, sec. 23.

Discharge, stamp on, schedule II, No. 7.

Dissolution of partnership, stamp on instrument of, schedule II, No. 17.

Dock-warrant' defined, sec. 3, clause (13).

Dock-warrant stamp on, schedule II, No. 10.

Dollars—See *Foreign Currency*.

Doubt as to proper stamp, adjudication of, sec. 39.

Duplicate, attested, stamp on, schedule I, No. 23.

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Duty chargeable, sec. 4.

„ when leviable by adhesive stamps, sec. 5, clause (a).

„ levied by impressed stamps, sec. 5, clause (b).

„ denoted by Collector or Superintendent of Stamps, *ib.*

„ on bills and notes drawn out of British India, secs. 5, 8.

„ by whom payable in certain cases, sec. 6.

„ on bills of exchange, sec. 7.

„ on instrument reserving interest, sec. 9.

„ where value of subject-matter is indeterminate, sec. 11.

„ on bond, promissory note or mortgage-deed for payment of annuity, sec. 12.

„ on several instruments used in a single transaction, sec. 13.

„ on instruments coming within two or more of the definitions, sec. 14.

„ instruments exempt from, sec. 15.

See *Appeal, Certificate, Reference*.

Employment—See *Agreement*.

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„ by Civil Court of payment, sec. 21.

„ of certificate by Collector, secs. 24, 25, 39.

„ on counterpart, schedule II, No. 16.

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Engagement to issue policy, exempt, sec. 16, clause 16.

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Error in writing on stamped paper, sec. 46.

Evidence, instruments not duly stamped inadmissible in, sec. 18.

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„ „ „ or in suits where consideration is not stated, sec. 47.

„ in criminal proceedings, sec. 19.

„ as to amount of duty leviable on an instrument, secs. 20, 24 (d), 39.

„ instrument certified by Civil Court receivable in, sec. 20.

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Exchange of immoveables, person to pay duty on, sec. 6.

Exchange of immoveables, where money is paid for equality, stamp on, schedule I, No. 18.

„ „ where no money is paid for equality, stamp on, schedule II, No. 38.

Exemptions from stamp duty, sec. 15.

Extension—See *Petition*.

Extent of Act, sec. 1.

Extract, stamp on attested, schedule I, No. 23.

Fee for decision of doubt as to proper stamp, sec. 39.

Fine for executing, &c., instrument not duly stamped, sec. 29.

„ for presenting, &c., unstamped foreign bill, sec. 30.

„ on holder not cancelling adhesive stamp, sec. 31.

Fine for not drawing full number of set, sec. 32.

„ on executant not cancelling adhesive stamp, sec. 33.

„ for not stating consideration, sec. 34.

„ on attorney, &c., not stating consideration, sec. 35.

„ how recovered, sec. 37.

Fire-policy, transfer by endorsement of, exempt, sec. 15, clause (4).

Firm, penalties on, secs. 26, 29, 30, 31, 32.

„ recovery of fines from, sec. 37.

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„ cancelling, stamp on, sec. 31.

Foreign currency, duty where consideration or amount is expressed in, sec. 10.

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Further charge, stamp on instrument of, where possession is not given, schedule I, No. 11.

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Goods—See *Agreement, Memorandum*.

Government, exemption of transfers of securities of, sec. 15, clause (6).

„ bond to, for due performance of office, *ib.*, clause (7).

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Governor General in Council may make rules as to denoting stamps, sec. 5, clause (b).

„ „ may lower rates of stamp duty, sec. 16.

„ „ to approve rules for sale of stamps, sec. 48.

High Court, reference to, by Chief Controlling Revenue Authority, sec. 41.

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Hundi included in 'Bill of Exchange,' sec. 3, clause (3).

Hypothecation.—See *Letter of hypothecation*.

Impounding unstamped instruments produced in Court, sec. 22.

„ „ „ „ in public office, sec. 23.

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„ stamp, sec. 5, clause (b).

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Imprisonment of stamp vendor, sec. 48.

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Indemnity-bond, stamp on, schedule I, No. 9.

„ person to pay stamp on, sec. 6.

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Informers, reward to, sec. 38.

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„ exemption of receipt for, sec. 15, clause (3).

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Jurisdiction—See *Collector, Chief Controlling Revenue Authority, Magistrate*.

Justices of the peace, stamp on proxy to vote at meeting of, schedule II, No. 8.
 Kabūliyāt included in 'counterpart,' sec. 3, clause (12).

'Lease' defined, sec. 3, clause (15).

- " person to pay duty on, sec. 6.
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- " stamp on, schedule I, No. 19.

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Letter of allotment of share, sec. 15, clause (2).

Letter of cover or engagement to issue policy, exempt, sec. 15, clause (16).

'Letter of credit' defined, sec. 3, clause (16).

" " stamp on, schedule II, No. 2.

Letter of hypothecation accompanying bill of exchange, exempt, sec. 15, clause (5).

'Letter of license' defined, sec. 3, clause (17).

" " stamp on, schedule II, No. 29.

Letters to prove agreement, stamp on one, schedule II, No. (11).

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" " to make rules for sale of stamps, sec. 48.

Local Government to cause Act and schedules to be translated and indexed, sec. 51.

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Magistrate may issue warrants for levy of fines on firms, sec. 37.

" may reward informers, sec. 38.

Magistrate, jurisdiction of, sec. 44.

Marine policy, transfer by endorsement of, exempt from duty, sec. 15, clause (4).

" " fine for not drawing full number of set, sec. 32.

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Memorandum of agreement for sale of goods, exempt, sec. 15, clause (8).

- " for sale of Government security, share or bill, stamp on, schedule II, No. 3.
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- " not otherwise provided for, stamp on, schedule II, No. 11.
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Mistake, omission to stamp through, sec. 24, clause (6).

'Mortgage-deed' defined, sec. 3, clause (18).

- " person to pay duty on, sec. 6.
- " stamp on, where possession not transferred, schedule I, No. 10.
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- " for due execution of an office, stamp on, schedule I, No. 12.
- " as a collateral security, stamp on, schedule II, No. 20.

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Mortgage-money to be deemed purchase-money, sec. 34, clause (6).

Mukhtār not stating true consideration, penalty on, sec. 35.

Municipal Commissioners, stamp on proxy to vote at meetings of, schedule II, No. 8.

'Negotiable instrument' defined, sec. 3, clause (19).

- " " exemption of transfer by endorsement of, sec. 15, clause 4.

'Negotiable instrument' never brought into use, sec. 46.

See *Bill of Exchange, Promissory Note*.

'Notarial Act' defined, sec. 3, clause (20).

" stamp on, schedule II, No. 23.

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Notice of protest of master of a ship, stamp on, schedule II, No. 12.

Office, bond to Government for due performance of duties of, exempt, sec. 15, clause (7).

" bond for due performance of duties of, stamp on, schedule I, No. 12.

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Optional stamp, sec. 11.

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'Paper' defined, sec. 3, clause (21).

- " stamps impressed or otherwise denoted on, sec. 5, clause (6).
- " not bearing proper stamp, secs. 20, 22, 24, 39.
- " for receipt, sec. 27.
- " refund for spoiled or useless stamped, sec. 45.

'Partition-deed' defined, sec. 3, clause (22).

" persons to pay duty on, sec. 6.

" stamp on, when money is paid for equality of partition, schedule I, No. 18.

" " where no such money is paid, schedule II, No. 39.

Partnership—See *Co-partnership, Dissolution*.

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Payments by Civil Court to Collector, sec. 21.

Penalty on unstamped or insufficiently stamped instruments produced in Civil Court, sec. 20.

- " validity of instrument for which Collector levies, sec. 25.
- " for issuing bill, &c., unstamped, sec. 26.
- " for executing instrument not duly stamped, sec. 29.
- " for presenting or negotiating unstamped bills, sec. 30.
- " on holder of foreign bill, refusing or neglecting to cancel stamp on bill, sec. 31.
- " for not drawing full number of set of bills or marine policies, sec. 32.
- " for not cancelling adhesive stamp, sec. 33.
- " for not stating consideration, sec. 34.
- " on attorney, &c., not inserting true consideration, sec. 35.
- " power to remit, secs. 24, 42.
- on stamp-vendors disobeying rules, sec. 48.

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Pension—See *Affidavit*.

Periodical payment, duty on bond, &c., for payment of, sec. 12.

" " duty on conveyance where consideration is a, *ib.*

" " exemption of receipt for, sec. 15, clause (3).

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" for leave to file specification or for extension of term, stamp on, schedule II, No. 40.

Pleader not stating true consideration, penalty on, sec. 35.

Pledge—See *Mortgage-deed*.

'Policy of Insurance' defined, sec. 3, clause (23).

- " " person to pay duty on, sec. 6.
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- " " exemption of engagement to issue, sec. 15, clause (16).
- " " penalty for not drawing full number of set of marine, sec. 32.
- " " stamp on, schedule I, No. 3.

Pounds currency, Pounds sterling—See *Foreign Currency*.

Power—See *Appointment*.

'Power of attorney' defined, sec. 3, clause (24).

- " " to present for registration, stamp on, schedule II, No. 13.
- " " for performance of single act, stamp on, schedule II, Nos. 18, 19.
- " " not otherwise provided for, stamp on, schedule II, No. 32.

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Principal instrument, stamping, sec. 13.

'Promissory Note' defined, sec. 3, clause (25).

- " person to pay duty on, sec. 6.
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- " payable otherwise than on demand, stamp on, schedule I, No. 2.
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'Property', sec. 3, clauses (10), (11), (15), (18), (22), (30), (32), sec. 6, defined, sec. 3, clause (26).

" within British India, instruments relating to, sec. 3, clause (2).

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Prosecution of executants of unstamped or insufficiently stamped instruments, secs. 22 and 24, clause (a)

" institution and conduct of, sec. 43.

'Protest' defined, sec. 3, clause (27).

" of bill or note, stamp on, schedule II, No. 24.

'Protest of the master of a ship' defined, sec. 3, clause (28).

" stamp on, schedule II, No. 25.

'Proxy' defined, sec. 3, clause (29).

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Public Officer—See *Impounding*.

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Receipt to ryot for rent of revenue-paying land, exempt from duty, sec. 15, clause (1).

" for money deposited in bank to be accounted for, when exempt, *ib.*, clause (2).

" for sums paid for letters of allotment or on calls, *ib.*

" endorsed on or contained in duly stamped instrument, exempt, *ib.*, clause (3).

" by or on behalf of Government, exempt, *ib.*, clause (15).

" procedure where payee refuses, sec. 27.

" for money exceeding twenty rupees, stamp on, schedule II, No. 7.

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Reconveyance of mortgaged property, stamp on, schedule II, No. 27.

Reference to High Court, sec. 41.

" back to Revenue Authority, *ib.*, clause (c).

Refund in case of useless or spoiled stamp paper, sec. 45.

Refusal to give receipt, sec. 27, clause (b).

" of property whose signature is required to writing on stamped paper, sec. 46.

" of office or trust granted by writing on stamped paper, *ib.*

Registering officer not to register instruments not duly stamped, sec. 17.

" to impound unstamped instrument and send it to Collector, sec. 23.

Registration of penalties levied by Civil Courts on unstamped instruments, sec. 21.

" of instrument afterwards endorsed by Collector, sec. 40.

'Release' defined, sec. 3, clause (30).

" stamp on, schedule II, No. 30.

Remission of penalty by Collector, sec. 24, clause (b).

" of penalties by Chief Controlling Revenue Authority, sec. 42.

Remuneration of stamp-vendors, sec. 48.

Repeal of enactments, sec. 2, and schedule III.

'Respondentia-bond' defined, sec. 3, clause (31).

" person to pay duty on, sec. 6.

" stamp on, schedule I, No. 7.

Return to Collector of money received by Civil Court under Stamp Act, sec. 21.

Revision of Collector's certificates and orders, sec. 40.

Reward to informer, sec. 38.

Rules for denoting stamps, sec. 5, clause (b).

" for sale of stamps, sec. 48.

Ryot—See *Counterpart, Cultivators, Lease, Receipt, Surrender*.

Sale, of stamps and stamped paper, sec. 48.

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Scrip—See *Calls, Certificate*.

Secondary instruments, stamp on, sec. 13.

Securities of Government of India, exemption of transfers of, sec. 15, clause (6).

Service—See *Agreement*.

Set of bills or marine policies, penalty for not drawing whole number of, sec. 32.

'Settlement' defined, sec. 3, clause (32).

" person to pay duty on, sec. 6.

" stamp on, schedule I, No. 14.

Several stamped papers, employment of, sec. 50.

Share—See *Agreement, Calls, Certificate, Letter of Allotment, Memorandum, Transfer*.

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Shipping-order, stamp on, schedule II, No. 6.

Short title, sec. 1.

Single impressed stamp, employment of, sec. 49.

Specification—See *Petition*.

Stamped papers, refund for useless or spoiled, sec. 45.

" what shall be held to be spoiled, sec. 46.

" rules for sale of, sec. 48.

" employment of several, sec. 50.

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Stamp-sellers, remuneration of, sec. 48.

Stamp-sellers, penalty on, *ib.*

Stock—See *Certificate*.

Subordinate Magistrate of first class, jurisdiction of, sec. 44.

Suit where consideration is not stated, sec. 47.

Superintendent of Stamps may denote stamp duty, sec. 5.

Surrender of land by ryot exempt, sec. 15, clause 11.

„ of lease, stamp on, schedule I, No. 20.

„ person to pay stamp on, sec. 6.

Transfer by endorsement of negotiable instrument or policy, sec. 15, clause 4.

„ of share, person to pay duty on, sec. 6.

„ stamp on, schedule I, No. 4.

„ of securities of Government of India exempt from duty, sec. 15, clause 6.

Translations of Act, sec. 51.

Trust—See *Declaration, Refusal*.

Tug-steamer—See *Agreement*.

Urgent necessity, omission to stamp through, sec. 24, clause (b).

Use—See *Declaration*.

Vakil, exemption of copies made for, sec. 15, clause 14.

„ not stating true consideration, sec. 35.

Valuation, stamp on, schedule I, No. 21.

„ person to pay stamp on, sec. 6.

Warrant for levy of fine on firm, sec. 37.

ACT N^o. I. OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th January 1870.)

An Act to provide Rules relating to Quarantine.

WHEREAS it is expedient to empower expressly the Governor-General of India
Preamble. in Council and the Local Governments to make rules relating
to quarantine; It is hereby enacted as follows:—

1. It shall be lawful for the Governor-General of India in Council and
Power to make quaran- (with the previous sanction of the said Governor-General in
tine rules. Council) for the Local Governments respectively, from time
to time, to make rules
for putting any vessel into a state of quarantine;
for regulating the intercourse of vessels in a state of quarantine with the
shore or with other vessels; and
for regulating the intercourse between ports where an infectious disease
prevails and other ports.

2. All such rules shall be published in the *Gazette of India* and also in the
local Gazette, and shall thereupon be deemed to be rules
Quarantine rules to be made and promulgated under section 271 of the Indian
deemed rules under section Penal Code.
271 of Penal Code.

[PRICE 6 PIES.]

ACT N^O. II. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th January 1870.)

An Act to provide for the appointment of additional Subordinate Judges and Munsifs in the Presidency of Fort William.

WHEREAS, by Act XVI. of 1868 *(to consolidate and amend the law relating to Principal Sadr Amins, Sadr Amins and Munsifs in Bengal, and for other purposes)*, the Local Government is empowered to appoint a person to the office of Subordinate Judge or Munsif only on the occurrence of a vacancy in such office, and it is expedient to provide for the appointment of persons to such offices in addition to the appointments made under that Act; It is hereby enacted as follows:—

Power to appoint additional Subordinate Judges and Munsifs.
1. Whenever it appears expedient to the said Local Government to appoint a person to the office of Subordinate Judge or Munsif in addition to the Subordinate Judges and Munsifs appointed under the said Act, in the case of a Subordinate Judge, the Local Government may appoint, and, in the case of a Munsif, the High Court of Judicature shall nominate, and the Local Government shall appoint, such person as the Local Government or the High Court (as the case may be) shall think fit:

Qualifications of persons appointed.
Provided that no person shall be so nominated to the office of Munsif unless he possesses the qualifications prescribed by the rules made under section five of the said Act.

2. Every

ACT No. II. of 1870.

Persons appointed to be
deemed Subordinate Judges
or Munsifs under Act XVI.
of 1868.

2. Every Subordinate Judge and Munsif so appointed, shall be deemed a Subordinate Judge, or Munsif, as the case may be, under the said Act.

3. Nothing in this Act shall authorize the Local Government to increase the number of Subordinate Judgeships and Munsifships without the previous sanction of the Governor-General of India in Council.

Previous sanction of Gov-
ernor-General in Council.

ACT No. III. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th January 1870.)

An Act to remove the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes.

WHEREAS it is expedient to remove the territory known as the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and to provide for the administration of justice and the collection of revenue in the said territory; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Agror Valley Act, 1870."

Repeal of Ordinance.

2. The Ordinance of the fourth day of October 1869, "to remove the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes" is hereby repealed.

Extent of Act.

3. The said territory shall be deemed to include such portions of the Districts of Hazára, Attok, and Ráwal Pindí, as the Lieutenant-Governor of the Panjáb has appointed for the purposes of the said Ordinance, or shall from time to time appoint for the purposes of this Act.

4. Save

5

ACT No. III. of 1870.

4. Save as hereinafter provided, the territory known as the Agror Valley is hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the offices of revenue constituted by the Rules, Regulations, and Acts in force in the territories under the control of the said Lieutenant-Governor, as well as from the law prescribed for the said Courts and offices by the Rules, Regulations, and Acts aforesaid;

and no Act hereafter passed by the Council of the Governor-General for making Laws and Regulations, shall be deemed to extend to any part of the said territory, unless the same be specially named therein.

5. The administration of civil and criminal justice within the said territory, and the superintendence of the settlement and realization of the public revenue and of all matters relating to the peace and good government of the same territory, and to rent payable therein, are hereby vested in such officers as the said Lieutenant-Governor may, for the purpose of tribunals of first instance or of reference and appeal, from time to time appoint.

The officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of the said Lieutenant-Governor, and be guided by such instructions as he may from time to time issue.

6. Any person liable to be imprisoned in any civil or criminal jail, or to be transported beyond sea under any order or sentence passed by any officer or court empowered as provided in this Act, may be imprisoned in any civil or criminal jail, or transported to any place which the said Lieutenant-Governor may direct.

7. The said Lieutenant-Governor may from time to time, by notification in the official Gazette, extend to the said territory any law, or any portion of any law, now in force in the other territories subject to his government, or which may hereafter be enacted by the Council of the Governor-General for the purpose of making Laws and Regulations;

and may, on making such extension, direct by whom any powers or duties incident to the provisions so extended shall be exercised or performed, and make any order which he shall deem requisite for carrying such provisions into operation.

8. Whenever

8. Whenever a question arises whether any place falls within the boundary of the said territory, such officer as the said Lieutenant-Governor shall from time to time appoint may consider and determine on which side of the boundary such place lies, and the order made thereon by such officer shall be final.

ACT NO. IV. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 4th February 1870.)

An Act for investing the Assistant Commissioner in charge of the Kullu Sub-division of the Kangra District with certain appellate powers.

WHEREAS it is expedient to invest the Assistant Commissioner in charge of
Preamble. the Kullu Sub-division of the Kangra District with certain appellate powers in civil cases; It is hereby enacted as follows:—

1. Notwithstanding anything contained in Act No. XIX. of 1865 *(to define the jurisdiction of the Courts of Judicature of the Panjab and its Dependencies)* the Assistant Commissioner or other officer for the time being in charge of the parganas of Kullu, Seoráj, Lahoul, and Spití, commonly called the Kullu Sub-division of the Kangra District, may hear appeals in civil cases from the decisions and orders of the Tahsildár of Sultánpúr, the Tahsildár of Plach, the Négí of Lahoul, and the Nono of Spití.

2. An appeal shall lie from the decisions and orders of such Assistant Commissioner or other officer as aforesaid, to the Commissioner of the Division, in like manner as though such decisions or orders had been given by the Deputy Commissioner of the District, and the provisions of Act No. VII. of 1868 *(to amend the law relating to Appeals and Reviews of Judgment in the Panjab)* with reference to the Deputy Commissioner,

ACT No. IV. of 1870.

sioner, shall be held to apply to such Assistant Commissioner or other officer as aforesaid.

3. This Act shall come into operation on the first day of March 1870, in regard to all cases pending or liable to appeal in the Courts of the Tahsildár of Sultánpúr, the Tahsildár of Plach, the Négí of Lahoul, and the Nono of Spiti on that date, and shall remain in force until the thirtieth day of April 1873, and, in the case of any appeal preferred before the thirtieth day of April 1873, until such appeal has been disposed of.

Commencement and continuance of Act.

ACT N^o. V. of 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 4th February 1870.)

An Act to enable the High Courts at the Presidency Towns to deal with costs of petitions for certain monies transferred to Government.

WHEREAS the High Courts of Judicature at Fort William, Madras, and Bombay have no power to deal with the costs of petitions under section four of Act No. XXV. of 1866 (*to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras, and Bombay and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Administrator-General of Bengal*), or under section sixty of the Administrator-General's Act, 1867, for payment of certain securities, monies or proceeds transferred to Government; And whereas it is expedient to confer such power upon the said High Courts; It is hereby enacted as follows:—

1. Whenever any of the said Courts shall make an order on any such petition, the Court may direct by whom the whole or any part of the costs of each party are to be paid.

Power to direct by whom costs are to be paid.

[PRICE 6 PIES.]

Madras—Printed by H. MORGAN, at the Fort St. George Gazette Press.

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ACT N^o. VIII. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th March 1870.)

An Act for the prevention of the murder of Female Infants.

WHEREAS the murder of female infants is believed to be commonly committed
Preamble. in certain parts of British India; and whereas it is necessary
to make better provision for the prevention of the said offence; It is hereby
enacted as follows:—

1. If it shall appear to the Local Government that the said offence is com-
monly committed in any district, or by any class, or family,
with the previous sanction of the Governor-General of India in Council, declare,
by notification published in the official Gazette, and in such other manner as the
Local Government shall direct, that measures for the prevention of such offence
shall be taken under this Act, in such district, or in respect of such class, or
family, or persons.

The notification shall define the limits of such district or shall specify the
class, or family, or persons to whom such notification is to be deemed to apply.

2. When such notification shall have been published as aforesaid, it shall
be lawful for the Local Government, subject to the provi-
sions

sions of section three, from time to time to make rules consistent with this Act, for all or any of the following purposes:—

- (1.) For making and maintaining registers of births, marriages, and deaths occurring in such district, or in or among the class, family, or persons to whom such notification has been made applicable; and for making, from time to time, a census of such persons, or of any other persons residing within such district:
- (2.) For the entertainment of any police force in excess of the ordinary fixed establishment of police, or for the entertainment of any officers or servants, for the purpose of preventing or detecting the murder of female infants in such district, or in or among such class, family, or persons, or for carrying out any of the provisions of this Act:
- (3.) For prescribing how and by whom information shall be given to the proper officers of all births, marriages, and deaths occurring or about to occur in such district, or in or among such class, family, or persons:
- (4.) For the regulation and limitation of expenses incurred by any person to whom such notification applies on account of the celebration of marriage or of any ceremony or custom connected therewith:
- (5.) For regulating the manner in which all or any of the expenses incurred in carrying into effect rules made under this section shall be recovered from all or any of the inhabitants of such district, or from the persons to whom such notification is applicable:
- (6.) For defining the duties of any officer or servant appointed to carry out any rule made under this section.

3. No rule or alteration made under section two shall take effect until it shall have been confirmed by the Governor-General of India in Council and published in the *Gazette of India* and also in the local Gazette.

Copies of every such rule shall be affixed in such places, and shall be distributed in such manner as the Local Government may direct.

4. Whoever disobeys any such rule shall, on conviction before any officer exercising the powers of a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Punishment for breach of rules.

5. Nothing

5. Nothing in this Act, or in any rule made and published as aforesaid, shall prevent any person from being prosecuted and punished under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Saving of prosecutions under other laws.

6. If it appears to the Magistrate of the District that any person, to whom the notification mentioned in section one applies, neglects to make proper provision for the maintenance of any female child for whose maintenance he is legally responsible, and that the life or health of such child is thereby endangered, such Magistrate may, in his discretion, place the child under such supervision as he may think proper, and shall, if necessary, remove the child from the custody of such person.

Power to place neglected children under supervision.

The Magistrate of the District may order him to make a monthly allowance for the maintenance of the child at such monthly rate not exceeding fifty rupees as to such Magistrate shall seem reasonable, and if such person wilfully neglects to comply with such order, such Magistrate may, for every breach of the order, by warrant direct the amount due to be levied in manner provided by section sixty-one of the Code of Criminal Procedure.

Nothing in this section shall affect the powers of Magistrates under section three hundred and sixteen of the same Code.

7. This Act shall, in the first instance, extend only to the North-Western Provinces, to the Panjáb, and to Oudh; but the Governor-General of India in Council may by order extend it to any part of the territories (other than Oudh) under the immediate administration of the Government of India; and the Governor of Madras in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal, may severally by order extend it to any part of the territories under their respective governments.

Every order under this section made by the Governor-General of India in Council shall be published in the *Gazette of India*. Every other order made under this section shall be published in the local official Gazette.

ACT N^o. IX. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th March 1870.)

An Act to enable the Elphinstone Land and Press Company, Limited, when in voluntary liquidation, to sell their property to the Secretary of State for India in Council.

WHEREAS it is desirable that the property of the Elphinstone Land and Press Company, Limited, should be transferred to the Secretary of State for India in Council for public purposes: And whereas negotiations for the transfer of the property of the said Company are now pending between the said Secretary of State in Council and the said Company, and it has been agreed that, in the event of the said transfer being made, the purchase-money for the said property shall be paid in four per cent. stock of the Government of India, such stock to be issued and calculated at one hundred rupees for each ninety-three rupees of such purchase-money: And whereas the said Company is desirous of being wound up voluntarily under the Indian Companies' Act, 1866: And whereas doubts have arisen whether Voluntary Liquidators, when appointed by the said Company to transfer the said property, can make such transfer in consideration of the stock to be issued as aforesaid: It is hereby enacted as follows:—

1. The Voluntary Liquidators of the said Company when duly appointed shall have power and are hereby empowered to transfer the property of the said Company, or any part thereof, to the Secretary of State for India in Council, and to make such transfer

Voluntary Liquidators
empowered to sell for four
per cent. stock.

transfer in consideration of, and to receive the purchase-money either wholly or in part in, four per cent. stock of the Government of India, such stock to be issued and calculated at one hundred rupees for each ninety-three rupees of such purchase-money.

2. A receipt by the Voluntary Liquidators of the said Company for the amount of the stock issued and delivered to the said Liquidators shall be deemed a sufficient acknowledgment of the issue and delivery of so much of the said stock as in such receipt shall be expressed to be issued and delivered to the said Company, and the said Secretary of State in Council shall not be concerned to see to the distribution of the said stock amongst the shareholders of the said Company, or be responsible for any loss or misapplication or wrongful distribution thereof.

3. Upon the execution by the said Voluntary Liquidators of any instrument or instruments purporting to transfer the property or any part thereof of the said Company to the said Secretary of State in Council, such property or part thereof (as the case may be) shall vest in the said Secretary of State in Council according to the tenor and effect of the said instrument or instruments, but discharged from all claims on the part of the said Company and shareholders thereof for the purchase-money of the said property and the stock to be issued in payment thereof.

Receipt of Liquidators to discharge Secretary of State from liability.

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ACT No. X. of 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st April 1870.)

THE LAND-ACQUISITION ACT, 1870.

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An Act for the acquisition of land for public purposes and for Companies.

Whereas it is expedient to consolidate and amend the law for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The Land Acquisition Act, 1870":

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the first day of June 1870.

Repeal of Acts.

2. On and from such day Act No. VI. of 1857 (*for the acquisition of land for public purposes*), Act No. II. of 1861 (*to amend Act No. VI. of 1857*), and Act No. XXII. of 1863 (*to provide for taking land for works of public utility to be constructed by private persons or companies and for regulating the construction and use of works on land so taken*) shall be repealed.

All

All references made to any of the said Acts in subsequent Acts, orders or contracts shall be read as if made to this Act.

Interpretation-Clause.

3. In this Act—

The expression "land" includes benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth.
"Land."

The expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act:
"Persons interested."

The expression "Collector" means, the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act:
"Collector."

The expression "Court" means in the Regulation Provinces, British Burma and Sindh, a principal Civil Court of original jurisdiction, and in the Non-regulation Provinces other than British Burma and Sindh, the Court of a Commissioner of a Division,
"Court."

unless when the Local Government has appointed (as it is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer:

The expression "Company" means a Company registered under the Indian Companies' Act, 1866, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent;
"Company."

And the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—
"Entitled to act."

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted.

PART II.

PART II.

ACQUISITION.

Preliminary Investigation.

4. Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the local Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Thereupon it shall be lawful for any officer either generally or specially authorized by such Government in this behalf, and for his servants and workmen,

to enter upon and survey and take levels of any land in such locality :

to dig or bore into the sub-soil :

to do all other acts necessary to ascertain whether the land is adapted for such purpose :

to set out the boundaries of the land proposed to be taken and the intended line of the work, (if any) proposed to be made thereon :

to mark such levels, boundaries and line by placing marks and cutting trenches ;

and where otherwise the survey cannot be completed and the levels taken, and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Declaration of intended acquisition.

6. Subject to the provisions of Part VII. of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made

made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders :

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid out of public revenues, or out of some Municipal Fund, or by a Company.

The declaration shall be published in the local official Gazette and shall state the District or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be ; and after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section four) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

9. The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Such notice shall state the particulars of the land so needed and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice) and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests.

The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested,

interested, as reside, or have agents authorized to receive service on their behalf, within the Revenue District in which the land is situate.

In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post.

10. The Collector may also require any such person to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Power to require statements as to names and interests.

Every person required to make or deliver a statement under this section or section nine, shall be deemed to be legally bound to do so within the meaning of sections one hundred and seventy-five and one hundred and seventy-six of the Indian Penal Code.

Persons required to make statements to be deemed legally bound to do so.

Enquiry into value and claims.

11. On the day so fixed, the Collector shall proceed to enquire summarily into the value of the land and to determine the amount of compensation which in his opinion should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice.

Enquiry into value and amount of compensation.

Tender.

For the purpose of such enquiry, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (as far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

Power to summon witnesses.

12. The Collector may, if no claimant attends pursuant to the notice, or if for any other cause he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

Postponement of enquiry.

13. In determining the amount of compensation the Collector shall take into consideration the matter mentioned in section twenty-four, and shall not take into consideration any of the matters mentioned in section twenty-five.

Matters to be considered and matters to be neglected.

Award

Award by Collector.

14. If the Collector and the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

Award in case of agreement as to compensation.

Such award shall be filed in the Collector's office and shall be conclusive evidence, as between the Collector and the persons interested, of the value of the land and the amount of compensation allowed for the same.

Award to be filed and to be evidence.

15. When the Collector proceeds to make the enquiry as aforesaid, whether on the day originally fixed for the enquiry or on the day to which it may have been postponed,

Reference where no claimant attends, or if Collector and persons interested cannot agree.

if no claimant attends,

or if the Collector considers that further enquiry as to the nature of the claim ought to be made by the Court,

or if any person whom the Collector has reason to think interested does not attend,

or if the Collector is unable to agree with the persons interested who have attended in pursuance of the notice as to the amount of compensation to be allowed,

or if upon the said enquiry any question respecting the title to the land or any rights thereto or interests therein arise between or among two or more persons making conflicting claims in respect thereof,

the Collector shall refer the matter to the determination of the Court in manner hereinafter appearing.

Taking possession.

16. When the Collector has made an award under section fourteen or a reference to the Court under section fifteen, he may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances.

Power to take possession.

17. In cases of urgency, whenever the Local Government so directs, the Collector (though no such reference has been directed or award made) may, on the expiration of fifteen days from the publication of the notice mentioned in the first paragraph of section nine, take possession of any waste or arable land needed for public purposes or for a Company.

Power to take possession in cases of urgency.

Such land shall thereupon vest absolutely in the Government free from all encumbrances.

The

The Collector shall offer to the persons interested compensation for the standing crops and trees (if any) on such land ; and in case such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. In making a reference under section fifteen, the Collector shall state for Collector's statement on reference to Court. the information of the Court, in writing under his hand,

- (a) the situation and extent of the land needed,
- (b) the names of the persons whom he has reason to think interested in such land,
- (c) the amount awarded for damages and paid or tendered under sections five and seventeen, or either of them, the amount of compensation tendered for the land under section eleven, or, if no claimant has attended pursuant to the notice mentioned in section nine, the amount of compensation which the Collector is willing to give to the persons interested, and
- (d) the grounds on which the amount of compensation was determined.

19. The Court shall thereupon cause to be served on each of the persons so named a notice requiring him (if he has not made a claim Service of notice. under section nine) to state to the Court, on or before a day to be therein mentioned, the sum which he claims as compensation for his interest in the land so needed.

The Court shall also cause a notice to be served on the Collector and each of such persons requiring them to appoint on or before a day to be therein mentioned, two qualified assessors (one to be nominated by the Collector and the other by the persons interested) for the purpose of aiding the Judge in determining the amount of the compensation.

If no claimant has attended pursuant to the notice mentioned in section nine, the Court shall cause to be affixed on some conspicuous place on or near the land needed a notice to the effect that, if the persons interested in such land do not, on or before a day to be therein mentioned, appear in Court and state the nature of their respective interests in the land and the amount and particulars of their claims to compensation, and nominate a qualified assessor, the Court will proceed to determine such amount.

20. In

Power to appoint an assessor.

20. In case of failure to nominate either of such assessors within the time so specified, the Judge shall himself appoint an assessor in his stead.

21. As soon as the assessors have been appointed, the Judge and the assessors shall proceed to determine the amount of the Determination of amount. compensation.

22. If before such amount is determined, any of the assessors dies or desires to be discharged, or refuses or neglects, or becomes incapable to act, the party by whom he was appointed may appoint some other qualified person to act in his place. Appointment of new assessor.

If the assessor so dying, or desiring to be discharged, or refusing, or neglecting or becoming incapable were appointed by the Judge,

or, in the case of an assessor appointed by either party, if for the space of seven days after notice from the Court for that purpose the party who appointed such assessor fails to appoint another,

the Judge shall appoint some other qualified person in his stead.

Every assessor so substituted shall have the same powers as were vested in the former assessor at the time of his so dying or desiring to be discharged, or refusing or neglecting or becoming incapable. Powers of new assessor.

Proceedings to be in open Court.

23. Every proceeding under section twenty-one shall take place in open Court, and all persons entitled to practice in any Civil Court shall be entitled to appear, plead and act, or to appear and act (as the case may be), in such proceeding.

Matters to be considered in determining compensation.

24. In determining the amount of compensation to be awarded for land acquired under this Act, the Judge and assessors shall take into consideration---

First, the market-value, at the time of awarding compensation, of such land :

Secondly, the damage (if any) sustained by the person interested, at the time of awarding compensation, by reason of severing such land from his other land :

Thirdly, the damage (if any) sustained by the person interested, at the time of awarding compensation, by reason of the acquisition injuriously affecting his other property, whether moveable or immoveable, in any other manner, or his earnings ; and

Fourthly,

Fourthly, if, in consequence of the acquisition, he is compelled to change his residence, the reasonable expenses (if any) incidental to such change.

Matters to be neglected in determining compensation.

25. But the Judge or assessors shall not take into consideration—

First, the degree of urgency which has led to the acquisition :

Secondly, any disinclination of the person interested to part with the land acquired :

Thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit :

Fourthly, any damage which, after the time of awarding compensation, is likely to be caused by or in consequence of the use to which the land acquired will be put :

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired :

Sixthly, any increase to the value of the other land of the person interested, likely to accrue from the use to which the land acquired will be put ; or

Seventhly, any outlay or improvements on such land made, commenced, or effected with the intention of enhancing the compensation to be awarded therefor under this Act.

26. Where the person interested has made a claim to compensation, pursuant to any notice mentioned in section nine or in section nineteen, the amount awarded to him shall not exceed the amount so claimed, or be less than the amount tendered by the Collector under section eleven.

Where the person interested has refused to make such claim, or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded may be less than, and shall in no case exceed, the amount so tendered.

Where the person interested has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him shall not be less than, and may exceed, the amount so tendered.

The provisions of this and the two preceding sections shall be read to every assessor, in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded under this Act.

27. The

Record of assessors' opinions.

27. The opinion of each assessor shall be given orally and shall be recorded in writing by the Judge.

28. In case of a difference of opinion between the Judge and the assessors or any of them upon a question of law or practice or usage having the force of law, the opinion of the Judge shall prevail, and there shall be no appeal therefrom.

Agreement as to amount of compensation.

29. In case the Judge and one or both of the assessors agree as to the amount of compensation, their decision thereon shall be final.

30. In case of difference of opinion between the Judge and both of the assessors as to the amount of compensation, the decision of the Judge shall prevail, subject to the appeal allowed under section thirty-five.

31. Every assessor appointed under this Act, not being an officer of Government, shall receive such fee for his services as the Judge shall direct, provided that such fee shall not exceed five hundred rupees.

Such fee shall be deemed to be costs in the proceeding.

Costs of proceedings taken by order of Court.

32. The costs of all proceedings taken under this Part by order of the Court shall, in the first instance, be paid by the Collector.

33. Where the amount awarded does not exceed the sum tendered by the Collector, the costs of all proceedings under this Part shall be paid by the person interested.

Where the amount awarded exceeds the sum so tendered, such costs shall be paid by the Collector.

34. Every award made under this Part shall be in writing signed by the Judge and the assessors or assessor concurring therein, and shall specify the amount awarded under the first clause of section twenty-four and also the amounts (if any) respectively awarded under the second, third, and fourth clauses of the same section, together with the grounds of awarding each of the said amounts.

It

It shall also state the amount of costs incurred in the proceedings under this Part and by what persons and in what proportions they are to be paid.

Award to state amount of costs.

The costs (if any) payable by the person interested and not deducted under section forty-two may be recovered as if they were costs incurred in a suit, and as if the award were the decree therein.

Recovery of costs.

35. If the Judge differs from both the assessors, as to the amount of compensation, he shall pronounce his decision, and the Collector or the person interested (as the case may be) may appeal therefrom to the Court of the District Judge, unless the Judge whose decision is appealed from is the District Judge, or unless the amount which the Judge proposes to award exceeds five thousand rupees, in either of which cases the appeal shall lie to the High Court.

Appeal from Judge's decision as to compensation.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure for regular appeals in suits.

36. The following provisions of the Code of Civil Procedure:—

Provisions of Code of Civil Procedure made applicable.

- (a) as to adding parties,
 - (b) as to adjournment,
 - (c) as to death, marriage and bankruptcy or insolvency of parties,
 - (d) as to summoning witnesses and their attendance,
 - (e) as to examination of parties and witnesses,
 - (f) as to production of documents, and
 - (g) as to commissions to examine absent witnesses and to make local enquiries,
- shall apply, so far as may be, to proceedings before the Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

37. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified.

38. When

38. When the amount of compensation has been settled under section fourteen, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

Dispute as to apportionment.

39. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under section thirty-eight, the Judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount.

Determination of proportions.

An appeal shall lie from such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie in the first instance to the District Judge.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure for regular appeals in suits.

PART V.

PAYMENT.

40. Payment of the compensation shall be made by the Collector according to the award to the persons named therein, or, in the case of an appeal under section thirty-nine, according to the decision on such appeal:

Payment of compensation to whom made.

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

Proviso.

41. When the amount of the compensation has been settled under section fourteen, if the persons interested shall so desire, the Collector shall, on the making of the said award, pay the amount of such compensation and take possession of the land:

Payment on making award by Collector.

Provided that, in any case where immediate possession is not required, he may allow the occupants (if any) of the land to remain in occupation of the same, upon such terms as he and they may agree on, until possession of the land is required.

42. In addition to the amount of any compensation awarded under Part II. or Part III. of this Act, the Collector shall, in consideration of the compulsory nature of the acquisition, pay fifteen per centum on the market-value mentioned in section twenty-four.

Percentage on market-value.

When

When the amount of such compensation is not paid on taking possession, the Collector shall pay the amount awarded and the said percentage with interest on such amount and percentage at the rate of six per centum per annum from the time of so taking possession:

Provided that the costs, if any, payable to the Collector by the person interested shall be deducted from such amount and percentage.

Provided that, in cases where the decision of the Court under Part III. or Part IV. of this Act is liable to appeal, the Collector shall not pay the amount of compensation or the percentage, or any part thereof, until the time for appealing against such decision has expired, and no appeal shall have been presented against such decision, or until any such appeal shall have been disposed of.

PART VI.

TEMPORARY OCCUPATION OF LAND.

43. Subject to the provisions of Part VII. of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

In case the Collector and the persons interested differ as to the sufficiency of the compensation, the Collector shall refer such difference for the final order of the Court.

44. On payment of such compensation, or on executing such agreement,

or on making a reference under section forty-three,

the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

And

And on the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein;

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term; and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

45. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference for the final order of the Court, and on such reference, or on a reference under section forty-three, the Judge sitting alone shall decide the difference referred.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

46. Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section four.

In every such case section four shall be construed as if, for the words "for such purpose," the words "for the purposes of the Company" were substituted, and section five shall be construed as if, after the words "the officer," the words "of the Company" were inserted.

47. The provisions of section six to section forty-five (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the local Government, and unless the Company shall have executed the agreement hereinafter mentioned.

48. Such consent shall not be given unless the Local Government be satisfied by an enquiry held has hereinafter provided—

- (1.) That such acquisition is needed for the construction of some work, and
- (2.) That such work is likely to prove useful to the public.

Such

Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

Such officer may summon and enforce the attendance of witnesses, and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

49. Such officer shall report to the Local Government the result of the enquiry, and if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council providing to the satisfaction of the Local Government for the following matters, namely:—

- (1.) The payment to Government of the cost of the acquisition :
- (2.) The transfer, on such payment, of the land to the Company :
- (3.) The terms on which the land shall be held by the Company :
- (4.) The time within which, and the conditions on which, the work shall be executed and maintained ; and
- (5.) The terms on which the public shall be entitled to use the work.

50. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India* and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

PART VIII.

MISCELLANEOUS.

51. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section four, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and if no such adult male member

can

can be found, the notice may be served by fixing the copy on the outer door of the house on which the person therein named ordinarily dwells or carries on business.

52. Whoever wilfully obstructs any person in doing any of the acts authorized by section four, or section eight, or wilfully fills up, destroys, damages, or displaces any trench or mark made under section four shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

53. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras, and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

54. Except in the case provided for in section forty-four, nothing in this Act shall be taken to compel the Government to complete the acquisition of any land unless an award shall have been made or a reference directed under the provisions hereinbefore contained.

But whenever the Government declines to complete any such acquisition, the Collector shall determine the amount of compensation due for the damage (if any) done to such land under section four or section eight, and not already paid for under section five, and shall pay such amount to the person injured.

55. The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired.

56. Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any Municipal Fund, or of any Company, the charges incurred by the Collector in such acquisition shall be defrayed from or by such Fund or Company.

57. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

ACT No. X. of 1870.

Bar of suits to set aside awards under Act.

58. No suit shall be brought to set aside an award under this Act.

Limitation of suits for anything done in pursuance of Act.

And no suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Power to make rules.

59. The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

Publication of rules.

All such rules, alterations, and additions shall, when sanctioned by the Governor-General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

ACT No. XII. of 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st April 1870.)

THE NATIVE PASSENGER SHIPS ACT 1870.

ARRANGEMENT OF SECTIONS.

Preamble.

CHAPTER I.—Preliminary.

SECTION.

1. Short title.
2. Extent of Act.
Act not to apply to Ships-of-War, &c.
Or to sea-going Steam Vessels conveying public mails.
3. Repeal of Act.
4. Interpretation-clause.

CHAPTER II.—Rules as to Native Passenger Ships.

5. Native Passenger Ship to sail only from Ports appointed by Government.
6. Not to sail without obtaining a certificate.
7. Penalty.
8. Appointment of Officers.
9. Master to give notice of day of sailing, &c.

10. Power

SECTION.

10. Power to enter and inspect ship.
11. Ship may be surveyed.
12. Officer to be satisfied before giving certificate—
 - (1). That the ship is sea-worthy.
 - (2). That the space between-decks for passengers is sufficient.
 - (3). That the space on the upper deck is sufficient.
 - (4). That there is a due supply of provisions.
13. Number of passengers.
14. List of passengers.
15. Ship taking additional passengers and touching at intermediate Port.
16. Penalty for fraudulent alteration in ship after certificate obtained.
17. Information to be transmitted to Ports of embarkation.
18. Report of Consul, &c., to be admissible in evidence.
19. Depositions to be received in evidence when witnesses cannot be produced.
20. Length of voyage to be fixed by proclamation.
21. Quantity of provisions and water to be shipped.
22. Contract by passengers for supply of their own provisions.
23. Penalty on ships bringing excessive number of passengers from certain Foreign Ports to Indian Ports.
24. Bond when ship clears for a Port in Red Sea.
25. Ships sailing to or from a Port in Red Sea to touch at Aden.
26. Bill of health.

CHAPTER III.—*Coasting Steamers.*

27. Certificates to be furnished to Coasting Steam Vessels intended to carry passengers.
28. Certificates to Coasting Steam Vessels how to be granted, &c.
29. Copy of certificate to be placed in conspicuous part of ship.
30. Penalty for excess of number specified in certificate.
31. Penalty for proceeding without certificate.
32. Grant or revocation of certificate to be subject to control of Government.

CHAPTER IV.—*Miscellaneous.*

33. Penalty on landing passenger at a place other than that at which he has contracted to land.
34. Passenger's right of action preserved.

35. Adjudication

35. Adjudication of offences.
Fine leviable by distress on ship.
36. Jurisdiction.
37. By whom proceedings for penalties to be instituted.
38. Application of fines.

An Act for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages.

WHEREAS abuses have occurred in the overcrowding of Ships conveying Native Passengers between Ports and places in India, and Ports and places in the Red Sea or Persian Gulph; and whereas similar abuses have also occurred in the case of ships commanded or owned by subjects of Her Majesty and conveying Native Passengers between other Ports and places situate east of the Cape of Good Hope, and Ports and places in the Red Sea or Persian Gulf; and whereas it is expedient to prevent such abuses, and to provide for the regulation of all such Ships as aforesaid which shall depart from or arrive at any of the said Ports or places in India, and also for the regulation of Steam Vessels intended to carry passengers on coasting voyages; It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

Short title.

1. This Act may be called "The Native Passenger Ships Act, 1870."

Extent of Act.

2. This Act extends to all subjects of Her Majesty whether within British India or within the dominions of Princes of States in India in alliance with Her Majesty, and to all persons being Native Indian subjects of Her Majesty without and beyond British India.

Nothing in this Act applies to any Ship-of-War or Transport belonging to or in the service of Her Majesty or to any Ship-of-War belonging to any Foreign Prince or State, or to any Ship under contract with the Government of any European State, or to any sea-going Steam Vessel employed in the conveyance of the public mails under a contract.

Act not to apply to Ships-of-War, &c.

Or to sea-going Steam Vessels conveying public mails.

Repeal of Act.

3. Act No. XXI. of 1858 (*for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages*) is hereby repealed; and section one of Act No. II. of 1860 (*to amend the law relating to the carriage of Passengers by sea*) shall be read as if, for the

the words and figures " Act XXI. of 1858," the words and figures "The Native Passenger Ships Act, 1870," were substituted.

4. In this Act—

The word "Magistrate" means a person exercising powers not inferior to those of a Subordinate Magistrate of the first class, and includes a Justice of the Peace, and, at the Port of Aden, the Political Resident and his Assistants :

Interpretation-clause,
"Magistrate."

The words "Local Government" mean the person or persons for the time being immediately administering the Executive Government of the territories where the Port or place in question is situate :

The word "Master" includes every person having command or charge of a Vessel :

The words "Native Passenger Ship" mean a vessel carrying more than thirty passengers being natives of Asia or Africa, which may depart or proceed on any voyage from a Port or place in British India or in the said dominions to any Port or place in the Red Sea or Persian Gulf, or which may arrive at any Port or place within British India or the said dominions from any Port or place in the Red Sea or Persian Gulf, having on board more than thirty such passengers.

"Native Passenger Ship."

CHAPTER II.—*Rules as to Native Passenger Ships.*

5. No Native Passenger Ship shall depart or proceed upon any voyage to which this Act extends from any Port or place within British India or the said dominions other than such Ports and places as the Local Government may from time to time appoint; and after any Native Passenger Ship has departed or proceeded upon any such voyage from a Port or place so to be appointed, no person shall be received on board as a passenger, except at some other duly appointed Port or place.

Native Passenger Ship to sail only from Ports appointed by Government.

6. No Native Passenger Ship shall depart or proceed upon any such voyage from any Port or place appointed under this Act, until the Master shall have obtained a certificate from an officer authorized to grant the same.

Not to sail without obtaining a certificate.

7. If any Native Passenger Ship departs or proceeds upon a voyage from any Port or place within British India or the said dominions,

Penalty.

or

or if any person is received as a passenger on board a Native Passenger Ship in contravention of the provisions of section five or section six,

the Owner or Master shall, for every passenger conveyed on a ship unlawfully departing or proceeding on such voyage, or for every passenger unlawfully received on board, be liable to a penalty not exceeding one hundred rupees, or to imprisonment not exceeding one month, or to both;

and the Ship, if found within two years in any place within British India, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act have been adjudicated, and the payment of the fines imposed under this Act, with all costs, has been enforced under the provisions of section thirty-five.

8. Within British India, the Local Government shall appoint such persons as it may deem proper to exercise or perform the powers and duties conferred and imposed by this Act.

Appointment of Officers.

9. The Master of any Native Passenger Ship sailing from any Port or place appointed under this Act, shall give notice to the proper officer that the Ship is to carry Native Passengers, and of her destination, and of the proposed day of sailing; such notice shall be given not less than three days before the proposed day of sailing.

Master to give notice of day of sailing, &c.

10. After receiving such notice, the officer aforesaid, or any person authorized by him, shall be at liberty at all times to enter and inspect the Ship and the fittings, provisions, and stores therein;

Power to enter and inspect Ship.

and any person impeding or refusing to allow such inspection shall be liable, on conviction, to a fine not exceeding five hundred rupees for each offence, or to imprisonment for a term not exceeding three months, or to both.

11. The officer aforesaid may, if he think fit, cause the Ship to be surveyed at the expense of the Master by a competent surveyor, who shall report whether the Ship is, in his opinion, sea-worthy and fit for her intended voyage.

Ship may be surveyed.

Officer to be satisfied before giving certificate.

12. The officer aforesaid shall not give his certificate, unless he shall be satisfied—

That the Ship is sea-worthy.

(1). That the Ship is sea-worthy and properly manned, equipped, fitted, and ventilated; and has not on board any cargo

cargo likely, from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers.

(2.) That the space appropriated to the passengers in the between-decks contains at the least twelve superficial and seventy-two cubical feet of space for every adult passenger on board, that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years.

That the space between-decks for passengers is sufficient.

(3.) That a space of four superficial feet per adult is left clear on the upper deck for the use of the passengers.

That the space on the upper deck is sufficient.

(4.) That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale hereinafter contained.

13. No such ship shall carry any greater number of passengers than, together with the Master and crew, shall amount to the proportion of two persons for every three tons of the registered or estimated tonnage of the Ship.

Number of passengers.

14. The Master of any such Ship, before departing or proceeding on any such voyage from any Port or place in British India, shall sign two lists, specifying (as accurately as may be) the names of all the passengers, and stating the number of the crew; and shall deliver them to the officer aforesaid, who shall thereupon (after having first mustered the passengers and compared the number and names of such passengers with the lists) countersign and return to the Master one of such lists.

List of passengers.

The Master shall note in writing on such last-mentioned list, and on any additional list to be made under this Act, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith, on the arrival of the Ship at her destination or at any Port at which it may be intended to land passengers and before any passengers are landed, produce the list, with any additions hereto made, to any persons lawfully exercising Consular authority on behalf of Her Majesty at the Port of arrival if it be a Foreign Port, or to the Chief Officer of Customs, or the Officer (if any) appointed under this Act, at any Port or place at which it shall be intended to land the passengers or any of them.

In case of non-compliance with any of the requirements of this section on the part of the Master, or if any false entry be wilfully made by him in any such list, the Master shall be liable to a fine not exceeding five hundred rupees for each offence, or to imprisonment for a term not exceeding three months, or to both.

15. If,

15. If, after the Ship shall have departed or proceeded on any such voyage, any additional passengers are taken on board at a Port or place within British India or the said dominions, appointed under this Act for the embarkation of passengers,

Ship taking additional passengers and touching at intermediate Port.

or if such Ship shall, upon her voyage, touch or arrive at any such Port, having previously received on board additional passengers at any place beyond British India or the said dominions, the Master shall obtain a fresh certificate from the officer at such Port, and shall make lists of all such additional passengers; and all the provisions herein before contained in that behalf shall be applicable to any certificate granted or list made under this section.

In case the Master fail to obtain any such fresh certificate, or to make any such list of additional passengers, he shall be liable to a fine not exceeding five hundred rupees, or to imprisonment for a term not exceeding three months, or to both.

16. If any Master of a Ship, after having obtained a certificate under section six or section fifteen of this Act, shall fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the Ship, its passengers, or other matters to which such certificate relates, he shall be liable to a fine not exceeding two thousand rupees, or to imprisonment not exceeding six months, or to both.

Penalty for fraudulent alteration in Ship after certificate obtained.

17. The Chief Officer of Customs, or the officer (if any) appointed under this Act, at any Port or place within British India at which the Ship shall touch or arrive, shall, with advertence to the requirements of this Act, transmit any particulars which he may deem important respecting the Ship and the passengers conveyed therein, to the officer at the Port from which the Ship commenced her voyage, and also to the officer at any other Port within British India or the said dominions where the passengers or any of them embarked.

Information to be transmitted to Ports of embarkation.

18. In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars as are referred to in the last preceding section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any Foreign Port, shall be received in evidence, if the same appears to have been

Report of Consul, &c., to be admissible in evidence.

officially

officially transmitted to any officer at or near the place where the proceeding under this Act is had.

19. Whenever, in the course of any legal proceeding instituted under this Act at any Port or place in British India, the testimony of any witness is required in relation to the subject-matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the Port or place where such proceedings are instituted) or any British Consular Officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate or Consular Officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted:

Provided that, if the proceeding is criminal, such deposition shall not be admissible unless it was made in the presence of the person accused, and the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

20. Within British India, the Local Government may, by any proclamation to be from time to time issued for that purpose and published in the Government Gazette (if any), or in one of the public newspapers, declare what shall be deemed, for the purposes of this Act, the duration of the voyage of any Native Passenger Ship from any Port or place in British India or the said dominions to any other Port or place.

21. Every Native Passenger Ship, at the time of departure from the Port or place at which passengers shall be embarked under this Act, shall have on board good and wholesome provisions for the use and consumption of the passengers, over and above the victualling of the crew, to the amount or in the proportion following, that is to say, a supply of water to the amount of five gallons to every week of the declared duration of the voyage for every passenger on board, such water being carried in tanks or sweet casks, and a supply of rice, flour, oatmeal, or bread-stuffs to the amount of seven pounds weight to every week of such duration voyage for every such passenger; Provided

Deposition to be received in evidence when witnesses cannot be produced.

Length of voyage to be fixed by proclamation.

Quantity of provisions and water to be shipped.

Provided that, when any such Ship shall be destined to call at a Port or place in the course of her voyage for the purpose of filling up her water casks, a supply of water at the rate before mentioned for every week of an average voyage to such Port or place of calling, shall be deemed to be a compliance with this Act.

The provision of this section regarding food shall be deemed to have been complied with in any case where it shall appear that, by the special authority of the Local Government, any other articles of food were substituted for the articles above enumerated as being equivalent thereto.

22. The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who may have contracted to furnish his own provisions.

23. If any ship, bringing passengers from any Port or place east of the Cape of Good Hope and not within British India or the said dominions to any Port or place within British India or the said dominions, shall have on board a greater number of passengers or persons than in the proportion prescribed by this Act, the Master of such Ship shall, in addition to any other penalty which he may have incurred under the provisions of this Act, be liable, on conviction, for each person in excess of such proportion to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

24. In the case of every Native Passenger Ship sailing from any Port within British India to any Port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such Ship, shall not grant such clearance unless and until the Owner, Agent or Master of such Ship and two sureties resident in British India shall, by a joint and several bond, have become bound unto the Secretary of State for India in Council in the penal sum of rupees five thousand, conditioned to be void if the said Ship touches at Aden on her outward and also on her homeward voyage and does not leave that Port without having obtained from the proper authority a clean bill of health.

25. Every Ship carrying more than thirty passengers being Natives of Asia or Africa and sailing from any port east of the Cape of Good Hope to any Port in the Red Sea, or sailing from any Port in the Red Sea to any Port east of the Cape of Good Hope,

shall

Contract by passengers for supply of their own provisions.

Penalty on Ships bringing excessive number of passengers from certain Foreign Ports to Indian Ports.

Bond when Ship clears for a port in Red-Sea.

Ships sailing to or from a port in Red Sea to touch at Aden.

shall touch at Aden, and shall not leave that Port without having obtained from the proper authority a clean bill of health.

Every Master of a ship offending under this section, shall, for every such offence, be liable to a fine not exceeding two thousand rupees, or to imprisonment not exceeding six months, or to both.

26. No bill of health shall be granted under section twenty-four or section twenty-five in case the Ship has on board a greater number of passengers or persons than in the proportion prescribed by this Act.

Bill of health.

CHAPTER III.—Coasting Steamers.

27. Steam Vessels intended to carry passengers on coasting voyages from or to any Port or place within British India, shall, before proceeding on such voyages, be furnished with certificates granted in manner hereinafter provided.

Certificates to be furnished to coasting Steam Vessels intended to carry passengers.

28. Every such certificate shall be granted at the discretion of an officer authorized by the Local Government to grant the same, and shall remain in force for the period therein specified, unless sooner revoked.

Certificates to coasting Steam Vessels how to be granted, &c.

The officer so authorized shall not grant such certificate, or suffer the same to remain in force, unless he is satisfied, by inspection or survey (to be made at least twice in each year at the expense of the Master or Owner, and upon payment of a fee not exceeding twenty rupees), that such Steam Vessel is sea-worthy and properly equipped with boats and otherwise, and that the engines and machinery are in a fit state to enable her to proceed on her voyage.

The certificate shall state the limits (if any) within which the Vessel is to ply, and the number of Native Passengers which the Vessel is permitted to carry: such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, and the cargo carried, as the case requires.

29. The Owner or Master of any such Steam Vessel shall put up in a conspicuous part of the Ship, so as to be visible to persons on board the same, a copy of the said certificate, and shall cause it to be continued in such position so long as the certificate remains in force; and in default, such Owner or Master shall, for each offence, be liable to a fine not exceeding two hundred rupees, or to imprisonment for any term not exceeding a month, or to both.

Copy of certificate to be placed in conspicuous part of Ship.

30. If

30. If such Steam Vessel has on board thereof any number of passengers which, having regard to the time of the year and other circumstances, is greater than the number allowed by the certificate, the Owner or Master shall, for every passenger over and above the number allowed by the certificate, be liable to a fine not exceeding twenty rupees, or to imprisonment not exceeding one week, or to both.

Penalty for excess of number specified in certificate.

31. If any such Steam Vessel shall proceed on any such voyage without such certificate as aforesaid, the Owner or Master shall be liable to a fine not exceeding five hundred rupees, or to imprisonment for any term not exceeding three months, or to both.

Penalty for proceeding without certificate.

32. In the grant or revocation of any certificate under this Act, the officer granting or revoking the same shall be subject to the control of the Local Government or of any intermediate authority which that Government may appoint.

Grant or revocation of certificate to be subject to control of Government.

CHAPTER IV.—Miscellaneous.

33. If any Native passenger in any Ship shall be landed at any Port or place other than the Port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for each offence, be liable to a penalty not exceeding two hundred rupees, or to imprisonment for any term not exceeding a month, or to both.

Penalty on landing passenger at a place other than that at which he has contracted to land.

34. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Passenger's right of action preserved.

35. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Adjudication of offences.

If the person on whom any fine is imposed under this Act is the Master or Owner of a Ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said Ship, her tackle, furniture, and apparel.

Fine leviable by distress on Ship.

36. Any

36. For the purpose of the adjudication of penalties under this Act, every offence hereunder shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

37. The penalties to which Masters and Owners of Ships are liable by this Act, shall be enforced only by information laid at the instance of the officers appointed to grant certificates under this Act; or, at any Port or place where there is no such officer, by the Chief Officer of Customs.

38. Any Magistrate imposing any fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such fine is imposed, or in or towards payment of the expenses of the proceedings.

ACT N^o. XIII. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st April 1870.)

An Act to apply the provisions of Act No. XVIII. of 1854 to Railways belonging to, or worked by, Government.

1. ACT No. XVIII. of 1854 (*relating to Railways in India*) shall apply to all Railways now or hereafter belonging to Government, but worked by a Railway Company, in the same manner as if such Railways belonged to the Company and had been opened by the Company in manner mentioned in the preamble to the said Act.

2. Subject to the modifications hereinafter mentioned, the said Act shall apply to all Railways now or hereafter worked by Government in the same manner as if such Railways had been opened by a Railway Company in manner aforesaid.

3. In applying the said Act to any Railway now or hereafter worked by Government, the expressions "servant of the Company," "such servant," "such servant of the Company," "servant of the said Company," "Company's servants," "servants of the Company" "their servants" and "any of their servants" shall mean a servant or servants employed on such Railway:

the expressions "officer or servant of such Railway Company," "officer or servant of such Company," "officer or servant of the Company," "servant or officer of the Company," and "such officer or servant" shall mean an officer or servant employed on such Railway:

the

the expressions "the premises of any such Railway Company," "the premises of the Company," "premises belonging to the Company," "lands belonging to such Railway Company," and "lands, stations or other premises belonging to the Company" shall mean the premises, lands or stations (as the case may be) occupied by or for such Railway:

the expression "delivered to such Railway Company" shall mean "delivered to an officer on behalf of Government," and the expression "engagements on behalf of the said Railway Company" shall mean engagements on behalf of Government:

sections nine and ten shall be read as if, for the expression "No such Railway Company shall," the expression "the Government shall not" were substituted:

the expressions "any such Railway Company," "such Railway Company," "any such Company," and "the Company" shall mean, in sections three, six, eight, eleven, twelve, fifteen, twenty-two, twenty-seven, and thirty, the Government;

but in sections seventeen, nineteen, twenty, twenty-one, twenty-three, forty-one, and forty-two, the expressions "Railway Company," "such Railway Company," "the Company" and "they" (when referring to a Company) shall mean the officer for the time being entrusted with the control of such Railway:

in section twenty the expression "their railway" shall mean such Railway: and section twenty-nine shall be read as follows:—

"XXIX. In the construction of this Act, every officer and servant employed on such Railway shall be deemed to be legally bound to do everything necessary for or conducive to the safety of the public, which he shall be required to do by any regulation made by the officer for the time being entrusted with the control of such Railway and allowed by the Governor-General of India in Council, and of which regulation such officer or servant shall have notice;

and every such officer and servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger and which by any such regulation he shall be prohibited from doing;

and every person employed by or on behalf of the Government to do any act upon the Railway shall be deemed to be a servant employed on such Railway."

ACT No. XIV. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th April 1870.)

An Act for repealing certain enactments which have ceased to be in force, or have become unnecessary.

WHEREAS it is expedient that certain enactments (mentioned in the schedule to this Act) which have ceased to be in force otherwise than by express and specific repeal, or have by lapse of time and change of circumstances become unnecessary, or which merely repeal prior enactments, should be expressly and specifically repealed; It is hereby enacted as follows:—

1. The enactments mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of the same schedule:

Provided that the repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to:

And this Act shall not affect the validity or invalidity of anything already done or suffered, or any indemnity already granted, or any right or title already acquired, or accrued, or any remedy or proceeding in respect thereof, or the proof of any past act or thing:

Nor

Nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized, or derived by, in or from, any enactment hereby repealed :

Nor shall this Act provide or restore any jurisdiction, office, usage, custom, privilege, restriction, exemption, usage or practice not now existing, or in force.

Short Title. 2. This Act may be called "The Repealing Act, 1870."

SCHEDULE. PART I.—STATUTES.			SCHEDULE—(Continued.)		
Year and chapter.	Title.	Extent of repeal.	Year and chapter.	Title.	Extent of repeal.
13 Geo. III., cap. lxi.	An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe.	Sections sixteen, nineteen, twenty, twenty-eight, twenty-nine, thirty-one, thirty-three, thirty-six, and thirty-eight from and including the words "and for that purpose" to the end of the section.	33 Geo. III., cap. lii.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations ; for establishing further regulations for the government of the said territories, and the better administration of justice within the same ; for appropriating to certain uses the revenues and profits of the said Company ; and for making provision for the good order and government of the towns of Calcutta, Madras, and Bombay.	Sections sixty-one, One hundred and thirty-seven from and including the words "nor shall it be lawful for any of His Majesty's subjects" to the end of the section, Sections one hundred and fifty-five and one hundred and fifty-nine.
21 Geo. III., cap. lxx.	An Act to explain and amend so much of an Act, made in the thirteenth year of the reign of his present Majesty, intituled, An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe, as relates to the administration of justice in Bengal ; and for the relief of certain persons imprisoned at Calcutta in Bengal, under a judgment of the Supreme Court of Judicature ; and also for indemnifying the Governor-General and Council of Bengal, and all officers who have acted under their orders or authority, in the undue resistance made to the process of the Supreme Court.	Sections nine to sixteen (both inclusive). Sections nineteen to twenty-six (both inclusive).	37 Geo. III., cap. cxlii.	An Act for the better administration of justice at Calcutta, Madras, and Bombay ; and for preventing British subjects from being concerned in loans to the Native Princes in India.	Sections four to eight (both inclusive), sections fifteen, seventeen to twenty-six (both inclusive), section thirty.
			39 & 40 Geo. III., cap. lxxix.	An Act for establishing further regulations for the government of the British territories in India, and the administration of justice within the same.	Sections four, six, eight, ten, eleven, seventeen, eighteen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four.

SCHEDULE—(Continued.)			SCHEDULE—(Continued.)		
Year and chapter.	Title.	Extent of repeal.	Year and chapter.	Title.	Extent of repeal.
53 Geo. III., cap. clv.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges ; for establishing further Regulations for the government of the said territories, and the better administration of justice within the same ; and for regulating the trade to and from the places within the limits of the said Company's Charter.	Sections ninety-eight, ninety-nine, one hundred and one, one hundred and four, one hundred and eight, one hundred and nine, one hundred and thirteen, one hundred and twenty-two.	5 Geo. IV., cap. cviii.	An Act for transferring to the East India Company certain possessions newly acquired in the East Indies, and for authorizing the removal of convicts from Sumatra.	Section two.
			6 Geo. IV., cap. lxxv.	An Act for further regulating the payment of the salaries and pensions to the Judges of His Majesty's Courts in India, and the Bishop of Calcutta ; for authorizing the transportation of offenders from the Island of Saint Helena ; and for more effectually providing for the administration of justice in Singapore and Malacca, and certain Colonies on the Coast of Coromandel.	Section six.
54 Geo. III., cap. cv.	An Act to remove doubt as to the Duties and Taxes heretofore imposed and levied under the authority of the several Governments in the East Indies.	The whole.	7 Geo. IV., cap. xxxvii.	An Act to regulate the appointment of juries in the East Indies.	So much as has not been repealed.
55 Geo. III., cap. lxxiv.	An Act to amend so much of an Act of the thirty-third year of His present Majesty, as relates to fixing the limits of the Towns of Calcutta, Madras, and Bombay ; and also so much of an Act of the thirty-ninth and fortieth year of His present Majesty, as relates to granting Letters of Administration to the effects of persons dying intestate within the several Presidencies in the East Indies, to the Registrar of the Ecclesiastical Courts ; and to enable the Governor in Council of the said Presidencies to remove persons not being British subjects ; and to make provision for the Judges in the East Indies in certain cases.	The whole Act, except section one.	9 Geo. IV., cap. xxxiii.	An Act to declare and settle the law respecting the liability of the real estates of British subjects and others, situate within the jurisdiction of His Majesty's Supreme Courts in India, as assets in the hands of executors and administrators, to the payment of the debts of their deceased owners.	The whole Act, except as to the estates of persons dying before first day of January 1866.
			11 Geo. IV., & 1 Wm. IV., cap. lxxv.	An Act for the relief of the sufferers by the insolvency of Gilbert Rickets, Esq., formerly Registrar of the Supreme Court of Judicature at Madras.	The whole.
			5 & 6 Wm. IV., cap. vi.	An Act to indemnify the Governor-General and other persons in respect of certain acts done in the administration of the government of the British Territories in the East Indies subsequent to the twenty-second day of April One thousand eight hundred and thirty-four, and to make those Acts valid.	The whole Act as far as it relates to British India.
4 Geo. IV., cap. lxxi.	An Act for defraying the charge of retiring pay, pensions and other expenses of that nature, of His Majesty's Forces serving in India ; for establishing the pensions of the Bishop, Archdeacons, and Judges ; for regulating Ordinations ; and for establishing a Court of Judicature at Bombay.	Sections eight, nine, ten, and fourteen.	11 & 12 Vic., cap. xxi.	An Act to consolidate and amend the laws relating to insolvent debtors in India.	Sections one, sixty-five, sixty-six, and sixty-seven.
			17 & 18 Vic., cap. civ.	An Act to amend and consolidate the Acts relating to Merchant Shipping.	Section nine, so far as it relates to British India.

PART II.—ACTS.			SCHEDULE—(Continued.)		
Number and year.	Subject or Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
X. of 1836. XX. of 1836.	Indigo contracts... Revenue Sale Law	Section one. Sections one and four.	IX. of 1841.	An Act for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company.	The first twenty-one words in section one, and section eighteen.
VI. of 1837. XXXVI. of 1837.	Land Revenue (Cuttaek)... Madras Criminal Jurisdiction Act.	Section two. In section one, the words and figures "It is hereby enacted that from the 15th day of Dec. 1837," and in section two the words "from the said day."	XII. of 1841.	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.	Section one.
XI. of 1838.	Ameens, Bengal...	Section one and in section two the words "And it is hereby enacted that"	XXIX. of 1841.	An Act for amending such parts of the Bengal and Madras Codes as concern the dismissal of suits and appeals for neglecting to proceed in the same.	Section three down to and including the words "are repealed, and"
XVI. of 1838.	Bombay Judiciary	In section one, clause one, the words "It is hereby enacted in modification of the rules contained in chapter VII., Regulation XVII. of 1827 of the Bombay Code that"	XVII. of 1842.	An Act relative to the number and powers of the Revenue Commissioners under the Presidency of Bombay.	Section one and in section two and three the words "and it is hereby enacted that"
		In Section five, the words "without further costs of stamps to the parties except on new exhibits if any such should be allowed to be filed," and from and including the words "but if an appeal" to the end of the section.	XI. of 1843.	An Act for regulating the service of hereditary officers under the Presidency of Bombay.	Section one.
			XI. of 1844.	An Act for the improvement of the administration of justice and despatch of business in the Supreme Court of Judicature at Fort William in Bengal.	The whole.
			XVI. of 1844.	An Act for increasing the Excise and Import Duties heretofore payable to the Government on salt manufactured within or imported into the territories subject to the Government of the Presidency of Bombay.	Sections one, three, and five.
			XVIII. of 1844.	An Act for the better control and management of gaols within the Bengal Presidency.	Section one and in section two the words "And it is hereby enacted that"
			XX. of 1844.	An Act to amend the law relating to advances <i>bona fide</i> made to Agents intrusted with goods, by extending to the territories of the East India Company, in cases governed by English Law, the provisions of the Statute 5 & 6 Victoria, c. 39, as altered by this Act.	Section nine.
XIX. of 1838. XXIX. of 1838. XXXII. of 1838.	Bombay Coasting Vessels... Salt Department, Bengal... Justices of the Peace	Section one. Section one. Sections two and three.	XV. of 1845.	An Act for declaring and enacting the privileges of Native Officers and Soldiers of the Armies of the three Presidencies in respect of judicial and revenue proceedings.	Section six.
VII. of 1839. XXIV. of 1839. XVI. of 1840.	Tahsildars, Madras... Ganjam and Vizagapatam... An Act concerning the management of convicts transported to places within the territories of the East India Company.	Section one. Section one. Section four.			

SCHEDULE—(Continued.)			SCHEDULE—(Continued.)		
Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
VIII. of 1846.	An Act for determining the duration of the existing Settlement of the North-Western Provinces.	Section one so far as it relates to Hisar, Saharanpore, Moolanahur, Meerut, Bulandshur, Allypore, Bijnore, Budaon, Bareilly, Shajehanpore, Furruckabad, Allahabad, Goruckpore, and Azimgurh.	IX. of 1850.	An Act for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.	Section seven. In sections seventeen, the words "by action of debt or on the case," Section one.
I. of 1847.	An Act for the establishment and maintenance of Boundary Marks in the North-Western Provinces of Bengal.	In section six, the words and figures "under Act IV. of 1840."	XI. of 1850.	An Act to amend Act X. 1841.	Section one.
IX. of 1847.	An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar, and Orissa.	Section eight.	XII. of 1850.	For avoiding loss by the default of Public Accountants.	Section six.
XX. of 1847.	An Act for the encouragement of learning in the territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called copy-right therein.	Section seven-teen.	XIX. of 1850.	Concerning the binding of Apprentices.	Section six.
IV. of 1848.	An Act for regulating Coroner's Juries.	In section two, the words and figures "according to the provisions of Act No. II. of 1839."	XXV. of 1850.	An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII., 1819, and Act IV., 1846.	Section one.
XVI. of 1848.	An Act to remove certain restrictions on the salt trade.	The whole.	XXVI. of 1850.	An Act to enable improvements to be made in towns.	Section one.
XVIII. of 1848.	An Act for the administration of the estate of the late Nawab of Surat, and to continue privileges to his family.	Sections three and four.	XXXIII. of 1850.	An Act for amending the forms necessary for the sale of Putnee Tenures in Bengal.	Sections two and three.
I. of 1849.	An Act to provide more effectually for the punishment of offences committed in Foreign States.	Section one.	XXXVII. of 1850.	For regulating inquiries into the behaviour of public servants.	Section one.
VI. of 1849.	For securing Military and Naval pensions and superannuation allowances.	Sections one and four.	XLIV. of 1850.	An Act for consolidating the Board of Customs, Salt and Opium, and the Sudder Board of Revenue in the Lower Provinces of Bengal.	Section one.
XI. of 1849.	For securing the Abkaree Revenue of Calcutta.	Section one.	VI. of 1851.	Respecting certain land in Bombay called Foras Land.	The whole.
			VIII. of 1851.	An Act for enabling Government to levy tolls on public roads and bridges.	Section one.
			V. of 1852.	An Act for giving effect to the provisions of an Act of Parliament, passed in the 15th year of the reign of Her present Majesty, intitled "An Act for Marriages in India."	Section twenty-six.
			XV. of 1852.	An Act to amend the Law of Evidence.	Section fourteen.
			XVI. of 1852.	An Act for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the territories of the East India Company.	Sections ten and twenty-seven.
			XIX. of 1852.	An Act for securing the Abkaree Revenue of Madras.	Section one.

SCHEDULE.—(Continued.)			SCHEDULE.—(Continued.)		
Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
XXIII. of 1852.	To authorize and empower the Governors in Council of the respective Presidencies of Madras and Bombay to mitigate or discharge fines, amercements, &c., imposed by the Supreme Courts, or any other Courts of Justice at Madras and Bombay respectively.	The preamble and section one.	XXIV. of 1854.	An Act to prohibit the possession of certain offensive weapons in Malabar.	In section one from and including the words "and every person" to the end of the section. In section two the words "After such date."
XXIX. of 1852.	An Act to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay.	Section one.	XXVII. of 1854.	An Act to amend the law relating to the Nazim of Bengal.	Section one.
XI. of 1853.	An Act to facilitate the removal of Nuisances and encroachments below High-water Mark in the Islands of Bombay and Colaba.	In section seven, the words "the East India Company as trustees for."	XXX. of 1854.	An Act to provide for the levy of duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.	Sections one and twelve.
XX. of 1853.	An Act to amend the law relating to Pleaders in the Courts of the East India Company.	Section one.	XXXI. of 1854.	An Act to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English Law is applicable.	Section one.
V. of 1854.	An Act to amend Act No. V. of 1838 relating to the Bengal Bonded Warehouse Association.	Section one.	II. of 1855.	An Act for the further improvement of the Law of Evidence.	Section seventeen.
VII. of 1854.	An Act for the apprehension, within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said Territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them.	Section twenty-four.	XXII. of 1855.	An Act for the regulation of Ports and Port-dues.	Section one, and in section thirty-five, the words "or of the Hon'ble Company," section forty-three.
XIII. of 1854.	An Act to repeal Act No. VI. of 1853, and to make provision for defraying the cost of the Light House on Pedra Branca, and for maintaining the same, and also a Floating Light established in the Straits of Malacca, to the west of Singapore, and for the establishment and maintenance of such further Lights in or near to the said Straits as may be deemed expedient.	Section one.	XXIV. of 1855.	An Act to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts.	Section sixteen.
XVI. of 1854.	An Act to amend Regulation XI. of 1831 of the Bengal Code.	Section one.	XXVI. of 1855.	An Act to facilitate the payment of small deposits in Government Savings Banks to the representatives of deceased depositors.	So much of section five as relates to persons dying in the service or in the marine service of the East India Company.
XVIII. of 1854.	An Act relating to Railways in India.	Section thirty-nine.	XXVIII. of 1855.	An Act for the repeal of the Usury Laws.	Sections one, seven, eight, and the schedule.
			XXXII. of 1855.	An Act relating to embankments.	Section one.

SCHEDULE.—(Continued.)			SCHEDULE.—(Continued.)		
Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
XXXVII. of 1855.	An Act to remove from the operation of the general Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.	Section six.	X. of 1857.	An Act to amend Act XXXVII. of 1855.	Section one from the beginning down to and including the words "this Act; and"
VIII. of 1856.	An Act for the better control of the gaols within the Presidencies of Fort St. George and Bombay.	Section one.	XIII. of 1857.	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.	Section one.
XI. of 1856.	An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty and of the East India Company in India.	In the title and the preamble the words "and of the East India Company."	XXIX. of 1857.	An Act to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidency of Bombay.	Section one.
XII. of 1856.	An Act to amend the law respecting the employment of Ameeris by the Civil Courts in the Presidency of Fort William.	Section one.	XXX. of 1857.	An Act for the levy of Port-dues and fees in the Port of Calcutta.	Section seven from the beginning down to and including the words "said date."
XIII. of 1856.	An Act for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.	Section one from the beginning down to and including the words "operation, and"	XXXI. of 1857.	An Act for the levy of Port-dues and fees in the Port of Bombay.	Section six from the beginning down to and including the words "said date."
XX. of 1856.	An Act to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal.	Section one from the beginning down to and including the words "provided that."	XXXIV. of 1857.	An Act relating to the sale of Ganjah in the Presidency of Bombay.	Section one.
XXI. of 1856.	An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.	Sections one and eighty-nine.	XXXV. of 1857.	An Act for the levy of Port-dues in the ports of Moulmein, Rangoon, Kyauk, Phyou, Akyab, and Chittagong.	Section five from the beginning down to and including the words "said date."
III. of 1857.	An Act relating to trespass by Cattle.	Sections one and twenty-two.	II. of 1858.	An Act for the levy of Port-dues in certain ports in the Province of Ootack.	Section five. Section six from the beginning down to and including the words "said date."
IV. of 1857.	An Act to amend the law relating to the duties payable on Tobacco, and the retail sale and ware-housing thereof in the Town of Bombay.	Section one. In section five, the words and figures "within the meaning of Act XXV. of 1836."	III. of 1858.	An Act to amend the law relating to the arrest and detention of State Prisoners.	Section one.
			VIII. of 1858.	An Act for the levy of Port-dues and fees in the Port of Kurrachee.	Section seven. Section eight from the beginning down to and including the words "said date."

SCHEDULE.—(Continued.)			SCHEDULE.—(Continued.)		
Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
XV. of 1858.	An Act for the levy of Port-dues in the Port of Aden.	Sectionsix from the beginning down to and including the words "said date."	XIV. of 1859.	An Act to provide for the limitation of suits.	Sections eighteen, twenty-one, and twenty-three, and, in section nineteen, the proviso.
XXVIII. of 1858.	An Act for the maintenance of a Police Force for the Port of Madras.	Section eleven.	XVII. of 1859.	An Act to amend the law for the realization of revenue from Abkaree in the Island of Bombay.	Section one.
XXXV. of 1858.	An Act to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.	Section one.	XX. of 1859.	An Act for the suppression of Outrages in the District of Malabar in the Presidency of Fort Saint George.	Section one.
XL. of 1858.	An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.	Section one.	XXII. of 1859.	An Act to amend Act I. of 1859 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay).	Section one.
I. of 1859.	An Act for the amendment for the law relating to Merchant Seamen.	Section one.	XXIV. of 1859.	An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.	Sections two and three and the schedule down to and including the words "said clause."
III. of 1859.	An Act for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those officers Registers of Deeds.	In section eleven, the words "or who shall be appointed Register of Deeds," and the words "and Registers of Deeds respectively."	XXV. of 1859.	An Act to prevent the overcrowding of Vessels carrying Native Passengers in the Bay of Bengal.	Section nineteen.
VIII. of 1859.	An Act for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.	In section three hundred and eighty-two, the words "in any Court of Judicature established by Royal Charter or"	II. of 1860.	An Act to amend the law relating to the carriage of Passengers by Sea.	In section one, the words and figures "under Act XV. of 1842," "under Act XXI. of 1844," "under Act XXXI. of 1855."
		Section three hundred and eighty-seven.	VIII. of 1860.	An Act for regulating the establishment and management of Electric Telegraphs in India.	Section one.
X. of 1859.	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	Sections one and one hundred and sixty-seven.	XXIII. of 1860.	An Act to amend Act XXI. of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).	Section one, from the beginning down to and including the word "repealed," and the schedule.
XI. of 1859.	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.	Section one.	XXV. of 1860.	An Act for the levy of Port-dues in the Port of Bassein.	Section five from the beginning down to and including the words "said date."
XII. of 1859.	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	Section one.			

SCHEDULE.—(Continued.)			SCHEDULE.—(Continued.)		
Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
XXVIII. of 1860.	An Act for the establishment and maintenance of boundary marks, and for facilitating the settlement of boundary disputes in the Presidency of Fort Saint George.	Sections one and thirty-three.	XIX. of 1861.	An Act to provide for a Government Paper Currency.	In the preamble from and including the words "and whereas due notice" down to and including the words "hereinafter provided"
XXXI. of 1860.	An Act relating to the manufacture, importation, and sale of arms and ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.	Sections one, fifty-two, and fifty-five.			Section one. In section two the words "After the passing of this Act," and the words "except the Banks of Bengal, Madras, and Bombay, up to the said 1st day of March 1862, and"
XLV. of 1860.	The Indian Penal Code ...	In section five, the words "or of the East India Company, or of any Act for the government of the Indian Navy."	XXIII. of 1861.	An Act to amend Act VIII. of 1859 (for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter).	Sections one & forty-three.
XLVI. of 1860.	An Act to authorize and regulate the emigration of Native labourers to the French Colonies.	Section one.	XXV. of 1861.	An Act for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.	Section four hundred and forty-five except so far as it empowers the Governor-General in Council to extend the Act.
XLVIII. of 1860.	An Act to amend Act XIII. of 1856 (for regulating the Police of the towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca).	Section one, from the beginning down to and including the words "repealed and"	IV. of 1862.	An Act for regulating the Bank of Bengal.	Sections one and forty-two, and the second proviso in section eleven.
L. of 1860.	An Act to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal.	Section one.			
X. of 1861.	An Act to repeal certain Regulations and Acts relating to the procedure of the Courts of Civil Judicature not established by Royal Charter.	The whole.	XIII. of 1862.	An Act to provide for a new Silver and a new Copper Coinage.	Section one.
XIV. of 1861.	An Act to remove certain tracts of country in the Rohilkund Division from the jurisdiction of the tribunals established under the general Regulations and Acts.	In section four, the words "shall not call for the futwah of its law Officer and"	XX. of 1862.	An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain sections of Act VIII. of 1859 in the said High Court.	Sections seven, eleven, and twelve.
XVI. of 1861.	An Act for licensing and regulating stage carriages.	Section seven.			
XVII. of 1861.	An Act to amend Act XIV. of 1843 (for regulating the Customs Duties in the North-Western Provinces).	Section three.	XXIII. of 1862.	An Act to amend Act XI. of 1862 (to amend the duties of Customs on goods imported and exported by sea).	The whole.

SCHEDULE.—(Continued.)			SCHEDULE.—(Continued.)		
Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
I. of 1863.	An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said territory.	Sections one and twenty-eight.	XIII. of 1864.	An Act to consolidate and amend the laws relating to the emigration of Native labourers.	Sections one and eighty-four, and Schedule A.
VI. of 1863.	An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.	Sections two and two hundred and thirty.	XVII. of 1864.	An Act to constitute an Office of Official Trustees.	Section two.
VIII. of 1863.	An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.	Section one.	XXII. of 1864.	An Act to make provision for the Administration of Military Cantonments.	Sections two, thirty-seven, and the schedule.
XII. of 1863.	An Act to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.	Sections two, three, four, five, six.	XXIV. of 1864.	An Act relating to the administration of certain Districts under the Government of the Lieutenant Governor of the North-Western Provinces.	Section fifteen.
XV. of 1863.	An Act to amend Act I. of 1859 (for the amendment of the law relating to Merchant Seamen).	Section one.	XXVIII. of 1864.	An Act to provide for the extension of Act XXI. of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal), to the provinces under the control of the Lieutenant Governor of the Punjab.	Section three.
XIX. of 1863.	An Act to consolidate and amend the law relating to the partition of estates paying revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal.	Section one, and the first eight words of section two.	XI. of 1865.	An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature.	Section two, from the beginning down to and including the words "Provided that" and from and including the words "and all suits" down to the end of the section.
XX. of 1863.	An Act to enable the Government to divest itself of the management of Religious Endowments.	Section fifty.			
XXIV. of 1863.	An Act to amend Act I. of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said territory).	Sections four and five.	XII. of 1865.	An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns	In section nine, the words "From and after the date on which this Act shall come into operation," and, in sections twenty-two, twenty-three, twenty-four, and forty-four, the words "From and after the commencement of this Act," Sections forty-five and forty-six.
VII. of 1864.	An Act for regulating the importation and manufacture of alimentary salt, in the territories administered by the Chief Commissioner of the Central Provinces.	Section one.			
XII. of 1864.	An Act to give further effect to the provisions of Act IV. of 1863 (to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.	Section two.			

SCHEDULE.—(Continued.)			SCHEDULE.—(Continued.)		
Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
of 1865.	An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.	Section twenty-four.	XIV. of 1866.	The Indian Post Office Act, 1866.	In section one, the words "shall come into operation on the first day of May 1866, and"
of 1865.	An Act to define and amend the law relating to Marriage and Divorce among the Parsees.	In sec. seven, the words "who may be the Registrar appointed under Act XVI. of 1864 (to provide for the registration of assurances)," In section fifty-three, the words "shall commence and take effect on the first day of September 1865, and"	XX. of 1866.	The Indian Registration Act, 1866.	Section three, and section ninety-eight from the beginning down to and including "notwithstanding," Section one hundred and two.
of 1865.	An Act to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.	Sections twenty-four and twenty-five.	XXII. of 1866.	An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimmulgherry, and Arungabad.	In section one, the words "From and after the passing of this Act."
of 1865.	An Act to amend the law relating to Pleaders and Mookhtars.	Section three and the first schedule.	XXVI. of 1866.	An Act to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that Province.	Section two.
of 1866.	An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.	Sections forty-five, fifty-two, and fifty-four.	XXVII. of 1866.	An Act to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in mortgages and trustees, in cases to which English law is applicable.	Section one.
of 1866.	An Act to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India.	In section two, the words "From and after the first day of May 1863."	XII. of 1867.	An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, and Madras and Bombay.	Section two and the schedule.
of 1866.	The Indian Companies' Act.	Sections two hundred and nineteen, two hundred and twenty, two hundred and twenty-one, and two hundred and twenty-two, and the third schedule.	XVIII. of 1867.	An Act to define the jurisdiction of the Courts of Civil Judicature in the Jhānsi Division.	Section two.
of 1866.	An Act to repeal Act No. IV. of 1855 (for incorporating for a further period, and for giving further powers to the Assam Company).	The whole.	XXIV. of 1867.	An Act to consolidate and amend the law relating to the office and duties of Administrator-General.	Section two and the schedule.
of 1866.	An Act for the regulation of Printing Presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.		XXV. of 1867.	An Act for the regulation of Printing Presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.	Sections two and twenty-three.

SCHEDULE.—(Continued.)			SCHEDULE.—(Continued.)		
Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
XXXIV. of 1867.	An Act to repeal Act No. XIX. of 1866 in the places to which the Madras Salt Excise Act, 1867, may be made applicable.	The whole.	XXV. of 1868.	An Act to define the jurisdiction of the Courts in Coorg.	Section twenty four.
XXXV. of 1867.	An Act to provide temporary assistance to the Financial Commissioner of the Punjab.	The whole.	XXVIII. of 1868.	An Act to define and amend the law relating to the tenancy of land in the Punjab.	Section four.
III. of 1868.	An Act to authorize the Local Government of the Punjab to invest any person with the powers of an Assistant Commissioner or Tahsildar.	Section three.	II. of 1869.	An Act for the appointment of Justices of the Peace.	Section two and the schedule.
VIII. of 1868.	An Act for repealing certain enactments which have ceased to be in force or have become unnecessary.	The whole.	III. of 1869.	An Act for the maintenance of the Rural Police in the North-Western Provinces.	Section two.
XI. of 1868.	An Act to exempt Timber and Woods from Import Duty.	The whole.	V. of 1869.	The Indian Articles of War.	Part I., clause (c), paragraph one, two, and three.
XIII. of 1868.	An Act to exempt the King of Oudh from the jurisdiction of the Civil Courts, and for other purposes.	Section one.	VI. of 1869.	An Act to amend the law relating to the Emigration of Native labourers.	Sections ten and eleven.
XVI. of 1868.	An Act to consolidate and amend the law relating to Principal Sadr Amin, Sadr Amin, and Muniffs in Bengal, and for other purposes.	Section one and the schedule.	VII. of 1869.	An Act to give validity to certain Rules relating to Forests in British Burmah.	In the preamble the words "and to indemnify the officers and other persons who have acted under them;"
XVII. of 1868.	An Act to appoint a Commission to enquire into the failure of the Bank of Bombay.	The whole.	VIII. of 1869.	An Act further to amend the Code of Criminal Procedure.	Section two.
XVIII. of 1868.	An Act for investing the Commissioner and Assistant Commissioner of the Neilgherry Hills with the powers of a Court of Small Causes.	Section five.	XI. of 1869.	An Act to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidencies of Fort St. George and Bombay.	Section two, paragraph one.
XIX. of 1868.	An Act to consolidate and amend the law relating to rent in Oudh.	Section two.	XIV. of 1869.	An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.	Section two and the schedule.
XX. of 1868.	An Act to give validity to the levy of certain duties in Lucknow.	The whole.	XVIII. of 1869.	An Act for imposing Stamp Duties on certain Instruments.	Sections two and the third schedule.
XXIII. of 1868.	An Act to give validity to certain Abkari Rules in British Burmah.	In the preamble, the words "and to indemnify all officers, farmers and other persons who have acted under them, or under any such rules previously published or enforced under the same authority."	XX. of 1869.	An Act to provide for the good order and discipline of Volunteer Corps, and to invest them with certain powers.	Section three.
		And section two	XXII. of 1869.	An Act to remove the Garo Hills from the jurisdiction of the tribunals established under the General Regulations and Acts, and for other purposes.	Sections two and three.
			XXIV. of 1869.	An Act to enhance the price of Salt in the Presidency of Fort St. George and the duty on Salt in the Presidency of Bombay.	Section one.
			VII. of 1870.	The Court Fees Act	Section two and the third schedule.

ACT No. XV. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th April 1870.)

An Act for the further amendment of Act No. XIX. of 1861.

For the purpose of further amending Act No. XIX. of 1861 (to provide for a Government Paper Currency) ; It is hereby enacted as follows:—

1. In section four of the said Act, the words 'who may be the Master of the Mint at Calcutta' and the words 'who may be the Master of the Mint at Madras and the Master of the Mint at Bombay' shall be repealed.
2. Section ten of the said Act shall be read as if, for the words 'four crores,' the words 'six crores' were substituted.

[PRICE 6 PIES.]

 ACT N^o. XVI. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th April 1870.)

THE INCOME TAX ACT, 1870.

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An Act for imposing duties on Income and Profits.

Preamble. FOR the purpose of imposing duties on income and profits arising from offices, property, professions and trade; It is hereby enacted as follows:

PART I.

PRELIMINARY.

Short title. This Act may be called "The Indian Income Tax Act."
Extent of Act. It extends to the whole of British India;

It shall be deemed to have come into operation on the first day of April 1870, and it shall cease to be in force on the thirty-first day of March 1871, except as to taxes and penalties then due and incurred thereunder.

2. On and from the said first day of April 1870, the Acts mentioned in the third schedule hereto shall be deemed to have been and shall be repealed to the extent specified therein, except as to taxes due under any of such Acts.

The references made in the Court Fees Act, Schedule II., to the Indian Income Tax Act shall be deemed to be made to this Act.

3. In this Act—unless there be something repugnant in the subject or context—

"Magistrate" means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class, and includes a Magistrate of Police and a Justice of the Peace:

"Company" means an Association carrying on business in British India whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:

"Firm." "Firm" includes a Hindú undivided family:

"Person." "Person" includes a firm:

"Defaulter." "Defaulter" includes a firm making default under this Act:

In the case of any Company or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And in the case of any person

person chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person resides.

4. Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces, or of Her Majesty's Indian Forces, who are not in Civil employment, when such pay and allowances do not exceed five hundred rupees per mensem;

or to any moveable or immoveable property solely employed for or dedicated to religious or charitable public purposes.

And no member of a firm which is for the time being chargeable under this Act shall, as such, be chargeable under this Act.

5. The Governor-General of India in Council may from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income and profits of any tribe or class of persons in British India.

The Governor-General of India in Council may revoke any such order.

All orders and revocations made under this section shall be published in the *Gazette of India*.

PART II.

DUTIES ON OFFICES.

6. A duty of six pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public Body or Association not being a Company, and upon every salary, annuity or pension paid in British India by Government or by a Company or by a Municipal or other public Body or Association not being a Company to any person residing in British India or serving on board a ship trading to and from British Indian ports, whether on account of himself or another person.

7. No income amounting to less than forty-one rupees, ten annas, eight pies per mensem shall be chargeable under this Part.

8. In the case of every person holding any paid office, employment or commission under Her Majesty or under the Government of India, or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

9. In the case of every person holding a paid employment under or receiving any annuity or pension from any Company, or any Municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Provision as to servants of Companies and Municipalities.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government shall from time to time direct, the amount of such deductions and shall be answerable to such Government for such payment.

Payment to Government.

Every Company, public Body or Association, Treasurer or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this section.

Indemnity.

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the thirtieth day of April in this year, deliver, to the Collector, in such form as may be prescribed by the Governor-General of India in Council, a return in writing showing the names of every person holding at the date of the said return a paid employment under or receiving a pension or annuity from the Company or Body or Association whose pay or pension or annuity as such amounts to forty-one rupees, ten annas, eight pies per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

Annual return by Treasurer, &c.

10. Whenever the full duty leviable under this Act in April 1870 is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, the deficiency shall be deducted from such pay, annuity or pension at some subsequent time of payment.

Difference between duty under this Act for April 1870 and duty under Act IX. of 1869.

PART

PART III.

COMPANIES.

11. The Treasurer, Secretary or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up, the duty of six pies in the rupee,

Shipping Companies.

and in the case of every other Company pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up the duty of six pies in the rupee, and shall prepare, and, on or before the thirtieth day of April in this year, deliver, to the Collector, a statement in writing signed by him showing the result of such accounts (if any).

Other Companies.

Statement of result of accounts.

In the case of any Company where no such accounts as are mentioned in this section have been made up within the year ending on the thirty-first day of March 1870, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the thirtieth day of April in this year, deliver to the Collector, a return in writing signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said thirty-first day of March.

Annual return of nett profits.

Every such Treasurer, Secretary or principal Agent or Manager is hereby indemnified for all payments made in pursuance of this section.

Indemnity.

PART IV.

DUTIES ON ALL OTHER INCOME AND PROFITS.

12. A yearly duty in accordance with the first schedule to this Act annexed shall be levied upon all income and profits accruing and arising in British India and not chargeable under Part II. or Part III. of this Act.

Duty on income not charged under Part II. or Part III.

13. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic, or idiot, and having the control of the property of such infant, married woman, lunatic, or idiot, whether such infant, married woman, lunatic

Trustees, guardians and committees of incapacitated persons to be charged.

lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income or profits chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income or profits.

14. Every such trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income or profits in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

15. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators-General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income and profits officially in their possession or under their control.

16. When any trustee, guardian, curator or committee, or agent is assessed under this Act in such capacity; or when any receiver appointed by any Court, Court of Wards, Administrator-General, or Official Trustee is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed, may, from time to time out of the money coming to his or its possession as such trustee, guardian, curator, committee, or agent, or as such receiver, Court of Wards, Administrator-General or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

17. In

17. In the case of every person chargeable under this Part whose annual income or profits is or are in the Collector's opinion two thousand rupees or upwards, the Collector shall, and in the case of every other person so chargeable, the Collector may,

serve a notice on him requiring him to fill in a return of his income, and profits, or of the income and profits in respect whereof he is chargeable, in the form to be prescribed by the Governor-General of India in Council, and specifying the day by which the return is to be made, and the place of the Collector's Office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

18. Every person on whom such notice is served shall send to or deliver at the Collector's Office the return duly filled in and signed by him.

A declaration shall be added by such person at the foot of the return, that the profits or income stated therein are truly estimated on all the sources therein mentioned.

19. Every person, when required so to do by a notice in the form to be prescribed by the said Governor-General in Council shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons, receiving salary or emoluments amounting to forty-one rupees, ten annas, eight pies per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable, under this Act, to be assessed, and who desires to be so assessed at such place.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

20. The Collector shall, from time to time, determine what persons are chargeable under this Part, and the amount that every such person shall be assessed in accordance with the said Schedule; and

in

in making such assessment income exempted under section seven shall be treated as chargeable under this Part.

21. In the case of a person for the first time becoming chargeable under this Part within the year of assessment, the computation shall be made according to an average of his income and profits for such period as the Collector shall, under the circumstances, direct.

Computation when asses-
see becomes chargeable
within year.

Notice to persons charge-
able.

22. The Collector shall cause a notice to be served on every person chargeable under this Part stating—

(1).—The name and the profession, trade or other source of the income or profits of such person, or of the income and profits in respect of which he is chargeable:

(2).—The year or portion of the year for which the duty is to be paid:

(3).—The place or places, district or districts, where such income or profits accrues or arise:

(4).—The amount to be paid;

and requiring him within fifteen days from the date of the service to pay such amount.

23. Such amount shall be paid to the Collector, who shall grant a receipt for such payment to the person making the same:

Officer to grant receipts.

Provided that, if such income or profits accrues or arise at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

Contents of receipt.

24. Every such receipt shall specify—

(1).—The name and source or sources of the income or profits of the person by or on whose behalf the duty is paid:

(2).—The year or portion of the year for which the duty is paid:

(3).—The amount paid, and the date of payment; and

(4). The

(4).—The place or places, district or districts where the income or profits accrues or arise; and shall be admissible as *prima facie* proof of all matters contained therein.

25. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under this Part, may within the period mentioned in the said notice, or if the Collector is satisfied that the objector has not received such notice, then at any time within one month from the expiration of such period, apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled.

Provided that no person who shall have been served with a notice under section seventeen shall be entitled to apply by petition under this section unless he shall have made the return required in such notice on or before the day therein mentioned, or unless he shall satisfy the Collector that he had a sufficient excuse for not making such return.

The petition shall be in the form contained in the second schedule to this Act annexed, or as near thereto as circumstances admit, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

26. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on the day (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall, within one week from the passing of the order, pay the amount mentioned in the said notice or in the order of enhancement (as the case may be).

27. Any person dissatisfied with any order under section twenty-six may, within fifteen days from the date thereof, on payment of the sum in which he was assessed, or to which his assessment

Appeal from order on
petition.

was

123

ACT No. XVI. or 1870.

was enhanced, present a petition of appeal to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, a copy of the Collector's order thereon, and all other documents (if any) connected with the case.

Neither of such copies shall be chargeable under the Court Fees Act.

When the decision on such appeal is in favour of the petitioner, the value of the fees on his petition to the Collector and on his petition of appeal, together with the excess paid by him, or (when the decision is that the petitioner is not chargeable under this Act), the whole sum so paid shall at once be refunded.

28. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner should be assessed, and may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the sources of the petitioner's income or profits accruing or arising in British India.

29. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income or profits not specified in the receipt granted to him under section twenty-three has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person stating the amount to be paid in respect of such source, and the provisions contained in sections twenty-two to twenty-eight (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART V.

PENALTIES.

30. Every Treasurer, Secretary or principal Agent or Manager failing to make any payment or to prepare and deliver any return required by section nine,

or failing to make any payment or to prepare and deliver any statement or return required by section eleven,

and

Trustees, &c., failing to deliver statements or declarations.

and every trustee, guardian, curator, committee or agent failing to deliver any statements or declaration required by section fourteen,

shall for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

31. If any person served with notice under section twenty-two does not within the period specified in the said notice pay the amount required thereby, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such notice: Provided that he has not presented a petition under section twenty-five.

If any such person presents a petition under section twenty-five and does not, within one week from the passing of the order thereon, pay the amount, if any, required by such order, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such order.

Grant of receipt on recovery of fine.

On the recovery of the fine from the person so convicted, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bare date from the recovery of the fine, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

32. Whoever makes a statement in any declaration or list, made or delivered, under section eighteen or nineteen, which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have committed the offence described in section one hundred and seventy-seven of the Indian Penal Code.

Whoever makes a statement in any petition presented under section twenty-five which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

33. No person shall be proceeded against for any offence under section thirty, section thirty-one, or section thirty-two, except at the instance of the Collector.

Prosecution to be at instance of Collector.

34. All

34. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras or Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm or to all or any of the members thereof.

35. In sections one hundred and ninety-three and two hundred and twenty-eight of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

Sections 193 and 228 of Penal Code to apply to proceedings under this Act.

PART VI.

PAYMENT.

36. All taxes under this Act, except when they are deducted under section eight or section nine, shall be payable on the fifth day of April 1870.

Tax when payable.

Instalments.

Provided that the amount so payable may be paid by four equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section twenty-two upon the person paying the same, and the second instalment on the first day of July, the third instalment on the first day of October, and the fourth instalment on the first day of January 1871.

37. When any person pays only such first instalment, or first and second instalments, or first, second and third instalments, and in any of the quarters respectively ending on the thirtieth day of June, the thirtieth day of September or the thirty-first day of December, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade (if any) in respect of the profit arising from which he was assessed, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of his property in trust for the benefit of his creditors, the amount of the subsequent instalments or instalment shall not be claimable.

Death or insolvency of person paying instalment.

When

When any firm pays only such first instalment, or first and second instalments, or first, second and third instalments, and in any of the quarters respectively ending on the days last aforesaid dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of its property in trust for the benefit of its creditors, the amount of the subsequent instalments or instalment shall not be claimable.

38. If the Collector has caused a notice to be served on any person liable to pay the said second or any subsequent instalment and requiring him within seven days from the date of the service to pay the amount of such instalment (mentioning it), and if the person so served does not within that period pay such amount as required by the said notice, he shall, on conviction before a Magistrate, be fined twice the amount so mentioned.

Recovery of subsequent instalment.

Recovery under Revenue-law.

39. In any case of default under this Act arising outside the local limits of the towns of Calcutta, Madras or Bombay, the Collector may, if he thinks fit, and if the notice mentioned in section twenty-two, twenty-nine, or thirty-eight (as the case may be) has been served on the defaulter, recover the amount of any tax or instalment payable under this Act as if it were an arrear of land revenue.

Optional recovery under revenue-law.

On the recovery of such amount from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

Payment of Taxes and Fines.

40. All taxes levied and all fines recovered under this Act shall be paid to the credit of the Government of India, or as [such Government shall from time to time direct.

Payment of taxes levied and fines recovered under this Act.

PART VII.

MISCELLANEOUS.

41. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf.

Powers of Collector and Commissioner under this Act may be exercised by other officers.

42. Service

42. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

43. Where any Company or firm has several places of business in the territories subject to different Local Governments, the Governor-General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any Company or firm has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

When any person has several places of residence in the territories subject to different Local Governments, the Governor-General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and when any person has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

The powers given by this section may be delegated to and exercised by such officers as the Governor-General of India in Council or the Local Government, as the case may be, shall from time to time appoint in this behalf.

44. The Governor-General of India in Council may from time to time prescribe forms for the returns, notices and lists hereinbefore mentioned.

All such forms shall be published in the *Gazette of India*.

45. The

45. The Governor-General of India in Council may from time to time make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and may delegate to any Local Government the powers given by this section so far as regards the territories subject to such Government.

SCHEDULE I.

Persons whose annual income or profits shall be assessed at		Rs.		500 but at less than Rs. 750 shall pay Rs. 19 8 0	
not less than					
Ditto	ditto	...	750	"	" 27 0 0
Ditto	ditto	...	1,000	"	" 39 0 0
Ditto	ditto	...	1,500	"	" 54 0 0
Ditto	ditto	...	2,000	...	...

six pies in the rupees.

SCHEDULE II.

Form of Petition under Section 25.

Stamp
eight annas.

TO THE COLLECTOR OF

The

day of

187 .

The petition of A. B. of

SHewETH—

1st.—That under the Indian Income Tax Act your petitioner has been assessed in the sum of twenty-seven rupees for the year commencing the first day of April 187 .

2nd.—That your petitioner's income and profits accruing and arising from [here specify petitioner's trade or other source or sources of income or profits and the place or places at which such income or profits accrue or arise] for the year ending the thirty-first day of March last were rupees

as will appear from the documents marked presented herewith, and to which your petitioner craves leave to refer.

3rd.—That your petitioner has no other source of income or profits, and has no reason to believe that his income and profits during the year commencing the first day of April 187 will exceed the said sum of rupees

Your petitioner therefore prays that he may be assessed accordingly, and that the value of the fee on his petition may be refunded [or that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded.]

(Signed) A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

ACT No. XVI. of 1870.

SCHEDULE III.

Enactments repealed.

Number and Year.	Title of Act.	Extent of Repeal.
Act No. IX. of 1869	The Indian Income Tax.	The whole.
Act No. XXIII. of 1869	An Act to enhance the duties leviable under the Indian Income Tax Act.	The whole.
Act No. VII. of 1870	The Court Fees Act ..	In section thirty-two the words "And the Indian Income Tax Act, section twenty, shall be read as if for the words 'the value of the said stamp' the words 'the fee on the petition' were substituted." In the second schedule, No. nine, the words "section twenty-one."

ACT N^o. XVI. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th April 1870.)

THE INCOME TAX ACT, 1870.

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An

An Act for imposing duties on Income and Profits.

FOR the purpose of imposing duties on income and profits arising from offices, property, professions and trade; It is hereby enacted as follows:

Preamble.

PART I.

PRELIMINARY.

Short title. This Act may be called "The Indian Income Tax Act."

Extent of Act. It extends to the whole of British India;

It shall be deemed to have come into operation on the first day of April 1870, and it shall cease to be in force on the thirty-first day of March 1871, except as to taxes and penalties then due and incurred thereunder.

Commencement and continuance of Act.

2. On and from the said first day of April 1870, the Acts mentioned in the third schedule hereto shall be deemed to have been and shall be repealed to the extent specified therein, except as to taxes due under any of such Acts.

Repeal of Acts.

The references made in the Court Fees Act, Schedule II., to the Indian Income Tax Act shall be deemed to be made to this Act.

Interpretation clause.

3. In this Act—unless there be something repugnant in the subject or context—

"Magistrate" means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class, and includes a Magistrate of Police and a Justice of the Peace:

"Magistrate."

"Company" means an Association carrying on business in British India whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:

"Company."

"Firm" includes a Hindú undivided family:

"Firm."

"Person" includes a firm:

"Person."

"Defaulter" includes a firm making default under this Act:

"Defaulter."

In the case of any Company or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And in the case of any person

"Collector."

person chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person resides.

4. Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces, or of Her Majesty's Indian Forces, who are not in Civil employment, when such pay and allowances do not exceed five hundred rupees per mensem;

Exemptions from Act.

or to any moveable or immoveable property solely employed for or dedicated to religious or charitable public purposes.

And no member of a firm which is for the time being chargeable under this Act shall, as such, be chargeable under this Act.

5. The Governor-General of India in Council may from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income and profits of any tribe or class of persons in British India.

Power to exempt from Act.

The Governor-General of India in Council may revoke any such order.

All orders and revocations made under this section shall be published in the *Gazette of India*.

PART II.

DUTIES ON OFFICES.

6. A duty of six pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public Body or Association not being a Company, and upon every salary, annuity or pension paid in British India by Government or by a Company or by a Municipal or other public Body or Association not being a Company to any person residing in British India or serving on board a ship trading to and from British Indian ports, whether on account of himself or another person.

Duties on Offices.

Exemption of incomes less than Rupees 41-10-8 per mensem.

7. No income amounting to less than forty-one rupees, ten annas, eight pies per mensem shall be chargeable under this Part.

8. In the case of every person holding any paid office, employment or commission under Her Majesty or under the Government of India, or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government,

Provision as to Government officials.

the

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

9. In the case of every person holding a paid employment under or receiving any annuity or pension from any Company, or any Municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government shall from time to time direct, the amount of such deductions and shall be answerable to such Government for such payment.

Every Company, public Body or Association, Treasurer or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this section.

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the thirtieth day of April in this year, deliver, to the Collector, in such form as may be prescribed by the Governor-General of India in Council, a return in writing showing the names of every person holding at the date of the said return a paid employment under or receiving a pension or annuity from the Company or Body or Association whose pay or pension or annuity as such amounts to forty-one rupees, ten annas, eight pies per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

10. Whenever the full duty leviable under this Act in April 1870 is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, the deficiency shall be deducted from such pay, annuity or pension at some subsequent time of payment.

PART

PART III.

COMPANIES.

11. The Treasurer, Secretary or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up, the duty of six pies in the rupee,

and in the case of every other Company pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up the duty of six pies in the rupee, and shall prepare, and, on or before the thirtieth day of April in this year, deliver, to the Collector, a statement in writing signed by him showing the result of such accounts (if any).

In the case of any Company where no such accounts as are mentioned in this section have been made up within the year ending on the thirty-first day of March 1870, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the thirtieth day of April in this year, deliver to the Collector, a return in writing signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said thirty-first day of March.

Every such Treasurer, Secretary or principal Agent or Manager is hereby indemnified for all payments made in pursuance of this section.

PART IV.

DUTIES ON ALL OTHER INCOME AND PROFITS.

12. A yearly duty in accordance with the first schedule to this Act annexed shall be levied upon all income and profits accruing and arising in British India and not chargeable under Part II. or Part III. of this Act.

13. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic, or idiot, and having the control of the property of such infant, married woman, lunatic, or idiot, whether such infant, married woman, lunatic

lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income or profits chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income or profits.

14. Every such trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income or profits in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

15. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators-General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income and profits officially in their possession or under their control.

16. When any trustee, guardian, curator or committee, or agent is assessed under this Act in such capacity; or when any receiver appointed by any Court, Court of Wards, Administrator-General, or Official Trustee is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed, may, from time to time out of the money coming to his or its possession as such trustee, guardian, curator, committee, or agent, or as such receiver, Court of Wards, Administrator-General or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

17. In

17. In the case of every person chargeable under this Part whose annual income or profits is or are in the Collector's opinion two thousand rupees or upwards, the Collector shall, and in the case of every other person so chargeable, the Collector may,

serve a notice on him requiring him to fill in a return of his income, and profits, or of the income and profits in respect whereof he is chargeable, in the form to be prescribed by the Governor-General of India in Council, and specifying the day by which the return is to be made, and the place of the Collector's Office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

18. Every person on whom such notice is served shall send to or deliver at the Collector's Office the return duly filled in and signed by him.

A declaration shall be added by such person at the foot of the return, that the profits or income stated therein are truly estimated on all the sources therein mentioned.

19. Every person, when required so to do by a notice in the form to be prescribed by the said Governor-General in Council shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons, receiving salary or emoluments amounting to forty-one rupees, ten annas, eight pies per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable, under this Act, to be assessed, and who desires to be so assessed at such place.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

20. The Collector shall, from time to time, determine what persons are chargeable under this Part, and the amount that every such person shall be assessed in accordance with the said Schedule; and

in

in making such assessment income exempted under section seven shall be treated as chargeable under this Part.

21. In the case of a person for the first time becoming chargeable under this Part within the year of assessment, the computation shall be made according to an average of his income and profits for such period as the Collector shall, under the circumstances, direct.

22. The Collector shall cause a notice to be served on every person chargeable under this Part stating—

(1).—The name and the profession, trade or other source of the income or profits of such person, or of the income and profits in respect of which he is chargeable:

(2).—The year or portion of the year for which the duty is to be paid:

(3).—The place or places, district or districts, where such income or profits accrues or arise:

(4).—The amount to be paid; and requiring him within fifteen days from the date of the service to pay such amount.

23. Such amount shall be paid to the Collector, who shall grant a receipt for such payment to the person making the same:

Provided that, if such income or profits accrues or arise at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

24. Every such receipt shall specify—

(1).—The name and source or sources of the income or profits of the person by or on whose behalf the duty is paid:

(2).—The year or portion of the year for which the duty is paid:

(3).—The amount paid, and the date of payment; and

(4). The

(4).—The place or places, district or districts where the income or profits accrues or arise; and shall be admissible as *prima facie* proof of all matters contained therein.

25. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under this Part, may within the period mentioned in the said notice, or if the Collector is satisfied that the objector has not received such notice, then at any time within one month from the expiration of such period, apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled.

Provided that no person who shall have been served with a notice under section seventeen shall be entitled to apply by petition under this section unless he shall have made the return required in such notice on or before the day therein mentioned, or unless he shall satisfy the Collector that he had a sufficient excuse for not making such return.

The petition shall be in the form contained in the second schedule to this Act annexed, or as near thereto as circumstances admit, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

26. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on the day (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall, within one week from the passing of the order, pay the amount mentioned in the said notice or in the order of enhancement (as the case may be).

27. Any person dissatisfied with any order under section twenty-six may, within fifteen days from the date thereof, on payment of the sum in which he was assessed, or to which his assessment

was

was enhanced, present a petition of appeal to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, a copy of the Collector's order thereon, and all other documents (if any) connected with the case.

Neither of such copies shall be chargeable under the Court Fees Act.

When the decision on such appeal is in favour of the petitioner, the value of the fees on his petition to the Collector and on his petition of appeal, together with the excess paid by him, or (when the decision is that the petitioner is not chargeable under this Act), the whole sum so paid shall at once be refunded.

28. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner should be assessed, and may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the sources of the petitioner's income or profits accruing or arising in British India.

29. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income or profits not specified in the receipt granted to him under section twenty-three has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person stating the amount to be paid in respect of such source, and the provisions contained in sections twenty-two to twenty-eight (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART V.

PENALTIES.

30. Every Treasurer, Secretary or principal Agent or Manager failing to make any payment or to prepare and deliver any return required by section nine,

or failing to make any payment or to prepare and deliver any statement or return required by section eleven,

and

Trustees, &c., failing to deliver statements or declarations.

and every trustee, guardian, curator, committee or agent failing to deliver any statements or declaration required by section fourteen,

shall for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

31. If any person served with notice under section twenty-two does not within the period specified in the said notice pay the amount required thereby, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such notice: Provided that he has not presented a petition under section twenty-five.

If any such person presents a petition under section twenty-five and does not, within one week from the passing of the order thereon, pay the amount, if any, required by such order, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such order.

Grant of receipt on recovery of fine.

On the recovery of the fine from the person so convicted, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bare date from the recovery of the fine, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

32. Whoever makes a statement in any declaration or list, made or delivered, under section eighteen or nineteen, which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have committed the offence described in section one hundred and seventy-seven of the Indian Penal Code.

Whoever makes a statement in any petition presented under section twenty-five which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

33. No person shall be proceeded against for any offence under section thirty, section thirty-one, or section thirty-two, except at the instance of the Collector.

34. All

34. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras or Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm or to all or any of the members thereof.

35. In sections one hundred and ninety-three and two hundred and twenty-eight of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

Sections 193 and 228 of Penal Code to apply to proceedings under this Act.

PART VI.

PAYMENT.

36. All taxes under this Act, except when they are deducted under section eight or section nine, shall be payable on the fifth day of April 1870.

Tax when payable.

Installments.

Provided that the amount so payable may be paid by four equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section twenty-two upon the person paying the same, and the second instalment on the first day of July, the third instalment on the first day of October, and the fourth instalment on the first day of January 1871.

Payment by instalments.

37. When any person pays only such first instalment, or first and second instalments, or first, second and third instalments, and in any of the quarters respectively ending on the thirtieth day of June, the thirtieth day of September or the thirty-first day of December, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade (if any) in respect of the profit arising from which he was assessed, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of his property in trust for the benefit of his creditors, the amount of the subsequent instalments or instalment shall not be claimable.

Death or insolvency of person paying instalment.

When

When any firm pays only such first instalment, or first and second instalments, or first, second and third instalments, and in any of the quarters respectively ending on the days last aforesaid dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of its property in trust for the benefit of its creditors, the amount of the subsequent instalments or instalment shall not be claimable.

Firm paying instalment and dissolving partnership or becoming insolvent.

38. If the Collector has caused a notice to be served on any person liable to pay the said second or any subsequent instalment and requiring him within seven days from the date of the service to pay the amount of such instalment (mentioning it), and if the person so served does not within that period pay such amount as required by the said notice, he shall, on conviction before a Magistrate, be fined twice the amount so mentioned.

Recovery of subsequent instalment.

Recovery under Revenue-law.

39. In any case of default under this Act arising outside the local limits of the towns of Calcutta, Madras or Bombay, the Collector may, if he thinks fit, and if the notice mentioned in section twenty-two, twenty-nine, or thirty-eight (as the case may be) has been served on the defaulter, recover the amount of any tax or instalment payable under this Act as if it were an arrear of land revenue.

Optional recovery under revenue-law.

On the recovery of such amount from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

Payment of Taxes and Fines.

40. All taxes levied and all fines recovered under this Act shall be paid to the credit of the Government of India, or as [such Government shall from time to time direct.

Payment of taxes levied and fines recovered under this Act.

PART VII.

MISCELLANEOUS.

41. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf.

Powers of Collector and Commissioner under this Act may be exercised by other officers.

42. Service

42. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

43. Where any Company or firm has several places of business in the territories subject to different Local Governments, the Governor-General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any Company or firm has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

When any person has several places of residence in the territories subject to different Local Governments, the Governor-General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and when any person has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

The powers given by this section may be delegated to and exercised by such officers as the Governor-General of India in Council or the Local Government, as the case may be, shall from time to time appoint in this behalf.

44. The Governor-General of India in Council may from time to time prescribe forms for the returns, notices and lists hereinbefore mentioned.

All such forms shall be published in the *Gazette of India*.

45. The

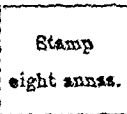
45. The Governor-General of India in Council may from time to time make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and may delegate to any Local Government the powers given by this section so far as regards the territories subject to such Government.

SCHEDULE I.

Persons whose annual income or profits shall be assessed at not less than		Rs.	500 but at less than Rs.	750 shall pay	Rs.	19	8	0
Ditto	ditto	...	750	"	"	27	0	0
Ditto	ditto	...	1,000	"	"	39	0	0
Ditto	ditto	...	1,500	"	"	54	0	0
Ditto	ditto	...	2,000	...	...	six pies in the rupee.		

SCHEDULE II.

Form of Petition under Section 25.



To THE COLLECTOR OF
The day of 187
The petition of A. B. of

SHEWETH—
1st.—That under the Indian Income Tax Act your petitioner has been assessed in the sum of twenty-seven rupees for the year commencing the first day of April 187 .
2nd.—That your petitioner's income and profits accruing and arising from [here specify petitioner's trade or other source or sources of income or profits and the place or places at which such income or profits accrues or arise] for the year ending the thirty-first day of March last were rupees as will appear from the documents marked presented herewith, and to which your petitioner craves leave to refer.
3rd.—That your petitioner has no other source of income or profits, and has no reason to believe that his income and profits during the year commencing the first day of April 187 will exceed the said sum of rupees
Your petitioner therefore prays that he may be assessed accordingly, and that the value of the fee on this petition may be refunded [or that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded.]

(Signed) A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.
(Signed) A. B.

ACT No. XVI. OF 1870.

SCHEDULE III.

Enactments repealed.

Number and Year.	Title of Act.	Extent of Repeal.
Act No. IX. of 1869	The Indian Income Tax.	The whole.
Act No. XXIII. of 1869	An Act to enhance the duties leviable under the Indian Income Tax Act.	The whole.
Act No. VII. of 1870	The Court Fees Act ..	In section thirty-two the words "And the Indian Income Tax Act, section twenty, shall be read as if for the words 'the value of the said stamp' the words 'the fee on the petition' were substituted." In the second schedule, No. nine, the words "section twenty-one."

L. 100
D. H. P.

ACT N^o. XVIII. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th July 1870.)

An Act to enable the Government of India to exempt goods from customs duties.

For the purpose of enabling the Governor-General of India in Council to exempt goods from duties of customs; It is hereby enacted
Preamble. as follows:—

1. The said Governor-General in Council may from time to time, by notification in the *Gazette of India*, exempt any goods imported or exported into or from British India, or into or from any specified port or place therein, from the whole or any part of the duties of customs to which they are liable under the Indian Customs Duties' Act, 1870, or any other law for the time being in force relating to such duties, and may, by like notification, cancel any such exemption.
Power to exempt from customs duties.
Power to cancel exemption.
tion.

[PRICE 6 PIES.]

ACT N^o. XIX. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th July 1870.)

An Act to enable the Directors of the Bank of Bengal to act by a quorum.

Whereas section thirteen of the Act for regulating the Bank of Bengal
Preamble. (No. IV. of 1862) declares that the business of the said Bank
shall be managed by nine Directors, but does not authorize
such business to be managed by a less number; and whereas it is expedient to
provide that such business may be managed by a quorum; It is hereby enacted
as follows:—

Amendment of Act IV. of
1862, section 13.

1. The said section shall be construed as if after the
words "more Directors," the words "of whom three shall be
a quorum and" were inserted.

2. No act heretofore done by a number of the said Directors less than nine
Validation of acts of Di.
rectors. shall be deemed invalid by reason only of its having been
done by such less number.

[PRICE 6 PIES.]

ACT N^o. XX. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th July 1870.)

An Act to correct two clerical errors in the Court Fees' Act, 1870.

Preamble.

For the purpose of correcting two clerical errors in the Court Fees' Act, 1870; It is hereby enacted as follows:—

1. Section fifteen of the said Act shall be read as if for the words “plaint or memorandum of appeal,” the word “application” were substituted; and in Schedule I. to the said Act annexed, Number two shall be read as if the words “or memorandum of appeal” were omitted therefrom.

Corrections of Act VII. of 1870, section 15, and Schedule I., No. 2.

[PRICE 6 PIES.]

ACT N^o. XXI. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 19th July 1870.)

An Act to regulate the Wills of Hindus, Jainas, Sikhs and Buddhists in the Lower Provinces of Bengal and in the towns of Madras and Bombay.

WHEREAS it is expedient to provide rules for the execution, attestation, revocation, revival, interpretation and probate of the wills of Hindus, Jainas, Sikhs and Buddhists in the territories subject to the Lieutenant-Governor of Bengal and in the towns of Madras and Bombay; It is hereby enacted as follows:—

Short Title.

1. This Act may be called "The Hindú Wills' Act, 1870.

2. The following portions of the Indian Succession Act, 1865, namely,—

Certain portions of Succession Act extended to wills of Hindus, Jainas, Sikhs and Buddhists.

sections forty-six, forty-eight, forty-nine, fifty, fifty-one, fifty-five and fifty-seven to seventy-seven (both inclusive),

sections eighty-two, eighty-three, eighty-five, eighty-eight to one hundred and three (both inclusive),

sections one hundred and six to one hundred and seventy-seven (both inclusive),

sections one hundred and seventy-nine to one hundred and eighty-nine (both inclusive),

sections one hundred and ninety-one to one hundred and ninety-nine (both inclusive),

so much of Parts XXX. and XXXI. as relates to grants of probate and letters of administration with the will annexed, and

Parts XXXIII. to XL. (both inclusive), so far as they relate to an executor and an administrator with the will annexed,

shall, notwithstanding anything contained in section three hundred and thirty-one of the said Act, apply—

(a) to all wills and codicils made by any Hindú, Jaina, Sikh or Buddhist, on or after the first day of September one thousand eight hundred and seventy, within the said territories of the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Madras and Bombay; and

(b) to all such wills and codicils made outside those territories and limits, so far as relates to immoveable property situate within those territories or limits:

3. Provided that marriage shall not revoke any such will or codicil:

And that nothing herein contained shall authorise a testator to bequeath property which he could not have alienated *inter vivos*, or to deprive any persons of any right of maintenance of which, but for section two of this Act, he could not deprive them by will:

And that nothing herein contained shall vest in the executor or administrator with the will annexed of a deceased person any property which such person could not have alienated *inter vivos*:

And that nothing herein contained shall affect any law of adoption or intestate succession:

And that nothing herein contained shall authorise any Hindú, Jaina, Sikh or Buddhist to create in property any interest which he could not have created before the first day of September one thousand eight hundred and seventy.

4. On and from that day section two of Bengal Regulation V. of 1799 shall be repealed so far as relates to the executors of persons who are not Muhammadans, but are subject to the jurisdiction of a District Court in the territories subject to the Lieutenant-Governor of Bengal.

5. Nothing contained in this Act shall affect the rights, duties and privileges of the Administrators-General of Bengal, Madras and Bombay, respectively.

6. In this Act and in the said sections and Parts of the Indian Succession Interpretation-clause. Act all words defined in section three of the same Act shall, unless there be something repugnant in the subject or context, be deemed to have the same meaning as the said section three has attached to such words respectively:

And in applying sections sixty-two, sixty-three, ninety-two, ninety-six, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three and one hundred and eighty-two of the said Succession Act, to wills and codicils made under this Act, the words "son," "sons," "child" and "children" shall be deemed to include an adopted child; and the word "grand-children" shall be deemed to include the children, whether adopted or natural-born, of a child whether adopted or natural-born; and the expression "daughter-in-law" shall be deemed to include the wife of an adopted son:

And in making grants under this Act of letters of administration with the will annexed, or with a copy of the will annexed, section one hundred and ninety-five of the said Succession Act shall be construed as if the words "and in case the Hindú Wills' Act had not been passed" were added thereto; and section one hundred and ninety-eight of the said Succession Act shall be construed as if, after the word "intestate," the words "and the Hindú Wills' Act had not been passed" were inserted; and sections two hundred and thirty and two hundred and thirty-one of the said Succession Act shall be construed as if the words "if the Hindu Wills' Act had not been passed" were added thereto, respectively.

ACT No. XXII OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 30th August 1870).

An Act to confirm certain laws affecting European British subjects.

WHEREAS the Governors of the Presidencies of Fort St. George and Bombay in Council, and the Lieutenant-Governor of Bengal in Council, have severally passed divers Acts purporting to apply generally to all persons within the local extent of the said Acts; and whereas doubts have been raised as to the validity of such Acts in so far as they affect to render European British subjects liable to be convicted and punished by tribunals other than the High Courts of Judicature at Fort William, Madras and Bombay; and whereas doubts have also been raised as to the application to European British subjects of certain Acts of the Governor General in Council: For the purpose of removing such doubts, it is hereby enacted as follows:—

1. Every such Act passed by the Governor of the Presidency of Madras in Council, or by the Governor of the Presidency of Bombay in Council, or by the Lieutenant-Governor of Bengal in Council, shall, so far as regards the liability of European British subjects to be convicted and punished thereunder, be and be deemed to have been as valid as if it had been passed by the Governor General of India in Council at a meeting for the purpose of making Laws and Regulations.

Confirmation of local Acts so far as regards European British subjects.

2. Unless there be something repugnant in the context, all Acts heretofore or hereafter passed by the Governor General in Council, which confer summary jurisdiction over offences, shall be deemed to

Acts conferring summary jurisdiction over offences to apply to European British subjects.

apply

[Price one anna.]

European British Subjects.

apply to European British subjects, although such persons be not expressly referred to therein.

Amendment
of Act No.
XVIII of
1859, sections
1, 2 and 4.

3. Act No. XVIII of 1859 (*to amend the law relating to offences declared to be punishable on conviction before a Magistrate*) shall be construed as if, in sections one, two and four, after the word 'heretofore' the words 'or hereafter' were inserted.

Saving of limits of Magistrates' ordinary jurisdiction.

4. Nothing in this Act shall be taken to authorize a Magistrate to exceed the limits of his ordinary jurisdiction as to the amount of punishment which he may inflict, or to confer jurisdiction on any Magistrate not being a Justice of the Peace.

Indemnity-clause.

5. All Magistrates and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been then in force; and no suit or other proceeding shall be maintained against any such Magistrate or other person in respect of anything so done.



THE INDIAN COINAGE ACT, 1870.

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ACT No. XXIII OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 6th September 1870).

An Act to consolidate and amend the law relating to Coinage and the Mint.

WHEREAS it is expedient to consolidate and amend the law relating to Coinage and the Mint; It is hereby enacted as follows :—

I.—Preliminary.

1. This Act may be called “The Indian Coinage Act, 1870.” Short title.

2. The Regulations and Acts mentioned in the schedule hereto annexed are repealed. Repeal of enactments.

3. In this Act, the expression ‘Mint’ includes the Mints at Calcutta, at Bombay and at such other places (if any) as the Governor General in Council, by notification in the *Gazette of India*, from time to time directs; Interpretation-clause.

the expression ‘Mint-rules’ means such rules as the Governor General in Council from time to time prescribes for the management of the Mint;

and the expression ‘remedy’ means variation from the standard weight and fineness.

II.—Gold Coinage.

4. The under-mentioned gold coins only shall be coined at the Mint :— Gold coins.

(1.)—A gold mohur or fifteen-rupee piece.

(2.)—A five-rupee piece equal to a third of a gold mohur.

(3.)—A ten-rupee piece equal to two-thirds of a gold mohur.

(4.)—A

(4.)—A thirty-rupee piece or a double gold mohur.

Their stand-
ard weight
and fineness.

5. The standard weight of the said gold mohur shall be one hundred and eighty grains Troy, and its standard fineness shall be as follows:—eleven-twelfths, or one hundred and sixty-five grains, of fine gold, and one-twelfth, or fifteen grains, of alloy.

The other gold coins shall be of proportionate weight and of the same fineness:

Remedy al-
lowed.

Provided that, in the making of gold coins, a remedy shall be allowed of an amount not exceeding two thousandths in weight and two thousandths in fineness.

III.—Silver Coinage.

Silver coins.

6. The under-mentioned silver coins only shall be coined at the Mint:—

(1.)—A rupee to be called the Government Rupee.

(2.)—A half rupee.

(3.)—A quarter rupee, or four-anna piece.

(4.)—An eighth of a rupee, or two-anna piece.

Their stand-
ard weight
and fineness.

7. The standard weight of the Government Rupee shall be one hundred and eighty grains Troy, and its standard fineness shall be as follows:—eleven-twelfths, or one hundred and sixty-five grains, of fine silver, and one-twelfth, or fifteen grains, of alloy.

The other silver coins shall be of proportionate weight and of the same fineness:

Remedy al-
lowed.

Provided that, in the making of silver coins, a remedy shall be allowed of an amount not exceeding the following:—

	Remedy in weight.	Remedy in fineness.
Rupee ... }	Five thousandths	Two thousandths.
Half rupee ... }	Seven thousandths	Three thousandths.
Quarter rupee ... }	Ten thousandths	
Eighth of a rupee ... }		

IV.—Copper

IV.—Copper Coinage.

8. The under-mentioned copper coins only shall be coined at the Mint:—

(1.)—A double pice, or half anna.

(2.)—A pice, or quarter anna.

(3.)—A half pice, or one-eighth of an anna.

(4.)—A pie, being one-third of a pice, or one-twelfth of an anna.

9. The weight of the double pice shall be two hundred grains Troy.

The other copper coins shall be of proportionate weight:

Provided that, in the making of copper coins, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

V.—Devices on Coins.

10. Until the Governor General in Council otherwise orders under the power hereinafter conferred, the coins coined under this Act shall bear on the obverse the likeness of Her Majesty Queen Victoria, and the inscription "Victoria Queen," and on the reverse the designation of the coins in English filled by the word "India," with such date and embellishments on each coin as the Governor General in Council from time to time determines.

11. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, direct the coining and issuing of all coins authorized by this Act, and prescribe, in lieu of the likeness and inscription hereinbefore mentioned, such other likeness and inscription for all or any of the said coins as he thinks fit.

VI.—Legal Tender.

12. No gold coin shall be a legal tender in payment or on account.

13. The said rupee and half rupee shall be a legal tender in payment or on account:

Provided that the coin has not lost more than two per cent. in weight:

Provided

Provided also that it has not been clipped or filed, or defaced or diminished, otherwise than by use.

Four-anna and two-anna pieces.

The quarter rupee and eighth of a rupee shall be legal tender only for the fractions of a rupee, subject to the second proviso contained in this section.

Copper coin when a legal tender.

14. The double pice shall be a legal tender for the thirty-second part of a rupee or for half an anna ;

the pice for the sixty-fourth part of a rupee or for one-fourth of an anna ;

the half pice for the one hundred and twenty-eighth part of a rupee or for one-eighth of an anna ;

and the pie for the hundred and ninety-second part of a rupee or for one-twelfth of an anna :

Provided that none of the said copper coins shall be a legal tender, except for the fractions of a rupee.

Coin made under former Acts.

15. All silver coin of the weight and standard specified in the Acts No. XVII of 1835, No. XXI of 1838, and No. XIII of 1862, issued since the passing of those Acts, respectively, and declared by those Acts, respectively, to be a legal tender,

and all copper coins of the weight specified in Acts No. XXI of 1835, No. XXII of 1844, and No. XIII of 1862, issued since the passing of those Acts, respectively, and declared by those Acts, respectively, to be a legal tender,

shall continue to be a legal tender for the amounts thereof, respectively, subject to the same conditions and provisions as under those Acts, respectively, anything contained in this Act or in any Act hereby repealed notwithstanding.

VII.—*Diminished, Counterfeit, and Called-in Coin.*

Cutting certain silver coins.

16. When any silver coin purporting to be coined and issued under the authority of the Government of India is tendered to any officer authorized by the Governor General in Council or the Local Government to act under this section, who has reason to believe it to have lost, by reasonable wearing, more than two per cent. in weight,

or to be counterfeit,

or to have been reduced in weight otherwise than by reasonable wearing,

or

1870.]

or to be called-in by any proclamation,

he may, by himself or another,

(subject to the rules which the Governor General in Council prescribes in this behalf),

cut or break such coin.

17. If any coin so cut or broken is counterfeit, or has been reduced in weight otherwise than by reasonable wearing, the pieces shall be returned to the person tendering the coin, and he shall bear the loss caused by such cutting or breaking.

Return of cut coin.

But if it has been coined and issued by the authority of the Government of India, and has lost by reasonable wearing more than two per cent. in weight, or has been called-in by any proclamation, the officer cutting or breaking the same shall receive it at the rate of one rupee per tola.

Receipt of cut coin.

18. All public servants are hereby indemnified for anything done heretofore, which they might lawfully have done if this Act had been in force, and if they had been authorized under section sixteen, and no suit or other proceeding shall be maintained against any such person in respect of anything so done.

Indemnification of public servants.

No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Bar of suits for acts done *bonâ fide*.

VIII.—*Coinage of Bullion.*

19. Subject to the Mint-rules for the time being in force, the Mint Master shall receive all gold and silver bullion and coin brought to the Mint:

Receipt of gold and silver bullion and coin.

Provided that such bullion and coin be fit for coinage :

Provided also that the quantity so brought at one time by one person is not less, in the case of gold, than fifty tolas, and, in the case of silver, than one thousand tolas.

20. A duty shall be levied at the rate of one rupee per cent. at the Mint on the produce of all gold bullion and on all gold coin brought for coinage to the Mint in accordance with the said Mint-rules.

Duty on produce of gold bullion.

21. All

Duty on produce of silver bullion.

Charge for melting and cutting bullion.

Charge for refining.

Certificate for produce of bullion.

Withdrawal of bullion.

Payment for gold bullion.

21. All silver bullion or coin brought for coinage to the Mint, in accordance with the said Mint-rules, shall be subject to a duty at the rate of two per cent. on the produce of such bullion or coin, and the amount of such duty shall be deducted from the return to be made to the proprietor.

22. A charge of one-fourth per mille on gold bullion and coin, and of one per mille on silver bullion and coin, shall also be levied for melting or cutting such bullion and coin so as to render the same fit for receipt into the Mint.

23. All gold and silver bullion and coin brought to the Mint for coinage and which is inferior to the standard fineness prescribed by this Act, or which, from brittleness or other cause, is unfit for coinage, shall, in case it is refined, be subject, in addition to the duty and charge aforesaid, to such charge on account of the loss and expense of refining as the Governor General in Council prescribes in this behalf.

24. The Mint Master, on the delivery of gold or silver bullion or coin into the Mint for coinage, shall grant to the proprietor a receipt which shall entitle him to a certificate from the Assay Master for the net produce of such bullion or coin payable at the General Treasury.

25. The proprietor of any bullion or coin so delivered for coinage, who is dissatisfied with the Assay Master's report of its value, may, within twenty-four hours after receiving such report, and subject to the payment of the fee prescribed in this behalf by the Governor General in Council, withdraw such bullion or coin without being subject to the duties on coinage imposed by this Act.

26. For all gold bullion and coin, in respect of which the Assay Master has granted a certificate, payment shall be made, as nearly as may be, in gold coins coined under this Act or Act No. XVII of 1835; and the balance (if any) due to the proprietor shall be paid in silver, or in silver and copper, coins current in British India.

IX.—Power

IX.—Power to make Rules.

27. The Governor General in Council may, from time to time, Rules as to officers and management of the Mint.

(1) fix the number and duties of the officers of, and persons employed in, the Mint:

(2) make rules and give directions (subject to the provisions of this Act, and any notification made thereunder) respecting the management of the Mint, and revoke and alter such rules and directions.

28. The Governor General in Council may also, from time to time, by notification in the *Gazette of India*,— Rules by notification.

(1) diminish the amount of remedy allowed by sections five, seven and nine in the case of any coin:

(2) determine in the case of any coin the date and embellishments to be put thereon:

(3) call-in coins of any date or denomination, or any coins coined before the date in the notification mentioned:

(4) prescribe rules for the guidance of officers authorized to cut or break coin under section sixteen:

(5) prescribe the charge to be made on account of the loss and expense of refining:

(6) determine the period for which certificates granted under section twenty-four shall run:

(7) fix the fee payable under section twenty-five:

(8) establish a Mint at any place in British India, other than Calcutta and Bombay:

(9) abolish any Mint so established or any Mint now existing in British India:

(10) regulate any matters relative to coinage and to the Mint, which are not provided for by this Act:

(11) revoke or alter any notification previously made under this Act.

Every such notification shall come into force on the day therein in that behalf mentioned, and shall have effect as if it were enacted in this Act.

SCHEDULE.

Indian Coinage. [ACT XXIII
SCHEDULE.

Number and year.	Title or subject.
Bengal Regulation II of 1812.	A Regulation for levying a Duty on the Coinage of Silver Bullion and on the Re-coinage of Rupees and other Coins, with certain Exceptions, at the Mints established at Calcutta, Furruckabad, and Benares; for defining the Weight and Standard of the Benares Rupee; for modifying the Rates of Duty at present levied on the Coinage of Gold Bullion in the Mint of Calcutta; and also for establishing certain Rules for the Conduct of the Business of the above-mentioned Mints, respectively.
Bengal Regulation XIV of 1817 ...	A Regulation for amending certain Parts of Regulation II, 1812.
Bengal Regulation XIV of 1818 ...	A Regulation for altering the Standard of the Calcutta Sicca Rupee and Gold Mohur, and for further modifying some of the Rules in force respecting those Coins.
Bengal Regulation V of 1819.	A Regulation for modifying certain Parts of the Rules in force in regard to the Conduct of the Business of the Mints subordinate to this Presidency.
Act No. XVII of 1835 ...	Gold and Silver coinage.
Act No. XIII of 1862 ...	An Act to provide for a new Silver and a new Copper Coinage.

Office Supdt. Govt. Printing.—No. 3482 L. C.—26-9-70.—3,000.

ACT No. XXIV of 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 7th September 1870.)

An Act to relieve from incumbrances the estates of Taluqdárs in Oudh.

WHEREAS many of the taluqdárs of Oudh are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner herein-after appearing; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called “The Oudh Taluqdárs’ Relief Act.” Short title.

2. In this Act—
‘Chief Commissioner’ means the Chief Commissioner of Oudh: Interpretation-clause.

‘taluqdár’ means a person whose name is entered in the first of the lists mentioned in the Oudh Estates’ Act, 1869, section eight:

‘heir’ means the person for the time being entitled under the same Act as heir to a taluqdár.

II.—VESTING ORDER.

3. Whenever, within twelve months after the passing of this Act, any taluqdár,

or (when such taluqdár is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or the person who would be heir to such taluqdár if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

Power to vest management of taluqdár’s property in an officer appointed by Chief Commissioner.

applies

[Price two annas.]

applies in writing to the Chief Commissioner, stating that the taluqdár is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Chief Commissioner may, with the previous consent of the Governor General of India in Council, by order published in the local official Gazette, appoint an officer (hereinafter called the Manager), and vest in him the management of the immoveable property of or to which the taluqdár is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdár or his heir during the continuance of such management.

Effect of order.

4. On such publication, the following consequences shall ensue:—

Bar of suits against taluqdár.

first, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Taluqdár freed from arrest,

secondly, so long as such management continues,

the taluqdár and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdár was immediately before the said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government;

and his moveable property freed from attachment for prior debts.

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

Cessation of his power to alienate.

thirdly, so long as such management continues, (a) the taluqdár and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom,

Immoveable property freed from attachment.

and (b) such property shall be exempt from attachment or sale under such process as aforesaid,

except

except for or in respect of debts due, or liabilities incurred, to Government.

III.—DUTIES OF MANAGER.

5. The Manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

Manager to receive rents and profits,

From the sums so received, he shall pay—

first, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property:

and pay therefrom the Government demand,

secondly, such annual sum as appears to the Chief Commissioner requisite for the maintenance of the taluqdár, his heir and their families:

an annual sum for maintenance of the taluqdár and his heir,

thirdly, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Chief Commissioner:

costs of repairs and improvements,

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the taluqdár and his heir and their immoveable property, as may be established under the provisions hereinafter contained.

costs of management, and the debts and liabilities.

IV.—SETTLEMENT OF DEBTS.

6. On the publication of the order vesting in him the management of the said property, the Manager shall publish in the local official Gazette a notice in English and Urdú, calling upon all persons having claims against the taluqdár or his immoveable property to notify the same in writing to such Manager within three months from the date of the publication.

Notice to claimants against taluqdár.

He shall also cause copies of such notice to be exhibited at the Tahsildárs' Kachahrís in the District or Districts in which the said property lies and at such other places as the Manager thinks fit.

Copies of notice to be exhibited.

7. Every such claimant shall, along with his claim, present full particulars thereof.

Claim to contain full particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Documents to be given up.

If

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of documents not produced.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Debt or liability not duly notified, to be barred.

8. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the taluqdár is subject, or with which his immoveable property or any part thereof is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Determination of debts and liabilities.

9. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdár and persons holding mortgages, charges or liens on the said property or any part thereof.

Appeal.

10. An appeal against any refusal, admission or determination under sections seven, eight or nine shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the Manager is subordinate, and the decision of such Commissioner, or of the Manager if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

11. When the total amount of such debts and liabilities has been finally determined, the Manager shall prepare and submit to the Chief Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved

approved by the Chief Commissioner, shall be carried into effect.

Until such approval is given, the Chief Commissioner may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Power to return scheme for revision.

12. When all such debts and liabilities have been discharged,

Restoration of taluqdár to his property.

or if, within six months after the publication of the order mentioned in section three, the Chief Commissioner thinks that the provisions of this Act should not continue to apply to the case of the taluqdár or his heir,

the taluqdár or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in section nineteen, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Where the taluqdár or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in section three (so far as they relate to debts and liabilities not settled by the Manager), and the debts and liabilities barred by section eight, shall be revived, and any mortgagee dispossessed under section seventeen shall be reinstated unless his claim under the mortgage has been satisfied;

Revival of barred proceedings and debts.

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section three shall be excluded.

V.—POWERS OF MANAGER.

13. The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion

Power to call for further particulars.

discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to
summon
witnesses
and compel
production
of docu-
ments.

14. For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

Power to
administer
oaths.

15. The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Investigation
to be deemed
a judicial
proceeding.

16. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Statements of
persons
examined,
to be evi-
dence.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to
have powers
of a taluqdár.

17. The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdár would have had for such purpose if this Act had not been passed.

Power to re-
move mort-
gagee in
possession.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Power to
lease.

18. Subject to the rules made under section twenty, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession,

possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

19. The Manager, with the previous assent of the Chief Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the taluqdár is subject, or with which his immoveable property or any part thereof is charged,

Power to
raise money
by mortgage
or sale.

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdár and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section five, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Manager's
receipts.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section three.

VI.—MISCELLANEOUS.

20. The Chief Commissioner may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Power to
make rules.

Such rules, when approved by the Governor General of India in Council, and published in the local official Gazette, shall have the force of law.

21. Whenever the Chief Commissioner thinks fit, he may appoint any officer to be a Manager in the stead

Power to
appoint new
Managers.

Oudh Taluqdárs' Relief. [ACT XXIV

stead of any Manager appointed under this Act ; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

22. Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Bar of suits.

23. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Petitions, &c., under Act exempt from Court fees.

24. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

Saving of jurisdiction of Courts in Oudh in respect of certain suits.

25. Nothing in this Act precludes the Courts of the Province of Oudh, having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

ACT No. XXV OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor General on the 3rd October 1870).

An Act to legalize the levy of certain duties on timber imported into Maulmain.

WHEREAS certain duties were in the years 1864 and 1865 levied on foreign timber imported into Maulmain by the River Salween, and whereas doubts have been raised to the legality of the levy of such duties, and it is expedient to preclude such doubts; it is hereby enacted as follows:—

Preamble.

1. All duties levied between the first day of July 1864 and the second day of August 1865 (both inclusive) on foreign timber imported into Maulmain by the River Salween, shall be deemed to have been levied in accordance with law.

Legalization of levy of duties.

2. All officers and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been in force; and no suit or other proceeding shall be maintained against any such officer or other person in respect of anything so done.

Indemnity-clause.

[Price one anna].

XXV 8 1870
THE PRISONS' ACT, 1870.

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[Price two annas.]

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ACT No. XXVI OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 3rd
October 1870).

An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in the North-Western Provinces, the Panjáb, Oudh, the Central Provinces, and British Burma, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Prisons' Act, Short title.
1870."

It extends only to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma.

And it shall come into force on the first day of December 1870.

2. On and after that day the enactments mentioned in the schedule to this Act annexed shall be repealed to the extent specified in the third column of the said schedule.

3. In this Act—

"prison" means any gaol or penitentiary, and includes the airing-grounds or other grounds or buildings occupied for the use of the prison;

"criminal

"Criminal prisoner." "criminal prisoner" means any prisoner charged with or convicted of a crime;
 "Civil prisoner." and "civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Local Gov-
ernment to
provide
prison accom-
modation.
 4. The Local Government shall provide for the prisoners in the territories under such Government, accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Temporary
shelter of
prisoners.
 5. Whenever it appears to the Local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the Local Government from time to time directs, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

Inspector
General of
Prisons.
 6. An Inspector General of Prisons shall be appointed in the North-Western Provinces by the Local Government, in the Panjáb by the Local Government, and in Oudh, the Central Provinces and British Burma, by the Governor General in Council.

In each Inspector General so appointed shall be vested (subject to the orders of the Local Government) the general control and superintendence of all prisons situate in the territories under such Government.

7. For

1870.]

Prisons.

7. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Gaoler and such subordinate officers as the Local Government thinks necessary. Officers of prison.

Subject to the orders of the Governor General in Council, the Local Government may direct that for any specified prison there shall also be a Deputy Medical Officer and a Deputy Gaoler.

8. The Local Government shall appoint the Superintendent and the Medical Officer and the Deputy Medical Officer. Appointment of officers.

The Superintendent (subject to the approval of the Inspector General of Prisons) shall appoint the Gaoler and Deputy Gaoler.

The Superintendent shall also appoint the subordinate officers.

9. Every officer appointed under this Act shall receive such salary as (subject to the approval of the Governor General of India in Council) the Local Government directs; and may be suspended or dismissed by the authority appointing him: Salaries, suspension and dismissal of officers.

Provided that no Gaoler or Deputy Gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this section may appeal to the Inspector General, whose orders on such appeal shall be final.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

10. All officers of a prison shall obey the directions of the Superintendent: all subordinate officers shall perform such duties as may be directed by the Gaoler with the sanction of the Superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him. Officers to obey Superintendent.

11. No

Officers not
to sell or
let to pris-
oners.

11. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not
to contract
with pris-
oners;

12. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under section fifty-four, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner.

nor to
benefit by
sales.

Superintendent.

Duties of
Superin-
tendent.

13. Subject to the orders of the Inspector General of Prisons, the Superintendent shall—

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control: correspond on all matters connected with the prison with and through the Inspector General:

submit to the Inspector General all bills of prison expenditure with proper vouchers for audit:

report to the Inspector General from time to time, as they occur, all escapes and recaptures, and all outbreaks of epidemic disease:

send to the Inspector General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General;

and, generally, obey all rules made under section fifty-four for the guidance of the Superintendent.

The Superintendent shall also obey all orders respecting the prison given by the Magistrate of the District, or the Deputy Commissioner, as the case may be, and shall report to the Inspector General all such orders and the action taken thereon.

Medical Officer.

Power to
make rules
as to Medical
Officer's
duties.

14. The Local Government shall make rules as to each of the following matters:—

how often the Medical Officer shall visit the prison and see each prisoner:

the

the records to be made respecting sick prisoners:
periodical inspection of every part of the prison:
reports on its cleanliness, drainage, warmth and ventilation:

reports on the provisions, water, clothing and bedding supplied to the prisoners.

The Medical Officer shall obey such rules.

Medical Offi-
cer to obey
such rules.

To report
special cases.

15. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such directions as the Medical Officer thinks proper.

16. On the death of any prisoner, the Medical Officer shall forthwith record in writing the following particulars, namely,—

To make en-
tries as to
death of pris-
oners.

when the deceased was taken ill,
when the Medical Officer was first informed of the illness,

the nature of the disease,
when the prisoner died,
and (in cases where a *post mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

17. Where a Deputy Medical Officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the Medical Officer.

Deputy Me-
dical Officer.

When there is no Deputy Medical Officer, or when his services are not available by reason of sickness or other cause, the Local Government may, by general or special order, appoint a Subordinate Medical Officer to act as a substitute for the Medical Officer, and the Subordinate Medical Officer so appointed shall perform all the duties of the Medical Officer.

Subordinate
Medical Offi-
cer.

Gaoler.

18. The Gaoler shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

Residence of
Gaoler.

elsewhere. The Gaoler shall not, without the Inspector General's sanction, be concerned in any other employment.

19. The Gaoler shall deliver to the Medical Officer daily a list of such prisoners as are confined in punishment-cells.

To deliver list of prisoners confined in punishment-cells.

To give notice of death of prisoners.

To keep enumerated books and accounts.

20. Upon the death of a prisoner, the Gaoler shall give immediate notice thereof to the Superintendent.

21. The Gaoler shall keep, or cause to be kept, the following records :—

- (1) a register of warrants;
- (2) a book showing when each prisoner is to be released;
- (3) a punishment-book for the entry of the punishments inflicted for prison-offences;
- (4) a visitors' book for the entry of any observations made by visitors to the prison;
- (5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under section fifty-four.

Responsible for safe custody of documents.

22. The Gaoler shall be responsible for the safe custody of the records to be kept by him under section twenty-one, and also for the commitments and all other documents confided to his care.

Not to be absent without leave.

23. The Gaoler shall not be absent from the prison for a night without permission in writing from the Superintendent; but if absent without leave for a night from unavoidable necessity, he shall report the fact and the cause of it to the Superintendent.

Deputy Gaoler.

24. Where a Deputy Gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section fifty-four to be performed by the Gaoler.

Where there is no Deputy Gaoler, or where his services are not available by reason of sickness or other cause, the Superintendent shall, when the Gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity, and the sub-

stitute

stitute so appointed shall have all the powers and perform all the duties of the Gaoler.

Subordinate Officers.

25. The officer acting as Gate-Porter, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and if any such articles or property be found, shall give immediate notice thereof to the Gaoler.

Powers of Gate-Porter.

26. Subordinate officers shall not be absent from the prison without leave from the Superintendent, or from the Gaoler, and before absenting themselves they shall leave their keys in the Gaoler's office.

Subordinate officers not to be absent without leave.

CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

27. When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Prisoners to be searched on entrance.

Every criminal prisoner shall also, as soon as possible after admission, be examined by the Medical Officer, who shall enter in a book, to be kept by the Gaoler, a record of the state of the prisoner's health, and any observations which the Medical Officer thinks fit to add.

Medical examination of criminal prisoners.

28. All money or other effects in respect whereof no order of a competent court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the Gaoler.

Effects of criminal prisoners retained.

29. All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

Medical examination before removal and discharge of prisoners.

No prisoner shall be removed to any other prison unless the Medical Officer certifies that the prisoner

is

is free from any illness rendering him unfit for removal.

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.

DISCIPLINE OF PRISONERS.

Requisitions
of Act as to
separation of
prisoners.

30. The requisitions of this Act, with respect to the separation of prisoners, are as follows:—

(1.)—In a prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2.)—In a prison where children under twelve years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3.)—Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4.)—Civil prisoners shall be kept apart from criminal prisoners.

Rules as to
separate con-
finement.

31. The Local Government shall have power to make rules—

(1) as to what cells only shall be used for the separate confinement of prisoners:

(2) as to the time during which prisoners not guilty of offences against prison rules may be confined separately.

Cells to be
furnished
with means
of communi-
cation.

32. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners
under sen-
tence of
death.

33. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the

Gaoler

Gaoler, and all articles shall be taken from him which the Gaoler deems it dangerous or inexpedient to leave in his possession.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

CHAPTER VI.

FOOD, CLOTHING AND BEDDING OF PRISONERS.

34. A civil prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding, or other necessities, but subject to examination and to such rules as may be approved by the Inspector General.

Civil prisoner
may maintain
himself.

35. No part of any food, clothing, bedding or other necessities belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Civil prisoner
not to sell
provisions.

36. Every civil prisoner unable to provide himself with sufficient clothing and bedding, shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Allowance of
clothing and
bedding.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the Superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

Judgment-
creditor to
defray such
allowance.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

37. Civil prisoners may, with the Superintendent's permission, work and follow their respective trades and professions.

Work and
earnings of
civil prison-
ers.

Civil

Civil prisoners finding their own implements and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Examination
by Medical
Officer of
labouring
prisoners.

38. The Medical Officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour, and thereupon such prisoner shall not again be employed at such labour until the Medical Officer certifies that he is fit for such employment.

But if the Medical Officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the Gaoler so to employ him.

Employment
of prisoners
sentenced to
simple impris-
onment.

39. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

The Superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

CHAPTER VIII.

HEALTH OF PRISONERS.

Names of
sick prisoners
to be reported
to Gaoler.

40. The names of prisoners desiring to see the Medical Officer or appearing out of health in mind or body shall be reported by the officer attending them to the Gaoler.

The

The Gaoler shall, without delay, call the attention of the Medical Officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, Gaoler to report them to Medical Officer.

and shall carry into effect the Medical Officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

41. All directions given by the Medical Officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the Gaoler, stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Gaoler thinks fit to make, and the date of the entry. Entry of directions by Medical Officer.

42. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided. Infirmaries.

CHAPTER IX.

VISITS TO AND CORRESPONDENCE OF PRISONERS.

43. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate. Visits to prisoners.

The Local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline. Correspondence of prisoners.

44. The Gaoler may demand the name and address of any visitor to a prisoner; and, when the Gaoler has any ground for suspicion, may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor. Power of Gaoler as to visitors.

In case of any such visitor refusing to be searched, the Gaoler may deny him admission; and the grounds of

of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

Carrying liquor, tobacco or drugs into prison,

45. Whoever, contrary to the regulations of the prison, brings, throws, or attempts by any means whatever to introduce into any prison, or any place provided under section five for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug,

suffering liquor, tobacco or drugs to be sold or used in prison,

and every officer of a prison who knowingly suffers any such liquor, tobacco, or drug, to be sold or used in such prison or place contrary to such regulations,

carrying letters into and out of prison,

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations, into or out of any such prison or place,

abetment of such offences.

and whoever abets within the meaning of the Indian Penal Code any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months or to fine not exceeding two hundred rupees or to both.

Notice of penalties to be placed outside prison.

46. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under section forty-five.

CHAPTER XI.

PRISON OFFENCES.

List of prison offences.

47. The following acts are declared to be offences against prison discipline:—

(1) wilful disobedience to the regulations of the prison by any prisoner;

(2) assaults

(2) assaults or use of criminal force by any prisoner;

(3) insulting or threatening language by any prisoner to any officer or prisoner;

(4) indecent or disorderly behaviour by any prisoner;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing or cutting irons or bars;

(8) idleness or negligence at work by any convicted criminal prisoner;

(9) wilful mismanagement of work by any convicted criminal prisoner;

(10) wilful damage to prison property;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

48. The Superintendent may examine any person touching such offences, and determine thereupon, and punish such offences—

Superintendent's power to punish prison offenders.

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days;

(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe;

(3) by corporal punishment not exceeding thirty stripes of a ratan; or

(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The Gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the Superintendent.

49. If any prisoner is guilty of repeated offences against prison discipline, or is guilty of any offence against prison discipline which the Superintendent

Punishment of prisoners by Magistrate.

thinks

thinks is not adequately punishable under section forty-eight, the Superintendent shall report the same to the Magistrate of the District or any Magistrate empowered to receive complaints without reference by the Magistrate of the District.

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished

by confinement in a punishment-cell or in irons for any term not exceeding six months,

or by corporal punishment not exceeding thirty stripes of a ratan.

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal
punishment.

50. All corporal punishment within the prison shall be inflicted in the presence of the Superintendent, subject to the law for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

Penalty on
officers ill-
treating pris-
oners or vio-
lating rules.

51. Every Gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under section fifty-four, shall be liable, on conviction before the Superintendent, to fine not exceeding one hundred rupees, or, on conviction before a Magistrate not being the Superintendent, to fine not exceeding two hundred rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Any fine imposed by the Superintendent under this section may be recovered, either by deductions from the convicted officer's salary and allowances, or under the law for the time being in force for the recovery of fines.

No person shall, under this section, be punished twice for the same offence.

CHAPTER XII

CHAPTER XII.

MISCELLANEOUS.

52. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the Superintendent may so confine them.

Confinement
in irons of
prisoners sen-
tenced to rig-
orous impris-
onment.

53. Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the Gaoler of his own authority, and notice thereof shall be forthwith given to the Superintendent.

Confinement
in irons by
Gaoler of his
own author-
ity.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the Superintendent specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the Gaoler as his warrant.

54. The Local Government may, from time to time, make rules consistent with this Act,

Power to
make supple-
mentary pris-
on rules.

(1) for the government of prisons and for the guidance of all officers appointed hereunder :

(2) as to sales of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon :

(3) as to the food and clothing of criminal prisoners :

(4) for the employment and control of convicts within or without prisons, and for the guidance of the guards in charge of such convicts :

(5) for remission of sentences :

(6) for rewards for good conduct ; and

(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

55. All

keepers

Present rules. 55. All rules now in force relating to any of the matters mentioned in sections fourteen, thirty-one, thirty-nine and fifty-four shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively.

Exercise of powers of Superintendent. 56. All or any of the powers and duties conferred and imposed by this Act on a Superintendent may be exercised and performed by such other officer as the Local Government from time to time appoint in this behalf.

SCHEDULE.
[See Section 2.]

Number and year.	TITLE.	Extent of repeal.
Bengal Regulation XIV of 1816.	To provide more effectually for the Management of the Public Jails; and to enable the Magistrates to maintain good Order and Discipline in those Jails; as well as among the Prisoners employed on the Public Roads, or other Public works:—also to place the Jail at Allypore, in the Vicinity of Calcutta, under the inspection and control of the Court of Nizamut Adawlut; and to provide for the Transportation of Convicts to the Island of Mauritius or its immediate Dependencies.	So much as has not been repealed.
Bengal Regulation XVII of 1816.	For the occasional Revision of the regular Police and Jail Establishments; for the due Support and Regulation of the Establishments of chokeedars; for amending the Rules in Force for the Appointment and Removal of Police Officers; for modifying the Constitution of the Offices of the Superintendents of Police; and for reducing the Miscellaneous Business of Courts of Circuit, and Court of Nizamut Adawlut.	Sections fourteen and eighteen.
Bengal Regulation III of 1826.	For extending to Dewanny prisoners some of the Provisions in Regulation XIV, 1816, and for modifying the Rule contained in Section III, Regulation IV, 1816.	The whole.

SCHEDULE (continued).

SCHEDULE (continued).

Number and year.	TITLE.	Extent of repeal.
Bengal Regulation IV of 1833.	To provide more effectually for the Management of Convicts sentenced to Labour and employed on the Roads or Public Works under Superintendents or their Assistants appointed by Government, and to enable those officers to maintain good Order and Discipline among the Convicts and their Guards.	The whole.
Bengal Regulation II of 1834.	For abolishing Corporal Punishment; for substituting a Fine in certain Cases for a Sentence of Labour; and for the gradual Introduction of a better System of Prison Discipline.	So much as has not been repealed.
Act No. XVIII of 1844.	For the better control and management of Gaols within the Bengal Presidency.	The whole.

ACT N^o. I. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 13th January 1871.)

THE CATTLE-TRESPASS ACT, 1871.

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AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO TRESPASS BY CATTLE.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to trespasses by cattle; It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

- Short title.* 1. This Act may be called 'The Cattle-trespass Act, 1871.'

Local extent. It extends to the whole of British India except the Presidency Towns and such districts or tracts of country as the Local Government, with the sanction of the Governor-General in Council, may exclude from its operation.

Commencement of Act. And it shall come into force on the passing thereof.

Repeal of Acts. 2. The Acts mentioned in the schedule hereto annexed are repealed.

References to repealed Acts. References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

All pounds established, pound-keepers appointed and villages determined, under Act No. III. of 1857 (*relating to trespasses by Cattle*), shall be deemed to be, respectively, established, appointed and determined under this Act.

3. In this Act:—

Interpretation-clause. 'Officer of Police' includes also Village Watchman, and 'Cattle' includes also elephants, camels, buffalos, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids.

CHAPTER II.—*Pounds and Pound-keepers.*

Establishment of pounds. 4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Local Government, from time to time directs.

The village by which every pound is to be used shall be determined by the Magistrate of the District.

5. The

Control of pounds.
Rates of charge for feed-
ing impounded cattle.

5. The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

Appointment of pound-keepers.

6. The Magistrate of the District shall also appoint for each pound a pound-keeper:

Provided that, in the Presidency of Fort Saint George, the heads of villages, and, in the Presidency of Bombay, the Police pátíls, or (where there are no Police pátíls) the heads of villages, shall be *ex-officio* the keepers of village-pounds.

Ex-officio pound-keepers in Madras and Bombay.

Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

Suspension or removal of pound-keepers.

Any pound-keeper may hold simultaneously any other office under Government.

Pound-keepers may hold other offices.

Every pound-keeper shall be deemed a public servant within the meaning of the Indian Penal Code.

Duties of Pound-keepers.

To keep registers and furnish returns.

7. Every pound-keeper shall keep such registers and furnish such returns as the Local Government from time to time directs.

8. When cattle are brought to a pound, the pound-keeper shall enter in his register,

- (a) the number and description of the animals,
 - (b) the day and hour on and at which they were so brought,
 - (c) the name and residence of the seizer, and
 - (d) the name and residence of the owner, if known,
- and shall give the seizer or his agent a copy of the entry.

To take charge of and feed cattle.

9. The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed.

CHAPTER III.—*Impounding Cattle.*

10. The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce on any land,

Cattle damaging land.

or the vendee or mortgagee of such crop or produce, or any part thereof, may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and take them or cause them to be taken without unnecessary delay to the pound established for the village in which the land is situate.

All officers of police shall, when required, aid in preventing (a) resistance to such seizures and (b) rescues from persons making such seizures.

Police to aid seizures.

11. Persons in charge of public roads, pleasure-grounds, plantations, canals, drainage-works, embankments and the like, and officers of police may seize, or cause to be seized, any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage-works or embankments, or found straying thereon,

Cattle damaging public roads, canals and embankments.

and shall take them without unnecessary delay to the nearest pound.

12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale:—

Fines for cattle impounded.

Elephant	...	...	...	...	two rupees.
Camel or buffalo	...	...	...	...	eight annas.
Horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	...	...	...	...	four „
Calf, ass, or pig	...	...	...	...	two „
Ram, ewe, sheep, lamb, goat or kid	...	...	...	...	one anna.

All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government from time to time directs.

A list of the fines and of the rates of charge for feeding and watering cattle shall be stuck up in a conspicuous place on or near to every pound.

List of fines and charges for feeding.

CHAPTER IV.—*Delivery or Sale of Cattle.*

13. If the owner of impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

Procedure when owner claims the cattle and pays fines and charges.

The owner or his agent on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

14. If

14. If the cattle be not claimed within seven days from the date of their being impounded, the pounder-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

- (a) the number and description of the cattle,
- (b) the place where they were seized,
- (c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

Provided that if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section twenty, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

16. If the owner or his agent appear, and refuse or omit to pay or (in the case mentioned in section fifteen) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer, at such place and time, and subject to such conditions as are referred to in section fourteen.

The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

The remaining cattle and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account showing—

- (a) the number of cattle seized,

(b) the

- (b) the time during which they have been impounded,
- (c) the amount of fines and charges incurred,
- (d) the number of cattle sold,
- (e) the proceeds of sale, and
- (f) the manner in which those proceeds have been disposed of.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account.

Disposal of fines, expenses and surplus proceeds of sale.

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section sixteen shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charge under section thirteen.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

Application of fines and unclaimed proceeds of sale.

18. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle, shall be paid—

(a) the salaries allowed to pound-keepers under the orders of the Local Government;

(b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

and the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and to other purposes of public utility.

19. No officer of police, or other officer or pound-keeper appointed under the provisions herein contained shall, directly or indirectly, purchase any cattle at a sale under this Act.

Officers and pound-keepers not to purchase cattle at sales under Act.

No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

Pound-keepers when not to release impounded cattle.

CHAPTER V.—*Complaints of illegal seizures.*

20. Any person whose cattle have been seized and detained under this Act may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District, or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

22. If the seizure be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure and detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle;

and if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure.

23. The compensation, fines and expenses mentioned in section twenty-two may be recovered as if they were fines imposed by the Magistrate.

CHAPTER VI.—*Penalties.*

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

and whoever rescues the same after seizure, either from a pound, or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

25. Any

25. Any fine imposed for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

26. Any owner or keeper of pigs, who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

27. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section nineteen, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees.

Such fines may be recovered by deductions from the pound-keeper's salary.

28. All fines recovered under section twenty-five, section twenty-six or section twenty-seven may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

CHAPTER VII.—*Suits for Compensation.*

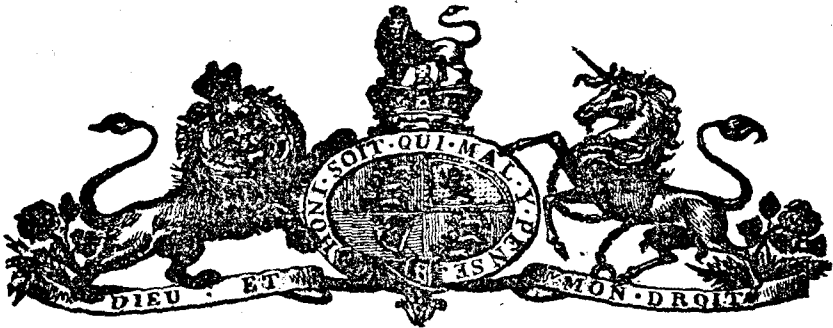
29. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle, from suing for compensation in any competent Court.

30. Any compensation paid to such person under this Act by order of the convicting Magistrate, shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

SCHEDULE.

(See Section 2.)

Number and year.	Title of Act.
III. of 1857 ...	An Act relating to trespasses by cattle.
V. of 1860 ...	An Act to amend Act III. of 1857 (relating to trespasses by cattle).
XXII. of 1861. ...	An Act to amend Act III. of 1857 (relating to trespasses by cattle).



ACTS OF THE GOVERNMENT OF INDIA.

THE following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 24th March 1871, and is hereby promulgated for general information :—

Act No. IX. of 1871.

THE INDIAN LIMITATION ACT, 1871.

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AN ACT FOR THE LIMITATION OF SUITS AND FOR OTHER PURPOSES.

WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Court;
And whereas it is also expedient to provide rules for acquiring ownership by possession; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Limitation Act, 1871;"

Extent of Act.

It extends to the whole of British India; but nothing contained in sections two and three or in Parts II. and III. applies—

(a) to suits instituted before the first day of April, 1873.

(b) to suits under the Indian Divorce Act,

(c) to suits under Madras Regulation VI. of 1831.

Commencement.

This Act shall come into force on the first day of July 1871.

Repeal of enactments.

2. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context—

"minor" means a person who has not completed his age of eighteen years;

"plaintiff" includes also any person through whom a plaintiff claims;

"nuisance" means anything done to the hurt or annoyance of another's immoveable property and not amounting to a trespass;

"bill of exchange" includes also a hundí;

"trustee" does not include a benámídar, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title;

"registered" means duly registered under the law for the registration of documents in force at the time and place of executing the document referred to in the context;

"foreign country" means any country other than British India;

and nothing shall be deemed to be done in "good faith" which is not done with due care and attention.

PART II.

PART II.

LIMITATION OF SUITS, APPEALS, AND APPLICATIONS.

4. Subject to the provisions contained in sections five to twenty-six (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the second schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Dismissal of suits, &c., instituted, &c., after period of limitation.
Explanation.—A suit is instituted in ordinary cases when the plaint is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Illustrations.

(a).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The Appellate Court must dismiss the suit.

(b).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

5. a. If the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens;

Proviso where Court is closed when period expires.
 b. Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Proviso as to appeals and applications for review.
 6. When, by any law not mentioned in the schedule hereto annexed and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially prescribed for any suits, appeals or applications, nothing herein contained shall affect such law.

Different periods of limitation prescribed by local laws.
 And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

Appeals from decrees of High Courts on original side.

Legal

Legal Disability.

7. If a person entitled to sue be, at the time the right to sue accrued, a minor, or insane, or an idiot, he may institute the suit within the same period after the disability has ceased, or (when he is at the time of the accrual affected by two disabilities) after both disabilities have ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the second schedule hereto annexed.

Legal disability.
 When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time prescribed therefor in the third column of the same schedule.

Nothing in this section shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which the suit must be brought.

Illustrations.

(a).—The right to sue for the hire of a boat accrues to A during his minority. He comes of age four years after the accrual of the right. He may institute his suit at any time within three years from the date of his coming of age.

(b).—A, to whom a right to sue for a legacy has accrued during his minority, attains full age, eleven years, after such right accrued. A has, under the ordinary law, only one year remaining within which to sue. But under this section an extension of two years will be allowed him, making in all a period of three years from the date of his majority, within which he may bring his suit.

(c).—A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accrual of the right A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(d).—A right to sue as landlord to recover possession from a tenant accrues to A, who is an idiot. A dies three years after the accrual of the right, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

Disability of one joint creditor.
 9. When once time has begun to run, no subsequent disability or inability to sue stops it:

Continuous running of time.
 Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

10. Notwithstanding

10. Notwithstanding anything herein-before contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his representatives, for the purpose of following in his or their hands such property, shall be barred by any length of time.

Explanation.—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

11. Suits in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

12. No foreign rule of limitations shall be a defence to a suit in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were domiciled in such country during the period prescribed by such rule.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

13. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper, an application to the High Court for the admission of a special appeal, and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

14. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded, unless service of a summons to appear and answer in the suit can, during such absence, be made under the Code of Civil Procedure, section sixty.

15. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another suit, whether in a Court of first instance or in a Court of Appeal, against the same defendant or some person

person whom he represents, shall be excluded, where the last-mentioned suit is founded upon the same right to sue, and is instituted in good faith in a Court which from defect of jurisdiction, or other cause of a like nature, is unable to try it.

Explanation 1.—In excluding the time during which a former suit was pending, the day on which that suit was instituted, and the day on which the proceedings therein ended, shall both be counted.

Explanation 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction shall be deemed to be prosecuting a suit within the meaning of this section.

16. In computing the period of limitation prescribed for any suit, the commencement of which has been stayed by injunction, the time of the continuance of the injunction shall be excluded.

17. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a suit to set aside the sale shall be excluded.

18. When a person who would, if he were living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased capable of suing.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

Nothing in the former part of this section applies to suits for the possession of land or of an hereditary office.

19. When any person having a right to sue has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

and where any document necessary to establish such right has been fraudulently concealed,

the time limited for commencing a suit,

(a.) against the person guilty of the fraud or accessory thereto, or,

(b.) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

20. a. No

20. *a.* No promise or acknowledgment in respect of a debt or legacy shall take the case out of the operation of this Act, unless such promise or acknowledgment is contained in some writing signed, before the expiration of the prescribed period, by the party to be charged therewith or by his agent generally or specially authorized in this behalf.

b. When such writing exists, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the promise or acknowledgment was signed.

c. When the writing containing the promise or acknowledgment is undated, oral evidence may be given of the time when it was signed. But when it is alleged to have been destroyed or lost, oral evidence of its contents shall not be received.

Explanation 1.—For the purposes of this section, promise or acknowledgment may be sufficient, though it omits to specify the exact amount of the debt or legacy, or avers that the time for payment or delivery has not yet come, or is accompanied by a refusal to pay or deliver, or is coupled with a claim to a set-off, or is addressed to any person other than the creditor or legatee;

but it must amount to an express undertaking to pay or deliver the debt or legacy or to an unqualified admission of the liability as subsisting.

Explanation 2.—Nothing in this section renders one of several partners or executors chargeable by reason only of a written promise or acknowledgment signed by another of them.

Illustrations.

Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor A. Z affixes his seal, but does not sign the letter :

Z pays part of the debt and promises orally to pay the rest :

Z publishes an advertisement, requesting his creditors to bring in their claims for examination :

In none of these cases is the debt taken out of the operation of this Act.

21. When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent generally or specially authorized in this behalf,

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent generally or specially authorized in this behalf,

a new period of limitation, according to the nature of the original liability, shall be computed from the time when the payment was made :

Provided that, in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in

the

the handwriting of the person making the same, on the instrument, or in his own books, or in the books of the creditor.

22. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have commenced when he was so made a party :

Provided that, when a plaintiff dies, and the suit is continued by his representatives in interest, it shall, as regards them, be deemed to have commenced when it was instituted by the deceased plaintiff :

Provided also, that, when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been commenced when it was instituted against the deceased defendant.

23. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run, upon every fresh breach ; and where the breach is a continuing breach, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach continues.

Nothing in the former part of this section applies to suits for the breach of contracts for the payment of money by instalments, where, on default made in payment of one instalment, the whole becomes due.

Illustrations.

(a.)—A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run ; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

(b.)—A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

24. In the case of a continuing nuisance a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the nuisance continues.

Illustration.

A diverts B's water-course. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

25. In the case of a suit for compensation for an act lawful in itself, which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues,

Illustration.

Illustration.

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation runs from the time of the subsidence.

Computation of time
mentioned in instruments.

26. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Illustrations.

(a.)—A Hindu makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(b.)—A Hindu makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

27. Where the access and use of light or air to and for any building has been peaceably enjoyed therewith, as an easement, and as of right, without interruption, and for twenty years,

Acquisition of right to
easements.

and where any way or water-course, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, water-course, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation.—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to, or acquiesced in, for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Illustrations.

(a.)—A suit is brought in 1871 for obstructing a right of way. The defendant admits the obstruction but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him claiming title thereto as an easement and as of right, without interruption, from 1st January 1850 to 1st January 1870. The plaintiff is entitled to judgment.

(b.)—In

(b.)—In a like suit also brought in 1871 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1848 to 1868. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(c.)—In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

28. Provided that, when any land or water upon, over or from which any easement (other than the access and use of light and air) has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof,

the time of the enjoyment of such easement during the continuance of such interest or term, shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a deceased Hindu widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

29. At the determination of the period hereby limited to any person for instituting a suit for possession of any land or hereditary office, his right to such land or office shall be extinguished.

Extinguishment of right
to land or hereditary office.

FIRST SCHEDULE. (See Section 2.)			FIRST SCHEDULE.—continued.		
Number and year.	Subject or title.	Extent of repeal.	Number and year.	Subject or title.	Extent of repeal.
21 Jac. I., cap. sixteen.	An Act for limitation of actions and for avoiding of suits in law.	The whole Statute, so far as it applies to British India.	Act No. XIV. of 1840.	An Act for rendering a written memorandum necessary to the validity of certain promises and engagements, by extending to the territories of the East India Company, in cases governed by English Law, the provisions of the Statute 9 Geo. IV., cap. 14.	From and including the words "Whereas by an Act" down to and including the words "Defendants against the Plaintiff."
4 Ann. cap. sixteen.	An Act for the amendment of the law and the better advancement of justice.	Sections seventeen, eighteen and nineteen, so far as they apply to British India.			
33 Geo. III., cap. fifty-two.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further regulations for the government of the said territories, and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said Company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	So much of section one hundred and sixty-two as relates to the limitation of civil suits in British India.	Act No. XI. of 1841.	Military Courts of Requests.	The proviso in section nine.
			Act No. XX. of 1847.	Copyright Act ...	In section sixteen, the words 'actions, suits, bills.'
			Act No. XII. of 1855.	An Act to enable Executors, Administrators, or Representatives to sue and be sued for certain wrongs.	In section one, the words "and provided such action shall be brought within one year after the death of such person," and the words "and so as such action shall be commenced within two years after the committing of the wrong."
53 Geo. III. cap. one hundred and fifty-five.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company.	Section one hundred and twenty-four, so far as it applies to British India.	Act No. XIII. of 1855.	Compensation for loss occasioned by death caused by actionable wrong.	In section two, the words "and that every such action shall be brought within twelve calendar months after the death of such deceased person."
			Act No. XXV. of 1857.	Forfeiture for mutiny	Section nine.
			Act No. VIII. of 1859.	The Code of Civil Procedure.	In section one hundred and nineteen, the words "within a reasonable time not exceeding thirty days after any process for enforcing the judgment has been executed," and the words "within thirty days from the date of the judgment."
9 Geo. IV., cap. seventy-four.	Administration of Criminal Justice.	So much of section fifty-one as relates to civil suits.			In section two hundred and thirty, the words
6 & 7 Vic., cap. ninety-four.	Foreign Jurisdiction Act.	Section seven, so far as it applies to British India.			

FIRST SCHEDULE.—continued.			FIRST SCHEDULE.—continued.		
Number and year.	Subject or title.	Extent of repeal.	Number and year.	Subject or title.	Extent of repeal.
		"within one month from the date of the dispossession." The last twelve words of section two hundred & forty-six. In section two hundred and fifty-six, the words "At any time within thirty days from the date of the sale." In section two hundred and sixty-nine, the words "if made within one month from the date of such existence or obstruction or of such dispossession, as the case may be." In section three hundred and twenty-four, the second sentence. In section three hundred and twenty-seven, the words "within six months from the date of the award." In section three hundred and thirty-three, from and including the words "within the period" down to the end of the section. In section three hundred and forty-seven, the words "within thirty days from the date of the dismissal." In section three hundred and seventy-three, the words "within the period prescribed for the presentation of a memorandum of appeal." So much of section three hundred and seventy-seven as has not been repealed.	Act No. XIV. of 1859.	An Act to provide for the limitation of suits.	The whole Act, except so much of section fifteen as does not relate to the limitation of suits.
			Act No. IX. of 1860.	Workmen and employers.	So much of section two as relates to the limitation of suits.
			Act No. XXXI. of 1860.	Arms Act ...	So much of section forty-nine as relates to the limitation of suits.
			Act No. V. of 1861.	Mofussil Police ...	So much of section forty-two as relates to the limitation of suits.
			Act No. XXIII. of 1861.	Civil Procedure Code Amendment.	Section twelve.
			Act No. XXV. of 1861.	Criminal Procedure Code.	Section four hundred and fifteen.
			Act No. I. of 1863.	Civil Courts in British Burmah.	Section twenty-four.
			Act No. VI. of 1863.	Consolidated Customs Act.	So much of section two hundred and fourteen as relates to the limitation of suits.
			Act No. XXIII. of 1863.	Claims to Wastelands.	So much of section five as relates to the limitation of suits.
			Act No. VII. of 1865.	Government Forests Act.	So much of section sixteen as relates to the limitation of suits.
			Act No. XX. of 1866.	Registration Act ...	Section fifty-one.
			Act No. XIV. of 1868.	Contagious Diseases Act.	So much of section twenty-five as relates to the limitation of suits.
			Act No. XX. of 1869.	Volunteers ...	So much of section twenty-six as relates to the limitation of suits.
			Act No. X. of 1870.	Land Acquisition ...	So much of section fifty-eight as relates to the limitation of suits.
			Act No. IV. of 1871.	Coroners ...	In section forty-two, the words "after the expiration of three months from such fact or failure, nor."
			Bombay Regulation V. of 1827.	A Regulation defining the Limitations, as to Time, within which Civil Actions may be prosecuted, and containing Rules of Judication	Chapter one.

FIRST SCHEDULE.—concluded.			SECOND SCHEDULE.—continued.		
			FIRST DIVISION : SUITS.—continued.		
Number and year.	Subject or title.	Extent of repeal.	Description of suit.	Period of limitation.	Time when period begins to run.
	respecting written Acknowledgments of Debts executed without receipt of a full consideration; also regarding Interest, the tendering payment of Debts, and the disposal of Property mortgaged or pledged.		5.—Under Act No. V. of 1866 (to provide a summary procedure on bills of exchange, and to amend, in certain respects, the commercial law of British India).	Six months ...	When the bill or promissory note becomes due and payable.
SECOND SCHEDULE. (See Section 4.) FIRST DIVISION : SUITS.			6.—Upon a Statute, Act, Regulation, or Bye-law, for a penalty or forfeiture.	Part IV.— One year ...	When the penalty or forfeiture is incurred.
			7.—For the wages of a domestic servant, artisan, or labourer not provided for by this schedule, No. 4.	Do. ...	When the wage sued for accrues due.
			8.—For the price of food or drink sold by the keeper of an hotel, tavern, or lodging house.	Do. ...	When the food or drink is delivered.
			9.—For the price of lodging.	Do. ...	When the lodging ends.
			10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Do. ...	When the purchaser takes actual possession under the sale sought to be impeached.
			11.—For damages for infringing copyright or any other exclusive privilege.	Do. ...	The date of the infringement.
			12.—By executors, administrators, or representatives under Act No. XIII. of 1855 (to enable executors, administrators, or representatives to sue and be sued for certain wrongs.)	Do. ...	The date of the death of the person wronged.
			13.—By executors, administrators, or representatives under Act No. XIII. of 1855 (to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong).	Do. ...	The date of the death of the person killed.
			14.—To set aside any of the following sales :— (a.) sale in execution of a decree of a Civil Court ;	Do. ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
1.—To contest an award of the Board of Revenue under Act No. XXIII. of 1863 (to provide for the adjudication of claims to waste-lands).			Part I.—Thirty days.	Thirty days...	When notice of the award is delivered to the plaintiff.
2.—For doing, or for omitting to do., an act in pursuance of any enactment in force for the time being in British India.			Part II.—Ninety days.	Ninety days...	When the act or omission took place.
3.—Under Act No. XIV. of 1859 (to provide for the limitation of suits), section fifteen, to recover possession of immoveable property.			Part III.—Six months.	Six months...	When the dispossession occurs.
4.—Under Act No. IX. of 1860 (to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers), section one.			Do. ...	...	When the wages, hire, or price of work claimed accrued due.

SECOND SCHEDULE.—continued.			SECOND SCHEDULE.—continued.		
FIRST DIVISION : SUITS.—continued.			FIRST DIVISION : SUITS.—continued.		
Description of suit.	Period of limitation.	Time when period begins to run.	Description of suit.	Period of limitation.	Time when period begins to run.
(b.) sale in pursuance of a decree or order of a Collector or other officer of revenue ;			23.—For a malicious prosecution.	One year ...	When the plaintiff is acquitted.
(c.) sale for arrears of Government revenue or for any demand recoverable as such arrears ;			24.—For libel ...	Do. ...	When the libel is published.
(d.) sale of a patni taluq sold for current arrears of rent			25.—For slander ...	Do. ...	When the words are spoken.
Explanation.—In this clause ‘patni’ includes any intermediate tenure saleable for current arrears of rent.			26.—For taking or damaging moveable property.	Do. ...	When the taking or damage occurs.
15.—To alter or set aside a decision or order of a civil court in any proceeding other than a suit.	One year ...	The date of the final decision or order in the case by a court competent to determine it finally.	27.—For loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Do. ...	When the loss occurs.
16.—To set aside any act of an Officer of Government in his official capacity, not herein otherwise expressly provided for.	Do. ...	The date of the act.	28.—For inducing a person to break a contract with the plaintiff.	Do. ...	The date of the breach.
17.—Against Government to set aside any attachment, lease, or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Do. ...	When the attachment, lease, or transfer is made.	29.—For an illegal, irregular, or excessive distress.	Do. ...	The date of the distress.
18.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Do. ...	When the payment is made.	30.—For wrongful seizure of moveable property under legal process.	Do. ...	The date of the seizure.
19.—Against Government for compensation for land acquired for public purposes.	Do. ...	The date of determining the amount of the compensation.	31.—For obstructing a way or a water-course.	Part V.—Two years.	The date of the obstruction.
20.—Like suit for compensation when the acquisition is not completed.	Do. ...	The date of the refusal to complete.	32.—For diverting a water-course.	Do. ...	The date of the diversion.
21.—For false imprisonment.	Do. ...	When the imprisonment ends.	33.—For wrongfully detaining title deeds.	Do. ...	When the title to the property comprised in the deeds is adjudged to the plaintiff, or the detainer's possession otherwise becomes unlawful.
22.—For any other injury to the person.	Do. ...	When the injury is committed.	34.—For wrongfully detaining any other moveable property.	Do. ...	When the detainer's possession becomes unlawful.
			35.—For specific recovery of moveable property in cases not provided for by this schedule, numbers 48 and 49.	Do. ...	When the property is demanded and refused.
			36.—Against a carrier for losing or injuring goods.	Do. ...	When the loss or injury occurs.
			37.—Against a carrier for delay in delivering goods.	Do. ...	When the goods ought to be delivered.
			38.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Do. ...	The time of the perversion.

SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.			SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.		
Description of suit.	Period of limitation.	Time when period begins to run.	Description of suit.	Period of limitation.	Time when period begins to run.
39.—Under Act No. XII. of 1855 (to enable executors, administrators or representatives to sue and be sued for certain wrongs) against an executor, administrator, or other representative.	Two years ...	When the wrong complained of is done.	48.—For moveable property acquired by theft, extortion, cheating, or dishonest misappropriation or conversion.	Three years...	When the property is demanded and refused.
40.—For compensation for any wrong, malfeasance, non-feasance or misfeasance, independent of contract and not herein specially provided for.	Do. ...	When the wrong is done or the default happens.	49.—For the hire of animals, vehicles, boats, or household furniture.	Do. ...	When the hire becomes payable.
41.—For the recovery of a wife.	Do. ...	When possession is demanded and refused.	50.—For the balance of money advanced in payment of goods to be delivered.	Do. ...	When the goods ought to be delivered.
42.—For the restitution of conjugal rights.	Do. ...	When restitution is demanded and refused.	51.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Do. ...	The date of the delivery of the goods.
43.—For trespass upon immovable property.	Part VI.— Three years.	When the trespass takes place.	52.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Do. ...	The expiry of the period of credit.
	Do. ...		53.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Do. ...	When the period of the proposed bill elapses.
44.—To contest an award under any of the following Regulations of the Bengal Code :— VII. of 1822, IX. of 1825, and IX. of 1833.	Do. ...	The date of the final award or order in the case.	54.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Do. ...	The date of the sale.
45.—By a party bound by such award to recover any property comprised therein.	Do. ...	Do.	55.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Do. ...	When the work is done.
46.—By any person bound by an order respecting the possession of property made under Act No. XVI. of 1838, section one, clause two, or Act No. XXV. of 1861, chapter twenty-two, or Bombay Act No. V. of 1864, or by any one claiming under such person, to recover the property comprised in such order.	Do. ...	The date of the final order in the case.	56.—For money payable for money lent.	Do. ...	When the loan is made.
47.—For lost moveable property not dishonestly misappropriated or converted.	Do. ...	When the property is demanded and refused.	57.—Like suit when the lender has given a cheque for the money.	Do. ...	When the cheque is paid.
			58.—For money lent under an agreement that it shall be payable on demand.	Do. ...	When the demand is made.
			59.—For money payable to the plaintiff for money paid for the defendant.	Do. ...	When the money is paid.
			60.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Do. ...	When the money is received.

SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.			SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.		
Description of suit.	Period of limitation.	Time when period begins to run.	Description of suit.	Period of limitation.	Time when period begins to run.
61.—For money payable for interest upon money due from the defendant to the plaintiff.	Three years...	When the interest becomes due.	75.—On a promissory note or bond payable by instalments, which provides that if default be made in payment of one instalment the whole shall be due.	Three years...	able; and, for the other parts, the expiration of the respective terms of payment.
62.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Do. ...	When the accounts are stated, unless where the debt is made payable at a future time and then when that time arrives.	76.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Do. ...	The time of the first default, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made.
63.—Upon a promise to do anything at a specified time, or upon the happening of a specified contingency.	Do. ...	At the time specified or upon the contingency happening.	77.—On a dishonoured foreign bill where protest has been made and notice given.	Do. ...	The time of the delivery to the payee.
64.—Against a factor for an account.	Do. ...	When the account is demanded or, where no such demand is made, when the agency terminates.	78.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Do. ...	When the notice is given.
65.—On a single bond where a day is specified for payment.	Do. ...	The day so specified.	79.—Like suit when the bill has been dishonoured by non-acceptance and afterwards by non-payment.	Do. ...	The date of the refusal to accept.
66.—On a single bond where no such day is specified.	Do. ...	The date of executing the bond.	80.—Suit on a bill of exchange or promissory note not herein expressly provided for.	Do. ...	Do.
67.—On a bond subject to a condition.	Do. ...	When the condition is broken.	81.—By the acceptor of an accommodation-bill against the drawer.	Do. ...	When the bill or note becomes payable.
68.—On a bill of exchange or promissory note payable at a fixed time after date.	Do. ...	When the bill or note falls due.	82.—By a surety against the principal debtor.	Do. ...	When the acceptor pays the amount.
69.—On a bill of exchange payable at or after sight.	Do. ...	When the bill is presented.	83.—By a surety against a co-surety.	Do. ...	When the surety pays the creditor.
70.—On a bill of exchange accepted payable at a particular place.	Do. ...	When the bill is presented at that place.	84.—Upon any other contract to indemnify.	Do. ...	When the plaintiff pays anything in excess of his own share.
71.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Do. ...	When the bill is presented at that place.	85.—By an attorney or vakil for his cost of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Do. ...	When the plaintiff is actually damaged.
72.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Do. ...	When the demand is made.		Do. ...	The termination of the suit or business, or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance.
73.—By the endorsee of a bill or promissory note against the endorser.	Do. ...	The date of the endorsement.			
74.—On a promissory note or bond payable by instalments.	Do. ...	The expiration of the first term of payment, as to the part then pay			

SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.			SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.		
Description of suit.	Period of limitation.	Time when period begins to run.	Description of suit.	Period of limitation.	Time when period begins to run.
86.—For compensation for damage caused by an injunction wrongfully obtained.	Three years...	When the injunction ceases.	trustee the loss occasioned by a breach of trust.		then been occasioned, the date of the loss.
87.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Do. ...	The time of the last item admitted or proved in the account.	100.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers.	Three years...	The date of the plaintiff's advance in excess of his own share.
88.—On a policy of insurance when the sum assured is payable after proof of the death or loss has been given to or received by the insurers.	Do. ...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.	101.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Do. ...	When the right to contribution accrues.
89.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Do. ...	When the insurers elect to avoid the policy.	102.—For a seaman's wages.	Do. ...	The end of the voyage during which the wages are earned.
90.—By a principal against his agent for moveable property received by the latter and not accounted for.	Do. ...	When the account is demanded and refused.	103.—By a Muhammadan for exigible dower (<i>mu'ajjal</i>).	Do. ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
91.—Other suits by principals against agents for neglect or misconduct.	Do. ...	When the neglect or misconduct occurs.	104.—By a Muhammadan for deferred dower (<i>mu'ajjal</i>).	Do. ...	When the marriage is dissolved by death or divorce.
92.—To cancel or set aside an instrument not otherwise provided for.	Do. ...	When the instrument is executed.	105.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Do. ...	The date of the receipt.
93.—To declare the forgery of an instrument issued, or registered, or attempted to be enforced.	Do. ...	The date of the issue, registration, or attempt.	106.—For an account and a share of the profits of a dissolved partnership.	Do. ...	The date of the dissolution.
94.—For property which the plaintiff has conveyed while insane.	Do. ...	When the plaintiff is restored to sanity and has knowledge of the conveyance.	107.—By a Hindú manager of a joint estate for contribution in respect of a payment made by him on account of the estate.	Do. ...	The date of the payment.
95.—For relief on the ground of fraud.	Do. ...	When the fraud becomes known to the party wronged.	Do. ...		
96.—To set aside a decree obtained by fraud.	Do. ...	Do.	108.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Do. ...	When the trees are cut down.
97.—For relief on the ground of mistake in fact.	Do. ...	When the mistake becomes known to the plaintiff.	109.—For the profits of immovable property belonging to the plaintiff wrongfully received by the defendant.	Do. ...	When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards
98.—For money paid upon an existing consideration, which afterwards fails.	Do. ...	The date of the failure.			
99.—To make good out of the general estate of a deceased	Do. ...	The date of the trustee's death, or if the loss has not			

SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.			SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.		
Description of suit.	Period of limitation.	Time when period begins to run.	Description of suit.	Period of limitation.	Time when period begins to run.
110.—For arrears of rent.	Three years...	When the arrears become due.	estate being, by virtue of such sale, freed from incumbrances and under-tenures.		
111.—By a vendor of immovable property to enforce his lien for unpaid purchase-money.	Do. ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.	120.—To avoid incumbrances or under-tenures in a <i>patti taluq</i> or other saleable tenure sold for arrears of rent, the taluq or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years.	When the sale becomes final and conclusive.
112.—For a call by a company registered under any Statute or Act.	Do. ...	When the call was made.	121.—Upon a judgment obtained in British India, or a recognizance.	Do. ...	The date of the judgment or recognizance.
113.—For specific performance of a contract.	Do. ...	When the plaintiff has notice that his right is denied.	122.—For a legacy or for a distributive share of the moveable property of a testator or intestate.	Do. ...	When the legacy or share becomes payable or deliverable.
114.—For the rescission of a contract.	Do. ...	When the contract is executed by the plaintiff.	123.—For possession of an hereditary office.	Do. ...	When the defendant, or some person through whom he claims, took possession of the office adversely to the plaintiff.
115.—For the breach of any contract, express or implied, not in writing registered, and not herein specially provided for.	Do. ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.			<i>Explanation.</i> —An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.
	Part VII.— Six years.				The date of the alienation.
116.—Upon a judgment obtained in a foreign country.	Six years ...	The date of the judgment.	124.—Suit during the life of a Hindú widow by a Hindú entitled to the possession of land and her death to have an alienation made by the widow declared to be void except for her life.	Do. ...	The date of the alienation.
117.—On a promise or contract in writing registered.	Do. ...	When the period of limitation would begin to run against a suit brought on a similar promise or contract not registered.	125.—By a Hindú governed by the law of the Mitáksharā to set aside his father's alienation of ancestral property.	Do. ...	The date of the alienation.
118.—Suit for which no period of limitation is provided elsewhere in this schedule.	Do. ...	When the right to sue accrues.	126.—Like suit by a Hindú governed by the law of the Dáyabhāga.	Do. ...	When the father dies.
	Part VIII.— Twelve years.		127.—By a Hindú excluded from joint-	Do. ...	When the plaintiff claims and is refused his share.
119.—By an auction-purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the	Twelve years.	When the sale becomes final and conclusive.			

SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.			SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.		
Description of suit.	Period of limitation.	Time when period begins to run.	Description of suit.	Period of limitation.	Time when period begins to run.
family property to enforce a right to share therein. 128.—By a Hindú for maintenance.	Twelve years.	When the maintenance sued for is claimed and refused.	lished by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Twelve years.	titled to possession.
129.—To establish or set aside an adoption.	Do.	...	136.—By a purchaser at a private sale for possession of the immoveable property sold, when the vendor was out of possession at the date of the sale.	When the vendor is first entitled to possession.	
130.—For the resumption or assessment of rent-free land.	Do.	...	137.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Do.	When the execution-debtor is first entitled to possession.
		When the right to resume or assess the land first accrued: Provided that no such suit shall be maintained where the land forms part of a permanently-settled estate, and has been held rent-free from the time of the Permanent Settlement.	138.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Do.	...
131.—To establish a periodically recurring right.	Do.	...	139.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Do.	...
132.—For money charged upon immoveable property. <i>Explanation.</i> —The allowance and fees called <i>malikana</i> and <i>haggs</i> shall, for the purposes of this clause, be deemed to be money charged upon immoveable property.	Do.	...	140.—By a landlord to recover possession from a tenant.	Do.	...
		When the money sued for becomes due.	141.—By a remainderman, a reversioner, (other than a landlord) or a devisee, for possession of immoveable property.	Do.	...
133.—To recover moveable property conveyed in trust, deposited or pawned and afterwards bought from the trustee, depositary or pawnee in good faith and for value.	Do.	...	142.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú widow.	Do.	...
134.—To recover possession of immoveable property conveyed in trust or mortgaged and afterwards purchased from the trustee or mortgagee in good faith and for value.	Do.	...	143.—For possession of immoveable property, when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Do.	...
135.—Suit instituted in a Court not estab-	Do.	...	144.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Do.	...
		When the mortgagee is first en-	145.—For possession of immoveable pro-	Do.	...

SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.			SECOND SCHEDULE.—continued. FIRST DIVISION : SUITS.—continued.		
Description of suit.	Period of limitation.	Time when period begins to run.	Description of suit.	Period of limitation.	Time when period begins to run.
erty or any interest therein not hereby otherwise specially provided for.		fendant, or of some person through whom he claims, became adverse to the plaintiff.			tish Burmah, which have been executed before the first day of May 1863, shall be governed by the rules of limitation in force in that Province immediately before the same day.
146.—For a declaration of right to an easement.	Twelve years.	When the easement ceased to be enjoyed by the plaintiff, or the persons on whose behalf he sues.			
	Part IX.— Thirty years.		Description of application.	Period of limitation.	Time when period begins to run.
147.—Against a depositary or pawnee to recover movable property deposited or pawned.	Thirty years.	The date of the deposit or pawn, unless where an acknowledgment of the title of the depositor or pawner, or of his right of redemption, has before the expiration of the prescribed period been made in writing signed by the depositary, or pawnee, or some person claiming under him, and, in such case, the date of the acknowledgment.	149.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immovable property mortgaged.	Sixty years...	When any part of the principal or interest was last paid on account of the mortgage debt.
	Part X.— Sixty years.		150.—Any suit in the name of the Secretary of State for India in Council.	Do. ...	When the right to sue accrued.
SECOND DIVISION : APPEALS.					
			Description of appeals.	Period of limitation.	Time when period begins to run.
148.—Against a mortgagee to recover possession of immovable property mortgaged.	Sixty years...	The date of the mortgage, unless where an acknowledgment of the title of the mortgagor or of his right of redemption has, before the expiration of the prescribed period, been made in writing signed by the mortgagee or some person claiming under him, and, in such case, the date of the acknowledgment.	151.—Under the Code of Civil Procedure to the Court of a District Judge.	Thirty days...	The date of the decree appealed against.
			152.—Under the Code of Criminal Procedure to any Court other than the High Court.	Do. ...	The date of the sentence or order appealed against.
			153.—Under the same Code to the High Court.	Sixty days ...	Do.
			154.—Under the Code of Civil Procedure to the High Court.	Ninety days...	The date of the decree appealed against.
THIRD DIVISION : APPLICATIONS.					
			Description of application.	Period of limitation.	Time when period begins to run.
		Provided that all claims to redeem arising under instruments of mortgage of immovable property situate in Bri-	155.—Under the Code of Civil Procedure to set aside an award.	Ten days ...	When the award is submitted to the Court and notice of the submission

SECOND SCHEDULE.—continued. THIRD DIVISION : APPLICATIONS.—continued.			SECOND SCHEDULE.—continued. THIRD DIVISION : APPLICATIONS.—continued.		
Description of appli- cation.	Period of limitation.	Time when period begins to run.	Description of appli- cation.	Period of limitation.	Time when period begins to run.
156.—By a plaintiff for an order to set aside a judgment by de- fault.	Thirty days...	has been given to the persons and in manner pre- scribed by the High Court. The date of the judgment.	167.—For the execu- tion of a decree or order of any Civil Court not provided for by No. 169.	Three years...	The date of the decree or order, or (where there has been an ap- peal) the date of the final decree or order of the Ap- pellate Court,
157.—By a defendant for an order to set aside a judgment <i>ex parte</i> .	Do.	The date of execut- ing any process for enforcing the judgment.			or (where there has been a re- view of judg- ment) the date of the decision pass- ed on the review,
158.—Under the Code of Civil Procedure, by a person dispos- sessed of immov- able property and disputing the right of the decree holder to be put into pos- session.	Do.	The date of the dis- possession.			or (where the ap- plication next hereinafter men- tioned has been made) the date of applying to the Court to enforce, or keep in force, the decree or order,
159.—To set aside a sale in execution of a decree, on the ground of irregula- rity in publishing or conducting the sale.	Do.	The date of the sale.			or (where the notice next here- inafter made has been issued) the date of issuing a notice under the Code of Civil Procedure, sec- tion two hundred and sixteen,
160.—Complaining of resistance or ob- struction to delivery of possession of im- movable property sold in execution of a decree, or of dis- possession in the delivery of posses- sion to the purcha- ser of such property.	Do.	The date of the resistance, ob- struction, or dis- possession.			or (where the ap- plication is to en- force payment of an instalment which the decree directs to be paid at a specified date) the date so specified.
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SECOND SCHEDULE.—continued. THIRD DIVISION : APPLICATIONS.—concluded.			SECOND SCHEDULE.—concluded. THIRD DIVISION : APPLICATIONS.—concluded.		
Description of appli- cation.	Period of limitation.	Time when period begins to run.	Description of appli- cation.	Period of limitation.	Time when period begins to run.
cise of its ordinary original civil juris- diction.		person capable of releasing the right : Provided that, when the judg- ment, decree or order has been revived, or some part of the prin- cipal money secured thereby, or some interest on such money has been paid, or some acknow- ledgment of the right thereto has been given in writing signed by			the person liable to pay such prin- cipal or interest or his agent, to the person en- titled thereto or his agent, the twelve years shall be computed from the date of such revivor, pay- ment or acknow- ledgment, or the latest of such revivors, pay- ments or acknow- ledgments, as the case may be.

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Nothing hereinafter contained shall be deemed to have the force of law.

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ACT No. I. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th March 1872.)

THE INDIAN EVIDENCE ACT, 1872.

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- 149. Question not to be asked without reasonable grounds.
- 150. Procedure of Court in case of question being asked without reasonable grounds.
- 151. Indecent and scandalous questions.
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- 154. Questions by party to his own witness.
- 155. Impeaching credit of witness.
- 156. Questions tending to corroborate evidence of relevant fact admissible.
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158. What

158. What matters may be proved in connection with proved statement relevant under sections 32 or 33.
159. Refreshing memory.
When witness may use copy of document to refresh memory.
160. Testimony to facts stated in document mentioned in section 158.
161. Right of adverse party as to writing used to refresh memory.
162. Production of documents.
Translation of documents.
163. Giving, as evidence, of document called for and produced on notice.
164. Giving, as evidence, of document production of which was refused on notice.
165. Judge's power to put questions or order production.
166. Power of jury or assessors to put questions.

CHAPTER XI.—OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE.

167. No new trial for rejection or improper reception of evidence.

SCHEDULE.

THE INDIAN EVIDENCE ACT, 1872.

WHEREAS it is expedient to consolidate, define and amend the law of Evidence;
Preamble. It is hereby enacted as follows :—

PART I.

RELEVANCY OF FACTS.

CHAPTER I.—PRELIMINARY.

- Short title. 1. This Act may be called "The Indian Evidence Act, 1872:"

Extent. It extends to the whole of British India, and applies to all judicial proceedings in or before any Court, including Courts Martial, but not to affidavits presented to any Court or Officer, nor to proceedings before an arbitrator;
Commencement of Act. and it shall come into force on the first day of September 1872;

- Repeal of enactments. 2. On and from that day the following laws shall be repealed :—

(1.) All rules of evidence not contained in any Statute, Act or Regulation in force in any part of British India:

(2.) All

(2.) All such rules, laws, and regulations, as have acquired the force of law under the twenty-fifth section of 'The Indian Councils' Act, 1861,' in so far as they relate to any matter herein provided for; and,

(3.) The enactments mentioned in the schedule hereto, to the extent specified in the third column of the said schedule.

But nothing herein contained shall be deemed to affect any provision of any Statute, Act, or Regulation in force in any part of British India, and not hereby expressly repealed.

3. In this Act the following words and expressions are used in the following Interpretation-clause. senses, unless a contrary intention appears from the context:—

"Court" includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence.

"Fact." "Fact" means and includes—

- (1) any thing, state of things, or relation of things, capable of being perceived by the senses;
(2) any mental condition of which any person is conscious.

Illustrations.

- (a.) That there are certain objects arranged in a certain order in a certain place is a fact.
(b.) That a man heard or saw something is a fact.
(c.) That a man said certain words is a fact.
(d.) That a man holds a certain opinion, has a certain intention, acts in good faith, or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.
(e.) That a man has a certain reputation is a fact.

One fact is said to be relevant to another when the one is connected with the other, in any of the ways referred to in the provisions of this Act relating to the relevancy of facts.

"Facts in issue." The expression "Facts in issue," means and includes—any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature, or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.

Explanation.—Whenever, under the provisions of the law for the time being in force relating to Civil Procedure, any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue, is a fact in issue.

Illustrations.

A is accused of the murder of B.

At his trial the following facts may be in issue :—

- That A caused B's death;
That A intended to cause B's death;
That A had received grave and sudden provocation from B;

That

That A, at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.

"Document" means any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

Illustrations.

A writing is a document.

Words printed, lithographed or photographed are documents.

A map or plan is a document.

An inscription on a metal plate or stone is a document.

A caricature is a document.

"Evidence."

"Evidence" means and includes—

(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry;

such statements are called oral evidence:

(2) all documents produced for the inspection of the Court;

such documents are called documentary evidence.

A fact is said to be proved, when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

"Proved."

A fact is said to be disproved, when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

"Disproved."

A fact is said not to be proved when it is neither proved nor disproved.

"Not proved."

4. Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it.

"May presume."

Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.

"Shall presume."

When one fact is declared by this Act to be conclusive proof of another, the Court shall on proof of the one fact regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.

"Conclusive proof."

CHAPTER II.

CHAPTER II.—OF THE RELEVANCY OF FACTS.

5. Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others.

Evidence may be given of facts in issue and relevant facts.

Explanation.—This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure.

Illustration.

(a.) A is tried for the murder of B by beating him with a club with the intention of causing his death.

At A's trial the following facts are in issue—

A's beating B with the club;

A's causing B's death by such beating;

A's intention to cause B's death.

(b.) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure.

6. Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

Relevancy of facts forming part of same transaction.

Illustrations.

(a.) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.

(b.) A is accused of waging war against the Queen by taking part in an armed insurrection in which property is destroyed, troops are attacked, and gaols are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.

(c.) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself.

(d.) The question is whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.

7. Facts which are the occasion, cause, or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

Facts which are occasion, cause, or effect of facts in issue.

Illustrations.

(a.) The question is whether A robbed B.

The

The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it, or mentioned the fact that he had it, to third persons, are relevant.

(b.) The question is, whether A murdered B.

Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts.

(c.) The question is, whether A poisoned B.

The state of B's health before the symptoms ascribed to poison, and habits of B, known to A which afforded an opportunity for the administration of poison, are relevant facts.

Motive, preparation, and previous or subsequent conduct.

8. Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

The conduct of any party, or of any agent to any party, to any suit or proceeding in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

Explanation 1.—The word “conduct” in this section does not include statements, unless those statements accompany and explain acts other than statements. but this explanation is not to affect the relevancy of statements under any other section of this Act.

Explanation 2.—When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

Illustrations.

(a.) A is tried for the murder of B.

The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.

(b.) A sues B upon a bond for the payment of money. B denies the making of the bond.

The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose is relevant.

(c.) A is tried for the murder of B by poison.

The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.

(d.) The question is whether a certain document is the will of A.

The facts that, not long before the date of the alleged will, A made inquiry into matters to which the provisions of the alleged will relate, that he consulted vakils in reference to making the will, and that he caused drafts of other wills to be prepared, of which he did not approve, are relevant.

(e.) A is accused of a crime.

The facts that, either before, or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.

(f.) The

(f.) The question is, whether A robbed B.

The facts that, after B was robbed, C said in A's presence — ‘the police are coming to look for the man who robbed B,’—and that immediately afterwards A ran away, are relevant.

(g.) The question is, whether A owes B Rupees 10,000.

The facts that A asked C to lend him money, and that D said to C in A's presence and hearing— ‘I advise you not to trust A, for he owes B 10,000 rupees,’—and that A went away without making any answer, are relevant facts.

(h.) The question is, whether A committed a crime.

The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter are relevant.

(i.) A is accused of a crime.

The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.

(j.) The question is, whether A was ravished.

The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which and the terms in which the complaint was made, are relevant.

The fact that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though it may be relevant

as a dying declaration under section 32, clause (1), or

as corroborative evidence under section 157.

(k.) The question is, whether A was robbed.

The fact that, soon after the alleged robbery, he made a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that he said he had been robbed without making any complaint is not relevant as conduct under this section, though it may be relevant

as a dying declaration under section 32, clause (1), or

as corroborative evidence under section 157.

9. Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of any thing or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

Facts necessary to explain or introduce relevant facts.

Illustration.

(a.) The question is whether a given document is the will of A.

The state of A's property and of his family at the date of the alleged will may be relevant facts.

(b.) A sues B for a libel imputing disgraceful conduct to A. B affirms that the matter alleged to

be libellous is true.

The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue.

The particulars of a dispute between A and B about a matter unconnected with the alleged libel are

are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.

(c.) A is accused of a crime.

The fact that, soon after the commission of the crime, A absconded from his house, is relevant, under section eight, as conduct subsequent to and affected by facts in issue.

The fact that, at the time when he left home, he had sudden and urgent business at the place to which he went, is relevant as tending to explain the fact that he left home suddenly.

The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.

(d.) A sues B for inducing C to break a contract of service made by him with A. C on leaving A's service, says to A—'I am leaving you because B has made me a better offer.' This statement is a relevant fact as explanatory of C's conduct, which is relevant as a fact in issue.

(e.) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B says, as he delivers it—'A says you are to hide this.' B's statement is relevant as explanatory of a fact which is part of the transaction.

(f.) A is tried for a riot, and is proved to have marched at the head of a mob. The cries of the mob are relevant as explanatory of the nature of the transaction.

10. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, any thing said, done or written by any one of such persons, in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

Things said or done by conspirator in reference to common design.

Illustrations.

(a.) Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the Queen.

The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Calcutta for a like object, D persuaded persons to join the conspiracy in Bombay, E published writings advocating the object in view at Agra, and F transmitted from Delhi to G at Cabul the money which C had collected at Calcutta, and the contents of a letter written by H giving an account of the conspiracy are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.

When facts not otherwise relevant become relevant.

11. Facts not otherwise relevant are relevant—

(1) if they are inconsistent with any fact in issue or relevant fact;

(2) if by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

Illustrations.

Illustrations.

(a.) The question is, whether A committed a crime at Calcutta on a certain day. The fact that on that day A was at Lahore is relevant.

The fact that near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant.

(b.) The question is, whether A committed a crime.

The circumstances are such that the crime must have been committed either by A, B, C, or D. Every fact which shows that the crime could have been committed by no one else, and that it was not committed by either B, C, or D, is relevant.

In suits for damages, facts tending to enable Court to determine amount are relevant.

Facts relevant when right or custom is in question.

12. In suits in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded is relevant.

13. Where the question is as to the existence of any right or custom, the following facts are relevant—

(a.) Any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted or denied, or which was inconsistent with its existence.

(b.) Particular instances in which the right or custom was claimed, recognized, or exercised, or in which its exercise was disputed, asserted, or departed from.

Illustration.

The question is, whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcilable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours, are relevant facts.

14. Facts showing the existence of any state of mind—such as intention, knowledge, good faith, negligence, rashness, ill-will or goodwill towards any particular person, or showing the existence of any state of body or bodily feeling—are relevant, when the existence of any such state of mind or body or bodily feeling, is in issue or relevant.

Explanation.—A fact relevant as showing the existence of a relevant state of mind must show that it exists, not generally, but in reference to the particular matter in question.

Illustrations.

(a.) A is accused of receiving stolen goods knowing them to be stolen. It is proved that he was in possession of a particular stolen article.

The fact that at the same time he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.

(b.) A is accused of fraudulently delivering to another person a piece of counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

The

The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin, is relevant.

(c.) A sues B for damage done by a dog of B's, which B knew to be ferocious.

The facts that the dog had previously bitten X, Y, and Z, and that they had made complaints to B, are relevant.

(d.) The question is whether A, the acceptor of a Bill of Exchange, knew that the name of the payee was fictitious.

The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant, as showing that A knew that the payee was a fictitious person.

(e.) A is accused of defaming B by publishing an imputation intended to harm the reputation of B.

The fact of previous publications by A respecting B, showing ill-will on the part of A towards B, is relevant, as proving A's intention to harm B's reputation by the particular publication in question.

The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B.

(f.) A is sued by B for fraudulently representing to B that C was solvent, whereby B, being induced to trust C, who was insolvent, suffered loss.

The fact that, at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith.

(g.) A is sued by B for the price of work done by B, upon a house of which A is owner, by the order of C, a contractor.

A's defence is that B's contract was with C.

The fact that A paid C for the work in question is relevant, as proving that A did, in good faith, make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.

(h.) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found.

The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found.

The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and wished to set up a false claim to it, is relevant, as showing that the fact that A knew of the notice did not disprove A's good faith.

(i.) A is charged with shooting at B with intent to kill him. In order to show A's intent, the fact of A's having previously shot at B may be proved.

(j.) A is charged with sending threatening letters to B. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters.

(k.) The question is, whether A has been guilty of cruelty towards B, his wife.

Expressions of their feeling towards each other shortly before or after the alleged cruelty, are relevant facts.

(l.) The question is, whether A's death was caused by poison.

Statements made by A during his illness as to his symptoms, are relevant facts.

(m.) The

(m.) The question is, what was the state of A's health at the time when an assurance on his life was effected.

Statements made by A as to the state of his health at or near the time in question, are relevant facts.

(n.) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use whereby A was injured.

The fact that B's attention was drawn on other occasions to the defect of that particular carriage, is relevant.

The fact that B was habitually negligent about the carriages which he let to hire, is irrelevant.

(o.) A is tried for the murder of B by intentionally shooting him dead.

The fact that A, on other occasions, shot at B is relevant, as showing his intention to shoot B.

The fact that A was in the habit of shooting at people with intent to murder them, is irrelevant.

(p.) A is tried for a crime.

The fact that he said something indicating an intention to commit that particular crime, is relevant.

The fact that he said something indicating a general disposition to commit crimes of that class, is irrelevant.

15. When there is a question whether an act was accidental or intentional, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

Facts bearing on question whether act was accidental or intentional.

Illustrations.

(a.) A is accused of burning down his house in order to obtain money for which it is insured.

The facts that A lived in several houses successively, each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that the fires were not accidental.

(b.) A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.

The question is, whether this false entry was accidental or intentional.

The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.

(c.) A is accused of fraudulently delivering to B a counterfeit rupee.

The question is, whether the delivery of the rupee was accidental.

The facts that soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E, are relevant, as showing that the delivery to A was not accidental.

16. When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

Existence of course of business when relevant.

Illustrations.

(a.) The question is, whether a particular letter was despatched.

The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that that particular letter was put in that place, are relevant.

(b.) The

(b.) The question is, whether a particular letter reached A. The facts that it was posted in due course, and was not returned through the Dead Letter Office, are relevant.

ADMISSIONS.

17. An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.

18. Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions.

Statements made by parties to suits suing or sued in a representative character are not admissions, unless they were made while the party making them held that character.

Statements made by—

(1) persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested, or

(2) persons from whom the parties to the suit have derived their interest in the subject-matter of the suit,

are admissions if they are made during the continuance of the interest of the persons making the statements.

19. Statements made by persons whose position or liability it is necessary to prove as against any party to the suit, are admissions if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.

Illustration.

A undertakes to collect rents for B.

B sues A for not collecting rent due from C to B.

A denies that rent was due from C to B.

A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.

20. Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.

Illustration

Illustration.

The question is, whether a horse sold by A to B is sound.

A says to B—'Go and ask C, C knows all about it.' C's statement is an admission.

21. Admissions are relevant and may be proved as against the person who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases:—

(1.) An admission may be proved by or on behalf of the person making it when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under section thirty-two.

(2.) An admission may be proved by or on behalf of the person making it when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.

(3) An admission may be proved by or on behalf of the person making it if it is relevant otherwise than as an admission.

Illustrations.

(a.) The question between A and B is, whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged.

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that the deed is forged; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.

(b.) A, the Captain of a ship, is tried for casting her away.

Evidence is given to show that the ship was taken out of her proper course.

A produces a book kept by him in the ordinary course of his business, showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties if he were dead under section thirty-two, clause (2).

(c.) A is accused of a crime committed by him at Calcutta.

He produces a letter written by himself and dated at Lahore on that day and bearing the Lahore Post-mark of that day.

The statement in the date of the letter is admissible, because, if A were dead, it would be admissible under section thirty-two, clause (2).

(d.) A is accused of receiving stolen goods knowing them to be stolen.

He offers to prove that he refused to sell them below their value.

A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.

(e.) A is accused of fraudulently having in his possession counterfeit coin, which he knew to be counterfeit.

He offers to prove that he asked a skilful person to examine the coin, as he doubted whether it was counterfeit or not, and that that person did examine it and told him it was genuine.

A may prove these facts for the reasons stated in the last preceding illustration.

22. Oral

22. Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question.

23. In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.

Explanation.—Nothing in this section shall be taken to exempt any barrister, pleader, attorney or vakil from giving evidence of any matter of which he may be compelled to give evidence under section 126.

24. A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise, having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

25. No confession made to a Police officer, shall be proved as against a person accused of any offence.

26. No confession made by any person whilst he is in the custody of a Police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

27. Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a Police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

28. If such a confession as is referred to in section twenty-four is made after the impression caused by any such inducement, threat, or promise has, in the opinion of the Court, been fully removed, it is relevant.

29. If

29. If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

30. When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.

Illustrations.

(a.) A and B are jointly tried for the murder of C. It is proved that A said,—“B and I murdered C.” The Court may consider the effect of this confession as against B.

(b.) A is on his trial for the murder of C. There is evidence to show that C was murdered by A and B, and that B said,—“A and I murdered C.”

This statement may not be taken into consideration by the Court against A, as B is not being jointly tried.

31. Admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions hereinafter contained.

STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES.

32. Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:—

(1.) When the statement is made by a person, as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

(2.) When

(2.) When the statement was made by such person in the ordinary course or or is made in course of business ; business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty ; or of an acknowledgment written or signed by him of the receipt of money, goods, securities or property of any kind ; or of a document used in commerce written or signed by him, or of the date of a letter or other document usually dated, written or signed by him.

(3.) When the statement is against the pecuniary or proprietary interest of or against interest of maker ; the person making it, or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.

(4.) When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public of or gives opinion as to public right or custom or matters of general interest ; general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter had arisen.

(5.) When the statement relates to the existence of any relationship between or relates to existence of relationship ; persons as to whose relationship the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.

(6.) When the statement relates to the existence of any relationship between or is made in will or deed of deceased person ; persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.

(7.) When the statement is contained in any deed, will or other document which relates to any such transaction as or relates to transaction mentioned in Section 13, clause (a) ; is mentioned in section thirteen, clause (a).

(8.) When the statement was made by a number of persons, and expressed feelings or impressions on their part or is made by several persons, and expresses feelings relevant to matter in question. relevant to the matter in question.

Illustrations.

- (a.) The question is, whether A was murdered by B ; or
A dies of injuries received in a transaction in the course of which she was ravished. The question is whether she was ravished by B : or
The question is, whether A was killed by B under such circumstances that a suit would lie against B by A's widow.

Statements

Statements made by A as to the cause of his or her death, referring respectively to the murder the rape, and the actionable wrong under consideration, are relevant facts.

(b.) The question is as to the date of A's birth.

An entry in the diary of a deceased surgeon, regularly kept in the course of business, stating that, on a given day, he attended A's mother and delivered her of a son, is a relevant fact.

(c.) The question is, whether A was in Calcutta on a given day.

A statement in the diary of a deceased solicitor, regularly kept in the course of business, that, on a given day, the solicitor attended A at a place mentioned in Calcutta, for the purpose of conferring with him upon specified business, is a relevant fact.

(d.) The question is, whether a ship sailed from Bombay harbour on a given day.

A letter written by a deceased member of a merchant's firm, by which she was chartered, to their correspondents in London to whom the cargo was consigned, stating that the ship sailed on a given day from Bombay harbour, is a relevant fact.

(e.) The question is, whether rent was paid to A for certain land.

A letter from A's deceased agent to A, saying that he had received the rent on A's account and held it at A's orders, is a relevant fact.

(f.) The question is, whether A and B were legally married.

The statement of a deceased clergyman that he married them under such circumstances that the celebration would be a crime, is relevant.

(g.) The question is, whether A, a person who cannot be found, wrote a letter on a certain day. The fact that a letter written by him is dated on that day, is relevant.

(h.) The question is, what was the cause of the wreck of a ship.

A protest made by the captain, whose attendance cannot be procured, is a relevant fact.

(i.) The question is, whether a given road is a public way.

A statement by A, a deceased headman of the village, that the road was public, is a relevant fact.

(j.) The question is, what was the price of grain on a certain day in a particular market. A statement of the price, made by a deceased banya in the ordinary course of his business, is a relevant fact.

(k.) The question is, whether A, who is dead, was the father of B.

A statement by A that B was his son, is a relevant fact.

(l.) The question is, what was the date of the birth of A.

A letter from A's deceased father to a friend, announcing the birth of A on a given day, is a relevant fact.

(m.) The question is, whether, and when, A and B were married.

An entry in a memorandum book by C, the deceased father of B, of his daughter's marriage with A at a given date, is a relevant fact.

(n.) A sues B for a libel expressed in a painted caricature exposed in a shop window. The question is as to the similarity of the caricature and its libellous character. The remarks of a crowd of spectators on these points may be proved.

33. Evidence given by a witness in a judicial proceeding, or before any person authorised by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained

obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable :

Provided

- 1 that the proceeding was between the same parties or their representatives in interest ;
- 2 that the adverse party in the first proceeding had the right and opportunity to cross-examine ;
- 3 that the questions in issue were substantially the same in the first as in the second proceeding.

Explanation.—A criminal trial or enquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this section.

STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES.

34. Entries in books of account, regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

Entries in books of account when relevant.

Illustration.

A sues B for Rs. 1,000 and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient without other evidence to prove the debt.

35. An entry in any public or other official book, register, or record, stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register, or record is kept, is itself a relevant fact.

Entry in public record, made in performance of duty enjoined by law, when relevant.

36. Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of Government, as to matters usually represented or stated in such maps, charts or plans, are themselves relevant facts.

Maps and plans when relevant.

37. When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Act of Parliament, or in any Act of the Governor-General of India in Council, or of the Governors in Council of Madras or Bombay, or of the Lieutenant-Governor in Council of Bengal, or in a Notification of the Government appearing in the *Gazette of India*, or in the *Gazette* of any Local Government, or in any printed paper purporting to be the *London Gazette* or the Government Gazette of any colony or possession of the Queen, is a relevant fact.

Statement as to fact of public nature contained in any Act or Notification of Government, when relevant.

38. When

38. When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.

Statements in law books.

HOW MUCH OF A STATEMENT IS TO BE PROVED.

39. When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book, or series of letters or papers, as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.

What evidence to be given when statement forms part of a conversation, document, book, or series of letters or papers.

JUDGMENTS OF COURTS OF JUSTICE WHEN RELEVANT.

40. The existence of any judgment, order or decree, which by law prevents any Court from taking cognizance of a suit or holding a trial is a relevant fact when the question is whether such Court ought to take cognizance of such suit, or to hold such trial.

Previous judgments relevant to bar a second suit or trial.

41. A final judgment, order or decree of a competent Court, in the exercise of probate, matrimonial, Admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.

Judgments in probate, &c., jurisdiction.

Such judgment, order, or decree is conclusive proof

that any legal character which it confers accrued at the time when such judgment, order, or decree came into operation ;

that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment declares it to have accrued to that person ;

that any legal character which it takes away from any such person ceased at the time from which such judgment declared that it had ceased or should cease ;

and that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment declares that it had been or should be his property.

42. Judgments

42. Judgments, orders, or decrees other than those mentioned in section forty-one are relevant if they relate to matters of a public nature relevant to the inquiry; but such judgments, orders, or decrees are not conclusive proof of that which they state.

Judgment, order, or decree between third parties when irrelevant and when not.

Illustration.

A sues B for trespass on his land. B alleges the existence of a public right of way over the land which A denies.

The existence of a decree in favour of the defendant, in a suit by A against C for a trespass on the same land, in which C alleged the existence of the same right of way, is relevant, but it is not conclusive proof that the right of way exists.

43. Judgments, orders, or decrees, other than those mentioned in sections forty, forty-one, and forty-two, are irrelevant, unless the existence of such judgment, order, or decree, is a fact in issue, or is relevant under some other provision of this Act.

What judgments, &c., not relevant.

Illustrations.

(a.) A and B separately sue C for a libel which reflects upon each of them. C in each case says, that the matter alleged to be libellous is true, and the circumstances are such that it is probably true in each case, or in neither.

A obtains a decree against C for damages on the ground that C failed to make out his justification. The fact is irrelevant as between B and C.

(b.) A prosecutes B for adultery with C, A's wife.

B denies that C is A's wife, but the Court convicts B of adultery.

Afterwards, C is prosecuted for bigamy in marrying B during A's lifetime. C. says that she never was B's wife.

The judgment against B is irrelevant as against C.

(c.) A prosecutes B for stealing a cow from him. B is convicted.

A, afterwards, sues C for the cow, which B had sold to him before his conviction. As between A. and C, the judgment against B is irrelevant.

(d.) A has obtained a decree for the possession of land against B. C, B's son, murders A in consequence.

The existence of the judgment is relevant, as showing motive for a crime.

44. Any party to a suit or other proceeding may show that any judgment, order, or decree which is relevant under section forty, forty-one, or forty-two, and which has been proved by the adverse party, was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion.

Fraud, collusion and incompetency of Court may be proved.

OPINIONS OF THIRD PERSONS WHEN RELEVANT.

45. When the Court has to form an opinion upon a point of foreign law, or of science or art, or as to identity of handwriting, the opinions upon that point of persons specially skilled in such foreign law, science or art, are relevant facts.

Opinions of experts.

Such

Such persons are called experts.

Illustrations.

(a.) The question is, whether the death of A was caused by poison.

The opinions of experts as to the symptoms produced by the poison by which A is supposed to have died, are relevant.

(b.) The question is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.

(c.) The question is, whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.

The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.

46. Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.

Facts bearing upon opinions of experts.

Illustrations.

(a.) The question is, whether A was poisoned by a certain poison.

The fact that other persons, who were poisoned by that poison, exhibited certain symptoms which experts affirm or deny to be the symptoms of that poison, is relevant.

(b.) The question is, whether an obstruction to a harbour is caused by a certain sea-wall.

The fact that other harbours similarly situated in other respects, but where there were no such sea-walls, began to be obstructed at about the same time, is relevant.

47. When the Court has to form an opinion as to the persons by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.

Opinion as to handwriting.

Explanation.—A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

Illustration.

The question is, whether a given letter is in the handwriting of A, a merchant in London.

B is a merchant in Calcutta, who has written letters addressed to A and received letters purporting to be written by him. C is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker,

broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising with him thereon.

The opinions of B, C, and D on the question whether the letter is in the handwriting of A are relevant, though neither B, C, nor D ever saw A write.

48. When the Court has to form an opinion as to the existence of any general custom or right, the opinions, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, are relevant.

Opinion as to existence of right or custom, when relevant.

Explanation.—The expression “general custom or right” includes customs or rights common to any considerable class of persons.

Illustration.

The right of the villagers of a particular village to use the water of a particular well is a general right within the meaning of this section.

Opinions as to usages, tenets, &c., when relevant.

49. When the Court has to form an opinion as to—
the usages and tenets of any body of men or family,
the constitution and government of any religious or charitable foundation, or
the meaning of words or terms used in particular districts or by particular classes of people,
the opinions of persons having special means of knowledge thereon, are relevant facts.

50. When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: Provided that such opinion shall not be sufficient to prove a marriage in proceedings under the Indian Divorce Act, or in prosecutions under Section 494, 495, 497, or 498 of the Indian Penal Code.

Opinion on relationship when relevant.

Illustrations.

(a.) The question is, whether A and B were married.

The fact that they were usually received and treated by their friends as husband and wife, is relevant.

(b.) The question is whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is relevant.

Grounds of opinion when relevant.

51. Whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant.

Illustration.

Illustration.

An expert may give an account of experiments performed by him for the purpose of forming his opinion.

CHARACTER WHEN RELEVANT.

52. In civil cases, the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him is irrelevant, except in so far as such character appears from facts otherwise relevant.

In civil cases, character to prove conduct imputed irrelevant.

In criminal cases, previous good character relevant.

53. In criminal proceedings, the fact that the person accused is of a good character is relevant.

54. In criminal proceedings, the fact that the accused person has been previously convicted of any offence is relevant; but the fact that he has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

Previous conviction in criminal trials relevant, but not previous bad character, except in reply.

Explanation.—This section does not apply to cases in which the bad character of any person is itself a fact in issue.

55. In civil cases, the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.

Character as affecting damages.

Explanation.—In Sections 52, 53, 54, and 55, the word “character” includes both reputation and disposition; but evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.

PART II.

ON PROOF.

CHAPTER III.—FACTS WHICH NEED NOT BE PROVED.

No evidence required of fact judicially noticed.

56. No fact of which the Court will take judicial notice need be proved.

Facts of which Court must take judicial notice.

57. The Court shall take judicial notice of the following facts:—

(1.) All laws or rules having the force of law now or heretofore in force or hereafter to be in force in any part of British India:

(2.) All public Acts passed or hereafter to be passed by Parliament, and all local and personal Acts directed by Parliament to be judicially noticed:

(3.) Articles

Reception of evidence

(3.) Articles of War for Her Majesty's Army or Navy :

(4.) The course of proceeding of Parliament and of the Councils for the purposes of making Laws and Regulations established under the Indian Councils' Act, or any other law for the time being relating thereto.

Explanation.—The word "Parliament," in Clauses (2) and (4), includes—

1. The Parliament of the United Kingdom of Great Britain and Ireland ;
2. The Parliament of Great Britain ;
3. The Parliament of England ;
4. The Parliament of Scotland ; and
5. The Parliament of Ireland.

(5.) The accession and the sign manual of the Sovereign for the time being of the United Kingdom of Great Britain and Ireland :

(6.) All seals of which English Courts take judicial notice: the seals of all the Courts of British India, and of all Courts out of British India, established by the authority of the Governor-General or any Local Government in Council: the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public, and all seals which any person is authorized to use by any Act of Parliament or other Act or Regulation having the force of law in British India :

(7.) The accession to office, names, titles, functions, and signatures of the persons filling for the time being any public office in any part of British India, if the fact of their appointment to such office is notified in the *Gazette of India*, or in the Official Gazette of any Local Government :

(8.) The existence, title, and national flag of every State or Sovereign recognized by the British Crown :

(9.) The divisions of time, the geographical divisions of the world, and public festivals, fasts, and holidays notified in the Official Gazette :

(10.) The territories under the dominion of the British Crown :

(11.) The commencement, continuance, and termination of hostilities between the British Crown and any other State or body of persons :

(12.) The names of the members and officers of the Court, and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of all advocates, attornies, proctors, vakils, pleaders, and other persons authorized by law to appear or act before it ;

(13.) The rule of the road. *as laid down in the Act*

In all these cases, and also on all matters of public history, literature, science, or art, the Court may resort for its aid to appropriate books or documents of reference.

If

If the Court is called upon by any person to take judicial notice of any fact, may refuse to do so, unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

58. No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

CHAPTER IV.—OF ORAL EVIDENCE.

Proof of facts by oral evidence.

59. All facts, except the contents of documents, may be proved by oral evidence.

Oral evidence must be direct.

60. Oral evidence must, in all cases whatever, be direct; That is to say—

If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it ;

If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it ;

If it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner ;

If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds :

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable ;

Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.

CHAPTER V.—OF DOCUMENTARY EVIDENCE.

Proof of contents of documents.

61. The contents of documents may be proved either by primary or by secondary evidence.

62. Primary evidence means the document itself produced for the inspection of the Court.

Explanation 1.

Explanation 1.—Where a document is executed in several parts, each part is primary evidence of the document:

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

Explanation 2.—Where a number of documents are all made by one uniform process, as in the case of printing, lithography, or photography, each is primary evidence of the contents of the rest; but where they are all copies of a common original, they are not primary evidence of the contents of the original.

Illustration.

A person is shown to have been in possession of a number of placards, all printed at one time from one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.

Secondary evidence.

63. Secondary evidence means and includes—

- (1.) Certified copies given under the provisions hereinafter contained;
- (2.) Copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;
- (3.) Copies made from or compared with the original;
- (4.) Counterparts of documents as against the parties who did not execute them;
- (5.) Oral accounts of the contents of a document given by some person who has himself seen it.

Illustrations.

(a.) A photograph of an original is secondary evidence of its contents, though the two have not been compared, if it is proved that the thing photographed was the original.

(b.) A copy compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.

(c.) A copy transcribed from a copy, but afterwards compared with the original, is secondary evidence; but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.

(d.) Neither an oral account of a copy compared with the original, nor an oral account of a photograph or machine-copy of the original, is secondary evidence of the original.

Proof of documents by primary evidence.

64. Documents must be proved by primary evidence except in the cases hereinafter mentioned.

Cases in which secondary evidence relating to documents may be given.

65. Secondary evidence may be given of the existence, condition, or contents of a document in the following cases:—

- (a.) When the original is shown or appears to be in the possession or power of the person against whom the document is sought to be proved, or

of

of any person out of reach of, or not subject to, the process of the Court, or of any person legally bound to produce it, and when, after the notice mentioned in section sixty-six, such person does not produce it, *any secondary evidence of the contents of, or of the contents of,*

(b.) When the existence, condition, or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest; *the original is not admissible.*

(c.) When the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time; *any secondary evidence of the contents of the original is admissible.*

(d.) When the original is of such a nature as not to be easily moveable;

(e.) When the original is a public document within the meaning of section seventy-four; *any secondary evidence of the contents of the original is admissible.*

(f.) When the original is a document of which a certified copy is permitted by this Act, or by any other law in force in British India, to be given in evidence;

(g.) When the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection. x

In cases (a), (c), and (d), any secondary evidence of the contents of the document is admissible.

In case (b), the written admission is admissible.

In case (e) or (f), a certified copy of the document, but no other kind of secondary evidence, is admissible.

In case (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

66. Secondary evidence of the contents of the documents referred to in section sixty-five, clause (a), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case:

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it:—

- (1.) When the document to be proved is itself a notice;

- (2.) When

(2.) When from the nature of the case, the adverse party must know that he will be required to produce it;

(3.) When it appears or is proved that the adverse party has obtained possession of the original by fraud or force;

(4.) When the adverse party or his agent has the original in Court;

(5.) When the adverse party or his agent has admitted the loss of the document;

(6.) When the person in possession of the document is out of reach of, or not subject to, the process of the Court.

67. If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

Proof of signature and handwriting of person alleged to have signed or written document produced.

68. If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence.

Proof of execution of document required by law to be attested.

69. If no such attesting witness can be found, or if the document purports to have been executed in the United Kingdom, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person.

Proof where no attesting witness found.

70. The admission of a party to an attested document of its execution by himself shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.

Admission of execution by party to attested document.

71. If the attesting witness denies or does not recollect the execution of the document, its execution may be proved by other evidence.

Proof when attesting witness denies the execution.

72. An attested document not required by law to be attested may be proved as if it was unattested.

Proof of document not required by law to be attested.

73. In order to ascertain whether a signature, writing, or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose.

Comparison of hand-writings.

The

The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.

PUBLIC DOCUMENTS.

Public documents. 74. The following documents are public documents:—

1. Documents forming the Acts, or records of the Acts—
 - (i) of the sovereign authority,
 - (ii) of official bodies and tribunals, and
 - (iii) of public officers, legislative, judicial, and executive, whether of British India or of any other part of Her Majesty's dominions, or of a foreign country.
2. Public records kept in British India of private documents.

Private documents. 75. All other documents are private.

76. Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

Explanation.—Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

77. Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

Production of such copies.

78. The following public documents may be proved as follows:—

Proof of other official documents.

(1.) Acts, orders, or notifications of the Executive Government of British India in any of its departments, or of any Local Government or any department of any Local Government,

by the records of the departments certified by the heads of those departments respectively,

or by any document purporting to be printed by order of any such Government:

(2.) The proceedings of the Legislatures, by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of Government:

(3.) Proclamations,

(3.) Proclamations, orders, or regulations issued by Her Majesty or by the Privy Council, or by any department of Her Majesty's Government, by copies or extracts contained in the *London Gazette*, or purporting to be printed by the Queen's Printer:

(4.) The Acts of the Executive or the proceedings of the legislature of a foreign country,

by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or Sovereign, or by a recognition thereof in some public Act of the Governor-General of India in Council:

(5.) The proceedings of a municipal body in British India, by a copy of such proceedings certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body:

(6.) Public documents of any other class in a foreign country, by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a notary public or of a British Consul or diplomatic agent, that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.

PRESUMPTIONS AS TO DOCUMENTS.

79. The Court shall presume every document purporting to be a certificate, Presumption as to genuineness of certified copies. certified copy, or other document, which is by law declared to be admissible as evidence of any particular fact, and which purports to be duly certified, by any officer in British India, or by any officer in any Native State in alliance with Her Majesty, who is duly authorized thereto by the Governor-General in Council, to be genuine: Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf. The Court shall also presume that any officer, by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper.

80. Whenever any document is produced before any Court purporting to be a record or memorandum of the evidence or of any part of the evidence given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence, or to be a statement or confession by any prisoner or accused person taken in accordance with law and purporting to be signed by any Judge or Magistrate or by any such officer as aforesaid, the Court shall presume—

that

that the document is genuine; that any statements, as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement, or confession was duly taken.

81. The Court shall presume the genuineness of every document purporting Presumption as to Gazettes. as to to be the *London Gazette*, or the *Gazette of India*, or the Government Gazette of any Local Government, or of any colony, dependency, or possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament printed by the Queen's Printer, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

82. When any document is produced to any Court purporting to be a document which, by the law in force for the time being in England or Ireland, would be admissible in proof of any particular in any Court of Justice in England or Ireland without proof of the seal or stamp or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed, the Court shall presume that such seal, stamp, or signature is genuine, and that the person signing it held, at the time when he signed it, the judicial or official character which he claims,

and the document shall be admissible for the same purpose for which it would be admissible in England or Ireland.

83. The Court shall presume that maps or plans purporting to be made by the authority of Government were so made, and are accurate; Proof of maps made for purposes of any cause. but maps or plans made for the purposes of any cause must be proved to be accurate.

84. The Court shall presume the genuineness of every book purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country, Presumption as to collections of laws and reports of decisions.

and of every book purporting to contain reports of decisions of the Courts of such country.

85. The Court shall presume that every document purporting to be a power of attorney, and to have been executed before, and authenticated by, a notary public, or any Court, Judge, Magistrate, British Consul, or Vice-Consul, or representative of Her Majesty or of the Government of India, was so executed and authenticated. Presumption as to powers of attorney.

86. The

86. The Court may presume that any document purporting to be a certified copy of any judicial record of any country not forming part of Her Majesty's dominions is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of Her Majesty or of the Government of India resident in such country to be the manner commonly in use in that country for the certification of copies of judicial records.

87. The Court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts and which is produced for its inspection, was written and published by the person, and at the time and place, by whom or at which it purports to have been written or published.

88. The Court may presume that a message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a message delivered for transmission at the office from which the message purports to be sent; but the Court shall not make any presumption as to the person by whom such message was delivered for transmission.

89. The Court shall presume that every document, called for and not produced after notice to produce, was attested, stamped, and executed in the manner required by law.

90. Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document which purports to be in the handwriting of any particular person is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Explanation.—Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

This explanation applies also to section eighty-one.

Illustrations.

(a.) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land showing his titles to it. The custody is proper.

(b) A

(b.) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.

(c.) A, a connection of B, produces deeds relating to lands in B's possession, which were deposited with him by B for safe custody. The custody is proper.

CHAPTER VI.—OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE.

91. When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.

Exception 1.—When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.

Exception 2.—Wills under the Indian Succession Act may be proved by the Probate.

Explanation 1.—This section applies equally to cases in which the contracts, grants or disposition of property referred to are contained in one document, and to cases in which they are contained in more documents than one.

Explanation 2.—Where there are more originals than one, one original only need be proved.

Explanation 3.—The statement in any document whatever of a fact other than the facts referred to in this section, shall not preclude the admission of oral evidence as to the same fact.

Illustrations.

(a.) If a contract be contained in several letters, all the letters in which it is contained must be proved.

(b.) If a contract is contained in a bill of exchange, the bill of exchange must be proved.

(c.) If a bill of exchange is drawn in a set of three, one only need be proved.

(d.) A contracts in writing with B for the delivery of indigo upon certain terms. The contract mentions the fact that B had paid A the price of other indigo contracted for verbally on another occasion.

Oral evidence is offered that no payment was made for the other indigo. The evidence is admissible.

(e.) A gives B a receipt for money paid by B.

Oral evidence is offered of the payment.

The evidence is admissible.

92. When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section,

Exclusion of evidence of oral agreement.

section, no evidence of any oral agreement or statement shall be admitted as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from, its terms:

Proviso (1).—Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law.

Proviso (2).—The existence of any separate oral agreement as to any matter on which a document is silent and which is not inconsistent with its terms, may be proved. In considering whether or not this proviso applies, the Court shall have regard to the degree of formality of the document.

Proviso (3).—The existence of any separate oral agreement constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved.

Proviso (4).—The existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant or disposition of property, may be proved, except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.

Proviso (5).—Any usage or custom by which incidents, not expressly mentioned in any contract, are usually annexed to contracts of that description, may be proved: Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.

Proviso (6).—Any fact may be proved which shows in what manner the language of a document is related to existing facts.

Illustrations.

(a.) A policy of insurance is effected on goods "in ships from Calcutta to London." The goods are shipped in a particular ship which is lost. The fact that that particular ship was orally excepted from the policy, cannot be proved.

(b.) A agrees absolutely in writing to pay B Rs. 1,000 on the 1st March 1873. The fact that, at the same time, an oral agreement was made that the money should not be paid till the 31st March, cannot be proved.

(c.) An estate called 'the Rampore tea estate' is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed, cannot be proved.

(d.) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.

(e.) A

(e.) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.

(f.) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.

(g.) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: 'Bought of A a horse for Rs. 500.' B may prove the verbal warranty.

(h.) A hires lodgings of B, and gives B a card on which is written—'Rooms, Rs. 200 a month.' A may prove a verbal agreement that these terms were to include partial board.

A hires lodgings of B for a year, and a regularly stamped agreement drawn up by an attorney is made between them. It is silent on the subject of board. A may not prove that board was included in the terms verbally.

(i.) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount, A may prove this.

(j.) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may show the circumstances under which it was delivered.

93. When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.

Exclusion of evidence to explain or amend ambiguous document.

Illustrations.

(a.) A agrees in writing to sell a horse to B for 'Rs. 1,000 or Rs. 1,500.'

Evidence cannot be given to show which price was to be given.

(b.) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled.

94. When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.

Exclusion of evidence against application of document to existing facts.

Illustration.

A sells to B by deed 'my estate at Rampore containing 100 bigás.' A has an estate at Rampore containing 100 bigás. Evidence may not be given of the fact that the estate meant to be sold was once situated at a different place and of a different size.

95. When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.

Evidence as to document unmeaning in reference to existing facts.

Illustration.

A sells to B by deed 'my house in Calcutta.'

A had no house in Calcutta, but it appears that he had a house at Howrah, of which B had been in possession since the execution of the deed.

These facts may be proved to show that the deed related to the house at Howrah.

96. When

96. When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.

Evidence as to application of language which can apply to one only of several persons.

Illustrations.

(a.) A agrees to sell to B for Rs. 1,000 "my white horse." A has two white horses. Evidence may be given of facts which show which of them was meant.

(b.) A agrees to accompany B to Hyderabad. Evidence may be given of facts showing whether Hyderabad in the Deccan or Hyderabad in Scind was meant.

97. When the language used applies partly to one set of existing facts, and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.

Evidence as to application of language to one of two sets of facts to neither of which the whole correctly applies.

Illustration.

A agrees to sell to B 'my land at X' in the occupation of Y. A has land at X, but not in the occupation of Y, and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.

98. Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical, local, and provincial expressions, of abbreviations and of words used in a peculiar sense.

Evidence as to meaning of illegible characters, &c.

Illustration.

A, a sculptor, agrees to sell to B 'all my mods.' A has both models and modelling tools. Evidence may be given to show which he meant to sell.

99. Persons who are not parties to a document, or their representatives in interest may give evidence of any facts tending to show a contemporaneous agreement, varying the terms of the document.

Who may give evidence of agreement varying terms of document.

Illustration.

A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months' credit shall be given to A. This could not be shown as between A and B, but it might be shown by C if it affected his interests.

100. Nothing in this chapter contained shall be taken to affect any of the provisions of the Indian Succession Act (X of 1865) as to the construction of wills.

Saving of provisions of Indian Succession Act relating to wills.

PART III.

PART III.

PRODUCTION AND EFFECT OF EVIDENCE.

CHAPTER VII.—OF THE BURDEN OF PROOF.

101. Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

Burden of proof.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations.

(a.) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(b.) A desires a Court to give judgment that he is entitled to certain land in the possession of B by reason of facts which he asserts and which B denies to be true.

A must prove the existence of those facts.

102. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

On whom burden of proof lies.

Illustrations.

(a.) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.

If no evidence were given on either side, B would be entitled to retain his possession.

Therefore the burden of proof is on A.

(b.) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

If no evidence were given on either side, A would succeed, as the bond is not disputed and the fraud is not proved.

Therefore the burden of proof is on B.

103. The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Burden of proof as to particular fact.

Illustration.

(a.) A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission.

B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.

Burden of proving fact to be proved to make evidence admissible.

104. The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

Illustration.

Illustrations.

- (a.) A wishes to prove a dying declaration by B. A must prove B's death.
 (b.) A wishes to prove, by secondary evidence, the contents of a lost document.
 A must prove that the document has been lost.

105. When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code, or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

Burden of proving that case of accused comes within exceptions.

Illustrations.

- (a.) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act.
 The burden of proof is on A.
 (b.) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.
 The burden of proof is on A.
 (c.) Section 325 of the Indian Penal Code provides that whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be subject to certain punishments.
 A is charged with voluntarily causing grievous hurt under section 325.
 The burden of proving the circumstances bringing the case under section 335 lies on A.

Burden of proving fact especially within knowledge.

106. When any fact is especially within the knowledge of any person the burden of proving that fact is upon him.

Illustrations.

- (a.) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.
 (b.) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

Burden of proving death of person known to have been alive within thirty years.

107. When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

Burden of proving that person is alive who has not been heard of for seven years.

108. When the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is on the person who affirms it.

Burden of proof as to partnership, tenancy and agency.

109. When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they

they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.

110. When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

Burden of proof as to ownership.

111. Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

Proof of good faith in transactions where one party is in relation of active confidence.

Illustrations.

- (a.) The good faith of a sale by a client to an attorney is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the attorney.
 (b.) The good faith of a sale by a son just come of age to a father is in question in a suit brought by the son. The burden of proving the good faith of the transaction is on the father.

112. The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.

Birth during marriage, conclusive proof of legitimacy.

113. A notification in the *Gazette of India* that any portion of British territory has been ceded to any Native State, Prince, or Ruler, shall be conclusive proof that a valid cession of such territory took place at the date mentioned in such notification.

Proof of cession of territory.

114. The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business in their relation to the facts of the particular case.

Court may presume existence of certain facts.

Illustrations.

- The Court may presume—
 (a.) That a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;
 (b.) That an accomplice is unworthy of credit, unless he is corroborated in material particulars;
 (c.) That a bill of exchange, accepted or endorsed, was accepted or endorsed, for good consideration;
 (d.) That a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;
 (e.) That.

- (e.) That judicial and official acts have been regularly performed ;
- (f.) That the common course of business has been followed in particular cases ;
- (g.) That evidence which could be and is not produced would, if produced be unfavourable to the person who withholds it ;
- (h.) That if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him ;
- (i.) That when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before them :—

As to illustration (a)—A shop-keeper has in his till a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business ;

As to illustration (b)—A, a person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself :

As to illustration (b)—A crime is committed by several persons. A, B, and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable :

As to illustration (c)—A, the drawer of a bill of exchange, was a man of business. B, the acceptor was a young and ignorant person, completely under A's influence :

As to illustration (d)—It is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course :

As to illustration (e)—A judicial act, the regularity of which is in question, was performed under exceptional circumstances :

As to illustration (f)—The question is whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances :

As to illustration (g)—A man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family :

As to illustration (h)—A man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked :

As to illustration (i)—A bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

CHAPTER VIII.—ESTOPPEL.

115. When one person has, by his declaration, act, or omission, intentionally Estoppel. caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed in any suit or proceeding between himself and such person or his representative to deny the truth of that thing.

Illustration.

Illustration.

A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.

116. No tenant of immoveable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immoveable property ; and no person who came upon any immoveable property by the license of the person in possession thereof, shall be permitted to deny that such person had a title to such possession at the time when such license was given.

117. No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it, nor shall any bailee or licensee be permitted to deny that his bailor or licensor had, at the time when the bailment or license commenced, authority to make such bailment or grant such license.

Explanation (1).—The acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn.

Explanation (2).—If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor.

CHAPTER IX.—OF WITNESSES.

118. All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

Explanation.—A lunatic is not incompetent to testify unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs ; but such writing must be written and the signs made in open Court. Evidence so given shall be deemed to be oral evidence.

120. In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.

121, No

121. No Judge or Magistrate shall, except upon the special order of some Judges and Magistrates. Court to which he is subordinate, be compelled to answer any questions as to his own conduct in Court as such Judge or Magistrate, or as to anything which came to his knowledge in Court as such Judge or Magistrate; but he may be examined as to other matters which occurred in his presence whilst he was so acting.

Illustrations.

(a.) A, on his trial before the Court of Session, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of a Superior Court.

(b.) A is accused before the Court of Session of having given false evidence before B, a Magistrate. B cannot be asked what A said, except upon the special order of the Superior Court.

(c.) A is accused before the Court of Session of attempting to murder a Police officer whilst on his trial before B, a Sessions Judge. B may be examined as to what occurred.

122. No person who is or has been married, shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married; nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other.

123. No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

124. No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

125. No Magistrate or police officer shall be compelled to say whence he got any information as to the commission of any offence.

126. No barrister, attorney, pleader or vakil, shall at any time be permitted unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such barrister, pleader, attorney, or vakil by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment :

Provided

Provided that nothing in this section shall protect from disclosure—

- (1) Any such communication made in furtherance of any criminal purpose ;
- (2) Any fact observed by any barrister, pleader, attorney, or vakil in the course of his employment as such showing that any crime or fraud has been committed since the commencement of his employment.

It is immaterial whether the attention of such barrister, attorney, or vakil was or was not directed to such fact by or on behalf of his client.

Explanation.—The obligation stated in this section continues after the employment has ceased.

Illustrations.

(a.) A, a client, says to B, an attorney,—‘ I have committed forgery, and I wish you to defend me.’ As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure.

(b.) A, a client, says to B, an attorney,—‘ I wish to obtain possession of property by the use of a forged deed on which I request you to sue.’

This communication, being made in furtherance of a criminal purpose, is not protected from disclosure.

(c.) A, being charged with embezzlement, retains B, an attorney, to defend him. In the course of the proceedings, B observes that an entry has been made in A's account-book charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.

This being a fact observed by B in the course of his employment showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure.

127. The provisions of section one hundred and twenty-six shall apply to interpreters, and the clerks or servants of barristers, pleaders attorneys, and vakils.

128. If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section one hundred and twenty-six ; and if any party to a suit or proceeding calls any such barrister-attorney, or vakil as a witness, he shall be deemed to have consented to such disclosure only if he questions such barrister, attorney, or vakil on matters which, but for such question, he would not be at liberty to disclose.

129. No one shall be compelled to disclose to the Court any confidential communication which has taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.

130. No

130. No witness who is not a party to a suit shall be compelled to produce his title-deeds to any property, or any document in virtue of which he holds any property as pledgee or mortgagee, or any document, the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

131. No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such last-mentioned person consents to their production.

132. A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate such witness, or that it will expose, or tend, directly or indirectly, to expose such witness to a penalty or forfeiture of any kind:

Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

133. An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

134. No particular number of witnesses shall in any case be required for the proof of any fact.

CHAPTER X.—OF THE EXAMINATION OF WITNESSES.

135. The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to Civil and Criminal Procedure respectively, and, in the absence of any such law, by the discretion of the Court.

136. When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise.

If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence

evidence is given of the fact first mentioned, unless the party undertakes to give proof of such fact and the Court is satisfied with such undertaking.

If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may in his discretion either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.

Illustrations.

(a.) It is proposed to prove a statement about a relevant fact by a person alleged to be dead, which statement is relevant under section thirty-two.

The fact that the person is dead must be proved by the person proposing to prove the statement before evidence is given of the statement.

(b.) It is proposed to prove by a copy the contents of a document said to be lost.

The fact that the original is lost must be proved by the person proposing to produce the copy before the copy is produced.

(c.) A is accused of receiving stolen property knowing it to have been stolen.

It is proposed to prove that he denied the possession of the property.

The relevancy of the denial depends on the identity of the property. The Court may in its discretion either require the property to be identified before the denial of the possession is proved, or permit the denial of the possession to be proved before the property is identified.

(d.) It is proposed to prove a fact (A) which is said to have been the cause or effect of a fact in issue. There are several intermediate facts (B, C, and D) which must be shown to exist before the fact A can be regarded as the cause or effect of the fact in issue. The Court may either permit A to be proved before B, C, or D is proved, or may require proof of B, C, and D before permitting proof of A.

137. The examination of a witness by the party who calls him shall be called his examination-in-chief.

The examination of a witness by the adverse party shall be called his cross-examination.

The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

138. Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined.

The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

The re-examination shall be directed to the explanation of matters referred to in cross-examination; and if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

139. A

139. A person summoned to produce a document does not become a witness by the mere fact that he produces it, and cannot be cross-examined unless and until he is called as a witness.

Cross-examination of person called to produce a document.

140. Witnesses to character may be cross-examined and re-examined.

Witnesses to character.

141. Any question suggesting the answer which the person putting it wishes or expects to receive, is called a leading question.

Leading question.

142. Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court.

When they must not be asked.

The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.

143. Leading questions may be asked in cross-examination.

When they may be asked.

144. Any witness may be asked, whilst under examination, whether any contract, grant or other disposition of property, as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which, in the opinion of the Court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.

Evidence as to matters in writing.

Explanation.—A witness may give oral evidence of statements made by other persons about the contents of documents if such statements are in themselves relevant facts.

Illustration.

The question is, whether A assaulted B.

C deposes that he heard A say to D—‘B wrote a letter accusing me of theft, and I will be revenged on him.’ This statement is relevant, as showing A’s motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.

145. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing and relevant to matters in question without such writing being shown to him, or being proved; but if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

Cross-examination as to previous statements in writing.

146. When

146. When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend

Questions lawful in cross-examination.

- (1) to test his veracity;
- (2) to discover who he is and what is his position in life, or
- (3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him, or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

147. If any such question relates to a matter relevant to the suit or proceeding, the provisions of section one hundred and thirty-two shall apply thereto.

When witness to be compelled to answer.

148. If any such question relates to a matter not relevant to the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the Court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit warn the witness that he is not obliged to answer it. In exercising its discretion, the Court shall have regard to the following considerations:—

Court to decide when question shall be asked and when witness compelled to answer.

- (1.) Such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the Court as to the credibility of the witness on the matter to which he testifies.
- (2.) Such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the Court as to the credibility of the witness on the matter to which he testifies.
- (3.) Such questions are improper if there is a great disproportion between the importance of the imputation made against the witness’ character and the importance of his evidence.
- (4.) The Court may, if it sees fit, draw, from the witnesses’ refusal to answer, the inference that the answer if given would be unfavourable.

149. No such question as is referred to in section one hundred and forty-eight ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well-founded.

Question not to be asked without reasonable grounds.

Illustrations.

- (a.) A barrister is instructed by an attorney or vakil that an important witness is a dacoit. This is a reasonable ground for asking the witness whether he is a dacoit.
- (b.) A pleader is informed by a person in Court that an important witness is a dacoit. The informant on being questioned by the pleader gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dacoit.

(c.) A

(c.) A witness, of whom nothing whatever is known, is asked at random whether he is a dacoit. There are here no reasonable grounds for the question.

(d.) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking him if he is a dacoit.

150. If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any barrister, pleader, vakil, or attorney, report the circumstances of the case to the High Court or other authority to which such barrister, pleader, vakil, or attorney is subject in the exercise of his profession.

Procedure of Court in case of question being asked without reasonable grounds.

151. The Court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court, unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.

Indecent and scandalous questions.

152. The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.

Questions intended to insult or annoy.

153. When a witness has been asked and has answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but if he answers falsely, he may afterwards be charged with giving false evidence.

Exclusion of evidence to contradict answers to questions testing veracity.

Exception 1.—If a witness is asked whether he has been previously convicted of any crime, and denies it, evidence may be given of his previous conviction.

Exception 2.—If a witness is asked any question tending to impeach his impartiality, and answers it by denying the facts suggested, he may be contradicted.

Illustrations.

(a.) A claim against an under-writer is resisted on the ground of fraud. The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it.

Evidence is offered to show that he did make such a claim.

The evidence is inadmissible.

(b.) A witness is asked whether he was not dismissed from a situation for dishonesty. He denies it.

Evidence is offered to show that he was dismissed for dishonesty.

The evidence is not admissible.

(c.) A affirms that on a certain day he saw B at Lahore.

A is asked whether he himself was not on that day at Calcutta. He denies it.

Evidence is offered to show that A was on that day at Calcutta.

The

The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Lahore.

In each of these cases the witness might, if his denial was false, be charged with giving false evidence.

(d.) A is asked whether his family has not had a blood feud with the family of B against whom he gives evidence.

He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.

154. The Court may in its discretion permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.

Question by party to his own witness.

155. The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:—

(1.) By the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;

(2.) By proof that the witness has been bribed or has had the offer of a bribe, or has received any other corrupt inducement to give his evidence;

(3.) By proof of former statements inconsistent with any part of his evidence which is liable to be contradicted;

(4.) When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.

Explanation.—A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.

Illustrations.

(a.) A sues B for the price of goods sold and delivered to B. C says that he delivered the goods to B. Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to B.

The evidence is admissible.

(b.) A is indicted for the murder of B. C says that B, when dying, declared that A had given B the wound of which he died. Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence.

The evidence is admissible.

156. When

156. When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occurred, if the Court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.

Questions tending to corroborate evidence of relevant fact admissible.

Illustration.

A, an accomplice, gives an account of a robbery in which he took part. He describes various incidents unconnected with the robbery which occurred on his way to and from the place where it was committed.

Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.

157. In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.

Former statements of witness may be proved to corroborate later testimony as to same fact.

158. Whenever any statement, relevant under section thirty-two or thirty-three, is proved, all matters may be proved, either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.

What matters may be proved in connection with proved statement relevant under Section 32 or 33.

159. A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at that time fresh in his memory.

Refreshing memory.

The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.

Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document: Provided the Court be satisfied that there is sufficient reason for the non-production of the original.

When witness may use copy of document to refresh memory.

An expert may refresh his memory by reference to professional treatises.

160. A witness may also testify to facts mentioned in any such document as is mentioned in section one hundred and fifty-nine, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Testimony to facts stated in document mentioned in Section 159.

Illustration.

Illustration.

A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.

161. Any writing referred to under the provisions of the two last preceding sections must be produced and shown to the adverse party if he requires it; such party may, if he pleases, cross-examine the witness thereupon.

Right of adverse party as to writing used to refresh memory.

162. A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.

The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence: and if the interpreter disobeys such direction, he shall be held to have committed an offence under section one hundred and sixty-six of the Indian Penal Code.

Translation of documents

163. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so.

Giving as evidence of document called for and produced on notice.

164. When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the Court.

Giving as evidence of document production of which was refused on notice.

Illustration.

A sues B on an agreement, and gives B notice to produce it. At the trial, A calls for the document and B refuses to produce it. A gives secondary evidence of its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so.

165. The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant; and may order the production of any document

Judge's power to put questions or order production.

document or thing : and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question :

Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved.

Provided also that this section shall not authorize any Judge to compel any witness to answer any question, or to produce any document which such witness would be entitled to refuse to answer or produce under sections one hundred and twenty-one to one hundred and thirty-one, both inclusive, if the question were asked or the document were called for by the adverse party ; nor shall the Judge ask any question which it would be improper for any other person to ask under section one hundred and forty-eight or one hundred and forty-nine; nor shall he dispense with primary evidence of any document, excepting the cases hereinbefore excepted.

166. In cases tried by jury or with assessors, the jury or assessors may put any questions to the witnesses, through or by leave of the Judge, which the Judge himself might put and which he considers proper.

CHAPTER XI.—OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE.

167. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court, before which such objection is raised, that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

No new trial for rejection or improper reception of evidence.

Power of jury or assessors to put questions.

SCHEDULE.

Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
Stat. 26 Geo. III, c. 57.	For the further regulation of the trial of persons accused of certain offences committed in the East Indies; for repealing so much of an Act, made in the twenty-fourth year of the reign of his present Majesty (intituled, An Act for the better regulation and management of the affairs of the East India Company, and of the British possessions in India, and for establishing a court of judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies), as requires the servants of the East India Company to deliver inventories to their estates and effects; for rendering the laws more effectual against persons unlawfully resorting to the East Indies; and for the more easy proof, in certain cases, of deeds and writings executed in Great Britain or India.	Section thirty-eight so far as it relates to Courts of Justice in the East Indies.	Stat. 14 & 15 Vic. c. 99.	To amend the Law of Evidence.	Section eleven & so much of section nineteen as relates to British India.
			Act XV. of 1852.	To amend the Law of Evidence.	So much as has not been heretofore repealed.
			Act XIX. of 1853.	To amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.	Section nineteen.
			Act II. of 1855.	For the further improvement of the Law of Evidence.	So much as has not been heretofore repealed.
			Act XXV. of 1861.	For simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.	Section two hundred and thirty-seven.
			Act I. of 1868.	The General Clauses Act, 1868.	Sections seven and eight.

ACT N^O. II. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd March 1872.)

An Act to revive and continue the Operation of Act XV. of 1867 (to make better Provision for the Appointment of Municipal Committees in the Panjáb, and for other Purposes).

WHEREAS the term for which Act XV. of 1867 was enacted to be in force has expired,
Preamble. and it is expedient to revive and continue the operation of^v
the said Act; It is hereby enacted as follows:—

1. Act XV. of 1867 shall be deemed to be and to have been in force through-
Revival and continuance of Act XV. of 1867. out the territories subject to the control of the Lieutenant-
Governor of the Panjáb from the last day of February 1872,
and shall continue in force in the said territories until the first day of March 1873.

Madras—Printed by H. MORGAN, at the Fort St. George Gazette Press.

[PRICE 6 PIES.]

ACT N^O. III. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd March 1872.)

An Act to provide a form of Marriage in certain Cases.

WHEREAS it is expedient to provide a form of marriage for persons who do not
Preamble. profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh, or Jaina religion, and to legalize certain marriages the validity of which is doubtful; It is hereby enacted as follows:—

Local extent.

1. This Act extends to the whole of British India, and

Commencement.

shall come into force on the passing thereof.

2. Marriages may be celebrated under this Act between persons neither of
Conditions upon which whom professes the Christian or the Jewish, or the Hindú marriages under Act may or the Muhammadan, or the Pársí or the Buddhist, or the be celebrated. Sikh or the Jaina religion, upon the following conditions:—

(1).—Neither party must, at the time of the marriage, have a husband or wife living:

(2).—The man must have completed his age of eighteen years, and the woman her age of fourteen years, according to the Gregorian calendar:

(3).—Each party must, if he or she has not completed the age of twenty-one years, have obtained the consent of his or her father or guardian to the marriage:

(4).—The parties must not be related to each other in any degree of consanguinity or affinity which would, according to any law to which either of them is subject, render a marriage between them illegal.

1st Proviso.—

1st Proviso.—No such law or custom, other than one relating to consanguinity or affinity, shall prevent them from marrying.

2nd Proviso.—No law or custom as to consanguinity shall prevent them from marrying, unless a relationship can be traced between the parties through some common ancestor, who stands to each of them in a nearer relationship than that of great-great-grand-father or great-great-grand-mother, or unless one of the parties is the lineal ancestor, or the brother or sister of some lineal ancestor, of the other.

3. The Local Government may appoint one or more Registrars under this Act, either by name or as holding any office for the time being, for any portion of the territory subject to its administration. The officer so appointed shall be called 'Registrar of Marriages under Act III. of 1872,' and is hereinafter referred to as 'the Registrar.' The portion of territory for which any such officer is appointed shall be deemed his district.

4. When a marriage is intended to be solemnized under this Act, one of the parties must give notice in writing to the Registrar, before whom it is to be solemnized.

The Registrar to whom such notice is given must be the Registrar of a district within which one at least of the parties to the marriage has resided for fourteen days before such notice is given.

Such notice may be in the form given in the first schedule to this Act.

5. The Registrar shall file all such notices and keep them with the records of his office, and shall also forthwith enter a true copy of every such notice in a book to be for that purpose furnished to him by the Government, to be called the "Marriage Notice Book under Act III. of 1872," and such book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

6. Fourteen days after notice of an intended marriage has been given under section four, such marriage may be solemnized, unless it has been previously objected to in the manner hereinafter mentioned.

Any person may object to any such marriage on the ground that it would contravene some one or more of the conditions prescribed in clauses (1), (2), (3), or (4) of section two.

The nature of the objection made shall be recorded in writing by the Registrar in the register, and shall, if necessary, be read over and explained to the person making the objection, and shall be signed by him or on his behalf.

7. On

7. On receipt of such notice of objection the Registrar shall not proceed to solemnize the marriage until the lapse of fourteen days from the receipt of such objection, if there be a Court of competent jurisdiction open at the time, or, if there be no such Court open at the time, until the lapse of fourteen days from the opening of such Court.

The person objecting to the intended marriage may file a suit in any Civil Court having local jurisdiction (other than a Court of Small Causes) for a declaratory decree, declaring that such marriage would contravene some one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section two.

8. The officer before whom such suit is filed shall thereupon give the person presenting it a certificate to the effect that such suit has been filed. If such certificate be lodged with the Registrar within fourteen days from the receipt of notice of objection, if there be a Court of competent jurisdiction open at the time, or, if there be no such Court open at the time, within fourteen days of the opening of such Court, the marriage shall not be solemnized till the decision of such Court has been given and the period, allowed by law for appeals from such decision, has elapsed; or, if there be an appeal from such decision, till the decision of the Appellate Court has been given.

If such certificate be not lodged in the manner and within the period prescribed in the last preceding paragraph, or if the decision of the Court be that such marriage would not contravene any one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section two, such marriage may be solemnized.

If the decision of such Court be that the marriage in question would contravene any one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section two, the marriage shall not be solemnized.

9. Any Court, in which any such suit as is referred to in section seven is filed, may, if it shall appear to it that the objection was not reasonable and *bona fide*, inflict a fine, not exceeding one thousand rupees, on the person objecting, and award it, or any part of it, to the parties to the intended marriage.

10. Before the marriage is solemnized, the parties and three witnesses shall, in the presence of the Registrar, sign a declaration in the form contained in the second schedule to this Act. If either party has not completed the age of twenty-one years, the declaration shall also be signed by his or her father or guardian, except in the case of a widow, and, in every case, it shall be countersigned by the Registrar.

11. The

11. The marriage shall be solemnized in the presence of the Registrar and of the three witnesses who signed the declaration. It may be solemnized in any form, provided that each party says to the other, in the presence and hearing of the Registrar and witnesses, 'I, [A,] take thee, [B,] to be my lawful wife(or husband).'

12. The marriage may be celebrated either at the office of the Registrar or at such other place, within reasonable distance of the office of the Registrar, as the parties desire. Provided that the Local Government may prescribe the conditions under which such marriages may be solemnized at places other than the Registrar's office, and the additional fees to be paid thereupon.

13. When the marriage has been solemnized, the Registrar shall enter a certificate thereof in a book to be kept by him for that purpose and to be called the 'Marriage Certificate Book under Act III. of 1872,' in the form given in the third schedule to this Act, and such certificate shall be signed by the parties to the marriage and the three witnesses.

14. The Local Government shall prescribe the fees to be paid to the Registrar for the duties to be discharged by him under this Act. The Registrar may, if he think fit, demand payment of any such fee before solemnization of the marriage or performance of any other duty in respect of which it is payable.

The said Marriage Certificate Book shall at all reasonable times be open for inspection, and shall be admissible as evidence of the truth of the statements therein contained. Certified extracts therefrom shall on application be given by the Registrar on the payment to him by the applicant of a fee to be fixed by the Local Government for each such extract.

15. Every person who, being at the time married, procures a marriage of himself to be solemnized under this Act, shall be deemed to have committed an offence under section four hundred and ninety-four or section four hundred and ninety-five of the Indian Penal Code, as the case may be; and the marriage so solemnized is void.

16. Every person married under this Act who, during the lifetime of his or her wife or husband, contracts any other marriage, shall be subject to the penalties provided in sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife, whatever may be the religion which he or she professed at the time of such second marriage.

17. The

17. The Indian Divorce Act shall apply to all marriages contracted under this Act, and any such marriage may be declared null or dissolved in the manner therein provided, and for the causes therein mentioned, or on the ground that it contravenes some one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section two of this Act.

18. The issue of marriages solemnized under this Act shall, if they marry under this Act, be deemed to be subject to the law to which their fathers were subject as to the prohibition of marriages by reason of consanguinity and affinity, and the provisoes to section two of this Act shall apply to them.

19. Nothing in this Act contained shall affect the validity of any marriage not solemnized under its provisions; nor shall this Act be deemed directly or indirectly to affect the validity of any mode of contracting marriage; but if the validity of any such mode shall hereafter come into question before any Court, such question shall be decided as if this Act had not been passed.

20. All persons who have heretofore contracted marriages in the presence of at least two witnesses, according to any form whatever, may at any time, previous to the first day of January 1873, have such marriages registered under this Act, and such marriages shall thereupon be deemed to be and to have been as valid as if they had been contracted and solemnized under this Act: Provided that persons who have such marriages registered under this section must, on such registry, sign a declaration in the form given in the fourth schedule to this Act.

No marriage shall be registered under this section unless conditions (1), (3) and (4) of section two were complied with; and no such marriage shall be registered under this section if, during its continuance, either party has contracted a subsequent marriage.

21. Every person making, signing or attesting any declaration or certificate prescribed by this Act, containing a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed guilty of the offence described in section one hundred and ninety-nine of the Indian Penal Code.

FIRST

FIRST SCHEDULE.

(See Section 4.)

NOTICE OF MARRIAGE.

To a Registrar of Marriages under Act III. of 1872 for the District.
I hereby give you notice that a marriage under Act III. of 1872 is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say) :—

Names.	Condition.	Rank or Profession.	Age.	Dwelling place.	Length of residence.
A B	Unmarried. Widower.	Landowner.	Of full age.	.....	23 days.
C D	Spinster.	.....	Minor.	.....	.....

Witness my hand, this day of 187 .
(Signed) A. B.

SECOND SCHEDULE.

(See Section 10.)

Declaration to be made by the Bridegroom.

- I, A B, hereby declare as follows :—
1. I am at the present time unmarried :
 2. I do not profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh or Jaina religion.
 3. I have completed my age of eighteen years :
 4. I am not related to C D [the bride] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said C D is subject, and subject to the provisoes of clause (4) of section two of Act III. of 1872, render a marriage between us illegal :
[And when the bridegroom has not completed his age of twenty-one years :
 5. The consent of my father [or guardian, as the case may be] has been given to a marriage between myself and C D, and has not been revoked.]
 6. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(Signed) A B (the bridegroom).

Declaration to be made by the Bride.

- I, C D, hereby declare as follows.—
1. I am at the present time unmarried :
 2. I do not profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh or Jaina religion.
 3. I have completed my age of fourteen years :

4. I am

4. I am not related to A B [the bridegroom] in any degree of consanguinity or affinity which would according to the law to which I am subject, or to which the said A B is subject, and subject to the, provisoes of clause (4) of section two of Act III. of 1872, render a marriage between us illegal.

[And when the bride has not completed her age of twenty-one years, unless she is a widow :

5. The consent of M N my father [or guardian, as the case may be] has been given to a marriage between myself and A B, and has not been revoked.]

6. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

Signed in our presence by the abovenamed A B and C D :

G H,
I J,
K L, } (three witnesses).

[And when the bridegroom or bride has not completed the age of twenty-one years, except in the case of a widow :

Signed in my presence and with my consent by the above A B and C D :

M N, the father [or guardian] of the abovenamed
A B [or C D, as the case may be.]
(Countersigned) E F,

Registrar of Marriages under Act III. of 1872 for the District of

Dated the day of 18 .

THIRD SCHEDULE.

(See Section 13.)

Registrar's Certificate.

I, E F, certify that, on the of 18 appeared before me A B and C D, each of whom in my presence and in the presence of three credible witnesses, whose names are signed hereunder, made the declarations required by Act III. of 1872, and that a marriage under the said Act was solemnized between them in my presence.

(Signed) E F,
Registrar of Marriages under Act III. of 1872 for the District of
(Signed) A B,
C D,

G H,
I J,
K L, } (three witnesses).

Dated the day of 18 .

FOURTH SCHEDULE.

(See Section 20.)

Declaration to be made by the Husband.

- I, A B, hereby declare as follows :—
1. I was married to C D at (place), on or about (date) in the presence of (two witnesses) :
 2. I was, at the time of my marriage to my wife, C D, unmarried :
 3. I did

ACT No. III. of 1872.

3. I did not at such time profess the Christian, Jewish, Hindú, Mahammadan, Pársí, Buddhist, Sikh or Jaina religion :

4. I have not contracted any subsequent marriage :

5. I am not related to *O D* [*the wife*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *O D* is subject, and subject to the provisoes of clause (4) of section two of Act III. of 1872, render a marriage between us illegal :

[*And when the bridegroom had not completed his age of twenty-one years :*

6. The consent of my father [or guardian, as the case may be] had been given to a marriage between myself and *O D*, and had not been revoked.]

7. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(Signed) *A B* (*the husband*).

Declaration to be made by the Wife.

I, *O D*, hereby declare as follows :—

1. I was married to *A B* at (*place*), on or about (*date*) in the presence of (*two witnesses*) :

2. I was, at the time of my marriage to my husband, *A B*, unmarried :

3. I did not at such time profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh or Jaina religion :

4. I have not contracted any subsequent marriage :

5. I am not related to *A B* [*the husband*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *A B* is subject, and subject to the provisoes of clause (4) of section two of Act III. of 1872, render a marriage between us illegal.

[*And when the bride had not, at the time of her marriage, completed her age of twenty-one years, unless she was then a widow :*

6. The consent of *M N* my father [or guardian, as the case may be] had at such time been given to a marriage between myself and *A B*, and had not been revoked.]

7. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

Signed in our presence by the abovenamed *A B* and *O D* :

G H, } (*two witnesses*).
I J, }

(Countersigned) *E F*,

Registrar of Marriages under Act III. of 1872 for the District of

Dated the day of 18 .

ACT No. IV. of 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 28th March 1872.)

THE PANJAB LAWS ACT, 1872.

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An

An Act for declaring which of certain rules, laws, and regulations have the force of law in the Panjab, and for other purposes.

WHEREAS certain rules, laws, and regulations, made heretofore for the Panjáb, acquired the force of law under the provisions of section twenty-five of the " Indian Councils' Act, 1861;" and whereas it is expedient to declare which of the said rules, laws, and regulations shall henceforth be in force in the Panjáb, and to amend, consolidate, or repeal others of the said rules, orders, and regulations; It is hereby enacted as follows:—

- Preamble. 1. This Act may be called "The Panjáb Laws Act, 1872."
- Short title. 2. It extends to the territories now under the administration of the Lieutenant-Governor of the Panjáb, but not so as to alter the effect of any regulations made for any parts of the said territories under the Statute 33 Vic., c. 3, s. 1;
- Local extent. And it shall come into force on the first day of June 1872.
- Commencement. 3. The Regulations, Acts, and orders specified in the first schedule hereto annexed are in force in the Panjáb to the extent specified in the third column of the said schedule.
- Enactments in force. 4. The Regulations, Acts and orders specified in the second schedule hereto annexed are repealed to the extent specified in the third column thereof.
- Enactments repealed.

CIVIL JUDICATURE.

5. In questions regarding inheritance, special property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partition, or any religious usage or institution, the rule of decision shall be—
- Decisions in certain cases to be according to Native law. (1) any custom of any body or class of persons, which is not contrary to justice, equity, and good conscience, and has not been declared to be void by any competent authority,
- (2) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindú law, in cases where the parties are Hindús, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is referred to in the preceding clause of this section.
- Decisions in cases not specially provided for. 6. In cases not otherwise specially provided for, the Judges shall decide according to justice, equity, and good conscience.

7. All

7. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity, or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority.

Local customs and mercantile usages when valid.

DESCENT OF JAGHIRS.

8. In all cases in which Government has declared any rule of descent to prevail in any family or families of assignees of land-revenue, such rule of descent shall be held to prevail, and to have prevailed amongst them from the time when the declaration was made.

Rule of descent in family of assignees of land-revenue.

PRE-EMPTION.

9. The right of pre-emption is a right on the part of certain persons to purchase immoveable property in certain cases in preference to all other persons.
- Right of pre-emption defined. 10. The right of pre-emption extends to all permanent dispositions of property, including sales under a decree of Court and foreclosures of mortgages; but it does not affect transfers made in good faith by way of gift, nor temporary dispositions of property.
- To what transactions it extends. 11. The right of pre-emption shall be presumed to exist, whether recorded in the list of customs at settlement or not, in all village communities, however, constituted, unless the existence of any custom or contract to the contrary can be proved. It shall be presumed to extend to the village site, to the houses built upon it, to all lands and shares of lands within the village boundary, and to all transferable rights of occupancy affecting such lands.
- Presumption of its existence in village communities. 12. The right of pre-emption shall not be presumed, but may be shown to exist in any town or city or any sub-division thereof.
- Its existence in towns to be proved. 13. When any person proposes to sell any property, or to foreclose a mortgage upon any property which is subject to the custom of pre-emption, he must give notice to the persons concerned of the price at which he offers to sell such property, or of the amount due in respect of such mortgage, as the case may be.
- Notice to persons concerned, by vendor or mortgagee of property subject to right. 14. If the property to be sold is situated within, or is a share of, a village, the right to accept such offer or to redeem such mortgage belongs, in the absence of custom to the contrary,
- Devolution of right when property to be sold is part of a village.

First,

First, to co-sharers in the village in order of relationship to the vendor or mortgagor ;

Secondly, if no relation of the vendor or mortgagor claim pre-emption, to the land-owners of the patti or other sub-division of the village in which the property is situated, jointly ;

Thirdly, to any member of the village community ;

Fourthly, to tenants with rights of occupancy in the village, if any.

Share of certain immoveable property to be offered to co-sharers.

15. If the property to be sold is a share in joint undivided immoveable property, other than land, the offer to sell must be made to the co-sharers.

16. When any question arises between persons claiming a right of pre-emption over any immoveable property situated in any town or city, such questions shall, in the absence of custom to the contrary, be decided according to vicinity, relationship, or the merits of the case.

17. Any person who claims a right of pre-emption over any property, may bring a suit against the vendor or purchaser on the ground, either that no previous offer of the property sold was made to him, or that any such offer to sell made to him was not made in good faith ; and if the Court is of opinion that the plaintiff has a right of pre-emption over such property, and that no such offer was made or that the offer was not made in good faith, it shall make a decree directing the defendant to sell such property to the plaintiff at such a price as appears to the Court to be the fair market-value of the property.

18. The decree shall specify a day on or before which the purchase-money shall be paid. If the purchase-money is not paid before sunset on that day, the decree shall become void, and the plaintiff shall lose his right of pre-emption over the property to which it relates.

Party to sale by joint-owners cannot withdraw his share and claim pre-emption as to rest.

19. In case of sale by joint-owners, no person who has been a party can withdraw his own share and claim a right of pre-emption as to the rest.

20. In villages in which the chakdārī tenure prevails, the co-sharers in well have a right of pre-emption as to shares in such well in preference to a general proprietor in any such village, having no share in the well but merely receiving a haq zamindārī from the "chakdārs."

DECREES

DECREES CONCERNING LAND.

21. Every Judge of a Civil Court in which a decree affecting the proprietary right in or possession of land is passed, shall cause a certified copy of such decree to be forwarded to the Deputy-Commissioner of the district within a month from the making of such decree.

Copy of decrees affecting land to be forwarded to Deputy-Commissioner.

INSOLVENCY.

Power to invest Courts with insolvency jurisdiction.

22. The Local Government may invest any Court or any class of Courts with insolvency jurisdiction in any specified local area.

23. Any debtor, whose debts amount to Rupees five hundred or upwards, and any creditor or creditors, to whom an aggregate sum of not less than Rupees five hundred is due from any such debtor, may petition the Court having local insolvency jurisdiction that the debtor be adjudicated an insolvent.

Petition to Court for adjudication of insolvency.

24. If it appear that the debtor's liabilities amount to more than Rupees five hundred, the Court may—

Procedure of Court thereupon.

- (1) call upon the debtor to make a statement of his assets and liabilities ;
- (2) invite by proclamation or otherwise the appearance of persons to record claims against the debtor ;
- (3) register all claims so recorded ;
- (4) call upon the debtor to give reasonable security for his appearance, or, on default of reasonable security, order his confinement in the civil jail ;
- (5) attach all the debtor's property in the Panjáb, moveable or immoveable ;
- (6) pass an order exempting the person and property of the debtor from further legal process, pending inquiry and the final orders of the Court.

A debtor on whom the order referred to in clause six of the last preceding section is passed, is deemed an insolvent.

Insolvent defined.

25. The Court shall make full inquiry into the origin, nature, and circumstances of the debts, and the conduct of the debtor in relation thereto ; and if the insolvent be shown to have been guilty of concealment, fraud, recklessness, or other gross misconduct in reference to the debts, and if his discharge, for that reason, is opposed by any of the creditors, the Court may, at its discretion, award a term of imprisonment in the civil jail not exceeding one year.

Insolvent guilty of misconduct may be imprisoned.

26. If

26. If it appear that the debtor, after becoming unable to meet his liabilities, or in expectation of becoming so, has transferred his property, or any part thereof, with a view to defrauding his creditors, or to giving one or more creditors a fraudulent preference over the others, the Court shall annul such transfer, and treat the property transferred as the other property of the debtor.

27. The property of the insolvent shall be sold or administered, under the direction of the Court, either through the agency of its own officers or of assignees to be appointed by the Court, in the manner most conducive to the interest of the creditors, and the proceeds shall be divided rateably amongst them.

28. The Court shall give effect to any composition or arrangement agreed upon between the debtor and the majority of the creditors: Provided that no injustice or injury appears to be inflicted by such composition or arrangement on any of the parties concerned, and that no fraud nor collusion is suspected. If any creditor objects to such arrangement, the Court shall decide as to the reasonableness of the objection.

29. When the sale or administration of the insolvent's property is complete, the Court may order the insolvent to be discharged, on his signing an agreement to liquidate, from any property which he may subsequently acquire, such portion of his debts as remains unpaid. Such order of discharge shall preclude any creditor whose claim is registered from suing the debtor in respect of such claim, unless it be shown that the debtor has acquired property, since the order of discharge, out of which the claim might have been defrayed.

30. Nothing in the preceding sections shall apply to persons who may have been admitted to the benefit of any insolvency law at a presidency town; nor shall any order passed under the preceding sections affect the remedy of any creditor against his debtor in respect of property which, at the time of the insolvency of such debtor, was not in the Panjáb.

31. The Chief Court of the Panjáb may, with the sanction of the Local Government, from time to time, frame and issue rules, conformable to the provisions hereinbefore contained, for the better administration of insolvent estates, and may with the like sanction alter any such rules.

32. Th

32. The Local Government may at any time, with the previous sanction of the Governor-General in Council, exclude any particular class or race from the operation of these rules.

33. No proceedings of any Court in the exercise of insolvency jurisdiction, had before the passing of this Act, shall be held to have been invalid solely on the ground that such Court did not possess such jurisdiction; all cases pending in any Court of Insolvency when this Act comes into force, shall be subsequently conducted, so far as may be, in conformity with the rules now prescribed.

MINORS AND THE COURT OF WARDS.

34. Deputy Commissioners shall be Courts of Wards within their respective districts, but shall exercise the functions of such Courts subject to the control of the Commissioner and Financial Commissioner.

35. The Court of Wards may, at its discretion, take charge of and administer the estates of all females, all minors under the age of eighteen, and idiots or lunatics, who may inherit any beneficial interest in any estate for which a settlement was made with their ancestor, or in respect of which they would have been entitled to be settled with, if they had been competent to make an agreement for the payment of revenue, or who are entitled by inheritance to any assignment of land revenue:

Provided that the Court of Wards shall not take charge of or administer any beneficial interest in an estate, in which more persons than one have a joint undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards.

36. The Deputy Commissioner may make an inquiry into the minority, lunacy, or idiocy of any person who, he has reason to believe, would, if found to be a minor, lunatic, or idiot, be subject to the jurisdiction of the Court of Wards, and into the circumstances and property of any such person, and may make an order declaring such person to be subject to the jurisdiction of the Court of Wards.

37. Any such person may appeal to the Commissioner of the Division against any such order on the ground that he is not, or has ceased to be, a minor, or that he is not, or has ceased to be, a lunatic or idiot, and the decision of the Commissioner shall be certified to the Court of Wards, and shall be final.

38. The

38. The jurisdiction of the Court of Wards shall extend to the care and education, and to the management of the property, of the persons subject thereto; and the Local Government shall make rules as to the manner in which, and the agents by whom, such jurisdiction shall be exercised.

CRIMINAL JUDICATURE.

39. The provisions of the Indian Penal Code, with the exception of Chapter VI., shall be applicable to all offences committed before 1st January 1862, in territory which was, at the time of the commission of such offence, subject to the Government of the Panjáb:

Provided that nothing contained in this section shall affect any privilege conferred on certain Chiefs in the Panjáb by the Governor-General in Council, or by the Board of Administration for the affairs of the Panjáb, nor any indemnity or pardon granted by competent authority.

HONORARY POLICE OFFICERS.

40. The Local Government may, if it thinks fit, confer on any person any of the powers which may be exercised by a Police Officer under any Act for the time being in force.

TRACK LAW.

41. When an offence is, has been, or may reasonably be supposed to have been, committed, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or other property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of a village, the person following such tracks may call upon any Headman or Village Watchman in such village to assist in carrying on the tracks.

42. If such Headman or Watchman do not forthwith give such assistance, or if the inhabitants of such village do not afford full opportunity for search in their houses for the offenders, or if, from the circumstances of the case, there shall appear good reason to believe that the inhabitants of such village, or any of them, were conniving at the offence or at the escape of the offenders, and such offenders cannot be traced beyond the village, the Magistrate of the District may, with the previous sanction of the Commissioner of the Division, inflict a fine upon such village not exceeding five

Limit to fine. five hundred rupees, except in the case of stolen property over five hundred rupees in value, in which case the fine shall not exceed the value of such property.

Appeal to Chief Court. An appeal against all convictions under this section shall lie to the Chief Court.

The Magistrate may direct that the fine imposed under this section or any part thereof, shall be awarded to any persons injured by such offence in compensation for such injury; and, in the case of stolen property recovered through the agency of a tracker, may direct that such property be not restored to its owner until he has paid to such tracker such fee, not exceeding one-fourth part of the value of the stolen property, as to the said Magistrate seems fit.

SLAUGHTER OF KINE.

43. The slaughter of kine and the sale of beef shall not take place, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

ARMED MEN AND FOREIGN VAGRANTS.

44. No band of armed men shall enter into any city or town, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

45. The Magistrate of the District may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace or to commit any offence under the Indian Penal Code, prohibit such band from entering his district; or, if they are already in his district, may require them within a given time to leave it.

46. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the Local Government, and the Local Government may give such directions for the surveillance, control, or deportation of such band, as to it seems fit.

MISCELLANEOUS.

47. No person shall cross any river or stream on a buoy or inflated skin, nor shall have in his possession or custody any buoy or skin for the purpose of being used in crossing any river or stream, except

except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

48. No person shall make use of the pasturage or other natural product of any land being the property of the Government, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

of use of pasturage or natural product of Government land;

49. No person shall grow, sell, or keep in his possession any opium, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

and of growing, selling, or keeping opium.

50. The Local Government may issue rules as to the matters mentioned in sections forty-three to forty-nine inclusive, and may, from time to time, cancel or alter any such rules.

Local Government to make rules.

Any person who breaks any rule made by the Local Government under this Act, shall be punishable with a fine not exceeding Rupees fifty, or imprisonment not exceeding a period of six months, or with both:

Penalty for breach of rules.

Provided—

(1) that such rules be not inconsistent with the provisions of this or any Act or law for the time being in force in the Panjáb;

(2) that, previous to notification, they be sanctioned by the Governor-General in Council;

(3) that they be notified in the local Gazette.

Existing rules upon the subjects hereinbefore mentioned shall, until otherwise directed by the Local Government, be deemed to have been issued under, and in conformity to, this section.

Existing rules confirmed.

51. All rules which the Local Government is empowered to issue under this Act, and all circulars issued by the Chief Court, shall, with the previous sanction of the Governor-General in Council, be re-published once at least in every year; and, upon such re-publication, shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made in the course of the preceding year, or may have become necessary or advisable, shall be embodied therewith; and upon such re-publication all such rules and circulars, previously issued, shall be repealed.

Re-publication of rules and orders.

ACT No. IV. of 1872.

SCHEDULE I.

Enactments declared to be in force.

Explanation.—This Schedule does not refer to any Act which is in its terms applicable to the Panjáb, or which has been extended to the Panjáb by competent authority.

Number and year.	Title.	Extent to which the enactment is in force.	Number and year.	Title.	Extent to which the enactment is in force.
Reg. I. of 1793.	A Regulation to prevent Fraud and Injustice in conditional Sales of Land under Deeds of Bye-bil-wuffa, or other Deeds of the same nature.	The whole, except such parts as relate to interest.	Reg. XX. of 1825.	A Regulation for declaring the jurisdiction of the Military Courts Martial and Courts of Requests, constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.	Sections two and four.
Reg. X. of 1804.	A Regulation for declaring the Powers of the Governor-General in Council to provide for the immediate Punishment of certain Offences against the State by the sentence of Courts Martial.	The whole, so far it is not modified by Act V. of 1841.	Act XL. of 1853.	An Act for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.	The whole.
Reg. XVII. of 1806.	A Regulation for extending to the Province of Benares the Rates of Interest on future Loans, and Provisions relative thereto, contained in Regulation XV., 1793; also for a general extension of the period fixed by Regulations I., 1795, and XXXIV., 1803, for the Redemption of Mortgages and Conditional Sales of Land, under Deeds of Bye-bil-wuffa, Kutubaleh, or other similar designation.	Sections seven and eight.	Act XVII. of 1861.	An Act to amend Act XIV. of 1843 (for regulating the Customs Duties in the North-Western Provinces).	The whole, the word "Panjáb" being substituted for the words "North-Western Provinces."
Reg. V. of 1817.	A Regulation for declaring the Rights of Government and of individuals with respect to hidden Treasure, and for prescribing the Rules to be observed on the Discovery of such Treasure.	The whole.		"Rules for the conservancy of Forests and Jungles in the Hill Districts of the Panjáb Territories," sanctioned by the Governor-General in Council, in letter of the Secretary to the Government of India, No. 1789, 21st May 1855.	The whole.
Reg. III. of 1818.	A Regulation for the Confinement of State Prisoners.	The whole.	SCHEDULE II. Enactments repealed.		
Reg. XI. of 1825.	A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by alluvion, or by dereliction of a river or the sea.	The whole.	Number and year.	Title.	Extent of repeal.
				All Bengal Regulations now in force in the Panjáb, except those specified in Schedule I.	The whole.
				All rules, laws, and regulations made for the Panjáb and its Dependencies or for any part thereof, by the Governor-General of India, or the Governor-General of	The whole.

SCHEDULE

SCHEDULE II.—(Concluded.)

Number and year.	Title.	Extent of repeal.	Number and year.	Title.	Extent of repeal.
	India in Council, or the Lieutenant-Governor of the Panjáb otherwise than at meetings for making laws and regulations in conformity with the provisions of the Acts of the 3rd and 4th years of King William the fourth, Chapter eighty-five, and of the 16th and 17th years of Her Majesty, Chapter ninety-five, or other Act in force for the time being, except those specified in Schedule 1.		Act VI. of 1846.	An Act for the more convenient administration of the government of the country called the Bhutteo Territory.	The whole.
			Act I. of 1847.	An Act for the establishment and maintenance of Boundary-marks in the North-Western Provinces of Bengal.	The whole, so far as it affects the Panjáb.
			Act. III. of 1870.	An Act to remove the Aggor Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes.	The whole, so far as it is unrepealed.

ACT N^o. V. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 28th March 1872.)

An Act to remove doubts as to the Jurisdiction of the High Court of Bombay over the Province of Sind.

WHEREAS it is expedient to remove doubts which have arisen as to the jurisdiction of the High Court of Bombay over the Province of Sind ; It is hereby enacted as follows :—

1. The High Court of Bombay has not, and shall be deemed never to have had, jurisdiction over the Province of Sind.

[PRICE 6 PIES.]

ACT NO. VI. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th April 1872.)

An Act to amend the Law relating to Oaths and Affirmations.

WHEREAS it is expedient to amend the law relating to oaths and affirmations;

Preamble. It is enacted as follows:—

Short title. 1. This Act may be called “The Oaths Act, 1872.”

2. It extends to British India, applies to all oaths or affirmations taken or made by or administered to British subjects in Native Indian States,

Extent.
Commencement.

and it shall come into force on the passing thereof.

3. Every person who may by law be sworn or called upon to make a solemn affirmation, in any capacity whatever, may, if he objects to such oath or solemn affirmation, make in place thereof a simple affirmation to the same effect, omitting the words “So help me God,” “In the presence of Almighty God,” or other expressions of the same nature.

Persons liable to be sworn
may, if they object to oath,
make simple affirmation.

4. If any party to, or witness in, any judicial proceeding offers to give evidence on oath in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the Court may, if it thinks fit, tender such oath to him.

Powers of Court as to
certain oaths when ten-
dered by parties or wit-
nesses.

If

If any party to any proceeding offers to be bound by any such oath as is mentioned in the first paragraph of this section, if such oath is taken by the other party to, or by any witness in, such proceeding, the Court may, if it thinks fit, ask such party or witness whether he will take the oath or not.

If such party or witness accepts such oath, the Court may proceed to administer it, or if it is of such a nature that it may be more conveniently taken out of Court, the Court may issue a Commission to any person to administer it, and authorize such person to take the evidence of the person to be sworn and return it to the Court.

The evidence so given shall, as against the person who offered to be bound by it, be conclusive proof of the matter stated.

If the party or witness refuses to take the oath he shall not be compelled to take it, but the Court shall record, as part of the proceedings, the nature of the oath proposed, the facts that he was asked whether he would take it, and that he refused it, together with any reason which he may assign for his refusal.

5. No omission to take any oath or to make any solemn or simple affirmation, no substitution of any one for any other of them, and no irregularity whatever in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution, or irregularity took place.

6. Nothing in this Act shall apply to oaths or affirmations prescribed by any law which, under the provisions of the Indian Councils' Act, 1861, the Governor-General in Council has not the power to repeal.

Proceedings and evidence not invalidated by omission of oath or irregularity.

Saving of certain oaths and affirmations.

1/6/72
J. H. M.

ACT NO. VII. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th April 1872.)

An Act to consolidate and amend the Law relating to the Courts in British Burmah.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in British Burmah; It is hereby enacted as follows:—

Preamble.

PART I.

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Burmah Courts Act, 1872."

Extent.

It extends to all the territories under the Chief Commissioner of British Burmah;

Commencement.

and shall come into force on the passing thereof.

Pending suits to be disposed of by the Courts in which instituted.

2. All suits, appeals, applications or proceedings, instituted previous to the passing of this Act in any Court, other than the Courts of the Chief Commissioner and the Recorders of Rangoon and Maulmain, respectively, shall be heard and disposed of by the Courts in which they were instituted.

Abolition of certain Courts.

3. From the date of the passing of this Act the Court of the Chief Commissioner and the Courts of the Recorders of Rangoon and Maulmain, as established by Act XXI. of 1863, shall cease to exist.

4. All

4. All suits, appeals, applications or proceedings pending in the Court of the Chief Commissioner, shall be transferred to the Court of the Judicial Commissioner; those pending in the Court of the present Recorder of Rangoon shall be transferred to the Court of the Recorder of Rangoon to be established under this Act; and those pending in the Court of the Recorder of Maulmain shall, if they are of a civil nature, be transferred to the Court of the Judge of the Town of Maulmain, and if they are of a criminal nature, to the Court which has jurisdiction under this Act.

5. The Acts mentioned in the schedule hereto annexed are hereby repealed to the extent mentioned in the third column thereof.

CHAPTER II.—LAW TO BE ADMINISTERED.

6. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Buddhist law in cases where the parties are Buddhists, the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in British Burmah.

In cases not provided for by the former part of this section or by any other law for the time being in force, the Court shall act according to justice, equity, and good conscience.

7. Except as provided in section six all questions of fact, law and equity arising in suits before the Recorder of Rangoon shall be dealt with and determined according to the law administered by the High Court at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction.

CHAPTER III.—CONSTITUTION AND POWERS OF COURTS.

8. The Courts mentioned in the first column of the subjoined table shall ordinarily have such civil jurisdiction respectively, in the adjudication of suits arising within their local jurisdiction, as is specified in the second column thereof:

Name of Court.	Extent of Jurisdiction.
(1.) The Court of the Extra Assistant Commissioner of the third class.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed rupees five hundred.
(2.) The Court of the Extra Assistant Commissioner of the second and first class, and the Assistant Commissioner.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed rupees three thousand.
(3.) The Court of the Deputy Commissioner.	Powers of a Civil Court in all suits, whatever be the value or the amount of the subject-matter thereof. Powers of a District Judge. Power to hear appeals from decrees and orders in original suits and proceedings of the Courts of grades (1) and (2) where such appeal is allowed by law. Power to direct the business in the Courts of grades (1) and (2) to be distributed among such Courts in such way as he thinks fit.
(4.) The Court of the Judge of the Town of Maulmain.	Powers of a District Judge. Powers of a Civil Court, whatever be the amount or value of the subject-matter of the suit. Powers of a Court of Small Causes, where the amount or value of the subject-matter of the suit does not exceed rupees one thousand.
(5.) The Court of the Commissioner.	Power to withdraw any suit or appeal instituted in any Court within the local limits of his jurisdiction, except a Court of Small Causes, or the Court of the Judge of the Town of Maulmain, and try such suit or appeal himself or refer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter thereof.
(6.) The Court of the Judicial Commissioner.	Power to hear appeals from decrees and orders in original suits and proceedings of the Court of grade (3), where such appeal is allowed by law. Powers of a High Court in relation to all Courts in British Burmah, including Small Cause Courts, except the Court of the Recorder of Rangoon, and the Court of Small Causes of Rangoon. Power to remove and try any suit, appeal or other proceeding instituted in any subordinate Court, except a Court of Small Causes, or to refer it to any Court of competent jurisdiction as to the value or amount of the subject-matter thereof. Power to hear appeals from decrees and orders, in original suits and proceedings, of the Court of the Commissioner, where such appeal is allowed by law.

Provided that, where a Small Cause Court is established within the local limits of the jurisdiction of the Courts (1), (2) and (3), the said Courts shall not take cognizance of any suit cognizable by such Court of Small Causes.

9. The Judicial Commissioner shall be deemed to have and to have had the powers of a High Court in criminal matters in relation to all Courts in Burmah, except that of the Recorder of Rangoon, and of Magistrates within the local limits of the ordinary civil jurisdiction of the said Recorder :

The

The Commissioner shall be deemed to have and to have had the powers of a
of Commissioner, Sessions Judge:
and of Judge of Maul- The Judge of the Town of Maulmain shall have the
main. powers of a Sessions Judge.

10. The Governor-General in Council shall fix, and may from time to time
Power to fix number of vary, the number of Courts of each grade to be established
Courts. under this Act.

11. The Chief Commissioner shall, with the previous sanction of the Governor-
Chief Commissioner to General in Council, fix, and may with the like sanction from
fix local jurisdiction of time to time vary, the local limits of the jurisdiction of any
Courts. Court mentioned in section eight.

12. All existing Courts, corresponding to the Courts mentioned in section
Confirmation of existing eight, and the presiding officers and the local limits thereof,
Courts and presiding offi- shall be deemed to have been respectively established,
cers. appointed and fixed under this Act.

13. Every Court mentioned in section eight shall—

(1) use a seal of such form and dimensions as are for the time being pre-
Seal to be used. scribed by the Chief Commissioner;

(2) be held at such place or places as may from time to time be directed by
Place for holding Court. the Chief Commissioner; or, in the absence of any such
direction, at any place within the local jurisdiction of the Court which the pre-
siding officer thinks fit.

14. The general superintendence over all the Courts of the first five grades
Superintendence over mentioned in section eight is vested in, and the said Courts
Courts. shall be subordinate to, the Judicial Commissioner; and,
subject to such general superintendence, the Commissioner shall have control
over the Courts of the Deputy Commissioners within his Division: and the
Deputy Commissioner over all the Courts of the first and second grades within
his district.

15. Subject to the orders of the Chief Commissioner, the Judicial Commis-
List of holidays. sioner shall prepare a list of days to be observed in each year
as close holidays in his Court and the Courts subordinate to him.

SPECIAL JURISDICTION.

16. The Chief Commissioner may invest any Assistant Commissioner, or
Chief Commissioner may Extra Assistant Commissioner of the first or second class
give special jurisdiction. with power to try suits of which the amount or value doe
not exceed five thousand rupees.

17. Th

17. The Chief Commissioner may invest any presiding officer of the Courts
Chief Commissioner may of grades (2) and (3) mentioned in section eight with the
invest certain Courts with powers of a Judge of a Court of Small Causes, to hear and
powers of Judge of Court determine suits of a nature cognizable by a Court of Small
of Small Causes. Causes, and of such value or amount as he thinks fit, not exceeding five hundred
rupees.

Any Court so invested shall, in the exercise of the powers so conferred, be
governed by the provisions of the law for the time being in force regulating the
procedure of Courts of Small Causes.

Exercise, by Chief Com- 18. The Chief Commissioner may exercise the powers
missioner, of powers of conferred on the Local Government by section seven of Act
Local Government. XI. of 1865.

19. The Chief Commissioner may empower the presiding officer of any Court
Exercise by one Court, mentioned in section eight to exercise the powers, which
within limits of another of might be exercised by the presiding officer of any other Court
same grade, of powers of of the same grade within the local limits of the Jurisdiction
latter. of the latter Court.

PROCEDURE.

20. Where a suit is brought for immoveable property situate within the
Procedure, when subject- local jurisdiction of different Courts, included in the same
matter of suit is situate Division, application for authority to proceed with the same
within jurisdiction of dif- shall be made to the Commissioner of the Division:
ferent Courts.

If the said Courts belong to different Divisions, the application shall be made
to the Judicial Commissioner, through the Commissioner of the Division in which
the Court wherein the suit was instituted is included:

If either of the said Courts is the Court of the Recorder of Rangoon, the
application shall be made to the Chief Commissioner.

21. No presiding officer of any Court mentioned in section eight shall, unless
Presiding officer of Court with the consent of the parties or the direction of the Chief
not to try suit or appeal in Commissioner, try any suit or appeal in which he is a party
which he is interested; or personally interested, or any appeal against a decree or
order passed by himself; or shall adjudicate upon any proceeding connected with,
or arising out of, such suit or appeal:

When any such suit, appeal or proceeding comes before any such presiding
but to transfer to Su- officer, he shall forthwith, unless the parties apply that he
perior Court; proceed with the case himself, transmit the record to the Court
to

to which he is immediately subordinate, with a report of the circumstances attending the reference :

The superior Court shall thereupon try the case itself, or transfer it for trial to any Subordinate Court of competent jurisdiction as to the amount or value of the subject-matter of the suit.

In the event of an appeal being preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself or transfer it to the Court of the Recorder of Rangoon.

APPOINTMENT AND REMOVAL.

22. The presiding officers of all the Courts except that of the Extra Assistant Commissioner of the third class shall be appointed by the Governor-General in Council.

The Extra Assistant Commissioner of the third class shall be appointed and may be removed by the Chief Commissioner.

23. The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor-General in Council.

The presiding officer of any Court except the Courts of the Judicial Commissioner and the Recorder of Rangoon may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor-General in Council.

24. The ministerial officers of the Courts of grades (1) and (2) mentioned in section eight shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

The ministerial officers of all other Courts shall be appointed by the presiding officers thereof ;

provided that the appointment of every ministerial officer of a Court subordinate to the Judicial Commissioner, whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

25. Every Court of the grades (1) and (2) mentioned in section eight may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order ; and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of a Court subordinate to him.

The presiding officer of any of the Courts of grades (4), (5), and (6) mentioned in section eight and of any Court of Small Causes, may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary ; but every such removal or suspension of an officer whose salary exceeds fifty rupees per month shall be subject to the review of the Judicial Commissioner.

26. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

General control of Chief Commissioner over appointments and removals of ministerial officers.

27. The Chief Commissioner shall have a power of general control over all appointments and removals of ministerial officers under this Act.

CIVIL APPEALS.

28. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order.

29. The Chief Commissioner may direct that the civil appellate jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders. The Chief Commissioner may also at any time direct that any appellate jurisdiction which has been so transferred to the Judicial Commissioner shall revert to the Commissioner, from whom it was so transferred.

30. The Appellate Court may confirm the decision of the Lower Court, without summoning the respondent if, upon perusal of the judgment of the Lower Court and of the petition of appeal in the presence of the appellant or his pleader, there appear to the Appellate Court to be no reason to alter the decision appealed from.

31. When in the trial of any civil appeal the Appellate Court entertains a doubt in regard to a question of law or usage having the force of law, or as to the construction of a document, or as to the admissibility of any evidence affecting the merits of the case, such Court may

Reference to Judicial Commissioner.

Confirmation of decision of Lower Court without summoning respondent.

Transfer of civil appellate jurisdiction to Judicial Commissioner.

Time allowed for presenting appeals to Commissioner.

Power to fine, suspend, or remove such officers.

Appointment of ministerial officers of Courts (1) and (2) mentioned in section 8.

Appointment of officers.

Trial of appeal from order of Judicial Commissioner in other capacity or in which he is interested.

which may try or transfer to other Court.

may draw up a statement of the point, as to which it is in doubt, and refer it, with the Court's own opinion, for the decision of the Judicial Commissioner.

32. The Judicial Commissioner shall, after considering the point so referred, send a ruling thereon to the Court by which the reference was made; and such Court shall, on the receipt of such ruling, proceed to dispose of the case in conformity therewith.

The costs, if any, consequent on any such reference to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

33. If in any suit the decision of the Deputy Commissioner or of the Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the Subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

34. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

35. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, the party aggrieved by such decision may apply to such Court to draw up a statement of the point as to which he considers such Court to have made an incorrect ruling and to submit it to the Judicial Commissioner.

Such application shall not be admitted, unless it is made within the period and after payment of the fee prescribed by law for petitions of appeal.

If the Court consider that there is a question of law or custom having the force of law, or as to the construction of a document or admissibility of evidence affecting the merits of the case, it shall make a statement of the same and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case, to the Judicial Commissioner.

If the Court refuses to make such statement, it shall record in writing its reasons for so refusing.

36. The Judicial Commissioner shall, with as little delay as possible, proceed to try the case referred, as if it were an appeal instituted in his Court, except that it shall not be necessary for the parties to

to be present: the Judicial Commissioner shall send a copy of his judgment to the Court by which the case was submitted, and the said Court shall dispose of the case in conformity with such judgment.

37. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal made or case referred under this Act, he may make a reference to the High Court of Fort William in Bengal and shall send the record of the said appeal or case and all the proceedings connected therewith to the said Court.

The procedure prescribed by section thirty-six shall as nearly as possible be followed by the High Court in the disposal of references made under this section.

38. The provisions of section thirty-two as to the adjustment of costs, shall apply to cases referred under sections thirty-five and thirty-seven.

PART II.

CHAPTER IV.—COURT OF THE RECORDER OF RANGOON.

39. There shall be a Court, to be called the Court of the Recorder of Rangoon.

The Recorder shall be appointed by the Governor-General in Council, and shall be a Barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor-General in Council.

He shall hold his Court ordinarily in the Town of Rangoon; but the Chief Commissioner may direct him on any particular occasion to hold his Court either at Akyab or Maulmain for the trial of Civil suits or appeals transferred to him, or Criminal cases in which European British subjects are concerned.

He shall use a seal of such form and dimensions as are for the time prescribed by the Chief Commissioner.

CIVIL JURISDICTION.

40. The present local limits of the jurisdiction of the Recorder of Rangoon shall be the local limits of the ordinary civil jurisdiction of the Recorder appointed under this Act; but the Chief Commissioner may from time to time, with the previous sanction of the Governor-General in Council, vary such limits.

41. The Court of the Recorder shall have jurisdiction in the adjudication of suits of every description, except those which are cognizable by a Court of Small Causes, if, in the case of immoveable property, the subject-matter of the suit is situate, or if, in all other cases, the defendant at the time of the commencement of the suit dwells or carries on business or personally works for gain, within the limits mentioned or referred to in section forty. Where such immoveable property is situate partly within the local jurisdiction of the Recorder and partly within the jurisdiction of some other Court, the Chief Commissioner shall determine by what Court the suit shall be tried.

42. There shall be no appeal from the decree or order of the Recorder, passed in any original suit or proceeding, where the amount or value of the subject-matter thereof does not exceed three thousand rupees.

Where such amount or value exceeds three thousand rupees, and is less than the amount for which an appeal will lie to Her Majesty in Council under the law for the time being in force regulating such appeals, an appeal shall lie to the High Court of Judicature at Fort William in Bengal.

43. For the trial of civil suits under this Act, the Recorder may constitute one or more persons assessor or assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No officer of the Recorder's Court shall be appointed an assessor under this section.

If any such assessor is appointed at the desire of the parties to a suit or either of them, such parties or party shall deposit such sum as the Recorder decides to be reasonable compensation to such assessor for his time and trouble. Such sum shall be recoverable as costs in the case.

44. The Recorder shall, within the local limits of his ordinary civil jurisdiction, exercise the powers of a District Judge; and he shall also exercise the powers of a District Judge under Act IV. of 1869 (*The Indian Divorce Act*) throughout British Burmah.

45. The Recorder shall, in respect of the Court of Small Causes in Rangoon, exercise the powers of a High Court.

46. The

46. The Recorder may, if he thinks fit, grant a new trial in any suit tried by him, if, in suits relating to land or other immoveable property, such new trial be applied for within three months from the date of the decision, and, in all other cases, if it be applied for within thirty days from the date of the decision. Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure, if such review be applied for within the period allowed by the said Code for making such applications. Provided also that, in any case in which the Recorder thinks it necessary to do so, he may, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

47. If in any suit, any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, arises, on which the Recorder entertains any doubt, the Recorder may, either of his own motion, or on the application of the parties to the suit, or either of them, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal.

48. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case, in which a reference has been made to the High Court, until the receipt of the order of that Court.

49. Cases referred under section forty-seven for the opinion of the High Court shall be dealt with by a bench of two or more Judges of that Court.

50. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; but they shall not be bound so to appear; and the High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper officer of the Court, to the Recorder, who shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

51. The

51. The Chief Commissioner may direct the transfer to the Recorder's Court of any suit or appeal which may have been instituted in any Court in British Burmah other than the said Recorder's Court. Every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in such case and it had been instituted in his Court.

Transfer of suits to Recorder's Court.

Trial of such suits.

52. When any suit or proceeding comes before the Recorder of Rangoon in which he is a party or personally interested, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Recorder to try the case himself, or transfer it to the Court of the Judicial Commissioner. The Judicial Commissioner shall have the same jurisdiction in the adjudication of cases so transferred as the Recorder has in suits and proceedings cognizable by him under this Act, and the provisions of sections forty-six to fifty inclusive shall apply to such cases.

Disposal of suit where Recorder is interested.

Jurisdiction of Judicial Commissioner in cases transferred.

CRIMINAL JURISDICTION.

53. The Recorder shall exercise the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the local limits of his ordinary civil jurisdiction. Provided that sentences of death passed by him as a Court of session shall be subject to the confirmation of the Special Court.

Recorder to exercise powers of Session Court within his civil jurisdiction.

54. The Recorder shall exercise the powers exercisable by a High Court as a Court of Revision in respect of the proceedings of Magistrates within the local limits of his ordinary civil jurisdiction.

And powers of revision of High Court as to proceedings of Magistrates.

55. The Recorder shall exercise the powers of a High Court for the trial of European British subjects; and all commitments of European British subjects on charges of offences committed within British Burmah which would, according to the law for the time being relating to Criminal Procedure, be made to a High Court shall be made to his Court.

And powers of High Court as to European British subjects.

56. The proceedings on trials held by the Recorder for the trial of European British subjects, shall be regulated by the Code of Criminal Procedure.

Proceedings to be regulated by the Code of Criminal Procedure.

Provided that European officers in the Military Service, Commissioned and Non-commissioned, resident within ten miles of the place of sitting of the Court, shall be liable to serve as jurors for the trial of European British subjects.

Liability of Military officers to serve as jurors.

The

The Officer Commanding the Station where the Court of Sessions is about to be held shall, when required, send in to the Court a list containing the names of all officers liable to serve.

List of officers liable to serve.

The summons to any such officer to serve as a juror shall be sent through the Officer Commanding the Station; but no officer shall be excused from attendance, unless the Officer Commanding the Station shall certify in writing to the Court that the presence of the officer summoned is required elsewhere on urgent military duty: and in such certificate the Commanding Officer shall supply the name of some other officer for service upon the jury.

Officer summoned not excusable except for urgent military duty.

57. Sentences of death passed in the exercise of the powers conferred by section fifty-five shall not be carried out without the confirmation of the High Court at Fort William in Bengal, to whom such sentences shall be referred.

Sentence of death to be referred to High Court.

ADVOCATES.

58. No person shall be permitted to appear or act as the Advocate of any suitor in the Court of the Recorder, unless such person has been licensed thereto by the Recorder, either generally or specially; and the Recorder may make rules for the qualification and admission of proper persons to act as Advocates in his Court, and may from time to time cancel, vary, or add to, any such rules. Provided that nothing in this section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting on his own behalf or on behalf of a co-sutor. Provided also that any person, who for the time being is an Advocate, Vakil, or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled, without any such license, to act as an Advocate for any suitor in the Court of the Recorder.

Licensing of Advocates, and rules regarding qualifications and admission.

Saving of agent for Secretary of State, &c.

And of Advocates, &c., of High Courts.

The Recorder may, for any sufficient reason, suspend or withdraw any license granted under this section. Any person aggrieved by such suspension or withdrawal may appeal to the High Court of Judicature at Fort William in Bengal.

License may be suspended or withdrawn.

59. The fees to be received by any Advocate, whether generally or specially licensed by the Recorder, or entitled to act in his Court as an Advocate for another person without a license, under section

Fees of Advocates, &c., subject to taxation.

tion

tion fifty-eight of this Act, shall at all times be subject to the control and taxation of the said Recorder, and no fees shall be recoverable by any Advocate except such fees as shall have been allowed by the Recorder on taxation.

RULES OF THE COURT.

60. Upon the occurrence of any vacancy in the office of Recorder of Rangoon and during any absence of the Recorder, the Chief Commissioner may direct the Judicial Commissioner or any Commissioner to perform the duties of the Recorder; and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder, and to exercise the jurisdiction of the Recorder until some person shall have been appointed by the Governor-General in Council to fill or officiate in the office of the Recorder, and shall have entered upon the discharge of the duties of such office, or until the Recorder shall have returned from such absence.

61. The ministerial officers of the Court of the Recorder of Rangoon shall be appointed by the Recorder, who may also remove or suspend them, or fine them in an amount not exceeding one month's salary; but the suspension or removal of any officer drawing a salary of one hundred rupees or upwards shall be subject to the orders of the Chief Commissioner.

62. The Recorder shall keep such registers and books and accounts, and submit to the Chief Commissioner such statements and returns as may, subject to the approval of the Governor-General in Council, be prescribed by the Chief Commissioner. The said Recorder shall also comply with such requisitions for information as are made by the Chief Commissioner, and generally, in matters not judicial, shall be subject to the control of the Chief Commissioner.

63. The Recorder may make and issue general rules for regulating the practice and procedure of his Court, and may prescribe forms for every proceeding therein for which he thinks that a form should be provided, and may from time to time alter any such rule or form; and the rules so made, and the forms so framed, shall be published in the local official Gazette, and after being so published shall be observed and used in the said Court: Provided that such rules and forms shall not be inconsistent with the Codes of Civil or Criminal Procedure or any other law for the time being in force, and shall, before they are published, have received the sanction of the Chief Commissioner.

64. The Recorder may, with the previous sanction of the Chief Commissioner, make, and may from time to time alter, rules to regulate the service and execution of the processes of his Court within

the

the local limits of his jurisdiction; and may settle a table of fees to be allowed to the persons employed in such service or execution.

All such rules and tables shall be published in the local official Gazette, and shall thenceforth have the force of law.

65. The Recorder shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in his Court, and shall submit the same for the sanction of the Chief Commissioner.

Rules heretofore made to regulate the service and execution of process under Act XXI. of 1863, or Act III. of 1866, shall be deemed to be in force until superseded by rules made under this Act.

CHAPTER V.—SPECIAL COURT.

66. The Special Court under this Act shall ordinarily be constituted by the Judicial Commissioner and the Recorder of Rangoon sitting together; but the Chief Commissioner may direct any Commissioner to sit in the Court as an additional Judge. Such Commissioner shall record his opinion in the case, and in case of a difference of opinion, the opinion of the majority shall be the decision of the Court.

67. When the Judicial Commissioner and Recorder sit together as a Special Court, the senior officer, according to priority of appointment, shall have the precedence in the Court so formed.

The Special Court shall use a seal of such form and dimensions as the Chief Commissioner from time to time directs.

68. The Judicial Commissioner and the Recorder of Rangoon may, in concurrence, and subject to the sanction of the Chief Commissioner, frame rules of practice for regulating the times and places of the sittings of the Special Court.

69. Appeals from orders and decrees passed by the Judge of the town of Maulmain in civil suits and proceedings shall, where an appeal is allowed by law, be heard and determined by the Special Court. Such appeals shall be presented in the Court of the Judicial Commissioner.

70. If, in any civil suit or appeal, or in any criminal case or appeal, pending in the Court of the Judicial Commissioner or of the Recorder of Rangoon, the one Court wishes to obtain the opinion of the other on any question of fact or law, or usage having the force of law, or the construction of a document, or wishes to obtain the assistance of

of the other for the determination of the case pending before it, such Court shall record a memorandum to that effect; and after the receipt of a copy of such memorandum by the other Court the Judicial Commissioner and the Recorder of Rangoon shall sit together as soon as may be convenient, and shall form a Special Court for the disposal of the said question or for the determination of the case.

71. The Chief Commissioner may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or of the Recorder of Rangoon, shall be tried before the Special Court.

72. Any decree or sentence passed by a Special Court as above constituted on a reference made under section seventy or in a case tried under section seventy-one shall issue as, and be deemed to be, a decree or sentence of the Court from which the case was referred to the Special Court.

73. Any person convicted on a trial held by the Recorder of Rangoon as a Court of Sessions, may, where an appeal is allowed by law, appeal to the Special Court. Such appeal shall be presented in the Court of the said Recorder.

74. The Special Court shall exercise the powers, exercisable by a High Court as a Court of reference in respect of sentences of death passed by the Recorder of Rangoon in cases tried by him as a Court of Session.

75. Whenever, in cases tried by the Judicial Commissioner and Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises in such Court the following rules shall be observed:—

(1.) If the difference of opinion arise in a civil appeal, and if either the Judicial Commissioner or Recorder of Rangoon concur in the ruling of the Court, from whose decision the appeal has been made, such ruling shall be upheld. If the difference of opinion arise as to some point of law, or custom having the force of law, or the admissibility of evidence or construction of a document affecting the merits of the case, and if either the Judicial Commissioner or the Recorder of Rangoon be of opinion that the point should be referred to the High Court of Judicature at Fort William in Bengal, they shall state the point as to which they differ, and forward the statement with their respective opinions thereon to the High Court.

(2.) In

(2.) In all other cases the point shall be referred to the High Court with a similar statement of opinions.

76. Where such reference is in a civil suit, the Special Court may proceed in the case notwithstanding such reference, and may determine the suit contingently on the opinion of the said High Court on the point referred; but no final execution shall be issued in any civil case in which a reference is made until the receipt of such opinion.

77. The High Court shall proceed to determine the point referred as if it were an appeal instituted in such Court, except that it shall be necessary for the parties to appear either personally or by agent. A copy of the determination of the High Court shall be sent to the Court from which the case was referred to the Special Court, and such Court shall dispose of the case accordingly.

The costs, if any, consequent on the reference of the case for the opinion of the High Court shall be costs in the suit or appeal.

CHAPTER VI.—MISCELLANEOUS.

78. Instead of the last paragraph of section seven of Act XV. of 1869, the following shall be read:—

“For the purposes of this Act every jail in British Burmah shall be deemed to be situate within the local limits of the Appellate Jurisdiction of the Judicial Commissioner; and the Recorder of Rangoon may issue orders under this section or sections three or four, and may also issue commissions under Part III. of this Act, in any town in British Burmah.”

79. No trial heretofore had by the Commissioner of Akyab as a Court of Session shall be deemed to have been invalid merely on the ground that such trial was not by jury.

SCHEDULE.

No. and year.	Title.	Extent of repeal.	No. and year.	Title.	Extent of repeal.
VIII. of 1859.	An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.	Sections three hundred and seventy-two, three hundred and seventy-three and three hundred and seventy-four, so far as they relate to British Burmah.	XXI. of 1863.	An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Maulmain in British Burmah, and to establish Courts of Small Causes in the said Towns.	The whole.
XXIII. of 1861.	An Act to amend Act VIII. of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter).	Section twenty-three, section twenty-five, and sections twenty-seven to thirty-four, both inclusive, so far as they relate to British Burmah.	XXIV. of 1863.	An Act to Amend Act I. of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said territory).	The whole.
I. of 1863.	An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.	The whole.	III. of 1866.	An Act to confer certain increased powers on the Registrars of the Recorders' Courts in British Burmah, and for other purposes.	The whole.

ACT N^o. VIII. of 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 19th April 1872.)

THE INDIAN INCOME TAX ACT.

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THE INDIAN INCOME TAX ACT.

An Act for the purpose of imposing duties on income arising from offices,
 Preamble. property, professions and trades; It is hereby enacted as
 follows:—

PART I.

PRELIMINARY.

- Short title. 1. This Act may be called "The Indian Income Tax
 Act: "
 Local extent. It extends to the whole of British India;
 It shall be deemed to have come into force on the first day of April 1872, and
 it shall cease to be in force on the thirty-first day of March
 1873, except as to taxes payable in respect of the period
 Commencement and con- previous to the said thirty-first day of March 1873, and as to penalties incurred
 tinuance of Act. under this Act.

The

The references made in the Court Fees Act, Schedule II., to the Indian Income
 Tax Act shall be deemed to be made to this Act.

2. In this Act—unless there be something repugnant in the subject or
 Interpretation-clause. context—
 "Income." "Income" means income and profits accruing and arising in British India:
 "Magistrate." "Magistrate" means,
 till the 1st day of September 1872,
 any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class,
 and after the said day,
 any Magistrate of the First or Second Class; and it includes a Magistrate of Police and a Justice of the Peace:
 "Company" means an Association, carrying on business in British India,
 "Company." whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:
 "Person." "Person" includes a firm and a Hindu undivided family:
 "Defaulter." "Defaulter" includes a Company or firm making default under this Act.

In the case of any firm or of any Company or Municipal or other public body
 "Collector." or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And, in the case of any person or Hindu undivided family chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person or family resides.

3. Nothing in this Act applies to the pay and allowances of officers, warrant
 Exemptions from Act. officers, non-commissioned officers and privates of Her Majesty's Forces or of Her Majesty's Indian Forces, who are not in Civil employment, when such pay and allowances do not exceed five hundred rupees per mensem;

or to any moveable or immoveable property solely employed for religious or charitable public purposes.

And no member of a firm or of a Hindu undivided family, which is for the time being chargeable under this Act, shall, as such, be chargeable under this Act.

4. The Governor-General in Council may from time to time, by order, wholly
 Power to exempt from Act. exempt from the operation of this Act, the whole or any part of the income of any tribe or class of persons in British India.

The

The Governor-General in Council may revoke any such order.

All orders and revocations made under this section shall be published in the *Gazette of India*.

PART II.

DUTIES ON OFFICES.

5. A duty of two pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public body or Association not being a Company,

and upon every salary, annuity or pension, paid in British India by Government or by a Company or by a Municipal or other public body or Association not being a Company to any person, residing in British India, or serving on board a ship plying to and from British Indian ports, whether on account of himself or another person.

Exemption of incomes less than Rs. 83-5-4 per mensem.

6. No income amounting to less than eighty-three rupees, five annas and four pies per mensem shall be chargeable under this Part.

7. In the case of every person holding any paid office, employment or commission under Her Majesty, or under the Government of India, or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the duty, to which he is liable under this Part, shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

8. In the case of every person holding a paid employment under, or receiving any annuity or pension from, any Company or any Municipal or other public body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be tax payable under this Act.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government from time to time directs, the amount of such deductions, and shall be answerable to such Government for such payment.

Every Company, public Body or Association, Treasurer or other officer as aforesaid, is hereby indemnified for all deductions and payments made in pursuance of this Part.

The

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the fifteenth day of May next deliver, to the Collector, in such form as may be prescribed by the Governor-General in Council, a return in writing showing the names of every person, holding at the date of the said return a paid employment under, or receiving a pension or annuity from, such Company or Body or Association, whose pay or pension or annuity as such amounts to eighty-three rupees five annas and four pies per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

9. Whenever the duty, leviable under this Part in any month, is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, it shall be deducted from such pay, annuity or pension at some subsequent time of payment.

PART III.

DUTIES ON PROFITS OF COMPANIES.

10. The Treasurer, Secretary or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies in the rupee: and, in the case of every other Company, pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies for every rupee,

and shall prepare, and, on or before the fifteenth day of May next, deliver to the Collector a statement in writing signed by him showing the result of such accounts.

11. If in the case of any Company no such accounts have been made up within the year ending on the thirty-first day of March 1872, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the fifteenth day of May next, deliver to the Collector a return in writing, signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said thirty-first day of March.

12. Whenever

12. Whenever the Collector has reason to believe that any statement or return mentioned in section ten or section eleven is incorrect or incomplete, he may cause a notice to be served on the Treasurer, Secretary, Agent, or Manager by whom such statement or return was delivered, requiring him, on or before a day to be mentioned in the notice, to attend at the Collector's office and to produce for the inspection of the Collector such of the accounts of the Company as refer to the year mentioned in section ten or section eleven, as the case may be, and as are in the possession or power of such Treasurer, Secretary, Agent, or Manager.

The Collector shall thereupon make an order, determining the amount at which the Company shall be assessed under this Part and the day on which such amount shall be paid; and, subject to the provisions hereinafter contained, such sum shall be payable accordingly.

13. Every such Treasurer, Secretary, Agent, or Manager is hereby indemnified for all payments made in pursuance of section ten or section twelve.

PART IV.

DUTIES ON INTEREST ON GOVERNMENT SECURITIES.

14. A yearly duty of two pies for every rupee shall be levied upon all interest on securities of the Government of India becoming due on or after the first day of April 1872.

15. Every person empowered to pay such interest shall deduct the duty at the place where the interest is paid, and shall, as soon as may be after making such deduction, pay the same to the credit of the Government of India, or as such Government from time to time directs:

Provided that no such duty shall be deducted from the interest on any such security, where the owner thereof produces a certificate signed by the Collector that his annual income, including such interest, is less than one thousand rupees.

PART V.

DUTIES ON ALL OTHER INCOME.

16. A yearly duty of two pies for every rupee shall be levied upon all incomes of one thousand rupees per annum or upwards not chargeable under Part II., Part III., or Part IV. of this Act.

17. The

17. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic or idiot, and having the control of the property of such infant, married woman, lunatic or idiot, whether such infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income.

18. Every trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income, in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

The Collector shall have power to serve a notice upon any person, whom he has reason to believe to be a trustee, guardian, curator, committee or agent requiring him to deliver, on or before a day to be specified in the notice, a statement, signed by him, of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

19. Receivers or Managers appointed by any Court in India, the Courts of Wards, the Administrators-General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income officially in their possession or under their control.

20. When any trustee, guardian, curator, committee or agent is assessed under this Act in such capacity;

or when any Receiver or Manager appointed by any Court, any Court of Wards, Administrator-General, or Official Trustee is assessed under this Act in income and profits officially received by him;

every person and Court so assessed may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such receiver, manager, Court of Wards, Administrator-General or Official

Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

21. Owners of lands or houses, occupying the same, shall be chargeable in respect of the annual value thereof at nine-tenths of the full rent at which such lands or houses are worth to be let for the year.

The Local Government may, with the sanction of the Governor-General in Council, prescribe, for the whole or any part of the territories subject to such Local Government, special rules for the assessment of incomes derived from land, at an amount bearing a fixed proportion to the revenue assessed thereon.

All such rules shall be published in the local official Gazette and shall thereupon have the force of law.

22. Every person, chargeable under this Part, shall, if he was assessed under Part V. of Act XII. of 1871 on an income of Rupees 1,000 or upwards, be assessed at the same amount as that at which he was assessed under the said Act; but any such person may apply under the provisions of Part VI. to have such assessment reduced or cancelled.

In the case of every person chargeable under this Part, to whom the provisions of the last preceding paragraph do not apply, and whose annual income is, in the Collector's opinion, four thousand rupees or upwards, the Collector shall,

and in the case of every such person whose annual income is, in the Collector's opinion, less than four thousand rupees, the Collector may

cause a notice to be served on him, requiring him to fill in a return of his income during one year, ending on the day of the year immediately preceding the year of assessment on which his accounts have been usually made up, or on the thirty-first day of March 1872, and to state in such return the period during which such income has actually accrued.

Such notice shall be in the form to be prescribed by the Governor-General in Council, and shall specify the day by which the return is to be made, and the place of the Collector's office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

23. Every person, on whom such notice is served, shall send to or deliver at the Collector's office the return duly filled and signed by him.

A

A declaration shall be added by such person at the foot of the return (a) that the income stated therein is truly estimated on all the sources therein mentioned, (b) that it has actually accrued within the period therein stated, and (c) that he has no other source of income.

24. Every person, when required so to do by a notice in the form to be prescribed by the Governor-General in Council, shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons receiving salary or emoluments amounting to eighty-three rupees, five annas and four pies per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate, who has any ordinary place of residence elsewhere, at which he is liable under this Act to be assessed, and who desires to be so assessed at such place.

Such list shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

25. The Collector shall from time to time determine what persons are chargeable under this Part, and the amount at which every such person shall be assessed;

and in making such assessment income exempted under section six shall be treated as chargeable under this Part.

26. Every such assessment shall be made upon the full amount of such person's income during the year ending on the day of the year next before the year of assessment, on which his accounts have been usually made up, or on the thirty-first day of March 1872.

In the case of a person for the first time becoming chargeable under this Part within the year of assessment, or within the year next before such year, the assessment shall be made according to an average of his income for such period as the Collector, under the circumstances, directs.

27. The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

- (1).—The name and the profession, trade or other source of the income of such person, or in respect of which he is chargeable;
- (2).—The year or portion of the year for which the duty is to be paid;
- (3).—The place or places, district or districts, where such income accrues; and
- (4).—The amount to be paid;

and

and requiring him within fifteen days from the date of the service either to pay such amount or to apply to the Collector to have the assessment reduced or cancelled.

28. Such amount shall be paid to the Collector, who shall give a receipt for Officer to give receipts. such payment to the person making the same :

Provided that, if such income accrues at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

Contents of receipt.

29. Every such receipt shall specify—

(1).—The name and source or sources of the income of the person by or on whose behalf the duty is paid ;

(2).—The year or portion of the year for which the duty is paid ;

(3).—The amount paid, and the date of payment ; and

(4).—The place or places, district or districts, where the income accrues ; and shall be admissible as evidence of all matters contained therein.

PART VI.

PETITIONS AND APPEALS AGAINST ASSESSMENTS.

30. Any person objecting to the amount at which he is assessed, or denying Petition against assessment under Part V. his liability to be assessed under Part V., may apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled :

Such petition shall ordinarily be presented within fifteen days from the date of the service of the notice mentioned in section twenty-seven. But if the Collector is satisfied that the objector has not received such notice, the petition may be presented within fifteen days from the day on which in the Collector's opinion he became aware of the assessment :

Provided that no person, served with a notice under section twenty-two, shall Proviso. be entitled to apply by petition under this section, unless he has made the return required in such notice on or before the day therein mentioned, or unless he satisfies the Collector that he had a sufficient excuse for not making such return.

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The petition shall be in the form contained in the schedule hereto annexed, Form and verification of petition. or as near thereto as circumstances admit ; and the statements therein contained shall be verified by the petitioner or some other competent person in the manner required by law for the verification of complaints.

31. The Collector shall fix a day and place for the hearing of the petition, Hearing of petition. and, on the day and at the place so fixed, or on the day and at the place (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition, or reject the petition and enhance the petitioner's assessment, the petitioner shall within fifteen days from the passing of the order pay the amount mentioned in the said notice or in the order of enhancement, as the case may be.

32. Any person, dissatisfied with any order under section twelve or section Appeal to Commissioner from order under section 12 or section 31. thirty-one, may, within fifteen days from the date thereof, on payment of the sum payable under such order, present a petition of appeal to the Commissioner of Revenue of the Division, whose order upon such appeal shall be final.

The time requisite for obtaining a copy of the order shall be excluded in computing the said period of fifteen days.

The order of such Commissioner shall be final. It may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the assessment to an amount to be specified in the decision.

If the order rejects the petition and enhances the assessment, the Petitioner shall, within one week from the passing of the order, pay the amount mentioned in the order of enhancement.

Every petition presented under this section shall be accompanied by a copy Documents to accompany appeal. of the petition to the Collector, and a copy of the Collector's order thereon, and a list of the documents, if any, on which the appellant relies.

Copies of petition and order exempt from fees.

Neither of such copies shall be chargeable under the Court Fees Act.

When

When the decision on such appeal is in favour of the petitioner, the value of ^{Return of fees and excess.} the fee on his petition of appeal, and (where he has presented a petition to the Collector) the fee on such petition, together with the excess paid by him, or (when the decision is that the petitioner, or the Company which he represents, is not chargeable under this Act) the whole sum so paid, shall at once be refunded.

33. The Collector or Commissioner may summon any person, whom he thinks ^{Power to summon persons to give necessary information.} able to give evidence for the purpose of enabling him to determine how the petitioner, or the Company which he represents, should be assessed; and may examine on oath the person so summoned and the petitioner; and may require each of them to produce any documents in his possession or power relating to the sources of the income in question.

34. Whenever the Collector has reason to believe that, in assessing any person ^{Power to issue fresh notice.} under this Act, any source of income, not specified in the receipt granted to him under section twenty-eight, has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person, stating the amount to be paid in respect of such source.

The provisions contained in sections twenty-seven to thirty-three (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART VII.

PAYMENT AND RECOVERY OF DUTIES.

35. All duties under this Act, except when they are deducted under section ^{Tax when payable.} seven, section eight or section fifteen shall be payable on the first day of May 1872 :

Provided that the amount so payable may be paid by two equal instalments: ^{Payment by instalments.} the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section twenty-seven upon the person paying the same, and the second instalment on the first day of October next.

36. In any case of default under this Act, the Collector may, if a notice has ^{Recovery under revenue law.} been served on the defaulter requiring him to pay, within fifteen days from the date of the service, the amount of the duty or instalment due by him under this Act, either recover a sum not exceeding double the amount as if it were an arrear of land-revenue,

or

or pass an order that a sum, not exceeding double the amount of such duty or instalment, shall be recovered from such defaulter.

Every such order shall have the force of a decree of a Civil Court in a suit in which the Government is the plaintiff and the defaulter is the defendant; and such order may be enforced in manner provided by the Code of Civil Procedure for the enforcement of decrees for money; and the procedure under the said Code in respect of the following matters :—

- (a) sales in execution of decrees :
- (b) arrests in execution of decrees for money :
- (c) execution of decrees by imprisonment :
- (d) claims to attached property ; and
- (e) execution of decrees out of the jurisdiction of the Courts by which they

were passed,

shall apply to every execution issued for levying the moneys mentioned in such order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be executed by the Collector, by whom such order has been made or to whom a copy thereof has been transmitted for execution according to the provisions of the said Code, section two hundred and eighty-six :

Provided that, where any person has presented a petition under section thirty, such sum shall not be recoverable from him unless, within fifteen days from the passing of the order thereon, he fails to pay the amount, if any, required by such order.

On the recovery of such sum from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

37. If, during or within two months from the end of the year for which any ^{Amendment of assessment.} assessment under Part V. has been made, the Company or person assessed proves to the satisfaction of the Collector, that the nett profits or income of such Company or person during such year fell short of the sum so assessed, the Collector may cause the assessment made for such year to be amended, as the case requires, and if the sum assessed has been paid, may refund the sum overpaid.

In case any Company or person, assessed under Part III. or Part V., ceases to carry on the trade or business, in respect whereof such assessment was made; or if any such person dies or becomes insolvent before the end of the year for which the assessment was made; or if any such Company or person is, from any other

other specific cause, deprived of or loses the income on which the assessment was made,

such Company or person or its or his representative in interest may apply to the Collector within three months after the end of such year, and on proof thereof to his satisfaction, the Collector shall amend the assessment as the case may require, and give such relief to the Company or person charged as is just, and in cases requiring it, the Collector shall refund such sum as has been overpaid on the assessment amended or vacated.

PART VIII.

PENALTIES.

38. Every Treasurer, Secretary, Agent, Manager, or other person, failing to Treasurers, &c., failing to make payments or deliver returns. make any payment or deduction, or to prepare and deliver in due time any statement or return, or to produce any accounts, required by section eight, ten, eleven or twelve,

and every trustee, guardian, curator, committee or agent, Trustees, &c., failing to deliver statements or declarations. failing to deliver any statement or declaration required by section eighteen,

shall, for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

39. Whoever makes a statement in any declaration or list made or delivered False statement in declaration, list or petition. under section twenty-three or twenty-four, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence described in section one hundred and seventy-seven of the Indian Penal Code.

Whoever makes a statement in any petition, presented under section thirty, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Prosecution to be at instance of Collector. 40. No person shall be proceeded against for any offence under section thirty-eight or section thirty-nine except at the instance of the Collector.

41. In

41. In sections one hundred and ninety-three and two hundred and twenty-eight of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act. Sections 193 and 228 of Penal Code to apply to proceedings.

PART IX.

MISCELLANEOUS.

Bar of suits in Civil Court. 42. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

43. All or any of the powers and duties, conferred and imposed by this Act Exercise of powers of Collector and Commissioner. on a Collector and on a Commissioner of Revenue, may be exercised and performed by such other officers or persons as the Local Government from time to time appoints in this behalf.

44. Service of any notice under this Act shall be made by delivering or Service of notices. tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm or a Hindú undivided family, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

45. When any Company or firm has several places of business in the territories Power to declare principal place of business. subject to different Local Governments, the Governor-General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any Company or firm has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

When any person has several places of residence in the territories subject to different Local Governments, the Governor-General in Council Power to declare residence. shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence; and when any person has

has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

The powers given by this section may be delegated to and exercised by such officers as the Governor-General in Council or the Local Government, as the case may be, from time to time appoints in this behalf.

Power to prescribe forms
and make rules.

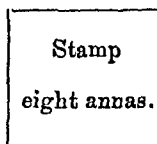
46. The Governor-General in Council may from time to time

(a) prescribe forms for the returns, notices, and lists hereinbefore mentioned,
(b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and

(c) delegate to any Local Government the powers given by this section, clause (b), so far as regards the territories subject to such Government.

SCHEDULE.

Form of Petition under Section 30.



To THE COLLECTOR OF

The day of 187

The petition of A. B. of

SHOWETH—

1.—That, under the Indian Income Tax Act, your petitioner has been assessed in the sum of twenty-seven rupees for the year commencing the first day of April 1872.

2.—That your petitioner's income and profits accruing and arising from [here specify petitioner's trade or other source or sources of income or profits, and the place or places at which such income or profits accrues or arise] for the year ending the thirty-first day of March last were rupees , as will appear from the documents of which a list is presented herewith.

3.—That such income and profits actually accrued and arose during a period of months and days. [Here state the exact number of months and days in which the income and profits accrued and arose]

4.—That

4.—That during the said year your petitioner had no other income or profits.

Your petitioner, therefore, prays that he may be assessed accordingly, and that the value of the fee on this petition may be refunded [or that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded].

(Signed) A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

ACT NO. IX. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th April 1872)

THE INDIAN CONTRACT ACT.

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DELIVERY.

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THE INDIAN CONTRACT ACT.

WHEREAS it is expedient to define and amend certain parts of the law relating to contracts; It is hereby enacted as follows:—

Preamble.

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Contract Act, 1872."

Extent.
Commencement.

It extends to the whole of British India, and it shall come into force on the first day of September 1872.

The

The enactments mentioned in the schedule hereto are repealed to the extent specified in the third column thereof; but nothing herein contained shall affect the provisions of any Statute, Act, or Regulation not hereby expressly repealed, nor any usage or custom of trade, nor any incident of any contract, not inconsistent with the provisions of this Act.

2. In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context:

(a.)—When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal:

"Proposal."

(b.)—When the person, to whom the proposal is made, signifies his assent thereto, the proposal is said to be accepted. A proposal,

"Promise."

when accepted, becomes a promise:

(c.)—The person making the proposal is called the 'promisor,' and the person accepting the proposal is called the 'promisee.'

"Promisor" and "promisee."

(d.)—When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something,

"Consideration."

such act or abstinence or promise is called a consideration for the promise:

"Agreement."

(e.)—Every promise and every set of promises, forming the consideration for each other, is an agreement:

"Reciprocal promises."

(f.)—Promises which form the consideration or part of the consideration for each other, are called reciprocal promises:

"Void agreement."

(g.)—An agreement not enforceable by law is said to be void:

"Contract."

(h.)—An agreement enforceable by law is a contract:

(i.)—An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a voidable contract:

"Voidable contract."

(j.)—A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.

"Void contract."

CHAPTER I.—OF THE COMMUNICATION, ACCEPTANCE, AND REVOCATION OF PROPOSALS.

3. The communication of proposals, the acceptance of proposals, and the revocation of proposals and acceptances, respectively, are deemed to be made by any act or omission of the party proposing,

Communication, acceptance, and revocation of proposals.

proposing, accepting, or revoking, by which he intends to communicate such proposal, acceptance, or revocation, or which has the effect of communicating it.

Communication when complete. 4. The communication of a proposal is complete when it comes to the knowledge of the person to whom it is made.

The communication of an acceptance is complete, as against the proposer, when it is put in a course of transmission to him, so as to be out of the power of the acceptor;

as against the acceptor, when it comes to the knowledge of the proposer.

The communication of a revocation is complete, as against the person who makes it, when it is put into a course of transmission to the person to whom it is made, so as to be out of the power of the person who makes it;

as against the person to whom it is made, when it comes to his knowledge.

Illustrations.

(a.) A proposes, by letter, to sell a house to B at a certain price.

The communication of the proposal is complete when B receives the letter.

(b.) B accepts A's proposal by a letter sent by post.

The communication of the acceptance is complete,

as against A when the letter is posted;

as against B, when the letter is received by A.

(c.) A revokes his proposal by telegram.

The revocation is complete as against A when the telegram is despatched. It is complete as against B when B receives it.

B revokes his acceptance by telegram. B's revocation is complete as against B when the telegram is despatched, and as against A when it reaches him.

Revocation of proposals and acceptances. 5. A proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards.

An acceptance may be revoked at any time before the communication of the acceptance is complete as against the acceptor, but not afterwards.

Illustration.

A proposes, by a letter sent by post, to sell his house to B.

B accepts the proposal by a letter sent by post.

A may revoke his proposal at any time before or at the moment when B posts his letter of acceptance, but not afterwards.

B may revoke his acceptance at any time before or at the moment when the letter communicating it reaches A, but not afterwards.

Revocation how made. 6. A proposal is revoked—

(1) by the communication of notice of revocation by the proposer to the other party;

(2) by

(2) by the lapse of the time prescribed in such proposal for its acceptance, or, if no time is so prescribed, by the lapse of a reasonable time, without communication of the acceptance;

(3) by the failure of the acceptor to fulfil a condition precedent to acceptance; or

(4) by the death or insanity of the proposer, if the fact of his death or insanity comes to the knowledge of the acceptor before acceptance.

Acceptance must be absolute.

7. In order to convert a proposal into a promise the acceptance must—

(1) be absolute and unqualified;

(2) be expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted. If the proposal prescribes a manner in which it is to be accepted, and the acceptance is not made in such manner, the proposer may, within a reasonable time after the acceptance is communicated to him, insist that his proposal shall be accepted in the prescribed manner, and not otherwise; but, if he fails to do so, he accepts the acceptance.

Acceptance by performing conditions on receiving consideration. 8. Performance of the conditions of a proposal, or the acceptance of any consideration for a reciprocal promise which may be offered with a proposal, is an acceptance of the proposal.

Promises, express and implied. 9. In so far as the proposal or acceptance of any promise is made in words, the promise is said to be express. In so far as such proposal or acceptance is made otherwise than in words, the promise is said to be implied.

CHAPTER II.—OF CONTRACTS, VOIDABLE CONTRACTS, AND VOID AGREEMENTS.

What agreements are contracts. 10. All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.

Nothing herein contained shall affect any law in force in British India, and not hereby expressly repealed, by which any contract is required to be made in writing or in the presence of witnesses, or any law relating to the registration of documents.

Who are competent to contract. 11. Every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject.

12. A person

12. A person is said to be of sound mind for the purpose of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests.

What is a sound mind for the purposes of contracting.

A person who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind.

A person who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind.

Illustrations.

(a.) A patient in a lunatic asylum, who is at intervals of sound mind, may contract during those intervals.

(b.) A sane man, who is delirious from fever, or who is so drunk that he cannot understand the terms of a contract, or form a rational judgment as to its effect on his interests, cannot contract whilst such delirium or drunkenness lasts.

13. Two or more persons are said to consent when they agree upon the same thing in the same sense.

"Consent" defined.

14. Consent is said to be free when it is not caused by—

"Free consent" defined.

- (1) coercion, as defined in section fifteen, or
- (2) undue influence, as defined in section sixteen, or
- (3) fraud, as defined in section seventeen, or
- (4) misrepresentation, as defined in section eighteen, or
- (5) mistake, subject to the provisions of sections twenty, twenty-one, and twenty-two.

Consent is said to be so caused when it would not have been given but for the existence of such coercion, undue influence, fraud, misrepresentation, or mistake.

15. Coercion is the committing, or threatening to commit, any act forbidden by the Indian Penal Code, or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.

Explanation.—It is immaterial whether the Indian Penal Code is or is not in force in the place where the coercion is employed.

Illustration.

A, on board an English ship on the high seas, causes B to enter into an agreement by an act amounting to criminal intimidation under the Indian Penal Code;

A afterwards sues B for breach of contract at Calcutta.

A has employed coercion, although his act is not an offence by the law of England, and although section 506 of the Indian Penal Code was not in force at the time when or place where the act was done.

16. Undue

"Undue influence" defined.

16. Undue influence is said to be employed in the following cases:—

(1.)—When a person in whom confidence is reposed by another, or who holds a real or apparent authority over that other, makes use of such confidence or authority for the purpose of obtaining an advantage over that other, which, but for such confidence or authority, he could not have obtained:

(2.)—When a person whose mind is enfeebled by old age, illness, or mental or bodily distress, is so treated as to make him consent to that, to which, but for such treatment, he would not have consented, although such treatment may not amount to coercion.

17. Fraud means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:—

- (1.)—The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;
- (2.)—The active concealment of a fact by one having knowledge or belief of the fact;
- (3.)—A promise made without any intention of performing it;
- (4.)—Any other act fitted to deceive;
- (5.)—Any such act or omission as the law specially declares to be fraudulent.

Explanation.—Mere silence as to facts, likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is in itself equivalent to speech.

Illustrations.

(a.) A sells by auction to B a horse which A knows to be unsound. A says nothing to B about the horse's unsoundness. This is not fraud in A.

(b.) B is A's daughter and has just come of age. Here, the relation between the parties would make it A's duty to tell B if the horse is unsound.

(c.) B says to A, "If you do not deny it, I shall assume that the horse is sound;" A says nothing. Here A's silence is equivalent to speech.

(d.) A and B, being traders, enter upon a contract. A has private information of a change in prices which would affect B's willingness to proceed with the contract. A is not bound to inform B.

"Misrepresentation" defined.

18. Misrepresentation means and includes—

- (1) the positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;

(2) any

- (2) any breach of duty which, without an intent to deceive, gains an advantage to the person committing it, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him;
- (3) causing, however innocently, a party to an agreement, to make a mistake as to the substance of the thing, which is the subject of the agreement.

19. When consent to an agreement is caused by coercion, undue influence, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused.

Voidability of agreements without free consent.
A party to a contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed and that he shall be put in the position in which he would have been if the representations made had been true.

Exception.—If such consent was caused by misrepresentation or by silence, fraudulent within the meaning of section seventeen, the contract, nevertheless, is not voidable, if the party, whose consent was so caused, had the means of discovering the truth with ordinary diligence.

Explanation.—A fraud or misrepresentation which did not cause the consent to a contract of the party, on whom such fraud was practised, or to whom such misrepresentation was made, does not render a contract voidable.

Illustrations.

(a.) A, intending to deceive B, falsely represents that five hundred maunds of indigo are made annually at A's factory, and thereby induces B to buy the factory. The contract is voidable at the option of B.

(b.) A, by a misrepresentation, leads B erroneously to believe that five hundred maunds of indigo are made annually at A's factory. B examines the accounts of the factory, which show that only four hundred maunds of indigo have been made. After this B buys the factory. The contract is not voidable on account of A's misrepresentation.

(c.) A fraudulently informs B that A's estate is free from incumbrance. B thereupon buys the estate. The estate is subject to a mortgage. B may either avoid the contract, or may insist on its being carried out and the mortgage debt redeemed.

(d.) B, having discovered a vein of ore on the estate of A, adopts means to conceal, and does conceal, the existence of the ore from A. Through A's ignorance B is enabled to buy the estate at an under-value. The contract is voidable at the option of A.

(e.) A is entitled to succeed to an estate at the death of B; B dies: C, having received intelligence of B's death, prevents the intelligence reaching A, and thus induces A to sell him his interest in the estate. The sale is voidable at the option of A.

20. Where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void.

Agreement void where both parties are under mistake as to matter of fact.

Explanation.

Explanation.—An erroneous opinion as to the value of the thing which forms the subject-matter of the agreement, is not to be deemed a mistake as to a matter of fact.

Illustrations.

(a.) A agrees to sell to B a specific cargo of goods supposed to be on its way from England to Bombay. It turns out that, before the day of the bargain, the ship conveying the cargo had been cast away and the goods lost. Neither party was aware of these facts. The agreement is void.

(b.) A agrees to buy from B a certain horse. It turns out that the horse was dead at the time of the bargain, though neither party was aware of the fact. The agreement is void.

(c.) A, being entitled to an estate for the life of B, agrees to sell it to C. B was dead at the time of the agreement, but both parties were ignorant of the fact. The agreement is void.

21. A contract is not voidable because it was caused by a mistake as to any law in force in British India; but a mistake as to a law not in force in British India has the same effect as a mistake of fact.

Effect of mistakes as to law.

Illustration.

A and B make a contract grounded on the erroneous belief that a particular debt is barred by the Indian Law of Limitation: the contract is not voidable.

A and B make a contract grounded on an erroneous belief as to the law regulating bills of exchange in France: the contract is voidable.

Contract not voidable merely because of mistake of one party as to matter of fact.

22. A contract is not voidable merely because it was caused by one of the parties to it being under a mistake as to a matter of fact.

What considerations and objects are lawful and what not.

23. The consideration or object of an agreement is lawful, unless—

- 1 it is forbidden by law; or
- 2 is of such a nature that, if permitted, it would defeat the provisions of any law; or
- 3 is fraudulent; or
- 4 involves or implies injury to the person or property of another; or
- 5 the Court regards it as immoral or opposed to public policy.

In each of these cases, the consideration or object of an agreement is said to be unlawful. Every agreement of which the object or consideration is unlawful, is void.

Illustrations.

(a.) A agrees to sell his house to B for 10,000 rupees. Here, B's promise to pay the sum of 10,000 rupees is the consideration for A's promise to sell the house, and A's promise to sell the house is the consideration for B's promise to pay the 10,000 rupees. These are lawful considerations.

(b.) A promises to pay B 1,000 rupees at the end of six months, if C, who owes that sum to B, fails to pay it. B promises to grant time to C accordingly. Here, the promise of each party is the consideration for the promise of the other party, and they are lawful considerations.

(c.) A promises

(c.) A promises, for a certain sum paid to him by B, to make good to B the value of his ship if it is wrecked on a certain voyage. Here, A's promise is the consideration for B's payment, and B's payment is the consideration for A's promise, and these are lawful considerations.

(d.) A promises to maintain B's child, and B promises to pay A 1,000 rupees yearly for the purpose. Here, the promise of each party is the consideration for the promise of the other party. They are lawful considerations.

(e.) A, B, and C enter into an agreement for the division among them of gains acquired, or to be acquired, by them by fraud. The agreement is void, as its object is unlawful.

(f.) A promises to obtain for B an employment in the public service, and B promises to pay 1,000 rupees to A. The agreement is void, as the consideration for it is unlawful.

(g.) A, being agent for a landed proprietor, agrees for money without the knowledge of his principal, to obtain for B a lease of land belonging to his principal. The agreement between A and B is void, as it implies a fraud by concealment by A on his principal.

(h.) A promises B to drop a prosecution which he has instituted against B for robbery, and B promises to restore the value of the things taken. The agreement is void, as its object is unlawful.

(i.) A's estate is sold for arrears of revenue under the provisions of an Act of the legislature, by which the defaulter is prohibited from purchasing the estate. B, upon an understanding with A, becomes the purchaser, and agrees to convey the estate to A upon receiving from him the price which B has paid. The agreement is void, as it renders the transaction in effect a purchase by the defaulter and would so defeat the object of the law.

(j.) A, who is B's mukhtár, promises to exercise his influence, as such, with B in favour of C, and C promises to pay 1,000 rupees to A. The agreement is void, because it is immoral.

(k.) A agrees to let her daughter to hire to B for concubinage. The agreement is void, because it is immoral, though the letting may not be punishable under the Indian Penal Code.

VOID AGREEMENTS.

24. If any part of a single consideration for one or more objects, or any one or any part of any one of several considerations for a single object, is unlawful, the agreement is void.

Agreements void of considerations and objects unlawful in part.

Illustration.

A promises to superintend, on behalf of B, a legal manufacture of indigo and an illegal traffic in other articles. B promises to pay to A a salary of 10,000 rupees a year. The agreement is void, the object of A's promise, and the consideration for B's promise, being in part unlawful.

25. An agreement made without consideration is void unless—

(1) it is expressed in writing and registered under the law for the time being in force for the registration of assurances and is made on account of natural love and affection between parties standing in a near relation to each other; or unless

(2) it is a promise to compensate wholly or in part a person who has already voluntarily done something for the promisor or something which the promisor was legally compellable to do; or unless

or is a promise to compensate for something done.

(3) if

(3) it is a promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorized in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits.

In any of these cases, such an agreement is a contract.

Explanation 1.—Nothing in this section shall affect the validity, as between the donor and donee, of any gift actually made.

Explanation 2.—An agreement to which the consent of the promisor is freely given is not void merely because the consideration is inadequate; but the inadequacy of the consideration may be taken into account by the Court in determining the question whether the consent of the promisor was freely given.

Illustrations.

(a.) A promises for no consideration to give to B Rs. 1,000. This is a void agreement.

(b.) A, for natural love and affection, promises to give his son, B, Rs. 1,000; A puts his promise to B into writing and registers it. This is a contract.

(c.) A finds B's purse and gives it to him. B promises to give A Rs. 50. This is a contract.

(d.) A supports B's infant son. B promises to pay A's expenses in so doing. This is a contract.

(e.) A owes B Rs. 1,000, but the debt is barred by the Limitation Act. A signs a written promise to pay B Rs. 500 on account of the debt. This is a contract.

(f.) A agrees to sell a horse worth Rs. 1,000 for Rs. 10. A's consent to the agreement was freely given. The agreement is a contract notwithstanding the inadequacy of the consideration.

(g.) A agrees to sell a horse worth Rs. 1,000 for Rs. 10. A denies that his consent to the agreement was freely given. The inadequacy of the consideration is a fact which the Court should take into account in considering whether or not A's consent was freely given.

26. Every agreement in restraint of the marriage of any person, other than a minor, is void.

Agreement in restraint of marriage void.

27. Every agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void.

Agreement in restraint of trade void.

Exception 1.—One who sells the good-will of a business may agree with the buyer to refrain from carrying on a similar business, within specified local limits, so long as the buyer, or any person deriving title to the good-will from him, carries on a like business therein, provided that such limits appear to the Court reasonable, regard being had to the nature of the business.

Saving of agreement not to carry on business of which good-will is sold;

Exception 2.—Partners may, upon or in anticipation of a dissolution of the partnership, agree that some or all of them will not carry on a business, similar to that of the partnership, within such local limits as are referred to in the last preceding exception,

of agreement between partners prior to dissolution;

Exception 3.

Exception 3.—Partners may agree that some one or all of them will not carry on any business other than that of the partnership, during the continuance of the partnership.

28. Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent.

Exception 1.—This section shall not render illegal a contract, by which two or more persons agree that any dispute, which may arise between them in respect of any subject or class of subjects, shall be referred to arbitration and that only the amount awarded in such arbitration shall be recoverable in respect of the dispute so referred.

When such a contract has been made, a suit may be brought for its specific performance; and if a suit, other than for such specific performance, or for the recovery of the amount so awarded, is brought by one party to such contract against any other such party, in respect of any subject which they have so agreed to refer, the existence of such contract shall be a bar to the suit.

Exception 2.—Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration any question between them which has already arisen, or affect any provision of any law in force for the time being as to references to arbitration.

29. Agreements, the meaning of which is not certain, or capable of being made certain, are void.

Illustrations.

(a.) A agrees to sell to B 'a hundred tons of oil.' There is nothing whatever to show what kind of oil was intended. The agreement is void for uncertainty.

(b.) A agrees to sell to B one hundred tons of oil of a specified description known as an article of commerce. There is no uncertainty here to make the agreement void.

(c.) A, who is a dealer in cocoanut-oil only, agrees to sell to B 'one hundred tons of oil.' The nature of A's trade affords an indication of the meaning of the words, and A has entered into a contract for the sale of one hundred tons of cocoanut-oil.

(d.) A agrees to sell to B 'all the grain in my granary at Rāmnagar.' There is no uncertainty here to make the agreement void.

(e.) A agrees to sell to B 'one thousand maunds of rice at a price to be fixed by C.' As the price is capable of being made certain, there is no uncertainty here to make the agreement void.

(f.) A agrees to sell to B 'my white horse for rupees five hundred or rupees one thousand.' There is nothing to show which of the two prices was to be given. The agreement is void.

30. Agreements

30. Agreements by way of wager are void, and no suit shall be brought for recovering anything alleged to be won on any wager or entrusted to any person to abide the result of any game or other uncertain event on which any wager is made.

This section shall not be deemed to render unlawful a subscription or contribution, or agreement to subscribe or contribute, made or entered into for or toward any plate, prize or sum of money, of the value or amount of five hundred rupees or upwards, to be awarded to the winner or winners of any horse-race.

Nothing in this section shall be deemed to legalize any transaction connected with horse-racing, to which the provisions of Section 294A of the Indian Penal Code apply.

CHAPTER III.—OF CONTINGENT CONTRACTS.

31. A contingent contract is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen.

Illustration.

A contracts to pay B Rs. 10,000 if B's house is burnt. This is a contingent contract.

32. Contingent contracts to do or not to do anything if an uncertain future event happens, cannot be enforced by law unless and until that event has happened.

If the event becomes impossible such contracts become void.

Illustrations.

(a.) A makes a contract with B to buy B's horse if A survives C. This contract cannot be enforced by law unless and until C dies in A's lifetime.

(b.) A makes a contract with B to sell a horse to B at a specified price, if C, to whom the horse has been offered, refuses to buy him. The contract cannot be enforced by law unless and until C refuses to buy the horse.

(c.) A contracts to pay B a sum of money when B marries C. C dies without being married to B. The contract becomes void.

33. Contingent contracts to do or not to do anything if an uncertain future event does not happen, can be enforced when the happening of that event becomes impossible, and not before.

Illustration.

A agrees to pay B a sum of money if a certain ship does not return. The ship is sunk. The contract can be enforced when the ship sinks.

34. If

34. If the future event on which a contract is contingent is the way in which a person will act at an unspecified time, the event shall be considered to become impossible when such person does anything which renders it impossible that he should so act within any definite time, or otherwise than under further contingencies.

When event on which contract is contingent to be deemed impossible if it is the future conduct of a living person,

Illustration.

A agrees to pay B a sum of money if B marries C.
C marries D. The marriage of B to C must now be considered impossible, although it is possible that D may die, and that C may afterwards marry B.

35. Contingent contracts to do or not to do anything if a specified uncertain event happens within a fixed time, become void if, at the expiration of the time fixed, such event has not happened, or if, before the time fixed, such event becomes impossible.

When contracts become void which are contingent on happening of specified event within fixed time.

Contingent contracts to do or not to do anything, if a specified uncertain event does not happen within a fixed time, may be enforced by law when the time fixed has expired and such event has not happened, or, before the time fixed has expired, if it becomes certain that such event will not happen.

When contracts may be enforced which are contingent on specified event not happening within fixed time.

Illustrations.

(a.) A promises to pay B a sum of money if a certain ship returns within a year. The contract may be enforced if the ship returns within the year; and becomes void if the ship is burnt within the year.

(b.) A promises to pay B a sum of money if a certain ship does not return within a year. The contract may be enforced if the ship does not return within the year, or is burnt within the year.

36. Contingent agreements to do or not to do anything, if an impossible event happens, are void, whether the impossibility of the event is known or not to the parties to the agreement at the time when it is made.

Agreements contingent on impossible events void.

Illustrations.

(a.) A agrees to pay B 1,000 rupees if two straight lines should enclose a space. The agreement is void.

(b.) A agrees to pay B 1,000 rupees if B will marry A's daughter C. C was dead at the time of the agreement. The agreement is void.

OF THE PERFORMANCE OF CONTRACTS.

CHAPTER IV.—CONTRACTS WHICH MUST BE PERFORMED.

37. The parties to a contract must either perform, or offer to perform, their respective promises, unless such performance is dispensed with or excused under the provisions of this Act, or of any other law.

Obligation of parties to contracts.

Promises

Promises bind the representatives of the promisors in case of the death of such promisors before performance, unless a contrary intention appears from the contract.

Illustrations.

(a.) A promises to deliver goods to B on a certain day on payment of Rs. 1,000. A dies before that day. A's representatives are bound to deliver the goods to B, and B is bound to pay the Rs. 1,000 to A's representatives.

(b.) A promises to paint a picture for B by a certain day at a certain price. A dies before the day. The contract cannot be enforced either by A's representatives or by B.

38. Where a promisor has made an offer of performance to the promisee and the offer has not been accepted, the promisor is not responsible for non-performance, nor does he thereby lose his rights under the contract.

Effect of refusal to accept offer of performance.

Every such offer must fulfil the following conditions:—

1. It must be unconditional:
2. It must be made at a proper time and place and under such circumstances that the person, to whom it is made, may have a reasonable opportunity of ascertaining that the person, by whom it is made, is able and willing there and then to do the whole of what he is bound by his promise to do:
3. If the offer is an offer to deliver anything to the promisee, the promisee must have a reasonable opportunity of seeing that the thing offered is the thing which the promisor is bound by his promise to deliver.

An offer to one of several joint promisees has the same legal consequences as an offer to all of them.

Illustration.

A contracts to deliver to B at his warehouse, on the first March 1873, 100 bales of cotton of a particular quality. In order to make an offer of performance with the effect stated in this section, A must bring the cotton to B's warehouse, on the appointed day, under such circumstances that B may have a reasonable opportunity of satisfying himself that the thing offered is cotton of the quality contracted for, and that there are 100 bales.

39. When a party to a contract has refused to perform, or disabled himself from performing, his promise in its entirety, the promisee may put an end to the contract, unless he has signified, by words or conduct, his acquiescence in its continuance.

Effect of refusal of party to perform promise wholly.

Illustrations.

(a.) A, a singer, enters into a contract with B, the manager of a theatre, to sing at his theatre two nights in every week during the next two months, and B engages to pay her 100 rupees for each night's performance. On the sixth night A wilfully absents herself from the theatre. B is at liberty to put an end to the contract.

(b.) A, a singer, enters into a contract with B, the manager of a theatre, to sing at his theatre two nights in every week during the next two months, and B engages to pay her at the rate of 100 rupees for

for each night. On the sixth night, A wilfully absents herself. With the assent of B, A sings on the seventh night. B has signified his acquiescence in the continuance of the contract, and cannot now put an end to it, but is entitled to compensation for the damage sustained by him through A's failure to sing on the sixth night.

BY WHOM CONTRACTS MUST BE PERFORMED.

40 If it appears from the nature of the case that it was the intention of the parties to any contract that any promise contained in it should be performed by the promisor himself, such promise must be performed by the promisor. In other cases, the promisor or his representatives may employ a competent person to perform it.

Illustrations.

- (a.) A promises to pay B a sum of money. A may perform this promise, either by personally paying the money to B, or by causing it to be paid to B by another; and, if A dies before the time appointed for payment, his representatives must perform the promise, or employ some proper person to do so.
- (b.) A promises to paint a picture for B. A must perform this promise personally.

41. When a promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promisor.

42. When two or more persons have made a joint promise, then, unless a contrary intention appears by the contract, all such persons, during their joint lives, and, after the death of any of them, his representative jointly with the survivor or survivors, and, after the death of the last survivor, the representatives of all jointly, must fulfil the promise.

43. When two or more persons make a joint promise, the promisee may, in the absence of express agreement to the contrary, compel any one of such joint promisors to perform the whole of the promise.

Each of two or more joint promisors may compel every other joint promisor to contribute equally with himself to the performance of the promise, unless a contrary intention appears from the contract.

If any one of two or more joint promisors makes default in such contribution, the remaining joint promisors must bear the loss arising from such default in equal shares.

EXPLANATION.—Nothing in this section shall prevent a surety from recovering from his principal payments made by the surety on behalf of the principal, or entitle the principal to recover anything from the surety on account of payments made by the principal.

Illustrations.

Illustrations.

(a.) A, B, and C jointly promise to pay D 3,000 rupees. D may compel either A or B or C to pay him 3,000 rupees.

(b.) A, B, and C jointly promise to pay D the sum of 3,000 rupees. C is compelled to pay the whole. A is insolvent, but his assets are sufficient to pay one half of his debts. C is entitled to receive 500 rupees from A's estate, and 1,250 rupees from B.

(c.) A, B, and C are under a joint promise to pay D 3,000 rupees. C is unable to pay anything, and A is compelled to pay the whole. A is entitled to receive 1,500 rupees from B.

(d.) A, B, and C are under a joint promise to pay D 3,000 rupees, A and B being only sureties for C. C fails to pay, A and B are compelled to pay the whole sum. They are entitled to recover it from C.

44. Where two or more persons have made a joint promise, a release of one of such joint promisors by the promisee does not discharge the other joint promisor or joint promisors; neither does it free the joint promisor so released from responsibility to the other joint promisor or joint promisors.

45. When a person has made a promise to two or more persons jointly, then, unless a contrary intention appears from the contract, the right to claim performance rests, as between him and them, with them during their joint lives, and, after the death of any of them, with the representative of such deceased person jointly with the survivor or survivors, and, after the death of the last survivor, with the representatives of all jointly.

Illustration.

A, in consideration of 5,000 rupees lent to him by B and C, promises B and C jointly to repay them that sum with interest on a day specified. B dies. The right to claim performance rests with B's representative jointly with C during C's life, and, after the death of C, with the representatives of B and C jointly.

TIME AND PLACE FOR PERFORMANCE.

46. Where, by the contract, a promisor is to perform his promise without application by the promisee, and no time for performance is specified, the engagement must be performed within a reasonable time.

EXPLANATION.—The question 'What is a reasonable time' is, in each particular case, a question of fact.

47. When a promise is to be performed on a certain day, and the promisor has undertaken to perform it without application by the promisee, the promisor may perform it at any time during the usual hours of business on such day and at the place at which the promise ought to be performed.

Illustration.

Illustration.

A promises to deliver goods at B's warehouse on the first January. On that day A brings the goods to B's warehouse, but after the usual hour for closing it; and they are not received. A has not performed his promise.

48. When a promise is to be performed on a certain day, and the promisor has not undertaken to perform it without application by the promisee, it is the duty of the promisee to apply for performance at a proper place and within the usual hours of business.

Application for performance to be at proper time and place.

EXPLANATION.—The question 'What is a proper time and place' is, in each particular case, a question of fact.

49. When a promise is to be performed without application by the promisee, and no place is fixed for the performance of it, it is the duty of the promisor to apply to the promisee to appoint a reasonable place for the performance of the promise, and to perform it at such place.

Place for performance of engagement where no application to be made and no place fixed.

Illustration.

A undertakes to deliver a thousand maunds of jute to B on a fixed day. A must apply to B to appoint a reasonable place for the purpose of receiving it, and must deliver it to him at such place.

Performance in manner or at time prescribed or sanctioned by promisee.

50. The performance of any promise may be made in any manner, or at any time which the promisee prescribes or sanctions.

Illustrations.

(a.) B owes A 2,000 rupees. A desires B to pay the amount to A's account with C, a banker. B, who also banks with C, orders the amount to be transferred from his account to A's credit, and this is done by C. Afterwards, and before A knows of the transfer, C fails. There has been a good payment by B.

(b.) A and B are mutually indebted. A and B settle an account by setting off one item against another, and B pays A the balance found to be due from him upon such settlement. This amounts to a payment by A and B, respectively, of the sums which they owed to each other.

(c.) A owes B 2,000 rupees. B accepts some of A's goods in reduction of the debt. The delivery of the goods operates as a part payment.

(d.) A desires B, who owes him Rs. 100, to send him a note for Rs. 100 by post. The debt is discharged as soon as B puts into the post a letter containing the note duly addressed to A.

PERFORMANCE OF RECIPROCAL PROMISES.

51. When a contract consists of reciprocal promises to be simultaneously performed, no promisor need perform his promise unless the promisee is ready and willing to perform his reciprocal promise.

Promisor not bound to perform unless reciprocal promisee ready and willing to perform.

*Illustrations.**Illustrations.*

(a.) A and B contract that A shall deliver goods to B to be paid for by B on delivery. A need not deliver the goods, unless B is ready and willing to pay for the goods on delivery. B need not pay for the goods, unless A is ready and willing to deliver them on payment.

(b.) A and B contract that A shall deliver goods to B at a price to be paid by instalments, the first instalment to be paid on delivery.

A need not deliver, unless B is ready and willing to pay the first instalment on delivery.

B need not pay the first instalment, unless A is ready and willing to deliver the goods on payment of the first instalment.

52. Where the order, in which reciprocal promises are to be performed, is expressly fixed by the contract, they shall be performed in that order; and where the order is not expressly fixed by the contract, they shall be performed in that order which the nature of the transaction requires.

Order of performance of reciprocal promises.

Illustrations.

(a.) A and B contract that A shall build a house for B at a fixed price. A's promise to build the house must be performed before B's promise to pay for it.

(b.) A and B contract that A shall make over his stock-in-trade to B at a fixed price, and B promises to give security for the payment of the money. A's promise need not be performed until the security is given, for the nature of the transaction requires that A should have security before he delivers up his stock.

53. When a contract contains reciprocal promises, and one party to the contract prevents the other from performing his promise, the contract becomes voidable at the option of the party so prevented; and he is entitled to compensation from the other party for any loss, which he may sustain in consequence of the non-performance of the contract.

Liability of party preventing event on which contract is to take effect.

Illustration.

A and B contract that B shall execute certain work for A for a thousand rupees. B is ready and willing to execute the work accordingly, but A prevents him from doing so. The contract is voidable at the option of B; and, if he elects to rescind it, he is entitled to recover from A compensation for any loss which he has incurred by its non-performance.

54. When a contract consists of reciprocal promises, such that one of them cannot be performed, or that its performance cannot be claimed, till the other has been performed, and the promisor of the promise last mentioned fails to perform it, such promisor cannot claim the performance of the reciprocal promise, and must make compensation to the other party to the contract for any loss which such other party may sustain by the non-performance of the contract.

Effect of default as to that promise which should be first performed in contract consisting of reciprocal promises.

Illustrations.

Illustrations.

(a.) A hires B's ship to take in and convey from Calcutta to the Mauritius a cargo to be provided by A, B receiving a certain freight for its conveyance. A does not provide any cargo for the ship. A cannot claim the performance of B's promise, and must make compensation to B for the loss which B sustains by the non-performance of the contract.

(b.) A contracts with B to execute certain builders' work for a fixed price, B supplying the scaffolding and timber necessary for the work. B refuses to furnish any scaffolding or timber, and the work cannot be executed. A need not execute the work, and B is bound to make compensation to A for any loss caused to him by the non-performance of the contract.

(c.) A contracts with B to deliver to him at a specified price certain merchandise on board a ship which cannot arrive for a month, and B engages to pay for the merchandise within a week from the date of the contract. B does not pay within the week. A's promise to deliver need not be performed, and B must make compensation.

(d.) A promises B to sell him one hundred bales of merchandise, to be delivered next day, and B promises A to pay for them within a month. A does not deliver according to his promise. B's promise to pay need not be performed, and A must make compensation.

55. When a party to a contract promises to do a certain thing at or before a specified time, or certain things at or before specified times, and fails to do any such thing at or before the specified time, the contract, or so much of it as has not been performed, becomes voidable, at the option of the promisee, if the intention of the parties was that time should be of the essence of the contract.

If it was not the intention of the parties that time should be of the essence of the contract, the contract does not become voidable by the failure to do such thing at or before the specified time; but the promisee is entitled to compensation from the promisor for any loss occasioned to him by such failure.

If, in case of a contract, voidable on account of the promisor's failure to perform his promise at the time agreed, the promisee accepts performance of such promise at any time other than that agreed, the promisee cannot claim compensation for any loss occasioned by the non-performance of the promise at the time agreed, unless, at the time of such acceptance, he gives notice to the promisee of his intention to do so.

56. An agreement to do an act impossible in itself is void.

A contract to do an act which, after the contract is made, becomes impossible, or by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful.

Where

Where one person has promised to do something which he knew, or, with reasonable diligence, might have known, and which the promisee did not know, to be impossible or unlawful, such promisor must make compensation to such promisee for any loss which such promisee sustains through the non-performance of the promise.

Illustrations.

(a.) A agrees with B to discover treasure by magic. The agreement is void.

(b.) A and B contract to marry each other. Before the time fixed for the marriage, A goes mad. The contract becomes void.

(c.) A contracts to marry B, being already married to C, and being forbidden by the law to which he is subject to practice polygamy, A must make compensation to B for the loss caused to her by the non-performance of his promise.

(d.) A contracts to take in cargo for B at a foreign port. A's Government afterwards declares war against the country in which the port is situated. The contract becomes void when war is declared.

(e.) A contracts to act at a theatre for six months in consideration of a sum paid in advance by B. On several occasions A is too ill to act. The contract to act on those occasions becomes void.

57. Where persons reciprocally promise, firstly, to do certain things which are legal, and, secondly, under specified circumstances, to do certain other things which are illegal, the first set of promises is a contract, but the second is a void agreement.

Illustration.

A and B agree that A shall sell B a house for 10,000 rupees, but that, if B uses it as a gambling-house, he shall pay A 50,000 rupees for it.

The first set of reciprocal promises, namely, to sell the house and to pay 10,000 rupees for it, is contract.

The second set is for an unlawful object, namely, that B may use the house as a gambling-house, and is a void agreement.

58. In the case of an alternative promise, one branch of which is legal and the other illegal, the legal branch alone can be enforced.

Illustration.

A and B agree that A shall pay B 1,000 rupees, for which B shall afterwards deliver to A either rice or smuggled opium.

This is a valid contract to deliver rice, and a void agreement as to the opium.

APPROPRIATION OF PAYMENTS.

59. Where a debtor, owing several distinct debts to one person, makes a payment to him, either with express intimation, or under circumstances implying, that the payment is to be applied to the discharge of some particular debt, the payment, if accepted, must be applied accordingly.

Illustrations.

Illustrations.

(a.) A owes B, among other debts, 1,000 rupees upon a promissory note, which falls due on the 1st June. He owes B no other debt of that amount. On the 1st June A pays to B 1,000 rupees. The payment is to be applied to the discharge of the promissory note.

(b.) A owes to B, among other debts, the sum of 567 rupees. B writes to A and demands payment of this sum. A sends to B 567 rupees. This payment is to be applied to the discharge of the debt of which B had demanded payment.

60. Where the debtor has omitted to intimate, and there are no other circumstances indicating, to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor, whether its recovery is or is not barred by the law in force for the time being as to the limitation of suits.

61. Where neither party makes any appropriation, the payment shall be applied in discharge of the debts in order of time, whether they are or are not barred by the law in force for the time being as to the limitation of suits. If the debts are of equal standing, the payment shall be applied in discharge of each proportionably.

CONTRACTS WHICH NEED NOT BE PERFORMED.

Contracts changed, rescinded, or altered need not be performed.

62. If the parties to a contract agree to substitute a new contract for it, or to rescind or alter it, the original contract need not be performed.

Illustrations.

(a.) A owes money to B under a contract. It is agreed between A, B, and C that B shall thenceforth accept C as his debtor instead of A. The old debt of A to B is at an end, and a new debt from C to B has been contracted.

(b.) A owes B 10,000 rupees. A enters into an arrangement with B, and gives B a mortgage of his (A's) estate for 5,000 rupees in place of the debt of 10,000 rupees. This is a new contract and extinguishes the old.

(c.) A owes B 1,000 rupees under a contract. B owes C 1,000 rupees. B orders A to credit C with 1,000 rupees in his books, but C does not assent to the arrangement. B still owes C 1,000 rupees, and no new contract has been entered into.

63. Every promisee may dispense with, or remit wholly or in part, the performance of the promise made to him, or may extend the time for such performance, or may accept instead of it any satisfaction which he thinks fit.

Illustrations.

(a.) A promises to paint a picture for B. B afterwards forbids him to do so. A is no longer bound to perform the promise.

(b.) A

(b.) A owes B 5,000 rupees. A pays to B, and B accepts, in satisfaction of the whole debt, 2,000 rupees paid at the time and place at which the 5,000 rupees were payable. The whole debt is discharged.

(c.) A owes B 5,000 rupees. C pays to B 1,000 rupees, and B accepts them, in satisfaction of his claim on A. This payment is a discharge of the whole claim.

(d.) A owes B, under a contract, a sum of money, the amount of which has not been ascertained. A, without ascertaining the amount, gives to B, and B, in satisfaction thereof, accepts, the sum of 2,000 rupees. This is a discharge of the whole debt, whatever may be its amount.

(e.) A owes B 2,000 rupees, and is also indebted to other creditors. A makes an arrangement with his creditors, including B, to pay them a compensation of eight annas in the rupee upon their respective demands. Payment to B of 1,000 rupees is a discharge of B's demand.

64. When a person, at whose option a contract is voidable, rescinds it, the other party thereto need not perform any promise therein contained in which he is promisor. The party rescinding a voidable contract shall, if he have received any benefit thereunder from another party to such contract, restore such benefit, so far as may be, to the person from whom it was received.

Consequences of rescission of a voidable contract.

65. When an agreement is discovered to be void, or when a contract becomes void, any person who has received any advantage under such agreement or contract is bound to restore it or to make compensation for it to the person from whom he received it.

Obligation of person who has received advantage under void agreement or contract that becomes void.

Illustrations.

(a.) A pays B 1,000 rupees in consideration of B's promising to marry C, A's daughter. C is dead at the time of the promise. The agreement is void, but B must re-pay A the 1,000 rupees.

(b.) A contracts with B to deliver to him 250 maunds of rice before the 1st of May. A delivers 130 maunds only before that day, and none after. B retains the 130 maunds after the 1st of May. He is bound to pay A for them.

(c.) A, a singer, contracts with B, the manager of a theatre, to sing at his theatre for two nights in every week during the next two months, and B engages to pay her a hundred rupees for each night's performance. On the sixth night, A wilfully absents herself from the theatre, and B, in consequence, rescinds the contract. B must pay A for the five nights on which she had sung.

(d.) A contracts to sing for B at a concert for 1,000 rupees, which are paid in advance. A is too ill to sing. A is not bound to make compensation to B for the loss of the profits which B would have made if A had been able to sing, but must refund to B the 1,000 rupees paid in advance.

66. The rescission of a voidable contract may be communicated or revoked in the same manner, and subject to the same rules, as apply to the communication or revocation of a proposal.

Mode of communicating or revoking rescission of voidable contract.

67. If any promisee neglects or refuses to afford the promisor reasonable facilities for the performance of his promise, the promisor is excused by such neglect or refusal as to any non-performance caused thereby.

Effect of neglect of promisee to afford promisor reasonable facilities for performance.

Illustration.

Illustration.

A contracts with B to repair B's house.

B neglects or refuses to point out to A the places in which his house requires repair.

B is excused for the non-performance of the contract, if it is caused by such neglect or refusal.

CHAPTER V.—OF CERTAIN RELATIONS RESEMBLING THOSE CREATED
BY CONTRACT.

68. If a person, incapable of entering into a contract, or any one whom he is legally bound to support, is supplied by another person with necessities suited to his condition in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person.

Claim for necessities supplied to person incapable of contracting, or on his account.

Illustrations.

(a.) A supplies B, a lunatic, with necessities suitable to his condition in life. A is entitled to be reimbursed from B's property.

(b.) A supplies the wife and children of B, a lunatic, with necessities suitable to their condition in life. A is entitled to be reimbursed from B's property.

Reimbursement of person paying money due by another in payment of which he is interested.

69. A person, who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other.

Illustration.

B holds land in Bengal on a lease granted by A, the zemindar. The revenue payable by A to the Government being in arrear, his land is advertised for sale by the Government. Under the revenue law, the consequence of such sale will be the annulment of B's lease. B, to prevent the sale and the consequent annulment of his own lease, pays to the Government the sum due from A. A is bound to make good to B the amount so paid.

70. Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.

Obligation of person enjoying benefit of non-gratuitous act.

Illustrations.

(a.) A, a tradesman, leaves goods at B's house by mistake. B treats the goods as his own. He is bound to pay A for them.

(b.) A saves B's property from fire. A is not entitled to compensation from B, if the circumstances show that he intended to act gratuitously.

Responsibility of finder of goods.

71. A person who finds goods belonging to another, and takes them into his custody, is subject to the same responsibility as a bailee.

Liability of person to whom money is paid or thing delivered by mistake or under coercion.

72. A person to whom money has been paid or anything delivered by mistake, or under coercion, must re-pay or return it.

*Illustrations.**Illustrations.*

(a.) A and B jointly owe 100 rupees to C. A alone pays the amount to C, and B, not knowing this fact, pays 100 rupees over again to C. C is bound to repay the amount to B.

(b.) A railway company refuses to deliver up certain goods to the consignee, except upon the payment of an illegal charge for carriage. The consignee pays the sum charged in order to obtain the goods. He is entitled to recover so much of the charge as was illegally excessive.

CHAPTER VI.—OF THE CONSEQUENCES OF BREACH OF CONTRACT.

73. When a contract has been broken, the party, who suffers by such breach, is entitled to receive from the party, who has broken the contract, compensation for any loss or damage, caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it.

Compensation for loss or damage caused by breach of contract.

Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach.

When an obligation resembling those created by contract has been incurred and has not been discharged, any person, injured by the failure to discharge it, is entitled to receive the same compensation from the party in default as if such person had contracted to discharge it and had broken his contract.

Compensation for failure to discharge obligation resembling those created by contract.

Explanation.—In estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract, must be taken into account.

Illustrations.

(a.) A contracts to sell and deliver 50 maunds of saltpetre to B, at a certain price to be paid on delivery. A breaks his promise. B is entitled to receive from A, by way of compensation, the sum, if any, by which the contract price falls short of the price for which B might have obtained 50 maunds of saltpetre of like quality at the time when the saltpetre ought to have been delivered.

(b.) A hires B's ship to go to Bombay and there take on board, on the first of January, a cargo, which A is to provide, and to bring it to Calcutta, the freight to be paid when earned. B's ship does not go to Bombay, but A has opportunities of procuring suitable conveyance for the cargo upon terms as advantageous as those on which he had chartered the ship. A avails himself of those opportunities but is put to trouble and expense in doing so. A is entitled to receive compensation from B in respect of such trouble and expense.

(c.) A contracts to buy of B, at a stated price, 50 maunds of rice, no time being fixed for delivery. A afterwards informs B that he will not accept the rice if tendered to him. B is entitled to receive from A, by way of compensation, the amount, if any, by which the contract price exceeds that which B can obtain for the rice at the time when A informs B that he will not accept it.

(d.) A contracts to buy B's ship for 60,000 rupees, but breaks his promise. A must pay to B, by way of compensation, the excess, if any, of the contract price over the price which B can obtain for the ship at the time of the breach of promise.

(e.) A,

(e.) A, the owner of a boat, contracts with B to take a cargo of jute to Mirzapur, for sale at that place, starting on a specified day. The boat, owing to some avoidable cause, does not start at the time appointed, whereby the arrival of the cargo at Mirzapur is delayed beyond the time when it would have arrived if the boat had sailed according to the contract. After that date, and before the arrival of the cargo, the price of jute falls. The measure of the compensation payable to B by A is the difference between the price which B could have obtained for the cargo at Mirzapur at the time when it would have arrived if forwarded in due course, and its market price at the time when it actually arrived.

(f.) A contracts to repair B's house in a certain manner, and receives payment in advance. A repairs the house, but not according to contract. B is entitled to recover from A the cost of making the repairs conform to the contract.

(g.) A contracts to let his ship to B for a year, from the first of January, for a certain price. Freight rises, and, on the first of January, the hire obtainable for the ship is higher than the contract price. A breaks his promise. He must pay to B, by way of compensation, a sum equal to the difference between the contract price and the price for which B could hire a similar ship for a year on and from the first of January.

(h.) A contracts to supply B with a certain quantity of iron at a fixed price, being a higher price than that for which A could procure and deliver the iron. B wrongfully refuses to receive the iron. B must pay to A, by way of compensation, the difference between the contract price of the iron and the sum for which A could have obtained and delivered it.

(i.) A delivers to B, a common carrier, a machine, to be conveyed, without delay, to A's mill, informing B that his mill is stopped for want of the machine. B unreasonably delays the delivery of the machine, and A, in consequence, loses a profitable contract with the Government. A is entitled to receive from B, by way of compensation, the average amount of profit which would have been made by the working of the mill during the time that delivery of it was delayed, but not the loss sustained through the loss of the Government contract.

(j.) A, having contracted with B to supply B with 1,000 tons of iron at 100 rupees a ton, to be delivered at a stated time, contracts with C for the purchase of 1,000 tons of iron at 80 rupees a ton, telling C that he does so for the purpose of performing his contract with B. C fails to perform his contract with A, who cannot procure other iron, and, B in consequence, rescinds the contract. C must pay to A 20,000 rupees, being the profit which A would have made by the performance of his contract with B.

(k.) A contracts with B to make and deliver to B, by a fixed day, for a specified price, a certain piece of machinery. A does not deliver the piece of machinery at the time specified, and, in consequence of this, B is obliged to procure another at a higher price than that which he was to have paid to A, and is prevented from performing a contract, which B had made with a third person at the time of his contract with A (but which had not been then communicated to A), and is compelled to make compensation for breach of that contract. A must pay to B, by way of compensation, the difference between the contract price of the piece of machinery and the sum paid by B for another, but not the sum paid by B to the third person by way of compensation.

(l.) A, a builder, contracts to erect and finish a house by the first of January, in order that B may give possession of it at that time to C, to whom B has contracted to let it. A is informed of the contract between B and C. A builds the house so badly that, before the first of January, it falls down and has to be re-built by B, who, in consequence, loses the rent which he was to have received from C, and is obliged to make compensation to C for the breach of his contract. A must make compensation to B for the cost of re-building the house, for the rent lost, and for the compensation made to C.

(m.) A

(m.) A sells certain merchandize to B warranting it to be of a particular quality, and B, in reliance upon this warranty, sells it to C with a similar warranty. The goods prove to be not according to the warranty, and B becomes liable to pay C a sum of money by way of compensation. B is entitled to be reimbursed this sum by A.

(n.) A contracts to pay a sum of money to B on a day specified. A does not pay the money on that day. B, in consequence of not receiving the money on that day, is unable to pay his debts, and is totally ruined. A is not liable to make good to B anything except the principal sum he contracted to pay, together with interest up to the day of payment.

(o.) A contracts to deliver 50 maunds of saltpetre to B on the first of January, at a certain price. B afterwards, before the first of January, contracts to sell the saltpetre to C at a price higher than the market price of the first of January. A breaks his promise. In estimating the compensation payable by A to B, the market price of the first of January, and not the profit which would have arisen to B from the sale to C, is to be taken into account.

(p.) A contracts to sell and deliver 500 bales of cotton to B on a fixed day. A knows nothing of B's mode of conducting his business. A breaks his promise, and B, having no cotton, is obliged to close his mill. A is not responsible to B for the loss caused to B by the closing of the mill.

(q.) A contracts to sell and deliver to B, on the first of January, certain cloth with which B intends to manufacture into caps of a particular kind, for which there is no demand, except at that season. The cloth is not delivered till after the appointed time, and too late to be used that year in making caps. B is entitled to receive from A, by way of compensation, the difference between the contract price of the cloth and its market price at the time of delivery, but not the profits which he expected to obtain by making caps, nor the expenses which he has been put to in making preparation for the manufacture.

(r.) A, a ship-owner, contracts with B to convey him from Calcutta to Sydney in A's ship, sailing on the first of January, and B pays to A, by way of deposit, one-half of his passage-money. The ship does not sail on the first of January, and B, after being, in consequence, detained in Calcutta for some time, and thereby put to some expense, proceeds to Sydney in another vessel, and, in consequence, arriving too late in Sydney, loses a sum of money. A is liable to repay to B his deposit, with interest, and the expense to which he is put by his detention in Calcutta, and the excess, if any, of the passage-money paid for the second ship over that agreed upon for the first, but not the sum of money which B lost by arriving in Sydney too late.

74. When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named.

Title to compensation for breach of contract in which a sum is named as payable in case of breach.

EXCEPTION.—When any person enters into any bail-bond, recognizance or other instrument of the same nature, or, under the provisions of any law or under the orders of the Government of India or of any Local Government, gives any bond for the performance of any public duty or act, in which the public are interested, he shall be liable, upon breach of the condition of any such instrument, to pay the whole sum mentioned therein.

Explanation.

Explanation.—A person who enters into a contract with Government does not necessarily thereby undertake any public duty or promise to do an act in which the public are interested.

Illustrations.

(a.) A contracts with B to pay B Rs. 1,000 if he fails to pay B Rs. 500 on a given day. A fails to pay B Rs. 500 on that day. B is entitled to recover from A such compensation, not exceeding Rs. 1,000, as the Court considers reasonable.

(b.) A contracts with B that if A practises as a surgeon within Calcutta he will pay B Rs. 5,000. A practises as a surgeon in Calcutta. B is entitled to such compensation, not exceeding Rs. 5,000, as the Court considers reasonable.

(c.) A gives a recognizance binding him in a penalty of Rs. 500 to appear in Court on a certain day. He forfeits his recognizance. He is liable to pay the whole penalty.

75. A person who rightfully rescinds a contract, is entitled to compensation for any damage which he has sustained through the non-fulfilment of the contract.

Party rightfully rescinding contract entitled to compensation.

Illustration.

(a.) A, a singer, contracts with B, the manager of a theatre, to sing at his theatre for two nights in every week during the next two months, and B engages to pay her 100 rupees for each night's performance. On the sixth night, A wilfully absents herself from the theatre, and B, in consequence, rescinds the contract. B is entitled to claim compensation for the damage which he has sustained through the non-fulfilment of the contract.

SALE OF GOODS.

CHAPTER VII.—WHEN PROPERTY IN GOODS SOLD PASSES.

76. In this chapter, the word 'goods' means and includes every kind of moveable property.

'Goods' defined.

77. Sale is the exchange of property for a price. It involves the transfer of the ownership of the thing sold from the seller to the buyer.

78. Sale is effected by offer and acceptance

Sale how effected. of ascertained goods for a price, or of a price for ascertained goods, together with payment of the price or delivery of the goods, or with tender, part payment, earnest, or part delivery, or with an agreement, express or implied, that the payment or delivery, or both, shall be postponed.

Where there is a contract for the sale of ascertained goods, the property in the goods sold passes to the buyer when the whole or part of the price, or when the earnest, is paid, or when the whole or part of the goods is delivered.

If

If the parties agree expressly, or by implication, that the payment or delivery, or both, shall be postponed, the property passes as soon as the proposal for sale is accepted.

Illustrations.

(a.) B offers to buy A's horse for 500 rupees. A accepts B's offer, and delivers the horse to B. The horse becomes B's property on delivery.

(b.) A sends goods to B, with the request that he will buy them at a stated price if he approves of them, or return them if he does not approve of them. B retains the goods, and informs A that he approves of them. The goods become B's when B retains them.

(c.) B offers A, for his horse, 1,000 rupees, the horse to be delivered to B on a stated day, and the price to be paid on another stated day. A accepts the offer. The horse becomes B's as soon as the proposal is accepted.

(d.) B offers A, for his horse, 1,000 rupees, on a month's credit. A accepts the offer. The horse becomes B's as soon as the offer is accepted.

(e.) B, on the first January, offers to A, for a quantity of rice, 2,000 rupees, to be paid on the first March following, the rice not to be taken away till paid for. A accepts the offer. The rice becomes B's as soon as the offer is accepted.

79. Where there is a contract for the sale of a thing which has yet to be ascertained, made, or finished, the ownership of the thing is not transferred to the buyer until it is ascertained, made, or finished.

Transfer of ownership of thing sold which has yet to be ascertained, made, or finished.

Illustration.

B orders A, a barge-builder, to make him a barge. The price is not made payable by instalments. While the barge is building, B pays to A money from time to time on account of the price. The ownership of the barge does not pass to B until it is finished.

80. Where, by a contract for the sale of goods, the seller is to do anything to them for the purpose of putting them into a state in which the buyer is to take them, the sale is not complete until such thing has been done.

Completion of sale of goods which the seller is to put into state in which buyer is to take them.

Illustration.

(a.) A, a ship-builder, contracts to sell to B, for a stated price, a vessel which is lying in A's yard; the vessel to be rigged and fitted for a voyage, and the price to be paid on delivery. Under the contract, the property in the vessel does not pass to B until the vessel has been rigged, fitted up, and delivered.

Completion of sale of goods when seller has to do anything thereto in order to ascertain price.

81. Where anything remains to be done to the goods by the seller for the purpose of ascertaining the amount of the price, the sale is not complete until this has been done.

Illustrations.

(a.) A, owner of a stack of bark, contracts to sell it to B, weigh and deliver it, at 100 rupees per ton. B agrees to take and pay for it on a certain day. Part is weighed and delivered to B; the ownership of the residue is not transferred to B until it has been weighed pursuant to the contract.

(b.) A

(b.) A contracts to sell a heap of clay to B at a certain price per ton. B is, by the contract, to load the clay in his own carts, and to weigh each load at a certain weighing machine, which his carts must pass on their way from A's ground to B's place of deposit. Here, nothing more remains to be done by the seller; the sale is complete, and the ownership of the heap of clay is transferred at once.

82. Where the goods are not ascertained at the time of making the contract of sale, it is necessary to the completion of the sale that the goods shall be ascertained.

Completion of sale when goods are unascertained at date of contract.

Illustration.

A agrees to sell to B 20 tons of oil in A's cisterns. A's cisterns contain more than 20 tons of oil. No portion of the oil has become the property of B.

83. Where the goods are not ascertained at the time of making the agreement for sale, but goods answering the description in the agreement are subsequently appropriated by one party, for the purpose of the agreement, and that appropriation is assented to by the other, the goods have been ascertained, and the sale is complete.

Ascertainment of goods by subsequent appropriation.

Illustration.

A, having a quantity of sugar in bulk, more than sufficient to fill 20 hogsheads, contracts to sell B 20 hogsheads of it. After the contract A fills 20 hogsheads with the sugar, and gives notice to B that the hogsheads are ready, and requires him to take them away. B says he will take them as soon as he can. By this appropriation by A, and assent by B, the sugar becomes the property of B.

84. Where the goods are not ascertained at the time of making the contract of sale, and, by the terms of the contract, the seller is to do an act with reference to the goods which cannot be done until they are appropriated to the buyer, the seller has a right to select any goods answering to the contract, and by his doing so, the goods are ascertained.

Ascertainment of goods by seller's selection.

Illustration.

B agrees with A to purchase of him, at a stated price, to be paid on a fixed day, 50 maunds of rice out of a larger quantity in A's granary. It is agreed that B shall send sacks for the rice, and that A shall put the rice into them. B does so, and A puts 50 maunds of rice into the sacks. The goods have been ascertained.

85. Where an agreement is made for the sale of immoveable and moveable property combined, the ownership of the moveable property does not pass before the transfer of the immoveable property.

Transfer of ownership of moveable property when sold together with immoveable.

Illustration.

A agrees with B for the sale of a house and furniture. The ownership of the furniture does not pass to B until the house is conveyed to B.

86. When

Buyer to bear loss after goods have become his property.

86. When goods have become the property of the buyer, he must bear any loss arising from their destruction or injury.

Illustrations.

(a.) B offers, and A accepts, 100 rupees for a stack of fire-wood standing on A's premises, the fire-wood to be allowed to remain on A's premises till a certain day, and not to be taken away till paid for. Before payment, and while the fire-wood is on A's premises, it is accidentally destroyed by fire. B must bear the loss.

(b.) A bids 1,000 rupees for a picture at a sale by auction. After the bid, it is injured by an accident. If the accident happens before the hammer falls the loss falls on the seller; if afterwards, on A.

87. When there is a contract for the sale of goods not yet in existence, the ownership of the goods may be transferred by acts done after the goods are produced, in pursuance of the contract, by the seller, or by the buyer with the seller's assent.

Transfer of ownership of goods agreed to be sold while non-existent.

Illustrations.

(a.) A contracts to sell to B, for a stated price, all the indigo which shall be produced at A's factory during the ensuing year. A, when the indigo has been manufactured, gives B an acknowledgment that he holds the indigo at his disposal. The ownership of the indigo vests in B from the date of the acknowledgment.

(b.) A, for a stated price, contracts that B may take and sell any crops that shall be grown on A's land in succession to the crops then standing. Under this contract B, with the assent of A, takes possession of some crops grown in succession to the crops standing at the time of the contract. The ownership of the crops, when taken possession of, vests in B.

(c.) A, for a stated price, contracts that B may take and sell any crops that shall be grown on his land in succession to the crops then standing. Under this contract B applies to A for possession of some crops grown in succession to the crops which were standing at the time of the contract. A refuses to give possession. The ownership of the crops has not passed to B, though A may commit a breach of contract in refusing to give possession.

88. A contract for the sale of goods to be delivered at a future day is binding, though the goods are not in the possession of the seller at the time of making the contract, and though, at that time, he has no reasonable expectation of acquiring them otherwise than by purchase.

Contract to sell and deliver at a future day, goods not in seller's possession at date of contract.

Illustration.

A contracts, on the first January, to sell B 50 shares in the East Indian Railway Company, to be delivered and paid for on the first March of the same year. A, at the time of making the contract is not in possession of any shares. The contract is valid.

89. Where the price of goods sold is not fixed by the contract of sale, the buyer is bound to pay the seller such a price as the Court considers reasonable.

Determination of price not fixed by contract.

Illustration.

Illustration.

B, living at Patna, orders of A, a coach-builder at Calcutta, a carriage of a particular description. Nothing is said by either as to the price. The order having been executed, and the price being in dispute between the buyer and the seller, the Court must decide what price it considers reasonable.

DELIVERY.

90. Delivery of goods sold may be made by doing anything which has the effect of putting them in the possession of the buyer, or of any person authorized to hold them on his behalf.

Delivery how made.

Illustrations.

(a.) A sells to B a horse, and causes or permits it to be removed from A's stables to B's. The removal to B's stable is a delivery.

(b.) B, in England, orders 100 bales of cotton from A, a merchant of Bombay, and sends his own ship to Bombay for the cotton. The putting the cotton on board the ship is a delivery to B.

(c.) A sells to B certain specific goods which are locked up in a godown. A gives B the key of the godown, in order that he may get the goods. This is a delivery.

(d.) A sells to B five specific casks of oil. The oil is in the warehouse of A., B sells the five casks to C. A receives warehouse rent for them from C. This amounts to a delivery of the oil to C, as it shows an assent on the part of A to hold the goods as warehouseman of C.

(e.) A sells to B 50 maunds of rice in the possession of C, a warehouseman. A gives B an order to C to transfer the rice to B, and C assents to such order, and transfers the rice in his books to B. This is a delivery.

(f.) A agrees to sell B five tons of oil at 1,000 rupees per ton, to be paid for at the time of delivery. A gives to C, a wharfinger at whose wharf he had twenty tons of the oil, an order to transfer five of them into the name of B. C makes the transfer in his books, and gives A's clerk a notice of the transfer for B. A's clerk takes the transfer notice to B, and offers to give it him on payment of the price of the oil. B refuses to pay. There has been no delivery to B as B never assented to make C his agent to hold for him the five tons selected by A.

91. A delivery to a wharfinger or carrier of the goods sold has the same effect as a delivery to the buyer, but does not render the buyer liable for the price of goods which do not reach him, unless the delivery is so made as to enable him to hold the wharfinger or carrier responsible for the safe custody or delivery of the goods.

Effect of delivery to wharfinger or carrier.

Illustration.

B, at Agra, orders of A, who lives at Calcutta, three casks of oil to be sent to him by railway. A takes three casks of oil directed to B to the railway station, and leaves them there without conforming to the rules which must be complied with in order to render the Railway Company responsible for their safety. The goods do not reach B. There has not been a sufficient delivery to charge B in a suit for the price.

92. A delivery of part of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of

Effect of part-delivery.

of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

Illustrations.

(a.) A ship arrives in a harbour laden with a cargo consigned to A, the buyer of the cargo. The captain begins to discharge it, and delivers over part of the goods to A in progress of the delivery of the whole. This is a delivery of the cargo to A for the purpose of passing the property in the cargo.

(b.) A sells to B a stack of fire-wood, to be paid for by B on delivery. After the sale, B applies for and obtains from A leave to take away some of the fire-wood. This has not the legal effect of delivery of the whole.

(c.) A sells 50 maunds of rice to B. The rice remains in A's warehouse. After the sale B sells to C 10 maunds of the rice, and A, at B's desire, sends the 10 maunds to C. This has not the legal effect of a delivery of the whole.

Seller not bound to deliver until buyer applies for delivery.

93. In the absence of any special promise, the seller of goods is not bound to deliver them until the buyer applies for delivery.

94. In the absence of any special promise as to delivery, goods sold are to be delivered at the place at which they are at the time of the sale; and goods contracted to be sold are to be delivered at the place at which they are at the time of the contract for sale, or, if not then in existence, at the place at which they are produced.

Place of delivery.

SELLER'S LIEN.

95. Unless a contrary intention appears by the contract a seller has a lien on sold goods, as long as they remain in his possession, and the price or any part of it remains unpaid.

Seller's lien.

96. Where, by the contract, the payment is to be made at a future day, but no time is fixed for the delivery of the goods, the seller has no lien, and the buyer is entitled to a present delivery of the goods without payment. But if the buyer becomes insolvent before delivery of the goods, or if the time appointed for payment arrives before the delivery of the goods, the seller may retain the goods for the price.

Lien where payment to be made at a future day, but no time fixed for delivery.

'Insolvency' defined.

Explanation.—A person is insolvent who has ceased to pay his debts in the usual course of business, or who is incapable of paying them.

Illustration.

A sells to B a quantity of sugar in A's warehouse. It is agreed that three months' credit shall be given. B allows the sugar to remain in A's warehouse. Before the expiry of the three months, B becomes insolvent. A may retain the goods for the price.

97. Where,

97. Where, by the contract, the payment is to be made at a future day, and the buyer allows the goods to remain in the possession of the seller until that day, and does not then pay for them, the seller may retain the goods for the price.

Seller's lien where payment to be made at future day, and buyer allows goods to remain in seller's possession.

Illustration.

A sells to B a quantity of sugar in A's warehouse. It is agreed that three months' credit shall be given. B allows the sugar to remain in A's warehouse till the expiry of the three months, and then does not pay for them. A may retain the goods for the price.

98. A seller, in possession of goods sold, may retain them for the price against any subsequent buyer, unless the seller has recognized the title of the subsequent buyer.

Seller's lien against subsequent buyer.

STOPPAGE IN TRANSIT.

99. A seller who has parted with the possession of the goods, and has not received the whole price, may, if the buyer becomes insolvent, stop the goods while they are in transit to the buyer.

Power of seller to stop in transit.

100. Goods are to be deemed in transit while they are in the possession of the carrier, or lodged at any place in the course of transmission to the buyer, and are not yet come into the possession of the buyer or any person on his behalf, otherwise than as being in possession of the carrier, or as being so lodged.

When goods are to be deemed in transit.

Illustrations.

(a.) B, living at Madras, orders goods of A, at Patna, and directs that they shall be sent to Madras. The goods are sent to Calcutta, and there delivered to C, a wharfinger, to be forwarded to Madras. The goods, while they are in the possession of C, are in transit.

(b.) B, at Delhi, orders goods of A, at Calcutta. A consigns and forwards the goods to B at Delhi. On arrival there, they are taken to the warehouse of B, and left there. B refuses to receive them, and immediately afterwards stops payment. The goods are in transit.

(c.) B, who lives at Púna, orders goods of A at Bombay. A sends them to Púna by C, a carrier appointed by B. The goods arrive at Púna, and are placed by C, at B's request, in C's warehouse for B. The goods are no longer in transit.

(d.) B, a merchant of London, orders 100 bales of cotton of A, a merchant at Bombay. B sends his own ship to Bombay for the cotton. The transit is at an end when the cotton is delivered on board the ship.

(e.) B, a merchant of London, orders 100 bales of cotton of A, a merchant at Bombay. B sends his own ship to Bombay for the cotton. A delivers the cotton on board the ship, and takes bills of lading from the master, making the cotton deliverable to A's order or assigns. The cotton arrives at London, but before coming into B's possession, B becomes insolvent. The cotton has not been paid for. A may stop the cotton.

101. The

101. The seller's right of stoppage does not, except in the cases hereinafter mentioned, cease on the buyer's re-selling the goods, while in transit, and receiving the price, but continues until the goods have been delivered to the second buyer, or to some person on his behalf.

Continuance of right of stoppage.

102. The right of stoppage ceases if the buyer, having obtained a bill of lading or other document showing title to the goods, assigns it, while the goods are in transit, to a second buyer, who is acting in good faith, and who gives valuable consideration for them.

Cessation of right on assignment, by buyer, of document, showing title.

Illustrations.

(a.) A sells and consigns certain goods to B, and sends him the bill of lading. A being still unpaid, B becomes insolvent, and while the goods are in transit, assigns the bill of lading for cash to C, who is not aware of his insolvency. A cannot stop the goods in transit.

(b.) A sells and consigns certain goods to B. A being still unpaid, B becomes insolvent, and while the goods are still in transit, assigns the bill of lading for cash to C, who knows that B is insolvent. The assignment not being in good faith, A may still stop the goods in transit.

103. Where a bill of lading or other instrument of title to any goods is assigned by the buyer of such goods by way of pledge, to secure an advance made specifically upon it, in good faith, the seller cannot, except on payment or tender to the pledgee of the advance so made, stop the goods in transit.

How seller may stop where instrument of title assigned to secure specific advance.

Illustrations.

(a.) A sells and consigns goods to B of the value of 12,000 rupees. B assigns the bill of lading for these goods to C, to secure a specific advance of 5,000 rupees made to him upon the bill of lading by C. B becomes insolvent, being indebted to C to the amount of 9,000 rupees. A is not entitled to stop the goods except on payment or tender to C of 5,000 rupees.

(b.) A sells and consigns goods to B of the value of 12,000 rupees. B assigns the bill of lading for these goods to C, to secure the sum of 5,000 rupees due from him to C, upon a general balance of account. B becomes insolvent. A is entitled to stop the goods in transit without payment or tender to C of the 5,000 rupees.

104. The seller may effect stoppage in transit, either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other depositary in whose possession they are.

Stoppage how effected.

105. Such notice may be given either to the person who has the immediate possession of the goods, or to the principal, whose servant has possession. In the latter case, the notice must be given at such a time, and under such circumstances, that the principal, by the exercise of reasonable diligence, may communicate it to his servant in time to prevent a delivery to the buyer.

Notice of seller's claim.

Right of seller on stoppage.

106. Stoppage in transit entitles the seller to hold the goods stopped until the price of the whole of the goods sold is paid.

Illustration.

Illustration.

A sells to B 100 bales of cotton; 60 bales having come into B's possession, and 40 being still in transit, B becomes insolvent, and A being still unpaid, stops the 40 bales in transit. A is entitled to hold the 40 bales until the price of the 100 bales is paid.

RE-SALE.

107. Where the buyer of goods fails to perform his part of the contract, either by not taking the goods sold to him, or by not paying for them, the seller, having a lien on the goods, or having stopped them in transit, may, after giving notice to the buyer of his intention to do so, re-sell them, after the lapse of a reasonable time, and the buyer must bear any loss, but is not entitled to any profit, which may occur on such re-sale.

TITLE.

108. No seller can give to the buyer of goods a better title to those goods than he has himself, except in the following cases:—

EXCEPTION 1. When any person is, by the consent of the owner, in possession of any goods, or of any bill of lading, dock-warrant, warehouse-keeper's certificate, wharfinger's certificate or warrant or order for delivery, or other document showing title to goods, he may transfer the ownership of the goods, of which he is so in possession, or to which such documents relate, to any other person, and give such person a good title thereto, notwithstanding any instructions of the owner to the contrary: Provided that the buyer acts in good faith, and under circumstances which are not such as to raise a reasonable presumption that the person in possession of the goods or documents has no right to sell the goods.

EXCEPTION 2. If one of several joint-owners of goods has the sole possession of them by the permission of the co-owners, the ownership of the goods is transferred to any person who buys them of such joint-owner in good faith, and under circumstances which are not such as to raise a reasonable presumption that the person in possession of the goods has no right to sell them.

EXCEPTION 3. When a person has obtained possession of goods under a contract voidable at the option of the other party thereto, the ownership of the goods is transferred to a third person who, before the contract is rescinded, buys them in good faith of the person in possession; unless the circumstances which render the contract voidable amounted to an offence committed by the person in possession or those whom he represents:

In this case the original seller is entitled to compensation from the original purchaser for any loss which the seller may have sustained by being prevented from rescinding the contract.

*Illustrations.**Illustrations.*

(a.) A buys from B, in good faith, a cow which B had stolen from C. The property in the cow is not transferred to A.

(b.) A, a merchant, entrusts B, his agent, with a bill of lading relating to certain goods, and instructs B not to sell the goods for less than a certain price, and not to give credit to D. B sells the goods to D for less than that price, and gives D three months' credit. The property in the goods passes to D.

(c.) A sells to B goods of which he has the bill of lading, but the bill of lading is made out for delivery of the goods to C, and it has not been endorsed by C. The property is not transferred to B.

(d.) A, B and C are joint Hindú brothers, who own certain cattle in common. A is left by B and C in possession of a cow, which he sells to D. D purchases *bona fide*. The property in the cow is transferred to D.

(e.) A, by a misrepresentation not amounting to cheating, induces B to sell and deliver to him a horse. A sells the horse to C before B has rescinded the contract. The property in the horse is transferred to C; and B is entitled to compensation from A for any loss which B has sustained by being prevented from rescinding the contract.

(f.) A compels B by wrongful intimidation, or induces him by cheating or forgery, to sell him a horse, and, before B rescinds the contract, sells the horse to C. The property is not transferred to C.

WARRANTY.

109. If the buyer, or any person claiming under him, is, by reason of the invalidity of the seller's title, deprived of the thing sold, the seller is responsible to the buyer, or the person claiming under him, for loss caused thereby, unless a contrary intention appears by the contract.

Establishment of implied warranty of goodness or quality.

110. An implied warranty of goodness or quality may be established by the custom of any particular trade.

Warranty of soundness implied on sale of provisions.

111. On the sale of provisions, there is an implied warranty that they are sound.

Warranty of bulk implied on sale of goods by sample.

112. On the sale of goods by sample, there is an implied warranty that the bulk is equal in quality to the sample.

113. Where goods are sold as being of a certain denomination, there is an implied warranty that they are such goods as are commercially known by that denomination, although the buyer may have bought them by sample, or after inspection of the bulk.

Explanation.—But if the contract specifically states that the goods, though sold as of a certain denomination, are not warranted to be of that denomination, there is no implied warranty.

Illustrations.

(a.) A, at Calcutta, sells to B twelve bags of "waste silk," then on its way from Murshedábád to Calcutta. There is an implied warranty by A that the silk shall be such as is known in the market under the denomination of "waste silk."

(b.) A

(b.) A buys, by sample and after having inspected the bulk, 100 bales of "Fair Bengal" Cotton. The cotton proves not to be such as is known in the market as "Fair Bengal:" there is a breach of warranty.

114. Where goods have been ordered for a specified purpose, for which goods, of the denomination mentioned in the order, are usually sold, there is an implied warranty by the seller that the goods supplied are fit for that purpose.

Warranty where goods ordered for a specified purpose.

Illustration.

B orders of A, a copper manufacturer, copper for sheathing a vessel. A, on this order, supplies copper. There is an implied warranty that the copper is fit for sheathing a vessel.

Warranty on sale of article of a well-known ascertained kind.

115. Upon the sale of an article of a well-known ascertained kind, there is no implied warranty of its fitness for any particular purpose.

Illustration.

B writes to A, the owner of a patent invention for cleaning cotton—"Send me your patent cotton-cleaning machine to clean the cotton at my factory." A sends the machine according to order. There is an implied warranty by A that it is the article known as A's patent cotton-cleaning machine, but none that it is fit for the particular purpose of cleaning the cotton at B's factory.

116. In the absence of fraud and of any express warranty of quality, the seller of an article, which answers the description under which it was sold, is not responsible for a latent defect in it.

Seller when not responsible for latent defects.

Illustration.

A sells to B a horse. It turns out that the horse had, at the time of the sale, a defect of which A was unaware. A is not responsible for this.

117. Where a specific article, sold with a warranty, has been delivered and accepted, and the warranty is broken, the sale is not thereby rendered voidable; but the buyer is entitled to compensation from the seller for loss caused by the breach of warranty.

Buyer's right on breach of warranty.

Illustration.

A sells and delivers to B a horse, warranted sound. The horse proves to have been unsound at the time of sale. The sale is not thereby rendered voidable, but B is entitled to compensation from A for loss caused by the unsoundness.

118. Where there has been a contract, with a warranty, for the sale of goods which, at the time of the contract, were not ascertained or not in existence, and the warranty is broken, the buyer may

Right of buyer on breach of warranty in respect of goods not ascertained.

accept the goods or refuse to accept the goods when tendered, or keep the goods for a time reasonably sufficient for examining and trying them, and then refuse to accept them; provided that, during such time, he exercises

cises no other act of ownership over them than is necessary for the purpose of examination and trial.

In any case the buyer is entitled to compensation from the seller for any loss caused by the breach of warranty; but if he accepts the goods and intends to claim compensation, he must give notice of his intention to do so within a reasonable time after discovering the breach of the warranty.

Illustrations.

(a.) A agrees to sell and, without application on B's part, deliver to B 200 bales of unascertained cotton by sample. Cotton, not in accordance with sample, is delivered to B. B may return it if he has not kept it longer than a reasonable time for the purpose of examination.

(b.) B agrees to buy of A twenty-five sacks of flour by sample. The flour is delivered to B, who pays the price. B, upon examination, finds it not equal to sample; B afterwards uses two sacks, and sells one. He cannot now rescind the contract and recover the price, but he is entitled to compensation from A for any loss caused by the breach of warranty.

(c.) B makes two pairs of shoes for A by A's order. When the shoes are delivered, they do not fit A. A keeps both pairs for a day. He wears one pair for a short time in the house, and takes a long walk out of doors in the other pair. He may refuse to accept the first pair, but not the second. But he may recover compensation for any loss sustained by the defect of the second pair.

MISCELLANEOUS.

119. When the seller sends to the buyer goods, not ordered, with goods ordered, the buyer may refuse to accept any of the goods so sent, if there is risk or trouble in separating the good ordered from the goods not ordered.

When buyer may refuse to accept if goods not ordered are sent with goods ordered.

Illustration.

A orders of B specific articles of china. B sends these articles to A in a hamper, with other articles of china which had not been ordered. A may refuse to accept any of the goods sent.

Effect of wrongful refusal to accept.

120. If a buyer wrongfully refuses to accept the goods sold to him, this amounts to a breach of the contract of sales

121. When goods sold have been delivered to the buyer, the seller is not entitled to rescind the contract on the buyer's failing to pay the price at the time fixed, unless it was stipulated by the contract that he should be so entitled.

Right of seller as to rescission on failure of buyer to pay price at time fixed.

122. Where goods are sold by auction, there is a distinct and separate sale of the goods in each lot, by which the ownership thereof is transferred as each lot is knocked down.

Sale and transfer of lots sold by auction.

Effect of use by seller of pretended biddings to raise price.

123. If, at a sale by auction, the seller makes use of pretended biddings to raise the price, the sale is voidable at the option of the buyer.

CHAPTER VIII.—OF INDEMNITY AND GUARANTEE.

124. A contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person, is called a contract of indemnity.

Contract of "indemnity" defined.

Illustration.

(a.) A contracts to indemnify B against the consequences of any proceedings which C may take against B in respect of a certain sum of 200 Rupees. This is a contract of indemnity.

Rights and liabilities of indemnity holder when sued.

125. The promisee in a contract of indemnity, acting within the scope of his authority, is entitled to recover from the promisor—

- (1) all damages which he may be compelled to pay in any suit in respect of any matter to which the promise to indemnify applies;
- (2) all costs which he may be compelled to pay in any such suit if, in bringing or defending it, he did not contravene the orders of the promisor and acted as it would have been prudent for him to act in the absence of any contract of indemnity, or if the promisor authorized him to bring or defend the suit;
- (3) all sums which he may have paid under the terms of any compromise of any such suit, if the compromise was not contrary to the orders of the promisor and was one which it would have been prudent for the promisee to make in the absence of any contract of indemnity, or if the promisor authorized him to compromise the suit.

126. A contract of guarantee is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the surety, the person in respect of whose default the guarantee is given is called the principal debtor, and the person to whom the guarantee is given is called the creditor. A guarantee may be either oral or written.

Contract of "guarantee," "surety," "principal debtor," and "creditor."

127. Anything done, or any promise made, for the benefit of the principal debtor, may be a sufficient consideration to the surety for giving the guarantee.

Consideration for guarantee.

Illustrations.

(a.) B requests A to sell and deliver to him goods on credit. A agrees to do so, provided C will guarantee the payment of the price of the goods. C promises to guarantee the payment in consideration of A's promise to deliver the goods. This is a sufficient consideration for C's promise.

(b.) A sells and delivers goods to B. C afterwards requests A to forbear to sue B for the debt for a year, and promises that, if he does so, C will pay for them in default of payment by B. A agrees to forbear as requested. This is a sufficient consideration for C's promise.

(c.) A

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(c.) A sells and delivers goods to B. C afterwards, without consideration, agrees to pay for them in default of B. The agreement is void.

128. The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.

Surety's liability.

Illustration.

A guarantees to B the payment of a bill of exchange by C, the acceptor. The bill is dishonoured by C. A is liable, not only for the amount of the bill, but also for any interest and charges which may have become due on it.

129. A guarantee which extends to a series of transactions, is called a continuing guarantee.

Illustrations.

(a.) A, in consideration that B will employ C in collecting the rents of B's zemindari, promises B to be responsible, to the amount of 5,000 rupees, for the due collection and payment by C of those rents. This is a continuing guarantee.

(b.) A guarantees payment to B, a tea-dealer, to the amount of £100, for any tea he may from time to time supply to C. B supplies C with tea to above the value of £100, and C pays B for it. Afterwards B supplies C with tea to the value of £200. C fails to pay. The guarantee given by A was a continuing guarantee, and he is accordingly liable to B to the extent of £100.

(c.) A guarantees payment to B of the price of five sacks of flour to be delivered by B to C and to be paid for in a month. B delivers five sacks to C. C pays for them. Afterwards B delivers four sacks to C, which C does not pay for. The guarantee given by A was not a continuing guarantee, and accordingly he is not liable for the price of the four sacks.

Revocation of continuing guarantee.

130. A continuing guarantee may at any time be revoked by the surety, as to future transactions, by notice to the creditor.

Illustrations.

(a.) A, in consideration of B's discounting, at A's request, bills of exchange for C, guarantees to B for twelve months the due payment of all such bills to the extent of 5,000 rupees. B discounts bills for C to the extent of 2,000 rupees. Afterwards, at the end of three months, A revokes the guarantee. This revocation discharges A from all liability to B for any subsequent discount. But A is liable to B for the 2,000 rupees on default of C.

(b.) A guarantees to B, to the extent of 10,000 rupees, that C shall pay all the bills that B shall draw upon him. B draws upon C. C accepts the bill. A gives notice of revocation. C dishonours the bill at maturity. A is liable upon his guarantee.

131. The death of the surety operates, in the absence of any contract to the contrary, as a revocation of a continuing guarantee, so far as regards future transactions.

Revocation of continuing guarantee by surety's death.

132. Where two persons contract with a third person to undertake a certain liability, and also contract with each other that one of them shall be liable only on the default of the other, the third person not being a party to such contract, the liability of each

Liability of two persons primarily liable, not affected by a private arrangement between them as to suretyship.

each of such two persons to the third person under the first contract is not affected by the existence of the second contract, although such third person may have been aware of its existence.

Illustration.

A and B make a joint and several promissory note to C. A makes it, in fact, as surety for B, and C knows this at the time when the note is made. The fact that A, to the knowledge of C, made the note as surety for B, is no answer to a suit by C against A upon the note.

133. Any variance, made without the surety's consent, in the terms of the contract between the principal and the creditor, discharges the surety as to transactions subsequent to the variance.

Discharge of surety by variance in terms of contract.

Illustrations.

(a.) A becomes surety to C for B's conduct as a manager in C's bank. Afterwards, B and C contract, without A's consent, that B's salary shall be raised, and that he shall become liable for one-fourth of the losses on over-drafts. B allows a customer to overdraw, and the bank loses a sum of money. A is discharged from his suretyship by the variance made without his consent, and is not liable to make good this loss.

(b.) A guarantees C against the misconduct of B in an office to which B is appointed by C, and of which the duties are defined by an Act of the legislature. By a subsequent Act, the nature of the office is materially altered. Afterwards, B misconducts himself. A is discharged by the change from future liability under his guarantee, though the misconduct of B is in respect of a duty not affected by the later Act.

(c.) C agrees to appoint B as his clerk to sell goods at a yearly salary, upon A's becoming surety to C for B's duly accounting for monies received by him as such clerk. Afterwards, without A's knowledge or consent, C and B agree that B should be paid by a commission on the goods sold by him and not by a fixed salary. A is not liable for subsequent misconduct of B.

(d.) A gives to C a continuing guarantee to the extent of 3,000 rupees for any oil supplied by C to B on credit. Afterwards B becomes embarrassed, and, without the knowledge of A, B and C contract that C shall continue to supply B with oil for ready money, and that the payments shall be applied to the then existing debts between B and C. A is not liable on his guarantee for any goods supplied after this new arrangement.

(e.) C contracts to lend B 5,000 rupees on the first March. A guarantees repayment. C pays the 5,000 rupees to B on the first January. A is discharged from his liability, as the contract has been varied, inasmuch as C might sue B for the money before the first of March.

134. The surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor.

Discharge of surety by release or discharge of principal debtor.

Illustrations.

(a.) A gives a guarantee to C for goods to be supplied by C to B. C supplies goods to B, and afterwards B becomes embarrassed and contracts with his creditors (including C) to assign to them his property in consideration of their releasing him from their demands. Here B is released from his debt by the contract with C, and A is discharged from his suretyship.

(b.) A

(b.) A contracts with B to grow a crop of indigo on A's land and to deliver it to B at a fixed rate, and C guarantees A's performance of this contract. B diverts a stream of water which is necessary for the irrigation of A's land, and thereby prevents him from raising the indigo. C is no longer liable on his guarantee.

(c.) A contracts with B for a fixed price to build a house for B within a stipulated time, B supplying the necessary timber. C guarantees A's performance of the contract. B omits to supply the timber: C is discharged from his suretyship.

135. A contract between the creditor and the principal debtor, by which the creditor makes a composition with, or promises to give time to, or not to sue, the principal debtor, discharges the surety, unless the surety assents to such contract.

Discharge of surety when creditor compounds with, gives time to, or agrees not to sue principal debtor.

Surety not discharged when agreement made with a third person to give time to principal debtor.

136. Where a contract to give time to the principal debtor is made by the creditor with a third person, and not with the principal debtor, the surety is not discharged.

Illustration.

C, the holder of an overdue bill of exchange drawn by A as surety for B, and accepted by B, contracts with M to give time to B. A is not discharged.

137. Mere forbearance on the part of the creditor to sue the principal debtor, or to enforce any other remedy against him, does not, in the absence of any provision in the guarantee to the contrary, discharge the surety.

Creditor's forbearance to sue does not discharge surety.

Illustration.

B owes to C a debt guaranteed by A. The debt becomes payable. C does not sue B for a year after the debt has become payable. A is not discharged from his suretyship.

138. Where there are co-sureties, a release by the creditor of one of them does not discharge the others; neither does it free the surety so released from his responsibility to the other sureties.

Release of one co-surety does not discharge others.

139. If the creditor does any act which is inconsistent with the rights of the surety, or omits to do any act which his duty to the surety requires him to do, and the eventual remedy of the surety himself against the principal debtor is thereby impaired, the surety is discharged.

Discharge of surety by creditor's act or omission impairing surety's eventual remedy.

Illustrations.

(a.) B contracts to build a ship for C for a given sum, to be paid by instalments as the work reaches certain stages. A becomes surety to C for B's due performance of the contract. C, without the knowledge of A, prepays to B the last two instalments. A is discharged by this prepayment.

(b.) C lends money to B on the security of a joint and several promissory note made in C's favour by B and by A as surety for B, together with a bill of sale of B's furniture, which gives power to C to sell the furniture, and apply the proceeds in discharge of the note. Subsequently C sells the furniture, but,

but, owing to his misconduct and wilful negligence only a small price is realized. A is discharged from liability on the note.

(c.) A puts M as apprentice to B, and gives a guarantee to B for M's fidelity. B promises on his part that he will, at least once a month, see M make up the cash. B omits to see this done as promised, and M embezzles. A is not liable to B on his guarantee.

140. Where a guaranteed debt has become due, or default of the principal debtor to perform a guaranteed duty has taken place, the surety, upon payment or performance of all that he is liable for, is invested with all the rights which the creditor had against the principal debtor.

141. A surety is entitled to the benefit of every security, which the creditor has against the principal debtor at the time when the contract of suretyship is entered into, whether the surety knows of the existence of such security or not; and if the creditor loses, or, without the consent of the surety, parts with such security, the surety is discharged to the extent of the value of the security.

Illustrations.

(a.) C advances to B, his tenant, 2,000 rupees on the guarantee of A. C has also a further security for the 2,000 rupees by a mortgage of B's furniture. C cancels the mortgage. B becomes insolvent, and C sues A on his guarantee. A is discharged from liability to the amount of the value of the furniture.

(b.) C, a creditor, whose advance to B is secured by a decree, receives also a guarantee for that advance from A. C afterwards takes B's goods in execution under the decree, and then, without the knowledge of A, withdraws the execution. A is discharged.

(c.) A, as surety for B, makes a bond jointly with B to C to secure a loan from C to B. Afterwards, C obtains from B a further security for the same debt. Subsequently C gives up the further security. A is not discharged.

142. Any guarantee, which has been obtained by means of misrepresentation made by the creditor, or with his knowledge and assent, concerning a material part of the transaction, is invalid.

143. Any guarantee, which the creditor has obtained by means of keeping silence as to a material circumstance, is invalid.

Illustrations.

(a.) A engages B as clerk to collect money for him. B fails to account for some of his receipts, and A in consequence calls upon him to furnish security for his duly accounting. C gives his guarantee for B's duly accounting. A does not acquaint C with B's previous conduct. B afterwards makes default. The guarantee is invalid.

(b.) A guarantees to C payment for iron to be supplied by him to B to the amount of 2,000 tons. B and C have privately agreed that B should pay five rupees per ton beyond the market price, such excess to be applied in liquidation of an old debt. This agreement is concealed from A. A is not liable as a surety.

144. Where

Guarantee on agreement that creditor shall not act on it until co-surety joins.

144. Where a person gives a guarantee upon a contract that the creditor shall not act upon it until another person has joined in it as co-surety, the guarantee is not valid if that other person does not join.

145. In every contract of guarantee there is an implied promise by the principal debtor to indemnify the surety; and the surety is entitled to recover from the principal debtor whatever sum he has rightfully paid under the guarantee, but no sums which he has paid wrongfully.

Illustrations.

(a.) B is indebted to C, and A is surety for the debt. C demands payment from A, and on his refusal sues him for the amount. A defends the suit, having reasonable grounds for doing so, but he is compelled to pay the amount of the debt with costs. He can recover from B the amount paid by him for costs, as well as the principal debt.

(b.) C lends B a sum of money, and A, at the request of B, accepts a bill of exchange drawn by B upon A to secure the amount. C, the holder of the bill, demands payment of it from A, and on A's refusal to pay sues him upon the bill. A, not having reasonable grounds for so doing, defends the suit, and has to pay the amount of the bill and costs. He can recover from B the amount of the bill, but not the sum paid for costs, as there was no real ground for defending the action.

(c.) A guarantees to C, to the extent of 2,000 rupees, payment for rice to be supplied by C to B. C supplies to B rice to a less amount than 2,000 rupees, but obtains from A payment of the sum of 2,000 rupees in respect of the rice supplied. A cannot recover from B more than the price of the rice actually supplied.

146. Where two or more persons are co-sureties for the same debt or duty, either jointly or severally, and whether under the same or different contracts, and whether with or without the knowledge of each other, the co-sureties, in the absence of any contract to the contrary, are liable, as between themselves, to pay each an equal share of the whole debt, or of that part of it which remains unpaid by the principal debtor.

Illustrations.

(a.) A, B and C are sureties to D for the sum of 3,000 rupees lent to E. E makes default in payment. A, B and C are liable as between themselves to pay 1,000 rupees each.

(b.) A, B and C are sureties to D for the sum of 1,000 rupees lent to E, and there is a contract between A, B and C that A is to be responsible to the extent of one-quarter, B to the extent of one-quarter, and C to the extent of one-half. E makes default in payment. As between the sureties, A is liable to pay 250 rupees, B 250 rupees, and C 500 rupees.

147. Co-sureties, who are bound in different sums, are liable to pay equally as far as the limits of their respective obligations permit.

Illustrations.

(a.) A, B and C, as sureties for D, enter into three several bonds, each in a different penalty, namely A in the penalty of 10,000 rupees, B in that of 20,000 rupees, C in that of 40,000 rupees, conditioned

conditioned for D's duly accounting to E. D makes default to the extent of 30,000 rupees. A, B and C are each liable to pay 10,000 rupees.

(b.) A, B and C, as sureties for D, enter into three several bonds, each in a different penalty, namely, A in the penalty of 10,000 rupees, B in that of 20,000 rupees, C in that of 40,000 rupees, conditioned for D's duly accounting to E. D makes default to the extent of 40,000 rupees. A is liable to pay 10,000 rupees, and B and C 15,000 rupees each.

(c.) A, B and C, as sureties for D, enter into three several bonds, each in a different penalty, namely A in the penalty of 10,000 rupees, B in that of 20,000 Rupees, C in that of 40,000 rupees, conditioned for D's duly accounting to E. D makes default to the extent of 70,000 rupees. A, B and C have to pay each the full penalty of his bond.

CHAPTER IX.—OF BAILMENT.

148. A bailment is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. The person delivering the goods is called the bailor. The person to whom they are delivered is called the bailee.

Explanation.—If a person, already in possession of the goods of another, contracts to hold them as a bailee, he thereby becomes the bailee, and the owner becomes the bailor of such goods, although they may not have been delivered by way of bailment.

149. The delivery to the bailee may be made by doing anything which has the effect of putting the goods in the possession of the intended bailee or of any person authorized to hold them on his behalf.

150. The bailor is bound to disclose to the bailee faults in the goods bailed, of which the bailor is aware, and which materially interfere with the use of them, or expose the bailee to extraordinary risks; and if he does not make such disclosure, he is responsible for damage arising to the bailee directly from such faults.

If the goods are bailed for hire, the bailor is responsible for such damage, whether he or was not aware of the existence of such faults in the goods bailed.

Illustrations.

(a.) A lends, a horse, which he knows to be vicious, to B. He does not disclose the fact that the horse is vicious. The horse runs away. B is thrown and injured. A is responsible to B for damage sustained.

(b.) A hires a carriage of B. The carriage is unsafe though B is not aware of it, and A is injured. B is responsible to A for the injury.

151. In all cases of bailment the bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value as the goods bailed.

152. The

152. The bailee, in the absence of any special contract, is not responsible for the loss, destruction or deterioration of the thing bailed, if he has taken the amount of care of it described in section 151.

153. A contract of bailment is voidable at the option of the bailor, if the bailee does any act with regard to the goods bailed, inconsistent with the conditions of the bailment.

Illustration.

A lets to B for hire a horse for his own riding. B drives the horse in his carriage. This is, at the option of A, a termination of the bailment.

154. If the bailee makes any use of the goods bailed which is not according to the conditions of the bailment, he is liable to make compensation to the bailor for any damage arising to the goods from or during such use of them.

Illustrations.

(a.) A lends a horse to B for his own riding only. B allows C, a member of his family, to ride the horse. C rides with care, but the horse accidentally falls and is injured. B is liable to make compensation to A for the injury done to the horse.

(b.) A hires a horse in Calcutta from B expressly to march to Benares. A rides with due care, but marches to Cuttack instead. The horse accidentally falls and is injured. A is liable to make compensation to B for the injury to the horse.

155. If the bailee, with the consent of the bailor, mixes the goods of the bailor with his own goods, the bailor and the bailee shall have an interest, in proportion to their respective shares, in the mixture thus produced.

156. If the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods, and the goods can be separated or divided, the property in the goods remains in the parties respectively; but the bailee is bound to bear the expense of separation or division, and any damage arising from the mixture.

Illustration.

A bails 100 bales of cotton marked with a particular mark to B. B without A's consent mixes the 100 bales with other bales of his own bearing a different mark: A is entitled to have his 100 bales returned, and B is bound to bear all the expense incurred in the separation of the bales and any other incidental damage.

157. If the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods, in such a manner that it is impossible to separate the goods bailed from the other goods, and deliver them back, the bailor is entitled to be compensated by the bailee for the loss of the goods.

Illustration.

Illustration.

A bails a barrel of Cape flour worth Rs. 45 to B. B, without A's consent, mixes the flour with country flour of his own, worth only Rs. 25 a barrel. B must compensate A for the loss of his flour.

158. Where, by the conditions of the bailment, the goods are to be kept or to be carried, or to have work done upon them by the bailee for the bailor, and the bailee is to receive no remuneration, the bailor shall re-pay to the bailee the necessary expenses incurred by him for the purpose of the bailment.

159. The lender of a thing for use may at any time require its return, if the loan was gratuitous, even though he lent it for a specified time or purpose. But if, on the faith of such loan, made for a specified time or purpose, the borrower has acted in such a manner that the return of the thing lent before the time agreed upon would cause him loss exceeding the benefit actually derived by him from the loan, the lender must, if he compels the return, indemnify the borrower for the amount in which the loss so occasioned exceeds the benefit so derived.

160. It is the duty of the bailee to return, or deliver according to the bailor's directions, the goods bailed, without demand, as soon as the time for which they were bailed has expired, or the purpose for which they were bailed has been accomplished.

161. If by the fault of the bailee the goods are not returned, delivered, or tendered at the proper time, he is responsible to the bailor for any loss, destruction, or deterioration of the goods from that time.

162. A gratuitous bailment is terminated by the death either of the bailor or of the bailee.

163. In the absence of any contract to the contrary, the bailee is bound to deliver to the bailor, or according to his directions, any increase or profit which may have accrued from the goods bailed.

Illustration:

A leaves a cow in the custody of B to be taken care of. The cow has a calf. B is bound to deliver the calf as well as the cow to A.

164. The bailor is responsible to the bailee for any loss which the bailee may sustain by reason that the bailor was not entitled to make the bailment, or to receive back the goods, or to give directions respecting them.

165. If

165. If several joint owners of goods bail them, the bailee may deliver them back to, or according to the directions of one joint owner without the consent of all, in the absence of any agreement to the contrary.

166. If the bailor has no title to the goods, and the bailee, in good faith, delivers them back to, or according to the directions of the bailor, the bailee is not responsible to the owner in respect of such delivery.

167. If a person, other than the bailor, claims goods bailed, he may apply to the Court to stop the delivery of the goods to the bailor, and to decide the title to the goods.

168. The finder of goods has no right to sue the owner for compensation for trouble and expense voluntarily incurred by him to preserve the goods and to find out the owner; but he may retain the goods against the owner until he receives such compensation; and where the owner has offered a specific reward for the return of goods lost, the finder may sue for such reward, and may retain the goods until he receives it.

169. When a thing, which is commonly the subject of sale, is lost, if the owner cannot with reasonable diligence be found, or if he refuses, upon demand, to pay the lawful charges of the finder, the finder may sell it—

- (1.) when a thing is in danger of perishing or of losing the greater part of its value, or,
- (2.) when the lawful charges of the finder, in respect of the thing found, amount to two-thirds of its value.

170. Where the bailee has, in accordance with the purpose of the bailment, rendered any service involving the exercise of labour or skill in respect of the goods bailed, he has, in the absence of a contract to the contrary, a right to retain such goods until he receives due remuneration for the services he has rendered in respect of them.

Illustrations.

(a.) A delivers a rough diamond to B, a jeweller, to be cut and polished, which is accordingly done. B is entitled to retain the stone till he is paid for the services he has rendered.

(b.) A gives cloth to B, a tailor, to make into a coat. B promises A to deliver the coat as soon as it is finished, and to give A three months' credit for the price. B is not entitled to retain the coat until he is paid.

171. Bankers,

171. Bankers, factors, wharfingers, attorneys of a High Court and policy brokers may, in the absence of a contract to the contrary, retain as a security for a general balance of account, any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed to them, unless there is an express contract to that effect.

General line of bankers, factors, wharfingers, attorneys, and policy brokers.

BAILMENTS OF PLEDGES.

172. The bailment of goods as security for payment of a debt or performance of a promise is called pledge. The bailor is in this case called the pawnor. The bailee is called the pawnee.

'Pledge,' 'pawnor,' and 'pawnee,' defined.

173. The pawnee may retain the goods pledged, not only for payment of the debt or the performance of the promise, but for the interest of the debt, and all necessary expenses incurred by him in respect of the possession or for the preservation of the goods pledged.

Pawnee's right of retainer.

174. The pawnee shall not, in the absence of a contract to that effect, retain the goods pledged for any debt or promise other than the debt or promise for which they are pledged; but such contract, in the absence of anything to the contrary, shall be presumed in regard to subsequent advances made by the pawnee.

Pawnee not to retain for debt or promise other than that for which goods pledged.
Presumption in case of subsequent advances.

175. The pawnee is entitled to receive from the pawnor extraordinary expenses incurred by him for the preservation of the goods pledged.

Pawnee's right as to extraordinary expenses incurred.

176. If the pawnor makes default in payment of the debt, or performance, at the stipulated time, of the promise, in respect of which the goods were pledged, the pawnee may bring a suit against the pawnor upon the debt or promise, and retain the goods pledged as a collateral security; or he may sell the thing pledged, on giving the pawnor reasonable notice of the sale.

Pawnee's right where pawnor makes default.

If the proceeds of such sale are less than the amount due in respect of the debt or promise, the pawnor is still liable to pay the balance. If the proceeds of the sale are greater than the amount so due, the pawnee shall pay over the surplus to the pawnor.

177. If a time is stipulated for the payment of the debt, or performance of the promise, for which the pledge is made, and the pawnor makes default in payment of the debt or performance of the promise at the stipulated time, he may redeem the goods pledged at any subsequent

Defaulting pawnor's right to redeem.

quent time before the actual sale of them; but he must, in that case, pay, in addition, any expenses which have arisen from his default.

178. A person who is in possession of any goods, or of any bill of lading, dock-warrant, warehouse-keeper's certificate, wharfinger's certificate, or warrant or order for delivery, or any other document of title to goods, may make a valid pledge of such goods, or documents: Provided that the pawnee acts in good faith, and under circumstances which are not such as to raise a reasonable presumption that the pawnor is acting improperly:

Pledge by possessor of goods or documentary title to goods.

Provided also that such goods or documents have not been obtained from their lawful owner, or from any person in lawful custody of them, by means of an offence or fraud.

179. Where a person pledges goods in which he has only a limited interest, the pledge is valid to the extent of that interest.

Pledge where pledger has only a limited interest.

SUITS BY BAILEES OR BAILORS AGAINST WRONGDOERS.

180. If a third person wrongfully deprives the bailee of the use or possession of the goods bailed, or does them any injury, the bailee is entitled to use such remedies as the owner might have used in the like case if no bailment had been made; and either the bailor or the bailee may bring a suit against a third person for such deprivation or injury.

Suits by bailor or bailee against wrongdoers.

181. Whatever is obtained by way of relief or compensation in any such suit shall, as between the bailor and the bailee, be dealt with according to their respective interests.

Apportionment of relief or compensation obtained by such suits.

• AGENCY.

CHAPTER X.—APPOINTMENT AND AUTHORITY OF AGENTS.

182. An agent is a person employed to do any act for another, or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the principal.

'Agent' and 'principal' defined.

183. Any person who is of the age of majority according to the law to which he is subject, and who is of sound mind, may employ an agent.

184. As between the principal and third persons, any person may become an agent; but no person who is not of the age of majority and of sound mind can become an agent, so as to be responsible to his principal according to the provisions in that behalf herein contained.

Who may be an agent.

185. No

Consideration not necessary.

185. No consideration is necessary to create an agency.

Agent's authority may be expressed or implied.

186. The authority of an agent may be expressed or implied.

187. An authority is said to be express when it is given by words spoken or written. An authority is said to be implied when it is to be inferred from the circumstances of the case; and things spoken or written, or the ordinary course of dealing, may be accounted circumstances of the case.

Illustration.

A owns a shop in Serampore, living himself in Calcutta, and visiting the shop occasionally. The shop is managed by B, and he is in the habit of ordering goods from C in the name of A for the purposes of the shop, and of paying for them out of A's funds with A's knowledge. B has an implied authority from A to order goods from C in the name of A for the purposes of the shop.

188. An agent, having an authority to do an act, has authority to do every lawful thing which is necessary in order to do such act.

An agent having an authority to carry on a business, has authority to do every lawful thing necessary for the purpose, or usually done in the course, of conducting such business.

Illustrations.

(a.) A is employed by B, residing in London, to recover at Bombay a debt due to B. A may adopt any legal process necessary for the purpose of recovering the debt, and may give a valid discharge for the same.

(b.) A constitutes B his agent to carry on his business of a ship-builder. B may purchase timber and other materials, and hire workmen, for the purpose of carrying on the business.

189. An agent has authority, in an emergency, to do all such acts for the purpose of protecting his principal from loss as would be done by a person of ordinary prudence in his own case under similar circumstances.

Illustrations.

(a.) An agent for sale may have goods repaired if it be necessary.

(b.) A consigns provisions to B at Calcutta, with directions to send them immediately to C at Cuttack. B may sell the provisions at Calcutta if they will not bear the journey to Cuttack without spoiling.

SUB-AGENTS.

190. An agent cannot lawfully employ another to perform acts which he has expressly or impliedly undertaken to perform personally, unless by the ordinary custom of trade a sub-agent may, or, from the nature of the agency, a sub-agent must, be employed.

191. A

191. A sub-agent is a person employed by, and acting under the control of, the original agent in the business of the agency.

192. Where a sub-agent is properly appointed, the principal is, so far as regards third persons, represented by the sub-agent, and is bound by and responsible for his acts, as if he were an agent originally appointed by the principal.

The agent is responsible to the principal for the acts of the sub-agent:

The sub-agent is responsible for his acts to the agent, but not to the principal, except in cases of fraud or wilful wrong.

193. Where an agent, without having authority to do so, has appointed a person to act as a sub-agent, the agent stands towards such person in the relation of a principal to an agent, and is responsible for his acts both to the principal and to third persons; the principal is not represented by or responsible for the acts of the person so employed, nor is that person responsible to the principal.

194. Where an agent, holding an express or implied authority to name another person to act for the principal in the business of the agency, has named another person accordingly, such person is not a sub-agent, but an agent of the principal for such part of the business of the agency as is entrusted to him.

Illustrations.

(a.) A directs B, his solicitor, to sell his estate by auction, and to employ an auctioneer for the purpose. B names C, an auctioneer, to conduct the sale. C is not a sub-agent, but is A's agent for the conduct of the sale.

(b.) A authorizes B, a merchant in Calcutta, to recover the monies due to A from C & Co. B instructs D, a solicitor, to take legal proceedings against C & Co. for the recovery of the money. D is not a sub-agent, but is solicitor for A.

195. In selecting such agent for his principal, an agent is bound to exercise the same amount of discretion as a man of ordinary prudence would exercise in his own case; and, if he does this, he is not responsible to the principal for the acts or negligence of the agent so selected.

Illustrations.

(a.) A instructs B, a merchant, to buy a ship for him. B employs a ship-surveyor of good reputation to choose a ship for A. The surveyor makes the choice negligently and the ship turns out to be unseaworthy and is lost. B is not, but the surveyor is, responsible to A.

(b.) A consigns goods to B, a merchant, for sale. B, in due course, employs an auctioneer in good credit to sell the goods of A, and allows the auctioneer to receive the proceeds of the sale. The auctioneer afterwards

afterwards becomes insolvent without having accounted for the proceeds. B is not responsible to A for the proceeds.

RATIFICATION.

196. Where acts are done by one person on behalf of another, but without his knowledge or authority, he may elect to ratify or to disown such acts. If he ratify them, the same effects will follow as if they had been performed by his authority.

Right of person as to acts done for him without his authority.
Effect of ratification.

197. Ratification may be expressed or may be implied in the conduct of the person on whose behalf the acts are done.

Ratification may be expressed or implied.

Illustrations.

(a.) A, without authority, buys goods for B. Afterwards B sells them to C on his own account; B's conduct implies a ratification of the purchase made for him by A.

(b.) A, without B's authority, lends B's money to C. Afterwards B accepts interest on the money from C. B's conduct implies a ratification of the loan.

198. No valid ratification can be made by a person, whose knowledge of the

Knowledge requisite to valid ratification.

facts of the case is materially defective.

199. A person, ratifying any unauthorized act done on his behalf, ratifies the whole of the transaction, of which such act formed a part.

Effect of ratifying unauthorized act forming part of a transaction.

200. An act done by one person on behalf of another without such other person's authority, which, if done with authority, would have the effect of subjecting a third person to damages, or of terminating any right or interest of a third person, cannot, by ratification, be made to have such effect.

Ratification of unauthorized act cannot injure third person.

Illustrations.

(a.) A, not being authorized thereto by B, demands, on behalf of B, the delivery of a chattel, the property of B, from C who is in possession of it. This demand cannot be ratified by B, so as to make C liable for damages for his refusal to deliver.

(b.) A holds a lease from B, terminable on three months' notice. C, an unauthorized person, gives notice of termination to A. The notice cannot be ratified by B, so as to be binding on A.

REVOCATION OF AUTHORITY.

201. An agency is terminated by the principal revoking his authority; or by the agent renouncing the business of the agency; or by the business of the agency being completed; or by either the principal or agent dying or becoming of unsound mind; or by the principal being adjudicated an insolvent under the provisions of any Act for the time being in force for the relief of insolvent debtors.

Termination of agency.

202. Where the agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.

Termination of agency, where agent has an interest in subject-matter.

Illustrations.

(a.) A gives authority to B to sell A's land, and to pay himself out of the proceeds the debts due to him from A. A cannot revoke this authority, nor can it be terminated by his insanity or death.

(b.) A consigns 1,000 bales of cotton to B, who has made advances to him on such cotton, and desires B to sell the cotton, and to repay himself out of the price the amount of his own advances. A cannot revoke this authority, nor is it terminated by his insanity or death.

203. The principal may, save as is otherwise provided by the last preceding section, revoke the authority given to his agent at any time before the authority has been exercised so as to bind the principal.

When principal may revoke agent's authority.

204. The principal cannot revoke the authority given to his agent after the authority has been partly exercised, so far as regards such acts and obligations as arise from acts already done in the agency.

Revocation where authority has been partly exercised.

Illustrations.

(a.) A authorizes B to buy 1,000 bales of cotton on account of A, and to pay for it out of A's monies remaining in B's hands. B buys 1,000 bales of cotton in his own name, so as to make himself personally liable for the price. A cannot revoke B's authority so far as regards payment for the cotton.

(b.) A authorizes B to buy 1,000 bales of cotton on account of A, and to pay for it out of A's monies remaining in B's hands. B buys 1,000 bales of cotton in A's name, and so as not to render himself personally liable for the price. A can revoke B's authority to pay for the cotton.

205. Where there is an express or implied contract that the agency should be continued for any period of time, the principal must make compensation to the agent, or the agent to the principal, as the case may be, for any previous revocation or renunciation of the agency without sufficient cause.

Compensation for revocation by principal or renunciation by agent.

206. Reasonable notice must be given of such revocation or renunciation, otherwise the damage thereby resulting to the principal or the agent, as the case may be, must be made good to the one by the other.

Notice of revocation or renunciation.

207. Revocation and renunciation may be expressed or may be implied in the conduct of the principal or agent respectively.

Revocation and renunciation may be expressed or implied.

Illustration.

A empowers B to let A's house. Afterwards A lets it himself. This is an implied revocation of B's authority.

208. The

202. Where

208. The termination of the authority of an agent does not, so far as regards the agent, take effect before it becomes known to him, or, so far as regards third persons, before it becomes known to them.

When termination of agent's authority takes effect as to agent and as to third persons.

Illustrations.

(a.) A directs B to sell goods for him, and agrees to give B five per cent. commission on the price fetched by the goods. A afterwards, by letter, revokes B's authority. B, after the letter is sent, but before he receives it, sells the goods for 100 rupees. The sale is binding on A, and B is entitled to five rupees as his commission.

(b.) A, at Madras, by letter directs B to sell for him some cotton lying in a warehouse in Bombay, and afterwards, by letter, revokes his authority to sell, and directs B to send the cotton to Madras. B, after receiving the second letter, enters into a contract with C, who knows of the first letter, but not of the second, for the sale to him of the cotton. C pays B the money, with which B absconds. C's payment is good as against A.

(c.) A directs B, his agent, to pay certain money to C. A dies and D takes out probate to his will. B, after A's death, but before hearing of it, pays the money to C. The payment is good as against D, the executor.

209. When an agency is terminated by the principal dying or becoming of unsound mind, the agent is bound to take, on behalf of the representatives of his late principal, all reasonable steps for the protection and preservation of the interests entrusted to him.

Agent's duty on termination of agency by principal's death or insanity.

210. The termination of the authority of an agent causes the termination, (subject to the rules herein contained regarding the termination of an agent's authority), of the authority of all sub-agents appointed by him.

Termination of sub-agent's authority.

AGENT'S DUTY TO PRINCIPAL.

211. An agent is bound to conduct the business of his principal according to the directions given by the principal, or, in the absence of any such directions, according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise, if any loss be sustained, he must make it good to his principal, and, if any profit accrues, he must account for it.

Agent's duty in conducting principal's business.

Illustrations.

(a.) A, an agent engaged in carrying on for B a business, in which it is the custom to invest from time to time at interest the monies which may be in hand, omits to make such investment. A must make good to B the interest usually obtained by such investments.

(b.) B, a broker, in whose business it is not the custom to sell on credit, sells goods of A on credit to C, whose credit at the time was very high. C, before payment, becomes insolvent. B must make good the loss to A.

212. An

212. An agent is bound to conduct the business of the agency with as much skill as is generally possessed by persons engaged in similar business, unless the principal has notice of his want of skill. The agent is always bound to act with reasonable diligence, and to use such skill as he possesses; and to make compensation to his principal in respect of the direct consequences of his own neglect, want of skill, or misconduct, but not in respect of loss or damage which are indirectly or remotely caused by such neglect, want of skill, or misconduct.

Skill and diligence required from agent.

Illustrations.

(a.) A, a merchant in Calcutta, has an agent, B, in London, to whom a sum of money is paid on A's account, with orders to remit. B retains the money for a considerable time. A, in consequence of not receiving the money, becomes insolvent. B is liable for the money and interest from the day on which it ought to have been paid, according to the usual rate, and for any further direct loss—as a g., by variation of rate of exchange—but not further.

(b.) A, an agent for the sale of goods, having authority to sell on credit, sells to B, on credit, without making the proper and usual enquiries as to the solvency of B. B, at the time of such sale, is insolvent. A must make compensation to his principal in respect of any loss thereby sustained.

(c.) A, an insurance broker, employed by B to effect an insurance on a ship, omits to see that the usual clauses are inserted in the policy. The ship is afterwards lost. In consequence of the omission of the clauses nothing can be recovered from the underwriters. A is bound to make good the loss to B.

(d.) A, a merchant in England, directs B, his agent at Bombay, who accepts the agency, to send him 100 bales of cotton by a certain ship. B, having it in his power to send the cotton, omits to do so. The ship arrives safely in England. Soon after her arrival the price of cotton rises. B is bound to make good to A the profit which he might have made by the 100 bales of cotton at the time the ship arrived, but not any profit he might have made by the subsequent rise.

213. An agent is bound to render proper accounts to his principal on demand.

Agent's accounts.

214. It is the duty of an agent, in cases of difficulty, to use all reasonable diligence in communicating with his principal, and in seeking to obtain his instructions.

Agent's duty to communicate with principal.

215. If an agent deals on his own account in the business of the agency, without first obtaining the consent of his principal and acquainting him with all material circumstances which have come to his own knowledge on the subject, the principal may repudiate the transaction, if the case show, either that any material fact has been dishonestly concealed from him by the agent, or that the dealings of the agent have been disadvantageous to him.

Right of principal when agent deals on his own account in business of agency without principal's consent.

Illustrations.

(a.) A directs B to sell A's estate. B buys the estate for himself in the name of C. A, on discovering that B has bought the estate for himself, may repudiate the sale, if he can show that B has dishonestly concealed any material fact, or that the sale has been disadvantageous to him.

(b.) A

(b.) A directs B to sell A's estate. B, on looking over the estate before selling it, finds a mine on the estate which is unknown to A. B informs A that he wishes to buy the estate for himself, but conceals the discovery of the mine. A allows B to buy, in ignorance of the existence of the mine. A, on discovering that B knew of the mine at the time he bought the estate, may either repudiate or adopt the sale at his option.

216. If an agent, without the knowledge of his principal, deals in the business of the agency on his own account instead of on account of his principal, the principal is entitled to claim from the agent any benefit which may have resulted to him from the transaction.

Principal's right to benefit gained by agent dealing on his own account in business of agency.

Illustration.

A directs B, his agent, to buy a certain house for him. B tells A it cannot be bought, and buys the house for himself. A may, on discovering that B has bought the house, compel him to sell it to A at the price he gave for it.

217. An agent may retain, out of any sums received on account of the principal in the business of the agency, all monies due to himself in respect of advances made or expenses properly incurred by him in conducting such business, and also such remuneration as may be payable to him for acting as agent.

Agent's right of retainer out of sums received on principal's account.

Agent's duty to pay sums received for principal.

219. In the absence of any special contract, payment for the performance of any act is not due to the agent until the completion of such act; but an agent may detain moneys received by him on account of goods sold, although the whole of the goods consigned to him for sale may not have been sold, or although the sale may not be actually complete.

When agent's remuneration becomes due.

Agent not entitled to remuneration for business misconducted.

218. Subject to such deductions, the agent is bound to pay to his principal all sums received on his account.

220. An agent, who is guilty of misconduct in the business of the agency, is not entitled to any remuneration in respect of that part of the business which he has misconducted.

Illustrations.

(a.) A employs B to recover 1,00,000 rupees from C, and to lay it out on good security. B recovers the 1,00,000 rupees and lays out 90,000 rupees on good security, but lays out 10,000 rupees on security, which he ought to have known to be bad, whereby A loses 2,000 rupees. B is entitled to remuneration for recovering the 1,00,000 rupees and for investing the 90,000 rupees. He is not entitled to any remuneration for investing the 10,000 rupees, and he must make good the 2,000 rupees to B.

(b.) A employs B to recover 1,000 rupees from C. Through B's misconduct the money is not recovered. B is entitled to no remuneration for his services, and must make good the loss.

221. In the absence of any contract to the contrary, an agent is entitled to retain goods, papers, and other property, whether moveable or immoveable, of the principal received by him, until the amount

Agent's lien on principal's goods and papers.

amount due to himself for commission, disbursements, and services in respect of the same has been paid or accounted for to him.

PRINCIPAL'S DUTY TO AGENT.

Agent to be indemnified against consequences of lawful acts.

222. The employer of an agent is bound to indemnify him against the consequences of all lawful acts done by such agent in exercise of the authority conferred upon him.

Illustrations.

(a.) B, at Singapore, under instructions from A of Calcutta, contracts with C to deliver certain goods to him. A does not send the goods to B, and C sues B for breach of contract. B informs A of the suit, and A authorizes him to defend the suit. B defends the suit, and is compelled to pay damages and costs, and incurs expenses. A is liable to B for such damages, costs, and expenses.

(b.) B, a broker at Calcutta, by the orders of A, a merchant there, contracts with C for the purchase of 10 casks of oil for A. Afterwards A refuses to receive the oil, and C sues B. B informs A, who repudiates the contract altogether. B defends, but unsuccessfully, and has to pay damages and costs and incurs expenses. A is liable to B for such damages, costs, and expenses.

223. Where one person employs another to do an act, and the agent does the act in good faith, the employer is liable to indemnify the agent against the consequences of that act, though it cause an injury to the rights of third persons.

Agent to be indemnified against consequences of acts done in good faith.

Illustrations.

(a.) A, a decree-holder and entitled to execution of B's goods, requires the officer of the Court to seize certain goods representing them to be the goods of B. The officer seizes the goods, and is sued by C, the true owner of the goods. A is liable to indemnify the officer for the sum which he is compelled to pay to C, in consequence of obeying A's directions.

(b.) B, at the request of A, sells goods in the possession of A, but which A had no right to dispose of. B does not know this, and hands over the proceeds of the sale to A. Afterwards C, the true owner of the goods, sues B and recovers the value of the goods and costs. A is liable to indemnify B for what he has been compelled to pay to C, and for B's own expenses.

224. Where one person employs another to do an act, which is criminal, the employer is not liable to the agent, either upon an express or an implied promise, to indemnify him against the consequences of that act.

Non-liability of employer of agent to do a criminal act.

Illustrations.

(a.) A employs B to beat C, and agrees to indemnify him against all consequences of the act. B thereupon beats C, and has to pay damages to C for so doing. A is not liable to indemnify B for those damages.

(b.) B, the proprietor of a newspaper, publishes, at A's request, a libel upon C in the paper, and A agrees to indemnify B against the consequences of the publication, and all costs and damages of any action in respect thereof. B is sued by C and has to pay damages, and also incurs expenses. A is not liable to B upon the indemnity.

225. The

Compensation to agent for injury caused by principal's neglect.

225. The principal must make compensation to his agent in respect of injury caused to such agent by the principal's neglect or want of skill.

Illustration.

A employs B as a bricklayer in building a house, and puts up the scaffolding himself. The scaffolding is unskillfully put up, and B is in consequence hurt. A must make compensation to B.

EFFECT OF AGENCY ON CONTRACTS WITH THIRD PERSONS.

226. Contracts entered into through an agent, and obligations arising from acts done by an agent, may be enforced in the same manner, and will have the same legal consequences, as if the contracts had been entered into and the acts done by the principal in person.

Enforcement and consequences of agent's contracts.

Illustrations.

(a.) A buys goods from B, knowing that he is an agent for their sale, but not knowing who is the principal. B's principal is the person entitled to claim from A the price of the goods, and A cannot, in a suit by the principal, set off against that claim a debt due to himself from B.

(b.) A, being B's agent with authority to receive money on his behalf, receives from C a sum of money due to B. C is discharged of his obligation to pay the sum in question to B.

227. When an agent does more than he is authorized to do, and when the part of what he does, which is within his authority, can be separated from the part, which is beyond his authority, so much only of what he does as is within his authority is binding as between him and his principal.

Principal how far bound when agent exceeds authority.

Illustration.

A, being owner of a ship and cargo, authorizes B to procure an insurance for 4,000 rupees on the ship. B procures a policy for 4,000 rupees on the ship, and another for the like sum on the cargo. A is bound to pay the premium for the policy on the ship, but not the premium for the policy on the cargo.

228. Where an agent does more than he is authorized to do, and what he does beyond the scope of his authority cannot be separated from what is within it, the principal is not bound to recognize the transaction.

Principal not bound when excess of agent's authority is not separable.

Illustration.

A authorizes B to buy 500 sheep for him. B buys 500 sheep and 200 lambs for one sum of 6,000 rupees. A may repudiate the whole transaction.

229. Any notice given to or information obtained by the agent, provided it be given or obtained in the course of the business transacted by him for the principal, shall, as between the principal and third

Consequences of notice given to agent.

third parties, have the same legal consequence as if it had been given to or obtained by the principal.

Illustrations.

(a.) A is employed by B to buy from C certain goods, of which C is the apparent owner and buys them accordingly. In the course of the treaty for the sale, A learns that the goods really belonged to D, but B is ignorant of that fact. B is not entitled to set-off a debt owing to him from C against the price of the goods.

(b.) A is employed by B to buy from C goods of which C is the apparent owner. A was, before he was so employed, a servant of C, and then learnt that the goods really belonged to D, but B is ignorant of that fact. In spite of the knowledge of his agent, B may set-off against the price of the goods a debt owing to him from C.

Agent cannot personally enforce, nor be bound by, contracts on behalf of principal. Presumption of contract to contrary.

230. In the absence of any contract to that effect, an agent cannot personally enforce contracts entered into by him on behalf of his principal, nor is he personally bound by them.

Such a contract shall be presumed to exist in the following cases:—

- (1.) Where the contract is made by an agent for the sale or purchase of goods for a merchant resident abroad:
- (2.) Where the agent does not disclose the name of his principal:
- (3.) Where the principal, though disclosed, cannot be sued.

231. If an agent makes a contract with a person who neither knows, nor has reason to suspect, that he is an agent, his principal may require the performance of the contract; but the other contracting party has, as against the principal, the same rights as he would have had as against the agent if the agent had been principal.

If the principal discloses himself before the contract is completed, the other contracting party may refuse to fulfil the contract, if he can show that, if he had known who was the principal in the contract, or if he had known that the agent was not a principal, he would not have entered into the contract.

232. Where one man makes a contract with another, neither knowing nor having reasonable ground to suspect that the other is an agent, the principal, if he requires the performance of the contract can only obtain such performance subject to the rights and obligations subsisting between the agent and the other party to the contract.

Performance of contract with agent supposed to be principal.

Illustration.

A, who owes 500 rupees to B, sells 1,000 rupees worth of rice to B. A is acting as agent for C in the transaction, but B has no knowledge nor reasonable ground of suspicion that such is the case. C cannot compel B to take the rice without allowing him to set-off A's debt.

233. In

233. In cases where the agent is personally liable, a person dealing with him may hold either him or his principal, or both of them, liable.

Right of person dealing with agent personally liable.

Illustration.

A enters into a contract with B to sell him 100 bales of cotton, and afterwards discovers that B was acting as agent for C. A may sue either B or C, or both, for the price of the cotton.

234. When a person who has made a contract with an agent induces the agent to act upon the belief that the principal only will be held liable, or induces the principal to act upon the belief that the agent only will be held liable, he cannot afterwards hold liable the agent or principal respectively.

Consequence of inducing agent or principal to act on belief that principal or agent will be held exclusively liable.

235. A person untruly representing himself to be the authorized agent of another, and thereby inducing a third person to deal with him as such agent, is liable, if his alleged employer does not ratify his acts, to make compensation to the other in respect of any loss or damage which he has incurred by so dealing.

Liability of pretended agent.

236. A person, with whom a contract has been entered into in the character of agent, is not entitled to require the performance of it, if he was in reality acting, not as agent, but on his own account.

Person falsely contracting as agent, not entitled to performance.

237. When an agent has, without authority, done acts or incurred obligations to third persons on behalf of his principal, the principal is bound by such acts or obligations if he has by his words or conduct induced such third persons to believe that such acts and obligations were within the scope of the agent's authority.

Liability of principal inducing belief that Agent's unauthorized acts were authorized.

Illustrations.

(a.) A consigns goods to B for sale, and gives him instructions not to sell under a fixed price. C, being ignorant of B's instructions, enters into a contract with B to buy the goods at a price lower than the reserved price. A is bound by the contract.

(b.) A entrusts B with negotiable instruments endorsed in blank. B sells them to C in violation of private orders from A. The sale is good.

238. Misrepresentations made, or frauds committed, by agents acting in the course of their business for their principals, have the same effect on agreements made by such agents as if such misrepresentations or fraud had been made or committed by the principals; but misrepresentations made, or frauds committed, by agents, in matters which do not fall within their authority, do not affect their principals.

Effect on agreement of misrepresentation or fraud by agent.

Illustrations.

(a.) A, being B's agent for the sale of goods, induces C to buy them by a misrepresentation, which he was not authorized by B to make. The contract is voidable, as between B and C, at the option of C.

(b.) A

(b.) A, the Captain of B's ship, signs bills of lading without having received on board the goods mentioned therein. The bills of lading are void as between B and the pretended consignee.

CHAPTER XI.—OF PARTNERSHIP.

239. 'Partnership' is the relation which subsists between persons who have agreed to combine their property, labour, or skill in some business, and to share the profits thereof between them.

Persons who have entered into partnership with one another are called collectively a 'firm.'

'Firm' defined.

Illustrations.

(a.) A and B buy 100 bales of cotton, which they agree to sell for their joint account; A and B are partners in respect of such cotton.

(b.) A and B buy 100 bales of cotton, agreeing to share it between them. A and B are not partners.

(c.) A agrees with B, a goldsmith, to buy and furnish gold to B, to be worked up by him and sold, and that they shall share in the resulting profit or loss. A and B are partners.

(d.) A and B agree to work together as carpenters, but that A shall receive all profits, and shall pay wages to B. A and B are not partners.

(e.) A and B are joint owners of a ship. This circumstance does not make them partners.

240. A loan to a person engaged or about to engage in any trade or undertaking, upon a contract with such person that the lender shall receive interest at a rate varying with the profits, or that he shall receive a share of the profits, does not, of itself, constitute the lender a partner, or render him responsible as such.

Lender not a partner by advancing money for share of profits.

241. In the absence of any contract to the contrary, property left by a retiring partner, or the representative of a deceased partner, to be used in the business, is to be considered a loan within the meaning of the last preceding section.

Property left in business by retiring partner or deceased partner's representative.

242. No contract for the remuneration of a servant or agent of any person, engaged in any trade or undertaking, by a share of the profits of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

Servant or agent remunerated by share of profits, not a partner.

243. No person, being a widow or child of a deceased partner of a trader, and receiving, by way of annuity, a proportion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of such trader, or be subject to any liabilities incurred by him.

Widow or child of deceased partner receiving annuity out of profits, not a partner.

244. No

244. No person receiving, by way of annuity or otherwise, a portion of the profits of any business, in consideration of the sale by him of the good-will of such business, shall, by reason only of such receipt, be deemed to be a partner of the person carrying on such business, or be subject to his liabilities.

Person receiving portion of profits for sale of good-will, not a partner.

Responsibility of person leading another to believe him a partner.

245. A person who has, by words spoken or written, or by his conduct, led another to believe that he is a partner in a particular firm, is responsible to him as a partner in such firm.

Liability of person permitting himself to be represented as a partner.

246. Any one, consenting to allow himself to be represented as a partner, is liable, as such, to third persons who, on the faith thereof, give credit to the partnership.

247. A person, who is under the age of majority according to the law to which he is subject, may be admitted to the benefits of partnership, but cannot be made personally liable for any obligation of the firm; but the share of such minor in the property of the firm is liable for the obligations of the firm.

Minor partner not personally liable, but his share is.

248. A person, who has been admitted to the benefits of partnership under the age of majority, becomes, on attaining that age, liable for all obligations incurred by the partnership since he was so admitted, unless he gives public notice within a reasonable time of his repudiation of the partnership.

Liability of minor partner on attaining majority.

249. Every partner is liable for all debts and obligations incurred while he is a partner in the usual course of business by or on behalf of the partnership; but a person who is admitted as a partner not an existing firm does not thereby become liable to the creditors of such firm for anything done before he became a partner.

Partner's liability for debts of partnership.

Partner's liability to third person for neglect or fraud of co-partner.

250. Every partner is liable to make compensation to third persons in respect of loss or damage arising from the neglect or fraud of any partner in the management of the business of the firm.

251. Each partner, who does any act necessary for or usually done in carrying on the business of such a partnership as that of which he is a member, binds his co-partners to the same extent as if he were their agent duly appointed for that purpose.

Partner's power to bind co-partners.

Exception.—If it has been agreed between the partners that any restriction shall be placed upon the power of any one of them, no act done in contravention of such

of such agreement shall bind the firm with respect to persons having notice of such agreement.

Illustrations.

(a.) A and B trade in partnership, A residing in England and B in India. A draws a bill of exchange in the name of the firm. B has no notice of the bill, nor is he at all interested in the transaction. The firm is liable on the bill, provided the holder did not know of the circumstances under which the bill was drawn.

(b.) A, being one of a firm of solicitors and attorneys, draws a bill of exchange in the name of the firm without authority. The other partners are not liable on the bill.

(c.) A and B carry on business in partnership as bankers. A sum of money is received by A on behalf of the firm. A does not inform B of such receipt, and afterwards A appropriates the money to his own use. The partnership is liable to make good the money.

(d.) A and B are partners. A, with the intention of cheating B, goes to a shop and purchases articles on behalf of the firm, such as might be used in the ordinary course of the partnership business, and converts them to his own separate use, there being no collusion between him and the seller. The firm is liable for the price of the goods.

252. Where partners have by contract regulated and defined, as between themselves, their rights and obligations, such contract can be annulled or altered only by consent of all of them, which consent must either be expressed or be implied from a uniform course of dealing.

Annulment of contract defining partners' rights and obligations.

Illustration.

A, B and C, intending to enter into partnership, execute written articles of agreement, by which it is stipulated that the nett profits arising from the partnership business shall be equally divided between them. Afterwards they carry on the partnership business for many years, A receiving one-half of the nett profits, and the other half being divided equally between B and C. All parties know of and acquiesce in this arrangement. This course of dealing supersedes the provision in the articles as to the division of profits.

Rules determining partner's mutual relations, where no contract to contrary.

253. In the absence of any contract to the contrary, the relations of partners to each other are determined by the following rules:—

(1.) All partners are joint owners of all property originally brought into the partnership stock, or bought with money belonging to the partnership, or acquired for purposes of the partnership business. All such property is called partnership property. The share of each partner in the partnership property is the value of his original contribution, increased or diminished by his share of profit or loss:

(2.) All partners are entitled to share equally in the profits of the partnership business, and must contribute equally towards the losses sustained by the partnership:

(3.) Each

- (3.) Each partner has a right to take part in the management of the partnership business:
- (4.) Each partner is bound to attend diligently to the business of the partnership, and is not entitled to any remuneration for acting in such business:
- (5.) When differences arise as to ordinary matters connected with the partnership business, the decision shall be according to the opinion of the majority of the partners; but no change in the nature of the business of the partnership can be made, except with the consent of all the partners:
- (6.) No person can introduce a new partner into a firm without the consent of all the partners:
- (7.) If from any cause whatsoever, any member of a partnership ceases to be so, the partnership is dissolved as between all the other members:
- (8.) Unless the partnership has been entered into for a fixed term, any partner may retire from it at any time:
- (9.) Where a partnership has been entered into for a fixed term, no partner can, during such term, retire, except with the consent of all the partners, nor can he be expelled by his partners for any cause whatever, except by order of Court:
- (10.) Partnerships, whether entered into for a fixed term or not, are dissolved by the death of any partner.

When Court may dissolve partnership.

254. At the suit of a partner the Court may dissolve the partnership in the following cases:—

- (1.) When a partner becomes of unsound mind:
- (2.) When a partner, other than the partner suing, has been adjudicated an insolvent under any law relating to insolvent debtors:
- (3.) When a partner, other than the partner suing, has done any act by which the whole interest of such partner is legally transferred to a third person:
- (4.) When any partner becomes incapable of performing his part of the partnership contract:
- (5.) When a partner, other than the partner suing, is guilty of gross misconduct in the affairs of the partnership or towards his partners:
- (6.) When the business of the partnership can only be carried on at a loss.

Dissolution of partnership by prohibition of business.

255. A partnership is in all cases dissolved by its business being prohibited by law.

256. If a partnership, entered into for a fixed term, be continued after such term has expired, the rights and obligations of the partners will, in the absence of any agreement to the contrary, remain the same as they were at the expiration of the term, so far as such rights and obligations can be applied to a partnership dissolvable at the will of any partner.

Rights and obligations of partners in partnership continued after expiry of term for which it was entered into.

257. Partners are bound to carry on the business of the partnership for the greatest common advantage, to be just and faithful to each other, and to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

General duties of partners.

Account to firm of benefit derived from transaction affecting partnership.

258. A partner must account to the firm for any benefit derived from a transaction affecting the partnership.

Illustrations.

(a) A, B and C are partners in trade. C, without the knowledge of A and B, obtains for his own sole benefit a lease of the house in which the partnership business is carried on. A and B are entitled to participate, if they please, in the benefit of the lease.

(b.) A, B and C carry on business together in partnership as merchants trading between Bombay and London. D, a merchant in London, to whom they make their consignments, secretly allows C a share of the commission which he receives upon such consignments, in consideration of C's using his influence to obtain the consignments for him. C is liable to account to the firm for the money so received by him.

259. If a partner, without the knowledge and consent of the other partners, carries on any business competing or interfering with that of the firm, he must account to the firm for all profits made in such business, and must make compensation to the firm for any loss occasioned thereby.

Obligations to firm, of partner carrying on competing business.

260. A continuing guarantee, given either to a firm or to a third person, in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or in respect of the transactions of which, such guarantee was given.

Revocation of continuing guarantee by change in firm.

Non-liability of deceased partner's estate for subsequent obligations.

261. The estate of a partner who has died is not, in the absence of an express agreement, liable in respect of any obligation incurred by the firm after his death.

262. Where there are joint debts due from the partnership, and also separate debts due from any partner, the partnership property must be applied in the first instance in payment of the debts of the firm, and if there is any surplus, then the share of each partner

Payment of partnership debts, and of separate debts.

partner must be applied in payment of his separate debts or paid to him. The separate property of any partner must be applied first in the payment of his separate debts, and the surplus (if any) in the payment of the debts of the firm.

263. After a dissolution of partnership, the rights and obligations of the partners continue in all things necessary for winding-up the business of the partnership.

264. Persons dealing with a firm will not be affected by a dissolution, which no public notice has been given, unless they themselves had notice of such dissolution.

265. In the absence of any contract to the contrary, after the termination of a partnership, each partner or his representatives may apply to the Court to wind up the business of the firm, to provide for the payment of its debts, and to distribute the surplus according to the shares of the partners respectively.

Explanation.—The Court in this section means a Court not inferior to the Court of a District Judge within the local limits of whose jurisdiction the place or principal place of business of the firm is situated.

266. Extraordinary partnerships, such as partnerships with limited liability, incorporated partnerships, and joint-stock companies, shall be regulated by the law for the time being in force relating thereto.

SCHEDULE.
ENACTMENTS REPEALED.

Statutes.		
No. and year of Statute Act.	Title.	Extent of repeal.
Stat. 29 Car. 2, cap. 3.	An Act for prevention of frauds and perjuries.	Sections 1, 2, 3, 4, and 17.
Stat. 11 & 12 Vic., cap. 21.	To consolidate and amend the law relating to insolvent debtors in India.	Section 42.
Acts.		
No. and year of Act.	Title.	Extent of repeal.
Act XIII. of 1840.	An Act for the amendment of the law regarding factors by extending to the territories of the East India Company, in cases governed by the English law, the provisions of the Stat. 4 Geo. iv., c. 83, as altered and amended by the Stat. 6 Geo. iv., c. 94.	The whole.

ACT No. XIII. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 26th April 1872.)

An Act to Amend Act XV. of 1859.

WHEREAS, by Act XV. of 1859, provision was made for the grant of certain privileges to the inventors of new manufactures; and whereas it is desirable that provision should be made for the grant of similar privileges to the inventors of new patterns and designs in British India; It is hereby enacted as follows:—

1. This Act may be called "The Patterns and Designs Protection Act, 1872."
- Extent. It extends to the whole of British India, and shall come into force on the passing thereof.
- Commencement.
2. At the end of section one of the said Act XV. of 1859, the following shall be read:—
- "For the purposes of this Act, 'New manufacture' shall be deemed to include any new and original pattern or design, or the application of such pattern or design to any substance or article of manufacture."
- 'New manufacture' defined.

3. At

Addition to Section IV.
of said Act.

3. At the end of Section IV. of the said Act, the following shall be read :—

“ Provided that, in the case of a pattern or design or the application thereof to any substance or article of manufacture, such privilege shall be granted for the term of three years and no more.”

Addition to Act XV. of
1859 after Section XXXVII.

4. After Section XXXVII. of the said Act the following shall be read :—

“ XXXVII. A. Whenever, by any law for the time being in force in the United Kingdom, any person is entitled in the United Kingdom to an exclusive right in any pattern or design, or in the application of such pattern or design to any substance or article of manufacture, such person shall be entitled in British

Persons invested by
English law with rights as
to patterns and designs to
have same rights in British
India.

India to the sole and exclusive right in such pattern or design, or in such application thereof, and shall be entitled in British India to the same civil remedies in respect of any infringement thereof in British India, as those to which he would be entitled in the United Kingdom in respect of an infringement thereof in the United Kingdom.”

Act to be read as part of
Act XV. of 1859.

5. This Act shall be read with and as part of the said Act XV. of 1859.

ACT N^O. XIV. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 6th June 1872.)

An Act to exempt the Straits Settlements from the Indian Emigration Act, 1871.

WHEREAS it is expedient to provide for the exemption of the islands and territories known as the Straits Settlements from all or some of the provisions contained in the Indian Emigration Act, 1871;

Preamble.

It is hereby enacted as follows:—

1. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, exempt emigration to, or contracts for labour to be performed in, the whole or any part of the said Settlements from all or any of the provisions contained in the Indian Emigration Act, 1871;

and may also, from time to time, by like notification, revoke or alter any notification previously made under this Act.

2. No suit or other proceeding shall be maintained against any person for anything done or omitted, in respect of such emigration or contracts, before the date of the notification made under the first clause of section one.

Power to exempt Straits
Settlements from Emigra-
tion Act.

Bar of certain pro-
ceedings.

ACT N^o. XV. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th July 1872.)

THE INDIAN CHRISTIAN MARRIAGE ACT, 1872.

ARRANGEMENT OF SECTIONS.

Preamble.

PRELIMINARY.

SECTIONS.

1. Short title.
Extent.
Commencement.
2. Enactments repealed.
3. Interpretation-clause.

PART I.

THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED.

4. Marriages to be solemnized according to Act.
5. Persons by whom marriages may be solemnized.
6. Grant and revocation of licenses to solemnize marriages.
7. Marriage Registrars.
Senior Marriage Registrar.
Magistrate when to be Marriage Registrar.

8. Marriage

SECTIONS.

8. Marriage Registrars in Native States.
9. Licensing of persons to grant certificates of marriage between Native Christians.

PART II.

TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED.

10. Time for solemnizing marriage.
Exceptions.
11. Place for solemnizing marriage.
Fee for special license.

PART III.

MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT.

12. Notice of intended marriage.
13. Publication of such notice.
Return or transfer of notice.
14. Notice of intended marriage in private dwelling.
15. Sending copy of notice to Marriage Registrar when one party is a minor.
16. Procedure on receipt of notice.
17. Certificate of notice given and declaration made issued.
Proviso.
18. Declaration before issue of certificate.
19. Consent of father or guardian or mother when necessary.
20. Power to prohibit by notice issue of certificate.
21. Procedure on receipt of notice.
22. Issue of certificate in case of minority.
23. Issue of certificates to Native Christians.
24. Form of certificate.
25. Solemnization of marriage.
26. Certificate void if marriage not solemnized within two months.

PART IV.

REGISTRATION OF MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION.

27. Marriages when to be registered.
28. Registration of marriages solemnized by Clergymen of Church of England.
29. Quarterly

SECTIONS.

29. Quarterly returns to Archdeaconry.
Contents of returns.
30. Registration and returns of marriages solemnized by Clergymen of Church of Rome.
31. Registration and returns of marriages solemnized by Clergymen of Church of Scotland.
32. Certain marriages to be registered in duplicate.
33. Entries of such marriages to be signed and attested.
34. Certificate to be forwarded to Marriage Registrar, copied and sent to Government.
35. Copies of certificates to be entered and numbered.
36. Registrar to add number of entry to certificate, and send to Government.
37. Registration of marriages between Native Christians under Part I. or III.
Custody and disposal of register-book.

PART V.

MARRIAGES SOLEMNIZED BY OR IN THE PRESENCE OF A MARRIAGE REGISTRAR.

38. Notice of intended marriage before Marriage Registrar.
39. Publication of notice.
40. Notice to be filed and copy entered in Marriage Notice Book.
41. Certificate of notice given and oath made.
Proviso.
42. Oath or declaration to be made before issue of certificate.
43. Petition to High Court to order certificate in less than fourteen days.
Order on petition.
44. Provision as to consent of father or guardian to apply.
Protest against to issue of certificate.
Effect of protest.
45. Petition where person whose consent is necessary is insane, or unjustly withholds consent.
Procedure on petition.
46. Petition when Marriage Registrar refuses certificate.
Procedure on petition.
47. Petition when Marriage Registrar in Native State refuses certificate.
48. Petition when Registrar doubts authority of person forbidding.
Procedure on petition.

Reference

SECTIONS.

- Reference when Marriage Registrar in Native State doubts authority of person forbidding.
 Procedure on reference.
49. Liability for frivolous protest against issue of certificate.
 50. Form of certificate.
 51. Solemnization of marriage after issue of certificate.
 52. When marriage is not had within two months after notice, a new notice required.
 53. Marriage Registrar may ask for particulars to be registered.
 54. Registration of marriages solemnized under Part V.
 55. Certificates to be sent monthly to Secretary to Government.
 Custody of register-book.
 56. Officers to whom Registrars in Native States shall send certificates.
 57. Registrars to ascertain that notice and certificate are understood by Native Christians.
 58. Native Christians to be made to understand declarations at marriage.
 59. Registration of marriages between Native Christians.

PART VI.

MARRIAGE OF NATIVE CHRISTIANS.

60. On what conditions marriages of Native Christians may be certified.
61. Grant of certificate.
62. Register-book to be kept.
63. Searches in register-book and copies of entries.
64. Books in which marriages of Native Christians under Part I. or Part III. are registered.
65. Part VI. not to apply to Roman Catholics.
 Saving of certain marriages.

PART VII.

PENALTIES.

66. False oath, notice or certificate for procuring marriage;
67. Forbidding, by false personation, issue of certificate by Marriage Registrar;
68. Solemnizing marriage without due authority;
69. Solemnizing marriage out of proper time, or without witnesses;
 Saving of marriages solemnized under special license;
70. Solemnizing,

SECTIONS:

70. Solemnizing, without notice or within fourteen days after notice, marriage with minor;
71. Issuing certificate, or marrying, without publication of notice;
 Marrying after expiry of certificate;
 Solemnizing marriage with minor within fourteen days, without authority of Court, or without sending copy of notice;
 Issuing certificate against authorized prohibition;
72. Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition;
73. Persons authorized to solemnize marriage (other than Clergymen of the Churches of England, Scotland, or Rome)
 issuing certificate or marrying without publishing notice,
 or after expiry of certificate;
 issuing certificate authorizedly forbidden;
 issuing certificate for, or solemnizing, marriage with minor, within fourteen days after notice;
 solemnizing marriage authorizedly forbidden;
74. Unlicensed person granting certificate pretending to be licensed;
75. Destroying or falsifying Register Books.
76. Limitation of prosecutions under Act.

PART VIII.

MISCELLANEOUS.

77. What matters need not be proved in respect of marriage in accordance with Act.
78. Corrections of errors.
79. Searches and copies of entries.
80. Certified copy of entry in Marriage Register, &c., to be evidence.
81. Sending certificates of certain marriages to Secretary of State for India.
82. Local Government to prescribe fees.
83. Power to make rules.
84. Power to prescribe fees and rules for Native States.
85. Power to declare who shall be District Judge.
86. Power to delegate functions under this Act of Governor-General in Council.
87. Saving of Consular marriages.
88. Non-validation of marriages within prohibited degrees.

- SCHEDULE I.—NOTICE OF MARRIAGE.
 SCHEDULE II.—CERTIFICATE OF RECEIPT OF NOTICE.
 SCHEDULE III.—FORM OF REGISTER OF MARRIAGES.
 SCHEDULE IV.—MARRIAGE REGISTER BOOK.

CERTIFICATE OF MARRIAGE.

- SCHEDULE V.—ENACTMENTS REPEALED.

An Act to consolidate and amend the Law relating to the solemnization in India of the Marriages of Christians.

WHEREAS it is expedient to consolidate and amend the Law relating to the solemnization in India of the marriages of the persons professing the Christian Religion; It is hereby enacted as follows:—

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Christian Marriage Act, 1872."

It extends to the whole of British India, and, so far only as regards Christian subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty;

Extent.

Commencement.

and it shall come into force on the passing thereof.

2. The enactments specified in the fifth schedule hereto annexed are repealed, but not so as to invalidate any marriage confirmed by, or solemnized under, any such enactment.

Enactments repealed.

And all appointments made, licenses granted, consents given, certificates issued, and other things duly done under any such enactment shall be deemed to be respectively made, granted, given, issued, and done under this Act.

For Clause xxiv. of Section 19 of the Court Fees' Act, 1870, the following shall be substituted:—

"xxiv. Petitions under the Indian Christian Marriage Act, 1872, Sections 45 and 48."

Interpretation clause.

3. In this Act, unless there is something repugnant in the subject or context,—

"Church of England,"
 "Anglican."

"Church of England" and "Anglican" mean and apply to the Church of England as by law established;

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established;

"Church

"Church of Rome,"
 "Roman Catholic."

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head;

"Church."

"Church" includes any chapel or other building generally used for public Christian worship:

"Minor."

"Minor" means a person who has not completed the age of twenty-one years, and who is not a widower or a widow;

"Native State."

"Native State" means the territories of any Native Prince or State in alliance with Her Majesty;

"Christians."

The expression "Christians" means persons professing the Christian religion;

And the expression "Native Christians" includes the Christian descendants of Natives of India converted to Christianity, as well as such converts.

"Native Christians."

PART I.

THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED.

4. Every marriage between persons, one or both of whom is a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

Marriages to be solemnized according to Act.

Persons by whom marriages may be solemnized.

5. Marriages may be solemnized in India—

(1) by any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of which he is a Minister;

(2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of Scotland;

(3) by any Minister of religion licensed under this Act to solemnize marriages;

(4) by, or in the presence of, a Marriage Registrar appointed under this Act;

(5) by any person licensed under this Act to grant certificates of marriage between Native Christians.

6. The Local Government may grant licenses to Ministers of religion to solemnize marriages within the territories under its administration, and may revoke such licenses.

Grant and revocation of licenses to solemnize marriages.

7. The

7. The local Government may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrars. Marriage Registrar or Marriage Registrars for any District subject to its administration.

Where there are more Marriage Registrars than one in any district, the local Government shall appoint one of them to be the Senior Marriage Registrar.

When there is only one Marriage Registrar in a district, and such Registrar is absent from such district, or ill, or when his office is temporarily vacant, the Magistrate of the District shall act as, and be, Marriage Registrar thereof during such absence, illness, or temporary vacancy.

8. The Governor-General in Council may, by notification in the *Gazette of India*, appoint any Christian, either by name or as holding any office for the time being, to be a Marriage Registrar in respect of any district or place within the territories of any Native Prince or State in alliance with Her Majesty.

The Governor-General in Council may, by like notification, revoke any such appointment.

9. The local Government or (so far as regards any Native State) the Governor-General in Council may grant a license to any Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians.

Any such license may be revoked by the authority by which it was granted, and every such grant or revocation shall be notified in the Official Gazette.

PART II.

TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED.

10. Every marriage under this Act shall be solemnized between the hours of six in the morning and seven in the evening:

Exceptions. Provided that nothing in this section shall apply to—

(1) a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening under the hand and seal of the Anglican Bishop of the Diocese or his Commissary, or

(2) a

(2) a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he has received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is so solemnized, or from such person as the same Bishop has authorized to grant such license.

Place for solemnizing marriage. 11. No Clergyman of the Church of England shall solemnize a marriage in any place other than a church,

unless there is no church within five miles distance by the shortest road from such place,

or unless he has received a special license authorizing him to do so under the hand and seal of the Anglican Bishop of the Diocese or his Commissary.

For such special license, the Registrar of the Diocese may charge such additional fee as the said Bishop from time to time authorizes.

PART III.

MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT.

12. Whenever a marriage is intended to be solemnized by a Minister of Religion licensed to solemnize marriages under this Act—

one of the persons intending marriage shall give notice in writing, according to the form contained in the first schedule hereto annexed, or to the like effect, to the Minister of Religion whom he or she desires to solemnize the marriage, and shall state therein

(a) the name and surname, and the profession or condition, of each of the persons intending marriage,

(b) the dwelling-place of each of them,

(c) the time during which each has dwelt there, and

(d) the church or private dwelling in which the marriage is to be solemnized:

Provided that, if either of such persons has dwelt in the place mentioned in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

13. If the persons intending marriage desire it to be solemnized in a particular church, and if the Minister of Religion to whom such notice has been delivered be entitled to officiate therein, he shall cause the notice to be affixed in some conspicuous part of such church.

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But if

But if he is not entitled to officiate as a Minister [in such church, he shall, at his option, either return the notice to the person who delivered it to him, or deliver it to some other Minister entitled to officiate therein, who shall thereupon cause the notice to be affixed as aforesaid.

14. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion, on receiving the notice prescribed in Section 12, shall forward it to the Marriage Registrar of the district, who shall affix the same to some conspicuous place in his own office.

15. When one of the persons intending marriage is a minor, every Minister receiving such notice shall, unless within twenty-four hours after its receipt he returns the same under the provisions of Section 13, send by the post or otherwise a copy of such notice to the Marriage Registrar of the district, or, if there be more than one Registrar of such district, to the Senior Marriage Registrar.

16. The Marriage Registrar or Senior Marriage Registrar, as the case may be, on receiving any such notice, shall affix it to some conspicuous place in his own office, and the latter shall further cause a copy of the said notice to be sent to each of the other Marriage Registrars in the same district, who shall likewise publish the same in the manner above directed.

17. Any Minister of Religion consenting or intending to solemnize any such marriage as aforesaid, shall, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making the declaration hereinafter required, issue under his hand a certificate of such notice having been given and of such declaration having been made.

Provided—

(1) that no such certificate shall be issued until the expiration of four days after the date of the receipt of the notice by such Minister;

(2) that no lawful impediment be shown to his satisfaction why such certificate should not issue; and

(3) that the issue of such certificate has not been forbidden in manner hereinafter mentioned by any person authorized in that behalf.

18. The certificate mentioned in Section 17 shall not be issued until one of the persons intending marriage has appeared personally before the Minister and made a solemn declaration—

(a) that

(a) that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage,

and, when either or both of the parties is or are a minor or minors,

(b) that the consent or consents required by law has or have been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

19. The father, if living, of any minor, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, may give consent to the minor's marriage,

and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

20. Every person whose consent to a marriage is required under Section 19, is hereby authorized to prohibit the issue of the certificate by any Minister, at any time before the issue of the same, by notice in writing to such Minister, subscribed by the person so authorized with his or her name and place of abode and position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

21. If any such notice be received by such Minister, he shall not issue his certificate and shall not solemnize the said marriage until he has examined into the matter of the said prohibition, and is satisfied that the person prohibiting the marriage has no lawful authority for such prohibition,

or until the said notice is withdrawn by the person who gave it.

22. When either of the persons intending marriage is a minor and the Minister is not satisfied that the consent of the person whose consent to such marriage is required by Section 19, has been obtained, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of the notice of marriage.

23. When any Native Christian about to be married takes a notice of marriage to a Minister of Religion, or applies for a certificate from such Minister under Section 17, such Minister shall, before issuing the certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and, if not, shall translate or cause to be translated the notice or certificate to such Native Christian into some language which he understands.

24. The

24. The certificate to be issued by such Minister shall be in the form contained in the second schedule hereto annexed, or to the like effect.

25. After the issue of the certificate by the Minister, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister thinks fit to adopt:

Provided that the marriage be solemnized in the presence of at least two witnesses besides the Minister.

26. Whenever a marriage is not solemnized within two months after the date of the certificate issued by such Minister as aforesaid, such certificate and all proceedings (if any) thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice has been given and a certificate thereof issued in manner aforesaid.

PART IV.

REGISTRATION OF MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION.

27. All marriages hereafter solemnized in India between persons one or both of whom professes or profess the Christian religion, except marriages solemnized under Part V. or Part VI. of this Act, shall be registered in manner hereinafter prescribed.

28. Every Clergyman of the Church of England shall keep a register of marriages and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act.

29. Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by his signature, of the entries in the register of marriages solemnized at any place where he has any spiritual charge, to the Registrar of the Archdeaconry to which he is subject, or within the limits of which such place is situate.

Such quarterly returns shall contain all the entries of marriages contained in the said register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year, respectively, and shall be sent by such Clergyman within two weeks from the expiration of each of the quarters above specified.

The

The said Registrar upon receiving the said returns shall send one copy thereof to the Secretary to the Local Government.

30. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is solemnized,

and such person shall forward quarterly to the Secretary to the Local Government returns of the entries of all marriages registered by him during the three months next preceding.

31. Every Clergyman of the Church of Scotland shall keep a register of marriages,

and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act,

and shall forward quarterly to the Secretary to the Local Government, through the Senior Chaplain of the Church of Scotland, returns, similar to those prescribed in Section 29, of all such marriages.

32. Every marriage solemnized by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, shall immediately after the solemnization thereof, be registered in duplicate by the person solemnizing the same (that is to say) in a marriage-register book to be kept by him for that purpose, according to the form contained in the fourth schedule hereto annexed, and also in a certificate attached to the marriage-register book as a counterfoil.

33. The entry of such marriage in both the certificate and marriage-register book shall be signed by the person solemnizing the marriage, and also by the persons married, and shall be attested by two credible witnesses, other than the person solemnizing the marriage, present at its solemnization.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register book.

34. The person solemnizing the marriage shall forthwith separate the certificate from the marriage register book and send it, within one month from the time of the solemnization, to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar,

who

who shall cause such certificate to be copied into a book to be kept by him for that purpose,

and shall send all the certificates which he has received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government.

35. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which he receives each certificate.

36. The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book to the certificate, with his signature or initials, and shall, at the end of every month, send the same to the Secretary to the Local Government.

37. When any marriage between Native Christians is solemnized under Part I. or Part III. of this Act, the person solemnizing the same shall, instead of proceeding in the manner provided by Sections 28 to 36 both inclusive, register the marriage in a separate register book, and shall keep it safely until it is filled, or, if he leave the district in which he solemnized the marriage before the said book is filled, shall make over the same to the person succeeding to his duties in the said district.

Whoever has the control of the book at the time when it is filled, shall send it to the Marriage Registrar of the district, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government, to be kept by him with the records of his office.

PART V.

MARRIAGES SOLEMNIZED BY, OR IN THE PRESENCE OF, A MARRIAGE REGISTRAR.

38. When a marriage is intended to be solemnized by, or in the presence of, a Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form contained in the first schedule hereto annexed, or to the like effect, to any Marriage Registrar of the district within which the parties have dwelt,

or, if the parties dwell in different districts shall give the like notice to a Marriage Registrar of each district,

and shall state therein the name and surname, and the profession or condition, of each of the parties intending marriage, the dwelling place of each of them, the time

time during which each has dwelt therein, and the place at which the marriage is to be solemnized:

Provided that, if either party has dwelt in the place stated in the notice for more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

39. Every Marriage Registrar shall, on receiving any such notice, cause a copy thereof to be affixed in some conspicuous place in his office.

When one of the parties intending marriage is a minor, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the notice of such marriage, send, by post or otherwise, a copy of such notice to each of the other Marriage Registrars (if any) in the same district, who shall likewise affix the copy in some conspicuous place in his own office.

40. The Marriage Registrar shall file all such notices and keep them with the records of his office,

and shall also forthwith enter a true copy of all such notices in a book to be furnished to him for that purpose by the Local Government, and to be called the "Marriage Notice Book;"

and the Marriage Notice Book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

41. If the party by whom the notice was given requests the Marriage Registrar to issue the certificate next hereinafter mentioned, and if one of the parties intending marriage has made oath as hereinafter required, the Marriage Registrar shall issue under his hand a certificate of such notice having been given and of such oath having been made:

Provided—

that no lawful impediment be shown to his satisfaction why such certificate should not issue;

that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf by this Act;

that four days after the receipt of the notice have expired, and further,

that where, by such oath, it appears that one of the parties intending marriage is a minor, fourteen days after the entry of such notice have expired.

42. The certificate mentioned in Section 41 shall not be issued by any Marriage Registrar, until one of the parties intending marriage appears personally before such Marriage Registrar, and makes oath

(a) that

(a) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage, and

(b) that both the parties have, or (where they have dwelt in the districts of different Marriage Registrars) that the party making such oath has, had their, his or her usual place of abode within the district of such Marriage Registrar, and, where either or each of the parties is a minor,

(c) that the consent or consents to such marriage required by law has or have been obtained thereto, or that there is no person resident in India authorized to give such consent, as the case may be.

43. When one of the parties intending marriage is a minor, and both such parties are at the time resident in any of the towns of Calcutta, Madras and Bombay, and are desirous of being married in less than fourteen days after the entry of such notice as aforesaid, they may apply by petition to a Judge of the High Court, for an order upon the Marriage Registrar to whom the notice of marriage has been given, directing him to issue his certificate before the expiration of the said fourteen days required by section forty-one.

And on sufficient cause being shown, the said Judge may, in his discretion, make an order upon such Marriage Registrar, directing him to issue his certificate at any time to be mentioned in the said order, before the expiration of the fourteen days so required;

And the said Marriage Registrar, on receipt of the said order, shall issue his certificate in accordance therewith.

44. The provisions of section nineteen apply to every marriage under this Part, either of the parties to which is a minor;

and any person whose consent to such marriage would be required thereunder may enter a protest against the issue of the Marriage Registrar's certificate, by writing, at any time before the issue of such certificate, the word "forbidden," opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her position with respect to either of the parties, by reason of which he or she is so authorized.

When such protest has been entered, no certificate shall issue until the Marriage Registrar has examined into the matter of the protest, and is satisfied that it ought not to obstruct the issue of the certificate for the said marriage, or until the protest be withdrawn by the person who entered it.

45. If

Petition where person whose consent is necessary is insane, or unjustly withholds consent.

45. If any person whose consent is necessary to any marriage under this Part is of unsound mind,

or if any such person (other than the father) without just cause withholds his consent to the marriage,

the parties intending marriage may apply by petition, where the person whose consent is necessary is resident within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if he is not resident within any of the said towns, then to the District Judge.

And the said Judge of the High Court, or District Judge, as the case may be, may examine the allegations of the petition in a summary way.

And if upon examination such marriage appears proper, such Judge of the High Court or District Judge, as the case may be, shall declare the marriage to be a proper marriage.

Such declaration shall be as effectual as if the person whose consent was needed had consented to the marriage;

and if he has forbidden the issue of the Marriage Registrar's certificate, such certificate shall be issued and the like proceedings may be had under this Part in relation to the marriage as if the issue of such certificate had not been forbidden.

46. Whenever a Marriage Registrar refuses to issue a certificate under this Part, either of the parties intending marriage may apply by petition, where the district of such Registrar is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if such district is not within any of the said towns, then to the District Judge.

The said Judge of the High Court or District Judge, as the case may be, may examine the allegations of the petition in a summary way, and shall decide thereon.

The decision of such Judge of the High Court or District Judge, as the case may be, shall be final, and the Marriage Registrar to whom the application for the issue of a certificate was originally made shall proceed in accordance therewith.

47. Whenever a Marriage Registrar resident in any Native State refuses to issue his certificate, either of the parties intending marriage may apply by petition to the Governor-General in Council, who shall decide thereon.

Such decision shall be final, and the Marriage Registrar to whom the application was originally made shall proceed in accordance therewith.

E

48. Whenever

48. Whenever a Marriage Registrar, acting under the provisions of section forty-four, is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, where his district is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or, if such district be not within any of the said towns, then to the District Judge.

Petition when Registrar doubts authority of person forbidding.
The said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same,

Procedure on petition.
and the said Judge of the High Court or District Judge, as the case may be, shall examine into the allegations of the petition and the circumstances of the case,

and if, upon such examination, it appears that the person forbidding the issue of such certificate is not authorized by law so to do, such Judge of the High Court or District Judge, as the case may be, shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid.

And thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage as if the issue had not been forbidden.

Whenever a Marriage Registrar appointed under section eight to act within any Native State is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall send a statement of all the circumstances of the case, together with all documents relating thereto, to the Governor General in Council.

Reference when Marriage Registrar in Native State doubts authority of person forbidding.
If it appears to the Governor General in Council that the person forbidding the issue of such certificate is not authorized by law so to do, the Governor General in Council shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

Procedure on reference.
and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage, as if the issue of the certificate had not been forbidden.

49. Every person entering a protest with the Marriage Registrar, under this Part, against the issue of any certificate on grounds which such Marriage Registrar, under section forty-four, or a Judge of the High Court or the District Judge, under section forty-five or forty-six, declares to be frivolous and such as ought not to obstruct the issue of the certificate, shall be liable for the costs of all proceedings in relation thereto and for damages to be recovered by suit by the person against whose marriage such protest was entered.

Liability for frivolous protest against issue of certificate.

50. The

50. The certificate to be issued by the Marriage Registrar under the provisions of section forty-one shall be in the form contained in the second schedule to this Act annexed, or to the like effect, and the Local Government shall furnish to every Marriage Registrar a sufficient number of forms of certificate.

Form of certificate.
51. After the issue of the certificate of the Marriage Registrar, or, where notice is required to be given under this Act to the Marriage Registrars for different districts, after the issue of the certificates of the Marriage Registrars for such districts, marriage may, if there be no lawful impediment to the marriage of the parties described in such certificate or certificates, be solemnized between them, according to such form and ceremony as they think fit to adopt.

But every such marriage shall be solemnized in the presence of some Marriage Registrar (to whom shall be delivered such certificate or certificates as aforesaid), and of two or more credible witnesses besides the Marriage Registrar.

And in some part of the ceremony each of the parties shall declare as follows or to the like effect—

“I do solemnly declare that I know not of any lawful impediment why I, A. B., may not be joined in matrimony to C. D.”

And each of the parties shall say to the other as follows or to the like effect—
“I call upon these persons here present to witness that I, A. B., do take thee, C. D., to be my lawful wedded wife [or husband].”

52. Whenever a marriage is not solemnized within two months after the copy of the notice has been entered by the Marriage Registrar, as required by section forty, the notice and the certificate, if any, issued thereupon, and all other proceedings thereupon, shall be void;

When marriage is not had within two months after notice, a new notice required.
and no person shall proceed to solemnize the marriage, nor shall any Marriage Registrar enter the same, until new notice has been given, and entry made, and certificate thereof given, at the time and in the manner aforesaid.

53. A Marriage Registrar before whom any marriage is solemnized under this Part may ask of the persons to be married the several particulars required to be registered touching such marriage.

Marriage Registrar may ask for particulars to be registered.
54. After the solemnization of any marriage under this Part, the marriage Registrar present at such solemnization shall forthwith register the marriage in duplicate, that is to say, in a Marriage Register Book, according to the form of the fourth schedule hereto annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Registration of marriages solemnized under Part V.

The

The entry of such marriage in both the certificate and the Marriage Register Book shall be signed by the person by or before whom the marriage has been solemnized, if there be any such person, and by the Marriage Registrar present at such marriage, whether or not it is solemnized by him, and also by the parties married, and attested by two credible witnesses other than the Marriage Registrar and person solemnizing the marriage.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage register book.

55. The Marriage Registrar shall forthwith separate the certificate from the marriage register book and send it, at the end of every month, to the Secretary to the Local Government.

Certificates to be sent monthly to Secretary to Government.

The Marriage Registrar shall keep safely the said register book until it is filled, and shall then send it to the Secretary to the Local Government, to be kept by him with the records of his office.

Custody of Register Book.

56. The Marriage Registrars in Native States shall send the certificates mentioned in section fifty-four to such officers as the Governor-General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

Officers to whom Registrars in Native States shall send certificates.

57. When any Native Christian about to be married gives a notice of marriage, or applies for a certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and, if he does not, the Marriage Registrar shall translate, or cause to be translated, such notice or certificate, or both of them, as the case may be, to such Native Christian into a language which he understands;

Registrars to ascertain that notice and certificate are understood by Native Christians.

or the Marriage Registrar shall otherwise ascertain whether the Native Christian is cognizant of the purport and effect of the said notice and certificate.

58. When any Native Christian is married under the provisions of this Part the person solemnizing the marriage shall ascertain whether such Native Christian understands the English language, and, if he does not, the person solemnizing the marriage shall, at the time of the solemnization translate, or cause to be translated, to such Native Christian, into a language which he understands, the declarations made at such marriage in accordance with the provisions of this Act.

Native Christians to be made to understand declarations at marriage.

59. The registration of marriages between Native Christians under this Part shall be made in conformity with the rules laid down in section thirty-seven (so far as they are applicable), and not otherwise.

Registration of marriages between Native Christians.

PART VI.

PART VI.

MARRIAGE OF NATIVE CHRISTIANS.

60. Every marriage between Native Christians applying for a certificate, shall, without the preliminary notice required under Part III., be certified under this Part, if the following conditions be fulfilled, and not otherwise:—

On what conditions marriages of Native Christians may be certified.

(1) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

(2) Neither of the persons intending to be married shall have a wife or husband still living:

(3) In the presence of a person licensed under section nine, and of at least two credible witnesses other than such person, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, C. D., to be my lawful wedded wife [or husband]," or words to the like effect:

Provided that no marriage shall be certified under this Part when either of the parties intending to be married has not completed his or her eighteenth year, unless such consent as is mentioned in section nineteen has been given to the intended marriage, or unless it appears that there is no person living authorized to give such consent.

61. When, in respect to any marriage solemnized under this Part, the conditions prescribed in section sixty have been fulfilled, the person licensed as aforesaid, in whose presence the said declaration has been made, shall, on the application of either of the parties to such marriage, and, on the payment of a fee of four annas, grant a certificate of the marriage.

Grant of certificate.

The certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage as conclusive proof of its having been performed.

62. A register book of all marriages of which certificates are granted under section sixty-one, shall be kept by the person granting such certificates in his own vernacular language.

Register Book to be kept.

Such register book shall be kept according to such form as the Local Government from time to time prescribes in this behalf, and true extracts therefrom, duly authenticated, shall be deposited at such places as the Local Government directs.

63. Every person licensed under this Act to grant certificates of marriage, and keeping a marriage register book under section sixty-two, shall, at all reasonable times, allow search to be made in such book,

Searches in Register Book and copies of entries.

book, and shall, on payment of the proper fee, give a copy, certified under his hand, of any entry therein.

64. The provisions of sections sixty-two and sixty-three as to the form of the register book, depositing extracts therefrom, allowing searches thereof, and giving copies of the entries therein, shall, *mutatis mutandis*, apply to the books kept under section thirty-seven.

Books in which marriages of Native Christians under Part I. or Part III. are registered.

65. This Part of this Act, except so much of sections sixty-two and sixty-three as are referred to in section sixty-four, shall not apply to marriages between Roman Catholics. But nothing herein contained shall invalidate any marriage celebrated between Roman Catholics under the provisions of Part V. of Act No. XXV. of 1864, previous to the twenty-third day of February 1865.

Part VI. not to apply to Roman Catholics. Saving of certain marriages.

PART VII.

PENALTIES.

66. Whoever, for the purpose of procuring any marriage, intentionally makes any false oath or signs any false notice or certificate required by this Act, shall be deemed guilty of the offence described in section one hundred and ninety-three of the Indian Penal Code.

False oath, notice or certificate for procuring marriage;

67. Whoever forbids the issue by a Marriage Registrar of a certificate by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed guilty of the offence described in section two hundred and five of the Indian Penal Code.

Forbidding, by false personation, issue of certificate by Marriage Registrar;

68. Whoever, not being authorized under this Act to solemnize a marriage in the absence of a Marriage Registrar of the district in which such marriage is solemnized, knowingly solemnizes a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years and not exceeding ten years,

Solemnizing marriage without due authority.

or, if the offender be an European or American, with penal servitude according to the provisions of Act No. XXIV. of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts*),

and shall also be liable to fine.

69. Whoever

69. Whoever knowingly and wilfully solemnizes a marriage between persons, one or both of whom is or are a Christian or Christians, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses other than the person solemnizing the marriage, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Solemnizing marriage out of proper time, or without witnesses;

This section does not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he has received the general or special license in that behalf mentioned in section ten.

saving of marriages solemnized under special license;

70. Any Minister of Religion licensed to solemnize marriages under this Act, who, without a notice in writing, or when one of the parties to the marriage is a minor, and the required consent of the parents or guardians to such marriage has not been obtained, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnizes a marriage under Part III., shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Solemnizing, without notice or within fourteen days after notice, marriage with minor;

Issuing certificate, or marrying, without publication of notice;

71. A Marriage Registrar under this Act, who commits any of the following offences:—

(1) knowingly and wilfully issues any certificate for marriage, or solemnizes any marriage, without publishing the notice of such marriage as directed by this Act;

Marrying after expiry of certificate;

(2) after the expiration of two months from the issue by him of a certificate in respect of any marriage solemnizes such marriage;

solemnizing marriage with minor within fourteen days, without authority of Court, or without sending copy of notice;

(3) solemnizes, without an order of a competent Court authorizing him to do so, any marriage when one of the parties is a minor, before the expiration of fourteen days after the receipt of the notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Senior Marriage Registrar of the district if there be more Marriage Registrars of the district than one, and if he himself be not the Senior Marriage Registrar;

issuing certificate against authorized prohibition;

(4) issues any certificate, the issue of which has been prohibited as in this Act provided by any person authorized to prohibit the issue thereof,

shall

shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition ;

72. Any Marriage Registrar knowingly and wilfully issuing any certificate for marriage after the expiration of three months after the notice has been entered by him as aforesaid,

or knowingly and wilfully issuing, without the order of a competent Court authorizing him so to do, any certificate for marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice, or any certificate, the issue of which has been forbidden as aforesaid by any person authorized in this behalf,

shall be deemed to have committed an offence under section one hundred and sixty-six of the Indian Penal Code.

73. Whoever, being authorized under this Act to solemnize a marriage,

Persons authorized to solemnize marriage (other than Clergymen of the Churches of England, Scotland, or Rome)

and not being a Clergyman of the Church of England solemnizing a marriage after due publication of banns, or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf,

or, not being a Clergyman of the Church of Scotland, solemnizing a marriage according to the rules, rites, ceremonies, and customs of that church,

or, not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rites, rules, ceremonies, and customs of that church,

knowingly and wilfully issues any certificate for marriage under this Act, or solemnizes any marriage between such persons as aforesaid, without publishing, or causing to be affixed, the notice of such marriage as directed in Part III. of this Act, or after the expiration of two months after the certificate has been issued by him ;

issuing certificate, or marrying, without publishing notice ;

or after expiry of certificate ;

or knowingly and wilfully issues any certificate for marriage, or solemnizes a marriage between such persons when one of the persons intending marriage is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the district ;

issuing certificate for, or solemnizing, marriage with minor, within fourteen days after notice ;

or knowingly and wilfully issues any certificate, the issue of which has been forbidden under this Act by any person authorized to forbid the issue ;

issuing certificate authorizedly forbidden ;

or

solemnizing marriage authorizedly forbidden ; or knowingly and wilfully solemnizes any marriage forbidden by any person authorized to forbid the same,

shall be punished with imprisonment for a term which may extend to four years, and shall also be liable to fine.

74. Whoever, not being licensed to grant a certificate of marriage under Part VI. of this Act, grants such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

Unlicensed person granting certificate pretending to be licensed ;

75. Whoever, by himself or another, wilfully destroys or injures any register book or the counterfoil certificates thereof, or any part thereof, or any authenticated extract therefrom,

Destroying or falsifying register books.

or falsely makes or counterfeits any part of such register book or counterfoil certificates,

or wilfully inserts any false entry in any such register book or counterfoil certificate or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Limitation of prosecutions under Act.

76. The prosecution for every offence punishable under this Act shall be commenced within two years after the offence is committed.

PART VIII.

MISCELLANEOUS.

77. Whenever any marriage has been solemnized in accordance with the provisions of sections four and five, it shall not be void merely on account of any irregularity in respect of any of the following matters, namely :—

What matters need not be proved in respect of marriage in accordance with Act.

- (1.) Any statement made in regard to the dwelling of the persons married, or to the consent of any person whose consent to such marriage is required by law :
- (2.) The notice of the marriage :
- (3.) The certificate or translation thereof :
- (4.) The time and place at which the marriage has been solemnized :
- (5.) The registration of the marriage.

78. Every person charged with the duty of registering any marriage, who discovers any error in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence

Corrections of errors.

g

presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereto the date of such correction, and such person shall make the like marginal entry in the certificate thereof.

And every entry made under this section shall be attested by the witnesses in whose presence it was made.

And, in case such certificate has been already sent to the Secretary to the Local Government, such person shall make and send in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches and copies of entries. 79. Every persons solemnizing a marriage under this Act, and hereby required to register the same,

and every Marriage Registrar or Secretary to a Local Government having the custody for the time being of any register of marriages, or of any certificate, or duplicate or copies of certificate under this Act,

shall, on payment of the proper fees, at all reasonable times allow searches to be made in such register, or for such certificate, or duplicate or copies, and give a copy under his hand of any entry in the same.

(Certified copy of entry in marriage register, &c., to be evidence.) 80. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any marriage register or certificate, or duplicate required to be kept or delivered under this Act, of any entry of a marriage in such register, or of any such certificate or duplicate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such register or certificate, or duplicate, or of any entry therein, respectively, or of such copy.

Sending certificates of certain marriages to Secretary of State for India. 81. The Secretary to the Local Government and the officers appointed under section fifty-six shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to them respectively during such quarter, the certificates of the marriages of which the Governor-General in Council may desire that evidence shall be transmitted to England,

and shall send the same certificates signed by them respectively to the Secretary to the Government of India in the Home Department, for the purpose of being forwarded to the Secretary of State for India and delivered to the Registrar General of Births, Deaths, and Marriages:

Provided

Provided that in the case of the Governments of Madras and Bombay, the said certificates shall be forwarded by such Governments respectively directly to the Secretary of State for India.

Local Government to prescribe fees. 82. Fees shall be chargeable under this Act for—

receiving and publishing notices of marriages;
issuing certificates of marriage by Marriage Registrars and registering marriages by the same;
entering protests against, or prohibitions of, the issue of marriage certificates by the said Registrars;
searching register books or certificates, or duplicates, or copies thereof;
giving copies of entries in the same under sections sixty-three and seventy-nine.

The Local Government shall fix the amount of such fees respectively, and may from time to time vary or remit them either generally or in special cases, as to it may seem fit.

Power to make rules. 83. The Local Government may make rules in regard to the disposal of the fees mentioned in section eighty-two, the supply of register books, and the preparation and submission of returns of marriages solemnized under this Act.

Power to prescribe fees and rules for Native States. 84. The powers conferred on the Local Government by sections eighty-two and eighty-three may, so far as regards Native States, be exercised by the Governor-General in Council.

Power to declare who shall be District Judge. 85. The Local Government may, by notification in the official Gazette declare who shall, in any place to which this Act applies, be deemed to be the District Judge.

Power to delegate functions under this Act of Governor-General in Council. 86. The powers and functions given by this Act to the Governor-General in Council may be delegated to and exercised by such officers as the Governor-General in Council from time to time appoints in this behalf.

And all such powers and functions may be exercised, as regards Native States situate within the local limits of the Presidencies of Fort St. George and Bombay, by the Governors in Council of those Presidencies respectively.

Saving of Consular marriages. 87. Nothing in this Act applies to any marriage performed by any Minister, Consul, or Consular Agent between subjects of the State which he represents and according to the laws of such State.

Non-validation of marriages within prohibited degrees. 88. Nothing in this Act shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into.

Schedule I.

SCHEDULE I.

(See Sections 12 and 38.)

NOTICE OF MARRIAGE.

To a Minister [or Registrar] of
I hereby give you notice that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein-named and described (that is to say) :—

Names.	Condition.	Rank or Profession.	Age.	Dwelling place.	Length of Residence.	Church, Chapel, or place of Worship in which the Marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
James Smith.	Widower.	Carpenter.	Of full Age.	16, Clive Street.	23 days.	Free Church of Scotland Church, Calcutta.	
Martha Green.	Spinster.	.....	Minor.	20, Hastings' Street.	More than a month.		

Witness my hand, this day of seventy-two.

(Signed) JAMES SMITH.

[The italics in this schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE II.

(See Sections 24 and 50.)

CERTIFICATE OF RECEIPT OF NOTICE.

I,
do hereby certify that on the day of notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein-named and described, delivered under the hand of , one of the parties (that is to say) :—

Names.	Condition.	Rank or Profession.	Age.	Dwelling place.	Length of Residence.	Church, Chapel, or place of Worship in which the Marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
James Smith.	Widower.	Carpenter.	Of full Age.	16, Clive Street.	23 days.	Free Church of Scotland Church, Calcutta.	
Martha Green.	Spinster.	.....	Minor.	20, Hastings' Street.	More than a month.		

and that the declaration required by section seventeen or forty-one of " The Indian Christian Marriage Act, 1872," has been duly made by the said (James Smith).

Date of notice entered
Date of certificate given
The issue of this certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this day of seventy-two.

(Signed)

This certificate will be void, unless the marriage is solemnized on or before the day of

[The italics in the schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE III.

(See Section 28.)

FORM OF REGISTER OF MARRIAGES.

Quarterly Returns

of

MARRIAGES

for

The Archdeaconry of

... { Calcutta.
Madras.
Bombay.

I, _____, Registrar of the Archdeaconry of $\left\{ \begin{array}{l} \text{Calcutta,} \\ \text{Madras,} \\ \text{Bombay.} \end{array} \right\}$ do hereby certify

that the annexed are correct copies of the originals and Official Quarterly Returns of Marriage within

the Archdeaconry of $\left\{ \begin{array}{l} \text{Calcutta,} \\ \text{Madras,} \\ \text{Bombay,} \end{array} \right\}$ as made and transmitted to me for the quarter commencing the

day of ending the day of in the year of Our Lord

[Signature of Registrar.]

Registrar of the Archdeaconry of $\left\{ \begin{array}{l} \text{Calcutta.} \\ \text{Madras.} \\ \text{Bombay.} \end{array} \right.$

MARRIAGES solemnized at { *Allahabad.*
Barrackpur.
Bareli.
Calcutta, &c., &c.

[illegible]

SCHEDULE IV.

(See Sections 32 & 54).

MARRIAGE REGISTER Book..

Number	WHEN MARRIED.			NAMES OF PARTIES.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's Name and surname.
				Christian Name.	Surname.					
	Day.	Month.	Year.							
1				James...	White...	26 years.	Widower.	Carpenter	Agra.	William White.
				Martha.	Duncan.	17 years	Spinster.	...	Agra.	John Duncan.

Married in the

his marriage was solemnized between us { *James White,* } in the presence of us { *John Smith,* }
Mariha Duncan, } { *John Green.* }

CERTIFICATE OF MARRIAGE.

Number	WHEN MARRIED.			NAMES OF PARTIES.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
				Christian name.	Surname.					
1	Day.	Month.	Year.							
				James...	White...	26 years.	Widower	Carpenter	Agra.	William White.
				Martha.	Duncan.	17 years.	Spinster.	...	Agra.	John Duncan.

Married in the

his marriage was solemnized between us { James White, } in the presence of us { John Smith, }
 Martha Duncan, } John Green.

SCHEDULE V.
(See Section 2.)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of Repeal.
Statute 58 Geo. 3, cap. 84.	An Act to remove doubts as to the validity of certain marriages had and solemnized within the British territories in India.	The whole.
Statute 14 & 15 Vic., cap. 40.	An Act for Marriages in India	The whole.
Act No. V. of 1852	An Act for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty, intituled "An Act for Marriages in India."	So much as has not been repealed.
Act No. V. of 1865	The Indian Marriage Act, 1865	The whole Act, except so far as it relates to the Straits Settlements.
Act No. XXII. of 1866	An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry, and Aurungabad.	The whole.

ACT N^O. XVI. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st August 1872.)

An Act for imposing a duty on certain spirits manufactured in British Burma.

For the purpose of imposing a duty on spirits manufactured at distilleries in British Burma, worked according to the English method; It is hereby enacted as follows:—

Preamble.

Short title. 1. This Act may be called "The Burma Spirit Duty Act, 1872."

Local extent. It extends only to British Burma:

Commencement. It shall come into force on the passing thereof; And it shall be taken as part of the Excise Act, 1871.

Act to be read as part of Excise Act, 1871.

2. A duty shall be levied on spirits manufactured at distilleries in British Burma, worked according to the English method, at such rate per imperial gallon, of the strength of London proof, not exceeding the highest rate of duty for the time being leviable in any other part of British India on similar spirits, as the Local Government, with the previous sanction of the Governor-General in Council, from time to time notifies in the local official Gazette.

The duty leviable under this section shall be augmented or reduced in proportion to the strength of the spirits on which it is levied.

86. All

3. The provisions of the second and third clauses of Section 21 of the Excise Act, 1871, shall apply to such spirits, as if for the words "aforesaid duty," the words "duty leviable under the Burma Spirit Duty Act, 1872," were substituted.

Excise Act, 1871, Section 21, Clauses 2 and 3, to apply to such spirits.

4. All duties heretofore levied on such spirits shall be deemed to have been levied in accordance with law, and no suit or other proceeding shall be maintained against any officer or other person in respect of any such levy.

Legalization of prior levy of duties.

ACT NO. XVII. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 19th August 1872.)

An Act for postponing the day on which the Code of Criminal Procedure is to come into force.

WHEREAS the Code of Criminal Procedure, (Act No. X. of 1872,) Section 1, enacts that the said Code shall come into force on the first day of September 1872: And whereas it is expedient to postpone the day on which such Code shall come into force; It is hereby enacted as follows:—

Criminal Procedure Code to take effect on 1st January 1873.

1. The said Act No. X. of 1872 shall come into force, not on the first day of September 1872, but on the first day of January 1873.

ACT N^O. XX. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th September 1872.)

An Act to amend Act No. V. of 1872.

WHEREAS it is expedient to amend Act No. V. of 1872 (*to remove doubts as to the Jurisdiction of the High Court of Bombay over the Province of Sind*) ; It is hereby enacted as follows :—

Preamble.

Sections added to Act V.
of 1872.

1. The said Act shall be construed as if the following sections were added thereto :—

Saving of Act XXIV. of
1867.

“2. Nothing herein contained shall be deemed to affect the Administrator-General’s Act, 1867.

Saving of probates and
administrations.

“3. Nothing herein contained shall be deemed to invalidate the grant of any probate or letters of administration heretofore or hereafter made by the High Court of Judicature at Bombay, or to affect the rights, powers, or duties of any executor or administrator under, or by virtue of, any such probate or letters.

Saving of High Court’s
criminal jurisdiction over
European British subjects.

“4. Nothing herein contained shall be deemed to affect the criminal jurisdiction of the said High Court so far as regards European British subjects of Her Majesty.”

ACT N^o. XXIII. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th September 1872.)

An Act for regulating the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.

WHEREAS it is expedient to provide for the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava, under the provisions of Act IV. of 1863 *(to give effect to certain provisions of a treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burma)*; It is hereby enacted as follows:—

1. In this Act,—

“Political Agent” denotes any officer appointed by the Governor-General in Council to reside as representative of the British Government at Mandalay, Bhámu, or any other town within the territories of the King of Ava;

and “Master” includes any person in charge of a Native boat.

2. Whoever desires to re-import into British territory goods previously exported from Rangoon to the territories of the King of Ava, must obtain from the Political Agent a certificate in the form set forth in the Schedule hereto annexed.

Such certificate shall be made out in duplicate: the original shall be handed to the owner or shipper of the goods, and the duplicate shall be forwarded to the Master of the vessel in which the goods are intended to be shipped.

3. All

3. All goods protected by such certificate shall be delivered by the Master of the vessel in which they are shipped, to the Collector of Customs at Theyetmyo, or Rangoon, or at any other station in British territory on the Irrawaddy, as may be directed in the certificate aforesaid;

and such Collector shall retain the goods until the difference between the duty of one per centum *ad valorem*, and the duty which they would have been liable to pay if cleared for home consumption when originally imported by sea, is paid to him, together with any incidental expenses incurred in removing and storing the same.

4. Should no application regarding the said goods be made to the Collector within one week after they have come into his possession, he shall cause an advertisement to be inserted in the local *Gazette*, notifying that if the said goods are not cleared within one month from the date of such notice they will be sold and the proceeds applied, in the first place, to pay all expenses of the sale, and then all dues and charges owing to Government in respect of the said goods.

The surplus (if any) shall be held to the credit of the owner of the said goods.

5. Any Master of a vessel failing to deliver to the Collector, as provided in Section 3, any goods protected by a Political Agent's certificate, shall be liable to a penalty not exceeding one thousand rupees.

Such penalty shall be adjudged after a summary proceeding by any Collector of Customs; but his adjudication shall be subject to appeal to the Commissioner of the Division.

6. Any goods cleared for exportation under the said Act for the King of Ava's territory, found within British territory and not protected by a certificate as required by Section 2, shall be considered contraband, and shall be liable to seizure by an officer of customs, or an officer of police, and to confiscation by any Collector of Customs to whom the goods may be delivered, unless it be proved that the full duty leviable on goods cleared for home consumption has been paid on the said goods.

Nothing in this Section affects—

(a) goods in transit from the Custom House at Rangoon to the vessel on which they are to be laden for export,

(b) goods found on board of any vessel on her passage from Rangoon to the King of Ava's territory, and cleared for export under the said Act.

7. This

7: This Act shall be read as part of the said Act No. IV. of 1863.

SCHEDULE.

(See Section 2.)

Certificate.

Mr. } _____ having declared his or
or }
Messrs. }
intention to re-export from _____ to
the under-mentioned goods, originally cleared at Rangoon under Act IV. of 1863, I grant permission
for the said goods to be shipped on board the ^{steamer} _____ and request
that the Master will deliver the said goods to the Collector of Customs at _____

Marks and numbers.	Description of packages.	Numehr of packages.	Contents of each package.	When imported into.

(Signed) A. B.,
Political Agent at _____

ACT N^o. XXIV. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th September 1872.)

An Act to repeal Bombay Regulation XIII. of 1827, Section 34, Clause 9:

WHEREAS it is expedient to render the practice relating to the payment of subsistence-allowances to witnesses in the Courts of Subordinate Magistrates uniform throughout British India: And whereas it is necessary, for that purpose, to repeal Bombay Regulation XIII. of 1827 to the extent hereinafter mentioned; It is hereby enacted as follows:—

Preamble.

Bombay Regulation XIII.
of 1827, Section 34, Clause
9, repealed.

1. Bombay Regulation XIII. of 1827 (*for defining the Constitution of Courts of Criminal Justice, and the Functions and Proceedings thereof*), Section 34, Clause 9, is repealed.

Madras—Printed by H. MORGAN, at the Fort St. George Gazette Press.

[PRICE 6 PIES.]

ACT N^o. XXV. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th October 1872.)

An Act to give the force of law to certain Rules relating to Salt in the Panjáb.

WHEREAS certain Rules for the realization and protection of the revenue derived from the Salt Mines in the Sind Ságar Doáb and at Kálábágh prepared by the late Board of Administration for the Affairs of the Panjáb were, on the twenty-ninth day of May 1851, approved by the Governor-General, and, under the Indian Councils' Act, 1861, received the force of law: And whereas the said Rules were repealed by the Panjáb Laws' Act, 1872, and such repeal took effect on the first day of June 1872: And whereas it is expedient, pending the passage of an Act to consolidate and amend the law relating to Inland Customs, to revive and continue such Rules with the modifications hereinafter mentioned; It is hereby enacted as follows:

1. The said Rules shall have, and shall, from the said first day of June 1872, be deemed to have had, the force of law, subject to the following modifications (that is to say):

(a) In Rule 2, for the figure and words "(2) two rupees," the words "three rupees one anna" shall be substituted;

(b) In Rule 3, after the word 'Panjáb,' the words "that may from time to time be determined by the Local Government" shall be inserted;

(c) In Rule 8, for the words "the Jhelum Division," the words "Commissioner of Inland Customs" shall be substituted;

(d) In

(d) In Rule 17, for the words "Board of Administration," the words "Lieutenant-Governor of the Panjáb" shall be substituted;

(e) In Rule 21, for the last twenty words, the following words shall be substituted (that is to say): "alimentary salt illegally manufactured or imported;"

(f) To Rule 22, the following words shall be added (that is to say): "and may from time to time be altered by like notification;"

(g) In Rule 24, for the last twenty-eight words, the words "Inland Customs" shall be substituted;

(h) In Rule 26, for the words "in charge of the Preventive Line," the words "of the Division" shall be substituted; and for the words "salt is not the produce of the Sind Ságar or Kalabaugh Mines," the words "possession of the salt is prohibited by paragraph 21" shall be substituted;

(i) In Rule 30, for the words "but that obtained from the Sind Ságar Mines or from Kalabaugh," the words "the possession of which is prohibited by paragraph 21" shall be substituted.

ACT NO. XXVI. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th October 1872.)

An Act to amend the Law relating to Opium in the Panjáb.

WHEREAS it is expedient to amend the law relating to opium in the Panjáb; It is

Preamble. hereby enacted as follows:—

Short title. 1. This Act may be called "The Panjáb Opium Law Amendment Act, 1872."

Local extent. It extends only to the territories under the government of the Lieutenant-Governor of the Panjáb;

Commencement. And it shall come into force on the first day of January 1873.

2. In this Act and in the Panjáb Laws' Act, 1872, 'opium' includes also poppy-heads and all intoxicating drugs prepared from the poppy.

3. Wherever in the said territories an acreage duty is for the time being leviable on the cultivation of the poppy, Sections 15, 19, 62, 65, and 66 of the Excise Act, 1871, shall have no effect so far as they restrict, directly or indirectly, the sale of opium grown within the said territories, or prohibit the possession or sale of such opium by persons other than licensed vendors.

4. In

4. In prosecutions under the said sections respectively, it shall be assumed, until the contrary is proved, that the opium in respect of which an offence is alleged to have been committed, has been grown without the said territories.

5. Whenever any rule made by the Local Government under the Panjáb Laws' Act, 1872, and relating to the growth, sale, or possession of opium, is broken, the opium in respect of which the breach is committed shall be liable to confiscation.

ACT NO. XXVII. OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 31st December 1872.)

An Act for postponing the Day on which the Code of Criminal Procedure is to come into force in the Province of Sindh.

WHEREAS Act No. XVII. of 1872 provides that the Code of Criminal Procedure (Act No. X. of 1872) shall come into force throughout British India on the first day of January 1873 : And whereas the translation of the said Code into the Sindhí language has not been completed, and it is therefore expedient to postpone the day on which the said Code shall come into force in the Province of Sindh ; it is hereby enacted as follows :—

In the Province of Sindh the said Code shall come into force, not on the first day of January 1873, but on the first day of April 1873.

Commencement of Code
of Criminal Procedure in
Sindh.

Preamble.

[PRICE 6 PIES.]

ACT NO. I. OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 7th January 1873.)

THE BURMA COURTS' ACT AMENDMENT ACT.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Code of Civil Procedure applied to Burma.
3. Power to distribute business.
4. Language of plaints and record of evidence.
5. Appeals to lie from Courts of original jurisdiction.
6. Appeals to Special Court.
7. Special Court to be deemed a High Court under Acts VII. of 1870 and IX. of 1871.
8. Application of Acts VII. of 1870 and IX. of 1871 to certain petitions to Judicial Commissioner.
9. Power to call for record.
10. Amendment of Act VII. of 1872, Section 35.
11. Licensing

[PRICE 1 ANNA AND 4 PIES.]

SECTIONS.

11. Licensing of advocates.
Rules for their qualification and admission.
12. Saving of agents of Government, suitors, co-suitors, and advocates of High Courts.
13. Fees liable to taxation.
14. Saving of certain trials at Maulmain, Rangoon, and Akyab.

An Act to amend the Burma Courts' Act, 1872.

Preamble. WHEREAS it is expedient to amend the Burma Courts' Act, 1872; it is hereby enacted as follows:—

Short title. 1. This Act may be called "The Burma Courts' Act Amendment Act":

Local extent. It extends only to the territories under the administration of the Chief Commissioner of British Burma:

Commencement. Sections 11, 12, and 13 shall come into force at the expiration of two months after the passing of this Act. The rest of this Act shall come into force at once.

Code of Civil Procedure applied to Burma. 2. Save as otherwise provided by the Burma Courts' Act, 1872, and by this Act, the Code of Civil Procedure shall be, and shall, on and from the fifth day of April 1872, be deemed to have been in force throughout British Burma.

Power to distribute business. 3. Notwithstanding anything contained in the Code of Civil Procedure, Section 6, every Deputy-Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits and the amount or value of their subject-matter as he shall from time to time, with the sanction of the Judicial Commissioner, prescribe in this behalf,

and may also, with the like sanction, direct the business of the said Courts to be distributed among them in such way as he thinks fit: provided that no Court shall try any suit where the amount or value of the subject-matter exceeds its proper jurisdiction.

Language of plaints and record of evidence. 4. Notwithstanding anything contained in the Code of Civil Procedure, Sections 26 and 172, plaints may be written and evidence may be taken down in such language or languages as the Chief Commissioner shall from time to time direct in this behalf.

5. Notwithstanding

5. Notwithstanding anything contained in the said Burma Courts' Act, 1872, and subject to any express provision to the contrary contained in any other Act for the time being in force, an appeal shall lie from the decrees and orders of the Courts of original jurisdiction in British Burma to the Courts empowered by the said Act, Section 8 and Section 69, respectively, to hear appeals from decrees and orders.

All such appeals presented between the fifth day of April 1872 and the passing of this Act shall be deemed to have been presented under this Section.

Appeals to Special Court. 6. In the interval between the presentation of an appeal, under Section 69 of the said Burma Courts' Act, 1872, and the hearing thereof by the Special Court, the appeal and all applications relating thereto shall be dealt with by the Judicial Commissioner as if it were an appeal presented in his own Court.

Special Court to be deemed a High Court under Acts VII. of 1870 and IX. of 1871. 7. For the purposes of the Court Fees' Act, 1870, the said Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

For the purposes of the Indian Limitation Act, 1871, appeals and applications to the said Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Civil Procedure or under the Code of Criminal Procedure, as the case may be.

Application of Acts VII. of 1870 and IX. of 1871 to certain petitions to Judicial Commissioner. 8. When the civil appellate jurisdiction of any Commissioner has, under Section 29 of the Burma Courts' Act, 1872, been transferred to the Judicial Commissioner,

(a.) all petitions and other documents presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Court Fees' Act, 1870, be deemed to have been presented to the Commissioner:

(b.) and all appeals and applications presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Indian Limitation Act, 1871, be deemed to have been presented to him in the exercise of his ordinary jurisdiction.

Power to call for record. 9. In any case in which a Court of first appeal has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement under Section 35 of the Burma Courts' Act, 1872, the Judicial Commissioner may call for the record of the case, and may, on receipt of such record, proceed to try the case as if it were an appeal instituted in his own Court.

And

And in any case in which a Court of first appeal has submitted such a statement, but, in the opinion of the Judicial Commissioner, the statement is unduly limited, or justice cannot be done without re-hearing the case,

the Judicial Commissioner may proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send the Court of first appeal a copy of his judgment in any case tried under this Section, and the said Court shall dispose of the case in conformity with such judgment.

Amendment of Act VII. of 1872, Section 35.

10. To Section 35 the said Act the following words shall be added: "and a certified copy of such reasons shall, on application to the Court, be furnished to any party to the suit."

11. No person shall be permitted to appear, plead, or act as the advocate of any suitor, or of any appellant, complainant or accused person, in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, unless such person is licensed thereto by the Judicial Commissioner, either generally or specially.

Licensing of advocates.

The Judicial Commissioner may from time to time make rules for the qualification, admission, and enrolment of proper persons to appear, plead, or act as aforesaid;

Rules for their qualification and admission.

and for the suspension or dismissal of any such persons who are guilty of fraudulent or grossly improper conduct.

All such rules shall be published in the local official Gazette.

Any person appearing, pleading or acting in contravention of any such rule shall be liable, by order of the Court, to a fine not exceeding five hundred rupees.

Saving of agents of Government, suitors, co-suitors, and advocates of High Courts.

12. Notwithstanding anything contained in Section 11 or in any rule made thereunder, any person may appear, plead, or act as the agent for the Crown or for the Secretary of State for India in Council, and any suitor may appear, plead, or act on behalf of himself or a co-sutor; and any person who for the time being is an advocate, vakil, or attorney-at-law of any High Court may appear, plead, or act as the advocate of any suitor in the Court of the Judicial Commissioner or any Court subordinate thereto.

And nothing contained in Section 11 or in any rule made thereunder shall be deemed to affect the second clause of Section 186 of the Code of Criminal Procedure.

13. The

13. The fees to be received by any advocate, for business done in the Court of the Judicial Commissioner or in any Court subordinate thereto, shall at all times be subject to the control and taxation of the presiding Judge; and no such fees shall be recoverable unless they have been allowed on taxation by the said Judge, or such officer as he appoints in this behalf.

The Judicial Commissioner may from time to time make rules regulating the control and taxation of costs in such subordinate Courts.

No trial had by the Commissioner or Deputy-Commissioner at Courts of Session in the towns of Maulmain, Rangoon, and Akyab, shall be deemed to have been invalid merely on the ground that such trial was not by jury.

Saving of certain trials in Maulmain, Rangoon, and Akyab.

ACT NO. II. OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 21st January 1873.)

THE BURMA FERRIES ACT, 1873.

CONTENTS.

PREAMBLE.

I.—Preliminary.

SECTIONS.

1. Short title.
- Local extent.
- Commencement.

II.—Public Ferries.

2. Power to declare and establish public ferries.
3. Superintendence of ferries.
4. Management may be vested in local Municipality;
and proceeds paid into Municipal Fund.
5. Letting ferry-tolls by auction.
6. Power to make rules.
7. Private ferry not to ply within certain distance of public ferry without sanction.

III.—Tolls.

8. Tolls.
9. Table of tolls.
10. Tolls or rents to be credited to district fund.

IV.—Penalties.

IV.—Penalties.

SECTIONS.

11. Penalty for failing to affix, or for removing, &c., table of tolls.
12. Penalty for taking unauthorized toll,
and for causing delay.
13. Cancellation of lease on breach of rules.
14. Penalties on passengers offending.
15. Penalty for plying within public ferry-course without license.
16. Officers by whom offences are triable.

An Act for regulating Ferries in British Burma.

Preamble.

WHEREAS it is expedient to regulate the public ferries within the Province of British Burma; It is hereby enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called "The Burma Ferries' Act, 1873."

Local extent.

It extends only to the territories under the administration of the Chief Commissioner of British Burma;

Commencement.

And it shall come into force on the passing thereof.

II.—Public Ferries.

Power to declare and establish public ferries.

2. The Chief Commissioner may declare what ferries within any part of British Burma shall be deemed public ferries, and the district in which, for the purposes of this Act, they shall be deemed to be situate,
and may at any time hereafter establish new ferries, where, in his opinion, they are needed,
and may, from time to time, change the course of any public ferry, or discontinue any public ferry which he deems unnecessary.
Every such declaration, establishment, change or discontinuance shall be made by notification in the local official Gazette.

Superintendence of ferries.

3. The immediate superintendence of all public ferries shall, except as herein-
after provided, be vested in the Deputy Commissioner of the district in which they are situate,
and he shall make all necessary arrangements for the supply of boats for such ferries, and for the collection of the authorized tolls leviable thereat.

4. Tho

4. The Chief Commissioner may direct that any public ferry situated within the limits of a town may be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town,
and may further direct that all or any part of the proceeds from such ferry shall be paid into the Municipal Fund of such town,
and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

5. The tolls of any public ferry may be put up to public auction for such term not exceeding three years as may be deemed expedient by the Commissioner of the Division in which such ferry is situate, and may be let to the highest bidder.

The lessee shall conform to the rules made under this Act for the management and control of such ferry,

and may be called upon by the officer putting the tolls of the ferry up to auction to give such security for his good conduct and for the punctual payment of the rent as such officer may deem fit.

Such officer may, for sufficient reason duly recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

6. Subject to the revision and confirmation of the Chief Commissioner, the Commissioner of each Division shall have power to make rules consistent with this Act—

for the control and the management of all public ferries within his division;
for regulating the time and manner in which, and the terms on which, the tolls of such ferries may be let by auction;

for collecting the rents payable for the tolls of such ferries;

and for fixing the limits of the same:

and, when the tolls of a ferry have been let under section five, he shall have power (subject as aforesaid) to make additional rules—

for regulating the number and kinds of boats and their dimensions, and the number of crew for each boat, which the lessee of the tolls will be required to keep;

the hours during which he shall be bound to ply,

and the number of passengers, carts, carriages and animals, and the quantity of goods, that may be carried in each kind of boat at one trip;

and

and for the keeping of such boats continually in good condition for the safe conveyance of passengers and property.

The lessee shall make such returns of traffic as the Commissioner may from time to time require.

7. No person shall, except with the sanction of the officer charged with the management of a public ferry, keep a ferry-boat for the purpose of plying for hire within the limits of such public ferry.

Private ferry not to ply within certain distance of public ferry without sanction.

Nothing hereinbefore contained shall prevent persons plying between two places, one of which is without and one within the said limits, or apply to boats which the Chief Commissioner expressly exempts from the operation of this section.

III.—Tolls.

8. Tolls, according to such rates as are from time to time fixed by the Chief Commissioner, shall be levied on all persons, animals and other things carried by means of any public ferry:

Tolls.

Provided that the Chief Commissioner may, from time to time, declare what persons, animals or other things shall, when employed or transmitted on the public service, or for other sufficient reason, be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section five, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the Division with the concurrence of the Chief Commissioner.

9. The lessee or other person authorized to collect the tolls of any public ferry, shall affix a table of such tolls, legibly written or printed in the vernacular language, in some conspicuous place near the ferry, and shall be bound to produce, on demand, a list of the tolls, signed by the Deputy Commissioner or such other officer as he appoints on this behalf.

Table of tolls.

10. All tolls or rents received under this Act shall, except in the cases provided for by section four, be credited to the district fund.

Tolls or rents to be credited to district fund.

IV.—Penalties.

11. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section nine, or who wilfully removes, alters or defaces such table, or allows it to become illegible,

Penalty for failing to affix, or for removing, &c., table of tolls.

or who fails to produce, on demand, the list of the tolls mentioned in section nine,

shall

shall be liable to fine not exceeding twenty rupees.

Penalty for taking unauthorized toll,

and for causing delay.

12. Every such lessee or other person as aforesaid asking or taking other than the lawful toll, or without due cause delaying any person, animal or other thing,

shall be liable to a penalty not exceeding fifty rupees.

13. In the event of any breach by a lessee of the tolls of a ferry, of the rules for the management of such ferry made under section six,

Cancelment of lease on breach of rules.

the Deputy Commissioner may impose upon him a fine not exceeding twenty rupees,

and in that event, or in the event of repeated liability to the penalties respectively provided by sections eleven and twelve,

The Deputy Commissioner may also, with the sanction of the Commissioner of the Division, cancel the lease of the tolls of such ferry and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Penalties on Passengers offending.

14. Every person crossing at any public ferry who refuses to pay the proper toll, or who, with intent of avoiding payment thereof, fraudulently or forcibly crosses any ferry-station without paying the toll, or who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, shall be liable to fine not exceeding fifty rupees over and above the value of the damage, if any, which he has done.

15. Whoever conveys for hire any passenger, animal, cart, carriage or other vehicle, or any goods or merchandise, to or from any point within the limits assigned to each public ferry, in contravention of the provisions hereinbefore contained, shall be liable to fine not exceeding fifty rupees.

Penalty for plying within public ferry-course without license.

Where the tolls of such ferry have been let under the provisions hereinbefore contained, the whole or any portion of any penalty realized under this section or section fourteen may, at the discretion of the convicting Magistrate or Bench of Magistrates, be paid to the lessee.

16. All offences against this Act shall be heard and determined by any Magistrate or Bench of Magistrates; and any Magistrate or Bench of Magistrates having summary jurisdiction under chapter

Officers by whom offences are triable.

XVIII.

XVIII. of the Code of Criminal Procedure, shall try such offences in manner provided by that chapter.

Every Magistrate or Bench of Magistrates trying offences under this section may enquire into and assess the value of the damage (if any) done by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine.

ACT N^o. V. OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 28th January 1873.)

THE GOVERNMENT SAVINGS' BANKS ACT, 1873.

CONTENTS.

PREAMBLE.

Preliminary.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Repeal of Act XXVI. of 1855.
3. Interpretation-clause.

Deposits belonging to the Estates of deceased Persons.

4. Payment on death of depositor.
5. Payment to be a discharge.
Saving of right of executor.
Saving of right of creditor.
6. Security for due administration.
7. Power to administer oath.
Penalty for false statements.

8. Deposit

SECTIONS.

8. Deposit when excluded in computing Court Fees.
9. Act not to apply to deposits belonging to estates of European soldiers or deserters.

Deposits belonging to Minors.

10. Payment of deposits to minor or guardian.
11. Legalization of like payments heretofore made.

Deposits belonging to Lunatics.

12. Payment of deposits belonging to lunatics.

Deposits made by Married Women.

13. Payment of married women's deposits.

Rules.

14. Rules regulating certificates under Section 8, and payments under Section 10, 12, or 13.

An Act to amend the Law relating to Government Savings' Banks.

WHEREAS it is expedient to amend the law relating to the payment of deposits in Government Savings' Banks; It is hereby enacted as follows :—

Preamble.

Preliminary.

Short title.

1. This Act may be called "The Government Savings' Banks Act, 1873" :—

Local extent.

It extends to the whole of British India ;

Commencement.

And it shall come into force on the passing thereof.

2. Act No. XXVI. of 1855 (to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased depositors) is hereby repealed.

Repeal of Act XXVI. of 1855.

Interpretation-clause.

3. In this Act—

"Depositor" means a person by whom, or on whose behalf, money has been heretofore, or shall be hereafter, deposited in a Government Savings' Bank, and "deposit" means money so deposited :

"Depositor."

"Deposit."

"Secretary."

"Secretary" includes every person empowered to manage a Government Savings' Bank ;

"Minor."

and "Minor" means a person who has not completed the age of eighteen years.

Deposits

Deposits belonging to the Estates of deceased Persons.

Payment on death of depositor.

4. If a depositor dies, leaving in a Government Savings' Bank a sum of money not exceeding one thousand rupees, and if probate of his will or letters of administration of his estate, or a certificate granted under Act No. XXVII. of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons), is not produced to the Secretary of such Bank within three months of the death of the said depositor,

the Secretary of such Bank may pay the said sum of money to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased.

Payment to be a discharge.

5. Such payment shall be a full discharge from all further liability in respect of the money so paid :

But nothing herein contained precludes any executor or administrator, or other representative of the deceased, from recovering from the person receiving the same the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

And any creditor or claimant against the estate of the deceased may recover his debt or claim out of the money paid under this Act, or the said Act No. XXVI. of 1855, to any person, and remaining in his hands unadministered, in the same manner and to the same extent as if the latter had obtained letters of administration of the estate of the deceased.

6. The Secretary of any such Bank may take such security as he thinks necessary from any person to whom he pays any money under Section 4, for the due administration of the money so paid, and he may assign the said security to any person interested in such administration.

7. For the purpose of ascertaining the right of the person claiming to be entitled as aforesaid, the Secretary of any such Bank may take evidence on oath or affirmation according to the law for the time being relating to oaths and affirmations.

Any person who, upon such oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed guilty of an offence under Section 193 of the Indian Penal Code.

Penalty for false statements.

Power to administer oath.

8. Where

8. Where the amount of the deposit belonging to the estate of a deceased depositor does not exceed one thousand rupees, such amount shall be excluded in computing the fee chargeable, under the Court Fees' Act, 1870, on the probate, or letters of administration, or certificate (if any) granted in respect of his property:

Provided that the person claiming such probate or letters or certificate shall exhibit to the Court authorized to grant the same a certificate of the amount of the deposit in any Government Savings' Bank belonging to the estate of the deceased. Such certificate shall be signed by the Secretary of such Bank, and the Court shall receive it as evidence of the said amount.

9. Nothing hereinbefore contained applies to money belonging to the estate of any European officer, non-commissioned officer, or soldier dying in Her Majesty's service in India, or of any European who, at the time of his death, was a deserter from the said service.

Deposits belonging to Minors.

10. Any deposit made by, or on behalf of, any minor, may be paid to him personally, if he made the deposit, or to his guardian for his use, if the deposit was made by any person other than the minor, together with the interest accrued thereon.

The receipt of any minor or guardian, for money paid to him under this section, shall be a sufficient discharge therefor.

11. All payments of deposits heretofore made to minors or their guardians by any Secretary of a Government Savings' Bank shall be deemed to have been made in accordance with law.

Deposits belonging to Lunatics.

12. If any depositor becomes insane or otherwise incapable of managing his affairs, and if such insanity or incapacity is proved to the satisfaction of the Secretary of the Bank in which his deposit may be, such Secretary may, from time to time, make payments out of the deposit to any proper person, and the receipt of such person, for money paid under this section, shall be a sufficient discharge therefor.

Where a Committee or Manager of the depositor's estate has been duly appointed, nothing in this section authorizes payments to any person other than such Committee or Manager.

Deposits

Deposits made by Married Women.

13. Any deposit made by or on behalf of a married woman, or by or on behalf of a woman who afterwards marries, may be paid to her, whether or not the Indian Succession Act, 1865, Section four, applies to her marriage; and her receipt for money paid to her under this section shall be a sufficient discharge therefor.

Rules.

14. All certificates under Section 8, and all payments under Section 10, Section 12 or Section 13, shall be respectively granted and made by the Secretary of the Bank, subject to such rules consistent with this Act as the Governor-General in Council may, from time to time, prescribe.

ACT N^o. VI. OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 28th January 1873.)

An Act to amend the Law relating to the Transhipment of Goods imported by Steamer, and for other purposes.

WHEREAS it is expedient to amend the law relating to the transhipment of goods imported by steamer; It is hereby enacted as follows:—

Preamble.

1. This Act may be called “ The Transhipment of Goods Act, 1873 :”

Short title.

It extends to the ports of Calcutta, Madras, Bombay, Karáchi, Aden, Rangoon, Maulmain, Akyab, and to such other British Indian ports as the Governor-General in Council may from time to time, by

Local extent.

notification in the *Gazette of India*, direct in this behalf;

Commencement.

And it shall come into force on the passing thereof.

2. Act No. XX. of 1867 (*to authorize the transhipment without payment of duty of goods imported into Calcutta, Madras and Bombay by Steamers*) is repealed. But all rules, rates and regulations prescribed under the said Act shall be deemed to have been prescribed under this Act.

Repeal of Act XX. of 1867.

3. Subject to the provisions hereinafter contained, the chief officer of customs of every port to which this Act extends for the time being may, on application of any person interested as owner, agent, consignee or otherwise in any goods imported by steamer into

Power to permit transhipment without payment of duty.

such

such port, grant leave to tranship the same without payment of duty at the port of transhipment, and without any security or bond for the due arrival and entry of the goods at the port of destination :

Provided that such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to some other British Indian or foreign port.

Proviso.

4. The power conferred by section three shall be exercised subject to such rules as the Local Government may from time to time prescribe by notification in the official Gazette.

Rules regulating exercise of power.

5. A transhipment fee on each bale or package of any goods or class of goods transhipped under this Act, may be levied at such rates and under such regulations as the Local Government, with the previous sanction of the Governor-General in Council, from time to time prescribes by notification in the official Gazette.

Levy of transhipment fee.

6. The Governor-General in Council may from time to time, by order notified in the *Gazette of India*, prohibit the transhipment, at any specified port or at all ports, of any specified class of goods, or prescribe any special mode of transhipping any specified class of goods, and may, by like notification, cancel such order.

Power to prohibit transhipment.

7. Opium imported by sea into any British Indian port may, if the Local Government think fit, but not otherwise, be re-exported by sea from the same port on payment of a duty equal in amount to the fee to which it would have been liable if it had been transhipped at such port.

Duty on opium re-exported by sea.

8. This Act shall be read as part of the Consolidated Customs Act, and shall not be construed as in any respect limiting the power of the customs officers to levy duty or to require such bonds or other securities as are authorized by the same Act.

Act to be read as part of Act VI. of 1863.

ACT N^o. XI. of 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor-General on the 5th May 1874.)

An Act to amend the Code of Criminal Procedure.

For the purpose of amending the Code of Criminal Procedure; It is hereby enacted as follows :—

Preamble.

1. In section two, after the fourth paragraph, the following shall be inserted, (namely):—

“The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any other law referred to in section eight;

whether a warrant or a summons shall ordinarily issue in the first instance, whether the offence is bailable or not, and the Court by which the offence is triable; are indicated respectively by the third, fourth, fifth, and seventh columns of the fourth schedule hereto annexed.”

2. To section four the following clause shall be added (namely):—

“In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.”

Amendment of Sections 18 and 36.

3. To sections eighteen and thirty-six, the following words shall be added (namely):—

“or if he think further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, he may direct such inquiry or evidence to be made or taken.”

4. In

4. In section thirty-nine, after the word "limits," the following words shall be inserted (namely), "and may, with the previous sanction of the Governor-General in Council, declare any local area to be a District."

Addition to Section 42.

5. To section forty-two, the following clause shall be added (namely):—

"With the previous sanction of the Governor-General in Council, the Local Government may delegate, with such limitations as it may think proper, to any officer under its control, the power conferred by the first clause of this section."

Amendment of Sections 44 and 47.

6. In section forty-four and the first paragraph of section forty-seven, the word "criminal" shall be omitted.

Addition to Section 46.

7. To section forty-six, the following illustration shall be added (namely):—

"*Illustration.*—A Magistrate of the third class having jurisdiction finds an accused person guilty but considers that he ought to receive a more severe punishment than imprisonment for a term of one month, or a fine of fifty rupees. On recording the finding, submitting the proceedings and forwarding the accused to the Magistrate of the District, such Magistrate may pass a sentence on the accused including solitary confinement and whipping."

Amendment of Section 59.

8. In section fifty-nine, after the word "Court," the words "inferior to a Court of Session" shall be inserted.

Addition to Section 62.

9. To the second paragraph of section sixty-three, the following words shall be added (namely):—

"Provided that such direction be not repugnant to any direction previously issued under the twenty-fourth and twenty-fifth of Victoria, cap. 104, section fifteen, or under section sixty-four of this Code."

Proviso of Section 64 repealed.

10. In section sixty-four, the proviso shall be repealed.

Power to transfer criminal cases from one High Court to another.

11. After section sixty-four, the following section shall be inserted (namely):—

"64A. Whenever it appears to the Governor-General in Council that it will promote the ends of justice or tend to the general convenience of parties or witnesses, he may, by notification in the *Gazette of India*, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court.

"And the Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in or presented to such Court."

12. For

Amendment of Section 75.

12. For the second paragraph of section seventy-five, the following shall be substituted (namely):—

"When the offence, or one of the offences, complained of is punishable with death or transportation for life, the commitment shall be to the High Court.

"And where any person so committed is charged with several offences, of which one is punishable with death or transportation and the other with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offence."

Amendment of Section 186.

13. In section one hundred and eighty-six, for the words "charged before any Criminal Court with an offence," the following words shall be substituted (namely):—

"accused in any Criminal Court of an offence."

Amendment of Section 195, Explanation III.

14. In section one hundred and ninety-five, Explanation III. for the word 'cannot,' the words "shall not ordinarily" shall be substituted.

Addition to Section 202.

15. To section two hundred and two, clause first, the following words shall be added (namely): "unless the Magistrate is satisfied that such Government Pleader or other person is already aware of the commitment and the form of the charge."

Addition to Section 216.

16. To section two hundred and sixteen, the following explanation shall be added (namely):—

"EXPLANATION III.—The charge shall be prepared as soon as the Magistrate is of opinion that a *prima facie* case has been established against the accused person, although the whole of the evidence for the prosecution may not have been completed."

Amendment of Section 222, para. (10).

17. In section two hundred and twenty-two, for paragraph (10), the following shall be substituted (namely):—

"(10.) Insult with intent to provoke a breach of the peace under section five hundred and four, and criminal intimidation under section five hundred and six, of the Indian Penal Code."

Amendment of Section 231.

18. In section two hundred and thirty-one, for "section four hundred and seventy-two," the following words shall be substituted (namely):—

"Section thirty-three, section four hundred and thirty-five, section four hundred and seventy-two or section four hundred and seventy-four."

19. To

Amendment of Section
247.

19. To section two hundred and forty-seven, the following words shall be prefixed (namely)—“The person conducting the prosecution shall then open his case, and”

Amendment of Section
249.

20. For the first paragraph of section two hundred and forty-nine, the following shall be substituted (namely):—

“When a witness is produced before the Court of Session or before the High Court in the exercise of its original or appellate criminal jurisdiction, the evidence given by him before the committing Magistrate may, in the discretion of the presiding Judge, be treated as evidence in the case, if it was duly taken in the presence of the accused person.”

Amendment of Section
263.

21. In the fourth paragraph of section two hundred and sixty-three, after the word “verdict” the words “of the jurors or” shall be inserted; and for the fifth and sixth paragraphs of the same section the following shall be substituted (namely):—

“If the Court disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the prisoner has been tried, and considers it necessary for the ends of justice to do so, it may submit the case to the High Court. If the Court does so, it shall not record judgment of acquittal or of conviction on any of the charges on which the prisoner has been tried; but it may either remand him to custody or admit him to bail.

“The High Court shall deal with the case so submitted as it would deal with an appeal, but it may acquit or convict the accused person on the facts as well as law, without reference to the particular charges as to which the Court of Session may have disagreed with the verdict; and if it convict him, shall pass such sentence as might have been passed by the Court of Session.”

Amendment of Section
271.

22. For section two hundred and seventy-one, the following sections shall be substituted (namely):—

Appeal from sentence of
of Sessions Judge.

“271. Any person convicted on a trial held by a Sessions Judge may appeal to the High Court.

“An appeal may lie on a matter of fact as well as a matter of law, except where the conviction was in a trial by jury, in which case the appeal shall be admissible on a matter of law only.”

Procedure in case of
sentence of death.

“271A. When any such person is sentenced to death, the Sessions Court shall give him a copy of the sentence and inform him that if he wishes to appeal, his appeal must be made within seven days; and the Court shall delay the transmission of the reference hereinafter required for a reasonable time not exceeding seven days to allow of the appeal and reference being made at the same time.

“When

“When it appears that the execution of the sentence should not be delayed, the Sessions Court may forward the reference at once, recording its reasons for so doing.”

“271B. Where the Judges composing the Court of appeal, reference or revision are equally divided, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such examination and hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.”

23. In the second paragraph of section two hundred and seventy-two, for the words “and the rules of limitation shall not apply to appeals presented under this section,” the following clause shall be substituted (namely)—“No appeal shall be presented under this section after six months from the date of the judgment complained of.”

24. In the second clause of section two hundred and seventy-four, the last twenty words shall be omitted, and to the section the following explanation shall be added (namely):—

“EXPLANATION.—A sentence by which imprisonment is awarded in default of payment of fine, is not a sentence by which two or more punishments are combined, within the meaning of the second clause of this section.”

Amendment of Section
276.

25. For section two hundred and seventy-six, the following shall be substituted (namely):—

“276. If any person affected by a sentence or other order passed by a Criminal Court desires to have a copy of the Judge’s charge to the jury or of any other proceeding not being the judgment or order provided for by section four hundred and sixty-four, he shall, on applying for such copy, be furnished therewith provided that he pay for the same, unless the Court, for some special reason, sees fit to furnish it free of cost.”

Amendment of Section
278.

26. To section two hundred and seventy-eight, the following clause shall be added (namely):—

“In rejecting an appeal under this section, the Appellate Court shall not enhance the sentence.”

Amendment of Section
279.

27. To section two hundred and seventy-nine, the following words shall be added (namely):—

“and in cases under section two hundred and seventy-two where the Appellate Court decides to hear the appeal, it shall also cause notice to be given to the respondent.”

Amendment of Section
280.

28. To the first clause of section two hundred and eighty, the following words shall be added (namely):—

“or order the appellant to be retried.”

29. In

29. In the second paragraph of section two hundred and ninety-six, the words

Amendment of Section 296. "Provided that" shall be omitted and the following words shall be added (namely):—"upon the matter of such complaint or of which the accused person has been, in the opinion of the Court or Magistrate, improperly discharged.

"Provided that, if in the opinion of such Court or Magistrate, the evidence shows that some other offence has been committed by the accused person, such Court or Magistrate may direct the subordinate Court to inquire into such offence."

30. In the third paragraph of section two hundred and ninety-seven, for the word "inconveniently" the word "incorrectly" shall be substituted.

Amendment of Section 298. 31. For section two hundred and ninety-eight, the following shall be substituted (namely):—

"298. The High Court or the Court of Session may direct the Magistrate of the District, by himself or by any of the Magistrates subordinate to him,

"or the Magistrate of the District may direct any subordinate Magistrate,

"to make further inquiry into any complaint which has been dismissed under section one hundred and forty-seven."

Amendment of Section 302. 32. For the fourth paragraph of section three hundred and two, the following section shall be substituted (namely)—

"302A. In cases tried by any Court inferior to a Court of Session, where the accused person is sentenced to imprisonment, the Court shall forthwith forward him with a similar warrant for the execution of the sentence to the officer in charge of the jail of the District in which the trial was held:

"But where the accused person is sentenced to whipping, the sentence may be executed at such place and time as the Court may direct."

33. In the third paragraph of section three hundred and eleven, after the word "Magistrate," the words "or a Superintendent of a Jail" shall be inserted.

Amendment of Sections 311 and 312. And in the first and second paragraphs of section three hundred and twelve, after the word "Magistrate," the words "or Superintendent" shall be inserted.

34. To the first clause of section three hundred and twenty-two the following words shall be added (namely), "or grant a reprieve or respite in respect of such sentence," and the following clauses shall be added to the same section (namely)—

"This

"This section applies to all punishments inflicted by the High Court. Provided that nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites, or remissions of punishment:

"When any fine or forfeiture is imposed on any person for any offence, the Governor-General in Council or the Local Government may (subject to the provisions of section three hundred and eight) direct that a share or proportion of such fine be paid over to the prosecutor towards defraying his expenses, as the Governor-General in Council or the Local Government thinks fit."

Amendment of Section 330. 35. After the second paragraph of section three hundred and thirty, the following shall be inserted (namely):—

"If the witness is within the local limits of the ordinary original criminal jurisdiction of any of the High Courts of Judicature at Fort William, Madras, and Bombay, the Court dispensing with his personal attendance may direct a commission to any Police Magistrate within such limits, and such Police Magistrate shall have the like power to compel the attendance and examination of witnesses as he possesses for that purpose in cases pending before him."

And in the third paragraph of the same section, for the words "to which," the words "upon which" shall be substituted, and for the words "cause a return to be made," the words "shall examine the witness" shall be substituted, and after the word "Magistrate," the words "or Police Magistrate" shall be inserted.

And after the fourth paragraph of the same section, the following paragraph shall be inserted (namely):—

"After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record."

36. In section three hundred and seventy-nine the following words shall be omitted (namely), "by or under the direction of an officer in charge of a Police-station, or by a Police officer making an investigation."

Amendment of Section 379. 37. In the second paragraph of section three hundred and ninety-eight, for the words "accused person," the words "party or witness" shall be substituted.

Amendment of Section 418. 38. In section four hundred and eighteen, before the word "trial," the words "inquiry or" shall be inserted; and to the same section the following explanation shall be added (namely):—

"EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but

but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise."

Amendment of Section 425.

39. To section four hundred and twenty-five, the following clause shall be added (namely):—

"The trial of the fact of the unsoundness of mind of the accused person shall be deemed to be part of his trial before the Court."

Amendment of Section 451.

40. For the first sentence of the illustration to section four hundred and fifty-one, the following shall be substituted (namely):—

"A is convicted of an offence under Section 196 of the Indian Penal Code upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine, was false or fabricated."

Amendment of Section 464.

41. For the second paragraph of section four hundred and sixty-four, the following shall be substituted (namely):—

"The judgment or order shall be explained to the accused person or person affected by it, and on his application a copy thereof shall be given to him without delay free of cost and in his own language, if practicable, if not, in the language of the Court."

And to the seventh paragraph of the same section, the following words shall be added (namely):—

"Where such error or defect is in a matter not affecting the merits of the case."

Addition to Section 466.

42. To section four hundred and sixty-six the following clause shall be added (namely):—

"In this section the expressions "Judge" and "public servant" shall be taken to have the meaning assigned to them respectively by the Indian Penal Code."

43. Chapter XXXVI. (*Of the Dispersion of unlawful Assemblies*) shall be deemed to apply to the towns of Calcutta, Madras and Bombay, and the word "Magistrate" wherever it occurs in the said chapter, shall be deemed to include a Magistrate of Police.

44. To section five hundred and three, the following words shall be added (namely):—"And in case such penalty cannot be so recovered, the surety shall be liable, by order of such Magistrate, to imprisonment in the civil jail for a period not exceeding six months."

Amendment of Section 503.

45. In

45. In section five hundred and twenty-seven, for the words "four hundred and twenty-one," the words "five hundred and twenty one" shall be substituted.

Correction of Section 527.

Amendment of Schedule IV, Column 3, Nos. 323 and 423.

46. In the third column of the fourth schedule to the Code of Criminal Procedure, opposite No. 323, for the words "Shall not arrest without warrant," the words "May arrest without warrant" shall be substituted; and opposite No. 423, for the word "Ditto," the words "May arrest without warrant" shall be substituted.

Interpretation of "Section."

47. In this Act, "Section" means Section of the Code of Criminal Procedure.

And all references to the Code of Criminal Procedure made in Acts heretofore passed or hereafter to be passed shall be read as if made to such Code as amended by this Act.

References to Code of Criminal Procedure.

1. Mr. J. H. Smith

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor-General on the 8th December 1874.)

An Act to ascertain the Enactments in force in various parts of British India, and for other purposes.

WHEREAS various parts of British India have never been brought within, or
Preamble. have from time to time been removed from, the operation of
the general Acts and Regulations and the jurisdiction of the
ordinary Courts of Judicature ;

And whereas doubts have arisen in some cases as to which Acts or Regulations are in force in such parts, and in other cases as to what are the boundaries of such parts: And whereas among such parts are the territories specified in the first schedule hereto annexed, and it is expedient to provide readier means than now exist for ascertaining the enactments in force in such territories and the boundaries thereof, and for administering the law therein:

And whereas it is expedient to declare that certain Acts are in force in a tract of land lying between the Railway Station at Satná and the eastern boundary of the Jabalpur Division ;

It is hereby enacted as follows :—

Short title.^a 1. This Act may be called "The Scheduled Districts Act, 1874 :"

This Act extends in the first instance to the whole of British India other than the territories mentioned in the first schedule hereto annexed, and it shall come into force in each of the Scheduled Districts on the issue of a notification under section three relating to such District.

In .

In this Act the term "Scheduled Districts" means the territories mentioned in the first schedule hereto annexed; and, from the date fixed in the resolution next hereinafter mentioned, it shall also include any other territory to which the Secretary of State for India, by resolution in Council, may declare the provisions of the thirty-third of Victoria, chapter three, section one, to be applicable.

2. The enactments mentioned in the second schedule hereto annexed shall be repealed.

3. The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the *Gazette of India* and also in the local Gazette (if any)

(a) declare what enactments are actually in force in any of the Scheduled Districts, or in any part of any such District,

(b) declare of any enactment that it is not actually in force in any of the said Districts or in any part of any such District,

(c) correct any mistake of fact in any notification issued under this section: Provided that a declaration once made under clause (a) or clause (b) of this section shall not be altered by any subsequent declaration other than a declaration under clause (c) of this section.

4. On the issue, under section three, of a notification declaring what enactments are in force, or not in force, in any Scheduled District, the enactments so notified shall be deemed to be in force or not in force, according to the tenor of the notification, in such District, and every such notification shall be binding on all Courts of law.

5. The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the *Gazette of India* and also in the local Gazette (if any), extend to any of the Scheduled Districts, or to any part of any such district any enactment which is in force in any part of British India at the date of such extension.

6. The Local Government may from time to time, (a) appoint officers to administer civil and criminal justice and to superintend the settlement and collection of the public revenue, and all matters relating to rent, and otherwise to conduct the administration, within the Scheduled Districts,

(b) regulate the procedure of the officers so appointed; but not so as to restrict the operation of any enactment for the time being in force in any of the said Districts,

(c) direct

(c) direct by what authority any jurisdiction, powers or duties incident to the operation of any enactment for the time being in force in such District shall be exercised or performed.

7. All rules heretofore prescribed by the Governor-General in Council or the Local Government for the guidance of officers appointed within any of the Scheduled Districts for all or any of the purposes mentioned in section six and in force at the time of the passing of this Act, shall continue to be in force unless and until the Governor-General in Council of the Local Government, as the case may be, otherwise directs.

All existing officers so appointed previous to the date on which this Act comes into force in such Districts, shall be deemed to have been appointed hereunder.

8. Whenever any question arises as to the line of boundary between any of the Scheduled Districts and other territory, such officer as the Local Government or (where the said District and the other territory are not subject to the same Local Government) as the Governor-General in Council, from time to time, appoints, may consider and determine such line of boundary;

and the order made thereon by such officer, if confirmed by the Government which appointed him, shall be conclusive in all Courts of justice.

9. Any person liable to be imprisoned or to be transported beyond sea under any order or sentence passed by any officer appointed under section six, may (subject to such rules as the Governor-General in Council may from time to time prescribe in this behalf) be imprisoned in such jail or transported to such place as the Local Government directs.

10. Acts No. III. of 1867, No. XIV. of 1867, and No. XXV. of 1869 are hereby declared to be in force in the tract of land ceded to the British Government in the year 1863 and lying between the Railway Station at Satná and the eastern boundary of the Jabalpur District.

11. Nothing contained in this Act or in any notification issued under the powers hereby conferred shall be deemed

(a) to affect the criminal jurisdiction of any Court over European British subjects, or

(b) to affect any law other than laws contained in Acts or Regulations or in rules made in exercise of powers conferred by such Acts or Regulations.

THE

THE FIRST SCHEDULE.

(See Section 1.)

PART I.

SCHEDULED DISTRICTS, MADRAS.

I.—In Ganjam.

- (1.) The Gumsur Maliahs including Chokapad.
- (2.) The Surada Maliahs.
- (3.) The Hinna Kimeri Maliahs.
- (4.) The Pedda Kimeri Maliahs.
- (5.) The Bodaguda Maliahs.
- (6.) The Surangi Maliahs.
- (7.) The Parla Kimeri Maliahs.
- (8.) The Muttás of Koradá and Ronaba, (other wise called Srikarma).
- (9.) The Chighatti Maliah.
- (10.) The Juradá Maliah.
- (11.) The Jalandra Maliah.
- (12.) The Mandasa Maliah.
- (13.) The Budarasinghi Maliah.
- (14.) The Kuttingia Maliah.

II.—In Vizagapatam.

- (1.) The Jeypur Zamindári.
- (2.) Golconda Hills, west of the River Boderu.
- (3.) The Madugol Maliahs.
- (4.) The Kasipur Zamindári.
- (5.) The Panchipenta Maliahs.
- (6.) Mondemkolla, in the Merangi Zamindári.
- (7.) The Konda Muttá of Belgám.
- (8.) The Gumma and Konda Muttás of Kurpam.
- (9.) The Kottam, Rám and Konda Muttás of Pálkonda.

III.—In the Godávari District.

- (1.) The Bhadrachalam Tálug.
- (2.) The Rákapilli Tálug.
- (3.) The Rampá Country.

IV.—In the Indian Ocean.

The Laccadive Islands including Minicoy.

PART II.

SCHEDULED DISTRICTS, BOMBAY.

- I.—The Province of Sindh.
- II.—The Panch Maháls.
- III.—Aden.
- IV.—The villages belonging to the following Mehwasí Chiefs :—
- (1.) The Párví of Káthí.
- (2.) The Párví of Nál.
- (3.) The Párví of Singpúr.
- (4.) Walvi of Gaohálí.
- (5.) The Wassáwa of Chikhli.
- (6.) The Párví of Nawalpúr.

PART III.

SCHEDULED DISTRICTS, BENGAL.

- I.—The Jalpáigori and Darjeeling Divisions.
- II.—The Hill tracts of Chittagong.
- III.—The Santhál Parganas.
- IV.—The Chutia Nágpur Division.
- V.—The Maháls of Angul and Banki.

PART IV.

SCHEDULED DISTRICTS, NORTH-WESTERN PROVINCES.

- I.—The Jháná Division comprising the Districts of Jháná, Jalaun, and Lalatpur.
- II.—The Province of Kumáon and Garhwál.
- III.—The Teria Parganas, comprising—Bázipúr, Káshípúr, Jaspúr, Rudarpúr, Gadarpúr, Kilpúri, Nának-Matubá, and Bilheri.
- IV.—In the Mirzapur District :—
- (1.) The tappás of Agori Khás and South Kon in the Pargana of Agori.
- (2.) The tappá of British Singrauli in the Pargana of Singrauli.
- (3.) The tappás of Phulwá, Dudhi and Barhá in the Pargana of Bishpár.
- (4.) The portion lying to the South of the Kaimor Range.
- V.—The family Domains of the Mahárájá of Benares comprising the following parganas :—
- Bhadohi and Kheyra Mángror in the Mirzapur District.
- Kaswá Rájá in the Benares District.
- VI.—The tract of country known as Jaunsar Báwar in the Dehra Dún District.

PART V.

SCHEDULED DISTRICTS, PANJAB.

The Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismail Khán, Dera Gházi Khán, Lahaul and Spiti.

PART VI.

SCHEDULED DISTRICTS, CENTRAL PROVINCES.

Chhattisgarh Zamindáris, viz. :—

- | | |
|---------------------|------------------|
| 1. Khariár. | 13. Matin. |
| 2. Bindrá Nawágarh. | 14. Uprorá. |
| 3. Sahezipur. | 15. Ketdá. |
| 4. Gándai. | 16. Laphá. |
| 5. Silhetí. | 17. Chhúrí. |
| 6. Barbaspur. | 18. Kortá. |
| 7. Thákurtolá. | 19. Chapá. |
| 8. Lohára. | 20. Borá Sámbar. |
| 9. Gondardehi. | 21. Phúljar. |
| 10. Fingésvar. | 22. Kolábirá. |
| 11. Páudariá. | 23. Rampúr. |
| 12. Peudrá. | |

Ohándá Zamindáris.

- | | |
|---------------------|-------------------|
| 1. Ahiri. | 11. Muramgáon. |
| 2. Ambágarh Chauki. | 12. Pánábáras. |
| 3. A'ndhi. | 13. Palasgarh. |
| 4. Dhanorá. | 14. Rángi. |
| 5. Dúdhmálá. | 15. Sirsundi. |
| 6. Gewardá. | 16. Sonsari. |
| 7. Jhárápáprá. | 17. Chándálá. |
| 8. Khutgáon. | 18. Gilgáon. |
| 9. Koráchá. | 19. Páwi Mutándá. |
| 10. Kotgal. | 20. Pategáon. |

Ohhindwára Jágirdáris.

- | | |
|---------------|--------------------|
| 1. Harai. | 7. Pachmarhi. |
| 2. Ohháter. | 8. Partábgarh. |
| 3. Gorakghát. | 9. Almod. |
| 4. Gorpáni. | 10. Sonpúr. |
| 5. Baktágarh. | 11. Bariám Pagará. |
| 6. Bardágarh. | |

PART VII.

The Chief Commissionership of Coorg.

PART VIII.

The Chief Commissionership of the Andaman and Nicobar Islands.

PART IX.

The Chief Commissionership of Ajmer and Mairwára.

PART X.

The Chief Commissionership of Assam.

PART XI.

The Hill Tracts of Arakan.

PART XII.

The Pargana of Mánpur.

PART XIII.

The Cantonment of Morar.

THE SECOND SCHEDULE.

(See Section 2.)

No. and Year.	Title.
XXXVIII. of 1855...	An Act to remove from the operation of the General Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose.
X. of 1857 ...	An Act to amend Act XXXVII. of 1855.
XXII. of 1860 ...	An Act to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the General Regulations and Acts.
XIV. of 1861 ...	An Act to remove certain tracts of Country in the Rohilkund Division from the jurisdiction of the tribunals established under the General Regulations and Acts.
XIX. of 1864 ...	An Act to remove certain tracts of Country in the District of Mirzapore from the jurisdiction of the local Courts.
IV. of 1868 ...	An Act to exempt certain villages in the Bombay Presidency from the operation of the Regulations and Acts in force in that Presidency.
XXII. of 1869 ...	An Act to remove the Gáro Hills from the jurisdiction of the tribunals established under the General Regulations and Acts and for other purposes.
IV. of 1863 ...	An Act to amend Act XXII. of 1860 (to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the General Regulations and Acts.)
XI. of 1846 ...	An Act for the exemption of certain territory in the Province of Candeish and the Zillah of Ahmednuggur from the operation of the General Regulations.

27/12/74

ACT N^o. XV. OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th December 1874.)

An Act for declaring the local extent of certain Enactments, and for other purposes.

WHEREAS it is expedient to declare the local extent of certain Acts passed by the Governor-General of India in Council, the Legislative Council of India, and the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations; And whereas it is also expedient to consolidate the laws relating to the local extent of certain Acts and Regulations in the Presidencies of Fort St. George and Bombay, and in the Lower and the North-Western Provinces of the Presidency of Fort William in Bengal:

It is hereby declared and enacted as follows:—

- | | |
|--|--|
| Short title. | 1. This Act may be called "The Laws Local Extent Act, 1874." |
| Interpretation clause. | 2. In this Act the expression "Scheduled Districts" means the territories mentioned in the sixth schedule hereto annexed. |
| Local extent of Acts in first schedule. | 3. The Acts mentioned in the first schedule hereto annexed are now in force throughout the whole of British India, except the Scheduled Districts. |
| Local extent of enactments in second schedule. | 4. The enactments mentioned in the second schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Governor of Fort St. George in Council, except the Scheduled Districts subject to such government. |
| | 5. The |

5. The enactments mentioned in the third schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Governor of Bombay in Council, except the Scheduled Districts subject to such government.

Local extent of enactments in third schedule.

6. The enactments mentioned in the fourth schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Lieutenant-Governor of Bengal, except the Scheduled Districts subject to such government.

Local extent of enactments in fourth schedule.

7. The enactments mentioned in the fifth schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, except the Scheduled Districts subject to such government.

Local extent of enactments in fifth schedule.

Savings.

8. Nothing herein contained shall—

(a) bar the power of the Governor-General in Council or the local Government, under any law for the time being in force, to extend to any place any Act mentioned in the said first schedule;

(b) extend any Act empowering the local Government to extend the same, or any part thereof, or affect in any manner the exercise of such power;

(c) affect the operation of any Act or Regulation heretofore extended to or declared to be in force in any of the Scheduled Districts;

(d) revive any enactment which has been repealed either generally or with reference to some special subject;

(e) extend Madras Regulation VII. of 1832 to any place in which Madras Act I of 1866 is in force;

(f) extend Act No. XVII. of 1840, or Act No. VII. of 1852, or Madras Regulation I. of 1805, or Madras Regulation II of 1807, to any place in which Madras Act No. VI. of 1871 is in force;

(g) extend Act No. IX. of 1861 to any part of the territories subject to the government of the Governor of Bombay in Council;

(h) extend Act No. XI. of 1841 or No. XII. of 1842 to any place in which Bombay Act No. III. of 1867 is in force;

(i) extend to the villages mentioned in the schedule to Act No. IV. of 1868 any law not now in force therein;

(j) extend to any of the towns of Calcutta, Madras and Bombay any law not now in force therein;

(k) affect the operation of any enactment not mentioned in any of the schedules hereto annexed.

9. The

Enactments repealed.

9. The enactments mentioned in the seventh schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

FIRST SCHEDULE. (See Section 3.) ACTS OF THE SUPREME COUNCIL.		FIRST SCHEDULE—Continued.	
Year and No.	Subject.	Year and No.	Subject.
1836, XXVI. ...	Governor-General's Camp Police.	1855, XXIII. ...	Administration of mortgaged estates in cases of descents occurring or devised made before the 1st January 1866.
1837, IV. ...	Power to acquire land.	" XXIV. ...	Penal servitude.
1838, XXV. ...	Wills executed before the 1st January 1866.	" XXVIII. ...	Interest.
1839, XXIX. ...	Dower, when marriage was contracted before 1st January 1866.	1856, IX. ...	Bills of Lading.
" XXX. ...	Inheritance, where descent took place before 1st January 1866.	" XI. ...	Desertion by European Soldiers.
" XXXII. ...	Interest.	" XV. ...	Marriage of Hindú Widows.
1840, VI. ...	Bills of Exchange.	1857, XI. ...	Offences against the State.
1841, X. ...	Registration of Ships.	" XXV. ...	Forfeiture by Mutineers.
" XI. ...	Military Courts of Requests.	1858, III. ...	State Prisoners.
" XVIII. ...	Exportation of Military Stores.	" XXXV. ...	Estates of Lunatics not subject to jurisdiction of Supreme Courts.
" XIX. ...	Curators in cases of successions.	" XXXVI. ...	Lunatic Asylums.
1842, IX. ...	Lease and Release.	1859, I. ...	Merchant Seamen.
" XII. ...	Military Bazaars.	" III. ...	Cantonment Joint Magistrates.
1843, V. ...	Slavery.	" VIII. ...	Civil Procedure.
1847, XX. ...	Copyright.	" IX. ...	Sections 16, 17, 18, and 20. Forfeitures.
1850, V. ...	Coasting Trade.	" XIV. (s. 15). ...	Suits to recover possession of land.
" XI. ...	Navigation Laws.	" XV. ...	Patents.
" XII. ...	Default of Public Accountants.	1860, XXI. ...	Registration of Societies.
" XVIII. ...	Protection of Judicial Officers.	" XXVII. ...	Collection of debts on successions.
" XIX. ...	Binding of Apprentices.	1861, IX. ...	Minors.
" XXI. ...	Non-forfeiture of rights by loss of Caste.	" XXIII. ...	Amending Civil Procedure Code.
" XXXIV. ...	State Prisoners.	1862, III. ...	Government Seal.
" XXXVII. ...	Inquiries into the behaviour of Public Servants.	1863, VI. ...	Sea Customs.
1852, XXX. ...	Naturalization of Aliens.	" XVI. ...	Excise Duty payable on Spirits used in Arts and Manufactures.
" XXXIII. ...	Enforcement of Judgments of Charter Courts and Military Courts of Requests.	" XXIII. ...	Claims to waste lands.
1853, II. ...	Burdens on land.	" XXXI. ...	Gazette of India.
1854, XVIII. ...	Railways.	1864, III. ...	Foreigners.
" XXXI. ...	Barring entails: conveyances by married women.	" VI. ...	Whipping.
1855, XI. ...	Mesne profits and improvements.	1865, III. ...	Common Carriers.
" XII. ...	Executors and Administrators.	" XI. ...	Mofussil Courts of Small Causes.
" XIII. ...	Compensation for loss occasioned by death caused by actionable wrong.	" XV. ...	Marriage and Divorce among Parsees.
		" XXI. ...	Intestate succession among Parsees.
		1866, V. ...	Bills of Exchange, Commercial Law.

FIRST SCHEDULE— <i>Concluded.</i>		SECOND SCHEDULE— <i>Continued.</i>	
Year and No.	Subject.	Year and No.	Subject.
1866, X. ...	Companies.	1816, XII. ...	Reference of claims regarding land and produce to Village and District Pancháyats.
" XXI. ...	Dissolution of marriages of Native Converts.	" XIV. ...	Native Pleadors.
" XXVIII. ...	Trustees and Mortgagees' Powers.	1817, VII. ...	Maintenance of Bridges, &c.; Escheats.
1867, X. ...	References by Courts of Small Causes in the Mofussil.	" VIII. (s. 9 only).	Sale for arrears of revenue of estate belonging to Native Officer or Soldier.
" XXV. ...	Printing Presses, &c.	1819, I. ...	Land revenue.
1868, X. ...	Amending Consolidated Customs Act.	" II. ...	State Prisoners.
1869, XV. ...	Evidence of Prisoners.	1821, IV. (s. 4) ...	Petty Thefts
1870, I. ...	Quarantine.	1822, IV. ...	Explanation of Madras Regulation XXV., 1802.
SECOND SCHEDULE. (See Section 4.) (a.)—MADRAS REGULATIONS.		" VII. (cl. 1 of s. 3 only).	Native Officers in Revenue and other Public Departments.
Year and No.	Subject.	" IX. ...	Embezzlement by public servants and malversation in revenue matters.
1802, III. (ss. 1, 11, part of s. 16 only).	Procedure of Civil Courts.	1823, III. ...	Powers of Subordinate and Assistant Collectors.
" V. (s. 30) ...	Sadr Ad lat to act according to justice, &c.	1828, VII. ...	
" XIII. ...	Records of Courts.	1829, V. ...	Hindú Wills and Estates.
" XIX. (s. 2).	Covenanted Civil Servants forbidden to lend.	1830, I. ...	Prohibition of Widow-burning.
" XXV. ...	Settlement of Land Revenue.	1831, III. ...	Unlawful assemblies; threatening Officers; ryots refusing to attend at annual settlement.
" XXVI. (ss. 1, 2, & 3 only).	Registration of málguzárá land.	" V. (s. 7, cl. 2 only).	Liability of Ministerial Officers for reception of improperly-stamped document.
" XXIX. ...	Karnams.	" VI. ...	Hereditary Village Offices.
1803, I. ...	Board of Revenue.	" X. ...	Prohibition of sale of Estates of Minors for Arrears of Revenue.
" II. ...	Conduct of Collectors, &c.	1832, III. ...	Limitation for Suits against orders of Revenue Authorities under Madras Regulation VII. of 1828.
1804, V. ...	Court of Wards.	" VII. ...	Cantonments.
1805, I. ...	Salt revenue.	" XI. ...	Hidden Treasure.
1806, II. (parts of ss. 1 & 7.)	Collectors and Karnams.	" XIV. ...	Purchase of clothes from Soldiers.
1807, II. ...	Salt revenue.	(b.)—ACTS OF THE SUPREME COUNCIL RELATING TO THE MADRAS PRESIDENCY.	
1808, VII. ...	Martial Law.	Year and No.	Subject.
1816, IV. ...	Village Munsifs.	1837, XXXVI. ...	Criminal Jurisdiction of Collectors.
" V. ...	Village Pancháyats.	1838, XII. ...	Hidden Treasure.
" IX. (s. 43 only).	Prosecution of Zilla Magistrates.	1839, VII. ...	Tahsildárs.
" XI. ...	Sections 8, 9, 10, Heads of villages: Section 11, cl. 1, Stolen property: Section 13, Discovery of corpses: Section 14, Register of persons confined by heads of villages: and Section 47, Magistrates charged with maintenance of peace.	1840, VIII. ...	Awards of Pancháyats.

SECOND SCHEDULE— <i>Concluded.</i>		THIRD SCHEDULE— <i>Concluded.</i>	
Year and No.	Subject.	Year and No.	Subject.
1840, XVII. ...	Penalties for breach of Salt Laws.	1827, XXI. ...	Sections 1 to 16, inclusive (Duty on opium): secs. 46, 54 to 66, inclusive (spirits): secs. 67 to 73, inclusive (penalties).
1844, VI. ...	Duties.	" XXII. ...	Section 18 (Furnishing false certificates to soldiers): sec. 19 (buying uniform, arms &c.): sec. 20 (recovery of value of embezzled stores): secs. 40, 41, 42, 43 (passage of troops): secs. 45, 46, 47 (requisitions for military aid).
1846, I. ...	Pleadors.	" XXV. ...	State Prisoners.
" IX. ...	Harbours.	1830, V. ...	Section 1 (Revenue Commissioners): sec. 2, clauses 1, 2, 3 (Collectors and Sub-Collectors).
1849, X. ...	Commissioners of Revenue.	" XIII. ...	Civil jurisdiction of Jágirdárs.
1852, VII. ...	Penalties for breach of Salt Laws.	1831, XV. ...	Village Patels.
1853, XX. ...	Pleadors.	1832, II. ...	Realization of Revenue.
1855, X. ...	Section 10—Recusant Witnesses.	1833, V. ...	Hereditary Officers.
" XIV. ...	Military Bazaars.	(b.)—ACTS OF THE SUPREME COUNCIL RELATING TO THE BOMBAY PRESIDENCY.	
" XXI. ...	Minors.	Year and No.	Subject.
1856, VIII. ...	Control of Gaols.	1838, XVI. ...	Judiciary.
1857, VII. ...	Uncovenanted Agency.	" XVIII. ...	Sureties.
1858, I. ...	Compulsory Labor.	" XIX. ...	Coasting Vessels.
" XIV. ...	Minors.	1839, XX. ...	Revenue.
1859, XXIV. ...	Police.	1840, XV. ...	Agents of foreign Sovereigns.
1860, XXVIII. ...	Boundary Marks.	1842, XIII. ...	Revenue.
1869, XI. ...	Land Customs.	" XVII. ...	Revenue Commissioners.
" XXIV. ...	Salt.	1843, XI. ...	Hereditary Officers.
THIRD SCHEDULE. (See Section 5.) (a.)—BOMBAY REGULATIONS.		1844, XIX. ...	Abolition of Town Duties.
Year and No.	Subject.	1846, I. ...	Pleadors.
1827, II. ...	Section 21 (caste questions), ss. 47 to 54 (inclusive) and s. 56 (Pleadors).	" III. ...	Sections 1, 5, and 6—Boundary Marks.
" IV. ...	Section 26 (law applicable to suits): sec. 69, clauses 2 and 3 (attachment and distraint of crops).	1852, III. ...	Spiruous Liquors.
" V. ...	Preamble: sec. 9 (acknowledgments of debt): sec. 14 (interest): sec. 15 (mortgages and pledges).	" XXI. ...	Deputy Collectors.
" VIII. ...	Administration of Estates.	1853, XX. ...	Pleadors.
" XII. ...	Preamble: section 19 (Magistrate's power to make rules): sec. 20 (standards of weights and measures): sec. 27, clause 2 (supervision of suspected persons): sec. 37, clauses first and second (responsibility of villages for robberies).	1855, X. ...	Section 10—Recusant Witnesses.
" XIII. ...	Section 34, clause third (letter substituted for summons).	1856, VIII. ...	Control of Gaols.
" XVI. ...	Revenue Administration.	1864, XX. ...	Minors.

FOURTH SCHEDULE. (See Section 6.) BENGAL REGULATIONS (LOWER PROVINCES.)		FOURTH SCHEDULE—Continued.	
Year and No.	Subject.	Year and No.	Subject.
1793, I.	Perpetual Settlement.	1818, III.	State Prisoners.
" II.	Collection of Land Revenue.	1819, II.	Resumption of Revenue-free lands.
" VIII.	Rules for Decennial Settlement.	" VI.	Ferries.
" XI.	Native laws of inheritance to Revenue-paying land.	1821, IV.	Powers of Collectors and Magistrates.
" XIX.	Title to lands exempt from Revenue.	1822, III.	Boards of Land Revenue.
" XXXVII.	Title to lands exempt from Revenue under bādshāhī grants.	" XI.	Section 36, Khās management of purchases by Government : sec. 38, non-liability of Government for errors of Courts.
" XXXVIII.	Section 1—preamble : Section 2—Prohibition of loans by Covenanted Servants.	1823, VI.	Indigo Contracts.
" XLVIII.	Quinquennial Register of Revenue-paying lands.	" VII.	Prohibition of loans to Covenanted Civil Servants.
1794, III.	Sections 12, 13, 16, 17, 18, 19, and 20—Arrears of Revenue.	1825, VI.	Passage of Troops.
1795, LVIII.	Sections 3 and 4—Decrees relating to land exempt from Revenue.	" IX.	Defaulting Mālguzārs.
1797, XV.	Fees for keeping Revenue Records.	" XI.	Alluvion and Diluvion.
1798, I.	Conditional Sales of Land.	" XIII.	Settlement of resumed Lākhirāj land.
1799, V.	Wills and Intestacies of Natives.	" XIV.	Authority to confirm Lākhirāj tenures—Native grants.
1800, VIII.	Pargana Register of Lands.	" XX.	Courts-Martial and Military Courts of Requests.
1801, I.	Arrears of Revenue : Division of Joint Estates.	1827, III.	Section 5, Evidence.
1804, X.	Punishment by Courts-Martial of certain State offences.	" V.	Management of Estates under attachment.
1806, XI.	Passage of Troops.	1828, III.	Appeals from decisions of Revenue Authorities.
" XVII.	Sections 7 and 8—Mortgages and conditional sales.	" IV.	Section 1 and section 2, clause 4—Time during which Collectors are to be considered engaged in making settlements.
1810, XIX.	Maintenance of Bridges, &c. ; Escheats.	1829, I.	Commissioners of Revenue and Board of Revenue.
" XX.	Camp-followers, Bazaars, Cantonments.	" IV.	Appeals to Special Commissioners under Regulation III. of 1828.
1811, XI.	Revision of jama on lands ordered to be divided.	" XVII.	Widow-burning.
1812, V.	Collection of Land Revenue.	1830, V.	Sections 1 and 5—Indigo Contracts.
" XI.	Removal of Foreign Emigrants.	(b.)—ACTS OF THE SUPREME COUNCIL RELATING TO THE LOWER PROVINCES.	
1814, XIX.	Partition of Revenue-paying Estates.	Year and No.	Subject.
1817, V.	Hidden Treasure.	1836, X.	Indigo Contracts.
" XX.	Section 28, Abkārī : Section 29, Criminal process in Salt and Opium Departments : Section 30, clauses 1, 2, and 5, Building forts ; Collecting sepoy and stores ; Encroaching on roads : Section 32, Despatches of treasure.	" XX.	Batwāras.
		" XXI.	Creating Zilas.
		1838, XI.	Remuneration of Amīns effecting Partitions.
		1841, XII.	Section 2—No Interest on Arrears of Land Revenue.
		1847, IX.	Assessment of new lands.

FOURTH SCHEDULE—Concluded.		FIFTH SCHEDULE—Concluded.	
Year and No.	Subject.	Year and No.	Subject.
1848, XX.	Land Revenue.	1825, XI.	Alluvion and Dereliction.
1850, XLIV.	Board of Revenue.	" XX.	Courts-Martial and Courts of Requests.
1853, XIX.	Section 26—Recusant Witnesses.	1827, III.	Section 5—Evidence.
1855, XXXII.	Embankments.	" V.	Management of Estates under Attachment.
1856, XII.	Civil Court Amīns.	1829, XVII.	Widow-burning.
" XX.	Chaukidārs.	1830, V.	Sections 1 and 5—Indigo Contracts.
" XXI.	Abkārī.	1831, VI.	Section 6—Sadr Adālat.
1857, XIII.	Opium.	" XI.	Sections 1, 2, 4, 5, 6, 8—Police powers of Tahsildārs.
1858, XXXI.	Settlement of Alluvion.	1833, I.	Sadr Board of Revenue.
" XL.	Minors.	" IX.	Deputy Collectors.
1859, XI.	Sales for Arrears of Revenue.	(b.)—ACTS OF THE SUPREME COUNCIL RELATING TO THE NORTH-WESTERN PROVINCES.	
1860, XXIII.	Abkārī.	Year and No.	Subject.
FIFTH SCHEDULE. (See Section 7.)		1836, X.	Indigo Contracts.
(a.)—BENGAL REGULATIONS (NORTH-WESTERN PROVINCES.)		" XXI.	Creating Zilas.
Year and No.	Subject.	1853, XIX.	Section 26—Recusant Witnesses.
1793, XXXVIII.	Section 1, preamble ; Section 2, prohibition of loans by Covenanted Servants.	1854, XVI.	Police.
1798, I.	Conditional sales of land.	1856, XII.	Civil Court Amīns.
1799, V.	Wills and Administration to Natives.	" XX.	Chaukidārs.
1804, X.	Punishment by Courts-Martial of certain State offences.	1857, XIII.	Opium.
1806, XI.	Passage of Troops.	1858, XL.	Minors.
" XVII.	Sections 7 and 8—Mortgages and conditional sales.	SIXTH SCHEDULE. (See Sections 2, 3, 4, 5, 6, and 7).	
1810, XIX.	Maintenance and Repair of Bridges, &c. ; Escheats.	PART I. SCHEDULED DISTRICTS, MADRAS. I.—In Ganjam.	
" XX.	Camp-followers, Bazaars, Cantonments.	(1.) The Gumsur Maliahs including Chokapad.	
1812, XI.	Removal of Foreign Emigrants.	(2.) The Surada Maliahs	
1817, V.	Hidden Treasure.	(3.) The Chinna Kimeri Maliahs.	
1818, III.	State Prisoners.	(4.) The Pedda Kimeri Maliahs.	
1819, VI.	Ferries.	(5.) The Bodaguda Maliahs.	
1822, XI.	Section 38—Non-liability of Government for errors of Courts.	(6.) The Surangi Maliahs.	
1823, VI.	Indigo Contracts.	(7.) The Parla Kimeri Maliahs.	
" VII.	Prohibition of loans to Covenanted Civil Servants.	(8.) The Muttās of Koradā and Ronaba (otherwise called Srikarma).	
1825, VI.	Passage of Troops.	(9.) The Chighatti Maliah.	

SIXTH SCHEDULE—Continued.

- (10.) The Juradā Maliah.
 (11.) The Jalandra Maliah.
 (12.) The Mandasa Maliah.
 (13.) The Budarasinghi Maliah.
 (14.) The Kuttingia Maliah.

II.—In Vizagapatam.

- (1.) The Jeypur Zamindāri.
 (2.) Golconda Hills, west of the River Boderu.
 (3.) The Madugol Maliahs.
 (4.) The Kasipur Zamindāri.
 (5.) The Panchipenta Maliahs.
 (6.) Mondemkolla, in the Merangi Zamindāri.
 (7.) The Konda Muttā of Belgām.
 (8.) The Gumma and Konda Muttās of Kurpam.
 (9.) The Kottam, Rām and Konda Muttās of Pālkonda.

III.—In the Godāvāri District.

- (1.) The Bhadrāchalam Tāluq.
 (2.) The Rākapilli Tāluq.
 (3.) The Rampā Country.

IV.—In the Indian Ocean.

The Laccadive Islands, including Minicoy.

PART II.

SCHEDULED DISTRICTS, BOMBAY.

- I.—The Province of Sindh.
 II.—The Panch Mahāls.
 III.—Aden.
 IV.—The villages belonging to the following Mehwasī Chiefs :—
 (1.) The Pārvī of Kāthī.
 (2.) The Pārvī of Nāl
 (3.) The Pārvī of Singpūr.
 (4.) Walwī of Gaothālī.
 (5.) The Wassāwa of Chikhli.
 (6.) The Pārbī of Nawalpūr.

PART III.

SCHEDULED DISTRICTS, BENGAL.

- I.—The Jalpāigori and Darjeeling Divisions.
 II.—The Hill Tracts of Chittagong.
 III.—The Santāl Parganas.
 IV.—The Chutiā Nāgpur Division.
 V.—The Mahāls of Angul and Banki.

PART IV.

SCHEDULED DISTRICTS, NORTH-WESTERN PROVINCES.

- I.—The Jhānsī Division, comprising the Districts of Jhānsī, Jalaun and Lalatpur.
 II.—The Province of Kumāon and Garhwāl.

III.—The Terai Parganas, comprising—Bāzpūr, Kāshīpūr, Jaspūr, Rudarpūr, Gadarpūr, Kilpūrī, Nānak-Matthā and Bilberī.

IV.—In the Mirzapur District :—

- (1.) The tappās of Agori Khās and South Kon in the Pargana of Agori.
 (2.) The tappā of British Singrauli in the Pargana of Singrauli.
 (3.) The tappās of Phulwā, Dudhi, and Barhā in the Pargana of Bichipār.
 (4.) The portion lying to the south of the Kaimor Range.

V.—The Family Domains of the Mahārājā of Benares comprising the following parganas :—

Bhadāhi and Kheyra Māngror in the Mirzapur District.

Kaswā Rājā in the Benares District.

VI.—The tract of country known as Jaunsar Bāwar in the Dehra Dūn District.

PART V.

SCHEDULED DISTRICTS, PANJAB.

The Districts of Hazāra, Peshāwar, Kohāt, Bannu, Dera Ismail Khān, Dera Ghāzi Khān, Lahaul and Spiti.

PART VI.

SCHEDULED DISTRICTS, CENTRAL PROVINCES.

Chhattisgarh Zamindāris.

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| 1. Khariār. | 13. Mātīn. |
| 2. Bindrā Nowāgarh. | 14. Uprorā. |
| 3. Sahezpūr. | 15. Kendā. |
| 4. Gāndai. | 16. Lāphā. |
| 5. Silhetī. | 17. Chhūrī. |
| 6. Barbaspūr. | 18. Korbā. |
| 7. Thākurtolā. | 19. Chapā. |
| 8. Lohārā. | 20. Borā Sāmbhar. |
| 9. Gondardehī. | 21. Phūljhar. |
| 10. Fingeswar. | 22. Kotābirā. |
| 11. Pāndariā. | 23. Rāmpūr. |
| 12. Pendrā. | |

Chāndā Zamindāris.

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| 1. Ahirī. | 11. Muramgāon. |
| 2. Ambāgarh Chauki. | 12. Pānābāras. |
| 3. Aundhī. | 13. Palasgarh. |
| 4. Dhanorā. | 14. Rāngī. |
| 5. Dūdhoālā. | 15. Sirsundī. |
| 6. Gewardā. | 16. Sonsarī. |
| 7. Jhārāpāprā. | 17. Chāndālā. |
| 8. Khutgāon. | 18. Gilgāon. |
| 9. Korāchā. | 19. Pāwī Mutāndā. |
| 10. Kotgal. | 20. Pategāon. |

Chhindwārā Jāgirdāris.

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| 1. Harai. | 7. Pachmarhi. |
| 2. Chhāter. | 8. Pārtābgarh. |
| 3. Gorakhghāt. | 9. Almod. |
| 4. Gorpāni. | 10. Sonpūr. |
| 5. Baktāgarh. | 11. Bariām Pagārā. |
| 6. Bardāgarh. | |

PART VII.

The Chief Commissionership of Coorg.

PART VIII.

The Chief Commissionership of the Andaman and Nicobar Islands.

PART IX.

The Chief Commissionership of Ajmer and Mairwāra.

PART X.

The Chief Commissionership of Assam.

PART XI.

The Hill Tracts of Arakan.

PART XII.

The Pargana of Mānpur.

PART XIII.

The Cantonment of Morar.

SEVENTH SCHEDULE.

ENACTMENTS REPEALED.

(See Section 9.)

Part I.—Acts.

No. and Year.	Subject or Title.	Extent of Repeal.
X. of 1838	... Kumaon ...	The whole.
VIII. of 1839	... Jāgīr of Chinchni ...	The whole.
VI. of 1842	... An Act for annexing to the British Territory certain villages belonging to the late Nepanee Jagheer, and acquisitions by exchange from the Sattara State, and for bringing under the Regulations an Inam village of Pergunnah Yelloor.	The whole.
X. of 1848	... An Act for annexing the lapsed State of Mandvee to the Presidency of Bombay.	The whole Act except the title and the following words (namely) "suits on the following subjects shall not be cognizable by the Civil Courts within the said lapsed State of Mandvee," and clause fourth and the first eleven words of clause fifth of section two.
VIII. of 1853	... An Act for bringing the lapsed State of Colaba under the laws of the Presidency of Bombay.	The whole Act except the title, and the following words (namely) "suits on the following subjects shall not be cognizable by the Civil Courts within the said lapsed State of Colaba," and clause fourth and the first eleven words of clause fifth of section two.

SEVENTH SCHEDULE—Continued.

No. and Year.	Subject or Title.	Extent of Repeal.
XIII. of 1853	... An Act for bringing under the operation of the Regulations and Acts in force in the Presidency of Bombay certain territories subordinate to that Presidency.	The whole.
XVII. of 1853	... An Act to repeal Regulation VII. of 1816, and to declare the law which is to be in force in the tract of land granted to Maharajah Imrit Rao.	So much as has not been repealed.
XXIII. of 1858	... An Act for bringing the District of Kurnool under the Laws of the Presidency of Fort St. George.	The whole.
XXXII. of 1858	... An Act for bringing the Fort of Tanjore and the adjacent territory under the Laws of the Presidency of Fort St. George.	So much as has not been repealed.
XII. of 1863	... An Act to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.	So much as has not been repealed.
I. of 1864	... An Act to bring the Jagheers of Poorwah and Khuddee, in the District of Banda, under the operation of the General Regulations.	The whole.
XXIV. of 1864	... An Act relating to the administration of certain districts under the government of the Lieutenant-Governor of the North-Western Provinces.	So much as has not been repealed.
I. of 1865	... An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.	The whole.
XXII. of 1868	... An Act to bring Mauza Kheria, in the District of Agra, under the operation of the General Regulations.	The whole.

(a.)—BOMBAY ACTS.

No. and Year.	Title or abbreviated Title.	Extent of Repeal.
III. of 1863	... An Act for bringing under the Regulations and Acts of the Presidency of Bombay the territories of Sattara, &c.	Sections five, six, and seven, and Schedule C.
IX. of 1866	... An Act to authorize the extension of certain Regulations and Acts to Territories in the Bombay Presidency not subject to the General Regulations.	The whole.
X. of 1866	... An Act to shorten the language used in Acts of the Governor of Bombay in Council and to make certain provisions regarding thereto.	Section five.

SEVENTH SCHEDULE.—Continued.

Part II.—Regulations.

(a.)—BENGAL CODE.

No. and Year.	Title or abbreviated Title.	Extent of Repeal.
XLVIII. of 1795	... A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue, in the Province of Benares, from lending money to Talookdars, &c.	So much as has not been repealed.
XIX. of 1803	... A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company, from lending money to Zemindars, &c.	The whole.
XXXIV. of 1803	... A Regulation for determining the rate of Interest on money in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company.	So much as has not been repealed.
XII. of 1806	... A Regulation for annexing the Pergunnahs of Sonk, Sonsa, and Sahar, situated on the right bank of the River Jumna, to the jurisdiction of the Zillah of Agra, &c.	The whole.
XIV. of 1806	... A Regulation for abolishing the Court of Dewanny Adawlut of the Zillah of the Northern Division of Saharunpore, &c.	The whole.
XVIII. of 1816	... A Regulation for annexing to the Zillah of Allahabad the Pergunnah of Hendya, &c.	So much as has not been repealed.
II. of 1818	... A Regulation for annexing to the Zillah of Bundelcund the Elakeh of Khunde, &c.	So much as has not been repealed.
IV. of 1818	... A Regulation for re-establishing the Dewanny Adawlut of the Northern Division of Saharunpore.	The whole.
V. of 1824	... A Regulation for extending the operation of Regulation VI., 1823, to the Provinces of Orissa, Behar, and Benares, and to the Ceded and Conquered Provinces.	The whole.
XXI. of 1825	... A Regulation for annexing to the Jurisdiction of the Commissioner of Kumaon the Tract of Country called the Deyra Doon, &c.	The whole.
V. of 1826	... A Regulation for annexing to the Zillah of Agra the Pergunnah of Goherdhun.	So much as has not been repealed.
VI. of 1826	... A Regulation for constituting the Jurisdiction of the Joint Magistrate stationed at Futtehpore a distinct Zillah.	The whole.
V. of 1829	... A Regulation for rescinding part of Regulation X., 1817, and parts of Regulation XXI., 1825.	The whole.
VIII. of 1832	... A Regulation for rescinding Regulation XIV., 1814.	So much as has not been repealed.
V. of 1833	... A Regulation for forming the Jurisdiction of the City of Dacca and the Zillah of Dacca Jelalpore into one District.	So much as has not been repealed.

SEVENTH SCHEDULE.—Concluded.

(b.)—BOMBAY CODE.

No. and Year.	Title.	Extent of Repeal.
X. of 1830	... A Regulation for bringing under the Operation of the Regulations certain villages in the Collectorship of Kandesh.	The whole.
XIV. of 1830	... A Regulation for bringing under the Operation of the Regulations such portion of the Bombay Territory on the Mahabuleshwar Hills as has been ceded to the Honorable Company by His Highness the Rajah of Sattara.	The whole.
II. of 1834	... A Regulation for bringing under the Operation of the Regulations certain Villages which have been ceded to the Honorable Company by Angria Sirkeil in exchange for other Villages.	The whole.

27.2.1874

ACT NO. XVI. OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor-General on the 16th December 1874.)

An Act for the repeal of certain Obsolete Enactments.

WHEREAS it is expedient that the enactments mentioned in the schedule to this Act, which have ceased to be in force otherwise than by express and specific repeal, or have by lapse of time and change of circumstances become unnecessary, or which merely repeal prior enactments, should be expressly and specifically repealed; It is hereby enacted as follows:—

Enactments in schedule repealed. 1. The enactments described in the schedule annexed to this Act are hereby repealed to the extent mentioned in the third column of the same schedule:

Provided that the repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated, or referred to:

And this Act shall not affect the validity or invalidity of anything already done or suffered, or any indemnity already granted, or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof, or the proof of any past act or thing:

Nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised, or derived, by, in, or from any enactment hereby repealed:

Nor shall this Act provide or restore any jurisdiction, office, custom, privilege, restriction, exemption, usage or practice not now existing or in force.

2. This

Short title.
Commencement.

2. This Act may be cited as "The Repealing Act, 1874;" it extends to the whole of British India; and it shall come into force on the passing thereof.

SCHEDULE.

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and Year.	Subject.	Extent of Repeal.
VIII. of 1835 ...	Decrees for Rent ...	So much as has not been repealed.
X. of 1836 ...	Indigo Contracts ...	In sections two, three and four, the first six words.
XX. of 1836 ...	Quashing Batwáras ...	In section two, the words and figures "And it is hereby enacted that from the said first day of October 1836."
		In section three, the words "And it is hereby enacted that."
XXI. of 1836 ...	Creation of Zilas ...	The words and figures "It is hereby enacted, that from the first day of October 1836."
XXVI. of 1836 ...	Governor-General's Camp-Police.	In section one, the first five words; and in sections two, three and four, the first six words.
III. of 1837 ...	Bengal Sadr Courts ...	So much as has not been repealed.
IV. of 1837 ...	Power to acquire land ...	In section one, the first twelve words; and in section two, the first six words.
VI. of 1837 ...	Cuttack Málguzáras ...	The first five words.
XXII. of 1837 ...	Offences against Revenue Regulations (Madras).	So much as has not been repealed.
XXIX. of 1837 ...	Power to prescribe language to be used in judicial proceedings.	The whole Act.
XXXVI. of 1837 ...	Criminal jurisdiction (Madras).	In section two, the first six words, and the words "and that."
VII. of 1838 ...	Bengal judiciary ...	So much as has not been repealed.
XII. of 1838 ...	Treasure trove (Madras) ...	The words and figures "It is hereby enacted, that from the first day of July 1838."
XVI. of 1838 ...	Bombay judiciary ...	Section six; and in each of sections two, three, four and five, the first six words.
XVIII. of 1838 ...	Sureties (Bombay) ...	In section one, the first twelve words.
		In sections two, three, four, five and six, the words "And it is hereby enacted, that."
XIX. of 1838 ...	Coasting vessels (Bombay).	In sections two to fourteen (both inclusive), the words "And it is hereby enacted, that;" In section two the words and figures "from the said first day of November 1838" and in section fifteen, the words and figures "And it is hereby enacted, that from the first day of November 1838."
XXII. of 1838...	Bengal judiciary ...	So much as has not been repealed.
XXIX. of 1838...	Salt Department (Bengal) .	In each of sections two to thirteen, and seventeen to twenty-two (both inclusive), twenty-four, twenty-five, twenty-six, thirty and thirty-three, the words "And it is hereby enacted, that."
IX. of 1839...	Pauper suits ...	So much as has not been repealed.
XX. of 1839...	Levy of hakka, &c., (Bombay).	In section one, the first seven words; in sections two and three, the first six words.

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(Continued)

Number and Year.	Subject.	Extent of Repeal.
XXIV. of 1839...	Ganjam and Vizagapatam...	In section two, the words and figures "And it is hereby enacted, that from and after the said 1st day of December 1839." In sections three, four, five, six, seven and eight, the first six words.
VI. of 1840...	Bills of Exchange ...	In section one, the words and figures "from and after the 1st day of May, in the year of our Lord 1840." In section two, the first twelve words. In each of the remaining sections, the first six words.
IX. of 1840...	Damages, &c. ...	In section two, the first six words.
X. of 1840...	Temple of Jagannáth ...	In sections two and three, the first six words.
XV. of 1840...	Agents of Foreign Sovereigns (Bombay).	So far as relates to Bombay Regulation XV. of 1827.
XVII. of 1840...	Salt laws (Madras) ...	The words and figures "in modification of Regulation V. of 1831, of the Madras Code."
XIX. of 1840...	Pauper appeals ...	So much as has not been repealed.
XXIII. of 1840...	Execution of process ...	In sections two, three, four, six and seven, the first six words; in section five, the first five words; and the word 'that' where it first occurs.
I. of 1841...	Collection of Revenue ...	The whole Act.
VII. of 1841...	Examination of absent witnesses.	So much as has not been repealed.
VIII. of 1841...	Interpleader ...	In sections two, three, four, five and seven, the first six words.
X. of 1841...	Registry of Ships ...	In sections two, three, four, five, six, nine, ten, eleven, twelve, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty-one, twenty-three, twenty-four and twenty-five, the first six words. In section eight, the first fourteen words. In section twenty-six, the first eight words.
XI. of 1841...	Military Courts of Requests.	In sections three to seventeen (both inclusive), the first six words. In section five, the words and figures "of the East India Company, under Act No. VII. of 1841," and "pursuant to the provisions of Act No. VII. of 1841." In section fifteen, the words and figures "(for which purpose the provisions of Act No. II. of 1840 shall be applicable)."
XII. of 1841...	Sales of land for arrears of Revenue.	In section two, the first six words, and the words and figures "which shall fall due after the date specified in Section XXXV. of this Act."
XVIII. of 1841...	Arms and Ammunition ...	In section three, the first six words.
XIX. of 1841...	Curators ...	In sections two to nineteen (both inclusive), the first six words.
XXIV. of 1841...	Illusory appointments, &c...	In section two, the first six words and the words "from the 1st day of January next." In section four, the first forty-three words, and the words "from the 1st day of January next." In section five, the first six words.
XXVI. of 1841...	Extension of parts of 3 & 4 Wm. IV., C. 42.	In sections three, four, seven and nine, the first six words. In section eight, the first five words and the word "that."

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XXVII. of 1841... IV. of 1842...	Unclaimed dividends ... Boat Regulations (Madras)...	In section two, the first six words. In section one, the first fourteen words. In sections two, three, four, six to nineteen (both inclusive), twenty-one and twenty-four, the first six words. Section twenty. In sections twenty-two and twenty-three, the first seven words.
XII. of 1842...	Military Bázars ...	Section two, so far as it relates to Act No. XXVIII of 1841, and the first six words.
XIII. of 1842...	Collection of Revenue (Bombay).	In section two, the first six words, and the words "that it." In sections three to eight (both inclusive), the first six words.
II. of 1843... V. of 1843...	Appeals ... Slavery ...	The whole Act. In section one, the first seven words. In sections two and three, the first eight words. In section four, the first six words.
XI. of 1843...	Hereditary officers (Bombay).	In section two, the word 'And.' In sections three, four, five and six, eight, ten to fifteen (both inclusive), the first six words. In sections seven and nine, the first seven words.
XII. of 1843... VI. of 1844...	Judicial language ... Customs Duties (Madras) ...	The whole Act. Section six. In sections eight to fifteen (both inclusive), the first six words.
XVI. of 1844...	Salt Duties (Bombay) ...	The preamble. Section six, down to and including the words "weight and that" and the word "Company's."
VIII. of 1845... XXI. of 1845... I. of 1846...	Security for costs ... Meriah sacrifices ... Pleaders ...	The whole Act. The whole Act. Sections one, two and three; and in sections four and six to thirteen (both inclusive), the first six words. In section five, the words "nevertheless and it is hereby enacted."
III. of 1846... XI. of 1846...	Boundary Marks (Bombay). Khándesh and Ahmadnagar.	In sections five and six, the first six words. In sections two, three, four and five, the first six words.
IX. of 1847...	Assessment of lands gained by alluvion or dereliction.	In sections two, three, five, six and nine, the first six words. Section four down to and including the words "and that."
XX. of 1847...	Copyright ...	In section three, the first six words, and the words "and that." In section five, the first eleven words, and the words "and that." In section six, the first five words, and the words "and that." In section seven, the first five words. In sections eight and nine, the first twelve words. In sections ten and eleven, the first six words. In sections twelve to sixteen (both inclusive), the first five words.

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XIV. of 1848... IX. of 1849...	Commissions ... Police Magistrates (Madras).	In section one, the first six words. So much as has not been repealed.
IX. of 1850...	Presidency Small Cause Courts.	In section six, the words and figures "within the meaning of Act VII. of 1841, Section VI."
XIX. of 1850...	Apprentices ...	In sections five and twenty-three, the words "the East" and "Company"
XXXIII. of 1850... XXXVII. of 1850...	Sales of Patni tenures ... Inquiries into behaviour of public servants.	In section one, the first six words. In section eight, the words and figures "by Act XXX., 1841."
III. of 1852... VII. of 1852...	Spirituous liquors (Bombay) Salt Revenue (Madras) ...	Section nine. In section four, the words and figures "in the manner prescribed by Clause 2, Section XXXIII. Regulation XI. of 1816, of the Madras Code."
XI. of 1852...	Title to rent-free estates (Bombay).	Section one from and including the words "and no order" to the end.
XXIII. of 1852... XXX. of 1852...	Mitigation of Fines ... Naturalization ...	The whole Act. Section nine.
XVIII. of 1853...	Sale of spirits in Cantonments.	In section sixteen, the words and figures "shall not come into operation before the 1st day of January 1854, and."
XVIII. of 1854...	Railways ...	In the preamble, the words "under the superintendence and control of the East India Company," and "in any part of the territories in the possession and under the Government of the said Company." In section two, the words "or of the East India Company." Sections thirty-two and thirty-three.
XXXI. of 1854...	Fines and recoveries: tenants in tail and married women.	In the title and preamble, the words "to abolish real actions and also fines and common recoveries, and." In section thirteen, the words "the East" and "Company." Section nineteen.
XXXIII. of 1854... XIV. of 1855... XVIII. of 1855... XXIII. of 1855...	Judicial language ... Military Bázars, Madras ... Pardons and Reprieves ... Administration of mortgaged estates.	The whole Act. The whole Act. The whole Act. In section one, the first eight words.
XXIV. of 1855...	Penal Servitude ...	In section one, the first six words and the words "the East" and "Company."
XXXII. of 1855...	Embankments ...	Section nineteen, and the last seven words of section eighteen.
XI. of 1856...	European deserters ...	In section two, the words "or for any of the Settlements of Prince of Wales' Island, Singapore and Malacca." In section four, the words and figures "Act No. XIV. of 1849, or."
XIII. of 1856...	Presidency Towns Police ...	In the title and preamble, the words "and the several stations of the Settlement of Prince of Wales' Island, Singapore and Malacca." In section two, the definitions of "station" and "Her Majesty's Supreme Court of Judicature."

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
		The expressions "and stations" "or station" "or stations" wherever they occur in the Act. Section nine. In section twenty-two, the words "and within the said Settlement." In sections forty-seven, forty-eight and seventy-four, the words "or the East India Company." Section fifty-three, from and including the words "or of any" down to and including "1851." Section one hundred and eighteen. So much as has not been repealed.
XIV. of 1856...	Improvement of Presidency Towns.	
XIX. of 1856...	Emigration	So much as has not been repealed.
XXV. of 1856...	Municipal rates	The whole Act.
IV. of 1857...	Tobacco (Bombay)	In section four, the words and figures "within the meaning of Act XXV. of 1836."
XXI. of 1857...	Suburbs of Calcutta	In the title, the words "of the Suburbs of Calcutta and"; in the preamble, the words "the Suburbs of the said town of Calcutta and of," and the words "Suburbs and" in each of the places where they occur. In section one, the words "Suburbs or." In section four, the words "or the East India Company." In the schedule, the words "Suburbs of Calcutta and" and the Part headed "SUBURBS OF CALCUTTA."
XXIX. of 1857...	Land Customs (Bombay)	In section four, the words "as above provided." In section five, the words and figures "and the provisions of Sections IV., V., and VI. of the said Act I. of 1852 shall be applicable to the persons so appointed."
I. of 1858	Forced labor (Madras)	In section six, the words "or District" in each of the places where they occur, and so much of that section as relates to Madras Regulation VII. of 1816.
XXXIV. of 1858...	Lunacy (Charter Courts)	Section thirty-one, from and including "and shall" down to the end of the section.
XXXVI. of 1858...	Lunatic Asylums	In section six, the words "and the Stations of the Straits Settlement" and "and Stations." In section seven, the words "or in any Station of the Straits Settlement." In section seventeen, the words and figures "or to affect the provisions of Act IV. of 1849, entitled 'An Act for the safe custody of Criminal Lunatics.'"
XXXVII. of 1858...	Nawáb of the Carnatic	Section three.
I. of 1859...	Merchant Seamen	In section one hundred and twelve, the last eleven words.
III. of 1859...	Cantonment Joint Magistrates.	Section eleven.
VII. of 1859...	Customs	So much as has not been repealed.
XIII. of 1859...	Masters and Workmen	In section one, the words "or in any Station of the Settlement of Prince of Wales' Island, Singapore and Malacca."
XVIII. of 1859...	Punishment of offences	Section one.

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XXIII. of 1859...	Land Customs	The whole Act.
XXIV. of 1859...	Police (Madras Presidency).	Section twelve. In section fifty-two, the words and figures "in manner provided by Act II. of 1839."
VIII. of 1860...	Telegraphs	In section eighteen, the words "or for the Settlement of Prince of Wales' Island, Singapore and Malacca."
XVI. of 1860...	Presidency Municipalities...	The whole Act.
XXI. of 1860...	Registration of Societies	In sections one and eighteen, the words and figures "under Act XIX. of 1857."
XXII. of 1860...	Chittagong	Section seven.
XXIII. of 1860...	Abkari (Bengal)	In section one, the words and figures "on and after the 21st January 1860," and in section four, the word "said."
XXVII. of 1860...	Collections of debts on successions.	Section one.
XXXI. of 1860...	Arms	In section twenty-five, the words "Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer, or for any other." Sections thirty-seven, thirty-eight and thirty-nine. In section forty-one, the words "or Station."
XLVIII. of 1860...	Presidency Towns Police	In the title, the words "and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca." In section four, the words "or in any of the Stations of the Straits Settlement," and "or of the Courts of Judicature of such Stations," and "or in the Court of Judicature."
V. of 1861...	Police	Section eleven.
XVII. of 1861...	Customs Duties (North-Western Provinces)	In section one, the words and figures "from and after the 9th day of March 1861." Section three.
IV. of 1863...	Treaty with Burma	Section four.
XIX. of 1863...	Partition	In section two, the words "after the passing of this Act."
XX. of 1863...	Religious Endowments	In the preamble, the words and figures "and whereas it is expedient for that purpose to repeal so much of Regulation XIX., 1810 of the Bengal Code, and Regulation VII., 1817. of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes." In section twenty-two, the words "after the passing of this Act."
VI. of 1864...	Whipping	Sections nine and ten.
VII. of 1864...	Salt (Central Provinces)	Section four.
XIX. of 1864...	Mirzapur	Section four.
XXIV. of 1865...	Warrants of Attorney	So much as has not been repealed.
XXX. of 1865...	Madras Irrigation Company.	Section two.
XXI. of 1866...	Native Converts' re-marriage.	Section two. In section thirty-four, the words and figures "or in Acts Nos. XXV. of 1864 and V. of 1865" and from and including the words "and no Clergyman" to the end of the section; and section thirty-five, from and including the words "but it may" to the end of the section.

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XXV. of 1866...	Transfer to Government of certain securities.	In the title and preamble, the words "and in the Supreme Court of the Straits' Settlement." In section one, the words "or Supreme Court of the Straits' Settlement." So much of section two as has not been repealed. In section four, the words "or Supreme Court, as the case may be," and the words "and, in the case of proceeds transferred and paid under the second section of this Act by order of the Supreme Court of the Straits' Settlement, be established to the satisfaction of the same Court."
XXVII. of 1866...	Trustees and Mortgagees ...	In section two, the words "to abolish real actions and also fines and common recoveries, and." Section fifty-five.
XXVIII. of 1866...	Trustees and Mortgagees' powers.	In section one, the words "and the Supreme Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca." Section forty-seven.
III. of 1867...	Public Gambling ...	Section eighteen.
XIII. of 1867...	Port-dues (Maulmain and Bassein).	In section three, the first eight words.
XIV. of 1867...	Pándhari (Central Provinces).	Section seven.
XVIII. of 1867...	Jhānsi Civil Courts ...	In section three, the words "from the date of this Act coming into operation." Section twenty-six.
XIX. of 1867...	Darjeeling ...	Section one.
XXIII. of 1867...	Murderous Outrages (Panjáb).	Section three.
XVIII. of 1868...	Nilgiri Hills ...	Section four.
XXV. of 1868...	Coorg Courts ...	The second paragraph of section one. Section twenty-five.
XI. of 1869...	Land Customs (Madras and Bombay).	Section three. In section four, the words and figures "Schedules to the said Act No. XVII. of 1867, or any other."
XV. of 1869...	Prisoners' testimony ...	In sections seven and eight, the words and figures "appointed under Act No. XXI. of 1863" and "appointed under the said Act No. XXI. of 1863."
XVI. of 1869...	Bhutān Drárs ...	Section four.
XVIII. of 1869...	Stamps ...	In section seventeen, the words and figures "Act No. XXVI. of 1867, section six, or under" and "other." In section forty-five, the words and figures "or Act No. X. of 1862 (to consolidate and amend the law relating to stamp duties)."
XX. of 1869...	Volunteers, ...	In section twenty-six, the words and figures "or the said Act No. XXIII. of 1857."
V. of 1870...	Costs of certain petitions ...	In the preamble, the words "and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Administrator-General of Bengal."

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XXII. of 1870...	European British subjects...	Section five.
XXVI. of 1870...	Prisons ...	The third paragraph of section one.
I. of 1871...	Cattle trespass ...	The third paragraph of section one.
II. of 1871...	Extension of Prisons' Act to Coorg.	Clause (b) of section one.
III. of 1871...	Paper Currency ...	The third paragraph of section one.
IV. of 1871...	Coroners ...	The third paragraph of section one.
V. of 1871...	Prisoners ...	The third paragraph of section one.
VI. of 1871...	Bengal Civil Courts ...	The fourth paragraph of section one.
VII. of 1871...	Emigration ...	The third paragraph of section one.
X. of 1871...	Excise ...	The third paragraph of section one. Section eighty-eight.
XII. of 1871...	Income Tax ...	The whole Act.
XIII. of 1871...	Customs Duties ...	The third paragraph of section one. In section four, the words and figures "affects Act No. XX. of 1867, or."
XVI. of 1871...	Survey of Steamers (Burma).	The third paragraph of section one.
XVII. of 1871...	Land rates (Oudh) ...	The third paragraph of section one.
XVIII. of 1871...	Land rates (N. W. P.) ...	The third paragraph of section one.
XX. of 1871...	Land rates (Panjáb) ...	The third paragraph of section one.
XXI. of 1871...	Dehrá Dún ...	In the preamble, the words "and to indemnify all officers and other persons who have acted in the said district under the said Regulations and Acts."
XXIV. of 1871...	Local Public Works loans...	In section one, the words "and shall come into force upon the passing thereof."
XXV. of 1871...	Railways ...	The third paragraph of section one.
XXVI. of 1871...	Land improvement ...	The third paragraph of section one.
XXVII. of 1871...	Criminal tribes ...	In section one, the words "and it shall come into force on the passing thereof."
XXXII. of 1871...	Civil Courts (Oudh) ...	Paragraphs three and four of section one.
III. of 1872...	Marriage in certain cases ...	In section one, the last nine words.
VII. of 1872...	Burma Courts ...	The last paragraph of section one. Sections three and four.
VIII. of 1872...	Income Tax ...	The whole Act.
X. of 1872...	Criminal Procedure ...	The third paragraph of section one.
XI. of 1872...	Foreign Jurisdiction ...	The last paragraph of section one.
XIII. of 1872...	Patterns and Designs ...	The last nine words of section one.
XV. of 1872...	Christian Marriage ...	The third paragraph of section one.
XVIII. of 1872...	Amending Evidence Act ...	The second paragraph of section one.
XXI. of 1872...	Native Military Lunatics ...	The third paragraph of section one.
XXVII. of 1872...	Postponing Criminal Procedure Code in Sindh.	The whole Act.
I. of 1873...	Amending Burma Courts' Act.	The third paragraph of section one.
II. of 1873...	Burma Ferries ...	The third paragraph of section one.
IV. of 1873...	Panjáb Municipalities ...	The third paragraph of section one.
V. of 1873...	Government Savings Banks.	The third paragraph of section one.
VI. of 1873...	Transhipment ...	The third paragraph of section one.
VIII. of 1873...	Canals and Drainage ...	The third paragraph of section one.
IX. of 1873...	Panjáb Appeals ...	The third paragraph of section one.
XI. of 1873...	Central Provinces Municipalities.	The third paragraph of section one.
XII. of 1873...	Repealing Act, 1873 ...	The whole Act.

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.—(Concluded.)

Number and Year.	Subject.	Extent of Repeal.
XIII. of 1873...	Burma Timber ...	Section five.
XIV. of 1873...	Lunatic Soldiers' property...	The third paragraph of section one.
XV. of 1873...	Municipalities (N. W. P. and Oudh).	The third paragraph of section one.
XVI. of 1873...	Village Police (N. W. P.)...	Section two.
V. of 1874...	Kullu appeals ...	The preamble and section two.
VI. of 1874...	Privy Council Appeals ...	Section two and the schedule.

PART II.—ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

Number and Year.	Subject.	Extent of Repeal.
III. of 1865...	Offences against special and local laws.	The whole.
I. of 1867...	Shortening language of Acts	Sections six and seven.
III. of 1867...	Claims against Azim Jah ...	The whole.
VIII. of 1867...	Police ...	In section eighty-one, the words and figures "And Sections two and four of Act XXII. of 1837 and."
I. of 1869...	Nilgiri Hills Commis- sioner.	The whole.

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

VII. of 1867...	District Police ...	Section twelve.
I. of 1873...	Bombay Port Trust ...	Section one, and Schedule A.
III. of 1873...	Fees levied under Bombay Act IX. of 1863.	The whole.

PART IV.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

VII. of 1862...	Resumption of Revenue ...	Sections three and four.
VIII. of 1868...	Partial repeal of Act XXI. of 1857.	The whole Act.
II. of 1872...	Jute Warehouses.	The last forty-three words of section one.

PART V.—MADRAS REGULATIONS.

III. of 1802...	Procedure in Zila Courts ...	Section twenty-one.
IX. of 1816...	Zila Magistrates ...	So much as has not been repealed.
II. of 1819...	State Prisoners ...	Section four.
VII. of 1822...	Rescinding Regulations I., of 1809, and V. of 1811.	In section three, the words "of the ministerial officers of the Courts of Judicature."
VII. of 1832...	Military Bázárs.	The whole.

PART VI.—BENGAL REGULATIONS.

Number and Year.	Subject.	Extent of Repeal.
II. of 1793...	A Regulation for abolishing the Courts of Maal Adawlut, &c.	In section four, the words and figures "published in the manner directed in Regulation XLI., 1793." In section eight, clauses <i>eleventh</i> and <i>twelfth</i> . In section nine, the first three words. In section ten, the words "or dewans." In section fourteen, the words "and the dewan." In sections fifteen and eighteen, the words "or dewan." In section sixteen, the words "dewan or other." Sections twenty-one, twenty-two, twenty-seven, thirty, thirty-one, thirty-two, forty-six and forty-seven. In section twenty-four, the words and figures "by a Regulation published in the manner directed in Regulation XLI., 1793, or." In section twenty-five, the words "and the species of rupee in which each payment may be made." In section twenty-six, the last sentence. So much as has not been repealed.
IV. of 1793...	A Regulation for receiving, trying, and deciding suits, &c.	
VIII. of 1793...	A Regulation for re-enacting with modifications, &c.	Sections one, two, three, five to twelve (both inclusive), forty-two, forty-four, forty-five, forty-six, forty-seven, sixty-one and sixty-three. In section seventeen, the second sentence. In section eighteen, the second sentence. Section twenty-one, from and including the words "in the mode" to the end of the section. In section thirty-five, the second sentence. Sections sixty-eight to one hundred and one, both inclusive. So much as has not been repealed.
X. of 1793...	Decennial settlement ...	
XI. of 1793...	Inheritance ...	Section two, down to and including the word "Higeree." In section three, the words "subsequent to the period specified in Section II." Section four, down to and including the words "and that." Section five, except the first ten words, and in section six, the figure and words "VI. Nor to." So much as has not been repealed.
XIV. of 1793...	Recovery of arrears of revenue.	
XIX. of 1793...	Non-bádsháhí l á k h í r á j grants.	Section eighteen. In section two, clause <i>Second</i> , the words and figures "and proceeded in it, as required by Section XIV., Regulation III., 1793." In section thirty-five, the words "and also to the Provincial Court of Appeal of the Division" and "and to the Provincial Court of Appeal of the Division," and "Provincial Court of Appeal or." In section forty-two, the second and third sentences. In section forty-three, the first four words.

Number and Year.	Subject.	Extent of Repeal.
XXXVII. of 1793...	Bádsabí lákhiráj grants ...	In section ten, the words "to the Provincial Court of Appeal, or from the decision of the Provincial Court," and the words "in the event of their ordering the cause to be appealed to the Provincial Court and of its being given against them therein;" and the words "in both cases." Sections thirteen, twenty-five and thirty-four. In section seventeen, the words "every five years." In section twenty-eight, the words "of the five years." In section thirty, the words "and also to the Provincial Court of Appeal of the division," "and to the Provincial Court of Appeal of the division" and "Provincial Court of appeal or." In section thirty-seven, the last two sentences. In section thirty-nine, the words and figures "which is to be formed in each of the Zillahs in Bengal, Behar and Orissa, at the commencement of the Bengal, Fussily and Willaity year 1207, and at the commencement of every succeeding five years," and the word "five."
XXXVIII. of 1793...	Lending to Zamíndárs ...	In section two, the words "and City" and the words "the Judges of the Provincial Courts of Appeal and the Courts of Circuit, and the registers to their respective Courts."
XLVIII. of 1793...	A Regulation for forming a quinquennial register, &c.	In section two, clause <i>First</i> , the words "every five years." In sections ten, eleven, thirteen, sixteen, seventeen, nineteen, twenty-one, twenty-three, twenty-five, twenty-eight, twenty-nine and thirty, the word "quinquennial," wherever it occurs. In section ten, the words "every" and "five." In section sixteen, the word "five." In section eighteen, the words "and also to the Provincial Court of Appeal of the division," "and to the Provincial Court of Appeal of the division in which it may be included," and "Provincial Court of Appeal or." In section nineteen, the words "at the end of every five years." Section twenty-two. In section twenty-four, clause <i>Second</i> . In the same section, clause <i>Fifth</i> , the words and figures "Regulation XXV., 1793, that Regulation directing that the division and union of all estates are to be made under." In the same section, clause <i>Seventh</i> . In section twenty-six, the last two sentences. Section twenty-seven. In section twenty-nine, the words and figures "at the commencement of the Bengal, Fussily and Willaity year 1207, and at the commencement of every succeeding five years."
L. of 1793...	A Regulation for empowering the Court of Wards, &c.	So much as has not been repealed.

Number and Year.	Subject.	Extent of Repeal.
III. of 1794...	A Regulation for exempting proprietors of land, &c.	The whole Regulation, except sections twelve, thirteen, sixteen, seventeen, eighteen, nineteen and twenty. In section thirteen, the words and figures "by Section III., Regulation XIV., 1793."
VIII. of 1795...	Extending Regulation IV. of 1793.	So much as has not been repealed.
XXVII. of 1795...	Permanent settlement, Benares.	In section ten, the words and figures "and printed and published in the manner prescribed in Regulation XLI., 1793," and "as referred to in Regulation II., 1795."
LV. of 1795...	Court of Wards. Security from guardians.	So much as has not been repealed.
I. of 1799...	Frontier of Silhet ...	In section two, the words "natives of the Company's provinces; and to Armenians, Greeks and all other," and the words "not being British-born subjects; as well as to such British-born subjects as may be authorized by a license from Government to reside in the district of Silhet." In section six, from and including the words "in the mode" down to the end of the section. Section seven.
V. of 1799...	Wills and Intestacy ...	In section one, the words and figures "prescribed in Section XV. of Regulation IV., 1793, viz." In section two, the words and figures "Regulation X., 1793, or" and the word "other" before "Regulation;" and from and including the words "under the general rule" to the end of the section. In sections one, two, three and seven, the words "and City" and "or City," wherever they occur. In section eight, the words and figures "described in Regulation X., 1793" and "by the above or any other Regulation," and the word "the" before "disqualified."
VII. of 1799...	Realization of rent and revenue.	So much as has not been repealed.
II. of 1800...	Stone quarries at Chunar ...	In section two, the words "native inhabitants of the Company's provinces and all other," and from and including the words "not being," down to and including the figures "1793." In section eight, the words and figures "which are exempted from the customs by Section X., Regulation III., 1795." Section nine. In section ten, the words "besides an oath, or solemn declaration, for the faithful execution of their respective duties."
V. of 1800...	Extending to Benares Regulation VII. of 1799.	The whole Regulation.
VIII. of 1800...	Pargana Register ...	In section four, the words "at the commencement of every fifth succeeding year."

PART VI.—BENGAL REGULATIONS—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
I. of 1801...	Commissioners of Revenue and Circuit, Board of Revenue, &c.	In sections five, six, seven, nine, ten, fourteen, sixteen, seventeen and nineteen, the word "quinquennial" wherever it occurs. In section five, the words "the interval of five years." In section six, the words, "in the Persian language;" and the words and figures "appointed under Regulation XXI., 1793 (extended to Benares by Regulation XXXVII., 1795)," and the words ("or by the city judge in the province of Benares)." In section eleven, the words "directed to be prepared at the expiration of every five years." In section seventeen, the words and figures "appointed under Regulation XXI., 1793," and from and including the words "Such officers shall" to the end of the section. Section twenty-two. Sections one, two, four, nine and fifteen. In section eight, the words and figures "or to alter the provisions made for the correction of error or collusion in such allotments, by section twenty five, Regulation XXV., 1793, in cases of private divisions of estates; and by clause Second of section twenty-nine, Regulation VII., 1799, in cases of public sales." In section ten, the words and figures "or of suspicion that the purchase has been made in opposition to the Rules contained in clauses 3 and 4 of Section XXIX., Regulation VII., 1799," and "for the orders of the Governor-General in Council, as directed in clause Fourth of Section XXIX., Regulation VII., 1799."
VII. of 1801...	Duty on Coasting Vessels, &c.	The whole Regulation.
XIII. of 1803...	Records of Courts, Ceded Provinces.	The whole Regulation.
XLIII. of 1803...	Fees on institution of suits.	So much as has not been repealed.
XLIX. of 1803...	Assistant Judges	So much as has not been repealed.
V. of 1804...	Appointment and removal of Native Officers.	So much as has not been repealed.
X. of 1804...	Punishment of State offences by Courts Martial, &c.	In section four, the words and figures "or before any special Court appointed for the trial of such offences, under Regulation IV., 1799, and Regulation XX., 1803."
X. of 1805...	Sadr Adalat	So much as has not been repealed.
XII. of 1805...	Settlement and Collection of public revenue, Cuttack, &c.	Sections twelve, thirteen, fourteen, fifteen and sixteen.
XIII. of 1805...	Cuttack Police	In section two, the words and figures "formed into one zillah, instead of two zillahs, as prescribed in Regulation IV., 1804, and shall be." Section twelve.
VI. of 1806...	Embankments	So much as has not been repealed.

PART VI.—BENGAL REGULATIONS—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
VII. of 1806...	A Regulation for re-establishing a Court of Civil Judicature in the vicinity of Calcutta, &c.	The whole Regulation.
VIII. of 1806...	Complaints against Collectors.	So much as has not been repealed.
XI. of 1806...	Supplies for Troops, &c.	Sections nine, eleven and twelve.
VIII. of 1809...	Appointment and removal of ministerial officers.	So much as has not been repealed.
X. of 1810...	A Regulation for abolishing the duties, &c.	The whole Regulation.
XX. of 1810...	Camp-followers, bázárs	Section five, and in section three, the words "or the second article of the fifteenth section of the Honorable Company's."
IX. of 1811...	Partition	The whole Regulation.
XI. of 1811...	Revision of jama on divided lands.	Section two.
III. of 1812...	Criminal Procedure, &c.	So much as has not been repealed.
V. of 1812...	Collection of Land Revenue.	Section one. Section two, down to and including the words "rescinded; and" Section three, down to and including the words "rescinded: and" Section four, down to and including the words "declared that," and the words and figures "the case to be tried as a summary suit under Regulation VII., 1799." Section twenty-six, from and including the words "provided, however" to the end. Section twenty-seven, from and including the words "and should those authorities" to the end.
XI. of 1812...	Foreign Immigrants	In section five, the words "before the Court of Circuit," in each of the places where they occur, and the words "of circuit."
XV. of 1812...	Extending parts of Regulation I., 1811.	So much as has not been repealed.
VIII. of 1812...	Explaining Section 2 of Regulation V., 1812.	Section three, clause First.
XII. of 1812...	Bandelkhand	In section four, the two provisions.
XIX. of 1814...	Partition of Revenue-paying estates.	Section two; and in section thirteen, clause First. The words "or Board of Commissioners," and "and Board of Commissioners" wherever they occur. In section seventeen, clause Third, the second sentence. In section twenty-one, the words "as the case may be" and "respectively."
XV. of 1814...	Sadr Diwani Adalat and Provincial Courts.	So much as has not been repealed.
VII. of 1814...	Native Pleaders	So much as has not been repealed.
V. of 1816...	Kánungo, Cuttack	In section one, from and including the words "to be in force" to the end of the section. In section three, the words and figures "under the provisions of Regulation V., 1804, and Regulation VIII., 1809."

PART VI.—BENGAL REGULATIONS—(Continued).

Number and Year.	Subject.	Extent of Repeal.
IX. of 1816...	The Sunderbuns ...	Section one, from and including the words "to be in force" to the end of the section.
XI. of 1816...	Succession to certain estates in Cuttack.	Sections four, six, ten and twenty; and in section eighteen, the figures and word 'IV.,' 'VI.,' and 'X.'
XVII. of 1816... V. of 1817...	Police ... Hidden Treasure ...	So much as has not been repealed. In section five, the words "the Board of Commissioners, or the Commissioner in Behar and Benares, or" In section six, the words and figures "within the period limited by the notification directed in Section IV. of this Regulation," *** "and deposited it in the Zillah or City Court, as required by Section III." In section seven, the words "and deposited." In section eight, the words and figure "in conformity with Section IV. and make the deposit thereby required;" and "or the Board of Commissioners in the Western Provinces or the Commissioner in Behar and Benares." In section nine, the words "or city," and the last fourteen words. Section ten.
XII. of 1817...	Patwáris ...	In the preamble, the words "from the date of their promulgation." Sections two, four, five and six. In section nine, the words and figures "to furnish the Collector with the statement required in Section IV., and;" and "Sections V. and VII. of." In section eleven, the words and figures "to furnish the statement required by Section IV., or," *** "Sections V. and VII. of," *** "in those sections," and "the Board of Commissioners, or the Commissioner in Behar and Benares, as the case may be." In section twenty-six, the words "before a Court of Circuit," *** "in the Regulations," and "under the provisions of the Regulations." In section twenty-seven, the words "before a Court of Circuit" and "in the Regulations." In section thirty-one, the words "the Board of Commissioners or the Commissioner in Behar and Benares, according as he may be subject to one or other of those authorities," *** "and Commissioner aforesaid." In section thirty-two, the words "Board of Commissioners and Commissioner in Behar and Benares, as the case may be." In section thirty-three, the words "or Commissioner." In sections thirty-three and thirty-five, the words "the Board of Commissioners or the Commissioner in Behar or Benares, as the case may be."

PART VI.—BENGAL REGULATIONS—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XX. of 1817...	Police ...	Sections one to eight (both inclusive), ten, eleven, thirty-one, thirty-three and thirty-four. In section twenty-eight, clause <i>Second</i> , the words and figures "as directed in Section XXIV., Regulation X., 1813." In section twenty-nine, clause <i>First</i> , the words "weaver," "engaged in the provision of the Company's investment, or," "commercial," "commercial resident." In clause <i>Second</i> , the word "commercial." In clause <i>Third</i> , the words "weavers," *** "engaged in the provision of the Company's investment, or," *** "commercial," *** "commercial resident." In clause <i>Fourth</i> , the words "weaver," "engaged in the provision of the Company's investment, or," *** "commercial" and "commercial resident." In clause <i>Fifth</i> , the words and figures "as required by the <i>Second</i> clause of Section XI., Regulation VI., 1801," and the words "commercial resident or." In clause <i>Ninth</i> , the words and figures "as required by the provisions of Regulation XIII., 1816, which are herein recapitulated for their information and guidance." Clauses <i>Tenth</i> and <i>Eleventh</i> . In section thirty, clauses <i>Third</i> and <i>Sixth</i> ; and in clause <i>Second</i> , the words and figures "in pursuance of Section IX., Regulation XI., 1806."
III. of 1818...	State prisoners ...	In section four, the words "of circuit" wherever they occur. Section eight. In section nine, the words "to the Provincial Court of Appeal and Circuit, and."
II. of 1819...	Resumption of Revenue ...	Sections two, twenty-five and twenty-seven. In section six, the words "in the Persian language and character." In section nineteen, clause <i>First</i> , from and including the words "conformably with" to the end of the clause. In sections twenty, twenty-one, and thirty, the word "Persian." Section twenty-four, clause <i>Second</i> . Section twenty-six, clause <i>First</i> , except the words "In cases instituted in the Zillah Court *** an appeal shall be received by the Court of Sudder Dewanny Adawlut." Clause <i>Second</i> , down to and including the words "appeals but," and the words "or Provincial Court" and the word "special" wherever it occurs. In section thirty, clauses <i>Fifth</i> and <i>Seventh</i> , the words "or City."
VI. of 1819...	Families ...	In section two, clause <i>First</i> , and the first six words of clause <i>Second</i> .

PART VI.—BENGAL REGULATIONS—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
VIII. of 1819...	Patni Taluqs ...	In section three, clause <i>Second</i>, the words and figures "under the provisions of Regulation XIX., 1816." In section six, clause <i>Second</i>, the words "through the channel of the Superintendents of Police." Section fourteen. In section two, the words and figures "under the rule of Section V., Regulation XLIV., 1793." In section three, clause <i>Third</i>, the words and figures "under the rule contained in the seventh clause of Section XV., Regulation VII., 1799, for leases conveying a limited interest in the land." In section eight, clause <i>Second</i>, the words "to the Civil Court of the District, and a similar one." In section nine, the words "by the register or acting register of the Civil Court, or, in his absence, by the person in charge of the office of Judge, or of Magistrate of the District within which the lands may be situated." In section fifteen, clause <i>Second</i>, the word "summary," and the words and figures "brought under the provisions of Section XV., Regulation VII., 1799, or in any application to stay process by distraint, under the rules of Regulation V., 1812."
II. of 1820... IV. of 1821...	Offences in Chandernagore.. Collectors' powers ...	The whole Regulation. In section six, clause <i>First</i>, the words "and City," and the whole of clause <i>Second</i>. In section seven, the words "or City" wherever they occur. In section eight, clause <i>Third</i>, the words "or the Boards of Commissioners," * * * "or Board of Commissioners."
III. of 1822...	Board of Revenue ...	Sections two and three, and clauses <i>Second</i> and <i>Third</i> of section four.
VII. of 1822...	Settlement—Ceded Pro- vinces and Cuttack.	In section two, the first five clauses, and the first fourteen words of clause <i>Sixth</i>. In section five, clause <i>Second</i>, section six, clause <i>First</i>, section seven, clause <i>First</i>, section nine, clause <i>Second</i>, section twelve, clause <i>Second</i>, and section seventeen, the words "of Commissioners." In section fifteen, the words "or Provincial," and "according to the value of the interest at stake." In section sixteen, the words "or Provincial." In section twenty, clause <i>Second</i>, the words "or City." In section twenty-three, clause <i>Third</i>, the words "or City." In section twenty-nine, clause <i>Fifth</i>, the word "Persian." In section thirty, the words "or City," and "or Provincial Court of the Division," and "under the general Regulations for the administration of civil justice."

PART VI.—BENGAL REGULATIONS—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
VI. of 1823...	Indigo suits ...	In section thirty-one, clause <i>Second</i>, the words "any register, sudder ameen or" and "registers, sudder ameens and." In section thirty-three, clause <i>First</i>, the words and figures "shall be guided by the rules contained in Regulation XVI., 1793, and the other corresponding enactments, and in Regulation VI., 1813, in so far as the same may be applicable, and." In section three, clause <i>First</i>, the words "or City" and "or to a register exercising the powers of Joint Magistrate." In section six, the word "summary" (wherever it occurs), "nevertheless" and "by a summary award," and the passage beginning with "they shall be either" and ending with "under this Regulation."
VII. of 1823...	Loans to Covenanted Civil Servants.	Section two, clause <i>Third</i>. In section three, the words "and City." Section five. In section eight, the words "Provincial," * * * "by the Provincial Courts" and "of the Regulations."
VII. of 1825...	Sales of land in execution of decrees.	So much as has not been repealed.
XIV. of 1825...	Revenue Authorities ...	Section six, from and including the words "to the Provincial Court" down to and including "pounds sterling." In the same section, the words "or Provincial."
XV. of 1825...	Customs duties ...	So much as has not been repealed.
XX. of 1825...	Courts Martial ...	In section four, the words "or City," and the words and figures "under the provisions of Regulation L, 1803."
III. of 1827...	Ministerial Native Officers...	The whole Regulation except section five.
V. of 1827...	Management of estates under attachment.	In section two, the words and figures "and Sections XXVI. and XXVII., Regulation V., 1812, and clause <i>Third</i>, Section V., Regulation VI., 1813." In sections two and three, the words "and City." In section four, the words "or City."
III. of 1828...	Special Commissioners for hearing Revenue Appeals.	In section two, clause <i>Third</i>, the words "through the Court of Sudder Dewanny Adawlut," and "Provincial and." In section four, clause <i>First</i>, the words "in a Persian roobukaree." Section six, clauses <i>Sixth</i> and <i>Seventh</i>. In section ten, clause <i>Fourth</i>, the words "the Provincial Courts, or," * * * "or the Provincial," * * * "respectively." In section ten, clause <i>Fifth</i>, from and including the words "and the Civil Courts" to the end of the section. Section eleven, clause <i>First</i>.

ACT No. XVI. OF 1874.

PART VI.—BENGAL REGULATIONS—(Concluded.)

Number and Year.	Subject.	Extent of Repeal.
IV. of 1828...	Powers of Collectors ...	In section two, clause <i>Fourth</i> , before the word "Magistrates," the words "the powers vested in;" and the words and figures "by Regulation XV., 1824, shall be suspended in regard to all meahuls of which the settlement may be so in progress; and the said officers."
L. of 1829...	Commissioners of Revenue..	Sections three and five.
IV. of 1829...	Modifying Regulation III., 1828.	In section two, clause <i>First</i> , the words "or City," and "or of a Provincial Court."
XV. of 1829...	Valuing goods imported by sea.	So much as has not been repealed.
III. of 1830...	Amending Regulation XV. of 1829.	So much as has not been repealed.
VI. of 1831...	Sadr Diwāni Adalat (N. W. P.)	Sections one, two, three, four, five and eight.
XI. of 1831...	Police-powers of Tahsildars.	Section eight.
VI. of 1832...	Native Assessors ...	So much as has not been repealed.
VI. of 1833...	Customs duties ...	So much as has not been repealed.
IX. of 1833...	Revenue Settlements. ...	Section four.

ACT N^o. I. OF 1875.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 19th January 1875.)

THE DISTRESS ACT, 1875.

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An Act to regulate Distresses for Rents in the Presidency Towns.

For the purpose of regulating distresses for rents in the Towns of Calcutta, Madras, and Bombay; It is hereby enacted as follows:—

Preamble.

*I. Preliminary.*Short title.
Commencement.

1. This Act may be called "The Distress Act, 1875," and it shall come into force at once.

It extends to every place within the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras, and Bombay;

Local extent.

But

But nothing herein contained applies—

(a.) to any rent due to Government;

(b.) to any rent which has been due for more than twelve months before the application mentioned in Section 6.

Enactments repealed.

2. The enactments specified in the second schedule hereto annexed are repealed to the extent mentioned in the third column of the same schedule.

All appointments made and securities given under any of the said enactments shall be deemed to be respectively made and given under this Act.

The reference to Act No. VII. of 1847 made in Act XXIII. of 1850, Section 3, shall be read as if made to this Act.

3. In this Act, "Court of Small Causes" means the Court of Small Causes for the time being established by law in Calcutta, Madras or Bombay as the case may be.

"Court of Small Causes" defined.

II. Bailiffs and Appraisers.

4. The Judges of the Court of Small Causes may appoint four or more persons to be bailiffs and appraisers for the purpose of this Act, and may from time to time, with the previous sanction of the Local Government, fix such remuneration for the services of such officers as the said Judges think fit, and may suspend or remove them.

5. The persons so appointed shall give security to be approved by the said Judges faithfully to discharge the duties of their office, and they shall be deemed to be public servants within the meaning of the Indian Penal Code.

Security to be given by appointees.

III. Issue of Distress-Warrants.

6. Any person claiming to be entitled to arrears of rent of any house or premises to which this Act extends, or his duly constituted attorney may apply to any Judge of the Court of Small Causes for such warrant as herein-after mentioned.

The application shall be supported by an affidavit or affirmation to the effect of the form (marked A) in the first schedule hereto annexed.

Application for distress-warrant.

7. The Judge may thereupon issue a warrant under his hand and seal and returnable within six days, to the effect of the form contained in the same schedule (marked B) addressed to any one of such bailiffs.

Issue of distress-warrant.

The Judge may, at his discretion, upon personal examination of the person applying for such warrant, decline to issue the same.

IV. Of

IV. Of the making of Distresses.

8. Every distress under this Act shall be made after sunrise and before sunset, and not at any other time.

9. The bailiff directed to make the distress may force open any stable, out-house, or other building, and may also enter any dwelling-house, the outer door of which may be open and may break open the door of any room in such dwelling-house for the purpose of seizing property liable to be seized under this Act.

Provided that he shall not enter or break open the door of any room appropriated for the zanáná or residence of women, which, by the usage of the country, is considered private.

10. In pursuance of the warrant aforesaid the bailiff shall seize the moveable property found in or upon the house or premises mentioned in the warrant and belonging to the person from whom the rent is claimed (hereinafter called the debtor), or such part thereof as may in the bailiff's judgment be sufficient to cover the amount of the said rent, together with the costs of the said distress.

Provided that the bailiff shall not seize—

- (a.) things in actual use; or
- (b.) tools and implements not in use; where there is other moveable property in or upon the house or premises sufficient to cover such amount and costs; or
- (c.) the debtor's necessary wearing apparel; or
- (d.) goods in the custody of the law.

11. The bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent.

12. On seizing any property under Section 10, the bailiff shall make an inventory of such property and shall give a notice in writing to the effect of the Form in the first schedule hereto annexed (marked C) to the debtor, or to any other person upon his behalf in or upon the said house or premises.

The bailiff shall, as soon as may be, file in the Court of Small Causes copies of the said inventory and notice.

V. Of Applications to discharge Distresses, and of Compensation.

13. The debtor, or any other person alleging himself to be the owner of any property seized under this Act, may, at any time within five days from such seizure, apply to any Judge of the said Court to discharge or suspend the warrant, or to release a distrained article, and such

such Judge may discharge or suspend such warrant or release such article accordingly, upon such terms as he thinks just,

and any of the Judges of the said Court may, in his discretion, give reasonable time to the debtor to pay the rent due from him.

Upon any such application the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Judge, and shall be paid as he directs.

14. If any claim be made to, or in respect of, any property seized under this Act, or in respect of the proceeds or value thereof, by any person not being the debtor, the Chief Clerk of the Court of Small Causes, upon the application of the bailiff who seized the property, may issue a summons calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court in respect of such claim shall be stayed, and any Judge of the High Court, on proof of the issue of such summons and that the property was so distrained, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

And a Judge of the Court of Small Causes shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as he thinks fit;

and such order shall be enforced as if it were an order made in a suit brought in such Court.

The procedure in Courts of Small Causes in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Courts.

15. In any case under Section 13 or Section 14 the Judge by whom the case is heard may award such compensation by way of damages to the applicant or claimant (as the case may be) as the Judge thinks fit,

and may for that purpose make any inquiry he thinks necessary;

and the order of the Judge awarding or refusing such compensation shall bar any suit in respect of injury caused by the distress.

16. In any application under Section 13 or any claim under Section 14, if the value of the subject-matter in dispute exceeds one thousand rupees, the applicant or claimant may apply to the High Court to transfer the case to itself, and the High Court on being satisfied that it is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or

or set aside any order passed in the case by a Judge of the Court of Small Causes, and may make such order therein as the High Court thinks fit.

Every application under this section shall be made within seven days from the date of the seizure of the subject-matter in dispute.

In granting applications under this section, the High Court may impose such terms as to payment of or giving security for costs or otherwise as it thinks fit.

The procedure in cases transferred under this section, shall conform as far as may be to the procedure in suits before the High Court in the exercise of its ordinary original civil jurisdiction; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction; and every such order awarding or refusing compensation shall bar any suit in respect of injury caused by the distress which gave rise to the case wherein such order was made.

VI. Appraisement and Sale of Distress.

17. In default of any order to the contrary by a Judge of the Court of Small Causes, or by the High Court, any two of the said bailiffs may, at the expiration of five days from a seizure of property under this Act, appraise the property so seized, and give the debtor notice in writing to the effect of the Form in the first schedule hereto annexed (marked D).

The bailiffs shall file in the same Court a copy of every notice given under this section.

18. In default of any such order to the contrary, the distrained property shall be sold on the day mentioned in such notice, and the said bailiffs shall, on realizing the proceeds, pay over the amount thereof to the Chief Clerk of the Court of Small Causes, and such amount shall be applied first in payment of the costs of the said distress and then in satisfaction of the debt; and the surplus, if any, shall be returned to the debtor:

Provided that the debtor may direct that the sale shall take place in any other manner, first giving security for any extra costs thereby occasioned.

VII. Miscellaneous.

19. No costs of any distress under this Act shall be taken or demanded except those mentioned in the part of the first schedule hereto annexed (marked E).

The Judges of the Court of Small Causes may apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said bailiffs as appears to the said Judges expedient.

20. The

20. The Chief Clerk of the Court of Small Causes shall keep a book in which all sums received as costs upon distresses made under this Act, and all sums paid as remuneration to the said bailiffs, and all contingent charges incurred in respect of such distresses shall be duly entered.

He shall also enter in the said book all sums realized by sale of the property distrained and paid over to landlords under the provisions of this Act.

21. No distress shall be levied for arrears of rent, except under the provisions of this Act;

and any person, except a bailiff appointed under Section 4, levying or attempting to levy any such distress shall, on conviction before a Magistrate of Police, be liable to be punished by fine not exceeding five hundred rupees and imprisonment for a term not exceeding three months, in addition to any other liability he may have incurred by his proceedings.

THE FIRST SCHEDULE.

A.

[See Section 6.]

In the Court of Small Causes for

A. B. (Plaintiff,) *versus*

C. D. (Defendant.)

A. B. of _____, in the town of _____, maketh oath [or affirms] and saith that C. D. of _____, is justly indebted to _____ in the sum of Rs. _____ for arrears of rent of the house and premises No. _____, situated at _____, in the town of _____, due for _____ month, to wit from _____ to _____, at the rate of Rs. _____ per mensem.

Sworn [or Affirmed] before me the _____ day of _____ 187 _____.

Judge.

B.

[See Section 7.]

In the Court of Small Causes for

FORM OF WARRANT.

I hereby direct you to distrain the moveable property of C. D., on the house and premises situate at No. _____ in the town of _____, for the sum of _____ Rs., and the costs of the distress according to the provisions of The Distress Act, 1875. Dated _____ day of _____

(Signed and Sealed)

To E. F., Bailiff and Appraiser.

C.

[See Section 12.]

In the Court of Small Causes for

FORM OF INVENTORY AND NOTICE.

(State particulars of property seized.)

Take notice that I have this day seized the moveable property contained in the above inventory for the sum of _____ Rs., being the amount of _____ months' rent due to A. B. at _____ last, and that unless you pay the amount thereof, together with the costs of this distress within five days from the date hereof, or obtain an order from one of the Judges of the Court of Small Causes to the contrary, the same will be appraised and sold pursuant to the provisions of The Distress Act, 1875. Dated the _____ day of _____ 187_____.

(Signed) E. F.,
Bailiff and Appraiser.

To C. D.

D.

[See Section 17.]

In the Court of Small Causes for

Take notice that we have appraised the moveable property seized on the _____ day of _____, under the provisions of The Distress Act, 1875, of which a notice and inventory were duly served upon you [or upon _____ on your behalf as the case may be] under date the _____, and that the said property will be sold on the _____ [two clear days at least after the date of the notice] at _____ pursuant to the provisions of the said Act. Dated this _____ day of _____ 187_____.

(Signed) E. F.
G. H.
Bailiffs and Appraisers.

To C. D.

E.

[See Section 19.]

In the Court of Small Causes for

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE RENT.

Sums sued for.		Affidavit and warrant to distrain.	Order to sell.	Commission.	Total.
Rs.	Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
1 and under	5	0 4 0	0 8 0	0 8 0	1 4 0
5	10	0 8 0	0 8 0	1 0 0	2 0 0
10	15	0 8 0	0 8 0	1 8 0	2 8 0
15	20	0 8 0	1 0 0	2 0 0	3 8 0
20	25	0 12 0	1 0 0	2 8 0	4 4 0
25	30	1 0 0	1 0 0	3 0 0	5 0 0
30	35	1 0 0	1 0 0	3 8 0	5 8 0
35	40	1 0 0	1 8 0	4 0 0	6 8 0
40	45	1 4 0	2 0 0	4 8 0	7 12 0
45	50	1 8 0	2 0 0	5 0 0	8 8 0
50	60	2 0 0	2 0 0	6 0 0	10 0 0
60	80	2 8 0	2 8 0	6 8 0	11 8 0
80 to 100	100	3 0 0	3 0 0	7 0 0	13 0 0
Upwards of Rs. 100		3 0 0	3 0 0	7 per centum.	

The above scale is intended to include all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be subpoenaed, in which case each subpoena for sums under Rs. 40 must be paid for at four annas each, and twelve annas above that amount; and also where persons were kept in charge of property distrained, four annas per day must be paid per man.

THE SECOND SCHEDULE.

I.—STATUTES.

Year and Chapter.	Subject.	Extent of Repeal.
52 Hen. 3, c. 1	Distress	The whole.
c. 3	Resisting replevins	Ditto.
c. 4	Distress	Ditto.
c. 15	Ditto	Ditto.
c. 21	Replevin	Ditto.
13 Ed. 1, c. 2	Replevins	Ditto.
c. 37	Distress to be by bailiffs	Ditto.
Les Estatuz del Eschehere between c. 13 and c. 14 of 17 Edw. 2.	Distresses	Ditto.
1 & 2 Phil. & M., c. 12	Imponnding distresses	Ditto.
17 Char. 2, c. 7	Distresses	Ditto.
2 Wm. & Mary, c. 5	Sale of distresses...	Ditto.

II.—ACTS.

Number and Year.	Subject.	Extent of Repeal.
VII. of 1847	Distresses for small rents in Calcutta	The whole.
IX. of 1850	Extension of Act VII. of 1847	Section eighty-nine.
XXVI. of 1864	Extending jurisdiction of Presidency Small Cause Courts.	Section four.

ACT N^o. II. OF 1875.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 19th January 1875.)

An Act to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority.

WHEREAS it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality, and to extend the local limits of the authority of properly reported decisions of the High Courts of Judicature established under the twenty-fourth and twenty-fifth of Victoria, cap. 104 :

And whereas with a view to furthering these objects, the Governor-General in Council proposes to authorize the publication of reports of cases decided by the said High Courts, to be called the Indian Authorized Law Reports ; It is hereby enacted as follows:—

- | | |
|---|---|
| Short title. | 1. This Act may be called “The Indian Law Reports Act, 1875:” |
| Local extent. | It extends to the whole of British India ; |
| Commencement. | And it shall come into force on such day as the Governor-General in Council notifies in this behalf in the <i>Gazette of India</i> . |
| Limits of authority of authorized reports extended. | 2. Every judgment delivered on or after such day by any of the said High Courts (whether by a Judge sitting alone, or by a Division Court, or by a Full Bench) and reported in the said Indian Authorized Law Reports, shall have the same authority in all |

all subordinate Courts beyond the limits of the appellate jurisdiction of such High Court as independently of this Act it would have within such limits.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor-General in Council.

Authority given only to authorized reports after passing of Act.

4. Save as provided by Section 2, nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

Authority of judicial decisions.

16 375
K. G. M.

ACT NO. III. OF 1875.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor-General on the 2nd February 1875.)

An Act to correct a clerical error in the Repealing Act, 1874.

FOR the purpose of correcting a clerical error in Act No. XVI. of 1874; It is
Preamble. hereby enacted as follows:—

1. In the third column of the first Part of the Schedule to the said Act, opposite to “V. of 1874,” for the word “two,” the word “one” shall be, and be deemed to have always been, substituted.

Amendment of Act XVI.
1874, Schedule I., Part I.

[PRICE 6 PIES.]

ACT NO. IV. OF 1875.

BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 9th February 1875.)

THE INDIAN MERCHANT SHIPPING ACT, 1875.

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8. Powers of special Court.
9. Procedure on discovery in course of investigation of grounds for charging with incompetency, &c.
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11. Report by Court to Local Government.
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13. Transmission of report and certificate to Board of Trade.
14. Preliminaries to cancellation or suspension.
15. Power to arrest witnesses and cause entry and detention of vessels.
16. Power to commit for trial.
Power to bind over persons to give evidence.
Depositions.
17. Chapter II. applied to charges against holders of certificates from Local Government.

CHAPTER III.—*Suspension and Cancellation of Certificates granted by Local Governments.*

18. Local Government may suspend or cancel certificates—
 - a.) after investigation under this Act,
 - (b.) after enquiry under Merchant Shipping Act, 1854, or by Naval Court,
 - (c.) after supersession,
 - (d.) after conviction of any offence.
19. Master, &c., to deliver up certificate.
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SECTIONS.

30. Amendment of Section 2, 15, 17, and 23, Act X. of 1841.
31. Powers of Pilot Court.

An Act for the further amendment of Act No. I. of 1859, and for other purposes.

WHEREAS Act No. I. of 1859 (*for the amendment of the law relating to Merchant Seamen*), Section 100, provides that, in the cases of loss, abandonment, damage, or casualty therein mentioned, it shall be lawful for the Local Government, if a formal investigation appears to it to be requisite or expedient, to appoint two persons to make the same, and declares that one of such persons shall be a Magistrate acting in or near the place where the investigation is made, and that the other may be any person conversant with maritime affairs:

And whereas it is expedient in many cases that such investigations shall be made by persons more in number and of more varied qualifications:

And whereas it is also expedient to provide efficient means for enforcing the attendance of witnesses in such investigations and in trials under Act No. XII. of 1859 (*to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty*):

And whereas it is expedient to repeal Act No. XV. of 1863 (*to amend Act I. of 1859*) and to re-enact certain of its provisions with the amendments hereinafter appearing:

And whereas it is provided by Act No. X. of 1841, Sections 2, 15, 17, and 23, that the persons guilty of the offences therein respectively mentioned shall be liable upon conviction by information by the Advocate General, to the penalties therein respectively provided:

And whereas it is expedient to render the said penalties recoverable otherwise than on information by the Advocate General;—

It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

- | | |
|-----------------------|---|
| Short title. | 1. This Act may be called "The Indian Merchant Shipping Act, 1875;" |
| Extent. | It extends to the whole of British India; |
| Commencement. | And it shall come into force at once. |
| Repeal of enactments. | 2. Sections 100, 101 and 102 of Act I. of 1859 and the whole of Act XV. of 1863, are hereby repealed. |

But every enquiry now pending, which has been commenced under any enactment so repealed, shall be deemed to have been commenced under this Act.

CHAPTER II.

CHAPTER II.—*Investigations into Losses of Ships and Charges against Masters, Mates, or Engineers.*

Notice of accidents to be given to Local Government.

3. In any of the cases following (namely):—

(a.) whenever any ship is lost, abandoned, or materially damaged on or near the coasts of India;

(b.) whenever any ship causes loss or material damage to any other ship on or near such coasts;

(c.) whenever by reason of any casualty happening to or on board of any ship on or near such coasts, loss of life ensues;

(d.) whenever any such loss, abandonment, damage or casualty happens elsewhere to or on board any ship registered at any port or place in India, under the Merchant Shipping Act, 1854, or under Act X, of 1841;

the master, pilot, harbour-master, or other person in charge of the ship, or, in cases under Clause (b) of this section, of each ship, at the time of the loss, abandonment, damage or casualty, or, where any ship above referred to arrives in British India, the person then in charge of her, shall, on arriving in British India, give immediate notice of such loss, abandonment, damage or casualty to the nearest Magistrate, or, if he arrive at any port, then to such officer as the Local Government appoints in this behalf.

Any person bound to give notice under this section and wilfully failing to give the same shall be liable to fine not exceeding five hundred rupees and, in default of payment, to simple imprisonment for a term which may extend to three months.

The Magistrate or officer receiving such notice shall without delay communicate the same to the Local Government.

4. If in any such case a formal investigation appears to the Local Government to be requisite or expedient, the Local Government (whether such notice be given or not) may appoint a special Court, consisting of not less than two nor more than four persons, to make such investigation, and may fix the place for making the same.

One of such persons shall be a Magistrate acting in or near the place where the investigation is made, another shall be some person conversant with maritime affairs. The other or others (if any) shall be conversant with either maritime or mercantile affairs.

5. Every Court having admiralty jurisdiction in India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, at the instance of the Local Government,

Courts authorized to investigate charges against masters, &c.

ment, or of such officer as the Local Government may have empowered in this behalf, to investigate charges of incompetency or misconduct on the part of any Master, Mate, or Engineer of any ship, who holds a certificate granted by the Board of Trade, or as to shipwreck or other casualties affecting ships.

Every such Court may, if it think fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as such assessor.

Such person shall attend during the investigation and deliver his opinion in writing to be recorded on the proceedings. But the decision of the case shall rest with the Court.

6. If the Local Government has reason to think that there are grounds for charging any Master, Mate, or Engineer holding a certificate granted by the Board of Trade with incompetency or misconduct, it shall transmit a statement of such grounds to the Court making the investigation.

7. If the investigation involves a charge of incompetency or misconduct against any person holding such certificate as aforesaid, the Court shall, if practicable, before commencing the investigation cause the holder of such certificate to be furnished with a copy of the statement transmitted by the Local Government as aforesaid.

8. For the purpose of the investigation the special Court, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have the same powers as if such investigation were a proceeding relating to an offence or cause of complaint upon which the said Magistrate has power to convict.

9. If, in the course of an investigation under this Act by any of the Courts hereinbefore mentioned, it appears that there are grounds for charging with incompetency or misconduct any holder of such certificate as aforesaid not so charged by the Local Government, the Court may cause a statement of such grounds to be furnished to such holder, and may then commence an investigation into such charge of incompetency or misconduct.

10. For the purpose of such investigation such Court may summon the Master, Mate, or Engineer to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses.

Communication to Court of grounds for charging Master, &c., with incompetency, &c.

Communication of grounds of charge to certificate-holder.

Procedure on discovery in course of investigation of grounds for charging with incompetency, &c.

Powers of Court in making investigation.

Report by Court to Local Government. 11. The Court shall in all cases transmit to the Local Government a full report of the conclusions at which it has arrived.

Statement of decision in open Court. 12. If the Court decide that any such certificate as aforesaid shall be cancelled or suspended, it shall so state in open Court, at the conclusion of the case or as soon afterwards as possible.

Transmission of report and certificate to Board of Trade. 13. When the Court decides to cancel or suspend a certificate, it shall send a full report upon the case with the evidence, and the suspended or cancelled certificate through the Local Government to the Board of Trade.

Preliminaries to cancellation or suspension. 14. Provided that no certificate shall be cancelled or suspended—

(a) unless the person holding the certificate has before the commencement of the investigation been furnished with a copy of the statement of the case upon which the investigation has been ordered;

(b) if the Court be a Court of Admiralty or of ordinary Criminal Jurisdiction, unless the report be confirmed by the Local Government;

(c) if the Court be a Court of Admiralty or of ordinary Criminal Jurisdiction, attended by an Assessor, unless the Assessor expresses his concurrence in the report.

Power to arrest witnesses and cause entry and detention of vessels. 15. If any Court making an investigation under this Act thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting such arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

Any officer so authorized to enter a vessel may, for the purpose of enforcing such entry, call to his aid any officers of police or customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, Section 186.

No person shall be detained by virtue of this section for more than forty-eight hours.

Power to commit for trial. 16. Whenever, in course of any investigation under this Act, it appears that any person has committed an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to

to bail to take his trial before the proper Court; and may bind over any person to give evidence at such trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Justice of the Peace:

Power to bind over persons to give evidence. And whenever, in the course of such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making investigations under this Act shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

Depositions. (a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(b) that it was made in the presence of the person accused.

A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused shall, unless the contrary be proved, be sufficient evidence that it was so made.

Chapter II. applied to charges against holders of certificates from Local Government. 17. All the foregoing provisions of this Chapter, except such as require reports to, and communications with, the Board of Trade, or relate to the actual cancellation or suspension of certificates, shall be applicable also to charges of incompetency or misconduct against any Master, Mate, or Engineer who holds a certificate granted by any Local Government.

CHAPTER III.—*Suspension and Cancellation of Certificates granted by Local Governments.*

Local Government may suspend or cancel certificates— 18. The Local Government may suspend or cancel the certificate (whether of competency or service) granted by such Local Government, or by any other Local Government, to any Master, Mate, or Engineer, in the following cases; (that is to say)—

(a) If upon any investigation made under this Act, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default, or the Master, Mate, or Engineer is reported to be incompetent, or to have been guilty of any gross act of drunkenness, tyranny or other misconduct.

(a) after investigation under this Act. (b) If, upon any enquiry made under the provisions of the Merchant Shipping Act, 1854, or the Merchant Shipping Amendment Act, 1862, or upon any enquiry made by a Naval Court constituted as is provided by any law for the time being in force, or upon any enquiry made by any Court or tribunal for the time being authorized in any British

British possession to enquire into charges of incompetency or misconduct on the part of Masters, Mates, or Engineers of ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of the Master, Mate, or Engineer; or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny, or other misconduct.

(c) If he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force.

(d) If he is shown to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony.

Provided that no certificate shall be suspended or cancelled under Clause (a) of this section unless the Local Government is satisfied that the holder of the certificate had before, or within a reasonable time after, the commencement of the investigation notice of the nature of the charge made and established against him.

The Local Government may, if it thinks the justice of the case requires it, re-issue and return any certificate which has been cancelled or suspended under this section, or shorten the time for which it has been suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended.

19. Every Master, Mate, or Engineer whose certificate is cancelled or suspended under this Chapter, shall deliver it to the Shipping Master, or to such other person as the Local Government which cancelled or suspended the certificate directs, and in default shall, for each offence, incur a penalty not exceeding five hundred Rupees.

20. If the Local Government which cancels or suspends a certificate of a Master, Mate, or Engineer is not the Local Government that granted the same, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted such certificate.

21. Every Local Government cancelling or suspending under this Chapter the certificate of a Master, Mate, or Engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Whenever it is reported to the Local Government that the loss or abandonment of, or serious damage to, any ship has been caused by the wrongful act or default of a Master, Mate, or Engineer holding a certificate from the said Board, or that

that such Master, Mate or Engineer is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, the Local Government, if it concur in such report, shall send a copy of the same to the Board of Trade.

22. Any Local Government may at any subsequent time, revoke any order of cancellation or suspension which it may have made under this Act, or grant to any person whose certificate it has cancelled under this Act, a new certificate of the same or of any other grade.

Notice of every revocation and of every grant under this section shall, as soon as may be practicable, be reported to the Board of Trade.

23. Nothing in this Act affects the powers conferred by Section 240 of the Merchant Shipping Act, 1854, or by Section 80 of the said Act I. of 1859, on Courts having admiralty jurisdiction in India.

The said powers may be exercised by the principal Court of ordinary criminal jurisdiction at any port in India where there is no Court having admiralty jurisdiction, if the Master, Mate or Engineer has received his certificate from any Local Government.

CHAPTER IV.—*Agreements with Seamen.*

24. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he carries to sea from any port in India as one of his crew, in the manner hereinafter mentioned.

25. Every such agreement shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof; (that is to say)—

(a.) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(b.) the number and description of the crew, specifying how many are engaged as sailors;

(c.) the time at which each seaman is to be on board or to begin work;

(d.) the capacity in which each seaman is to serve;

(e.) the amount of wages which each seaman is to receive;

(f.) a scale of the provisions which are to be furnished to each seaman; and
 (g.) any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by government as regulations proper to be adopted, and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

26. When it is agreed that the service of any lascar or other Native seaman shall end at any port not in India, the agreement shall, in addition to the particulars specified in Section 17, contain stipulations for providing for him fit employment on board some other vessel bound to the port at which he was shipped, or such other port as may be agreed on, or for providing for him a passage to some such port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel, or by the master on his behalf.

EXPLANATION:—In this section the word 'seaman' includes also a Native of India carried to sea from any port in India as one of the crew of a ship.

27. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages a single seaman in any port in India, such seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

CHAPTER V.—Miscellaneous.

Sections 3 to 27 to be taken as part of Act I. of 1859.

28. Sections 3 to 27 (both inclusive) shall be read with and taken as part of the said Act No. I. of 1859.

29. Sections 9 to 16 (both inclusive) of the said Act No. I. of 1859 shall not apply to ships registered under the said Act No. X. of 1841 and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars, or other Asiatic masters and seamen.

30. In the said Sections 2, 15, 17, and 23 of the said Act No. X. of 1841, for the words "on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies," "by information as aforesaid," "on

"on information as aforesaid," "upon information as aforesaid," in each of the places where they occur, the following words shall be substituted (namely):—
 "on conviction before a Justice of the Peace or a Magistrate of the first class."

31. The Court conducting a trial under the said Act No. XII. of 1859, shall have the same powers to compel the attendance and examination of witnesses as are conferred by this Act on Courts making investigations under Section 4.

Powers of Pilot Court.

ACT NO. V. OF 1875.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 9th February 1875.)

An Act to remove doubts as to the rights and liabilities of certain Native Soldiers.

WHEREAS doubts have arisen as to the rights and liabilities of certain Native Soldiers who have been enrolled without having been attested and it is expedient to remove such doubts; It is hereby enacted as follows:—

Preamble.

1. Every person who has for the space of six months been in the receipt of military pay and been borne on the rolls of any Regiment, Corps, Depot, Ordnance Establishment, or Department of Her Majesty's Indian Army (of which the last pay statement, if produced, shall be evidenced), shall be deemed to have been duly enlisted, enrolled, and attested and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enlistment, enrolment, or attestation, or on any other ground save such as may be recognized by the orders and customs of the service.

Validation of enlistment
of Native Soldiers.

Madras—Printed by E. KERS, at the Fort St. George Gazette Press.

[PRICE 6 PIES.]

ACT NO. X. OF 1875.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 9th March 1875.)

THE HIGH COURTS' CRIMINAL PROCEDURE ACT, 1875.

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THE SCHEDULE.—Enactments repealed.

An

An Act to regulate the Procedure of the High Courts in the exercise of their original criminal jurisdiction.

WHEREAS it is expedient to consolidate and amend the law relating to the procedure of the High Courts in the exercise of their original criminal jurisdiction ; It is hereby enacted as follows :—

Preamble.

CHAPTER I.—PRELIMINARY.

1. This Act may be called "The High Courts Criminal Procedure Act, 1875 :"

Short title.

It extends to the whole of British India ;

Local extent.

And it shall come into force on the first day of May 1875.

Commencement.

2. The enactments mentioned in the schedule hereto annexed are repealed to the extent mentioned in the third column of the said schedule, but not so as to revive any practice thereby abolished.

Repeal of enactments.

And all rules made under any of the said enactments shall be deemed to have been made under this Act, so far as they are consistent herewith.

3. In this Act, unless there be something repugnant in the subject or context—

Interpretation-clause.

"High Court" includes all High Courts established or to be established under the twenty-fourth and twenty-fifth of Victoria, Chapter 104, the Chief Court of the Punjab, and such other Courts as the Governor-General in Council may, from time to time, declare to be invested with the powers of a High Court under this Act :

"Chief Justice."

"Chief Justice" includes also the Senior Judge of a Chief Court :

"Advocate-General."

"Advocate-General" includes also a Government Advocate.

"Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Act to the Clerk of the Crown ; and

"Clerk of the Crown."

"Magistrate."

"Magistrate" includes also a Police Magistrate in the Towns of Calcutta, Madras, and Bombay :

"European British Subject."

"European British Subject" means—

(a) all subjects of Her Majesty born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American, or Australian colonies or possessions of Her Majesty, or in the colonies of New Zealand, the Cape of Good Hope and Natal ;

(b) the

(b) the children and grandchildren of any such person by legitimate descent :

"Prosecutor."

"Prosecutor" includes every person conducting a prosecution on behalf of Her Majesty :

"Offence."

"Offence" denotes anything made punishable by any law for the time being in force ; and words which refer to acts done extend also to illegal omissions.

CHAPTER II.—OF SESSIONS.

4. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

5. The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor-General in Council in the case of the High Court at Fort William, and as the Local Government in the case of the other High Courts, may direct. But it may, from time to time,

in the case of the High Court at Fort William, with the consent of the Governor-General in Council, in all other cases, with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

Notice of sittings.

CHAPTER III.—OF PROCEDURE ON COMMITMENTS.

6. The provisions of this Act shall apply to all criminal cases triable by the High Court.

Cases tried by High Courts to be tried under this Act.

7. When any person is committed for trial before a High Court, the Clerk of the Crown, or, if there be not a Clerk of the Crown, a Judge of the High Court, shall, on receipt of the charge, peruse and consider it, and may, if it appear necessary or expedient so to do, alter or redraw the same, having regard to the rules as to the form of charges contained in the Code of Criminal Procedure.

Consideration and amendment of charge.

8. If

8. If a prisoner is committed to the Court without any charge at all, the Clerk of the Crown, or, if there be not a Clerk of the Crown, a Judge of the High Court, may draw up a charge, having regard to the rules referred to in section seven. If a prisoner is committed upon a charge which the Court, upon reference to the proceedings before the committing Magistrate, considers improper, the Court may draw up a charge for any offence or offences which it considers to be proved by the evidence taken before the committing Magistrate.

9. Any accused person may apply to the Court for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Court shall take into account the fact that he did or did not make such an application.

10. The Court may, upon the application of the accused person, or of the prosecutor, or upon its own motion, amend or alter any charge at any stage of the proceedings before the verdict of the jury is delivered. Such amendment shall be explained to the accused person.

11. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making such amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

12. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and, after hearing his defence, the Court may, if it thinks fit, further adjourn the trial, to admit of the appearance of any witness whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

13. The charge, with such alterations (if any) as may have been made therein, shall be recorded in the High Court, and a copy of such charge shall be given to the person gratis, if he demands it.

The person charged shall also be entitled to a copy of his own examination before the committing Magistrate, and to copies of the examinations of witnesses upon whose depositions he has been committed,

committed, and of all documents read and made exhibits as part of such depositions by the committing Magistrate, if the person charged demands them a reasonable time before the case comes on for trial and pays for the same a reasonable sum not exceeding one anna for each folio of ninety words.

The Court may, for any special reason, remit any such payment.

14. When any charge, or portion of a charge, recorded as aforesaid, appears to a Judge of the High Court, at any time before the commencement of the trial of the person charged, to be clearly unsustainable, such Judge may make on the charge an entry to that effect.

Such entry shall have the effect of staying proceedings upon the charge or portion of the charge (as the case may be), but shall not operate as an acquittal of the person charged.

15. In all cases of amendment or alteration of a charge during the trial, the prosecutor and accused person shall be allowed to recall and examine any witness who may have been examined.

16. If the offence stated in the amended or altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained; unless sanction has been already obtained for a prosecution on the same facts as those on which the amended or altered charge was founded.

Joinder of Charges.

17. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

18. When a person is accused of more offences than one of the same kind committed within one year of each other, he may be charged and tried at the same time for any number of them not exceeding three.

EXPLANATION.—Offences are said to be of the same kind under this section if they fall within the provisions of section twenty.

19. I. If in one series of acts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II. If the acts alleged constitute an offence falling within two or more separate definitions

One offence falling within two definitions.

definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be awarded for any of such offences.

III. If several acts, of which one or more than one would by itself constitute

Acts severally constituting more than one offence, but collectively coming within one definition.

an offence, form, when combined, a different offence, the person accused of them may be charged with every offence, or any of the different offences, which he may have committed; but he must not receive for such offences, collectively, a punishment more severe than that which might have been awarded for any one of such offences.

Illustrations.

To paragraph I.

(a.) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under Sections 225 and 333, Indian Penal Code.

(b.) A has in his possession several counterfeit seals with the intention of committing several forgeries. A may be separately charged with, convicted of, and punished for, the possession of each seal for a distinct forgery under Section 473, Indian Penal Code.

(c.) A, with intent to cause injury to B, institutes proceedings against him, knowing there is no just or lawful ground for such proceedings. A also, in the course of the proceedings, falsely charges B with having committed an offence. A may be separately charged with, convicted of, and punished for two offences under Section 211, Indian Penal Code.

(d.) A, with intent to injure B, brings a false charge against him of having committed an offence. On the trial, A gives false evidence against B. A may be separately charged with, convicted of, and punished for, offences under Sections 211 and 194 or 195, Indian Penal Code.

(e.) A, knowing that B, a female minor, has been kidnapped, wrongfully confines her and detains her as a slave. A may be separately charged with, convicted of, and punished for, offences under Sections 368 (read with 367) and 370, Indian Penal Code.

(f.) A, with six others, commits the offences of rioting, grievous hurt to B, and of assaulting C, a public servant engaged in suppressing the riot. A may be separately charged with, convicted of, and punished for, offences under Sections 147, 325, and 152, Indian Penal Code.

(g.) A criminally intimidates B, C, and D at the same time. A may be separately charged with, convicted of, and punished for, each of the three offences under Section 506, Indian Penal Code.

(h.) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, three offences under Section 302, Indian Penal Code.

To paragraph II.

(i.) A commits mischief by cutting down a tree in a Government forest. The tree overhangs the bank of a river and falls into the stream. A commits theft by having severed the tree and by floating it down the river to his village, where he sells it. A may be separately charged with, and convicted of, offences under Sections 426 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under Section 379 only.

(j.) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences

offences under Sections 352 and 323 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under Section 323 only.

(k.) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then takes away the carcase in a manner amounting to theft. A may be separately charged with, and convicted of, offences under Sections 429 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under Section 429 only.

(l.) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under Sections 411 and 414, Indian Penal Code; but the Court which tries them may not inflict a severer sentence than if it had convicted them under one of those sections only.

(m.) A uses a forged document in evidence, in order to convict B, a public servant, of an offence under Section 167. A may be separately charged with, and convicted of, offences under Sections 471 (read with 466) and 196 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under one of those sections only.

To paragraph III.

(n.) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under Sections 454 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under Section 497 only.

(o.) A robs B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under Sections 323, 392, and 394 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under Section 392 or 394 only.

(p.) A entices B, the wife of C, away, and then commits adultery with her. A may be separately charged with, and convicted of, offences under Sections 498 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under Section 497 only.

20. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustration.

A is accused of an act which may amount to either theft, receiving stolen property, criminal breach of trust, or cheating. He may be charged separately with theft, criminal breach of trust, and cheating, or he may be charged with having committed either theft or criminal breach of trust, or cheating.

21. If, in the case mentioned in section twenty, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted

When a person is charged with one offence, he can be convicted of another.

convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed criminal breach of trust, or receiving stolen goods. He may be convicted of criminal breach of trust, or receiving stolen goods, though he was not charged with it.

22. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

When offence proved included in offence charged.

Illustrations.

(a.) A is charged, under Section 407, Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under Section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under Section 406.

(b.) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

23. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks proper, and the provisions hereinbefore contained shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(a.) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(b.) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(c.) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

24. No error, either in the way in which the offence is stated, or in the particulars required by the Code of Criminal Procedure to be stated, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Effect of errors.

Illustrations.

(a.) A is charged, under Section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;"

counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d.) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e.) A was charged with murdering Haidar Baksh on the 20th January, and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

25. If any Magistrate, or other authority purporting to exercise powers conferred, but not being actually so empowered, commits an accused person to take his trial before a High Court, the Court may, after perusal of the proceedings, accept the commitment if it considers that the accused person has not been prejudiced, unless objection was made on behalf either of the accused person or of the prosecution to the jurisdiction of the committing Magistrate during the inquiry and before the order of commitment.

If such Court considers that the accused person was prejudiced, or if such objection as aforesaid was so made, it shall quash the commitment, and direct a fresh inquiry by a competent Magistrate.

26. Pending the directions of the Court as to the place of trial, every person committed for trial shall (if not admitted to bail) be committed by the Magistrate for intermediate custody to the criminal jail in which he can be most conveniently confined.

Custody pending direction as to place of trial.

If the trial be directed to be held at the ordinary place of sitting of the Court, the Magistrate shall bind over the person charged to appear and take his trial at such place of sitting, or shall commit him to the jail at such place.

Procedure thereafter.

If the Court direct that the person charged be tried elsewhere than at its ordinary place of sitting, the Magistrate shall bind him over to appear and take his trial at the place so directed, or shall, if necessary, cause him to be removed

to

to the criminal jail at or nearest to the place at which he is directed to be tried.

27. The Court may direct that all European British subjects committed or Intermediate custody of European British subjects. bailed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court,

or direct that they shall be tried at a particular place named, and may also order that they shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

CHAPTER IV.—OF THE COMMENCEMENT OF THE TRIAL.

28. When the Court is ready to commence the trial, the accused person shall Commencement of trial. be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

29. If the accused person pleads guilty, the plea shall be recorded, and he Plea of guilty. may be convicted thereon.

30. If the accused person refuses to, or does not, plead, or if he claims to Refusal to plead or claim to be tried. be tried, the Court shall proceed to choose jurors as hereinafter directed, and to try the case.

31. Every person accused of an offence may of right Right of accused to be defended. be defended by any advocate of a High Court.

Any such person may, with the permission of the Court (but not otherwise), employ any person not being an advocate, attorney, or pleader, to assist him in his defence.

CHAPTER V.—OF JURIES.

(a) Of Juries generally.

Trials to be by jury.

32. All trials under this Act shall be by jury; and, notwithstanding anything contained in section sixty-four of the Code of Criminal Procedure, in all criminal cases transferred to a High Court under that section or under the Letters Patent of any High Court established under the twenty-fourth and twenty-fifth of Victoria, Chapter 104, the trial may, if the High Court so direct, be by jury.

33. The jury shall consist of nine persons, who shall be chosen by lot from the persons summoned to act as jurors: provided that, in case of a deficiency of such persons, the number required Number of jurors. may,

may, with the leave of the Court, be chosen from such other persons as may be present.

34. Subject to the right of challenge hereinafter mentioned, the same jury Successive trials by same jury. may try as many accused persons successively as the Court thinks fit.

35. If before the first juror is called and accepted, any European British Majority of jurors for trial of European British subjects. subject charged as aforesaid requires to be tried by a mixed jury, the majority of the jurors shall consist of Europeans or Americans, or both Europeans and Americans.

36. In any case in which a European British subject is accused jointly with Trial of European British subject and Native jointly accused. a person not being a European British subject, and such European British subject is committed for trial before a High Court, the person so jointly accused shall (if the committing Magistrate thinks that he ought to be tried) also be committed for trial before such High Court, notwithstanding any provision to the contrary in the Code of Criminal Procedure.

Such persons may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately.

37. Provided that, if before the first juror is called and accepted, the European Provisions for European British subject requiring majority of Europeans in jury. British subject requires the majority of the jurors to consist of Europeans or Americans, or both Europeans and Americans, and the person not being a European British subject requires that he shall be tried separately by a jury of which at least five members shall be persons not being Europeans or Americans, the latter person shall be tried separately. Native may claim separate trial.

(b) Of Juries in the Presidency Towns.

38. Every person tried in Calcutta, Madras, or Bombay, Trials before special jury. shall be tried before a special jury.

- (a) if charged with having committed an offence punishable with death, or
- (b) if in any other case a Judge of the High Court so directs.

39. The jurors' book for the year current, when this Act comes into force, shall be taken as containing a correct list of persons liable Jurors' book. to serve as jurors under this Act;

and those persons whose names are entered in the said book as being liable to serve on special juries only shall be deemed to be persons privileged and liable to serve only as special jurors under this Act during the year for which the said list has been prepared.

40. The

40. The names of not more than two hundred persons shall at any one time be entered in the special jurors' list

41. All persons whose names are entered in the special jurors' list shall be exempted from serving on any other than special juries, but so long only as their names are contained in such list.

42. The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare

(a) a list of all persons liable to serve as common jurors ;

(b) a list of persons liable to serve as special jurors only.

Regard shall be had, in the preparation of the latter list, to the property, character, and education of the persons whose names are entered therein.

No person shall be entitled to have his name entered in the special jurors' list, merely because he may have been entered in the special jurors' list for a previous year.

The Governor-General in Council may exempt any salaried officer of Government from serving as a juror.

43. The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

44. Preparatory lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the officer by whom the same have been prepared, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

45. Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

No person shall be so summoned more than once in six months unless the number cannot be made up without him.

If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

46. Any

46. Any person summoned under Section 45 who without lawful excuse fails to attend as required by the summons, or who having attended departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable by order of the Judge to such fine as he thinks fit, and, in default of payment of such fine, to imprisonment in the civil jail until the fine is paid.

47. Challenges without cause shown shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

The following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person or persons charged :—

(a) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force :

(b) Some presumed or actual partiality in the juror :

(c) A previous conviction of the juror of a non-bailable offence under the Indian Penal Code, or of a similar offence under any other law in force in British India :

(d) Inability to understand English when spoken.

48. The Judge before whom a person charged is about to be tried shall try any challenge, other than a challenge without cause shown ; and, if the Judge allow the challenge, the juror shall be set aside.

The decision of the Judge as to any challenge shall be final.

49. Save as herein provided, the High Courts of Judicature at Fort William, Madras, and Bombay shall retain all their present powers respecting the summoning, empannelling, qualification, challenging, and service of jurors,

and shall have power to make such rules on these subjects (consistent with the provisions of this Act) as seem to them to be proper.

All rules relating to jurors now in force in the same High Courts shall (so far as they are consistent with this Act) remain in force until repealed or altered by new rules made under this section.

(c) Of

(c) Of Juries in the Mofussil.

50. Whenever a High Court has given notice of its intention to hold sittings at any place (other than the towns of Calcutta, Madras, and Bombay) for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, take and cause to be taken the measures prescribed by Sections 407, 409, 410, and 411 of the Code of Criminal Procedure for the summoning of jurors.

51. In addition to the persons so summoned as jurors, the said Court of Session shall, if it think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the military service, resident within ten miles of its place of sitting, as the Court considers to be necessary to make up the juries required for the trial of European British subjects charged with offences before the High Court as aforesaid.

All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such juries notwithstanding anything contained in the Code of Criminal Procedure; but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

52. The juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned in accordance with Sections 50 and 51.

53. As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused person shall be asked if he objects to be tried by such juror.

Objection may then be made to such juror by the accused person, or by the prosecutor, and the grounds of objection shall be stated.

54. Any objection made to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:—

(a) his holding any office in or under the Court or the local Court of Session;
(b) his executing any duties of Police, or being entrusted with any Police functions;

(c) his having been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Court, renders him unfit to serve on the jury;

(d) his

(d) his having by habit or religious vows, relinquished all care of worldly affairs;

(e) his standing in the relation of husband, master, servant, landlord, or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person accused;

(f) his being in the employment of any of such persons;

(g) his being plaintiff or defendant in any civil suit against any of such persons;

(h) his having complained against, or having been accused by, any of such persons in any criminal prosecution;

(i) any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favor to, any of such persons, or which renders such person improper as a juror.

55. Any objection made to a juror shall be decided by the Court, and such decision shall be final.

56. If the objection be allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons; or, if there be no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury, provided no objection to such other juror or person be made and allowed under Section 54.

57. The Judge shall not allow any person to serve on the jury, unless such person understands the language in which the evidence is given or interpreted.

(d) Of the Foreman.

58. When the jury has been completed, they shall appoint one of their number to be foreman.

It shall be the duty of the foreman to preside in the debates of the jury, to deliver the verdict of the jury, and to ask any information from the Court that may be required by the jury or any of the jurors.

If a majority of the jury do not agree in the appointment of a foreman, he shall be appointed by the Court.

CHAPTER VI.—OF THE TRIAL.

59. The prosecutor shall then open his case, and the witnesses shall be examined, cross-examined, and re-examined according to the law for the time being relating to the examination of witnesses.

60. The

Examination of accused
before Magistrate to be
evidence.

60. The examination of the accused person before the
Committing Magistrate shall be given in evidence at the trial.

61. The Court may from time to time, at any stage of the trial, examine the
accused person.

The accused person shall not be liable to any punishment for refusing to
answer, or for answering falsely, questions asked under this
section, but the Court shall draw such inference as seems just
from such refusal or false answer.

No oath or affirmation shall be administered to the accused person.

62. When the examination of the witnesses for the prosecution and the examin-
ation of the accused person are concluded, the accused
person shall be asked whether he means to call witnesses. If
he says that he does not, the prosecutor may sum up his case. The Court may then,
if it thinks that there are no grounds for proceeding, direct the jury to return a
verdict of acquittal.

If the Court considers that there are grounds for proceeding, it shall call on
the accused person to state his grounds of defence and produce his witnesses.

The accused person, or his Counsel may then state the case for the defence, and
may examine the witnesses, if any, produced for the defence, and at the conclusion
of such examination may sum up his case.

63. If any evidence is adduced on behalf of the accused person, the prosecutor
shall be entitled to reply.

64. Whenever, in the opinion of the Court, it is proper and convenient that the
jury should view the place in which the offence charged is said
to have been committed, or any other place in which any
other transaction material to the inquiry in the trial took place, an order shall be
made to that effect, and the jury shall be conducted in a body, under the care
of an officer of the Court, to such place, which shall be shown to them by a person
appointed by the Court. Such officer shall not suffer any other person to speak to,
or hold any communication with, any of the jury.

65. The High Court may from time to time make rules as to keeping the jury
together during a trial lasting for more than one day, and,
subject to such rules, the presiding Judge may order whether
and in what manner the jurors shall be kept together under the charge of an officer
of the Court, or whether they shall be allowed to return to their respective homes.

66. The Court may, in its discretion, postpone the hearing of the case; and
may, from time to time, adjourn the trial, if it considers that
such adjournment is proper and will promote the ends of justice.

67. If

Jury to attend at adjourn-
ed sitting.

67. If a trial is adjourned, the jury shall be required to attend at the
adjourned sitting, and at every subsequent sitting, until the
conclusion of the trial.

Power to prescribe mode
in which evidence shall be
taken down.

68. The Court may, if it think fit, from time to time, by general rule prescribe
the manner in which evidence shall be taken down in cases
coming before the Court in the exercise of its ordinary or its
extraordinary original criminal jurisdiction, and the Judges
of such Court shall take down the evidence or the substance thereof in accordance
with the rule (if any) so prescribed.

69. If a juryman is personally acquainted with any relevant fact, it is his duty
to inform the Judge that such is the case, whereupon he may
be examined, cross-examined, and re-examined, in the same
manner as any other witness.

70. When the services of an interpreter are required by the Court for the
interpretation of any evidence or statement, he shall be bound
to state the true interpretation of such evidence or statement.

CHAPTER VII.—OF EVIDENCE.

Evidence of medical
witness.

71. The examination of a Civil Surgeon or other medical witness, taken and
duly attested by a Magistrate, may be given in evidence in
any criminal trial, although the person examined is not called
as a witness.

Court may summon
medical witness.

The Court may summon such Civil Surgeon or other
medical witness, if it sees sufficient cause for doing so.

Report of Chemical
Examiner.

72. Any document purporting to be a report from the Chemical Examiner, or
Assistant Chemical Examiner to Government, upon any
matter or thing duly submitted to him for examination or
analysis and report, in the course of any criminal trial, or in any preliminary
inquiry relating thereto, may, if it bears his signature, be used as evidence in any
criminal trial.

Genuineness of signature
may be presumed.

The Court may presume that the signature of any such document is genuine,
and that the person signing it held the office which he pro-
fessed to hold at the time when he signed it.

73. If, after the commencement of the trial, the accused person admits before
the Court the commission of an offence, the Court may con-
vict him on his own admission, whether such offence is the
same as the offence of which he is accused, or not.

74. If

74. If an accused person abscond, and after due pursuit cannot be arrested, the Court may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution and record their depositions; and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged if it is not practicable to procure the attendance of the deponent.

75. When a witness is produced, the evidence (if any) given by him before the committing Magistrate may, in the discretion of the presiding Judge, be treated as evidence in the case, if it was duly taken in the presence of the accused person.

EXPLANATION.—This section shall not authorize the Court to refer to the record of the evidence given by a witness who is absent, except in the cases in which such evidence may be referred to under the Indian Evidence Act, 1872, or other law in force for the time being upon the subject of evidence.

Commissions.

76. Whenever, at any time after the commitment, it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Court may dispense with his personal attendance.

The Court may direct a commission to the Magistrate of the District, or to a Magistrate of the first class, in whose jurisdiction such witness may be. The Magistrate to whom the commission is directed shall proceed to the place where such witness is, or shall summon such witness before himself. Such Magistrate shall take the evidence of such witness in the same manner, and shall have for this purpose, and may exercise, the same powers as in trials of warrant cases under the Code of Criminal Procedure.

When the witness is in the territories of any Native Prince or State in India in alliance with Her Majesty, the commission may be directed to any Justice of the Peace or other officer in the service of the Crown resident in such territories; and the provisions of the second clause of this section shall apply to such Justice of the Peace or officer.

If the witness is within the local limits of the ordinary original criminal jurisdiction of any of the High Courts of Judicature at Fort William, Madras, and Bombay, the commission may be directed to any Police Magistrate within such limits, and such Magistrate shall have the like power to compel the attendance and examination of witnesses as he possesses for that purpose in cases pending before him.

The

The prosecutor and the accused person may forward interrogatories, upon which the officer to whom the commission is directed shall examine the witness, or the prosecutor may appear personally before the officer to whom the commission is directed, or the prosecutor or accused person may so appear by authorized agent.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

Tender of Pardon to obtain Evidence.

77. The Court may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in, or privy to, any offence mentioned in column 7 of the fourth schedule annexed to the Code of Criminal Procedure as triable exclusively by the Court of Session, instruct the committing Magistrate to tender, or itself may, at any time before judgment, tender, a pardon to such person or persons, on condition of his or their making a full, true, and fair disclosure of the whole of the circumstances, within his or their knowledge, relative to the crime committed and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section shall be examined as a witness in the case, under the rules applicable to the examination of witnesses.

Such person, if not on bail, shall be detained in custody pending the termination of the trial.

78. When a pardon has been tendered under Section 77, if it appears to the Court that any person who has accepted such tender has not conformed to the conditions under which it was made, either by wilfully concealing anything essential, or by giving false evidence, the Court may commit, or direct the commitment of, such person, for trial for the offence in respect of which the pardon was so tendered, or for any other offence of which he may appear to have been guilty in connection with the same matter.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

Of securing Attendance of Witnesses and Production of Documents.

79. The following procedure shall be pursued in order to obtain the attendance of witnesses before the Court.

80. The

80. The Court may, at any stage of any proceeding, inquiry or trial, summon any witness, or examine any person in attendance though not summoned as a witness, and it shall be its duty to do so if the evidence of such person appears essential to the just decision of the case.

Power to summon material witness or examine person present.

81. If the Court has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, it may, instead of issuing a summons, issue a warrant of arrest in the first instance.

When warrant of arrest may issue in first instance.

82. If such warrant cannot be executed, and the Court considers that the witness is absconding or concealing himself for the purpose of avoiding the service thereof, it may issue a proclamation, requiring his attendance to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode.

Procedure when warrant cannot be served.

If the witness does not attend at the time and place named in such proclamation, the Court may order the attachment of any moveable property belonging to such witness, to such amount as seems reasonable, not being in excess of the amount of costs of attachment and of any fine to which he may be liable under the provisions of the next following section.

Such order shall authorize the attachment of any such moveable property within the jurisdiction of the Court by which the order was made; and if any such moveable property be without the jurisdiction of the said Court, such order when endorsed by the Magistrate of the District in which such property is situated shall authorize the attachment of the property last aforesaid.

83. If the witness appears and satisfies the Court that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property attached be released from attachment, and shall make such order in regard to the costs of the attachment as the Court thinks fit.

Release of attached property of witness appearing and satisfying Court.

If such witness does not appear, or, appearing, fails to satisfy the Court that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not such notice of the proclamation as aforesaid, the Court may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which may be imposed upon such witness under the provisions of Section 172 of the Indian Penal Code.

Sale of property of witness not appearing or not satisfying Court.

If

If the witness pays to such Court the costs and fine as aforesaid, his property shall be released from attachment.

84. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Court, upon proof of the summons having been duly served, may issue a warrant under its seal to bring such person before it to testify as aforesaid.

Arrest of person disobeying summons.

85. The accused person shall be allowed to examine as a witness any person in attendance.

Right of accused as to examination of witness.

86. Whenever the Court considers that the production of any document is necessary or desirable for the purposes of any investigation or judicial proceeding, the Court may issue a summons to the person in whose possession or power such document is believed to be, requiring him to attend and produce such document at the time and place stated in the summons.

Procedure for obtaining production of document required as evidence.

87. If there is reason to believe that the person to whom the summons is addressed will not produce the document as directed in the summons, the Court may issue a search-warrant for the document in the first instance.

When warrant for search for documents may issue.

88. The Court may, if it thinks fit, impound any document produced before it, or may, at the conclusion of the proceedings, order such document to be returned to the person who produced it.

Power to impound document produced.

89. If a witness refuses to answer any question which is put to him or to produce any document in his possession or power which the Court requires him to produce, and does not offer any just excuse for such refusal, he shall be deemed guilty of contempt of Court.

Procedure in case of refusal to answer or produce documents.

CHAPTER VIII.—OF THE CHARGE TO THE JURY.

90. When the case for the defence and the prosecutor's reply, if any, are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Charge to jury.

91. It is the duty of the Judge to decide all questions of law, and especially all questions as to the relevancy of facts which it is proposed to prove, the admissibility of evidence, or the propriety of questions asked by parties or their agents, which may arise in the course of

Duty of Judge.

of

of the trial; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

to decide upon the meaning and construction of all documents given in evidence at the trial;

to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

to decide whether any question which arises is for himself or for the jury; and upon this point his decision shall be final.

The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(a.) It is proposed to prove a statement made by a person not called as a witness, under circumstances which render evidence of his statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(b.) It is proposed to give secondary evidence of a document, the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

CHAPTER IX.—OF THE VERDICT AND THE DISCHARGE OF THE JURY.

92. After the Judge has finished his charge, the jury may retire to consider their verdict.

Except, with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

Duty of jury. 93. It is the duty of the jury—

(a) to decide which view of the facts is true, and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(b) to determine the meaning of all technical terms and words used in an unusual sense, which it may be necessary to determine, whether such words occur in documents or not;

(c) to decide all questions which according to law are to be deemed questions of fact;

(d) to decide whether general, indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

Illustrations.

(1.) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the fact is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(2.) The question is, whether a person entertained a reasonable belief on a particular point. Whether work was done with reasonable skill, or due diligence.

Each of these is a question for the jury.

94. When the jury have considered their verdict, the foreman shall inform the Court what is their verdict, or what is the verdict of a majority.

Foreman to communicate verdict.

Verdict to be given on each charge. Judge may question jury.

95. The jury shall return a verdict on all the charges on which the accused is tried, and the Court may ask them such questions as are necessary to ascertain what their verdict is.

96. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

Procedure where jury differ.

97. A verdict of guilty or not guilty, as the case may be, shall be delivered either when the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them.

Verdict when to be delivered.

Discharge of jury in default of unanimity or majority of six with Judge's concurrence.

98. When the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

If the Judge disagrees with the majority, he shall then discharge the jury.

If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

99. The Judge may also discharge the jury whenever by reason of illness a juror becomes incapable of attending through the trial or the prisoner becomes incapable of remaining at the bar.

Discharge of jury in case of sickness of juror or prisoner.

100. Whenever the jury is discharged, the prisoner shall be detained in custody or on bail (as the case may be) and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

Re-trial of prisoner after discharge of jury.

101. When

101. When any person has in a trial before a Judge of the High Court acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve for the decision of a Court consisting of two or more Judges of the High Court any question of law which has arisen in the course of the trial of such person and the determination of which would affect the event of the trial.

If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge think fit, be admitted to bail,

and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment and sentence as to the High Court seem fit.

102. When more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the prosecutor may, with the consent of the Court, withdraw, or the Court of its own accord may direct the withdrawal of, the remaining charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges.

CHAPTER X.—OF THE SENTENCE.

103. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge who issues it.

104. In the case of a High Court holding its sittings elsewhere than in the towns of Calcutta, Madras or Bombay, the provisions of the Code of Criminal Procedure, Sections 303, 304, and 335, shall apply to the officers therein mentioned.

105. Whenever an offender is sentenced to pay a fine, the Court may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Court, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Court, when endorsed by the Magistrate of the District in which such property is situate.

This.

This section shall not apply to cases in which any special procedure is laid down by any special or local law in force for the time being for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

106. Whenever the Court imposes a fine under any law in force for the time being, the Court may order the whole or any part of the fine to be paid in compensation,

(a) for expenses properly incurred in the prosecution;
(b) for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made, as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

In any subsequent civil proceedings relating to the same matter, the Court shall take into account any sum which may have been awarded under this section.

107. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the High Court shall be guided by the provisions of Sections 64, 65, 68, 69, and 70 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine.

108. Sentences of whipping shall be executed in manner provided by the Code of Criminal Procedure, Sections 311, 312, and 313.

109. When a person is convicted, at one trial, of two or more offences punishable under the same or different sections of any law for the time being in force, the Court may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such enactment or enactments, which such Court is competent to inflict; such penalties, when consisting of imprisonment, or transportation, or penal servitude, to commence the one after the expiration of the other:

Provided that in no case shall such person be sentenced to imprisonment for a longer period than fourteen years.

110. When sentence of death or whipping is passed on an escaped convict, the Court shall direct the new sentence to take effect without waiting for the expiration of the sentence from which he has escaped.

When

When any other sentence is passed on an escaped convict severer than the sentence from which he has escaped, the Court shall also direct the new sentence to take effect without waiting for the expiration of the sentence from which he escaped.

When the new sentence is not severer than the sentence from which he has escaped, the Court shall direct the new sentence to take effect after such convict has suffered imprisonment, or transportation, or penal servitude, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

When the former sentence on the escaped convict is or includes transportation or penal servitude for life, and the Court does not sentence him to death, the new sentence shall direct that he be, as soon as practicable, sent back to the place from which he escaped.

EXPLANATION.—For the purpose of this section—

(a) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment :

(b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of imprisonment without solitary confinement ; and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

111. When sentence is passed on a person actually undergoing sentence of imprisonment or transportation, and the sentence is for imprisonment or transportation, the Court shall direct such imprisonment or transportation to commence at the expiration of the imprisonment or transportation to which he has been previously sentenced ;

or, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction be for transportation or penal servitude, the Court may direct the sentence to commence immediately, or at the expiration of the imprisonment to which such person has been previously sentenced :

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

112. When any person under the age of sixteen years is sentenced to imprisonment for any offence, the Court may direct that such offender, instead of being imprisoned in the criminal jail, shall be confined in any reformatory established by the Local Govern-

Confinement of youthful offenders in reformatories.

ment as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing

willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed.

Sentence of death.

113. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Postponement of capital sentence on pregnant woman.

114. If a woman sentenced to death be found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence.

Order for disposal of property regarding which offence committed.

115. When the trial is concluded, the Court may make such order as it thinks fit for the disposal of any property produced before it, regarding which any offence appears to have been committed.

Any order under this section may be in the form of a reference to a Magistrate, who shall in such case deal with the property as if it had been seized by the Police and the seizure duly reported to him.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

116. Subject to any rules that may be passed by the Local Government with the previous sanction of the Governor-General in Council, the Court may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

Expenses of complainants and witnesses.

CHAPTER XI.—OF PREVIOUS CONVICTIONS OR ACQUITTALS.

117. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under Section 20, or for which he might have been convicted under Section 21.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under Section 19, paragraph 1.

A person convicted or acquitted of any offence in respect of any act causing consequences which, together with such act, constituted a different offence from that

Person once convicted or acquitted not to be tried for same offence.

that for which such person was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person convicted or acquitted of any offence in respect of any facts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence which he may have committed in respect of the same facts, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(a.) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with the same theft as a servant, or, upon the same facts, with theft simply or with criminal breach of trust.

(b.) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(c.) A is tried for an assault and convicted. The person afterwards dies. A may be tried again for culpable homicide.

(d.) A is tried under Section 270 of the Indian Penal Code for malignantly doing an act likely to spread the infection of a disease dangerous to life and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under Section 325, with voluntarily causing grievous hurt to that person.

(e.) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried for the murder of B on the same facts.

(f.) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts, unless the case comes within paragraph 3.

(g.) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(h.) A, B, and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B, and C may afterwards be charged with, and tried for, dacoity, on the same facts.

118. If the accused person has been previously convicted of any offence, and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If it is omitted, it may be added at any time before sentence is passed, but not afterwards.

119. A previous conviction or acquittal may be proved by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the finding and sentence.

CHAPTER XII.

CHAPTER XII.—OF CRIMINAL LUNATICS.

120. If any person committed for trial appears at his trial to the Court to be of unsound mind and incapable of making his defence, the Court shall, in the first instance, try the fact of such unsoundness of mind, and, if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence; and thereupon the trial shall be postponed.

The trial of the fact of the unsoundness of mind of the accused person shall be deemed to be part of his trial before the Court.

121. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Court, if the offence of which he is accused be bailable, may release him on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

If the offence be not bailable, or if the required bail be not given, the Court shall report the case to the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

122. Whenever a trial is postponed under Section 120, the Court may at any time resume the trial, and require the accused person, if detained in custody, to be brought before the Court; or, if he has been released on security, may require his appearance.

The surety of such person shall be bound, at any time, to produce him to any officer whom the Court appoints to inspect him; and the certificate of such officer shall have the same effect as the certificate of an Inspector-General of Prisons or the Visitors of Lunatic Asylums, granted under Section 127.

123. If, when the accused person appears or is again brought before the Court, it appears to such Court that he is in a fit state of mind to make his defence, he shall be put on his trial.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Court shall again act according to the provisions of Section 121.

124. Whenever any person is acquitted upon the ground that, at the time at which he is charged with having committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged or that he was doing what was wrong

wrong or contrary to law, the finding shall state specially whether such person committed the act or not.

125. Whenever such finding states that the accused person committed the act charged, the Court before which the trial was held shall, if the act charged would, but for the incapacity found, have amounted to an offence, order him to be kept in safe custody, in such place and manner as the Court thinks fit, and shall report the case for the order of the Local Government.

The Local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

126. When any person is confined under the provisions of Section 121 or 125, the Inspector-General of Prisons, if such person is confined in a jail, or the Visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such Visitors as aforesaid; and such Inspector-General or Visitors shall make a special report to the Local Government as to the state of mind of such person.

127. If such person is confined under Section 121, and such Inspector-General or Visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Court, at such time as it appoints, and the Court shall deal with him under the provisions of Section 123; and the certificate of such Inspector-General or Visitors as aforesaid shall be receivable as evidence.

128. If such person is confined under the provisions of Section 125, and such Inspector-General or Visitors as aforesaid shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public Lunatic Asylum, if he has not been already sent to such an Asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the Lunatic Asylum shall be one.

The said commission shall make formal inquiry into the state of mind of such person taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as to it may seem fit.

129. Whenever

129. Whenever any relative or friend of any person detained under the provisions of Section 125 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order that the person detained be delivered to such relative or friend.

Whenever such person is so delivered, it shall be upon condition that he shall be subject to be inspected by such officer, and at such times as the Local Government directs.

The provisions of Sections 126 and 128 shall apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector-General of Prisons or the Visitors of Lunatic Asylums, under the said sections.

130. If an accused person, though not insane, cannot be made to understand the proceedings, the Court may proceed with the trial; and, if such trial results in a conviction, the Court shall pass thereon such order as it thinks fit.

CHAPTER XIII.—OF PROSECUTIONS IN CERTAIN CASES.

131. A complaint of an offence punishable under Chapter VI. of the Indian Penal Code, except Section 127, or punishable under Section 294 A of the said Code, shall not be entertained, unless the prosecution be instituted by order of, or under authority from, the Governor-General in Council or the Local Government, or some officer empowered by the Governor-General in Council to order or authorize such prosecution, or unless instituted by the Advocate-General.

132. A complaint of an offence of which any Judge or any public servant not removeable from his office without the sanction of the Government is accused as such Judge or public servant, shall not be entertained against him, except with the sanction or under the direction of the Government, or of some officer empowered by the Government, or of some Court or other authority to which he is subordinate, and whose power so to sanction or direct such prosecution the Government does not think fit to limit or reserve.

No such Judge or public servant shall be prosecuted for any act purporting to be done by him in the discharge of his duty, unless with the sanction of the Government.

The sanction must be given before the commencement of the proceedings.

In

In this section the expression 'Government' means either the Local Government or the Governor-General in Council; and the expressions 'Judge' and 'public servant' have the meanings assigned to them respectively by the Indian Penal Code.

133. A complaint of any offence described in Chapter X. of the Indian Penal Code, not falling within Section 175, 178, 179, or 180 of that Code, shall not be entertained by any High Court, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

134. The sanction referred to in Section 133 may be expressed in general terms, and need not name the accused person, and may be given at any time.

EXPLANATION.—In cases under this chapter, the report or application of the public servant shall be deemed sufficient complaint.

135. When the Court is of opinion that there is sufficient ground for inquiring into any charge mentioned in Section 133, it may, after making such preliminary inquiry as may be necessary, either commit the case itself, or may send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged,

Such Magistrate shall thereupon proceed according to law; and the Court may send the accused person in custody, or take sufficient bail for his appearance before such Magistrate; and may bind over any person to appear and give evidence on such trial or inquiry.

The Magistrate receiving the case may, if he is authorized to make transfers of cases, transfer the inquiry to some other competent Magistrate, instead of completing the inquiry himself.

CHAPTER XIV.—OF BAIL.

136. The Court may in any case direct that an accused person shall be admitted to bail, or that the bail required by a Magistrate be reduced.

137. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Court is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, it shall proceed to enforce the penalty, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within its jurisdiction.

Such

Such warrant may be executed within such limits; and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate of the District in which such property is situate.

138. Whenever, by reason of default of appearance by the person bailed, the Court is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, it shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Court shall proceed to recover the penalty from such surety or sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to him or them which may be found within its jurisdiction.

Such warrant may be executed within such local limits; and it shall authorize the distress and sale of any moveable property belonging to the surety or sureties without such limits, when endorsed by the Magistrate of the District in which such property is situate.

If such penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Court, in the civil jail, during a period not exceeding six months:

Provided that the Court may, at its discretion, remit any portion of the penalty mentioned in the recognizance of the party or witness, or of the surety or sureties, and enforce payment in part only:

The Court may direct any Magistrate to levy the amount due on a forfeited bail-bond executed in respect of attendance before such Court.

139. When any person is required to give bail, the Court may permit him to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

CHAPTER XV.—OF SECURITY FOR KEEPING THE PEACE.

140. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men, or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence,

and the Court is of opinion that it is just and necessary to require such person to give a personal recognizance for keeping the peace,

the

the Court may, in addition to any other order passed in the case, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding three years, with a provision that, if the same be not given, he shall be kept in simple imprisonment for any time not exceeding three years, unless within such period he executes such formal engagement as aforesaid.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance, and the imprisonment in default of executing such recognizance, shall commence on the expiration of his sentence.

141. Whenever it appears necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, the Court empowered to require a personal recognizance may require security in addition thereto, and may fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in simple imprisonment for any time not exceeding three years.

142. Whenever a person is convicted of an offence attended with criminal force, and it appears to the Court that, by such criminal force, any person has been dispossessed of any immoveable property, the Court may cause such person to be restored to possession.

No order made for this purpose shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XVI.—MISCELLANEOUS.

143. Nothing herein contained shall be deemed to effect the Prisoners' Testimony Act, 1869, or the Prisoners' Act, 1871.

144. The Advocate-General may, with the previous sanction of the Governor-General in Council or the Local Government, exhibit to the local High Court, against persons subject to the jurisdiction of the said Court, informations for all purposes for which Her Majesty's Attorney-General may exhibit informations on behalf of the Crown in the Court of Queen's Bench or Exchequer.

Such proceedings may be taken upon every such information as may lawfully be taken in case of similar informations filed by Her Majesty's Attorney-General in England, so far as the circumstances of the case and the course and practice of proceeding in the said High Courts respectively will admit.

All

All fines, penalties, forfeitures, debts, and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

145. Upon charges preferred by the Advocate-General or by any Magistrate or other officer specially empowered by the Government in this behalf, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions herein contained as to the amendment and alteration of charges, and subject also to the provisions of Section 24) shall be tried upon the charges so recorded.

146. At any stage of any proceeding under this Act, before the return of the verdict, the Advocate-General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the information or charge; and thereupon all proceedings on such information or charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal.

147. Whenever it appears to the High Court of Judicature at Fort William, Madras, or Bombay that the direction hereinafter mentioned will promote the ends of justice, it may direct the transfer to itself of any particular case from any criminal court situate within the local limits of its ordinary original criminal jurisdiction, and the High Court shall have power to determine the case so transferred, and to quash or affirm any conviction or other proceeding which may have been had therein, but so that the same be not quashed for want of form, but on the merits only.

148. Any of the High Courts of Judicature at Fort William, Madras, and Bombay may, whenever it thinks fit, direct—

- (a) that a prisoner, legally committed and within the local limits of its ordinary original criminal jurisdiction, be brought up before it to be bailed:
- (b) that a person within such limits be brought up before the Court to be dealt with according to law:
- (c) that a person illegally or improperly detained in public or private custody within such limits be set at liberty:

(d) that

(d) that a prisoner detained in any gaol situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court :

(e) that a prisoner detained as aforesaid be brought before a Court-Martial or any Commissioners acting under the authority of any commission from the Governor-General in Council, for trial, or to be examined touching any matter depending before such Court-Martial or Commissioners respectively :

(f) that a prisoner within such limits be removed from one custody to another for the purpose of trial :

(g) that the body of a defendant within such limits may be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment ;

and neither the High Court nor any Judge thereof shall hereafter issue any writ of *habeas corpus* for any of the above purposes.

Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure in cases under this section ; and till such rules are framed, the practice of such Courts as to the obtaining, granting, and serving of writs of *habeas corpus*, and as to the returns thereto, shall apply in such cases.

Nothing in this section applies to persons detained under Bengal Regulation III. of 1818, Madras Regulation II. of 1819, or Bombay Regulation XXV. of 1827, or the Acts of the Governor-General in Council No. XXXIV. of 1850 or No. III. of 1858.

149. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge or Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in Chancery in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

150. Every High Court in the exercise of its original Criminal Jurisdiction shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them.

But the presiding Judge may, if he thinks fit, order that, during the trial of any particular case, no person shall have access to, or be, or remain in, the room or building used by the Court, without the consent or permission of the Court.

151. In the case of offences which may lawfully be compounded, injured persons may compound the offence out of Court, or in Court with the permission of the Court.

Such

Such withdrawal from the prosecution shall have the effect of an acquittal of the accused person.

Judges of High Courts to be Justices of the Peace *virtute officii*.

152. Every Judge of a High Court shall, by virtue of his office, be a Justice of the Peace within and for the whole of British India.

153. Cases pending, when this Act comes into force, in any High Court in the exercise of its original criminal jurisdiction shall be decided, as far as may be, according to the procedure provided in this Act.

THE SCHEDULE.

(See Section 2.)

Acts.

No. and Year.	Subject or Title.	Extent of Repeal.
XXXI. of 1838...	Supreme Courts, Criminal Law ...	So much as has not been repealed.
XXII. of 1839...	An Act for enabling persons charged with offences to make their defence more effectually.	So much as has not been repealed.
IV. of 1849...	Criminal lunatics ..	So much as has not been repealed.
XVI. of 1852...	An Act for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the territories of the East India Company.	So much as has not been repealed.
XVIII. of 1859...	An Act to amend the law relating to offences declared to be punishable on conviction before a Magistrate.	So much as has not been repealed.
XVIII. of 1862...	An Act to repeal Act XVI. of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.	Sections 1 to 25 (both inclusive) : Sections 36 to 46 (both inclusive) : and Sections 54, 55, and 56.
XIII. of 1865...	An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.	So much as has not been repealed.
IV. of 1866...	An Act to amend the constitution of the Chief Court of Judicature in the Panjáb and its Dependencies.	Sections 21 to 41 (both inclusive), and Section 20, except the first twenty-two words.
XVI. of 1866...	An Act to relieve the Governor-General of India in Council from the duty of signing the commissions mentioned in Sections 22 and 44 of the High Courts Criminal Procedure Amendment Act, 1865.	The whole.
XXIV. of 1866...	An Act to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.	Sections 2 to 17 (both inclusive).
XIII. of 1869...	An Act further to amend the procedure of the High Court of Judicature for the North-Western Provinces.	Sections 1 and 2, and so much of Sections 3 and 4 as relates to criminal jurisdiction.
XXII. of 1870...	An Act to confirm certain laws affecting European British subjects.	Section 3.

STATUTES.

No. and Year.	Title or Abbreviated Title.	Extent of Repeal.
13 Geo. III., c. 63...	An Act for establishing certain Regulations for the better management of the affairs of the East India Company, as well in India as in Europe.	Section 34. In Section 38 the words "and the Chief Justice and other Judges of the said Supreme Court of Judicature."
38 Geo. III., c. 52...	An Act whose title begins with the words An Act for continuing, and ends with the words and Bombay.	Sections 153 and 154.
53 Geo. III., c. 155...	An Act whose title begins with the words An Act for continuing, and ends with the words Company's Charter.	Sections 100, 102, 103.
9 Geo. IV., c. 74...	An Act for improving the administration of Criminal Justice in the East Indies.	The whole Act except sections one, seven, eight, nine, twenty-five, twenty-six, and fifty-six.

ACT No. XIII. of 1875.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th March 1875.)

An Act to amend the Law relating to Probates and Letters of Administration.

WHEREAS, under the Indian Succession Act, 1865, the effect of an unlimited grant of probate or letters of administration made by any Court in British India is confined to the Province in which such grant is made: And whereas it is expedient to extend over British India the effect of such grants when made by a High Court: And whereas it is also expedient to amend the Court Fees Act, 1870, as to probates, letters of administration, and certificates of administration: It is hereby enacted as follows:—

1. To Section 3 of the Indian Succession Act, 1865, the following words shall be added (namely):—"and for the purposes of Sections 242, 242A, 246A, and 277A, shall include the Court of the Recorder of Rangoon."

2. To Section 242 of the Indian Succession Act, 1865, the following proviso shall be added (namely):—

"Provided that probates and letters of administration granted by a High Court after the first day of April 1875, shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

3. The

Addition to Act No. X.
of 1865.

3. The following section shall be inserted after the said proviso (namely):—

“242A. Whenever a grant of probate or letters of administration is made by a High Court with such effect as last aforesaid, the Registrar or such other officer as the High Court making the grant appoints in this behalf shall send to each of the other High Courts a certificate to the following effect:—

I, A. B., Registrar [or as the case may be] of the High Court of Judicature at [or as the case may be], hereby certify that on the day of 187 the High Court of Judicature at [or as the case may be] granted probate of the will [or letters of administration of the estate] of C. D., late of deceased, to E. F. of and G. H. of, and that such probate [or letters] has [or have] effect over all the property of the deceased throughout the whole of British India;

and such certificate shall be filed by the High Court receiving the same.”

Addition after Section
246 of Act X. of 1865.

4. After Section 246 of the Indian Succession Act, 1865, the following section shall be inserted (namely):—

“246A. Every person applying to a High Court for probate of a will or letters of administration of an estate, intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by Section 244 and Section 246 of this Act, that to the best of his belief no application has been made to any other High Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

or, where any such application has been made, the High Court to which it was made, the person or persons by whom it was made, and the proceedings (if any) had thereon.

And the High Court to which any application is made under the proviso to Section 242 of this Act may, if it think fit, reject the same.”

Addition after Section
277 of Act X. of 1865.

5. After Section 277 of the Indian Succession Act, 1865, the following section shall be inserted (namely):—

“277A. In all cases where it is sought to obtain a grant of probate or letters of administration intended to have effect throughout the whole of British India, the executor, or the person applying for administration after the first day of April 1875, to the effects of any person dying in British India and leaving property in more than one Province shall include in the inventory of the effects of the deceased his moveable or immoveable property situate in each of the Provinces:

And

And the value of such property situate in the said Provinces, respectively, shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India.”

Addition to Act No. VII.
of 1870.

6. After Section 19 of the Court Fees Act, 1870, the following chapter shall be inserted (namely):—

“CHAPTER III.-A—PROBATES, LETTERS OF ADMINISTRATION, AND CERTIFICATES OF ADMINISTRATION.

“19A. Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a Court-fee thereon, if within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue Authority of the Province in which the probate or letters has or have been granted,

and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required, the said Authority may—

(a) cancel the stamp on the probate or letters, if such stamp has not been already cancelled;

(b) substitute another stamp for denoting the Court-fee which should have been paid thereon; and

(c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

“19B. Whenever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less Court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

19C. Whenever such a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate ;

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

19D. The probate of the will, or the letters of administration of the effects, of any person deceased heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring, or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a Court-fee was paid on such probate or letters of administration.

19E. Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a Court-fee thereon, the Chief Controlling Revenue Authority of the Province in which the probate or letters has or have been granted, may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full Court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or if it or they is or are produced after one year from such date, of twenty times, such proper Court-fee, without any deduction of the Court-fee originally paid on such probate or letters :

Provided

Provided that if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a Court-fee was at first paid on the probate or letters, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper Court-fee, the said Authority may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

19F. In case of letters of administration on which too low a Court-fee has been paid at first, the said Authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

19G. Where too low a Court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the first day of April 1875, or after the discovery of the mistake, or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the Court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper Court-fee.

19H. The provisions of Sections 19A to 19G (both inclusive) shall, *mutatis mutandis*, apply to certificates granted under Act No. XL. of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal) or Act No. XX. of 1864 (for making better provision for the care of the persons and property of Minors in the Presidency of Bombay) and to the holders of such certificates."



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th December 1876, and is hereby promulgated for general information:—

ACT No. XIX OF 1876.

An Act for the better control of Public Dramatic Performances.

WHEREAS it is expedient to empower the Government to prohibit public dramatic performances, which are scandalous, defamatory, seditious, or obscene; It is hereby enacted as follows:—

Preamble.

Short title.

Local extent.

Commencement.

"Magistrate" defined.

1. This Act may be called "The Dramatic Performances Act, 1876."

It extends to the whole of British India;
And it shall come into force at once.

2. In this Act "Magistrate" means, in the Presidency Towns a Magistrate of Police, and elsewhere the Magistrate of the District.

3. Whenever the local Government is of opinion that any play, pantomime, or other drama performed or about to be performed in a public place is—

Power to prohibit certain dramatic performances.

(a) of a scandalous or defamatory nature, or

(b) likely to excite feelings of disaffection to the Government established by law in British India, or

(c) likely to deprave and corrupt persons present at the performance,

the local Government, or outside the Presidency Towns and Rangoon, the local Government or such Magistrate as it may empower in this behalf, may by order prohibit the performance.

Explanation.

Explanation.—Any building or enclosure to which the public are admitted to witness a performance on payment of money, shall be deemed a “public place” within the meaning of this section.

4. A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room, or place in which such performance is intended to take place; and any person on whom such copy is served, and who does, or willingly permits, any act in disobedience to such order, shall be punished on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

5. Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in or to witness the performance so prohibited.

6. Whoever, after the notification of any such order—
(a) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or
(b) in any manner assists in conducting any such performance, or
(c) is in wilful disobedience to such order present as a spectator, during the whole or any part of any such performance, or
(d) being the owner or occupier, or having the use, of any house, room, or place, opens, keeps, or uses the same for any such performance, or permits the same to be opened, kept, or used for any such performance, shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

7. For the purpose of ascertaining the character of any intended public dramatic performance, the local Government or such officer as it may specially empower in this behalf may apply to the author, proprietor, or printer of the drama about to be performed, or to the owner or occupier of the place in which it is intended to be performed, for such information as the local Government or such officer thinks necessary.

Every person so applied to shall be bound to furnish the same to the best of his ability, and whoever contravenes this section shall be deemed to have committed an offence under Section 176 of the Indian Penal Code.

8. If any Magistrate has reason to believe that any house, room, or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of

of Police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room, or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses, and other articles found therein and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance.

Saving of prosecutions under Penal Code, Sections 124-A and 294.

9. No conviction under this Act shall bar a prosecution under Section 124-A or Section 294 of the Indian Penal Code.

10. Whenever it appears to the local Government that the provisions of this section are required in any local area, it may, with the sanction of the Governor-General in Council, declare, by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification.

On and after that day, the local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such local Government, or such officer as it may specially empower in this behalf.

The local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area, unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does, or willingly permits, any act in disobedience to such order, he shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Powers exercisable by Governor-General.

11. The powers conferred by this Act on the local Government may be exercised also by the Governor-General in Council.

Exclusion of performances at religious festivals.

12. Nothing in this Act applies to any *jātras* or performances of a like kind at religious festivals.

WHITLEY STOKES,

Secy. to the Govt. of India.

(Republished by order of the Governor in Council.)

W. HUDLESTON,

Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th December 1876, and is hereby promulgated for general information :—

Act No. XXI of 1876.

An Act to amend the Land Improvement Act, 1871.

WHEREAS doubts have arisen as to the effect of certain provisions of the Land Improvement Act, 1871, and it is expedient, with a view to removing such doubts, to amend the said Act; It is hereby enacted as follows :—

- Local extent. 1. This Act extends to the whole of British India:
It shall be read with, and taken as part of, the said Land Improvement Act, 1871, and it shall be deemed to have come into force on the
- Construction. twenty-eighth day of September 1871, being the day on
- Commencement. which the said Act came into force.
2. The definition of “improvement” in Section one of the said Act includes
- Definition of “improvement” explained. works for the storage, supply, or distribution of water for the use of men and cattle employed in agriculture.
3. To Section fourteen of the said Act the following
- Amendment of Act XXVI of 1871, Section 14. clause shall be added (namely)—
- “(e.) If such security consists of a charge upon land, the position, extent, and boundaries of such land.”

4. Section

Amendment of Act XXVI
of 1871, Section 15.

4. Section fifteen of the said Act is repealed, and instead thereof the following section shall be substituted :—

“ 15. All sums advanced under this Act shall, when they become due, be recoverable in all or any of the following ways :—

(a) from the borrower, as if they were arrears of land-revenue due from him :

(b) from the surety (if any), as if they were arrears of land-revenue due from him :

(c) out of the land to be improved, as if they were arrears of land-revenue due on account of such land :

(d) out of the property comprised in the collateral security (if any), according to the terms of such security :

Provided—

(e) that if the borrower is the landlord, any proprietary or cultivating interest which a tenant may have in the land to be improved shall not, unless the tenant has given such interest as collateral security for the advance, be liable to sale for the recovery of such advance :

(f) that if the borrower is such a tenant as is mentioned in Section seven, the landlord's interest in the land to be improved shall not be liable to sale for the recovery of the advance :

(g) and if the advance is recovered from the surety or out of his property, to the exoneration of the borrower or of the land to be improved, the surety shall have the same rights against the borrower and the land to be improved, as the Government had when the advance was due, and may enforce such rights by ordinary process of law.”

5. The local Government may authorize the Collector (as defined in the said Act) to delegate to any officer subordinate to him such of his powers under the said Act as the local Government may from time to time prescribe.

Power to authorize Collector to delegate certain powers.

WHITLEY STOKES,
Secy. to the Govt. of India.

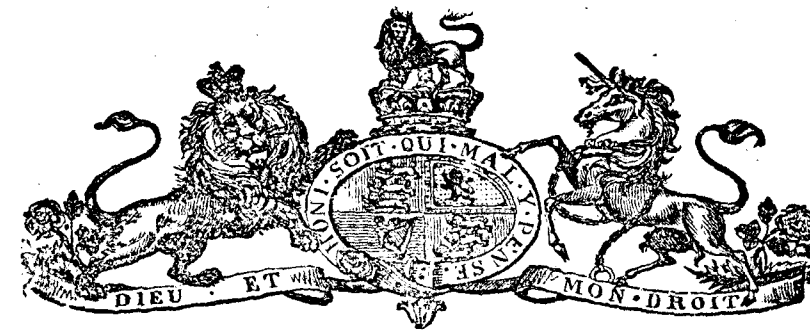
(Republished by order of the Governor in Council.)

W. HUDLESTON,
Chief Secretary.

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TUESDAY EVENING,
JANUARY 9, 1877.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 19th December 1876, and is hereby promulgated for general information :—

Act No. XXIII of 1876.

THE OPIUM ACT, 1876.

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SCHEDULE.

An Act to amend the Law relating to Opium.

Preamble. WHEREAS it is expedient to amend the law relating to opium; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Opium Act, 1876":

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of April 1877.

Repeal of enactments. 2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

Amendment of Acts. And in Acts No. XI of 1849, No. XXI of 1856, and No. X of 1871 the words "intoxicating drugs" (wherever they occur) shall not include opium.

Amendment of Act VII of 1836, S. 1. The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836 shall be read as if made to the corresponding sections of this Act.

3. In

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context—

"Opium." "Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:

"Magistrate" means, in the Presidency towns a Magistrate of Police or a Presidency Magistrate, and elsewhere a Magistrate of the first class or (when specially empowered by the local Government to try cases under this Act) a Magistrate of the second class.

Import of opium.

4. No opium shall be imported, by land or by sea, into any part of British India unless—

(a) it is covered by a pass granted by an officer appointed in this behalf by the Governor-General in Council or a local Government; or

(b) it has been imported by sea on payment of the duty prescribed by the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported by sea into British India; or

(c) such import is permitted under the power next hereinafter conferred.

The Governor-General in Council may from time to time, by notification in the *Gazette of India*,

(d) permit the import of opium, or of any kind of opium, by land, into any specified part of British India on payment of such duty, or on such other terms, as the Governor-General in Council thinks fit; and

(e) cancel such permission.

Export of opium.

5. No opium shall be exported by land or by sea from any part of British India unless—

(a) it is covered by a pass granted by an officer appointed in this behalf by the Governor-General in Council or the local Government; or

(b) it has been imported by sea into any British Indian port, and the local Government has permitted it to be exported on payment of a duty equal in amount to the fee to which it would have been liable under any law for the time being in force, if it had been transhipped at such port; or

(c) such export is permitted under the power next hereinafter conferred:

The Governor-General in Council may from time to time, by notification in the *Gazette of India*,

(d) permit the export of opium, by land or by sea, from any specified part of British India on payment of such duty, or on such other terms, as the Governor-General in Council thinks fit; and

(e) cancel such permission.

6. Subject

6. Subject to the other provisions of this Act, the laws for the time being in force relating to goods imported or exported by sea shall, so far as may be, apply to opium so imported or exported by sea and the laws for the time being in force relating to goods imported or exported by land shall, so far as may be, apply to opium imported or exported by land.

7. The Governor-General in Council may, by order notified in the *Gazette of India*,

(a) authorize any local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories subject to such local Government, and

(b) cancel any such order.

So long as such order remains in force, the local Government may, by notification published in the official Gazette,

(c) declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories subject to such Government, or into any specified part thereof, or intended to be exported thence, and

(d) cancel any such declaration.

An order under Clause (b) shall cancel all previous declarations under Clause (c) of this section relating to places in the territories to which such order referred.

So long as such declaration remains in force, the owner of all such opium shall be bound to deposit it in such warehouse.

8. The local Government may from time to time make rules consistent with this Act, or with any other enactment relating to opium for the time being in force, to prohibit or permit, within the whole or any specified part of the territories subject to such Government, all or any of the following matters:—

(a) the cultivation of the poppy;

(b) the manufacture of opium;

(c) the possession of opium;

(d) the transport of opium from one place to another within British India;

(e) the importation or exportation of opium into or out of British India;

(f) the sale of opium;

and to regulate, within the whole or any specified part of such territories, all or any of the matters aforesaid, and also

(g) the safe custody of opium warehoused under Section seven; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and

and the manner in which it shall be disposed of, if any duty leviable on it be not paid within twelve months from the date of warehousing the same;

(h) the disposal of all things confiscated under this Act;

(i) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Such rules shall be submitted for the sanction of the Governor-General in Council, and on receiving such sanction shall be published in the local official Gazette, and shall thereupon have the force of law.

9. Unless in accordance with this Act, or with any other enactment relating to opium for the time being in force, or with rules framed under this Act, no one shall—

(a) cultivate the poppy;

(b) manufacture opium;

(c) possess opium;

(d) transport opium from one place to another within British India;

(e) import or export opium into or out of British India; or

(f) sell opium.

Penalty for illegal cultivation of poppy, &c.

10. Whoever, in contravention of this Act, or of rules made and published under Section eight,

(a) cultivates the poppy, or

(b) manufactures opium, or

(c) possesses opium, or

(d) omits to warehouse opium when bound to do so under Section seven, or

(e) transports opium from one place to another within British India, or

(f) imports or exports opium into or out of British India, or

(g) sells opium, or otherwise contravenes the said rules relating to sales,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

11. In prosecutions under Section ten, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

12. In

ACT No. XXIII OF 1876.

Confiscation of opium.

12. In any case in which an offence under Section ten has been committed—

- (a) the poppy so cultivated;
 - (b) the opium in respect of which any offence under the same section has been committed;
 - (c) where, in the case of an offence under Clause (e) or (f) of the same section, the offender is transporting, importing, or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import, or export, as the case may be, the whole of the opium which he is transporting, importing, or exporting;
 - (d) where, in the case of an offence under Clause (g) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, and
 - (e) the vessels, packages, and coverings in which any opium confiscated under the same section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it,
- shall be liable to confiscation.

13. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted, but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.

Whenever confiscation is authorized by this Act, the officer adjudging it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector of the District or Deputy Commissioner, or by any other officer authorized by the local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons (if any) claiming any right thereto and the evidence (if any) which they produce in support of their claims.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the local Government in this behalf, and who has reason to believe, from

Power to enter, arrest, and seize, on information that opium is unlawfully kept in any enclosed place.

from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept, or concealed in any building, vessel, or enclosed place, may, between sunrise and sunset,

- (a) enter into any such building, vessel, or place;
- (b) in case of resistance, break open any door and remove any other obstacle to such entry;
- (c) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under Section twelve or any other law for the time being in force relating to opium, and
- (d) detain and search, and if he think proper arrest, any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

Power to seize opium in open places.

15. Any officer of any of the said departments may

- (a) seize in any open place, or in transit, any opium or other thing which he as reason to believe to be liable to confiscation under Section twelve or any other law for the time being in force relating to opium,
- (b) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

Power to detain, search, and arrest.

16. All searches under Section fourteen or Section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

Searches how made.

17. The officers of the several departments mentioned in Section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Officers to assist each other.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel, or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches, or arrests any person, shall for every such offence be punished with fine not exceeding five hundred Rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

19. The

19. The Collector of the District, Deputy Commissioner, or other officer authorized by the local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any house, boat, or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

20. Every person arrested, and thing seized, under Section fourteen or Section fifteen, shall be forwarded without delay to the officer in charge of the nearest Police station; and every person arrested and thing seized under Section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

21. Whenever any officer makes any arrest or seizure under this Act, he shall within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his official superior.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable, who may in right of his office be authorized by the local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Provided that, wherever Act No. XIII of 1857 (*An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal*) or any part thereof, is in force, nothing in this Act shall apply to such cultivation and manufacture.

23. Any arrear of tax, fee, or duty due under this Act or under any rule duly made under Section eight, and any arrear due from any farmer of opium-revenue, may be recovered as if it were an arrear of land-revenue.

SCHEDULE.

SCHEDULE.

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and Year.	Subject.	Extent of Repeal.
Act VI of 1873	Transshipment of goods	Section 7.
Act XVI of 1875	The Indian Tariff Act	Section 9.

WHITLEY STOKES,
Secy. to the Govt. of India.

(Republished by order of the Governor in Council.)

W. HUDLESTON,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th February 1877, and is hereby promulgated for general information :—

ACT I OF 1877.

THE SPECIFIC RELIEF ACT, 1877.

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[PRICE, 6 ANNAS.]

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SCHEDULE.—ENACTMENTS REPEALED.

An Act to define and amend the Law relating to certain kinds of Specific Relief.

WHEREAS it is expedient to define and amend the law relating to certain kinds of specific relief obtainable in civil suits ; It is hereby enacted as follows :—

PART I.—PRELIMINARY.

1. This Act may be called “ The Specific Relief Act, 1877 :”

It extends to the whole of British India, except the Scheduled Districts as defined in Act No. XIV of 1874 ;

And it shall come into force on the first day of May 1877.

2. [On and from that day the Acts specified in the schedule hereto annexed shall be repealed to the extent mentioned in its third column.

3. In this Act, unless there be something repugnant in the subject or context,—

‘ obligation ’ includes every duty enforceable by law :

‘ trust ’ includes every species of express, implied, or constructive fiduciary ownership :

‘ trustee ’ includes every person holding, expressly, by implication, or constructively, a fiduciary character :

Illustrations.

(a.) Z bequeaths land to A, ‘ not doubting that he will pay thereout an annuity of Rupees 1,000 o B for his life.’ A accepts the bequest. A is a trustee within the meaning of this Act for B to the extent of the annuity.

(b.) A is the legal, medical, or spiritual adviser of B. By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee or B within the meaning of this Act of such advantage.

(c.) A, being B’s banker, discloses for his own purpose the state of B’s account. A is a trustee within the meaning of this Act for B of the benefit gained by him by means of such disclosure.

(d.) A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee within the meaning of this Act of the renewed lease for those interested in the original lease.

(e.) A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee, for his co-partners, within the meaning of this Act of the profit so made.

(f.) A, the manager of B’s indigo factory, becomes agent for C, a vendor of indigo seed, and receives, without B’s assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(g.) A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, for B, of the land so bought.

(A.) A

(h.) A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act, for C, to the extent of that interest.

'settlement' means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests in movable or immovable property is disposed of or is agreed to be disposed of:

Words defined in Contract Act.

and all words occurring in this Act, which are defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively assigned to them by that Act.

Savings.

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed—

- (a) to give any right to relief in respect of any agreement which is not a contract;
- (b) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or
- (c) to affect the operation of the Indian Registration Act on documents.

Specific relief how given.

5. Specific relief is given—

- (a) by taking possession of certain property and delivering it to a claimant;
- (b) by ordering a party to do the very act which he is under an obligation to do;
- (c) by preventing a party from doing that which he is under an obligation not to do;
- (d) by determining and declaring the rights of parties otherwise than by an award of compensation; or
- (e) by appointing a Receiver.

Preventive relief.

6. Specific relief granted under Clause (c) of Section 5 is called preventive relief.

Relief not granted to enforce penal law.

7. Specific relief cannot be granted for the mere purpose of enforcing a penal law.

PART II.—OF SPECIFIC RELIEF.

CHAPTER I.—OF RECOVERING POSSESSION OF PROPERTY.

(a.) Possession of Immovable Property.

Recovery of specific immovable property.

8. A person entitled to the possession of specific immovable property may recover it in the manner prescribed by the Code of Civil Procedure.

9. If

9. If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he or any person claiming through him may, by suit instituted within six months from the date of the dispossession, recover possession thereof, notwithstanding any other title that may be set up in such suit.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(b.) Possession of Immovable Property.

Recovery of specific movable property.

10. A person entitled to the possession of specific movable property may recover the same in the manner prescribed by the Code of Civil Procedure.

EXPLANATION 1.—A trustee may sue under this section for the possession of property to the beneficial interest in which the person for whom he is trustee is entitled.

EXPLANATION 2.—A special or temporary right to the present possession of property is sufficient to support a suit under this section.

Illustrations.

(a.) A bequeaths land to B for his life, with remainder to C. A dies. B enters on the land, but C, without B's consent, obtains possession of the title-deeds. B may recover them from C.

(b.) A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession, whatever right he may have to secure their safe custody.

(c.) A receives a letter addressed to him by B. B gets back the letter without A's consent. A has such a property therein as entitles him to recover it from B.

(d.) A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under Section 168 of the Indian Contract Act, 1872.

(e.) A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

11. Any person having the possession or control of a particular article of movable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:—

- (a) when the thing claimed is held by the defendant as the agent or trustee of the claimant;

(b) when

- (b) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed;
- (c) when it would be extremely difficult to ascertain the actual damage caused by its loss;
- (d) when the possession of the thing claimed has been wrongfully transferred from the claimant.

Illustrations

of Clause (a).—A, proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B, without A's authority, pledges the furniture to C, and C, knowing that B had no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee.

of Clause (b).—Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver the idol to A.

of Clause (c).—A is entitled to a picture by a dead painter and a pair of rare China vases. B has possession of them. The articles are of too special a character to bear an ascertainable market-value. B may be compelled to deliver them to A.

CHAPTER II.—OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(a.) Contracts which may be specifically enforced.

Cases in which specific performance enforceable.

12. Except as otherwise provided in this chapter, the specific performance of any contract may in the discretion of the Court be enforced—

- (a) when the act agreed to be done is in the performance, wholly or partly, of a trust;
- (b) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done;
- (c) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief; or
- (d) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

EXPLANATION.—Unless and until the contrary is proved, the Court shall presume that the breach of a contract to transfer immovable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer movable property can be thus relieved.

Illustrations

of Clause (a).—A holds certain stock in trust for B. A wrongfully disposes of the stock. The law creates an obligation on A to restore the same quantity of stock to B, and B may enforce specific performance of this obligation.

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of Clause (b).—A agrees to buy, and B agrees to sell, a picture by a dead painter and two rare China vases. A may compel B specifically to perform this contract, for there is no standard for ascertaining the actual damage which would be caused by its non-performance.

of Clause (c).—A contracts with B to sell him a house for Rupees 1,000. B is entitled to a decree directing A to convey the house to him, he paying the purchase-money.

In consideration of being released from certain obligations imposed on it by its Act of incorporation, a railway company contract with Z to make an archway through their railway to connect lands of Z severed by the railway, to construct a road between certain specified points, to pay a certain annual sum towards the maintenance of this road, and also to construct a siding and a wharf as specified in the contract. Z is entitled to have this contract specifically enforced, for his interest in its performance cannot be adequately compensated for by money; and the Court may appoint a proper person to superintend the construction of the archway, road, siding, and wharf.

A contracts to sell, and B contracts to buy, a certain number of railway shares of a particular description. A refuses to complete the sale. B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder, which cannot otherwise be procured.

A contracts with B to paint a picture for B, who agrees to pay therefor Rupees 1,000. The picture is painted. B is entitled to have it delivered to him on payment or tender of the Rupees 1,000.

of Clause (d).—A transfers without endorsement, but for valuable consideration, a promissory note to B. A becomes insolvent, and C is appointed his assignee. B may compel C to endorse the note, for C has succeeded to A's liabilities, and a decree for pecuniary compensation for not endorsing the note would be fruitless.

13. Notwithstanding anything contained in Section 56 of the Indian Contract

Act, a contract is not wholly impossible of performance, because a portion of its subject-matter existing at its date has ceased to exist at the time of the performance.

Contracts of which the subject has partially ceased to exist.

Illustrations.

(a.) A contracts to sell a house to B for a lakh of Rupees. The day after the contract is made, the house is destroyed by a cyclone. B may be compelled to perform his part of the contract by paying the purchase-money.

(b.) In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been made, B is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

14. Where a party to a contract is unable to perform the whole of his part of

it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

Specific performance of part of contract where part unperformed is small.

Illustrations.

(a.) A contracts to sell B a piece of land consisting of 100 bighás. It turns out that 98 bighás of the land belong to A, and the two remaining bighás to a stranger, who refuses to part with them. The two bighás are not necessary for the use or enjoyment of the 98 bighás, nor so important for such use

or

or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 bighás and to make compensation to him for not conveying the two remaining bighás; or B may be directed, at the suit of A, to pay to A on receiving the conveyance and possession of the land, the stipulated purchase-money, less a sum awarded as compensation for the deficiency.

(b.) In a contract for the sale and purchase of a house and lands for two lakhs of Rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

15. Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, he is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, provided that the plaintiff relinquishes all claim to further performance, and all right to compensation, either for the deficiency, or for the loss or damage sustained by him through the default of the defendant.

Specific performance of part of a contract where the part unperformed is large.

Illustrations.

(a.) A contracts to sell to B a piece of land consisting of 100 bighás. It turns out that 50 bighás of the land belong to A, and the other 50 bighás to a stranger, who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 bighás which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree directing A to convey those 50 bighás to him on payment of the purchase-money.

(b.) A contracts to sell to B an estate with a house and garden for a lakh of Rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree, directing A to convey the house to him on payment of the purchase-money.

16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.

Specific performance of independent part of a contract.

Bar in other cases of specific performance of part of contract.

17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other of the three last preceding sections.

18. Where

18. Where a person contracts to sell or let certain property, having only an imperfect title thereto, the purchaser or lessee (except as otherwise provided by this chapter) has the following rights:—

Purchaser's rights against vendor with imperfect title.

- (a) if the vendor or lessor has subsequently to the sale or lease acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;
- (b) where the concurrence of other persons is necessary to validate the title, and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence;
- (c) where the vendor professes to sell unencumbered property, but the property is mortgaged for an amount not exceeding the purchase-money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and to obtain a conveyance from the mortgagee;
- (d) where the vendor or lessor sues for specific performance of the contract, and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to his costs of the suit, and to a lien for such deposit, interest and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

Power to award compensation in certain cases.

19. Any person suing for the specific performance of a contract, may also ask for compensation for its breach, either in addition to, or in substitution for, such performance.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any such suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

EXPLANATION.—The circumstance that the contract has become incapable of specific performance, does not preclude the Court from exercising the jurisdiction conferred by this section.

Illustrations

Illustrations

of the second paragraph :—A contracts to sell a hundred maunds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion that A has made a valid contract and has broken it, without excuse, to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph :—A contracts with B to sell him a house for Rupees 1,000, the price to be paid and the possession given on the 1st January 1877. A fails to perform his part of the contract, and B brings his suit for specific performance and compensation, which is decided in his favor on the 1st January 1878. The decree may, besides ordering specific performance, award to B compensation for any loss which he has sustained by A's refusal.

of the Explanation :—A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent. Before the hearing of the suit, the patent expires. The Court may award A compensation for the non-performance of the contract and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him, and for compensation for the non-performance of the resolution. All the shares had been allotted before the institution of the suit. The Court may, under this section, award A compensation for the non-performance.

20. A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

Liquidation of damages not a bar to specific performance.

Illustration.

A contracts to grant B an underlease of property held by A under C, and that he will apply to C for a license necessary to the validity of the underlease and that, if the license is not procured, A will pay B Rupees 10,000. A refuses to apply for the license and offers to pay B the Rupees 10,000. B is nevertheless entitled to have the contract specifically enforced if C consents to give the license.

(b.) Contracts which cannot be specifically enforced.

Contracts not specifically enforceable.

21. The following contracts cannot be specifically enforced :—

- (a) a contract for the non-performance of which compensation in money is an adequate relief;
- (b) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms ;
- (c) a contract the terms of which the Court cannot find with reasonable certainty ;
- (d) a contract which is in its nature revocable ;
- (e) a contract made by trustees either in excess of their powers, or in breach of their trust ;

(f) a

(f) a contract made by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers ;

(g) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date ;

(h) a contract of which a material part of the subject-matter, supposed by both parties to exist, has, before it has been made, ceased to exist.

And save as provided by the Code of Civil Procedure, no contract to refer a controversy to arbitration shall be specifically enforced ; but if any person who has made such a contract and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

Illustrations

to (a).—A contracts to sell, and B contracts to buy, a lakh of Rupees in the four per cent. loan of the Government of India.

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rupees 1,000 per chest.

In consideration of certain property having been transferred by A to B, B contracts to open a credit in A's favor to the extent of Rupees 10,000, and to honor A's drafts to that amount.

The above contracts cannot be specifically enforced, for, in the first and the second both A and B, and in the third A, would be reimbursed by compensation in money.

to (d).—A contracts to render personal service to B :

A contracts to employ B on personal service :

A, an author, contracts with B, a publisher, to complete a literary work.

B cannot enforce specific performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made A instructs his valuer not to proceed.

By a charter-party entered into in Calcutta between A, the owner of a ship, and B, the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London.

A lets land to B and B contracts to cultivate it in a particular manner for three years next after the date of the lease.

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contract grow particular crops on the land in his possession and deliver them to A when cut and ready for delivery.

A contracts with B that, in consideration of Rupees 1,000 to be paid to him by B, he will paint a picture for B.

A contracts with B to execute certain works which the Court cannot superintend.

A contracts to supply B with all the goods of a certain class which B may require.

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, " if the drawing-room is handsomely decorated," even if it is held to have so much certainty that compensation can be recovered for its breach.

A contracts to marry B.

The above contracts cannot be specifically enforced.

to (e).

to (c).—A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (d).—A and B contract to become partners in a certain business, the contract not specifying the duration of the proposed partnership. This contract cannot be specifically performed, for, if it were so performed, either A or B might at once dissolve the partnership.

to (e).—A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a covenant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced.

Two trustees, A and B, empowered to sell trust property worth a lakh of Rupees, contract to sell it to C for Rupees 30,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property and in fact agree to pay an extravagant price therefor. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (f).—A company existing for the sole purpose of making and working a railway contracts for the purchase of a piece of land for the purpose of erecting a cotton-mill thereon. This contract cannot be specifically enforced.

to (g).—A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land, and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

to (h).—A contracts to pay an annuity to B for the lives of C and D. It turns out that, at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

(c.) Of the Discretion of the Court.

22. The jurisdiction to decree specific performance is discretionary, and the Court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the Court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:—

I. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

Illustrations.

Illustrations.

(a.) A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy, and B contracts to sell, that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance of the contract. If B knew the fact, and C did not, specific performance of the contract should be refused to B.

(b.) A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact the value of C's interest depends on the result of certain partnership accounts, on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(c.) A contracts to sell, and B contracts to buy, certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance of the contract should be refused to A.

(d.) A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present seeing the vendor's attorney bidding think that he is a mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance of the contract should be refused to B.

II. Where the performance of the contract would involve some hardship on the defendant which he did not foresee, whereas its non-performance would involve no such hardship on the plaintiff.

Illustrations.

(e.) A is entitled to some land under his father's will on condition that, if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty-five years, to sell the land to C. Here the enforcement of the contract would operate so harshly on A that the Court will not compel its specific performance in favor of C.

(f.) A and B, trustees, join their beneficiary, C, in a contract to sell the trust estate to D, and personally agree to exonerate the estate from heavy incumbrances to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(g.) A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, shall not be obliged to define its boundary. The estate really comprises a valuable property not known to either to be part of it. Specific performance of the contract should be refused to B, unless he waives his claim to the unknown property.

(h.) A contracts with B to sell him certain land, and to make a road to it from a certain railway station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest with compensation for loss of the road.

(i.) A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used in and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance of it should be refused to B.

(j.) A

(j.) A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(k.) A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods, but if he does not supply them, A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the contract should be refused to B.

III. Where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

Illustration.

A sells land to a railway company who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should be decreed in favor of A.

(d.) *For whom Contracts may be specifically enforced.*

23. Except as otherwise provided by this chapter, the specific performance of a contract may be obtained by—

Who may obtain specific performance.

- (a) any party thereto;
- (b) the representative in interest, or the principal, of any party thereto: provided that, where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless where his part thereof has already been performed;
- (c) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder;
- (d) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;
- (e) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;
- (f) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;
- (g) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;
- (h) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(e.) *For*

(e.) *For whom Contracts cannot be specifically enforced.*

24. Specific performance of a contract cannot be enforced in favour of a person—

Personal bars to the relief.

- (a) who could not recover compensation for its breach;
- (b) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed; or
- (c) who has already chosen his remedy and obtained satisfaction for the alleged breach of contract;
- (d) who, previously to the contract, had notice that a settlement of the subject-matter thereof (though not founded on any valuable consideration) had been made and was then in force.

Illustrations

to Clause (a).—A, in the character of agent for B, enters into an agreement with C to buy C's house. A is in reality acting, not as agent for B, but on his own account. A cannot enforce specific performance of this contract.

to Clause (b).—A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, fells the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner: he cannot enforce the contract specifically, though A and B may sue each other for compensation for breach of it.

to Clause (c).—A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract. A thereupon sues for, and obtains, compensation for the breach. A cannot obtain specific performance of the contract.

Contracts to sell property by one who has no title, or who is a voluntary settler.

25. A contract for the sale or letting of property, whether movable or immovable, cannot be specifically enforced in favour of a vendor or lessor—

- (a) who, knowing himself not to have any title to the property, has contracted to sell or let the same;
- (b) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt;
- (c) who, previous to entering into the contract, has made a settlement (though not founded on any valuable consideration) of the subject-matter of the contract.

Illustrations.

Illustrations.

(a.) A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract, even though C is willing to confirm it.

(b.) A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce this contract, as, in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(c.) A, being in possession of certain land, contracts to sell it to Z. On inquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(d.) A, out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A cannot enforce specific performance of this contract so as to over-ride the settlement, and thus prejudice the interests of the persons claiming under it.

(f.) *For whom Contracts cannot be specifically enforced except with a variation.*

26. Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases (namely):—

- Non-enforcement except with variation.
- (a) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;
 - (b) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;
 - (c) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part, which adds to the contract, but which he refuses to fulfil;
 - (d) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;
 - (e) where the parties have, subsequently to the execution of the contract, contracted to vary it.

Illustrations.

(a.) A, B and C sign a writing by which they purport to contract each to enter into a bond to D for Rupees 1,000. In a suit by D, to make A, B and C separately liable each to the extent of Rupees 1,000, they prove that the word 'each' was inserted by mistake; that the intention was that they should give a joint bond for Rupees 1,000. A can obtain the performance sought only with the variation thus set up.

(b.) A

(b.) A sues B to compel specific performance of a contract in writing to buy a dwelling-house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was so included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(c.) A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions, and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the written contract, except with the variation set up by B.

(d.) A and B enter into negotiations for the purpose of securing land to B for his life, with remainder to his issue. They execute a contract the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(e.) A contracts in writing to let a house to B, for a certain term, at the rent of Rupees 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place: B contracting orally to pay rent at Rupees 120 per mensem. B then sues to enforce specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(g.) *Against whom Contracts may be specifically enforced.*

Relief against parties and persons claiming under them by subsequent title.

27. Except as otherwise provided by this chapter, specific performance of a contract may be enforced against—

- (a) either party thereto;
- (b) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;
- (c) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;
- (d) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;
- (e) when the promoters of a public company have, before its incorporation, entered into a contract, the company: provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

Illustrations

to Clause (b.)—A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rupees 5,000. A afterwards conveys the land for Rupees 6,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rupees 5,000. B takes possession of the land. Afterwards A sells it to C for Rupees 6,000. C makes no inquiry of B relating to his interest in the land. B's possession

possession is sufficient to affect C with notice of his interest, and he may enforce specific performance of the contract against C.

A contracts in consideration of Rupees 1,000 to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce specific performance of the contract against C.

A contracts to sell certain land to B. Before the completion of the contract, A becomes a lunatic and C is appointed his committee. B may specifically enforce the contract against C.

to Clause (c.)—A, the tenant for life of an estate, with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alien in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.

(h.) *Against whom Contracts cannot be specifically enforced.*

What parties cannot be compelled to perform.

28. Specific performance of a contract cannot be enforced against a party thereto in any of the following cases:—

- (a) if the consideration to be received by him is so grossly inadequate, with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud or of undue advantage taken by the plaintiff;
- (b) if his assent was obtained by the misrepresentation (whether wilful or innocent), concealment, circumvention, or unfair practices, of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled;
- (c) if his assent was given under the influence of mistake of fact, misapprehension or surprise: Provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision and the contract may be specifically enforced in other respects if proper to be so enforced.

Illustrations

to Clause (c.)—A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 20 bighás of this land, but the auctioneer inadvertently sells the whole to B, who has not notice of the revocation. B cannot enforce specific performance of the agreement.

(i.) *The Effect of dismissing a Suit for Specific Performance.*

29. The dismissal of a suit for specific performance of a contract or part thereof shall bar the plaintiff's right to sue for compensation for the breach of such contract or part, as the case may be.

Bar of suit for breach after dismissal.

(j.) *Awards*

(j.) *Awards and Directions to execute Settlements.*

Application of preceding sections to awards and testamentary directions to execute settlements.

30. The provisions of this chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

CHAPTER III.—OF THE RECTIFICATION OF INSTRUMENTS.

31. When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest, may institute a suit to have the instrument rectified; and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument, and ascertain the real intention of the parties in executing the same, the Court may in its discretion rectify the instrument, so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons, in good faith and for value.

Illustrations.

(a.) A, intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included. Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud. The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(b.) By a marriage-settlement, A, the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators and assigns, during A's life, an annuity of Rupees 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children, may rectify the settlement and decree that the assignee has no right to any part of the annuity.

32. For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

Presumption as to intent of parties.

33. In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

Principles of rectification.

34. A contract in writing may be first rectified and then, if the plaintiff has so prayed in his plaint and the Court thinks fit, specifically enforced.

Specific enforcement of rectified contract.

Illustration.

Illustration.

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs. The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks fits, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

CHAPTER IV.—OF THE RESCISSION OF CONTRACTS.

35. Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court in any of the following cases, namely :—

When rescission may be adjudged.

- (a) where the contract is voidable or terminable by the plaintiff;
- (b) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff;
- (c) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him as such possessor.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract either so far as regards the party in default, or altogether, as the justice of the case may require.

Illustrations

to (a.)—A sells a field to B. There is a right of way over the field of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (b.)—A, an attorney, induces his client B, a Hindú widow, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

36. Rescission of a contract in writing cannot be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

Rescission for mistake.

37. A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the Court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

Alternative prayer for rescission in suit for specific performance.

38. On

Court may require party rescinding to do equity.

38. On adjudging the rescission of a contract, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

CHAPTER V.—OF THE CANCELLATION OF INSTRUMENTS.

39. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

If the instrument has been registered under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

Illustrations.

(a.) A, the owner of a ship, by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(b.) A conveys land to B, who bequeaths it to C and dies. Thereupon D gets possession of the land and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.

(c.) A, representing that the tenants on his land were all at will, sells it to B, and conveys it to him by an instrument dated the 1st January 1877. Soon after that day, A fraudulently grants to C a lease of part of the lands dated the 1st October 1876, and procures the lease to be registered under the Indian Registration Act. B may obtain the cancellation of this lease.

(d.) A agrees to sell and deliver a ship to B, to be paid for by B's acceptances of four bills of exchange, for sums amounting to Rupees 30,000, to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered, according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all the bills.

40. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part and allow it to stand for the residue.

What instruments may be partially cancelled.

Illustration.

A draws a bill on B, who endorses it to C, by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

41. On adjudging the cancellation of an instrument, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

Power to require party for whom instrument is cancelled to make compensation.

CHAPTER VI.—OF DECLARATORY DECREES.

42. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Discretion of Court as to declarations of status or right.

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Bar to such declaration.

EXPLANATION.—A trustee of property is a 'person interested to deny' a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

Illustrations.

(a.) A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(b.) A bequeaths his property to B, C and D, 'to be equally divided amongst all and each of them, if living at the time of my death, then amongst their surviving children.' No such children are in existence. In a suit against A's executor, the Court may declare whether B, C and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

(c.) A covenants that if he should at any time be entitled to property exceeding one lakh of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(d.) A alienates to B property in which A has merely a life-interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(e.) The widow of a sonless Hindú alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survive her, may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity and was therefore void beyond the widow's lifetime.

(f.) A Hindú widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death without a son may, in a suit against the adopted son, obtain a declaration that the adoption was invalid.

(g.) A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.

(h.) A bequeaths property to B for his life, with remainder to B's wife and her children, if any, by B, but if B die without any wife or children, to C. B has a putative wife, D, and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C and obtain therein a declaration that they are truly the wife and children of B.

43. A

43. A declaration made under this chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

Effect of declaration.

Illustration.

A, a Hindú, in a suit to which B, his alleged wife, and her mother are defendants, seeks a declaration that his marriage was duly solemnized and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

CHAPTER VII.—OF THE APPOINTMENT OF RECEIVERS.

Appointment of receivers discretionary.

44. The appointment of a Receiver pending a suit is a matter resting in the discretion of the Court.

Reference to Code of Civil Procedure.

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

CHAPTER VIII.—OF THE ENFORCEMENT OF PUBLIC DUTIES.

45. Any of the High Courts of Judicature at Fort William, Madras, and Bombay may make an order requiring any specific act to be done or forbore, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office, whether of a permanent or a temporary nature, or by any corporation or inferior Court of Judicature: provided—

Power to order public servants and others to do certain specific acts.

- (a) that an application for such order be made by some person whose property, franchise, or personal right, would be injured by the forbearing or doing (as the case may be) of the said specific act;
- (b) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character;
- (c) that, in the opinion of the High Court, such doing or forbearing is consonant to right and justice;
- (d) that the applicant has no other specific and adequate legal remedy; and
- (e) that the remedy given by the order applied for will be complete.

Exemptions from such power.

Nothing in this section shall be deemed to authorize any High Court—

(f) to

- (f) to make any order binding on the Secretary of State for India in Council, on the Governor-General in Council, on the Governor of Madras in Council, on the Governor of Bombay in Council, or on the Lieutenant-Governor of Bengal;
- (g) to make any order on any other servant of the Crown, as such, merely to enforce the satisfaction of a claim upon the Crown; or
- (h) to make any order which is otherwise expressly excluded by any law for the time being in force.

46. Every application under Section 45 must be founded on an affidavit of the person injured, stating his right in the matter in question, his demand of justice and the denial thereof; and the High Court may, in its discretion, make the order applied for absolute in the first instance, or refuse it, or grant a rule to show cause why the order applied for should not be made.

If, in the last case, the person, Court or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

47. If, the person, Court or corporation to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act absolutely.

48. Every order under this chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

49. The costs of all applications and orders under this chapter shall be in the discretion of the High Court.

50. Neither the High Court nor any Judge thereof shall hereafter issue any writ of *mandamus*.

51. Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure under this chapter; and until such rules are framed, the practice of such Court as to applications for and grants of writs of *mandamus* shall apply, so far as may be practicable, to applications and orders under this chapter.

PART III.—OF PREVENTIVE RELIEF.

CHAPTER IX.—OF INJUNCTIONS GENERALLY.

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

53. Temporary injunctions are such as are to continue until a specified time, or until the further order of the Court. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit: the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

CHAPTER X.—OF PERPETUAL INJUNCTIONS.

54. Subject to the other provisions contained in, or referred to by, this chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

When such obligation arises from contract, the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely):—

- where the defendant is trustee of the property for the plaintiff;
- where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;
- where the invasion is such that pecuniary compensation would not afford adequate relief;
- where it is probable that pecuniary compensation cannot be got for the invasion;
- where the injunction is necessary to prevent a multiplicity of judicial proceedings.

EXPLANATION.—For the purpose of this section a trademark is property.

Illustrations.

Illustrations.

(a.) A lets certain land to B, and B contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(b.) A trustee threatens a breach of trust. His co-trustees, if any, should, and the beneficial owners may, sue for an injunction to prevent the breach.

(c.) The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may sue for an injunction to restrain them.

(d.) The directors of a fire and life insurance company are about to engage in marine insurances. Any of the shareholders may sue for an injunction to restrain them.

(e.) A, an executor, through misconduct or insolvency, is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

(f.) A, a trustee for B, is about to make an imprudent sale of a small part of the trust-property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(g.) A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(h.) In the course of A's employment as a vakil, certain papers belonging to his client, B, come into his possession. A threatens to make these papers public, or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(i.) A is B's medical adviser. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(j.) A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from so doing.

(k.) A lets certain arable lands to B for purposes of husbandry, but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(l.) A, B, and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership-property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(m.) A, a Hindú widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir-expectant may sue for an injunction to restrain her.

(n.) A, B, and C are members of an undivided Hindú family. A cuts timber growing on the family-property, and threatens to destroy part of the family-house and to sell some of the family-utensils. B and C may sue for an injunction to restrain him.

(o.) A, the owner of certain houses in Calcutta, becomes insolvent. B buys them from the official assignee and enters into possession. A persists in trespassing on and damaging the houses, and B is thereby compelled, at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(p.) The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the

other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(q.) A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(r.) A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(s.) A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(t.) A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(u.) A infringes B's patent. If the Court is satisfied that the patent is valid and has been infringed, B may obtain an injunction to restrain the infringement.

(v.) A pirates B's copyright. B may obtain an injunction to restrain the piracy, unless the work of which copyright is claimed is libellous or obscene.

(w.) A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(x.) A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(y.) A, a very eminent man, writes letters on family-topics to B. After the death of A and B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D, who is A's executor, has a property in the letters, and may sue for an injunction to restrain C from publishing them.

(z.) A carries on a manufactory and B is his assistant. In the course of his business, A imparts to B a secret process of value. B afterwards demands money of A, threatening, in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process.

55. When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the Court is capable of enforcing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

*Mandatory injunctions.**Illustrations.*

(a.) A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Indian Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(b.) A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(c.) In the case put as illustration (i) to Section 54, the Court may also order all written communications made by B, as patient, to A, as medical adviser, to be destroyed.

(d.) In the case put as illustration (y) to Section 54, the Court may also order A's letters to be destroyed.

(e.) A

(e.) A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Indian Penal Code. The Court may grant an injunction to restrain the publication, even though it may be shown not to be injurious to B's property.

(f.) A, being B's medical adviser, threatens to publish B's written communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(g.) In the cases put as illustrations (v) and (w) to Section 54 and as illustrations (e) and (f) to this section, the Court may also order the copies produced by piracy, and the trademarks, statements, and communications therein respectively mentioned, to be given up or destroyed.

Injunction when refused. 56. An injunction cannot be granted—

- (a) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;
- (b) to stay proceedings in a Court not subordinate to that from which the injunction is sought;
- (c) to restrain persons from applying to any legislative body;
- (d) to interfere with the public duties of any department of the Government of India or the Local Government, or with the sovereign acts of a Foreign Government;
- (e) to stay proceedings in any criminal matter;
- (f) to prevent the breach of a contract the performance of which would not be specifically enforced;
- (g) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;
- (h) to prevent a continuing breach in which the applicant has acquiesced;
- (i) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust;
- (j) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;
- (k) where the applicant has no personal interest in the matter.

Illustrations.

(a.) A seeks an injunction to restrain his partner, B, from receiving the partnership-debts and effects. It appears that A had improperly possessed himself of the books of the firm and refused B access to them. The Court will refuse the injunction.

(b.) A manufactures and sells crucibles, designating them as "patent plumbago crucibles," though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(c.) A sells an article called "Mexican Balm," stating that it is compounded of divers rare essences, and has sovereign medicinal qualities. B commences to sell a similar article to which he gives a name and description such as to lead people into the belief that they are buying A's Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A's Mexican Balm consists of nothing but scented hog's lard. A's use of his description is not an honest one, and he cannot obtain an injunction.

57. Notwithstanding

57. Notwithstanding Section 56, clause (f), where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement, shall not preclude it from granting an injunction to perform the negative agreement; provided that the applicant has not failed to perform the contract so far as it is binding on him.

Illustrations.

(a.) A contracts to sell to B for Rupees 1,000 the good-will of a certain business unconnected with business-premises, and further agrees not to carry on that business in Calcutta. B pays A the Rupees 1,000, but A carries on the business in Calcutta. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Calcutta.

(b.) A contracts to sell to B the good-will of a business. A then sets up a similar business close by B's shop, and solicits his old customers to deal with him. This is contrary to his implied contract, and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(c.) A contracts with B to sing for twelve months at B's theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of public entertainment.

(d.) B contracts with A that he will serve him faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival-house as clerk.

(e.) A contracts with B that, in consideration of Rupees 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance. B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

SCHEDULE.

(See Section 2.)

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and Year.	Subject.	Extent of Repeal.
VIII of 1859	Civil Procedure	Sections 15 and 192.
XIV of 1859	Limitation	Section 15.
XXIII of 1861	Civil Procedure	Section 26.
IX of 1872	Contract	In Section 28, the second clause of Exception 1.

WHITLEY STOKES,

Secy. to the Govt. of India.

(Republished by order of His Grace the Governor in Council.)

W. HUDLESTON,

Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th February 1877, and is hereby promulgated for general information:—

Act No. II of 1877.

An Act to amend Act No. XIII of 1875.

WHEREAS it is expedient to define the expression “High Court” as used in Act No. XIII of 1875 (*to amend the Law relating to Probates and Letters of Administration*), Sections 2, 3, and 4; It is hereby enacted as follows:—

Preamble.

“High Court” defined in Act XIII of 1875, Sections 2, 3, and 4.

1. The expression “High Court” in each of the said sections shall mean, and be deemed to have always meant—

- (a) a High Court for the time being established under the twenty-fourth and twenty-fifth of Victoria, Chapter 104:
- (b) the Chief Court of the Panjáb:
- (c) the Court of the Recorder of Rangoon.

2. Nothing in this Act shall be deemed to affect the validity of any grant of probate or letters of administration with effect throughout the whole of British India heretofore made by any Court other than the Courts specified in Section 1.

Saving of certain grants of probate and administration.

WHITLEY STOKES,

Secy. to the Govt. of India.

(Republished by order of His Grace the Governor in Council.)

W. HUDLESTON,

Chief Secretary.

[PRICE 6 PIES.]